

## Prostitution- A Necessary Evil': A study on the Impact, causes and Legal Status of Prostitution in India

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### HISTORY OF PROSTITUTION IN INDIA-

Prostitution is the oldest profession of India as its threads are found to be existed in ancient Indian History. Kautilya's Arthashastra, written in circa 300 BC contains a whole chapter on it and Vatsyana's Kama Sutra written between the first and fourth centuries AD.<sup>2</sup> Vedic texts give account of a ancient ruler Bharata, and prove that people were acquainted with prostitution through references to "loose women", female "vagabonds" and sexually active unmarried girls. The Vedic word sadbarani refers to a woman who offers sex for payment. In Vedic times, most prostitutes seem to wear red colored clothes along with gold jewellery was reddened as this hue was assumed to scare away demons and give protection to those who chose to live in a moral grey zone.<sup>3</sup> Prostitution also have religious sanctity as in ancient period there were the Devdasi system in which there was the tradition of dedicating unmarried young girls to gods in Hindu temples, which often made them objects of sexual pleasure to temple priests and pilgrims.<sup>4</sup>

There are certain temples in the State of Karnataka and Andhra Pradesh where Devdasi system is still being practiced but laws against Devdasi system have been passed in all states. Reports suggested that, every year near about 10,000 young girls belonging from poor families are dedicated as Devadasis to the goddess Yallama in a small temple of northern Karnataka.<sup>5</sup> It has been said that most of the prostitutes residing in the border districts of Maharashtra and Karnataka are Devadasis. Most common type of sex work prevailing in Karnataka is found to be associated with Devdasi system. 'In brief, the Devdasi tradition involves a religious rite in which girls and women are dedicated, through marriage, to different gods and goddesses, after which they become the wives or servants of the deities and perform various temple duties.'<sup>6</sup> Over time, these girls working as a Devdasi are religiously bound to fulfill the sexual needs of the priest or any other sacred person from the society. Devdasi considered this function as their 'Religious Duty'.

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<sup>2</sup> V. Sithanan, Immoral Traffic: Prostitution in India, 9-14

<sup>3</sup> Ibid.

<sup>4</sup> Prostitution in India and its roll in spreading HIV available at <http://medind.nic.in/ibo/t07/i2/ibot07i2p69.pdf>

<sup>5</sup> Ibid 3

<sup>6</sup> Nag M. Sexual behavior in India with risk of HIV/AIDS transmission. Health Transition Rev 1995; 5:293-305.

There are records which show that prostitution even existed in the late 18<sup>th</sup> and 19<sup>th</sup> century of British rule in the large Indian cities without any foreign interruption. Prostitutes existed in the form of temple dancers, courtesan, and independent village girls. One may easily find brothels in every corner of the city as prostitution was not considered as a degrading profession at that time. Cities like Calcutta and Bombay were used to be considered as a hub of sexual works, consisting large brothels working in large scale all over the country. Prostitutes were used as a mode of refreshment and medium of entertainment for the British soldiers and officials.

### **MEANING OF PROSTITUTION-**

Prostitution is literally means 'Practice of engaging in sexual activity, usually with individuals other than a spouse or friend, in exchange for immediate payment in money or other valuables.'<sup>7</sup> Word Prostitution has been derived from the latin word *prostituere* which means 'exposing publically'. Prostitution is also considered as an activity that leads to exploitation of women. 'Prostitution the word itself speaks about the plight of women.'<sup>8</sup> In India, Prostitution is being practiced in different forms. In the form of Devdasis majorly in South India or in the form of brothels and call girls in modern cities. Cities of Pune, Mumbai, Kolkata, Nagpur and Banaras are considered to be a hub of prostitution in India. It is noted that cities witness more activities of prostitution as compared to villages because cities has more economic demand as compared to villages.. There were certain older cities which were particularly known as 'Nagars' and considered to be a core units in the important kingdoms which controlled and regulated all the economic and administrative activities of the entire kingdom. There was a tradition of having 'Nagar vadhus' or "city brides" in these early cities of India. They were basically prostitutes serving the common man's sexual need and desires while kings had their own personal harem.<sup>9</sup> This indicates that Prostitution is not only a modern but also a ancient phenomenon. 'According to "Arthashastra" a famous ancient Indian manuscript a code of law was laid down on the prostitutes for their proper conduct in public. This proves that prostitution in early cities was controlled and regulated by a proper system of law.'<sup>10</sup>

<sup>7</sup> <http://www.merriam-webster.com/dictionary/prostitution>

<sup>8</sup> Study of prostitution history and current effects in India, <http://www.lawteacher.net/contract-law/essays/study-of-prostitution-history-and-current-effects-in-india-contract-law-essay.php>

<sup>9</sup> Ibid 1

<sup>10</sup> Dharanjay Mahapatra, "Not encouraging Prostitution". Times of India, July 26, 2012.

**REASONS BEHIND PROSTITUTION IN INDIA-**

No women enter into the gate of prostitution on her free will. It is because of 'evil circumstances' that leads her to be a prostitute. Amongst the several factors, **poverty** is considered to be the most important factor behind a women getting into this prostitution. Most often, girls from poor families who lacks in professional skills and proper education, usually attracted by the big cities having the better scope and prospects of job and money. In big cities, due to lack of working skills and the presence of stiff competition make it difficult for them to survive, as a result some of those disheartened girls agrees to be a prostitute where they can make good money from the wealthy clients on the verge of their dignity.

Though, poverty is one of the important reasons behind prostitution, there are certain other reasons which are to be discussed as well. One of them is **Bad Company**. Children living near brothels or in the company of immoral person get exposed to sex trade practices to such an extent that they take such activities as a normal phenomenon. Brothel managers, therefore, search for these areas where there is a larger scope of getting more and more people into this profession. There are certain incidences where wealthy women, hungry for sex usually attracts and persuade younger boys for sex in exchange of money or some other materialistic requirements.<sup>11</sup>

**Under-age employment**, where young girls have to work in hotels, industries and shops at immature age, may leads to sexual exploitation of a girl by a 'lust seekers' which may lead her to be a prostitute. In India, many women get employment through a mediator who often exploits them sexually whenever opportunity appears by promising them a good job and having sex as a bribe. 'Once a woman falls prey to their lust they in no time make a professional out of her.'<sup>12</sup> Various industries in India do not have adequate means of accommodation as result workers are required to leave their families and live alone where absence of family, cinema going gambling etc. Make prostitute mongers of these persons.

Industry owner usually pay less to his female employees as compared to male employees. Women engaged in labor force are being easily persuaded by factory owner or by his friend for the sake of little money. 'Due to poverty and habit the labor women wear scanty clothes and often their raw bodies are exposed to full view of these lust seekers. In slums the

<sup>11</sup> Haveripeth Prakash, Prostitution and its impact on society - A criminological prespective, <http://www.isca.in/IJSS/Archive/v2i3/6.ISCA-IRJSS-2013-027.pdf>

<sup>12</sup> Ibid 10

unmarried girls have to witness sexual activities of their relatives and are often seduced prematurely. The precocious development of sex often drives women of prostitution.<sup>13</sup>

**Immoral trafficking in women children** is also an important factor that leads to prostitution. Young girls are kidnapped by gangsters who are in the business of trafficking. They properly train them in the art of prostitution and subsequently, sell them when they grow old.

There are certain **Social factors** which are equally responsible for the promotion and encouragement of prostitution. Girls whose parents are separated or are in an illicit relationship with any other person are most prone and sensitive to prostitution. These girls failed to get proper love and affection because of their strained family relationship, as a result in search for love and affection they may turn to be a prostitute, if being cheated by their partners. Similarly, **illegitimate motherhood** plays an important role in this context, where women who become pregnant as a result of their liaisons and who cannot get an abortion get exposed in society. Nobody wants to marry them but everybody wants to enjoy them sexually. Desperately such women prefer to become regular prostitutes.<sup>14</sup>

Some researchers also suggest that **marital factors** in the context of women also play an important role, where a woman becoming a widow at a young age is unable to remarry because of certain stigmas prevailing in the society. As a result, in fulfilling their physical needs they are most prone to get into an illicit relationship with several men which subsequently take the form of prostitution.<sup>15</sup>

Even **Religious and cultural factors** can't be ignored. Even today, there exist some temples in the south where the Devdasi System is still in function. Families in south India were bound by custom to donate at least one girl child to the temple as a Devdasi for the purpose of serving the god. The priest of that temple had the authority to use these girls for fulfilling their sexual needs. In ancient and medieval India, there was the system of keeping courtesans in a kingdom, which was being used as a medium of entertainment of the king and also to satisfy his sexual desires. Courtesans used to be called as 'public women' and enjoyed a high status in the society.<sup>16</sup>

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<sup>13</sup> Dharanjay Mahapatra, Not encouraging prostitution: SC, Times of India, July 27, 2012.

<sup>14</sup> Haveripeth Prakash, Prostitution and its impact on society- A criminological perspective, <http://www.isca.in/IJSS/Archive/v2i3/6.ISCA-IRJSS-2013-027.pdf>

<sup>15</sup> Saggurti, N., Sabarwal, S., Ravi, K. Verma, S. S. Halli & Anrudh K. J. (2011). Harsh realities: Reasons for women's involvement in sex work in India.

<sup>16</sup> Ibid 14

Another important fact is that, women who are the victims of rape find it very difficult to be accepted in society with complete dignity and respect. They are being looked down by the society members, which make their life pathetic. In India, there exist certain primitive villages where victims of rape are being completely deprived from the society, tagging them as impure. Even a rape victim finds it difficult to be accepted by their in-laws and life partner. These situations create an atmosphere which encourages a rape victim to be a prostitute.

### **IMPACT OF PROSTITUTION-**

Prostitution causes family disorganization in the life of a person who is addicted towards prostitution. Most of the man who visits brothels is being looked down by other respected members of the society as a result, they being treated as isolated island. Prostitution is considered to be moral wrong in Indian Society. That is why; brothels are being situated in the areas which are in isolation with public space. Even prostitutes are considered as a symbol of sin and are kept in complete deprivation from their legal rights.<sup>17</sup>

A man who is in a habit of visiting brothels regularly usually have disturbed and dismantled married life. His wife and even society never accept these acts and as a result man has to face the stern ignorance from the society and family members.<sup>18</sup>

Prostitution is like a disease which transfers from one generation to another. Children of prostitutes from an unknown man usually live pathetic life in the society. They are kept in complete deprivation from proper love, care and affection. In most of the cases these children grow up in brothels, in an atmosphere where 'sex for money' is normal thing. As a result they turned out to be in a profession of prostitution when they grow up.

The man who approaches a prostitute may be contaminated with venereal diseases. If married he may communicate the disease to his wife and children. The children born to the parents having venereal diseases are likely to be maintained for life and many a time are born blind. The illegitimate and adulterous sexual union, if known to the wives, brings tension in the family and ultimately to desertion to divorce. There are clinical and psychoanalytic evidence to show that many young men who had pre-marital sex –union with prostitutes suffer from 'psychic –impotency' in married life .The reasons for this may be many and various

<sup>17</sup> Dewinder Singh Thapa, Nidhi Singh, Sowmya Kaimal, Prostitution in India and its role in spreading HIV infection, <http://medind.nic.in/ibo/t07/i2/ibot07i2p69.pdf>

<sup>18</sup> Ibid 16

depending upon the individual. One of the reason for the 'psychic-impotency' is the hatred owned towards the prostitute's sex developed before, during or after the sex-union and fear of the contamination of venereal diseases from the prostitute at the time or after he had sexual relation with her.<sup>19</sup>

A prostitute performs two functions in the society-viz., the commercial functions and health function. The brothels, call flat sand disorderly hotels where prostitution is permitted become accessible places for the public to have free sex satisfaction. This brings money to those who conduct it, but, at the same time, it spreads venereal diseases. The managers of hotels, pimps, panders and prostitutes perpetrate criminality in society by inducing and kidnapping girls. They resort to various foul methods of procuring young innocent girls and women to make their trades very prosperous and profitable. By this, they wreck the personality, communicate diseases, and scatter marriage and ruin the family of many girls and people in society.

### **LEGAL STATUS OF PROSTITUTION IN INDIA-**

In India, Prostitution is not illegal per se unless certain acts done by the prostitutes as defined in Immoral Traffic (Prevention) Act of 1986. According to this act prostitution will be considered illegal if a prostitute is found soliciting or seducing a customer voluntarily. This act also criminalizes the prostitution if brothels are fond to be operated in a public place, in case of publication of a phone number by a call girl or if prostitution is found to be practiced in organized manner through pimps or madams.

Suppression of Immoral Trafficking Act of 1956 (SITA) was the first act enacted in India concerning with prostitutes particularly. Another act with the few amendments in SITA was enacted in the year 1986 in the form of Immoral Trafficking (Prevention) Act. Amended acts has certain provisions stating that police has no legal authority to arrest a prostitute without having two women constables with him.<sup>20</sup> It also includes children and even men can be exploited for commercial purposes and should be protected. According to section 3 of this act, brothels have been defined hence making it easy for prosecuting brothel keepers. Section 9 of the Act provides greater punishment to persons who cause, aid, or abet the seduction of women and girls, over whom they have care and custody, for prostitution. The centre government under this act has powers to allow police officers arrest without warrant in any

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<sup>19</sup> Ibid 16

<sup>20</sup> <http://www.legaltrigger.com/articles/01.pdf>

premises where this offence is suspected of being committed and rescue a person forced in this profession.<sup>21</sup> Act also consists of certain provisions criminalizing the acts of pimps, babus and brothel keepers towards the promotion of prostitution.

Apart from these acts, Section 366, 366 A, and 366 B of the Indian Penal Code also criminalizes the acts of abducting or kidnapping a girl for the purpose of establishing illicit relation or having sexual intercourse, with a girl under 18 years of age or any kind of trafficking of girls. These sections play a vital role in suppressing and preventing the spread of prostitution in India.<sup>22</sup>

### **PREVENTIVE MEASURE TO TACKLE THE PROBLEM OF PROSTITUTION-**

In spite of the enactment of various laws in curbing prostitution, it failed to eradicate it completely. Now is the high time when the steps should be taken to keep a check on the spread of prostitution and brothel keeping activities. People can be made aware against the devastating impact of prostitution and venerable diseases caused by it through the means of sex education. There should be a provision for sex education in schools and colleges which may prevent unwanted pregnancies and may prevent the spread of HIV/AIDS. Girls and women usually take this profession of prostitution in extreme poverty. Hence, government should take efficient measures towards their proper education and also providing adequate job opportunities accordingly so that they are not compelled to get in to this kind of profession. Various Non- Government Organizations can also play a major role towards eradication of prostitution by organizing awareness campaign amongst the poor societies.

Government should make a provision for regular medical checkup for prostitutes so that spread of venerable diseases like HIV and sexually transmitted diseases can be controlled and eradicated.

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<sup>21</sup> Shobhs Saxena, Crimes against women and Protective laws, 259-261.

<sup>22</sup> SECTION 366 A- procreation of minor girl.—Whoever, by any means whatsoever, induces any minor girl under the age of eighteen years to go from any place or to do any act with intent that such girl may be, or knowing that it is likely that she will be, forced or seduced to illicit intercourse with another person shall be punishable with imprisonment which may extend to ten years, and shall also be liable to fine.

Section 366-B- Importation of girl from foreign country.-- Whoever imports into 2[ India] from any country outside India 7[ or from the State of Jammu and Kashmir] any girl under the age of twenty- one years with intent that she may be, or knowing it to be likely that she will be, forced or seduced to illicit intercourse with another person, 5[ shall be punishable with imprisonment which may extend to ten years, and shall also be liable to fine.]

**CONCLUSION-**

Prostitution is not a modern world but a ancient world phenomenon which is being practiced since ages. In those times prostitution was considered as a normal thing but with the time people's perception on prostitution also changed. Women get into this shabby profession because of the extreme poverty like condition and under a compulsion of more and more money in short period of time. There are certain Bio-socio factors which are responsible for the promotion and encouragement of the prostitution in India. In India, prostitution is not illegal per se but its promotion and marketing is illegal supported by certain legislations penalizing these acts.

