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Why India Needs to Legalize Sex Work: An Extensive Study of Its Benefits

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ABSTRACT

Sex work is nothing but providing intimate pleasure in exchange of money. Over the years sex workers have experienced downtrodden life. Sex workers are vulnerable to exploitation, harassment, atrocities etc. sex workers deserves equal protection of law. Indian law on sex work is vague, unclear and complex therefore India needs to work on unblocking the ambiguity perhaps by legalize it. Many support its decriminalization however it may not serve the purpose. The purpose of this research paper is to ascertain the probable impact of legalizing sex work in India. Researcher has adopted doctrinal method to make intensive analysis. It is important to work on this sensitive issue because in the absence of clear law, sex workers shall be exploited by police officers, agents, masters and violent customers. Owing to the partial legality and ambiguity in determining status, it becomes difficult to extend protection to sex workers. To overcome these issues India must legalize sex work immediately.

Keywords: *Indian Law on sex workers, Benefits of Legalization, International Legal status, Benefits of Legalization Of sex work.*

I. HISTORICAL EVOLUTION

(A) Ancient India

Ancient Indian society has always handled Sex work liberally. Earlier we had Devdasis' (temple diva) for sex work and related purposes. "The word Devdasis' come from Sanskrit dev means god and Dasi means handmaid"². In Hinduism, practice of dedicating girls to deity is considered as sacred these Devdasis' were controlled by temples. There were different reasons that justified this practice. They had different names in south India. Thayammas, jogis, basvis³ etc. Initially women depended on her husband for her status. This oppressive approach towards women is deep rooted in Indian society. According to the ancient beliefs,

¹ Author is an Advocate, India.

² Maria C. Torri, Abuse of Lower Castes in South India: The Institution of Devadasi, 11 J. INT'L WOMEN'S STUD. 31, 32 (2009).

³ VAKULABHARANAm LALITHA, WONEN, RELIGION AND TRADITION: THE CULT OF JOGINS, MATANGIS AND BASVIS 23 (2011).

after marriage identity of women merges into her husband's identity. This hilarious approach even applied to Devdasis'. In south Indian states, Dalit women are married to the goddess of fertility⁴. There have been different attempts to eradicate devdasi system however there are around 50,000 Devdasis in India⁵

In a case stone inscriptions from Ashoka Dynasty (23-236B.C.) reveal existence of Devdasi.⁶ Hindu scriptures make specific references of courtesan. The primary responsibility of Devdasis was entertainment through dancing. They would perform classical dance in temple⁷. However Devdasis enjoyed status, respect and recognition by society. Having said that Devdasis earned considerable money which they utilized for supporting family, purchasing land and for their livelihoods⁸.

In ancient India the implications of sexuality and morality were completely different than what we have today. During Rajput Era, Devdasis enjoyed special treatment as they were known for their 'divine sexuality' for warriors, landlords. Besides children born out of sexual encounters were treated as patron's illegitimate child⁹

Different theories had different understanding and implications. Jogan Shankar's Theory¹⁰- to conciliate gods, society adopted custom of devdasi. Devoting young girl to god was considered sacred. Another theory made ritualized prostitution an ultimate sign of prosperity. Under this theory, deities performing intimate favors were considered a ritual. Prior to colonization, Invasion of India by Islamic and other rulers resulted in drastic destruction of Hindu Temples.¹¹ This destruction started affecting Devdasis and their institution. They were getting exploited and harassed. Later with britisher's rule worsen their livelihood in toto. Devdasis were not from any particular caste¹² it was an organized group. While serving as devdasis these women kept suffering. Stigmatization, isolation and isolation were few of the challenges these devdasis were facing¹³ From economic perspective devdasis lived a better

⁴ Lucinda Ramberg, When the Devi Is Your Husband: Sacred Marriage and Sexual Economy in South India, 37 FEMINIST STUD. 28, 28-31 (2011)

⁵ Id

⁶ KALI P. GoswAMI, DEVADASI: DANCING DAMSEL xxiii (2000)

⁷ DAVESH SONEJI, UNFINISHED GESTURES: DEVADASIS, MEMORY, AND MODERNITY IN SOUTHINDIA 6 (2012).

⁸ Umeshwari Dkhar, Devadasi: A Sex Trafficking 4 (2015). Available at SSRN: <https://ssrn.com/abstract-2696871>

⁹ Hyun J. Lee, Temple Prostitutes: Devadasi Practice and Human Trafficking in India, 8 REGENT J. INT'L L. 1, 2 (2011).

¹⁰ REKHA PANDE, PROSTITUTION AND BEYOND: AN ANALYSIS OF SEX WORK IN INDIA 101, 107 (Rohini Sahni et al. eds., 2008)

¹¹ Ankur Shingal, The Devadasi System: Temple Prostitution in India, 22 UCLA WOMEN'S L.J. 107, 109 (2015).

¹² Lucinda Ramberg, When the Devi Is Your Husband: Sacred Marriage and Sexual Economy in South India, 37 FEMINIST STUD. 28, 28-31 (2011).

¹³ T. N. Sathyanarayana & Giridhara R. Babu, Targeted Sexual Exploitation of Children and Women in India: Policy Perspectives on Devadasi System, 5 ANNALS TROPICAL MED. & PUB. HEALTH 157, 158 (2012)

life back then. Today devdasis suffer for their livelihood. It was revealed that 75.65% devdasis generate their income from sex work¹⁴

“In the jatakas additionally these workers were called adornments of the town (nagarasobhani). Sex workers used to follow the multitude of the lord. The multitude of Pandavas was additionally joined by courtesans. Dashratha had likewise requested that the multitude of Rama be joined by sex workers. Prostitutes have been depicted as participating in chasing, gutsy campaigns additionally with the lord's cortege, in festivals,¹⁵ in marriage processions, constantly in the ruler's cortege.”¹⁶ Hence, it tends to be seen and assumed by the above models that they had appreciated an extremely stately and good status in antiquated Indian cultures. As per Mitakshara,¹⁷ “an avaruddha was a lady, restricted by her lord from intercourse for certain men on the arrangement that she remained at home with the object of staying away from any slip by of administration”. Thus, with such a lady, despite the fact that a whore, she was unable to be drawn nearer by different men as long as she remained at home with her paramour, he who had sex with an avaruddha needed to pay a fine of 50 panas, albeit, commonly intercourse with them would be permissible.”¹⁸

‘A jataka story outfits an illustration of the ruler Dandaki, who ousted a ganika and thereafter re established her to her previous position.’¹⁹ Besides these, some different stories additionally make it apparent that “the king reserved a privilege to bring them (nagarasobhani) and to arrange them (vannadasi) to go to the woods after their old paramours.” In Mahavagga²⁰ we see that Ambapalika, a little youngster was made a prostitute.²¹ “In the account of Rupinika, we think about a whore, who was made a liberated individual by the order of the king”²²

“In Mrcchakatika, Sarvilka declared that the lord had offered to Vasantasena, the title of a “married spouse”, that is, set her free. By this demonstration Madanika got a higher situation than her past proprietor, Vasantsena. In this way, Vasantsena said, “you are currently the one

¹⁴ Blachard et al., Understanding the social and cultural contexts of female sex workers in Karnataka, India: Implications for prevention of HIV infection, 191 J. INFECTIOUS DISEASES 139-46 (2005)).

¹⁵ Ratnavali, Act. J; parvatiparina yanatakam 5.2; kalpasutra 1.102 .., cf Umesh Kr. Singh, op.cit., p

¹⁶ Mhbh. 12.326.32-6; Bhagavatapurana 1.11.20., 1; Bhojaprabandha 89; Prasannaraghava. 3.11.

¹⁷ Mitaksara, the Commentary of Mitra Misra and Mitaksara the Commentary of Yajna nes vara (Vij.) Ed. By Pt Narayana Sastri Sahityacarya and Pt Jagannatha Sastri Hosinga Sahityopadhyaya, Bañaras,

¹⁸ cf L.Sternbach, op.cit, p. 221., cf Umesh Kr. Singh, op.ci

¹⁹ Vats. 319.8.9. (Other such examples are also found in literary works, Jat 2.476; 5.134; Kath. 18, Tar. 124.201-2.)

²⁰ Mahavagga 8.114

²¹ The Story of Adhahasi in Cullavagga, 10.22

²² Kathasaritasagara, Tar. 12.133, svadhinam rupinikam rajadesena tam cakruh

to whom honour ought to be paid", as she got the name of a wife.²³

“The Yajnavalkya Smriti fixed the fine for attacking a whore at Rs.50 panas, and on the off chance that she is assaulted, every attacker needed to pay 24 panas to her”²⁴ AYOct@1984

For wellbeing of the mistresses exacting laws were outlined and for graver wrongdoings the punishment changed somewhere in the range of 1000 and 48000 panas as indicated by the level of the horror of wrongdoing and the situation with the harmed courtesans.²⁵

Kautilya Arthashastra : It contains principles concerning punishments for offenses, perpetrated by a ganika just as towards them. He states if, a Kumari, a young lady, was

abused without her assent, Kautilya recommends most noteworthy amercement and if there should arise an occurrence of her ability to give consent , the primary amercement , “akamyah kumarya va sahase uttamo dandah; sakamayah purvah sahasa dandah.”²⁶

Two separate standards of crimes have been underlined by Kautilya,

- i. executing of a ganika by her lovers and
- ii. the slaughtering of a lover by a ganika.

Kautilya²⁷ says, “anybody, killing a ganika , needed to suffer the consequence of 72000 panas to the ruler for denying him of his administration worker, through which the lord used to get cash. That was the explanation of a high punishment”

He makes specific reference of the dependants as well. He says“For killing mother (Matrka) of a ganika, likely importance a procuress, utilized by the lord, a girl (Duhitrka) of the ganika , which means an eventual youthful ganika, a ganika in the maturing for killing a rupadasi, a whore of lower degree, the wrongdoer was to be rebuffed with the most elevated amercement”.²⁸

“A man, who persuasively assaulted a ganika's girl, paid a fine of 54 panas in addition to a fine of multiple times her mom's charges, pre-sumably to the mother herself.”²⁹

Foreign clients needed to pay 5 panas additional tax obligation to the state notwithstanding the mistress' ordinary expenses.

The regular prostitutes were not having fixed rate and could just request expenses on signs of

²³ Cf L. Sternbach, op. cit. p

²⁴ Yajnavalkya Smriti. 11

²⁵ 8. Sukumari Bhattacharjee, op, cit, p 213

²⁶ Kautilya Arthashastra. 124.13-14.

²⁷ Kautilya Arthashastra. 18

²⁸ Kautilya. Arthashastra 124-19

²⁹ . Arthai IV.

dwelling together and if there should arise an occurrence of their extortive represents clients, their charges were responsible to be relinquished to the state.

Another defensive measure against unlawful dealings of the lover of a whore is found in the Matsyapurana ³⁰ "If a man takes a whore to another or individual on the affection of taking her to some specific individual ought to be fined a masa of gold."

(B) Medieval India

With British rule came the concept of governmental regulation. Britishers had introduced The *Contagious Diseases Act in 1868*. Under this act regular medical examination of sex workers were conducted. Irrespective of the consent, sex workers would undergo this gruesome procedure. This act was first ever attempt to regulate prostitution in India. This controversial Act failed to address the issues of sex workers to the contrary it primarily covered health of British soldiers.³¹ This act was repealed in 19th century³²

Music and art did play an important role in Indian Culture. Different parts of India had developed different forms of Arts and Music. Music and dance were the highly practiced for entertainment purposes. The identity of artists and prostitutes were merged to an extent. It was so overlapping that differentiation did not seem plausible.

It was reported by al-Umari, "with ultimate physical beauty, communication and dancing skills, concubines in 14th century, earned money which could rise to 20,000 tankas or more"³³ According to him, "these slave women could write and recite verses and also wore beautiful ornaments and performed beautifully"

"The girls serving the court enjoyed class compared to ones who performed on streets and bazaars. These girls were maintained by merchants who organized their performances"³⁴

The prostitute houses in the Sultanate had direct impact of state for collection of revenue. Aladdin Khilji's order specified the scheduled rates for sexual services. He specifically categorized women in three classes and depending upon their class, they earned.³⁵

³⁰ Mats.227.147 or 145.

³¹ PRIYADARSHINI VIAISRI, RECASTING THE DEVADASI: PATTERNS OF SACRED PROSTITUTION IN COLONIAL South INDIA 67 (2004).

³² Katria Hiersche, Prostitution and the Contagious Diseases Acts in 19th Century British Colonies 1 (2014) (unpublished B.A. thesis, Western Oregon University) (on file with the Hamersly Library, Western Oregon University).

³³ Shihabuddin al Umari, *Masalik al Absar fi Mamatik al Ansar*, tr. Ottospies S.A. Rashid and S. M. Haq. Aligarh, 1943, p 46

³⁴ In the 15th Century Court of Ghiyasuddin the band performed a show by fixing up a curtain between them and the audience, dressed in the fashion of bhand(an entertainer caste).

³⁵ Ibid

In medieval period, there was not any religious hindrance besides state acted in positive manner while treating sex work.³⁶ Balban while addressing sexual inclination of men said, "Men will pounce on other men's wives and that adulterous relationship could not be tolerated, authorized an regulated sex work was regarded as safeguard against passions of unruly men"³⁷

Every city had specific dedicated area towards sex work. Ibn Batuta while referring to 14th century stated, "In Delhi, particular class of musicians, both men and women, had huge pavilion called Tarababad was laid out."³⁸

There as moral position against prostitution by Mughal state. There eredemands to keep them apart, says Badauni³⁹ "the whole objective was to prevent other city area from contamination. A daroga along with a clerk were responsible for registering the names of customers visiting prostitutes. Only with official permission taking prostitute home was permissible. The emperor had introduced capital punishment in case of invasion of rules"

Alauddin Khilji bestowed marital status to many women to reduce the congestion in the profession.⁴⁰

(C) Modern India

Indian Penal Code⁴¹ deliberately criminalized "the act of prostitution under the age of 18th years"⁴² "The composers of the Constitution remembering the current issue sanctioned Article 23 that precludes dealing with individuals, poor people and constrained work. In spite of the state of sex labourers in India, they are as yet individuals and qualified for the essential thing rights under the Constitution. They are ensured under Article 21 which gives them right to life and individual freedom."

"The laws administering sex work in India are the Constitution of India, 1950; the Indian Penal Code, 1860 and the Immoral Traffic (Prevention) Act, 1956" The Constitution separated uniformity provisions⁴³ and arrangements of opportunity of association⁴⁴, right to

³⁶ Ashraf, *Life and conditions*, pp. 265. Dance and music by public women were integral to social pleasures and entertainment. They were also to be found in celebration of marriages and other domestic functions.

³⁷ Zia Barani, *Tarikh-i- Firozshahi*, ed, Sk, Abdur Rashid, Aligarh, 1957, p.51, Barani uses the term tawaif for prostitutes.

³⁸ *Rihla*, III, p 625

³⁹ Badauni, Vol. II ,p. 84

⁴⁰ Cf Ashraf, *Life and Conditions*, pp 265

⁴¹ Indian Penal Code, 1860

⁴² The Indian Penal Code, No. 45 of 1860, PEN. CODE (1860), § 372 [hereinafter IPC].

⁴³ The equality provisions are Articles 14 and 15 in Part III dealing with Fundamental Rights of the Constitution of India, 1950. Article 14 provides for equality before the law and equal protection of the laws; Article 15 prohibits the state from discriminating on the grounds of religion, race, caste, sex or place of birth, though it can make special provisions for women, children, "socially and educationally backward" classes, scheduled castes and scheduled tribes.

⁴⁴ Article 19(1), Constitution of India, 1950.

life and individual liberty⁴⁵, ensures preclusion of dealing of people and constrained work⁴⁶.”Under Part IV of Directive Principles of State Policy: the State is needed to coordinate its arrangements towards getting, bury alia, that the two people have an equivalent right to a sufficient methods for livelihood⁴⁷,that wellbeing and strength of labourers not be mishandled, and that residents are not constrained by need to enter diversions unsatisfactory for their age and strength”⁴⁸

The Andhra Pradesh High Court has likewise attested that,”these constitutional obligations are put on the state and a relating right is set on residents including sex workers.⁴⁹”

The Indian Penal Code has in any event 20 provisions⁷⁰ that make dealing culpable. The Indian Penal Code, 1860 additionally accommodates “issues identifying with prostitution in toddlers .

Sections 372 and 373 make,” purchasing and selling of any individual underneath the age of 18 years for motivation behind prostitution an offensive wrongdoing and deserving of 10 years detainment.”

II. IMMORAL TRAFFIC (PREVENTION) ACT, 1956

The essential piece of enactment is the Immoral Traffic (Prevention) Act, 1956. The act was enacted to highlight issue relating to trafficking and sex workers. The focus is primarily on female sex workers. The act has different provisions that highlight the cumbersome position of sex workers.

- i. “The Act fundamentally makes pimping and different exercises culpable, which gives a business viewpoint to prostitution that is probably going to abuse the individual of the prostitute⁵⁰ The Act doesn't forbid prostitution as such yet it restricts business exercises of the tissue trade.”⁵¹
- ii. “It has been held that all that is important to demonstrate prostitution is that a lady has offered her body for indiscriminate sex for enlist, and that sex is certainly not a fundamental ingredient.⁵²”

⁴⁵ Article 21, Constitution of India, 1950.

⁴⁶ Article 23, Constitution of India, 1950.

⁴⁷ Article 39 (a), Constitution of India, 1950

⁴⁸ Article 39 (e), Constitution of India, 1950.

⁴⁹ P.N.Swamy, Labour Liberation Front, Mahaboobnagar v. Station House Officer, Hyderabad 1998 (1) ALD 755.

⁵⁰ Manoj Wad and Sharayu Yadav, The legal framework of prostitution in India, Prostitution and beyond: an Analysis of Sex Work in India (New Delhi: SAGE Publishers, 2008) 212.

⁵¹ Id

⁵² Gaurav Jain v. Union of India and others AIR 1997 SC 3021 (K. Ramaswamy J.,).

iii. The Gujarat High Court held that “for another situation where society don’t perceive prostitution as a desirable for job, as that would give an open greeting for ladies to be dealt and furthermore that the right to prostitution is not a central right of fundamentalism”⁵³

iv. Under the ITPA,” a Magistrate, on the off chance that he considers it to be significant, can order the expulsion of a sex worker from any spot in light of a legitimate concern for the public⁵⁴.The ITPA likewise takes into account renewal of remedial institutions⁵⁵ and for the authorization of which Special Police Officers can be appointed”.⁵⁶

v. The 2006 Bill⁵⁷ excludes §8 of the first Act, in this way eliminating the offense of requesting or luring with the end goal of prostitution, it likewise precludes §20 of the Act in regards to the expulsion of the whore from any spot. Be that as it may, the duty, on the flipside, and seriousness of discipline of dealers and customers is expanded.

vi. The recently proposed §5(c) accommodates discipline of any individual visiting a massage parlour with the end goal of abuse of any individual. All the propositions have been censured as the livelihoods of the labourers would be smothered by the expanded disciplines of the clients.⁵⁸

On account of *Budhadev Karmaskar v. Province of West Bengal*⁵⁹, it was featured by the Supreme Court that a lady is occupied with prostitution not for joy, but rather due to destitution. In the event that such a lady gets a chance to learn and get specialized/professional preparing, she is qualified for acquire a stately occupation as opposed to selling her body. The Supreme Court additionally offered bearings to the Central Government and State Governments to make plans for giving professional preparing to the sex labourers the country over.

III. LEGAL STATUS OF SEX WORK AND SEX WOKERS

Different countries have different laws pertaining to sex workers and sex work. While defenders of legitimization accept that sex work is a type of strengthening, those battling to eradicate prostitution accept that there are life circumstances that empower ladies into sex work—destitution, absence of instruction, and that's just the beginning—and given better

⁵³ *Sahyog Mahila Mandal v. State of Gujarat* (2004) 2 GLR 1764

⁵⁴ §20, ITPA, 1956; See also Prabha Kotishwaran, *Preparing for Civil Disobedience: Indian Sex Workers and the Law*, 21(2) BOSTON COLLEGE THIRD WORLD JOURNAL 161(2001).

⁵⁵ §10A, ITPA, 1956.

⁵⁶ § 13, ITPA, 1956.

⁵⁷ *The Immoral Traffic (Prevention) Bill, 2006.*

⁵⁸ *Laya Medhini et al*, *Supra* note 14 at 734; --, *Indian Sex Workers rally over law*, BBC News, March 8, 2006, http://news.bbc.co.uk/2/hi/south_asia/4787580.stm.

⁵⁹ (2011) 10 SCC 283)

choices, nobody would pick the sex exchange. The gathering that sees the "engaging" side of sex work accepts that ladies ought to have the option to pick whatever they wish. Eventually, sex work, in their eyes, is a decision that numerous ladies make to pay their schooling, their youngsters' necessities, and their bills. They need to see more insurances, wellbeing administrations, and rights for sex laborers who are regularly liable to maltreatments from johns, pimps, and house of ill-repute proprietors just as law authorization and the state.

Countries like Australia, Belgium, and Canada have legalized prostitution. However Canada does not allow keeping of brothels. Chile, Denmark, Finland, France, Germany, Greece, Iceland, Ireland also legalized prostitution. Although countries like Chile, Denmark, Estonia, Finland and France have prohibited brothels in toto. There are many reasons for the same. The history of each county in respect of sex trade is different. Some countries had different forms of prostitution like brothel based, street based, temple based and many more. The most debated and controversial form among all of them is brothel because with brothel based prostitution comes harassment, force and torture. In other forms the chances of harassment are slightly low. In India also it is prohibited but not regulated by Law.

Table 1: Countries and their Laws on Prostitution and Brothels⁶⁰

Country	Is Prostitution Legal?	Are Brothels Legal?
Australia	Yes — since 2000	Yes
Austria	Yes — legal since 1975 — variety of regulations in place to monitor the profession	No
Belgium	Yes	Yes
Canada	Yes — with regulations	No
Chile	Yes	No
Czech Republic	Yes	No
Denmark	Yes — legalized in 1999	No
Estonia	Yes	No
Finland	Yes	No
France	Yes	No
Germany	Yes — legalized through the 2002 Prostitution Act	Yes
Greece	Yes	Yes
Hungary	Yes	No
Iceland	Yes — as of 2007; however, some regulations apply	No
Ireland	Yes	No

The impact of the progressive developments made significant places of protection from the predominant thoughts on sexual profound quality. By the last part of the 1960s the nation had seen the absolute most extreme alterations in the legitimate system of intimate industry in right around several years. "Somewhere in the range of 1967 and 1970 alone there were critical new changes to the enactment of separation, homosexuality, early termination, and stage censorship" During this period the ladies' development started to request monetary

⁶⁰ Devin Bowen, *The Impact of Legalizing Prostitution On Violent Crime*, 2013

freedom, power over their bodies, and more sexual decisions for ladies. Fundamentally scrutinizing the common good and monetary game plans, Black ladies in the USA drove the progression organization, requesting cash instalment for the work of bringing up youngsters. In fact, ladies started what has gotten a segment pattern: the refusal to go into marriage just to help their youngsters. Individuals of colour, Third World ladies, and helpless ladies all battled against constrained sterilization.

In Paris, workers from sex industry assumed control over a congregation besides requested complete entitlements as residents, “requiring full fledged abrogation of fines and, in their place, a non-reformatory expense framework” that will confer option for annuity along with government assistance. They squeezed for the option to be nationalized as government employees of sex. Without a doubt, testing the thought that the individuals working in sex industry are freak and neurotic, it was guaranteed by them that sexual business "task decided by the sexual requirements of one piece of society"- the male customers who generally went unpunished. “They pushed the laws of market interest as well as the weighty benefits harvested by the state in the criminalization of whores. For sure, the part of the country state was guessed as being complicities in the pimping of women”⁶¹

“The strike endured seven days and finished when the police attacked the congregation, beating the ladies and finishing the occupation. The ladies' requests were not met, however, they created overall consideration regarding the conditions and misuses that whore endured” The development of the sex labourers' privileges development in France was trailed by the advancement of comparable gatherings in England, Australia, Germany, Italy, Denmark, Canada, and significant urban areas in the United States. The development focused on the troublesome and hazardous working conditions confronting sex labourers. It additionally raised individuals' awareness of the social and financial issues that all ladies face, such as savagery, inappropriate behaviour, segregation, assault, absence of suitable work openings, and neediness. A well known motto utilized by the sex laborers' development in the United States was "Ban neediness, not prostitution." Other sex laborer associations, like the English Collective of Prostitutes, for instance, supported the nullification of laws against whores, laws that rebuff ladies for dismissing poverty⁶²

Table 2: Countries and their Laws on Prostitution and Brothels⁶³

⁶¹ "No one screws more prostitutes than the government" read a poster campaign in England led by the English Collective of Prostitutes in 1992.

⁶² Nina López-Jones, Workers: Introducing the English Collective of Prostitutes, in *SEX WORK: WRITINGS BY WOMEN IN THE SEX INDUSTRY* 271, 272 (Frederique Delacoste and Priscilla Alexander eds., 1987)

⁶³ Devin Bowen, *The Impact of Legalizing Prostitution On Violent Crime*, 2013

Country	Is Prostitution Legal?	Are Brothels Legal?
Italy	Yes	No
Israel	Yes	No
Japan	Yes — but non-coital sex is illegal	No
Korea	No	No
Luxembourg	Yes	No
Mexico	Yes	No
Netherlands	Yes — legal since 2000	Yes
New Zealand	Yes — legal since 2003	Yes
Norway	Yes	No
Poland	Yes	No
Portugal	Yes	No
Slovakia	Yes	No
Slovenia	No	No
Spain	Yes	No
Sweden	Yes — selling sex has been decriminalized since 1999	No
Switzerland	Yes	Yes
Turkey	Yes	Yes
United Kingdom	Yes — however, “persistent” solicitation is illegal	No
United States	No — with the exception of Nevada	No

“In England, ladies began the Wages for Housework crusade, requesting that industry and government remunerate ladies for their imperceptible commitments to the economy. A support development of politicized whores got moving in 1975 when 150 whores assumed control over the primary church in Lyons, France. Protesting the perplexing murders of nearby whores and day by day police badgering, restraint, and numerous and excessive fines, they organized a take-over of a nearby church. The development spread far and wide to different pieces of France”. Italy, Israel, Mexico, Poland and New Zealand have legalized prostitution. However countries like USA except Nevada, Slovenia, and Korea have kept a step back by preventing legalization of sex work. Sweden has decriminalised selling of sex. All these countries where prostitution is legal or crimeless profession, do not uphold the fundamentals of brothel based services. Some countries like Netherlands, New Zealand, Turkey and Switzerland positively legalized brothel based prostitution.

Different worldwide affiliations have taken part in supporting the emerging legal and social circumstance of sex workers. Abolitionist Slavery International, outlined in 1839 besides, by the world's most prepared fundamental opportunities affiliation, perceives that most men moreover, women working as prostitutes are responsible to misuses like those cultivated by various experts in low-status occupations in the easygoing space of the economy. “They unequivocally question two fundamental opportunities instruments, the 1949 UN Convention on the Concealment of the Traffic in Persons and of the Exploitation of the Prostitution of Others that separates prostitution as an essential opportunities encroachment similarly as coercion” They propose the use of existing fundamental opportunities and work standards to the sex industry, asserting that the “negligible circumstance of sex workers in the public eye

forbids them from the around the world, public, and standard security remained to others as inhabitants, workers, or women".⁶⁴ "Likewise, the International Labour Organization, while fail to see prostitution explicitly as work, sees that, where prostitutes are seen as workers with rights under standard work order, they are equipped for genuine working conditions and to affirmation from abuse and isolation"

IV. BENEFITS OF LEGALIZING SEX WORK

Owing the multi-cultural status of Indian society, we cannot deny the presence of hybrid customs in our society. In ancient India we had different implications for sex workers and today when we are putting our step ahead in globalization, the approach towards sex workers has been changed negatively.

(A) Reduction in Human Trafficking: Owing to the stereotypes, sex workers have never been recognised by us as a society. Where their existence is treated as superficial, it is reasonable to neglect the violation of their human and legal rights. Contrary to mainstream thinking, sanctioning prostitution may lessen illegal exploitation and forceful sexual services. Criminalization of prostitution will decrease intentional prostitution because of hazard of conviction. This danger is likewise for the dealer however less harsher, as if there should be an occurrence of an indictment it is the casualty who bears the criminal punishment yet the dealer bears just a pay misfortune. Criminalization of prostitution will along these lines diminish intentional prostitution which will thusly squeeze value in this manner boosting the dealer. Thusly, rather than diminishing illegal exploitation, criminalization will in general increment it.

Human trafficking has its roots in demand of sexual services therefore if we work intentionally on roots of the problem, finding panacea will not be so difficult. Because of the lack of regulation, women, men and trans are dragged into the profession. With legalization comes recognition and acknowledgement. Therefore legalization of sex work will benefit Legislation in limiting or curbing the problem of human trafficking.

(B) Improving Working Conditions of Women: Legalizing prostitution would work on the functioning states of business sex labourers. In frantic circumstances, most ladies will decide to violate the law to endure or accommodate their kids. The ones who are most helpless are the individuals who are clueless, live in neediness. If sex labourers are condemned, it turns out to be progressively hard to make a living some other way than sex work; the law requires

⁶⁴ Jo Bindman, *Redefining Prostitution as Sex Work on the International Agenda*, ANTISLAVERY INTERNATIONAL, London, July 1997, at iii.

checking the notorious box in regards to criminal records on requests for employment. Surprisingly more dreadful, full criminalization of sex labourers drives the business further underground. As one model, these ladies are unfortunate of conveying condoms, as it is proof of selling sex. Subsequently, as a general rule, they leave the condoms at home, expanding paces of HIV. The Swedish or Nordic model offers another choice by condemning sex purchasers versus vender's trying to target interest. This gives insurance to the weak populaces of ladies who feel they should sell to accommodate themselves and their families. Once the status of sex work is improved, the provisions regarding their health and hygiene will be implemented. Programs could be carried out for clinical offices and Sexually Transmitting Diseases control. We must educate children about these diseases to prevent its spread. Predominance of physically sent sexual diseases was multiple times more prominent in illicit road workers when contrasted with their legitimate house of ill-repute counterparts. Legitimate business sex labourers energize condom use and/or access screening administrations the two of which decrease STDs. Mere regulation of the trade will not suffice the purpose. Legalized bordellos for the most part offer a more secure workplace for business sex labourers when contrasted with their unlawful partners. Being lawful, looking for police help is conceivable which diminishes vicious work environments. Legitimization likewise builds public examination of the bordellos in this manner working on the functioning conditions and decreasing savagery. Legalization will assist in achieving more secure and safe working conditions of women. **Even if all the genders are positively involve in sex trade, women suffer the most because of physical constraint and vulnerability.** Furthermore very few of them raise their voice owing the downtrodden status. Families of such women choose to abandon them purposely.

(C) Tax Collection: out of the other benefits, Legalizing prostitution can secretive the underground economy into a standard one. The bordellos can be burdened for income. It is assessed that prostitution in India creates about Rs. 21-lakh Cr. This would add up to about i.e. Rs. 8,71,769 Cr, higher than the monetary shortage of India. Even if the expenditure requires 2.5 Cr, government will be in profit. In few cases , where sex workers are involved in multiple professions, the amount will be doubled. To be precise the amount will depend on the exact quantum of income divided by direct expenditure. Government can also introduce special discounts in case of deliberate withdrawal from sex trade. If illegal sex work is taken and operated under taxable slab it will automatically affect the violations by police, bar owners, hotel staff and clients etc. through taxation they can claim reasonable deductions and

they will get their own profile. If taxed, sex workers will enjoy complete regulation and frequent medical tests.

(D) Reduction in frequencies of wrongdoings: Empirical examinations have shown that legitimization of prostitution tends to lessens cases of violations against ladies like assaults. When it comes to traumatising and assault, sex workers lead the chart. Irrespective of the gender, ambiguous status of sex trade has worsen the case. Through legalization of sex work, the chances of committing wrong to these sex workers can be reduced to an extent. Also these workers get an opportunity to lodge complaint against the assailant immediately. With legalization comes recognition and recognition and protection goes hand in hand. Legalization will directly impact their livelihood positively. Legalizing sex trade is the least we can do for safeguarding their rights. Customers visiting brothels come from all classes of society including the pious ones who intentionally reframe the image of sex workers as people with easy virtue.

(E) Ambiguous Relationship with general public: Legalizing prostitution will permit business sex labourers to incorporate into the general public and have a stately existence. This will likewise work on their nature of living. Sex workers live with taboo and stigma. There are so many reasons for the same. If their work is recognised by the law, the mindset of society will also change. Instances have been reported where parents of the child refused to accept their child owing to the stigma attached to sex workers in the society. This was not not the case in ancient India. Educated people keep on suggesting ways to get out of that filthy world however nobody accepts the unfortunate treatment we all give these workers in regular life. If left with no other choice what will they eat? How will they feed their children? Who will take responsibility? Sex trade can never be an option when it comes to choosing the form of profession. So many men, women and Trans enter this profession choice less. Not everybody has backup from society to step ahead and join some other profession to earn bread respectively. If at all other choices are conferred to them and they refuse to accept them, the hate becomes justified but not otherwise.

V. CONCLUSION

In the event that they attempted to look for help, they, when all is said and done, could be captured and lose their type of endurance. Hence, the contention for the decriminalization and the sanctioning of sex work is the way that these ladies need more lawful assurances so they can bear upping for themselves against victimizers and supervisors. This would work on the existences of transient ladies and ladies stuck in the pattern of destitution. Sex work is an endurance technique for underestimated gatherings. Decriminalization and legitimization are

not really interchangeable. As per Amnesty International, decriminalization "implies that sex labourers are done overstepping the law via doing sex work." interestingly, legitimization signifies "the state makes unmistakable laws and arrangements that officially manage sex work" which Amnesty contends "can prompt a two-level framework where many sex labourers work outside these guidelines are as yet condemned regularly the most underestimated road based sex labourers."

To a great extent male centric and sexist culture makes weakness for the under-advantaged. Ladies, racial and ethnic minorities, those without a promising circumstance for instruction, and the poor are mistreated by the individuals who hold force and advantage in the public eye. Industrialism urges us to see the world as potential items for our utilization, and this frequently comes to incorporate our kindred individuals. If its legalized here in India, other developed countries will also take an initiative to re-consider legal status of sex work and sex workers respectively.

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