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# Victims of Trafficking and Prostitution: Waiting for Justice

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## ABSTRACT

*Prostitution is a practice of sexual service in exchange of payment, and the very basic reason which result in the practice of prostitution is trafficking. The individuals involved in the prostitution are often victims not criminals. The plight of women in any field is worst. They are considered to be an object to fulfill the bodily needs and desires. Victims of Trafficking and Prostitution are living a life more brutal than the guilty in the prison. Law is vague and ambiguous when it comes to prostitution. The law itself is in dilemma because on one hand human trafficking is illegal and on the other hand prostitution is not punishable. But what would be the legality and status when an individual in trafficked and shoved in prostitution is a question that is unanswered. Some violent and controlling individuals confine women, men and children and force them to commit acts of prostitution for their own profit. Human trafficking forcefully converts a person into a commodity. And also, a poor woman turns to prostitution because of very less economic opportunities. Prostitution and human trafficking have jointly become commercial sexual exploitation. The sex workers are exploited by the owners of the brothels and the pimps too as there are no proper laws for them. Once a female is involved in such activities she is not accepted back in the society or family, under social pressure and at the end they have to ultimately return to the shelter from where they came which is no less than a hell for them where their body is exploited. In this paper the emphasis is laid down on the roots of this practice and also a question on its legality.*

**Keywords:** *poverty, trafficking, social status, legality, exploitation.*

## I. INTRODUCTION

Human trafficking represents a grave transgression against humanity, characterized by the coercive exploitation of individuals for diverse objectives, primarily encompassing forced labor and commercial sexual exploitation. This nefarious practice constitutes a profound violation of fundamental human rights and entails the recruitment, transportation, transfer, harboring, or reception of individuals through unlawful means. It manifests as the trade of humans for the purposes of compelled labor, sexual enslavement, or commercial sexual exploitation, to the

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benefit of the trafficker or other malefactors. This malevolent phenomenon may extend to the coerced provision of a spouse in the context of forced marriage, or the illicit removal of organs or tissues, including for the facilitation of surrogacy and ova extraction. Traffickers resort to violence, intimidation, deception, and other manipulative stratagems to ensnare victims in harrowing predicaments, frequently singling out the most susceptible segments of society, such as unemployed and homeless youth. Human trafficking stands as one of the most lucrative illegal enterprises, ranking third only to the drug trade and the sale of arms. Predominantly, women and children fall victim to the machinations of traffickers, who subject them to sexual and labor exploitation. Regrettably, these individuals are treated as mere commodities, devoid of adequate legal and humanitarian safeguards. Human trafficking stands as a universally condemned illegal phenomenon, with all nations subscribing to its eradication. This illicit practice is primarily associated with sexual and labor exploitation. Efforts are made globally to combat human trafficking, protect victims, and prosecute those responsible. It is a complex and serious issue that requires international cooperation and strong legal frameworks to address effectively.

Prostitution and trafficking are complex and sensitive issues in India. Prostitution, in itself, is not illegal in many parts of India, but the solicitation of sex in public places, running brothels, and human trafficking for the purpose of prostitution are against the law. Human trafficking for sexual exploitation is a grave problem in India, with many vulnerable individuals, including women and children, being forced or coerced into prostitution. This issue is a violation of human rights and is a matter of concern for law enforcement agencies, NGOs, and the government.

The Government of India penalizes trafficking for commercial sexual exploitation through the Immoral Trafficking Prevention Act (ITPA)<sup>3</sup>, and employs legislative measures to combat the practice of trafficking for commercial sexual exploitation, primarily through the enactment of the Immoral Trafficking Prevention Act (ITPA). The ITPA prescribes a range of penalties for individuals involved in such activities, encompassing prison sentences ranging from seven years to a potential life term, in addition to monetary fines. India serves a multifaceted role in the realm of human trafficking, functioning as a source, destination, and transit point for individuals subjected to forced labor and sexual exploitation. Vulnerable populations, particularly those hailing from lower caste or tribal communities, as well as women and children marginalized within society, are frequently enticed by the promise of improved living conditions and employment prospects before being coerced into trafficking situations by unscrupulous agents.

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<sup>3</sup>The Immoral Traffic (Prevention) Act, 1956; §. 4.

Consequently, it becomes apparent that the offense of trafficking is intricately interlinked with the broader issue of prostitution, thereby significantly unsettling the equilibrium of societal equality. To ameliorate this social malignancy, it is imperative that stringent legal provisions are enforced. This paper undertakes an extensive examination of the multifaceted dimensions of this pertinent issue.

## **II. POVERTY: THE ROOT CAUSE**

There will hardly be a woman who wants to be in prostitution. If prostitution is there then there is a reason behind. Why is such practice prevalent in the society? Poverty is one such cause. If by selling her body and her dignity the family members of a woman are getting food for living then her body means nothing to her. The voluntary engagement of any individual, particularly women, in the commercial sex industry is contingent upon compelling underlying circumstances, with one of the foremost factors being dire economic hardship. It is pertinent to acknowledge that poverty is an endemic issue within our nation. Nevertheless, the ethical question arises as to whether poverty can morally justify an individual's recourse to self-exploitation. In a society where fundamental rights are enshrined, and where the freedom to express one's thoughts and opinions is upheld, it prompts a profound moral quandary as to why marginalized and vulnerable individuals must bear the brunt of such dehumanizing practices.

Poverty can be a significant factor that leads individuals into prostitution. While people enter sex work for a variety of reasons, economic hardship is often a driving force. Poverty can create vulnerabilities that make some individuals more susceptible to entering the sex industry as a means to survive or support themselves and their families. Factors linking poverty and prostitution may include lack of economic opportunities as in areas with limited job opportunities and high level of poverty, some individuals may see prostitution as a way to earn income when other options are scarce; gap in education and skills as limited access to education and job training can make it difficult for people to find alternative employment, pushing them toward sex work; debt and financial pressure because some individuals may become involved in prostitution to pay off debts, address financial emergencies, or support their families and exploitation because individuals in poverty are more susceptible to exploitation by traffickers or pimps who promise economic relief but subject them to forced prostitution.

Young girls who have the responsibility of the maintenance of their family are the ones most prone to the practice of prostitution. They are trapped by the pimps on the face of giving them job opportunities and helping them to have a good income and then when they simply agree they are taken to faraway places where they have no choice at the end but to shove into the

practice of prostitution. The reason why does human traffickers target homeless kids is that it is easier to take a kid from the streets because no one will know that she's gone. Basically, these homeless kids and girls are just counted as a population only because they are not given even the basic fundamental rights. It seems as if the word dignity is not made for them. What can be more shameful for us and for our so-called developing country than that a woman or a girl is selling her body for survival. Generally, the cases are heard of the frauds which are committed on woman in the name of providing jobs or livelihood and thus they are trafficked not only from the states to states but also from the neighboring countries. Prevalent manifestations of human trafficking encompass distinct categories, including but not limited to bonded labor, coerced labor and involuntary servitude encountered within migrant labor communities, involuntary domestic servitude, forced child labor, the enlistment of child soldiers, sex trafficking, and prostitution, as well as the commercial sexual exploitation of children for the purposes of tourism.

### **III. PROSTITUTION –A SOCIAL EVIL**

Prostitution<sup>4</sup> is the practice of engaging in relatively indiscriminate sexual activity, in general with someone who is not a spouse or a friend, in exchange for immediate payment in money or other valuables. Prostitutes may be female or male or transgender, and prostitution may entail heterosexual or homosexual activity, but historically most of the prostitutes have been women and most clients are men. Prostitution is a topic which is least discussed. It is strange that the society which criticizes the practice is prostitution is itself involved in it. Why are brothels<sup>5</sup> running? Because people come in the brothels and they fulfill their sexual desires and outside the brothels they criticize and assassinate the characters of prostitutes. Prostitution and trafficking are inter-related. The very reason why prostitution is still prevalent in our country is the practice of trafficking. The proliferation of prostitution as a commercial enterprise can be attributed primarily to the illicit trafficking of women and children. To address this issue and regulate the practice of prostitution, the Immoral Traffic (Prevention) Act of 1956 was enacted, with the dual purpose of legalizing and restraining the aforementioned activity. According to this law<sup>6</sup>, prostitutes can practice their trade privately but cannot showcase in public.

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<sup>4</sup>The Immoral Traffic (Prevention) Act, 1956; §. 2(f).

“prostitution” means the sexual exploitation or abuse of persons for commercial purpose, and the expression “prostitute” shall be construed accordingly.

<sup>5</sup>The Immoral Traffic (Prevention) Act, 1956; §. 2(a).

“brothel” includes any house, room 5[, conveyance] or place or any portion of any house, room 5[, conveyance] or place, which is used for purposes 6[of sexual exploitation or abuse] for the gain of another person or for the mutual gain of two or more prostitutes.

<sup>6</sup> The Immoral Traffic (Prevention) Act, 1956; §. 7.

An unequivocal correlation exists between prostitution and the phenomenon of sexual trafficking. As delineated in the concept of sex trafficking, the act of trafficking encompasses diverse objectives, prominently including labor exploitation and, notably, sexual exploitation. Within the overarching landscape of human trafficking, it becomes evident that a substantial majority, approximately 80%, of those subjected to such circumstances are ensnared into sexual exploitation, underscoring the pronounced entwinement of trafficking within the realm of the sex industry. Furthermore, these statistics illuminate a direct nexus between the twin issues of trafficking and prostitution.

Prostitution, in its own right, holds significance in the context of public health in India. It is recognized as a contributing factor to the transmission and proliferation of HIV/AIDS. Notably, long-haul truck drivers in India, frequently separated from their homes for extended durations, emerge as a pivotal consumer demographic within the prostitution domain. Their proclivity for engaging in sexual activities with sex workers reinforces the role of prostitution as a conduit for the spread of HIV/AIDS in the country.<sup>7</sup>

Approximately 25 to 80% of prostitutes in India are estimated to be afflicted with HIV-AIDS. A significant proportion of these individuals regularly engage in sexual encounters with truckers, with a frequent clientele averaging between 3 to 4 men per day, often devoid of protective measures. This behavior not only escalates their personal risk of infection but also introduces the deliberate transmission of the disease to other individuals. In stark contrast to previous centuries, the present landscape of prostitution in India has evolved into a fully-fledged, multi-billion-dollar industry, boasting a network of approximately two hundred thousand brothels and a substantial population of commercial sex workers, all primarily driven by financial motivations. Traditionally, the clientele for prostitution in India comprised truck drivers and migrant laborers; however, an emerging trend indicates an expanding clientele encompassing individuals from diverse strata of society.<sup>8</sup>

#### **IV. THE ROLE OF THE SOCIETY**

On one hand the so-called well-wishers of the society, criticize the prostitution and ask for the ending of the same but on the other hand they themselves do not accept if a woman leaves the profession of prostitution and wants to join the society. Once a woman is involved in the prostitution she is not welcomed again in the society. It is the situations and circumstances which make a woman resort to prostitution, but society will not accept whatsoever is the reason.

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<sup>7</sup> Morgan Gettinger, 'Consenting' Adult Sex Workers Should Not Be Arrested, INDIA E-TRAVEL (Oct, 27, 2023, 12.42 PM), <https://indiaetravel.com/consenting-adult-sex-workers-should-not-be-arrested/>

<sup>8</sup> *Ibid.*

Girls are trafficked and put into the prostitution and then it is bringing an end of liberty in their life. We can't even think of our sisters and daughters to be in the profession of prostitution but we ourselves go to the brothels to fulfill our sexual desires. If we want to eradicate the practice of prostitution, then we have to accept the women who come back leaving the prostitution. Even if a woman wants to leave the prostitution and desires to start a new life it is we who do not accept her in the society and assassinate the character of the same. Ultimately the woman is compelled to return to the brothel which is no less than a hell for her but still she joins it just because of the sake of living. The place of living of the prostitutes is filthy and they do not have even a healthy environment. A substantial proportion of sex workers in India, as indicated by a survey conducted by a non-governmental organization (NGO), disclosed that their involvement in the profession of prostitution was not a matter of personal choice but rather a compulsion born of necessity. For many, this occupation arose as a consequence of marital breakdown, providing a means to sustain themselves. Others turned to prostitution after experiencing rejection or disownment by their families, while a segment was coerced into this line of work by family members or acquaintances who misled them with promises of lucrative earnings. Irrespective of the specific catalyst, the overwhelming majority of women engaged in prostitution express a desire to discontinue this vocation. Only a minuscule fraction actively pursues or selects it, while the majority are earnestly seeking avenues for escape from it.

## **V. PROSTITUTION AND AMBIGUITY IN LAW**

Law is vague and ambiguous when it comes to prostitution. The law itself is in dilemma because on one hand human trafficking is illegal and prostitution is not punishable on the other hand. If the practice of trafficking is made illegal then on what basis the legislature has made the practice of prostitution legal? But what would be the legality of status when an individual is trafficked and shoved in prostitution. Prostitution itself is not punishable under the law which is the biggest loophole in the system but the activities related to the prostitution are punishable which includes running brothels, pimps etc. and also the real cause for this is trafficking. Until and unless the practice of prostitution is not illegalized, we cannot expect a state where our girl child can be safe. Prostitution is legal in India but partially. Article 19 (g)<sup>9</sup> of the Indian Constitution gives right to practice any profession to the citizens of the country, and thus also allows anyone to practice this as a profession but unlike other professions it is not legal to practice it, and is governed by the Immoral Traffic (Prevention) Act, 1956.<sup>10</sup>

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<sup>9</sup> Constitution of India; art. 19, cl.1(g)- Right to practice any profession or to carry on any occupation, trade or business.

<sup>10</sup> *Ibid.*

Prostitution in India holds the distinction of being one of the most ancient professions. A prevalent misconception often surrounds the legal status of prostitution in India, where it is erroneously regarded as illegal. In reality, the act of prostitution itself is not illegal, but the activities associated with it, such as pimping, brothel ownership, and brothel management, are deemed unlawful. Notably, metropolises like Mumbai, Delhi, and Kolkata serve as focal points where a substantial number of brothels operate illicitly. The legal framework surrounding prostitution carries implications of paramount importance. Where prostitution is either legalized or tolerated, there exists a heightened demand for victims of human trafficking, consequently amplifying the likelihood of an increase in the count of women and children falling prey to exploitative sexual servitude. The legitimization of prostitution acts to expand the commercial sex market, thereby affording opportunities for criminal enterprises to thrive and establish secure harbors for human traffickers. Notably, organized crime networks engage in these activities without adherence to government regulations, tax obligations, or the safeguarding of the welfare of prostitutes. The process of legalization merely serves to facilitate their integration into ostensibly regulated sectors of the sex industry, rendering it considerably more challenging for legal authorities to discern and penalize those responsible for the trafficking of individuals into prostitution.

Proponents of the legalization of prostitution put forth three core rationales to underpin their argument: the safeguarding of public health, the preservation of public safety, and the protection of individuals, both women and men, engaged in the sex trade. Their contention is that criminalizing the sex industry perpetuates conditions that are conducive to widespread exploitation, and the remedy lies in acknowledging the existence of prostitution while ensuring the legal and social rights of sex workers.

The prohibition of prostitution enhances the vulnerabilities faced by sex workers, exposing them to heightened risks, including the perils of human trafficking and encounters with clients who pose greater dangers, alongside promoting unsafe sexual practices. However, none of these assertions suffice to offer compelling solutions to address the issue of sex trafficking in the context of legalized prostitution.

In contrast, the legalization of prostitution is perceived as a boon to pimps, traffickers, and the sex industry as a whole. Legalization effectively legitimizes all facets of the sex industry, encompassing not only the individuals involved, such as sex workers and clients, but also the intermediaries, commonly referred to as pimps, who, within the framework of legalization, are transformed into legitimate third-party entrepreneurs within the realm of sexual commerce. On one side the constitution of our country is giving the right to practice any profession thus giving



a license to the pimps to run brothels and bid the dignity of a woman. On the other hand, it is also giving an individual a right to life and personal liberty and dignity. What is the status of the dignity of a woman who is shoved in the profession of prostitution? Is she not considered a human or is she not considered a part of the country or the constitution is not made for such deprived class of the society but the ultimate thing that comes here is that the constitution begins with the preamble starting with the line, “WE THE PEOPLE OF INDIA” that clearly means that every individual is giving itself the constitution whether he is elite or poor whether a prostitute or a great personality. It is given by each and every individual, hence no religion, no caste, no status and no profession can differentiate it. Thus, no right can be given to an individual by infringing the right of any other individual.

## **VI. STATUTORY PROVISIONS FOR ERADICATING PROSTITUTION**

Although the roots of prostitution are so deep that it is nearly impossible to root it out but still some provisions are laid down by the legislature for lowering down this practice. For completely eradicating this evil practice, it should be completely made illegal; otherwise, its legality has given license to many pimps to carry forward this practice which is a striking characteristic of trafficking in the country. Supporters of the legalization of prostitution argue that prostitution is a crime in which there is no victim but the real thing is that the victim is the sex worker or prostitutes themselves. There is a misconception that crime would decrease if prostitution were legal. But it should be understood that crime rates and legalizing of the practice of prostitution are nowhere correlated.

In India, the legal framework and statutory provisions related to prostitution are complex and vary from state to state. Prostitution itself is not illegal at the federal level; however, the Immoral Traffic (prevention) Act, 1956 (ITPA) is a significant law that addresses prostitution and human trafficking. The ITPA primarily focuses on the prevention of trafficking for commercial sexual exploitation and the punishment of traffickers. It distinguishes between soliciting and brothel-related activities. It also provides for the rescue and rehabilitation of sex workers while penalizing those involved in trafficking and exploitation.

The Constitution of India, though devoid of explicit references to prostitution or dedicated provisions concerning it, does offer a foundation based on several fundamental rights and principles that can be invoked in the context of sex work and the rights of individuals engaged therein. Article 14 of the Indian Constitution assures the right to equality before the law and equal protection of the laws for all citizens, and can be utilized to contest discriminatory practices or policies targeting sex workers. Article 21 of the Constitution of India, guaranteeing

the right to life and personal liberty, has been judicially construed to encompass the right to lead a life with dignity. This interpretation provides a legal basis for ensuring the dignity and well-being of individuals involved in sex work. Besides, Article 23 of the Indian Constitution prohibits human trafficking and forced labor, and this stipulation can be invoked to shield individuals from exploitation within the context of sex work, thereby upholding their rights and welfare.

### **(A) Punishment for keeping brothel<sup>11</sup>**

Punishment for keeping a brothel or allowing premises to be used as a brothel. -

(1) Any person who keeps or manages, or acts or assists in the keeping or management of, a brothel shall be punishable on first conviction with rigorous imprisonment for a term of not less than one year and not more than three years and also with fine which may extend to two thousand rupees and in the event of a second or subsequent conviction, with rigorous imprisonment for a term of not less than two years and not more than five years and also with fine which may extend to two thousand rupees.

(2) Any person who—

(a) being the tenant, lessee, occupier or person in charge of any premises, uses, or knowingly allows any other person to use, such premises or any part thereof as a brothel, or

(b) being the owner, lessor or landlord of any premises or the agent of such owner, lessor or landlord, lets the same or any part thereof with the knowledge that the same or any part thereof is intended to be used as a brothel, or is willfully a party to the use of such premises or any part thereof as a brothel,

shall be punishable on first conviction with imprisonment for a term which may extend to two years and with fine which may extend to two thousand rupees and in the event of a second or subsequent conviction, with rigorous imprisonment for a term which may extend to five years and also with fine.

### **(B) Punishment for pimps<sup>12</sup>**

Punishment for living on the earnings of prostitution is prescribed as follows:

Any person over the age of eighteen years who knowingly lives, wholly or in part, on the earnings of the prostitution of 1[any other person] shall be punishable with imprisonment for a

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<sup>11</sup>The Immoral Traffic (Prevention) Act, 1956; §. 3.

<sup>12</sup>The Immoral Traffic (Prevention) Act, 1956; §. 4.

term which may extend to two years, or with fine which may extend to one thousand rupees, or with both 2 [and where such earnings relate to the prostitution of a child or a minor, shall be punishable with imprisonment for a term of not less than seven years and not more than ten years].

## VII. TRAFFICKING- A SOCIAL EVIL

The issue of human trafficking, with a particular focus on women and children, has emerged as a subject of substantial national and international apprehension. Presently, it ranks as the third most significant organized criminal activity, following the trafficking of arms and narcotics. Statistical data demonstrates a consistent annual upswing in the count of trafficking victims. The underlying supply factors propelling trafficking comprise a spectrum of elements, encompassing poverty, the allure of employment opportunities, fraudulent marriages, displacement attributable to natural calamities, political upheaval, such as civil conflict, the cultural subordination of women, and migratory patterns,<sup>13</sup> *etc.* The 2010 Trafficking in Persons Report points out that ninety percent of those trafficked belong to the most disadvantaged groups.<sup>14</sup> Trafficking is prohibited by the Constitution of India,<sup>15</sup> yet India herself is a source of destination and transit country for this. In both cases, the initial migration, legal or illegal, may be voluntary, and subsequently migrants may be trafficked. Studies reveal a well-established market in Uttar Pradesh for 'purchased' Bangladeshi wives.

### (A) Definitions of trafficking

The Oxford English Dictionary furnishes definitions of the term "traffic," where it is defined as "trade," particularly when associated with illegal activities, such as in the context of narcotics. The term "trafficked" is further elucidated as "engaging in the dealings of something," especially when undertaken illicitly, as exemplified by trafficking in narcotics. A more comprehensive and elaborate definition of trafficking is furnished by the United Nations Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children, adopted in 2000 as part of the United Nations Convention against Transnational Organized Crime. It defines trafficking in persons as encompassing the recruitment, transportation, transfer, harboring, or receipt of individuals through various means, including threats, coercion, abduction, fraud, deception, the abuse of power, or exploitation of

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<sup>13</sup> Jonathan Fowler, UNICEF: Human Trafficking in Africa fueled by war, economic hardship, and lack of birth registration, (ASSOCIATED PRESS 2014), [www.protectionproject.org/wp-content/uploads/2010/09/Angola\\_Final\\_2012.pdf](http://www.protectionproject.org/wp-content/uploads/2010/09/Angola_Final_2012.pdf).

<sup>14</sup> Trafficking in Persons Report, 2010, United States Department of State, (Nov.10.2014), [www.unhcr.org/refworld/docid/4c1883c52d.html](http://www.unhcr.org/refworld/docid/4c1883c52d.html).

<sup>15</sup> Constitution of India; art. 23.

vulnerability, as well as the exchange of payments or benefits for the purpose of obtaining the consent of a person who exercises control over another individual. The ultimate objective is exploitation, with the scope of exploitation comprising, at a minimum, the prostitution of others, other forms of sexual exploitation, forced labor, slavery, practices akin to slavery, servitude, or organ removal. It is explicitly stipulated that the consent of a victim is deemed irrelevant when any of the aforementioned means are utilized in the process.<sup>16</sup> Also, where a child is concerned, the recruitment, transportation, transfer, harboring or receipt of a child for the purpose of exploitation shall be considered trafficking, even if it does not involve any of the means laid down in the definition of trafficking.<sup>17</sup> The SAARC Convention<sup>18</sup> also defined trafficking limited to commercial sexual exploitation as the moving, selling or buying of women and children for prostitution within and outside a country, for monetary or other considerations, with or without the consent of the person subjected to trafficking.

### **(B) Domestic law of India regarding trafficking**

In the Indian context, there exists a notable absence of a comprehensive legal definition pertaining to trafficking. While the Immoral Traffic Prevention Act of 1956, a significant legislative instrument in addressing issues related to prostitution, does not explicitly furnish a definition of trafficking, it does, however, define 'prostitution' as the sexual exploitation or abuse of individuals for commercial purposes. This definition inherently encompasses elements relevant to trafficking, given the evident overlap between prostitution and trafficking activities. Consequently, the Act incorporates several provisions designed to penalize various manifestations of trafficking.<sup>19</sup> It is the only legislation specifically addressing trafficking, but mix up issues of trafficking and prostitution and its key object has been to abolish traffic in women and girls with the intention to force them into prostitution as means of earning their livelihood.

As per the Act keeping a brothel is a punishable offence<sup>20</sup>, as is living on the earnings of the prostitution of others.<sup>21</sup> But a solitary instance of prostitution in a place does not make a place a 'brothel.'<sup>22</sup> The major elements of trafficking covered here are procuring, inducing or taking a person for prostitution, detaining a person in premises where prostitution is carried<sup>23</sup> on and

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<sup>16</sup>*Id.* at Article 3(b).

<sup>17</sup>*Id.* at Article 3(c).

<sup>18</sup> SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution, 2002, (Oct.2,2014), <http://www.saarc-sec.org/userfiles/conv-trafficking.pdf>.

<sup>19</sup>*Id.* at Sections 5, 6 and 9.

<sup>20</sup>*Id.* at Section 3.

<sup>21</sup>*Id.* at Section 4.

<sup>22</sup>Sushila v. State of Tamil Nadu (1982) Cri LJ Mad 702.

<sup>23</sup>*Id.* at Section 6(1).

soliciting.<sup>24</sup> If a person is found with a child in a brothel, there is a presumption that the child has been detained in that place for sexual exploitation.<sup>25</sup>

But providing a measly amount of Rs. 20,000 as compensation which is not enough to rehabilitate the victim and the punishment provided to the trafficker under Section 3 of the Act is three years only and it is not acting as deterrent to offenders are the shortcomings. The Justice Verma Committee also pointed out that ITPA only criminalizes trafficking but ignores the other aspects of trafficking. In other words, initiatives, law formulation and enforcement are roughly limited to the part of raid, rescue, and to some degree, the rehabilitation aspect. However, the Supreme Court under Article 145 and 142 of the Constitution laid down a comprehensive scheme to rescue and rehabilitate victims. The Act is in the of process being amended<sup>26</sup> and these amendments also include a proposed definition of trafficking as follows<sup>27</sup>.

Whoever recruits, transports, transfers, harbors, or receives a person for the purpose of prostitution by means of:

- a) Threat or use of force or coercion, abduction, fraud, deception.
- b) Abuse of power or a position of vulnerability.
- c) Giving or receiving of payments or benefits to achieve the consent of such person having control over another person, commits the offence of trafficking in persons.

### VIII. WAY FORWARD

There is unequivocal acknowledgment that both trafficking and prostitution represent multifaceted challenges, encroaching upon the fundamental rights and dignity of their victims, thus warranting substantial attention and remedial measures. The legal apparatus must exhibit efficacy and heightened rigor in addressing these issues. Government bodies, in conjunction with non-governmental organizations (NGOs) active in this domain, can significantly contribute to raising awareness and imparting essential education to parents regarding the necessity of safe migration practices and the associated risks entailed in sending their children to unfamiliar locales. The media can serve as a potent tool for disseminating information, fostering a collective consciousness that unequivocally condemns human trafficking as an intolerable and unlawful transgression.

Dealing with trafficking and prostitution is a multifaceted challenge that involves legal, social,

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<sup>24</sup>*Id. at Section 8.*

<sup>25</sup>*Id at Section 6(2A).*

<sup>26</sup> The Immoral Traffic (Prevention) Amendment Bill, 2006, (Nov.3.2014), [wcd.nic.in/640ls.pdf](http://wcd.nic.in/640ls.pdf).

<sup>27</sup> The Immoral Traffic (Prevention) Act, 1956; §. 5A.

and economic measures. Legislation and law enforcement can be strengthened and laws can be enforced against human trafficking and sexual exploitation. The traffickers can be targeted and those involved in the demand for commercial sex. Collaboration with international law enforcement agencies can be done to combat cross border trafficking. The victim support and rehabilitation shelters should be established and support services should be provided for victims of trafficking and individuals in prostitution. Medical, psychological and legal assistance should be provided to survivors. There should be more focus on trauma informed care and long-term rehabilitation.

The public should be educated about the realities of human trafficking and the risks of prostitution. Awareness campaigns should be supported to deter potential clients and reduce the demand for commercial sex. Education and job training should be promoted to reduce vulnerabilities. Also, poverty alleviation programs should be implemented to provide economic alternatives for those at risk and vocational training and job placement should be supported for individuals seeking to leave the sex industry.

Addressing trafficking and prostitution requires a comprehensive and compassionate approach, focusing not only on law enforcement but also on the welfare and recovery of victims and addressing the root causes of vulnerability. Collaboration between governments, NGOs, and international organizations is crucial in this effort.

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