

INTERNATIONAL JOURNAL OF LAW
MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 5 | Issue 4

2022

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Prostitution and Free will

BHANUMATHI VOGETY¹

ABSTRACT

*Prostitution is regarded as the oldest profession of all time. Sex workers are also referred to as Tawaif or Devadasi. The industry is worth more than \$100 billion globally and its history can be traced back to 4000 years back to ancient Babylon. There are over 20 million sex workers in India if we are to judge by the recent human rights watch report. The report asserted that most of the sex workers entered the industry when they were less than 18 years. The topic prostitution has a significance in the way that it historically represents women oppression. Consent and free choice on being a sex worker will be evaluated by focusing on the capacity of the human beings, more problematically of women, to choose what they really want to be. History of prostitution will be briefly given in this paper, to create a historical background of prostitution profession. Main argument of this paper is that prostitution is not in general is not something desirable for a women and “so-called” consent on prostitution is not a complete consent and prostitution cannot be evaluated apart from its historical development. Already, a high degree of legal ambivalence and contradictions cloud prostitution laws in India. There are certain rights guaranteed by united nations for the protection of prostitutes. Universal Declaration of Human Rights guarantees the Right to life and personal liberty under which the rights of prostitutes are also included and also right to equality to treat them equally. As prostitution is considered as a sensitive topic in India there are several laws made in relation to punish the felonious practice of prostitution. Laws such as Suppression of Immoral Traffic act, 1956. This paper also critically analysis the Immoral Traffic Prevention act, 1956 in consonance with Indian Penal Code provisions and Constitution provisions. Indian penal code asserted certain provisions relating to prostitution such as Section 372 and 373. * Legislative and judicial approach towards sex workers. There are certain judicial pronouncements to legalize prostitution and not to punish the prostitute if she is a consenting party as well. This paper also focuses on the cases where the court held that prostitution is not illegal.*

I. INTRODUCTION

Prostitution is the world's oldest profession. History on the other hand demonstrates that prostitution is the world's oldest oppression. The world has slowly recognized the crises of

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Human Trafficking over the past decade. While the law does not equate prostitution to Human trafficking., the same negative characteristics are inherent in both the crimes. In order to identify and recognize the signs of human trafficking, we can modify our existing laws on both prostitution and human trafficking to prevent victimization from occurring and provide a legal framework that protects victims rather than penalizing them. India is a home today for Asia's largest red-light area I.e. Mumbai red light area is considered as the largest red-light area. The very famous Kamathipura red light area in Bombay was built during the British era. Britishers use to enjoy the boon of prostitution as they saw the weaker section in this country practices prostitution just for their immunity, they even forced some of them to get into this profession taking the advantage of the poverty. Prostitution has become very famous during the Mughals ruling. They indorse prostitution which raised the status of the dancers and singers to the next level. Mughals use to use the word tawaif and the mujra dance became blue-ribbon during the Mughal period. With the lapse of time the prostitution profession became very inherent to the people and also this led to the biggest crime industry of human trafficking. This industry is considered as a million dollars industry where not only for the prostitution purpose but also for begging, organs transplation etc., trafficking prevails. Some people give their consent to get into this profession whereas, some are forced to get into this profession. The forced prostitution is a punishable offence under Immoral Traffic Prevention Act. The prostitute is not directly liable for the offence but the people who forced her like pimps are punishable. There are certain factors which causes the prostitution like, ill treatment by parents, poverty, bad company, family prostitution, lack of sex education in India etc. are some major factors. This paper mainly focuses on the free will and the consent of the prostitutes and what are the major factors and laws which are effective to curtail forced prostitution.

II. CONCEPT OF DEVADASI SYSTEM

Devadasi is considered as the oldest among the other communities of prostitution. It prevails in the parts of South India. This system was actually introduced as a part of tantric and belief of worshipping god in the temples of India. But timely the system has been misused by forcing a girl to be a prostitute and telling them that they are in the devadasi system as a ritual. Sheer misuse of this system led to people believing that prostitution is a lawful act under Hinduism.

III. BANCHCHARA COMMUNITY: TRADITION COMPELS PROSTITUTION AMONG THIS COMMUNITY IN MADHYA PRADESH:²

This community mostly resides in a fully remote area of Madhya Pradesh in India. These people are no neglected form the society because of their community. The families of Banchchara community makes their eldest daughter to be a prostitute. This weird ritual is being practiced in a small village of Madhya Pradesh since ages. They live as a normal happy go family if the truck drivers or some criminal visits their houses the girls are compelled to fulfill their sexual pleasures. These customers pay them around 50 to 75 rupees per day to serve them and sleep with them. The highest amount of earning of a prostitute in this community is around 200. Sometimes even the drug dealers visit these places and forces them to have drugs with them they also pay a hefty amount to them to do so. The main reason behind this practice is poverty. If the women get pregnant in this community, she prays for a girl child. In a place like Madhya Pradesh where a girl child is considers as a sin, here they feel that the girl child is a blessing to them. The reason behind this is they could send the eldest girl into prostitution as soon as they attain puberty at the age of 13 or 14. So that she could take care of them in near future. If a boy is born, then he would definitely go out of this community to earn and they think that the boy would never take care of them. For some or the other reasons girls who are in this profession they feel safe and blesses to be there. They would never think of having education or a good job. These women think that they would never get recognition if they move out even if they do a proper job they feel that people will see them as prostitutes only and they rape them. Government after looking into this matter started some rehabilitation centers around them where they educate girls and they provided sewing machines to those women and also government pays 115 rupees per month as their stipend. But this initiative was not successful because only 30 members have been into this rehabilitation centers. Men still come into this rehab to see a girl they just think that the stipend given by the government to those women is just an extra income.

There are many unknown communities like Banchchara where employment is very less than the expected. Poverty being the support reason of prostitution the government never made it illegal it is very much legal to do prostitution but forcing someone getting into this is illegal. The history of prostitution as above mentioned we can see that the courtesans use to get the attention wherever they considered as the most dignified persons around at that time. Since

² <https://www.indiatoday.in/magazine/living/story/19880131-tradition-compels-prostitution-among-banchchara-community-in-madhya-pradesh-769015-2013-11-19>

time immemorial people are witnessing poverty and prostitution, they both are going hand in hand since then. The problem with India is that even people are not ready to do hard work and earn those who are in the below poverty line. Whenever government take any initiative to grow these people the same is not reciprocated. Women who are below poverty line some of them are still working hard to survive but then they find easy to sell their body to some amount so that they get the daily food. The status of women in this country is very unpredictable because sometimes they are treated as goddess and sometimes, they are treated as they are meant for sex. If we can curtail poverty the questions relating to prostitution would reduce. Rehabilitation centers are there all over but no one is interested in doing them because they want to earn, they just don't think that source of earning they only know the way of earn. There are certain other factors as well which cause prostitution such as education.

IV. PROSTITUTION: VIOLATION OF HUMAN RIGHTS

There are certain violations against human rights to which UN and the state government had taken the initiative and changed or amended their respective constitution in relation to fundamental rights. The Universal Declaration of human rights, 1948 guarantees the human dignity and integrity of all but the prostitution is a ladder to violate this basic human right. There are several other basic human rights which are: right to life, physical and psychological integrity, right to privacy, freedom to practice any trade and business. These are the basic fundamental rights under Indian Constitution as well.³

Although it is an offence to practice this kind of profession but many people around the world considers that it is a reasonable choice for them to enter into this. Especially particular class or sector women. The reason behind this is poverty, vulnerable women, indigenous women, women of color, of different race they take very much pride in practicing this profession instead of seeing it as sexual exploitation and human rights violations.⁴

The reality is that we are in state where pupil is tolerating expendable, throwaway class of women and take them for granted. Society never consider their consent as a valid one because of just one thing that they are used to of having sex.

As well as breaching an individual's human rights, the prostitution system and the trade in human beings is a violation of the rights and dignity of humankind as a whole. 'When the body and sexual capacity of a person is consumed and exploited as a commodity, it is not only a

³ NDAIN CONSTITUTION, 1950- PART III- FUNDAMENTAL RGIHTS

⁴ Barry, K., 1995, THE PROSTITUTION OF SEXUALITY: THE GLOBAL EXPLOITATION OF WOMEN, NEW YORK: PG NO. 280

social and health issue but also and ethical and human rights question. It is self-evident that as long as it is acceptable to deny any group or class its full human entitlement to dignity, we are all vulnerable to human rights abuse.⁵

V. WOMEN AND HUMAN RIGHTS

“Give women their rights” “Stop violating women rights” “Stop misusing gender equality” these headlines make loud noises all over the world and this statement proves that the women being a human their rights shall also be protected. The Universal Declaration of human rights, 1948 gives importance very much to women. Their half of the laws are women centric laws. The conventions under UN are mostly related to women and children like iccpr, catw etc. the laws made there are very effective globally. The assertion that women’s rights are human rights has the political impact of bringing to visibility the dismissal failure of countries worldwide to accord women the human dignity and respect that they deserve simply as a human being.⁶ The arguments related to women’s human rights are endless. Some countries still state that the violence and discrimination against women is not a problem and they will get use to of this. But looking into this matter the conclusion states that their no dignity or integrity given to women in some places which is violating the rules of the most powerful bod i.e., UNITED NATIONS.

Forced Prostitution:

There are many stories to cover the forced prostitution in India on such story is of BHAGYA⁷ she explained how she get into this profession, she told, “*Anna was a regular visitor to our house whenever he came from the city. He used to tell me that I am your uncle. In fact, after few visits I started looking forward to his visit for he would bring a lot of gifts, new cloths, chocolates for me and some food stuff for parents. He even brought cigarettes for my father who was smoking beedis and very proudly he would smoke cigarettes. He would tell us stories about his life in Chennai and how everyone was rich and there he used to meet the film stars on a regular basis, and he knew many of them. I was very keen to see some of these film stars. He then fooled my parents to send me to Chennai where he will get me a good job as a maid servant, and I can lead a very happy life and send money to my parents on a regular basis. My parents were very much convinced, and I was so excited when left with him. We never reached*

⁵ Bunch, c, (1995) ‘TRANFORMINH HUMAN RIGHTS FROM A FEMINIST PERSPECTIVE’ IN WOMEN’S RIGHTS, HUMAN RIGHTS: INTERNATIONAL FEMINIST PERSPECTIVE. – PETERS J. AND WOPLER, A. PG. NO. 12.

⁶ Raymond, J., (1998), also Farley, M.,(2004), See also International Committee for Prostitutes Rights, COYOTE and North American Task Force on Prostitution, Network of Sex Work Projects, at www.NSWP.org/nswp

⁷ PG. NO. 111, SEX TRAFFICKING IN SOUTH ASIA:with special focus on India- REKHA PANDE

Chennai, but I was imprisoned in a room for days and raped on the first day and after that I travelled to many places of which I do not even know the names and every night I had many men coming to me. I cried a lot, but I never saw Anna again after this.” This is just one story, there are a number of stories which tell us how prostitutes get into this profession.

Under the Indian Constitution:

ARTICLE 23: Traffic in human beings and bear and the other similar forms of the forced Labor are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.⁸

VISHAL JEET V. UNION OF INDIA⁹, the expression *human trafficking* has been held to be a very wide expression and means any dealings in human beings like chattels. It means selling and buying, men or women like goods. It includes immoral traffic in women or girls or subjecting children to immoral or such like practices¹⁰ such as making them devadasi or jogging. The supreme court issues directions to the state governments and the union territories of India for eradicating the evil of child prostitution and for evolving programmes for the care, protection, treatment, development and rehabilitation of the young fallen victims.

GAURAV JAIN V. UNION OF INDIA¹¹ A three judge bench of the supreme court held that the problem of prostitution had become one of the serious nature and required considerable and effective attention. The court issued directions for the constitution of a committee to examine the problem and for the segregation of the children of prostitutes from their mothers living in the prostitution homes and to allow them to mingle with others and become part of the society.

ARTICLE 21:

This article guarantees every human being Right to life and personal liberty irrespective of their profession. Even a prostitute has a right to live with human dignity. Human dignity is somewhat not restricted to anyone, the bare necessities of life such as adequate nutrition, clothing and shelter over the head and facilities for reading, writing and expressing oneself in diverse forms, freely moving about and mixing and commingling with the fellow human beings.

⁸ INDIAN CONSTITUTION, 1950

⁹ AIR 1990 SC 1412

¹⁰ RAJ BAHADUR V. LEGAL REMEMBRANCER, AIR 1953 CAL 522

¹¹ AIR 1990 SC 292

UDHADEV KARMAKAR V. STATE OF WEST BENGAL¹² Stated that along the recognition of prevention of trafficking and rehabilitation of sex workers who wish to leave sex work, it is essential that conditions conducive for sex workers to live with dignity in accordance with the provisions of article 21 of the constitution, must also be recognized. The distinction between significant as it enabled sex workers and their advocates to legally contest oppressive and forced sex work towards creation of safe and dignified work.

VI. TRAFFICKING IS A SOCIOECONOMIC PROBLEM, NOT A CRIMINAL ONE

Most crimes have their roots in socioeconomic problems. That does not mean they ought not to be criminalized. Prevention efforts have to be strengthened without any doubt. But let's not forget that while poverty and unemployment make people vulnerable to being trafficked—and that needs to be addressed—it is ultimately traffickers who cause trafficking. They need to be made answerable for that. As already mentioned above, trafficking remains one of the lowest risk crimes to commit today, and that needs to be changed.

It is not a perfect law, but it certainly is a better law than before. A lot of the criticism levelled against the Bill seems to be based on certain misunderstandings. The Bill does not criminalize sex work, it does not encourage institutionalization, it does not make consensual migration for work illegal, and it does not infantilize women. Its efficiency will depend on its enforceability and training of law-enforcement officers. Human trafficking is an extremely serious offence, and its enormity calls for a stringent mechanism to counter it. Let's hope these efforts are fruitful in winning at least some battles in this long war.¹³

VII. LEGALISATION OF PROSTITUTION AND ITS IMPACT

"I have not been treated well throughout my life. I cannot live with others of my age, I cannot breathe the same air. I chose my profession, and I am paying for it."

– a self-proclaimed prostitute

Hundreds and thousands of women and girls in India are kidnapped, sold, coerced or trafficked for sex in a highly organized yet illicit trade, with many brought in from neighboring countries.

Yet activists have long said the sex workers, who are mostly forced into the trade, are treated as criminals by the law which should instead focus on punishing those behind the trade.

Officials said new amendments to the Immoral Traffic (Prevention) Act, 1956 — which would no longer penalize sex workers — are expected to go before the cabinet in the coming days.

¹² 14 FEBRUARY, 2011

¹³ Opinion: The anti-trafficking Bill is necessary- Tanima Kishore, 09 Aug 2018

The proposal would then go before parliament.

“We are hoping that the amendments would be passed in this session of parliament,” said Nandita Mishra, an official from the ministry of women and child development.

Proposals include deleting sections in the more than 50-year-old law relating to seducing or soliciting for the purpose of prostitution being punishable with a maximum jail term of six months and a fine of 500 rupees.

Prostitutes would also no longer be forced to vacate the property they reside in.¹⁴

The current law that deals with prostitution in India allows the prostitute to thrive, but hide it completely from the public. The first law that came into existence was Immoral Traffic (Suppression) Act (SITA), 1956. But later on it was amended and today a new Act has come called The Immoral Traffic (Prevention) Act or PITA in the year 1986. Basically this law forbids a sex worker to carry on her activities within 200 yards of a public place so that nothing is done in a place where the normal public lives. But at the same time these sex workers do not really get any kind of rights from the legal system like other workers, under the labour laws.

In a way these laws were intended at projecting sex work in a very wrong way in the society and gradually criminalizing it so that it can be eradicated. According to this law, prostitutes can practice their trade privately but cannot legally solicit customers in public. Organized prostitution (brothels, prostitution rings, pimping etc) is illegal. As long as it is done individually and voluntarily, a woman (male prostitution is not recognized in the Indian constitution) can use her body's attributes in exchange for material benefit. So it is clearly visible from all these aspects that neither is prostitution completely illegal in our country nor can it be called a legally defined profession.

Though not completely legal but this practice exists in our society since the very early days of our civilization and there are various reasons due to which the existence of this cannot be avoided. The major causes of turning a girl into a prostitute are totally situational. No girl comes with a tag of a prostitute from her mother's womb.¹⁵

VIII. FREE WILL AND CONSENT: IN CONSONANCE WITH RIGHT TO REFUSE:

*“whenever there is a raid on a brothel house, since voluntary sex work is not illegal and only running the brothel is unlawful, the sex worker should not be arrested or penalised or harassed or victimised”*¹⁶ consent is not just accepting the sex work consenting even have right to refuse

¹⁴ India moves to decriminalise "victim" prostitutes – NITA BHALLA

¹⁵ <https://www.youthkiawaaz.com/2009/12/the-big-debate-should-prostitution-be-legalized-in-india/>

¹⁶ SUPREME COURT PANEL 2011

where prostitutes are also having some kind of privileges they can say no to sex if they don't want to no one can force her to do it then it would be considered as rape. Justice Markedeya Katju and Justice Gyan Sudha Mishra had observed that "*it is only if a sex worker is able to earn a livelihood through technical skills rather than by selling her body that she can live with dignity*".¹⁷ Sex workers are particularly targeted for sexual assault until some significant laws were made in support of this profession. There are certain provisions under Indian laws related to consent Section 87¹⁸ states that any act done with out the intention to cause death or grievous hurt does by consent. This section states that any consent which has been take fraudulently or by any mis representation would not be considered as a liable consent also any consent taken by persons who are below 18 years of age is also not a valid consent. Those who are performing the act against that person or making that person to commit that act shall held liable and shall be punished accordingly. Consent is important in every case not only in prostitution.

Tukaram v. State of Maharashtra (Mathura Case):¹⁹

The infamous Mathura case where, it was alleged that the two police officers had committed rape on a girl who was brought to the police station in a missing case. The court had given a paradoxical judgment in this case. As the sessions court had mentioned that the age of the victim is in doubt the medical reports produced by the medical expert is questionable this argument was supported by the Bombay high court as well as Supreme Court. But the main issue relating to rape was some what paradoxical. The court held that the victim mathura was used to have sex and the allegations on the two police men were wrong because that time when the act was taking place she consented to have sex with the police officers and there were no signs of struggle and no body marks were found. She didn't raised any kind of alarm while the act was taking place hence, this case would come in consensual sex and no rape charges would be entertained.

This case raised so many issues as the supreme court has acquitted the two police men stating that this was a consensual sex but people started questioning this judgment as even if the girl is used to having sex that doesn't mean that anybody could take advantage of the situation and the girl being a minor this would obviously come under section 375(6)²⁰ which states that the girl who being under the age of 16 years any person having sexual intercourse would be

¹⁷ SUPREME COURT PANEL 2011

¹⁸ INDIAN PENAL CODE, 1860

¹⁹ 1979 AIR 185, 1979 SCR (1) 810

²⁰ INDIAN PENAL CODE, 1860

punishable for rape. The minor's consent in these cases is irrelevant with the matter of fact that anybody could manipulate the minor for bad.

EFFECT OF THE CASE:

This case led to several law commission reports which suggested that as the cases of sexual abuse are increasing day by day in the country certain suggestions has to be followed by the authorities to curtail the crime. The very recent amendment related to rape laws is criminal law amendment, 2013 this amendment has been made after the Nirbhaya case. The Verma commission of 2013 gives a clear cut punishments and rigours imprisonments for the offences against human body.²¹ Not only the pic has been amended the CRPC, IEA(Indian evidence act) got amended side by side. The laws are more strict now but the question is that the how effect these amendments, suggesting and laws are in India. Because of lack of education people always commits the same crime and they don't even realise that the offence is actually grievous and people wont accept this in any circumstance. The main laws commission report after the Mathura rape case was law commission report of India, 84th report²² this report was on rape and allied offences: some questions of substantive law, procedure and evidence 1980. The report was crafted the nationwide protest of the supreme court's decision in the infamous mathura rape case.²³ The recommendations of the report are very much appreciable to the and seem to be the result of the "open letter of the chief justice of India" by four lw professors- Upendra Baxi, Lotika Sarkar, Vasudha Dhagamwar, and Raghunath Kelkar. The open letter opened up some new questions which differentiated consent and submission. The letter also tried to address the gap left by the commission in the previous report. It sought to give context to the term 'consent' in the se cold clause of section 375. It proposed the idea that "the consent involve submission, but the reverse is not true hence absence of resistance does not necessarily indicate consent".²⁴ Further this law commission report it was the first detailed report that mentioned the women's organizations which were consulted. This report dealt with voluminous aspects if rape trial ranging from the issue of consent to burden of proof to procedural safeguards. The reports start with defining rape as "the ultimate violation of the self. It is a humiliating even in a women's life which leads to fear for existence and a sense of powerlessness". this report reaffirms the the notion of chastity and purity in the discourse around rape.

²¹ INDIAN PENAL CODE, 1860

²² Report on rape and allied offences

²³ 1978

²⁴ Idib

Keeping in view the advances in the understanding of sexual consent the commission report recommended to substitute “free and voluntary consent” for the word “consent”. The commission asserted that²⁵

This would make it clear that the consent should be active consent, as distinguished from consent which is said to be implied by silence. Under the amendment as recommended, it would not be open for the court to draw an inference of consent from her silence due to timidity or meekness or from such circumstances without anymore, - as the girl meekly followed the offender when he pulled her, catching hold of her hand, or that the women kept silent and did not shout out or protest or cry out for help.

These reports Cleary stated the provision of consent. This shall not be ignored that the girl shall give her consent before having a sexual intercourse. Every individual has right to refuse as well as free will to do some act or not. Prostitutes as well in the above context have to right to refuse and give consent.

IX. CHILD PROSTITUTION

Child prostitution is widespread and a serious problem. The majority of Bangladeshi prostituted children are based in brothels, with a smaller number of children exploited in hotel rooms, parks, railway and bus stations and rented flats.

The UNICEF estimated in 2004 that there were 10,000 underage girls used in commercial sexual exploitation in the country, but other estimates placed the figure as high as 29,000.

Many girls involved in child labour, such as working in factories and as domestic workers are raped or sexually exploited; these girls are highly stigmatised and many of them flee to escape such abuse, but often they find that survival sex is the only option open to them—once involved with prostitution they become even more marginalised.

More than 20,000 children are born and live in the 18 registered red-light areas of Bangladesh. Boys tend to become pimps once they grow up and girls continue in their mothers' profession. Most of these girls enter the profession before the age of 12.

Disabled children who live in institutions and children displaced as a result of natural disasters such as floods are highly susceptible to commercial sexual exploitation.

Girls are often sold by their families to brothels for a period of two to three years of bonded sex work. Visits to the brothels of Faridpur and tangail in 2010 revealed that most sex workers

²⁵ Law Commission Report, 1983

there take or are made to take the steroid drug to gain weight and to look better.

The authorities generally ignore the minimum age of 18, often circumvented by false statements of age, for legal female prostitution; the government rarely prosecutes procurers of minors.

X. SEX TRAFFICKING

Bangladesh is a source, transit, and destination country for women and children subjected to sex trafficking. Women and girls who migrate for domestic work are particularly vulnerable to abuse. Some women who migrate through Bangladeshi recruitment agencies to Lebanon or Jordan for domestic work are sold and transported to Syria and subjected to sex trafficking. Some women and children are subjected to sex trafficking in India and Pakistan.

With nearly 700,000 Rohingya fleeing Burma for Bangladesh since August 2017, Bangladesh is host to more than 1 million undocumented Rohingya, including hundreds of thousands who fled Burma in previous decades. The Rohingya community's stateless status and inability to work legally increases their vulnerability to human trafficking. Rohingya women and girls are reportedly recruited from refugee camps for domestic work in private homes, guest houses, or hotels and are instead subjected to sex trafficking. Rohingya girls are also reportedly transported within Bangladesh to Chittagong and Dhaka and transnationally to Kathmandu and Kolkata and subjected to sex trafficking.

Unwed mothers, orphans, and others outside the normal family support system are the most vulnerable to human trafficking. Government corruption greatly facilitates the process of trafficking. Police and local government officials often ignore trafficking in women and children for commercial sexual exploitation and are easily bribed by brothel owners and pimps. Women and children are trafficked both internally and internationally. International criminal gangs conduct some of the trafficking; the border with India is loosely controlled, especially around Jessore and Benapole, which makes illegal border crossings easy.²⁶

Police estimate more than 15,000 women and children are smuggled out of Bangladesh every year. Bangladesh and Nepal are the main sources of trafficked children in South Asia. Bangladeshi women and girls are forced into the brothel of India, Pakistan, Malaysia, UAE and other Asian countries.²⁷

²⁶ Bangladesh says Prostitution legal: BBC News. 14 March 2000. Retrieved 19 June 2010

²⁷ Syed Mehdi Momin (8 February 2016). "Brothels: Eviction not the solution, Brothels are by no means new additions to our social structure, and neither have they been forced on us as part of some devious imperialistic/colonial plan". *theindependentbd.com*. Retrieved 15 September 2018.

XI. SITUATION IN INDIA

As compared to Bangladesh in India the situation of prostitutes are somewhat similar but there is a thin line difference between them. The difference is that the prostitutes are in position to go freely anywhere and the constitution itself has the provisions to protect the rights of Indian citizens which also considers prostitutes also as the citizens. They also have the basic fundamental rights guaranteed no one shall violate the right of these persons.

Rape on the prostitutes are punishable with rigorous imprisonment. Most of the people think that if a girl is of easy virtue she can be used without consent but the Indian penal code has very rigorous imprisonments for outraging the modesty of the women. This country has a separate act which focuses on prostitution and forced prostitution the act is ITPA which was enacted in 1956 this paper also focuses on the provisions related to these acts as well. The above-mentioned sections are in consonance with ITPA act.

India compared to Bangladesh the child prostitution is comparatively less than that country.

XII. CONCLUSIONS AND SUGGESTIONS

We are living in the twenty first century. This is an era which was supposed to have brought equality between sexes, dignity and respect for women. But this proposition still remains a dream. Being the weaker sex, women continue to be exploited in all spheres and walks of life. The profession of sex-work is one such profession wherein the level of respect, dignity and self-worth for a woman is at the lowest level whereas harassment, injustice and exploitation at the hands of various unscrupulous elements is the highest. This is a profession which is often called the oldest profession of mankind which has continued since time immemorial and which will continue till humanity exists. Despite this stark fact, the women working in this profession have neither been given their due in society nor they have been treated with respect. Women in this profession continue to suffer endlessly. The tolerationist approach that India had adopted as a result of the 1949 U. N. Convention has failed to help these hapless women. For a woman working in this profession in India, the law which was supposed to have been in her favour has only targeted her and as a result she continues to suffer at the hands of pimps, brothel keepers, traffickers and the police.

The foregoing study reveals that the current policy on sex work in form of Immoral Traffic Prevention Act, 1956 suffers from serious shortcomings and drawbacks. The plight of sex-workers under the current legal regime is pitiable as well as deplorable. As such the current policy and the law need to be drastically amended and altered. Elaborate suggestions on a new

law and how it will tackle the ills infesting the current system have been already discussed at length by the researcher in the last chapter. Herein the researcher proposes certain general suggestions which will go a long way in improving the living and working conditions of sex workers. These suggestions may be summarised as follows:

- (i) Empowerment of Sex-workers
- (ii) Suggestions to prevent the spread of HIV/AIDS and STDs
- (iii) Suggestions to prevent child prostitution and child sex tourism

Finally, it can be said that in the twenty first century, where we are striving to provide basic human rights to all, efforts must be made to provide humane conditions to the sex-workers within their profession. All the members of the society today must strive to end slavery like practices and exploitation, in whatever form they exist. The profession of sex-work can be ridden from the clutches of unscrupulous elements only when we change our mind set and our perceptions about sex-work. We must always keep in mind that a sex-worker working in a red light area is not doing so for accumulation of wealth or for instant riches but for basic survival, it is a means for her to feed herself and her extended family who are in a majority of cases totally dependent on her income. If the suggestions made by the researcher in the form of introduction of a new law and in the form of general suggestions are looked into then things as they stand today for sex-workers can certainly improve in the near future. Such an environment can be created wherein the sex-workers can lead a life of self-respect and dignity which benefits them and the society as a whole. But for this to materialise efforts have to begin at the grassroots level from today.

Prostitutes from the most impoverished and disease-afflicted areas of the world walk the streets of the wealthiest countries as "sex tourists" flow in the opposite direction. As media panics about disease epidemics and about the sexual exploitation and even enslavement of children as well as adults seize the short attention span of the global public, the dimensions of the problems are rapidly outpacing the authority and even the scope of vision of local and national governments.

International law instruments such as the 1949 UN Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (only ratified by about one-third of the UN member states as of 1998) are still no more than tentative and rudimentary efforts. Nongovernmental organizations are considerably more in touch with the rapidly changing global facts of prostitution at the beginning of the twenty-first century, but they too suffer from the lack of any shared conception of the problems and they routinely expend their

limited resources working at cross-purposes to one another. In few other domains of crime and justice is there a more urgent need for more and more rigorous empirical research on a worldwide scale and for a fundamental theoretical reorientation. As far as prostitution in India is concerned there are laws but they need to be implemented properly. The lack of implementation is leading to the growth of million dollar industry of sexual trafficking.

Import and export of girls , men, children has become common but this is a serious socio economic offence which is a crime in recent times and has to look into this matter and the government shall provide rescue homes to the people who have been rescued and rehabilitate them to lead a normal life again.
