

**THE LEGALISATION OF PROSTITUTION: A CRITICAL ENGAGEMENT
WITH THEORY AND PRACTICE IN INDIA**

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Certified that the Thesis entitled "The Legalisation of Prostitution: A Critical Engagement with Theory and Practice in India" submitted by me for the award of the Degree of Doctor of Philosophy in Arts at Jadavpur University is based upon my work carried out under the Supervision of Professor Om Prakash Mishra and that neither this thesis nor any part of it has been submitted before for any degree or diploma anywhere/ elsewhere.


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PREFACE

My research interests have always revolved around gender equality and women's empowerment, as these topics have deeply captivated my attention. As a result of this interest, I specialised in Gender and Human Rights during my M.Phil. This academic pursuit provided me with the opportunity to explore gender studies in greater depth.

Further, I gained practical experience in this field by working with the NGO Srijan Foundation in Ranchi, which is dedicated to empowering women and combating human trafficking. During my time there, I had the chance to learn about the issues of trafficking and prostitution, which only fuelled my curiosity and interest in further research.

Given my keen interest in this domain, Professor Om Prakash Mishra suggested that I explore the aspect of the legalisation of prostitution. Building upon my existing knowledge in this area, I decided to focus on this topic. Sex workers, as one of the most marginalised groups in society, drew my attention. Reading further made it evident that there is a significant gap in research and understanding in this field, further motivated me to undertake this research endeavour.

There has been very limited research conducted on this topic, and the existing literature has mainly focused solely on either the history or the contemporary status of prostitution. The intent of this thesis is to comprehensively examine the complete evolution that prostitution has undergone. Notably, there is a significant absence of research that has undertaken a holistic exploration of prostitution's evolution from the past to the present, and this research aims to fill that gap.

In contemporary society, prostitutes often face discrimination and prejudice. While some women choose sex work voluntarily, there is a growing belief that many are coerced into it. This perception hinders their ability to view sex work as a legitimate means of livelihood, leading to their treatment as victims in some cases. They are also subjected to mistreatment by their clients, pimps, and law enforcement officials. There is also a noticeable lack of understanding among the general public regarding the legal aspects of prostitution and the challenges faced by sex workers.

The question of whether prostitution should be legalised or not has been a global topic of discussion, with a spectrum of opinions. When it comes to India, even here, there has always

been a contentious debate about the legalisation of prostitution. In India, despite its historical presence, prostitution remains largely unrecognised in mainstream society. It is estimated that there are around two million sex workers in India, though unofficial numbers may be higher. Widespread misinformation persists, with a common misconception being that prostitution is illegal in the country. The research has looked into whether legalisation can offer a solution to the challenges faced by sex workers in India or whether it has increased the problem of human trafficking. The research incorporates both theoretical insights and real-world observations through field studies, effectively bridging the gap between theory and practice.

LIST OF ABBREVIATIONS

AIDS	:	Acquired Immunodeficiency Syndrome
AHTU	:	Anti Human Trafficking Unit
COYOTE	:	Call Off Your Old Tired Ethics
DMSC	:	Durbar Mahila Samanwaya Committee
ECP	:	English Collectives of Prostitutes
ITPA	:	Immoral Traffic (Prevention) Act
SITA	:	Suppression of Immoral Traffic (Prevention) Act

THE LEGALISATION OF PROSTITUTION: A CRITICAL ENGAGEMENT WITH THEORY AND PRACTICE IN INDIA

INTRODUCTION TO THE THESIS

BACKGROUND

Prostitution is the exchange of sexual services and favours for payment, which has been a part of human history since time immemorial. Its exact origins are elusive, making it challenging to pinpoint the precise emergence of this profession. Universally recognised as one of the oldest vocations, prostitution is also among the most contentious. Regardless of its legal status, prostitution thrives as an industry, persisting despite societal disregard, prohibition, and regulation.

In contemporary society, prostitutes have been looked down upon, belittled, prejudiced against, and treated with contempt. While some women actively choose to enter the profession voluntarily, there is an increasing social belief that many are coerced into this line of work. This perception challenges the ability of these women to pursue their profession as a legitimate means of livelihood. In this way, women apprehended during raids are often considered as victims of trafficking and are compelled to leave their jobs.

The subject of how the administration should manage prostitution has been discussed broadly around the globe. The legalisation of prostitution is a complicated issue, as it has been the subject of discussion in societies for a long time. Within society, a spectrum of perspectives exists concerning the legalisation of prostitution. Arguments give equal weight to debates for and against the legalisation of prostitution, thus making it a topic of endless debate and controversy. Proponents argue that legalising prostitution will reduce violence against those who are engaged in this profession, empower them, and provide safer health conditions. Conversely, opponents argue that the

legalisation will worsen the condition as it will result in sexual objectification of women, reinforcement of men's dominance, and an increased trafficking rate of women within the society.

In the context of India, despite its historical presence, the profession has still not been acknowledged in mainstream society. Prostitution here is still regarded as profoundly against the ethical and cultural ethos of India. Currently, there are an estimated two million sex workers working in India, the unofficial number is expected to be much higher than this. A significant amount of misinformation and unawareness persists in this domain, with one prevailing misconception being that prostitution is illegal in India.

The recent Supreme Court Order shed some positive light on the profession, now acknowledging voluntary sex work as a legitimate profession and advocating for the rights of sex workers to receive fair treatment, dignity, and respect. The Order has also set explicit directions for police in India regarding the handling of sex workers. These latest advances have made positive developments in the country's approach to prostitution, but the significant question remains how far it will be implemented.

Prostitution was never illegal in India, only certain activities related to it, such as soliciting, pimping, kerb crawling, prostitution in hotels, and running a brothel, were illegal. Nonetheless, public ignorance exacerbated the situation, granting more authority to law enforcement to exploit sex workers. Despite the legality of prostitution in India, the reality stands in stark contrast; women engaged in this profession have consistently faced mistreatment, discrimination, and a life of misery. In essence, although the practice itself is legal, women who participate in it have consistently encountered ill-treatment and discrimination, ultimately leading them to lives of hardship.

Though significant developments have been observed in the realm of prostitution in India, it is worth considering whether these advancements are sufficient to alleviate the plight of prostitutes in the country. Moreover, there is a question as to why India shouldn't align itself with nations that have legalised this profession. Legalising the profession may change the situation of prostitutes in India since not legalising the profession has not been of much help as their condition is degrading day by day and the trafficking is also increasing at an alarming rate, so why not legalise it?

Taking this background into consideration, the proposed thesis would revolve around legalisation of prostitution and discuss various discourses related to it. The research will look into some major questions like whether legalisation can be the solution to the problem being faced by the prostitutes in India, whether it will change the situation for the prostitutes and their children, or whether it will worsen the condition by benefiting the pimps, as they will turn into businessmen and may conduct business without much fear after legalisation.

Will the problem of human trafficking be solved after legalisation, as women will be given the freedom to walk in and out of the profession and the person who buys sex can also feel safe visiting these brothels? Conversely, there are also concerns that the legality of prostitution may lead to an increase in the trafficking rate in the country. So these are some of the important questions that will be addressed in the research.

In India, both male and female prostitution exist. The research will only deal with female prostitutes. In this research, the concept of prostitution, its history, and arguments against and for the legalisation of prostitution will be discussed, along with some suggestions and recommendations.

It's important to mention here that I have deliberately opted to use the term "prostitute" rather than "sex worker" in the research. This choice is rooted in

the fact that "prostitute" serves as a broader and more commonly used term for reference. Given that my thesis encompasses viewpoints from both proponents and opponents of legalisation, it's essential to acknowledge that those against legalisation often resist adopting the term "sex worker." They maintain that prostitution should not be recognised as a valid occupation. It's important to highlight that I have used the term "sex worker" in specific chapters, particularly when discussing perspectives of those supporting legalisation because even among supporters of prostitution, there's a prevailing sentiment that the term "prostitute" holds negative connotations.

It's crucial to note that I have followed the APA style of referencing for my thesis. The APA style does not use endnotes. Instead, APA style recommends using in-text citations and a reference list at the end of the thesis in the bibliography.

STATEMENT OF THE PROBLEM

The legalisation of prostitution has been a matter of great debate for a long time, and the question of whether prostitution in India should be legalised or not is still a matter of debate. On the one hand, there is strong support for legalisation, while on the other hand, there is a section of society that opposes legalisation, expressed their apprehension that legalisation would result in an increase in trafficking and a rise in the number of victims of trafficking. The protagonist of prostitution is of the view that the women in prostitution are constantly harassed by the police, clients, and pimps. Since prostitution is still illegal, they live in constant fear, and the other parties try to take advantage of their deplorable condition as the prostitutes fear registering complaints against them. The illegal status of prostitution makes it an easy target for criminals. Given that sex work is classified as an illegal activity, perpetrators understand that sex workers are unlikely to report incidents to the authorities because doing so

would entail acknowledging their involvement in prostitution at the time of the attack.

When the prostitution gets legalised, they will easily go and report it to the police. The current Immoral Traffic Prevention Act (ITPA) has also become an important instrument to harass women in prostitution, and many prostitutes are charged under this law for soliciting their clients. It is the women engaged in the profession who face more hardship. So will the legalisation of prostitution be the solution to those problems faced by women in this profession? Will it secure the welfare of those engaged in it, or will it worsen the condition? The current ITPA is believed to be biased and mainly acts against the advantage of women, so there is a need to come up with more policy options or alternatives to look into it. The research will also assess whether the ITPA is detrimental to the interests of women involved in prostitution or not, and if so, what alternative policy options the government can adopt.

The dichotomy between victim and agency that exists concerning prostitution has also been a major problem. There is a distinction between prostitution and trafficking, and this research tries to evaluate both the laws on prostitution and trafficking. Prostitution and trafficking have always been confused with each other; the research tries to clarify the difference between the two and the need to deal with them on a different plane. The causative factors for a woman's entry into prostitution may be different from those that lead her to continue in it. It may not be the case that a woman who has entered prostitution due to coercion continues in it for the same reason.

RATIONALE

It is crucial to recognise that there has been very limited research conducted on this topic, and the existing literature has mainly focused solely on either the history or the contemporary status of prostitution. The intent of this thesis is to

comprehensively examine the complete evolution that prostitution has undergone. Notably, there is a significant absence of research that has undertaken a holistic exploration of prostitution's evolution from the past to the present, and this research aims to fill that gap.

This research has also addressed various models and theories of prostitution, which I have observed to be lacking in other research. These models and theories play a pivotal role in understanding prostitution comprehensively. The incorporation of these aspects is crucial in effectively dealing with prostitution, an area that previous research has unfortunately overlooked. Unlike previous research that primarily relies on theoretical constructs, my research is not solely theoretical but is also substantiated by empirical data gathered from the field. As a result, it adeptly merges theoretical insights with real-world observations, bridging the gap between theory and practice. Thus, the research establishes a comprehensive insight into the evolution of prostitution and the viewpoints of legalisation from both theoretical and practical standpoints.

Importantly, this research stands out in its consideration of viewpoints from all four key stakeholders: organisations supporting and opposing legalisation, namely Durbar Mahila Samanwaya Committee (DMSC) and Sanlaap, perspectives from sex workers, and insights from police officials. This inclusive approach contributes to a well-rounded perspective on the complex issue of prostitution and its legalisation.

SCOPE OF THE STUDY

The scope of this research is to comprehensively investigate the evolution of prostitution, encompassing both its historical development and its contemporary manifestations. The research will incorporate a thorough analysis of various models and theoretical perspectives, shedding light on the various models of prostitution that different countries have adopted around the world. It will comprehensively deal with the ITPA as this law is very important to

understand prostitution in the country. A recent Supreme Court Order has uphold the dignity and rights of sex workers. A key focus will be the nuanced exploration of the contentious debate surrounding the legalisation of prostitution, presenting arguments from proponents and opponents of legalisation, and drawing insights from advocacy organisations, sex workers, and law enforcement officials.

OBJECTIVES

1. To study the history, typologies, causative factors, and pathways of prostitution in India.
2. To study the arguments in favour and against the legalisation of prostitution in India.
3. To study whether the legalisation of prostitution could serve as a potential solution for the issue of prostitution in India.
4. To examine the implementation of the Immoral Traffic Prevention Act and gather comprehensive data pertaining to its execution, through both primary and secondary sources.
5. To suggest reforms of existing laws and identify different policy options to regulate prostitution and help women in prostitution improve their lives.
6. To examine the implications and challenges of the recent Supreme Court Order.

LITERATURE REVIEW

Debabrata Roy, 'Prostitution- A Case for Legalisation in India', International Journal of Emerging Trends in Science and Technology (2015)

Debabrata Roy's article, titled "Prostitution - A Case for Legalisation in India," engages thoughtfully with the contentious topic of legalising prostitution. The

author presents a balanced view by highlighting both the potential advantages and disadvantages of such a move. Roy underscores the potential benefits of regulation, such as deterring rape and child trafficking, while acknowledging concerns about exploitation and the potential for increased chaos. The article's contextual approach, considering India's unique social customs and legal framework, adds depth to the discussion. Roy's support for legalisation, with an emphasis on liberating sex workers from exploitation and providing access to medical care and education, rounds off a comprehensive exploration of this complex issue.

The article delves into the topic of legalising prostitution in India. It offers an analysis of the positive and negative aspects of the profession. When discussing the potential benefits of legalisation, the article emphasises how it could act as a deterrent against rape and child trafficking, addressing the increased exploitation faced by sex workers. On the other hand, the article highlights potential problems associated with legalising prostitution. It argues that legalisation might lead to further exploitation of women in prostitution, favouring pimps over the workers themselves. The article suggests that due to its inherently exploitative nature akin to slavery, legalising prostitution might exacerbate societal chaos.

The article also highlights instances where support for legalising prostitution has emerged from the Supreme Court and the National Commission of Women. It acknowledges the growing momentum toward legalising the profession in India. The author concludes the article on an optimistic note, expressing support for the legalisation of prostitution. The article asserts that such a move could emancipate women in prostitution from the control of pimps and madams, mitigating exploitation. Access to medical services to curb the spread of Acquired Immunodeficiency Syndrome (AIDS) and the need for sex education for these workers are also advocated. The article posits that legalisation holds

the key to addressing longstanding societal concerns, presenting itself as the primary solution to this significant issue.

Dharmendra Chatur, 'Legalisation of Prostitution in India', Partridge, (2009).

The research paper, titled "Legalisation of Prostitution in India," authored by Dharmendra Chatur, thoroughly delves into the multifaceted dimensions of legalising prostitution in India. The paper highlights the potential for legalising prostitution amidst various socio-legal challenges prevalent in society. It comprehensively addresses the international legal framework surrounding prostitution, sexual exploitation, and human trafficking, along with the protective measures associated with these issues.

In its examination of the international legal framework, the paper analyses the treaties and conventions that India has ratified. It deeply explores the distinct initiatives undertaken by countries such as Sweden, the Netherlands, and Australia for the legalisation of prostitution. The paper acknowledges that while these nations may possess more advanced social structures and diverse moral definitions, their cases for legalising prostitution have been unique and tailored to their respective societal needs. The author contends that India could greatly benefit from adopting and adapting some of the ideas presented by these countries.

The discussion regarding the legal status of prostitution is intricate, accompanied by a thorough examination of various initiatives related to the profession. Specifically, the paper scrutinises the provisions of the (ITPA) in great detail, highlighting the challenges posed by law enforcement and the inherent limitations of the legislation. Importantly, the author asserts that the shortcomings of the ITPA stem not solely from its textual gaps but from the compromised implementation due to widespread corruption.

However, the paper ultimately argues that legalising prostitution alone cannot offer a comprehensive solution to the complex issue at hand. The author raises concern about the potential consequences of legalising prostitution, suggesting that it could inadvertently contribute to human trafficking. Given the prevailing societal perspective that looks down upon sex workers and denies them respect, legalising prostitution within this context might yield limited positive outcomes. Even provisions like licensing and registration with local authorities could face obstacles unless the pervasive stigma surrounding sex work is entirely eradicated.

In preparation for the potential legalisation of prostitution, the paper emphasises the need to fulfill several crucial prerequisites. Foremost, sensitising law enforcement agencies, particularly the police, is of paramount importance, considering that various data points to their exploitation of sex workers. Protecting the rights of sex workers becomes an imperative, demanding legislative measures that safeguard their basic human rights and empower them. The paper underscores the necessity of distinguishing between voluntary sex work and instances where individuals are coerced into the profession. Adequate mechanisms for the rehabilitation of those compelled into prostitution are deemed essential.

Dharmendra Chatur's research paper contributes a comprehensive analysis of the multifaceted considerations surrounding the legalisation of prostitution in India. By meticulously examining the international legal landscape, critiquing existing legislation, and emphasising the need for preconditions before legalisation, the paper makes a substantial contribution to the ongoing discourse on this complex societal issue.

Rohini Sahni and V. Kalyan Shankar Hemant Apte, 'Prostitution and Beyond: An Analysis of Sex Work in India', SAGE Publications, (2008)

"Prostitution and Beyond: An Analysis of Sex Work in India," edited by Rohini Sahni, V. Kalyan Shankar, and Hemant Apte, comprises a collection of twenty three essays that provide a broad range of insights into the various aspects of sex work within India. The book extensively addresses various aspects and issues relevant to sex workers within the Indian context. This volume condenses a myriad of papers, commentaries, group discussions, interviews, and more. It gathers insights from a wide range of researchers, scholars, activists, and academicians with diverse backgrounds, collectively contributing to the understanding of sex work in India. A central theme in the discussion is the wide range of perspectives on sex work in contemporary India.

The book is divided into four parts ethnographic studies, feminist discourse, Cultural reflections, and, socio-economic legal-health frameworks. The introductory section seeks to explore various theoretical perspectives on sex work, as well as the emergence of independent voices within the sex worker community in India. One of the key questions addressed is why did the Indian Women's Movement not include sex work or sex workers as integral components? This section delves into the reasons behind the feminist community's apparent indifference toward this issue and the disapproval of such passivity by sex worker groups, which challenge the silence surrounding their circumstances.

Geetanjali Gogoi offers an overview of the trajectory of feminism in India and its changing perspectives on sex work, including notions of immorality, harm, and choice. This overview is succeeded by a discourse involving individuals advocating for women's rights and addressing related issues. Swati Ghosh criticises the 'Sex Workers' Manifesto,' which was presented as the central issue of the inaugural National Conference of Sex Workers in Kolkata in 1997.

The manifesto represents a vital document that amplifies perspectives on the voices of marginalised women in sex work and their call for the recognition of sex work as legitimate employment.

Anagha Tambe's article delves into caste-based prostitution by referencing communities like Bedia, Bacchara, and Devdasi in Maharashtra. It examines the role of the Bhor organisation in addressing this issue through community sensitisation and rehabilitation efforts. Rekha Pande's article on ritualised prostitution explores the evolution of devadasi practices, providing historical insights and featuring five case studies that vividly illustrate the lived experiences and challenges faced by devadasi women. The study of community-based sex labour by Nat women in Rajasthan, as explored by R.C. Swarankar, gives insight into its historical context. Bindumadhab Khire sheds light on the operations of male sex workers, a topic often neglected. This thorough examination encompasses the background, categories, and needs of male sex workers, thus incorporating their perspectives.

Ambuja Kowlgi and V.K. Hugar's examination of the socio cultural background of Dharwad sex workers is included in the book. Ishita Majumdar and Sudipta Panja then give an in-depth overview about Kolkata's call-girl network. These testimonies of urban sex work experiences outside of brothels demonstrate sex workers' different socioeconomic backgrounds, customer characteristics, and the wide range of incomes associated with their occupation.

A thorough overview of the socio-economic, health, and legal aspects of sex work in India is provided in the third part. This section, which consists of six parts, enriches its legal subsection with four case studies, analyses, and interviews. It commences with an outstanding paper by Rohini Sahni and V. Kalyan Shankar that delves into the historical and economic aspects of prostitution, transcending mere economics to encompass sociological dimensions. Meena Sahu examines the effects of societal discrimination

against sex workers, depending on first-hand accounts. Manoj Wad and Sharyu Jadav give an assessment of the legislative framework for prostitution in India, albeit their reviews of these rules are occasionally repetitious and lack illustrative depth. An exploration of the practical facets of the legal framework could offer nuanced insights into contemporary trafficking and prostitution in the country. Concerns about the risk of contracting AIDS often overshadow conversations concerning sex workers' legal rights and health as highlighted by V. Sahasrábuddhe, S. Mehendale, and M. Shivdas. The editors, on the other hand, make an attempt to fill this void by interviewing an expert in the field to shed light on recurring health issues faced by sex workers.

The last portion dives into prostitution's cultural consequences in language, media, theatre, and cinema. Gayatri Chatterjee examines the representations of Prostitutes and Courtesans in various Indian languages, works of literature, and films. Apte and Sahni investigate the origin of prostitution-related terms in Marathi lexicon. These investigations highlight how representation and language reinforce socio-economic inequities. Lata Singh's investigation of femininity and theatre delves into the middle-class need for respectability. Last but not least, S. P. Shah provides a conceptual analysis of how stories of danger and moral decay shape the perception of the red-light district of Mumbai.

Ashwini Tambe, 'Codes of Misconduct: Regulating Prostitution in Late Colonial Bombay', Minnesota Press (2009)

"Codes of Misconduct: Regulating Prostitution in Late Colonial Bombay" by Ashwini Tambe centers on prostitution in colonial Bombay, providing an in-depth analysis of its historical evolution. The book examines the city's transformation into an industrial center and the concurrent development of distinct social groups: industrial workers, middle class, industrial workers, the business elite, the political, and prostitutes. While prostitutes remained unseen and politically voiceless, they played a pivotal role by discreetly providing sexual

services within the city. Given Bombay's status as a bustling port city, it attracted a significant influx of men who required their services. The narrative delves into how imperial laws and policies governing prostitution during colonial times often disadvantaged the women involved in this profession. These laws contributed to the stigmatisation of prostitution and the overall decline in the position of women challenging Victorian and Brahmanical concepts of patriarchy and sexual modesty. Instead of highlighting the beneficial contributions of devadasis and courtesans, colonial perspectives further demeaned prostitutes, perpetuating their marginalisation. Tambe also highlights an important incident in which Gandhi refused to admit prostitutes who wanted to join Congress in 1921 by paying a membership fee of fourteen annas. Gandhi's derogatory remarks, labelling them as "more dangerous than thieves because they steal virtue," further underscored their undesirable status within the nationalist mainstream. Prostitutes symbolised social disgrace and triggered repulsion among many.

The Contagious Diseases Act, which aimed to control prostitution, compelled sex workers to register and undergo disease monitoring. Painful medical examinations became a mandatory part of the process. State-sanctioned violence was introduced through police, public health officials, and military administrators. In a specific chapter, Tambe examines the murder of a worker named Akootai and critiques the colonial state's failure to safeguard prostitutes from violence.

Sukumari Bhattacharji, 'Prostitution in Ancient India' Social Scientist, (1987)

The article by Sukumari Bhattacharji sheds light on the prevalence of prostitution in ancient India, providing readers with a comprehensive understanding of its historical existence. It shows that although prostitution didn't become a profession until a few centuries after the Vedas, its presence in

society was felt even earlier. A multitude of books from the eighth to fifth centuries B.C. discuss women's involvement in prostitution. A more organised form of prostitution took root after the later Vedic period, eventually being recognised as a social institution.

The origins of women entering prostitution were diverse, stemming from factors such as widowhood, difficulty finding a suitable partner, dissatisfaction in marriage, and societal pressures. These women occupied a distinctive position compared to others, as they not only were the breadwinners but also served as guardians of their households.

The article delves into various myths and legends that surround the origins of prostitution, as well as the various names used to refer to prostitutes in the past. Distinct categories existed within the profession, each enjoying differing statuses and responsibilities. Categories such as Rupajiva, ganika, rupadasi, ganikadasi, sam, kulata, vandhaki, and randa were prevalent. Ganikas and Rupajivas held a superior standing due to their youth, beauty, training, and accomplishments, thus commanding higher fees.

Historical sources indicate that prostitutes in ancient India were subject to state taxation, with rules governing both prostitutes and clients. Forced sexual activity by a customer against a woman's will incurred a fine, while a woman who agreed to provide services but later retracted faced a fine double the original fee. Property rights eluded prostitutes; they possessed a limited right of use, as property ownership rested with the state. Selling or mortgaging their property required fines.

Prostitutes were treated as commodities for male gratification, considered part of sacrificial priest fees (dakshina), gifts to victorious kings, or tokens of various exchanges. Their roles extended beyond sexual services to tasks like espionage, massaging, bathing, dressing, and carrying umbrellas, yet additional

compensation was not granted. The article touches on the fluctuating social status of prostitutes; as their appearance, age, and accomplishments waned, middle-aged, unaccomplished, or less attractive women settled for mere sustenance or less. Uncertainty marked their future, with some women resorting to begging on the streets for survival. The article also underscores the objectification of women, treated as inanimate sources of pleasure, occupying roles in material gifts, donations, entertainment, prizes, rewards, and dowries.

Prostitutes were considered a necessary evil, though the negative aspect overshadowed the perceived necessity. Double standards prevailed; interacting with prostitutes or accepting their offerings was permissible, but there were no rules against accepting benefits from them. The risks faced by prostitutes included uncertain payment and the dread of molestation, mutilation, torture, and death. While the article references penalties for mistreatment and deception, doubts linger about their effectiveness.

In sum, the article offers a comprehensive portrayal of prostitutes' status in ancient India and underscores the challenges these women confronted. However, a more balanced exploration of both positive and negative aspects of ancient prostitution would have enriched the analysis, diverting the focus from predominantly negative aspects.

Nanette J. Davis, 'Prostitution an International Handbooks on Trends, Problems, and Policies', Greenwood Press (1993)

The book represents a comprehensive effort to explore prostitution across a diverse array of societies, each distinct in its cultural, political, religious, social, and legal systems. The book comprises country-specific chapters, predominantly authored by natives, encompassing a wide range of regions: Canada, Brazil, the United States, Australia, Japan, Italy, Vietnam, Portugal, Singapore, Germany, the former Yugoslavia, England and Wales, Taiwan,

China, and Norway. Each author has written extensively on prostitution in their respective countries. Notably, the book falls short in its representation as it omits Middle East and the Africa.

The book delves into the various models of prostitution adopted by each country, their corresponding policies, and the current status of prostitutes. The book uncovers the varying perspectives on prostitution across these nations. Some nations view prostitution as a violation of prostitutes' rights to bodily autonomy, while others lack a robust concept of personal and sexual autonomy for women. Different countries exhibit distinct treatment of prostitutes, making this book a study of these disparities.

The book tackles diverse themes across its sixteen chapters, including legal and social categorisations of prostitution, historical, contemporary trends within each society, and the structural organisation of prostitution, the current situation and lives of prostitutes, law enforcement dynamics, the political dimensions of prostitution, interventions, and social policies. These chapters delve into the complex conflicts that surround prostitution in their respective societies.

The book highlights the absence of a universal portrayal of prostitution. Instead, its purpose is to clarify overarching comparative trends, directions, profiles, and challenges pertaining to the regulation of prostitution in society. This approach to comparison avoids promoting a single theoretical or disciplinary model. Rather, the authors collaboratively present a comprehensive perspective on prostitution within their respective societies. These perspectives encompass a wide range, including feminist, historical, administrative, legal, critical, and rehabilitative viewpoints. Furthermore, each author's interpretation of prostitution is influenced by their unique cultural perspective, blending traditional ideologies with contemporary discussions on women's rights.

S.N. Sinha and N.K Basu, 'The history of sex and prostitution in India', Shubhi Publications, (2023)

The authors meticulously trace the history of prostitution, spanning from ancient times until the beginning of the imperial Gupta reign in the third or fourth century A.D. The book explores different periods of Indian history, encompassing the Vedic era, the Brahmana era, and the Epic era. The book also delves into how prostitution is represented in ancient Indian legal texts known as smritis and in mythological texts called puranas. The book provides detailed insights into the past status of prostitutes, their roles in society, the taxes they paid, and the social standing they held in various historical stages.

The book refers to different periods in history where prostitution was mentioned as an organised institution. It also discusses various categories of prostitutes, mentioning celestial figures like Thilothamma, Urvashi, Ramba and Menaka. These figures are depicted as paragons of beauty and femininity, skilled in music and dance. They are shown as entertainers for divine beings and guests in the court of Lord Indra, a significant deity in Hinduism.

Throughout the book, the unique history of prostitution in India is a recurring theme. Exploring its historical context helps us to gain valuable insights into addressing this enduring issue. By looking back at its history, readers get an insight into the complex path that prostitution has taken and helps to comprehend the present.

The Legislation of Prostitution: A Sociological Inquiry into the Law Relating to Prostitution in India and the West by Jean DCunha

The book "The Legislation of Prostitution: A Sociological Inquiry into the Law Relating to Prostitution in India and the West" by Jean D'Cunha delves into the multifaceted perception of prostitution within society. Prostitution has long been ensnared by moral judgments, shaping individual viewpoints. Diverse

discourses, spanning social science, theological, and legal realms, have largely positioned prostitution as an immoral act or justified it as a mechanism to control male sexual aggression.

The author criticises such a biased attitude of the individual and the theories which have developed such a low perception of the subject. Prostitution is a necessary evil; its existence cannot be denied in society but is also not accepted by society. In addition to it, the prostitutes are treated as perpetrators rather than the victims. The author thus criticises such hypocrisy.

Exploring feminist perspectives, the author portrays prostitution as the ultimate manifestation of patriarchal oppression of women. Women's value diminishes, relegated to providers of sexual and reproductive services to men. This book examines the efficacy of the current prostitution law and its potential to address the issue. SITA Act and ITPA have been discussed at length. The author criticises the law and its interpretation for being predominantly male-oriented. The legislation seems to lack genuine intent to combat prostitution, paradoxically punishing women who were coerced into the profession. Despite some attempts, the ITPA brings stricter measures against brothel owners, pimps, procurers, and traffickers when it's evident that women are compelled, with child prostitution attracting even more stringent actions.

The author of the book has put forward two solutions to improve the condition of the prostitute. Either they could organise themselves or to legalise prostitution to protect them from exploitation. Drawing from profound insights, the author highlights the pitfalls in both approaches. In India, it's the people who run prostitution who are behind the initiative to organise prostitutes. Such initiatives receive political support precisely because the racketeers control a sizable section of the vote bank. As a result, the exploiters are able to distort oppressive systems and negotiate a better deal for themselves in the face of police intrusion. The benefits seldom trickle down to the prostitutes. Similarly,

legalising prostitution enriches the same people who can operate brothels with impunity. By reviewing countries' attempts to legalise prostitution, the author draws attention to the fact that all attempts to legalize prostitution in various countries have only resulted in denying human rights to women.

It empowers law enforcement officers and health inspectors in an unprecedented manner; it provides the state with a legal basis to impose a tax on prostitutes without simultaneously providing them with the social security benefits and protection enjoyed by other citizens. These women are openly identified as prostitutes. This restricts their social mobility, and the law restricts their access to certain areas. They are subject to various forms of discrimination, including arbitrary medical examinations. This empowers the police to pursue women with unsubstantiated allegations of unlawful soliciting, an allegation that few women can disprove. There are no easy fixes to this issue. At present, the best that can be done is to improve the rehabilitation programmes for prostitutes. Currently, the best course of action is to enhance the rehabilitation programs for prostitutes. The writer reviews the current schemes in India and criticises their shortcomings, advocating for a more compassionate approach. Women who have experienced prostitution are often deeply traumatised and require counselling. The vocational training programs must be realistic and provide them with the opportunity to begin anew. The data has been carefully compiled and the author should be commended for her candid challenge to traditional morality and theoretical one-size-fits-all understanding of prostitution.

Yugank Goyal and Padmanabha Ramanujam, 'Ill-Conceived Laws and Exploitative States: Towards Decriminalising Prostitution in India', Arkon Law Review (2015)

The article "Ill-Conceived Laws and Exploitative States: Towards Decriminalising Prostitution in India" by Yugank Goyal and Ramanujam starts with an extract from a 1949 dialogue in the Indian Constituent Assembly. The

members of India's Constituent Assembly, who were in charge of drafting India's constitution, were having a furious debate about legalising prostitution. While some argued against legalisation, branding it a societal disgrace, others advocated for it, citing its deep-rooted presence in human nature and the need for regulation rather than eradication. By revisiting this pivotal 1949 debate, the authors underline the enduring significance of the issue. The debate so discussed then still is being continued at present and the same questions which were raised then remain unanswered.

The article discusses the history of prostitution and how the institution has evolved. The status enjoyed by prostitutes in ancient India has now undergone a sea change in the present scenario. In ancient India, sex workers had a high degree of autonomy and were granted civil and domestic rights. Indian society was generally open to prostitution. However, during the colonial era, society's view of prostitution, the morality of prostitution, and the economic status of prostitution changed. The Contagious Diseases Act dealt a severe blow to the institution, and the traditional social structure of prostitution in India was gradually replaced by various informal and formal structures, which were maintained even after India's independence from Britain. The author has discussed the legal landscape in India concerning prostitution, Acts such as SITA and ITPA have been discussed in detail, and the amendment of the Act has resulted in a change in the title and scope of the Act but little change has been brought about in improving the condition of the prostitutes. A detailed review of the ITPA enables us to see how the law has effectively criminalised prostitution.

Roger Matthews, 'Prostitution, Politics, and Policy', Cavendish Publishing (2007)

The book "Prostitution, Politics, and Policy" by Roger Matthews begins by addressing the enduring presence of prostitution in society. The book begins by

explaining to the readers that though prostitution has been present in society for ages it's still been an invisible issue, and hardly much research has been conducted in this field since the aftermath of World War II. The author underscores the neglect of the issue, while also tracing the shift in societal attitudes towards prostitution. Once considered a public order problem in the 1960s and 1970s, it transformed into a grave medical concern in the 1980s due to the perception of prostitutes as carriers of HIV/AIDS. However, subsequent studies dispelled the panic, revealing low HIV/AIDS prevalence among prostitutes. The book charts the evolution of society's view on prostitution and its links to health and disease, notably HIV/AIDS.

The book delves into the developments that have globally influenced the perception and handling of prostitution. A comparison is drawn between the Netherlands' tolerant stance towards the sex industry and Britain's stricter approach. The rise of support and advocacy groups such as "Call off your old tired ethics" (COYOTE), "English Collectives of Prostitutes" (ECP), and "Prostitutes' Rights" is highlighted showing the differences in approaches across countries.

The author explores the intricate connection between drug use and prostitution. Drug consumption among prostitutes as a coping mechanism for the challenges they face is addressed. The narrative shifts from viewing prostitution primarily as a medical concern to associating it with drug-related issues, migration patterns, and trafficking.

The book also deals with the societal myths surrounding prostitution. Statements such as prostitution being the "oldest profession" or arising from men's natural sexual needs are critiqued through various arguments. Contrary to the myths, research shows it's often married men, not lonely or socially marginalised individuals, who seek out prostitutes. Prostitution as a "natural need" is challenged; it's depicted as a choice driven by curiosity or entertainment

rather than an essential human requirement. The author highlights the pitfalls of projecting current perspectives onto history and treating historical practices as precursors to the present.

A central theme is a dichotomy in society's portrayal of prostitution: whether prostitutes are coerced or choose the profession, they should be aware of the consequences of their choice, especially if she is a victims of violence. Here, the author discusses the challenges that a prostitute faces after entering the sex industry. The various form of victimisation experienced by prostitutes has been discussed by the author such as violence, health issues, housing, drug issues, etc.

The book also explores in depth the many avenues into prostitution, such as neglect, child abuse, poverty, running away or entering the care of local authorities, etc. in detail, providing the reader a detailed picture of the various circumstances that drive a woman into prostitution. This book provides insight into the strategies employed by women in the prostitution industry to transition out of the industry and the various challenges they face in achieving this. The fact that the desire to exit prostitution is more difficult than the decision to enter prostitution has been discussed by the author. The difficulty of getting a sober job or even getting employed in some other sector is a difficult task after their exit from prostitution due to the likelihood of having a criminal record for prostitution or other drug-related offenses has been discussed in the book. They also fail to have the required qualifications or skills needed for a particular job thus making it more difficult for the prostitutes to get employment. The book has examined the interdependent connection between the nature of prostitution and the measures taken to regulate it. The book gives an extensive understanding of prostitution in Britain and also throws light on prostitution as a grave issue existing around the world. The book is written in simple language and gives clarity on various aspects of prostitution, but it fails to give an in-depth discussion on various discourses on prostitution and the book does not

offer fresh insights or unique viewpoints to the established body of literature on this subject.

RESEARCH GAP

Despite the comprehensive exploration of various aspects surrounding prostitution and its legal status in India presented in the aforementioned literature, there appears to be a research gap that could benefit from further investigation. The literature review provided above falls short of providing a comprehensive understanding of the historical evolution of the institution of prostitution and its current status. Some of the literature has dealt with the past standing of prostitutes, while some has dealt with the contemporary status, but not a single literature review deals with the evolution it has undergone from the past to the present.

There is also a lack of in-depth exploration of the Immoral Traffic (Prevention) Act (ITPA). Given that the ITPA is the law that governs prostitution in India, the absence of a thorough analysis of its provisions, implementation, and effects on sex workers' lives is a notable gap. An assessment of the ITPA's achievements, failures, and effectiveness in protecting women involved in prostitution could provide crucial insights into the legislative landscape and its impact on the ground.

While the literature extensively delves into historical, sociological, legal, and ethical dimensions, there appears to be a lack of emphasis on the real-life experiences and voices of sex workers themselves. A more in-depth qualitative inquiry into the personal narratives, challenges, aspirations, and agency of sex workers in the Indian context could provide a human-centered perspective that complements the existing analysis.

RESEARCH METHODOLOGY

The research methodology adopted for this study employs a qualitative approach that combines both descriptive and analytical methods to comprehensively investigate the subject of prostitution and its legal status in India. Both primary and secondary data have been used for the research. Secondary data sources were gathered from a range of resources, including books, journals, articles, and websites. A thorough assessment of available literature was carried out, with an emphasis focusing on the historical evolution of prostitution, contemporary debates, and the legal framework surrounding prostitution. Primary data collection involved conducting interviews with the Durbar Mahila Samanwaya Committee and Sanlaap to gain insights into their perspectives on the legalisation of prostitution in India. Interviews were also conducted with 15 sex workers from Sonagachi Red Light Area and Rabindra Sarani Red Light Area, with a view to understand their lived experience and their perspectives towards sex work, as well as their views on the legalisation of sex work in India. Interviews were also conducted with the police officials to learn about their understanding of the laws on prostitution and their views on the legalisation of prostitution in India.

RESEARCH QUESTIONS

1. What are the changes the institution of prostitution has undergone over time, and what effect these changes have meant for the prostitutes?
2. How best to understand the legal framework regulating prostitution in India in terms of its content, lacunae, and effectiveness?
3. What are the implications and challenges facing the Supreme Court's Order recognising sex work as a legitimate profession?
4. Should India consider the legalisation of prostitution as a potential solution to address issues related to sex work, regulation, and the well-being of sex workers?

CHAPTERS

Chapter I- Prostitution in India: Historical Overview, Diverse Typologies, Routes and Pathways

The first chapter deals with the evolution of prostitution in India, tracing its origins and progress over time. It deals with how the institution of prostitution has undergone changes from the past, where prostitutes held a respectable position in society, to the present, where sex workers are stigmatised and face utmost violence. The chapter also explores various typologies of prostitution; each typology will be discussed in detail, and the Chapter will also explore the causative factors that drive women into prostitution.

Chapter II- Legal Approaches and Theoretical Perspectives on Prostitution

The Chapter II focuses on the different models of prostitution prevalent worldwide. It delves into the concepts of abolitionism, neo-abolitionism, decriminalisation, legalisation, and criminalisation, providing a detailed discussion of each model. The chapter also explores the implementation of these models across various countries. The chapter will also analyse feminist theories on prostitution, it will analyse diverse feminist perspectives that range from viewing sex work as a form of violence to accepting it as a legitimate form of employment and personal autonomy.

Chapter III- Legislative and Judicial Approach towards Sex-Work

The Chapter III discusses the legislative and judicial frameworks surrounding prostitution in India. This chapter examines significant landmark judgements related to prostitution and explores various laws governing the profession, including the Immoral Traffic Prevention Act (ITPA). The analysis of the ITPA

includes an assessment of its achievements, failures, and effectiveness in protecting women involved in prostitution.

Chapter IV- Empowering Sex Workers: Supreme Court's Landmark Directives

The **Chapter IV** focuses on the recent Supreme Court Order which has recognised sex work as a profession. It thoroughly examines the interpretation and implications of this Order, giving a thorough examination of its importance in the context of prostitution.

Chapter V- Prostitutes, Organisations, Law Enforcement: Perspectives from the Field

The Chapter V analyses the data collected from the interviews with the Durbar Mahila Samanwaya Committee, Sanlaap, sex workers, and police officials. The chapter explores the role and objectives of the organisations and their perspectives on legalisation, and it also documents the viewpoint of sex workers in Sonagachi Red Light Area and Rabindra Sarani Red Light Area to understand the ground reality of sex work and their views on legalisation. Lastly, the viewpoint of police officials is explored through interviews to understand how law enforcement agencies handle cases related to prostitution and human trafficking and to document their opinions on the legalisation of sex work in India.

The analysis in the above chapters is followed by a conclusion to the thesis, which brings together the understanding and findings gathered in the previous Chapters. It attempts to answer all the research questions posed in the introductory Chapter and presents the findings of the research.

CHAPTER I

PROSTITUTION IN INDIA: HISTORICAL OVERVIEW, DIVERSE TYPOLOGIES, ROUTES AND PATHWAYS

Prostitution is an age-old institution; evidence of its existence for ages has been found in history, mythology, literature, music, drama, sculpture, archaeological structures, ruins, etc. In fact, prostitution is also regarded as the first profession (Sudha, 2006, p. 1). This enduring presence has solidified prostitution's status as the oldest profession in history. Moreover, the institution of prostitution has developed greatly over time; it has undergone significant changes in perception, social acceptance, and legal frameworks. These changes reflect the dynamic nature of societies and the evolving attitudes towards this complex profession (Sinha & Basu, 1933, p. 1). Despite changes over time, the institution of prostitution continues to hold significance in modern society. If a comparative analysis is done to assess the extent to which the institution has undergone changes, it becomes apparent that it has witnessed significant transformations.

Throughout Indian history, numerous texts shed light on the integral role of prostitution in ancient society. These texts emphasise the respectable position held by prostitutes and the autonomy they enjoyed across various domains of life, encompassing the socio-economic, political, and religious realms. In the past, despite being aware of certain limitations, prostitutes enjoyed a considerable amount of respect within society. However, the present perception of prostitution has drastically shifted, viewing it as a disgraceful phenomenon and a significant threat to society. These women are denied the right to maintain respectability and are treated with contempt. Over the course of time, the institution of prostitution has experienced a shift in societal perception, evolving from being recognised as a celebrated necessity to being widely condemned as a morally unacceptable practise.

This chapter will delve into the historical backdrop of laws on prostitution, investigating their origins and tracing the evolution of this institution over time. It will examine the antiquated laws governing prostitution, explore its pioneering history, and analyse the different typologies associated with this practise. In addition, this chapter will provide an in-depth examination of the factors that lead women to engage in prostitution.

Prior to delving into the broader aspect of legalising prostitution in India, gaining a comprehensive understanding of its historical context, the diverse forms it assumes, and the fundamental reasons motivating individuals to pursue this occupation is of utmost importance. This chapter forms the essential foundation for comprehending the wider implications of legalisation.

PRE-HISTORIC AGE

Before the dawn of civilisation, the institution of marriage did not exist. During prehistoric times, men and women lived together in a manner akin to animals and birds. One could frequently change their sexual partner, and there was the absence of social institutions like family and society (Mukherjee, Joardar, 1986, p. 6). This lack of formalised marriages resulted in men having the freedom to engage in sexual relationships with multiple women, rendering a separate class of prostitutes unnecessary. The absence of structured marriages and societal norms allowed for greater flexibility in sexual interactions. As civilisation progressed, the institution of marriage gradually emerged, bringing with it the establishment of societal norms, rules, and expectations surrounding relationships and family units.

Prostitution came into being as a result of civilisation and marriage. As marriage became the new normal, men were expected to stay true to their wives. However, the innate inclination towards promiscuity persisted. Hence, with the advent of the marriage system, men still yearned for sexual relations with

multiple women, thus giving rise to the "forbidden fruit," that is, prostitutes (Mukherjee, Joardar, 1986, p. 26). Prostitutes became the embodiment of this forbidden fruit, providing an outlet through which men could indulge in extramarital sexual encounters and fulfill their desires beyond the confines of marriage. Prostitutes offered an alternative realm, outside the boundaries of traditional relationships, where men could experience sexual gratification without jeopardising their social standing or commitments within their marriages.

PRE-VEDIC AGE

The Indus Valley Civilisation was an ancient valley civilisation known for its advanced urban culture. While there is no concrete evidence of a prostitution culture during that period, it can be speculated that the civilisation's economic prosperity may have allowed merchants to indulge in luxuries such as women and wine (Mukherjee, Das, n.d., p. 16). However, there is no proof to confirm the existence of designated places for prostitutes within these planned cities. Nonetheless, the discovery of a bronze figure depicting a dancing girl in Mohenjo-Daro provides us with hints that these individuals may have been sacred prostitutes fulfilling their duties within the temple of the mother goddess (Gathia, 1998, p. 9). Besides this finding, there is no additional evidence to substantiate the existence of prostitution. Thus, the Indus Valley Civilisation's ancient history does not provide conclusive proof of a widespread prostitution culture. While economic affluence and the presence of sacred prostitutes in religious contexts offer intriguing possibilities, the overall lack of additional evidence limits our understanding of the existence and nature of prostitution within this civilisation.

VEDIC AGE

The Aryans, believed to be pastoral nomadic tribes, migrated across the expansive Central Asian continent. They travelled from one place to another in search of food, water, and suitable grazing lands (Mehta, 1957, p. 38). As early Aryans established themselves as agricultural communities, they needed to rely on the timely arrival of regular rainfall to ensure the success of their crops. However, realising their lack of control over rainfall, they turned their focus to the Devas, the Supreme Beings, with Indra being their chief deity (Sinha & Bose, 2003, p. 4). To impress the Devas, they performed sacrifices as part of their invocations. A somewhat intoxicating beverage made from the juice of soma plants was served during these rituals, and it often led to a display of natural promiscuity at the conclusion of these ceremonies. During the initial phase of human development, there was a prominent emphasis on sexuality, which later transitioned into a form of semi-promiscuity. This shift led to the emergence of practises like polyandry and group marriage. It's worth noting that promiscuity during this era was primarily observed during political or religious festivities rather than being a widespread societal norm (Sinha & Basu, 1992, p. 4).

Guest prostitution was also observed during the Vedic Age. The Dravidians, a non-Aryan race, were animists who worshipped phallic gods and saw the phallus and the Yoni as physical expressions of nature's creative energy. This in turn led to the rise of guest prostitution. A group of Aryan businessmen called the panis formed trading relations with the Dravidians, and via their business dealings, they came across guest prostitution. They also practised the custom of offering accomplished, beautiful, and virgin women to monarchs as a symbol of goodwill and friendship. (Singh, 2004, p. 11).

The existence of prostitution in Vedic literature becomes apparent in a passage from the Rig Veda. In this passage, marusts are described as having a relationship with youthful lightning, much like a man has with young

courtesans. In situations where a family had only daughters and no sons, these girls were forced into prostitution. The Rigveda also mentions a tradition of offering a girl as a slave to a rishi by a king during the Vedic period. During the Vedic era, institutes called Samana encouraged free love and were organised during chariot racing tournaments. Women would spend the entire night trying to impress their lovers and find their husbands, while prostitutes made the most of these occasions. An assembly hall called Vedic Sabha existed for conducting meetings, but it also served various other purposes. There were also references to women visiting the meeting hall, so in a pejorative sense, there was speculation that the place might have been used by gamblers, so there was a likelihood of prostitutes accompanying them (Chandra, 1973, pp. 3–4). While the Vedic Age primarily focuses on religious rituals and beliefs, the mentions and references to prostitution provide insights into the social fabric and cultural dynamics of that time. These glimpses remind us that the presence of prostitution was not absent from the broader societal landscape.

POST-VEDIC AGE

a) BRAHMANA PERIOD

According to Basu and Sinha, it was during the Brahmana period that legal prostitution made its way into India from Egypt. In this period, the prostitutes were referred to as Vaishya. Originally, these Vaishyas were intended to fulfill the physical needs of the Vaishya caste. In the hierarchical caste system prevalent during the Brahmana period, the Vaishya caste held the third position. This caste primarily comprised traders and merchants who frequently travelled for business, often residing away from their homes and wives. The absence of their spouses created a void in terms of physical companionship, leading to the establishment of a system where prostitutes, known as Vaishyas, fulfilled their needs.

Over time, the term Vaishya transformed into Beshya. This evolution led to the emergence of the term "baishya," although the original derivation was lost. The new name derived from the root "besh," which meant to decorate or enter. It also referred to women who adorned themselves and were approachable by all. There were instances where Brahmins and Kshatriyas, belonging to the upper castes of the Varna system, fell in love with these women and entered into marriage following the Gandharva system. The social status of these women was elevated after marriage, and marrying prostitutes was not considered unusual, nor was their union frowned upon (Joardar, 1984, p. 25). The Brahmana period, with its acceptance of legal prostitution and the integration of prostitutes into marital unions with individuals from higher castes, provides a fascinating glimpse into the diverse social dynamics of ancient India. It reminds us of the fluidity of societal norms throughout history and the significant variations in attitudes towards prostitution across different time periods and cultural contexts.

b) EPIC PERIOD

Numerous articles and books mention the presence of celestial prostitutes in Indian religion and mythology. According to the myths, apsaras were celestial beings residing in heaven, known for their exceptional beauty and mesmerising dance skills. Just like human beings on earth, gods and goddesses also experienced carnal desires; therefore, these celestial beings fulfilled their sensual cravings. Gods would sometimes employ these alluring apsaras to seduce or deceive their adversaries and serve diplomatic purposes.

Prominent apsaras mentioned in Hindu mythology include Urvashi, Meneka, Rambha, Ghritachi, Chyavanna, Tillotama, and others. Despite being characterised as celestial prostitutes, they were respected figures who enjoyed a certain level of autonomy and dignity (Joardar, 1984, p. 26). Prostitution finds

frequent mention in remarkable epics like the Ramayana and Mahabharata, along with other revered Hindu scriptures.

For instance, in the Mahabharata, prostitutes played a significant role. They stood beside princes and kings on the battlefield, offering solace and a sense of familiarity in the midst of the tumultuous chaos of war. An intriguing tale revolves around King Purava, who fell in love with Urvashi, the most beautiful apsara in heaven. They eloped, got married, and had numerous sons. One of their sons eventually ascended to the throne after King Purava's demise. The sage Vasishtha, who was highly esteemed at that time, was also the son of a prostitute. During that period, one's birth as the child of a prostitute did not determine their worth; it was their intelligence and character that held significance (Joardar & Kumar Mukherjee, 1986, p. 28).

It was quite common for kings to be captivated by the beauty of prostitutes during that era, resulting in numerous instances of a prostitute marrying a king in ancient times.

c) SMRITI PERIOD

The ancient Aryan law books were known as Dharmasutras and Dharmashastras. While these legislative bodies enforced strict chastity among the general populace, they made little effort to regulate or control prostitution. Over time, prostitution proliferated and became pervasive in all segments of society. During the Smriti period, prostitutes occupied a despised position in society. Well-bred Aryans would refuse to eat food from the Ganikas, considering them social outcasts. However, despite societal stigmas, the government extended protection and permitted the practise of their profession. Within the Gandharva system, certain Ganikas would even enter into marriages with Brahmins and Kshatriyas, aiming to elevate their social standing. A

successful ganika could aspire to become a concubine and enjoy a comfortable life in the harem of an aristocrat (Sinha & Basu, 1992, p. 66).

During this time, strict lawmakers made attempts to control this immoral trade and establish clear distinctions between the rights and privileges of virtuous and unchaste women. Purana writers freely created numerous fascinating stories about celestial nymphs their relations with human beings, and their presence on earth. These stories often depicted their intent to either break the taboos of sages or to jeopardise the reputation of influential rulers. (Singh, 2004, p. 16). Overall, the Smriti period reflects a complex dynamic surrounding prostitution in ancient India. While despised by society, prostitutes found avenues for social mobility and protection from the government. The existence of both strict regulations and engaging mythological stories demonstrates the multifaceted nature of society's perception and treatment of prostitution during this era.

MAURYAN AGE (THE BUDDHIST AGE)

The Mauryan Age, also known as the Buddhist Age, was a period governed by rulers such as Buddha, Emperor Asoka, Chandra Gupta, Mahaveera, and others. Historical records indicate the presence of courtesans and the practise of prostitution in towns during this era. Many renowned courtesans of that time were attracted by the rhetoric and charismatic nature of Buddha, leading them to leave prostitution and become his disciples.

During the reign of Chandra Gupta Maurya, Pataliputra emerged as a prominent centre where prostitution thrived rapidly. The state took measures to control the institution and bring it under the taxation framework. It was thought that operating brothels would bring in money for the state. Kautilya, in his Arthashastra, mentioned terms like Devadasi, Praganika, Ganika, Dasi, and Rupajiva to refer to these prostitutes and courtesans (Rozario, 1988, p. 7). Kautilya's work laid down comprehensive rules that governed the lives of

prostitutes. Prostitution served different roles in the state, including entertainment, espionage, and even political functions. As a significant source of revenue, the rights of prostitutes were protected by the state, and they were entitled to certain privileges. Harming or killing a prostitute was considered a serious offence (Chandra, 1973, p. 43).

Prostitution in the Mauryan Age was regarded as a state asset. The state recognised the significance of protecting them, as any harm or violence towards a prostitute would not only be a loss of life but also a loss of state revenue. To discourage such acts, heavy fines were imposed on individuals responsible for the harm or killing of a prostitute. The approach was to make sure everyone involved was safe and the state was financially secure.

EARLY GUPTA AGE

During the Gupta era, the institution of courtesans flourished and played an essential part in the people's social and cultural life. Vatsayana's Kamasutra and Bharata's Natyashastra provide valuable insights into courtesans and their relationships with clients. Courtesans and prostitutes were assigned separate dwellings within the city, attracting individuals from all walks of life, including the educated, rogues, philosophers, and commentators (Chandra, 1973, p. 105). Vatsayana's Kamasutra contains a wealth of knowledge on prostitution. Vatsayana lived during a period of religious and political turmoil during the 2nd and 3rd centuries B.C., characterised by internal strife and foreign invasions. Vatsayana highlights that local prostitutes found foreign soldiers to be particularly generous patrons, and it comes as no surprise that these women willingly attended to the desires of their customers. Bharata, who is believed to have thrived during this era, vividly depicts the ideal ganika (courtesan) in his Natyashastra. He says,

"A woman who knows the practical and timely application of various arts, who has a thorough knowledge of the science and literature, who is well-versed in the sixty

– four recognised Koalas and particularly in dancing to the accompaniment of music, whose conduct is marked by a respect to the superiors (in age, social status, riches, learning, etc.) by graceful and engaging deportment, by lively gestures and luscious blandishments, who possesses the strength of mind and tenacity of purpose, punctuated with a sense of delicacy and sweetness of temper, who is free from the characteristic drawbacks of the average woman, who speaks sparklingly with a clarity of expression, who can work intelligently without getting easily fatigued – is then to be designated a ganika." (Bharatiya Natyasastra, Ch XXIV).

The early Gupta Age witnessed the full development of courtesans as an influential social and cultural institution. Through the works of Vatsayana and Bharata, we gain a deeper understanding of the role, status, and characteristics associated with courtesans during this era.

EARLY MEDIEVAL AGE

After the fall of the Harsha Empire in the seventh century, a succession of kingdoms developed in the north, south, and Deccan regions of India. Between 750 and 1000 AD, the Rashtrakut, Pratihara, and Pala empires emerged as significant powers. These dynasties not only engaged in internal conflicts but also focused on agricultural development, encouraged temple construction, and promoted arts and literature (Chandra, 2007, p. 12).

During this period, Sanskrit held a position of high cultural significance, and many scholars wrote their works in this language. Medieval Sanskrit literature extensively discusses the characteristics of prostitutes, their pursuit of wealth, and their propensity to take advantage of their clients. The Sanskrit literature of the time provides valuable information on the lives of prostitutes and the cultural context in which they operated.

The number of synonyms for prostitutes increased in tandem with the rise in prostitution. In his *Abhidhana Chintamani*, Hemchandra lists 35 names for prostitutes, Varamukhya (a chief courtesan), Lanjika rupajiva (a demimonde who

lived on her beauty), Sambhali (a prostitute), Panapanyangana (a woman to be enjoyed for a pana), Kuttani (a bawd), Bhujishya (a mistress), Varavadhu, Ganika (a courtesan), Sadharanastri (a strumpet) (Chandra, 1973, p. 194). The dwellings where prostitutes resided were commonly known by several names, such as Vesyasraya, Pura, and Vesa. Within the Vesa culture, the act of drinking played a significant role, and medieval Sanskrit dictionaries even documented the names of various wines, along with the techniques of their fermentation and the ingredients involved. Detailed descriptions of the prostitutes of this historical era and the environments they operated in can be found in Uelyotanasuri's Kuvalayamala, Bhojadeva's Sringaramanjari Katha, Mahendra Suri's Nammayasundari Katha, and Somesvara's Manasollas (Singh, 1997, p. 35).

The medieval Sanskrit literature of ancient India, through the writings of scholars and authors, provides valuable insights into the lives of prostitutes, the diverse vocabulary employed to depict them, and the cultural milieu in which they thrived.

SULTANATE PERIOD

For 320 years, the Delhi Sultanate, a Muslim empire with its capital in Delhi, ruled over a significant portion of India. Muhammad Ghori's former slave Qutbuddin Aibak became the first Sultan of Delhi and ruled over most of northern India from 1206–1526. The state established by the Turks in northern India in the late 12th century evolved into a highly influential and centralised state that ruled practically the entire nation for a significant period of time. This period saw a notable increase in trade within the regions and the growth of towns and urban life (Chandra, 2007, p. 12).

At the time, the standard of living for the Sultan and his leading noblemen was comparable to the best in the world. As the empire expanded rapidly, the Sultans provided generous wages and benefits to the nobility. The nobles sought to

imitate the extravagant lifestyle of the Sultans, residing in luxurious palaces and surrounded by numerous retainers, slaves, and servants. They were morally degraded to the extent that they felt no remorse for maintaining concubines and prostitutes. They had no qualms about breaking the harem's purity and turning their homes into personal brothels. The wealthy Muslim noblemen and nabobs had harems full of young, attractive ladies who catered to their needs. These harems didn't differ from contemporary brothels. While brothels are frequented by a series of men, harems were designed to satiate the lust of a single man. During the Muslim period, many of the prostitutes were foreigners who had been enslaved in Persia, America, and even Europe. These foreign girls were highly sought-after. Prostitution in these cases involved girls from Christian and non-Muslim backgrounds who were forced to convert (Mukherjee, 1986, pp. 70–71). Some of the women would often be presented to the 'nabobs' favourite nations and acquaintances. The ladies were viewed as chattels that their owners could sell, present, or hire out. It was common practice among Shiv Muhammedans to hire brides for a certain period of time. At the end of the period, the woman was able to choose any other male as her consort. This kind of lady was nothing but a legalised mistress (Mukherjee, 1986, p. 80). These practises highlight the exploitation and degradation of women during the Sultanate period. Women were often regarded as commodities, subject to being traded or hired, which resulted in a life filled with uncertainty and objectification. The prevailing social and cultural norms of the time facilitated the devaluation of women's autonomy and agency, thereby perpetuating a system that reinforced unequal power dynamics and the objectification of women. These circumstances vividly indicate the widespread prevalence of prostitution during that period.

MUGHAL PERIOD

During the rule of the Mughal emperors, prostitution thrived as a recognised institution. These skilled prostitutes, adept in the arts of singing and dancing, were widely regarded as a form of entertainment for the affluent aristocrats of that era. It was a regulated industry, and like their ancient Indian counterparts, they paid taxes on their earnings.

The Mughal emperors had varying opinions on prostitution. Some imposed strict regulations, while others favoured and supported them. Emperor Akbar believed that the mingling of prostitutes with the common people would lead to the moral degradation of society. As a result, he enforced strict restrictions and isolated prostitutes from society. They were banished from the main cities and forced to live outside the capital, making their services less accessible to the general population. Emperor Akbar implemented measures to control the activities of prostitutes and employed clerks to enforce the rules. Clients needed permission to take the dancing girls to their locations, and a record of the clients' names was maintained. It is evident that during Akbar's reign, these prostitutes were kept under strict control. However, the situation changed with the rule of other Mughal emperors.

During Emperor Shah Jahan's reign, dancing and singing girls called Kanchans were invited to royal feasts and festivals in the city. Their presence was seen as enhancing the beauty of these gatherings. Kanchans held a respected position in society and were distinct from other prostitutes who provided services in the marketplace. They were invited to perform at the weddings of nobles and dignitaries, and Shah Jahan included them in various state affairs to add to the grandeur of the events.

This favourable attitude towards Kanchans was continued by Shah Jahan's sons, except for Aurangzeb. Dara Shikoh, the eldest son, was particularly fond of

Kanchans, and efforts were made to provide them with good facilities. Enamoured by the charms of a dancing girl named Ra No-Dil, he found himself deeply in love and decided to marry her. Following their union, she was granted equal status and treated with the same respect and honour as other esteemed Mughal princesses. Sultan Sujah, another son of Shah Jahan, also admired dancing girls and supported their role in prostitution. However, he later developed strong disapproval of it and implemented rules to prohibit prostitution within the city.

Aurangzeb, the third son of Shah Jahan, however, completely opposed the institution of prostitution. He ordered that prostitutes and Kanchans either get married or leave the empire. Consequently, numerous prostitutes opted for marriage, while some chose to conceal their true identities, and others decided to depart from the empire. Nonetheless, this approach failed to effectively suppress the expansion of prostitution, given that the affluent aristocrats of that period were unwilling to relinquish their engagement with it. They maintained large harems and kept Kanchans for entertainment and to fulfill their sexual desires. These affluent individuals made efforts to preserve the institution of prostitution rather than curb it. Thus, the initiatives taken by emperors like Akbar and Aurangzeb proved ineffective, as prostitution continued to thrive in society despite numerous attempts to regulate it. Despite the regulations and varying attitudes towards prostitution, there were instances where prostitutes excelled in fields such as music, dancing, and education. Bengali and Hindi literature contains the works of erudite prostitutes, showcasing their talents beyond their profession (Joardar, 1984, pp. 48–50).

The Mughal period was marked by the existence of regulated prostitution, with emperors implementing different approaches ranging from strict control to patronage. While efforts were made to suppress or regulate prostitution, they persisted throughout. The stories of these prostitutes go beyond their

profession, highlighting their talents and contributions to art and culture during this period.

CHARACTERISTICS OF PROSTITUTES IN ANCIENT INDIA

Prostitutes in ancient India were solely there for the entertainment of males and had no place in family life. Prostitutes are portrayed in Jatakas where it has been mentioned that speech, smiling, dancing, and singing were their weapons. Jatakas depicts the character of prostitutes. The Jatakas provide insights into the character of prostitutes, depicting how they allure men through their seductive appearance, voice, scents, touch, and cunning strategies. These prostitutes, driven by their desires for new men, lack genuine love. They easily forget past relationships and embrace new men, just as cows graze in a different pasture after being hurt in one. A prostitute is expected to possess beauty, youthful features, and a captivating voice and to prioritise a person's virtues over his ability to spend money.

In addition, she should have a warm and affectionate personality. She should not be impulsive or weak-minded but rather possess discernment and be free from greed. Enjoying social gatherings and having an interest in arts and literature (kalas) were some desirable qualities to be possessed by prostitutes (Sinha & Basu, 1933). Jatakas presented a multifaceted image of prostitutes in ancient India, revealing their allure, the transient nature of relationships, and the desired qualities they were expected to possess.

VARIATIONS IN STATUS AND FUNCTIONS

In ancient times, there existed various types of prostitutes, each known by different names depending on their social class. Kulata and Swarini were married women who engaged in prostitution with other men. Kumbhadasi and Pracharika were maidservants who served their masters, while Silpa-Karika referred to the wives of weavers and washerwomen who worked as prostitutes.

Even actresses were labelled as prostitutes, signifying that no respectable woman would enter that profession. Ganikas were professional prostitutes, while dancing girls were hired for their singing and dancing skills. Rupajiva belonged to a class of prostitutes known for their beauty and charm. They were subject to state taxes with a requirement to pay a portion of their earnings to the state each month, and during the time when the state was in crisis, nearly half of their earnings were to be paid to the state. Any man attempting to coerce a prostitute into sexual activity would face a fine of 12 panas. Prostitution also offered opportunities for aiding escapes and acting as spies for the king. She could easily aid a man's escape by impersonating his wife, and she could also be recruited as a spy by the king.

Other names used in ancient times for prostitutes included Varabadhu, Varamukhya, Varangana, and more. Vrsali was a term used to describe what is now known as harlots. Over time, pumsulas and lanjikas became synonymous with harlots. Randa denoted a lower-class prostitute, typically an elderly lady who pretended to be mourning but was actually seeking customers.

In a sixth-century Jain religious text attributed to the followers of Jainism, they referred exclusively to the achievements of prostitutes in various fields such as singing, dancing, writing, arts, music, arithmetic, chess, dice, and poetry. They also excelled in the art of adorning themselves, making perfume, depicting omens, shooting arrows, fighting, and so on.

Prostitutes were expected to be well-versed in 72 arts and sciences, demonstrating that they were known for more than just their profession. The Ganika, considered the most skilled of all prostitutes, was a professional who mastered multiple arts and provided men with something unique that other women couldn't. Ganikas were beautiful, charming, educated, and extensively trained. Due to their high fees, they were sought after only by wealthy merchants. (Bhattacharji, 1987, pp. 36–37). The multifaceted nature of

prostitution in ancient times defies simplistic stereotypes and exposes the intricacy of this profession. Prostitutes were not solely confined to the definition of their occupation; rather, they showcased a range of diverse talents and undertook various roles within society. By comprehending the variations in their status and functions, we acquire valuable insights into the social dynamics, cultural norms, and prevailing perceptions that encompassed prostitution in ancient societies.

EDUCATION

Prostitutes were mandated to attend public schools known as Gandharvashalas from an early age in order to diligently acquire the sixty-four skills associated with a comprehensive understanding of erotica. This programme was expensive, time-consuming, and challenging to complete. According to Jain literature, courtesans were expected to be knowledgeable in 72 classical arts (Chandra, 1973, p. 38). The following arts were required to be learned by prostitutes:

Janavayam (janavadam) – The art of conversation

Baiyam (Vaditam) – Instrumental music

Abharanavihim – Rules regarding the making and wearing of ornaments

Pasayam (Pasakam) – The art of gambling tricks

Nattam (nrityam) – A term for dancing

Gayam (gitam) – All techniques of singing

Vatthavihi – This included the modes of wearing garments and also determining new fashions in textiles. (Chandra, 1973, p. 37).

The Kalas mentioned by Vatsyayana are as follows –

Sayana- Rachanam - The Art of Making a Bed

Vyayamiki - The knowledge of all kinds of physical exercise

Vastragopanani - The art of covering the unexposed part of the body

Alekhyam - The six basic principles underlying the composition of a good point

Vainayiki - The art of self-discipline and controlling others

Vastuvidya - The Science of Architecture (Goswami, 1929, p. 16).

Out of the seventy-two arts, only a few, such as writing or painting, sculpture, dancing, singing, playing different musical instruments, gambling, cooking, brewing drinks, literacy composition, knowledge of people, making ornaments, and possibly more, prostitutes and courtesans could have used it to boost their professional reputation. These skills were not confined to courtesans but were an important part of a liberal education.

Vatsayana's list of sixty-four arts proved impossible to obtain. Ordinary prostitutes absorbed in the routine of daily living could hardly be expected to take out time to learn these highly specialised arts. However, the demanding nature of a courtesan's occupation necessitates a diverse range of talents. These arts served as tools of their trade, attracting senior government officials, wealthy businessmen, and bankers who sought not only to satisfy their desires but also to enjoy the cultured and charming company of courtesans. Therefore, courtesans had to acquire these talents to stay relevant in their profession (Chandra, 1973, p. 57). Prostitutes in ancient times were not solely expected to possess education but also to acquire extensive knowledge across a wide range of fields. They were viewed as repositories of talent, required to master various arts in order to excel in their profession. These women were not merely known for satisfying their clients' desires; they were also regarded as individuals with the capacity for intellectual and artistic pursuits.

DRESS

Prostitutes used to dress in vibrantly coloured saris. References to saris can be found in the past, such as the rainbow-coloured sari mentioned in Kadamvari. Wealthy courtesans would wear expensive Chinese silk (Mukherjee, 1986, p. 45). In paintings found in the Ajanta Caves, it is evident that the breasts of prostitutes were typically left bare. However, over time, the practise of displaying one's breasts faded. Some prostitutes would wear kachulis or konchukis, which were tight jackets. When the orna (shawl) was not worn. These jackets would only provide coverage for the upper half of the breast, leaving only the lower half of the breast and abdomen exposed. Bana, in his Harshacharita, recounts the presence of beautiful courtesans waiting for Harsha in his court.

Courtesans were expected to have knowledge of Suchivanakarmani stitching and weaving methods. Middle-class prostitutes were not expected to wear single-piece or fully attired clothing (ekavastra) (Ghosh, 1957, p. 240). During the period of Mahabharata, courtesans (ganikas) were invited by members of the upper social strata. They were instructed to dress appropriately, which included wearing red apparel, red garlands, and red gold accessories as part of their attire. The colour red was believed to be associated with Yama, representing death. This regulation was established in order to differentiate between ganikas and to alert the general public to the potential adverse effects of sexual activity with prostitutes (see Mukherjee (1986), pp. 54-55). (Mukherjee, 1986, pp. 54-55). The dress practises of prostitutes in ancient times were not merely superficial adornments but held cultural, societal, and symbolic significance. They reflected the evolving norms, status, and cautionary messages associated with the profession of prostitution, providing insights into the complexities and dynamics of ancient societies.

COSMETIC ART

It was essential for prostitutes from the upper and middle classes to paint their bodies, use cosmetics, and comb their hair. They were knowledgeable about the various dentifrices used for teeth whitening. However, some women would intentionally darken their teeth black with "dant masi" also known as "misi," a practise that is still observed among certain prostitutes from lower social classes today. In those days, it was fashionable to apply collyrium to the eyelids. Prostitutes used Alaktaka, a lac-based colour, to frequently colour their lips (Mukherjee, 1986, p. 47).

They also chewed pan, which gave their lips a red hue. Lac (alaktaka) was used to colour the border of their feet, a substance still used by many Hindu prostitutes. Upper-class courtesans applied turmeric all over their bodies to achieve a yellowish colour. Prostitutes often used powder to dust their faces and bodies. Stylish women during Kalidasa's time would apply ladhra flower pollen on their faces.

Hair dyeing was a practice followed by elderly prostitutes, and hairdressing held great importance for them. In ancient towns, professional hairdressers could be found (Mukherjee, 1986, p. 47). They adorned their hair with various lotions and scents, and depilatories were used to remove body hair. Upper-class courtesans bathed with perfumed hair oil and scented soaps. Perfumes like musk, agar, sandalwood, and others were commonly used on the body during that time.

The application of sandalwood on the forehead and agar juice on the body parts was popular among all courtesans. High and middle-class courtesans often adorned their foreheads and breasts with leaf and floral motifs (Goswami, 1929, p. 18). The practise of cosmetic artistry among prostitutes reflects their dedication to presentation and allure, highlighting the efforts made to attract and please their clientele. It also provides valuable insights into the cultural and

aesthetic norms prevalent in ancient societies, emphasising the significance placed on physical appearance and grooming.

TAXES TO THE STATE

Prostitutes in ancient India were required to pay taxes individually, and if prostitution was run by an organisation, they had to pay it as well. Red light districts regularly paid their taxes, and organised brothels received state protection compared to individuals who paid "hush money." Those who did not pay taxes or fees did not receive protection against injustices such as client cheating, coercion, and mistreatment. According to the twelfth-century text *Naninmayasundarikatta*, prostitutes contributed at least 25% to 30% of their earnings to the state. Kautilya also mentioned that Ganikas and Pratiganikas were paid from the royal treasury on a monthly basis. Pratiganikas received half of the fees that Ganikas received. The Ganikas did not have property rights themselves, but their daughters became heirs to the property after their deaths. A Ganika could only use the property but did not have the right to sell, donate, or mortgage it. If a man coerced Ganika's daughter, he was fined 54 pana and ordered to pay sixteen times the mother's fees as a fine. Foreign customers were required to pay an additional 5 panas on top of the fees charged by the courtesan. If a courtesan extorted money from customers or threw tantrums, her earnings were transferred to the state as a punishment. If a prostitute refused to fulfill her duties after receiving the fees, she was charged double her fees, and if she refused before accepting the fees, she was fined (Bhattacharji, 1987, pp. 38–39). These tax regulations and penalties demonstrate the recognition and institutionalisation of the profession of prostitution in ancient India. While the system aimed to regulate the industry and ensure financial contributions to the state, it also served to safeguard the interests and rights of prostitutes within the established societal framework.

EMERGENCE OF THE DEVADASI SYSTEM

The Devadasi system, a form of ritualised prostitution, has been prevalent since the sixth century. In this tradition, girls who reached puberty were married to deities. It was prominent in Southern India, in states such as Karnataka, Tamil Nadu, Andhra Pradesh, Kerala, Maharashtra and Odisha.(Deepa & Suni, 2016, p. 63).

In various states, different terms were employed to designate Devadasis. For instance, in Karnataka they were referred to as Jogatis and Basavis; in Andhra Pradesh as Muralis; in Assam as Natis; in Kerala as Mahris; and in Tamil Nadu as Devarattiyal. The term "Devadasi" itself originates from a combination of two Sanskrit words: Deva, meaning God, and Dasi, meaning servant or God's slave. While Devadasi was a sugar-coated terminology to refer to a servant of God, in reality, these girls dedicated to God were no less than prostitutes. The Devadasi system justified prostitution in the name of religion (Kalaivani, 2015, p. 51).

Initially, Devadasis enjoyed a higher status, but over time, their status degraded. They enjoyed a respectable position in society; they were in a position to share their betel leaf with the wives of the king and were also honoured in public.

Devadasis were considered auspicious beings as they were married to an immortal God. Devadasis came from diverse social backgrounds and performed various rituals in society, so their status varied accordingly. Devadasis selected from royal and elite families were entrusted with temple dancing duties. Their public appearances were limited to specific ceremonial occasions. Some Devadasis came from lower sections of society and performed menial tasks such as decorating temple floors, offering flowers to the gods, maintaining the temple gardens, cleaning utensils and premises, and working in the fields. Temple girls received a portion of offerings or donations made to the temple and also enjoyed

a share of the temple lands. Over time, as temples lost patronage, Devadasis faced a loss of regular income, leading some women to engage in commercial prostitution (Pande, 2008, p. 108).

Thus, with time, the roles of Devadasi women transitioned, and they came to be treated as mere prostitutes. The government of India implemented various measures to abolish the Devadasi system, but they were unable to completely eradicate the tradition from Indian society. The Devadasi system still persists today and continues to be practised in different regions of India.

PROSTITUTION IN COLONIAL INDIA

During the colonial era, the British regulated prostitution through various acts, such as the Cantonment Act of 1864, the Cantonment Act of 1895, and the Contagious Disease Act of 1864 (Ghosh, 2022). Rather than attempting to comprehend the framework of prostitution in India, the British focused on regulating the institution of prostitution by sanctioning it. Prostitutes were primarily used for the sexual satisfaction of British troops. The British government established several brothels in the region, and brothels called *chaklas* were opened near the cantonment areas. In these places, prostitute women were subjected to mistreatment, physical assault, sexual abuse, malnourishment, and imprisonment (Goyal & Ramanujam, 2015, p. 1079).

With the growing apprehension surrounding the transmission of diseases, the British introduced the contentious Contagious Disease Act, modelled after the similar act passed in the United Kingdom in 1864. According to this legislation, sex workers were obligated to register with governmental authorities and undergo periodic examinations aimed at detecting venereal diseases. Sex workers found to be infected were confined in locked hospitals and released only after complete recovery (Ghosh, 2022).

This act was considered inhumane towards prostitutes since they would lose their daily income while being admitted to hospitals for treatment. During that period, women would lose their means of livelihood. Those who refused treatment were imprisoned for life. The act was biased, as British soldiers were exempted from this process despite the high probability of them being carriers of diseases and transmitting them to prostitutes through physical intimacy (Ifthikar, January-June 2018, p. 272). There were instances where some English officers, even post introduction of the Contagious Diseases Act, kept Indian women as dancing girls and mistresses. For example, an English officer named Henry Crittleton had an Indian mistress named Reje, who was a Brahmin. Upon his death, she inherited all his property. Another instance involved General Peter, an English official who fell in love with an Indian girl named Arabella. After her death, he refused to cremate her and instead buried her, upon which a church for St. Mary was later built (Ifthikar, 2018).

The British justified the regulation of prostitution as a means to protect society from homosexuality. However, the real motive behind the regulation was to prevent British Army men from engaging in homosexual behaviour. The Europeans were of the view that same-sex practises were un-British behaviour, so they were trying to curb their growth in society, whereas homosexuality among the Indians, Africans, and Arabs was considered natural (Philippa, 2007, p. 134).

In September 1888, following a period of more than two decades, the Prevention of Contagious Diseases Act was enacted, yet discussions about creating a secure environment for British soldiers continued. Under this legislation, women underwent legal scrutiny, and as long as they remained in good health and free from venereal diseases, they were allowed to live (Ong, 1988, p. 87).

POST-INDEPENDENCE

Despite the British departure from India, the stigmatisation of prostitution remained. What was once legal became criminalised and viewed unfavourably by society. In 1950, after gaining independence, India became a signatory to the UN International Convention for the Suppression of Traffic in Persons and of the Exploitation of Women. In 1956, India passed the Suppression of Immoral Traffic in Women and Girls Act, 1956 (SITA). This act was subsequently amended twice, leading to the formation of the Immoral Traffic Prevention Act (ITPA) of 1986.

The word traffic has been replaced by the need to "prevent" it, and (b) the words "women and girls" have been replaced by the term "persons," thus recognising that individuals of both sexes, including eunuchs, are trafficked in for prostitution. Though many changes were brought about, the criminalised view of prostitution was retained. The very definition of prostitution in the Immoral Traffic Prevention Act (ITPA) states that it involves "the sexual exploitation or abuse of persons for commercial purposes," indicating that prostitution is considered illegal. Although it is believed that the ITPA was enacted for the betterment of prostitutes, in reality, it has repeatedly been shown to work against them (Goyal & Ramanujam, 2015, p. 1083).

TYOLOGIES AND PATHWAYS INTO PROSTITUTION

Prostitutes do not constitute a singular homogeneous group, as there exists a diverse range of individuals engaged in prostitution worldwide, with variations observed across different countries (Joardar & Mukherjee, Prostitution in India, 1986, p. 108). When examining the typologies of prostitution, the causes that drive women into prostitution and the sources of prostitution are crucial factors. Individuals may enter prostitution either voluntarily or through coercion, and the types of prostitution can vary accordingly. Consensual prostitutes typically

do not work through intermediaries like pimps and earn a direct income, which is usually higher compared to those who are coerced into it. The latter group does not have direct contact with customers, and their earnings are divided among various actors involved in the prostitution business. The willingness to engage in prostitution remains one of the factors on which the typology of prostitution is based. The socioeconomic, religious, historical, and cultural factors of a country also contribute to categorising prostitute's worldwide (Rostamzadeh, Rahim, & Mohsen, 2016, p. 239). Prostitution is also classified into various groups based on factors such as their aura, place of residence, and clients (Joardar & Mukherjee, 1986, p. 108). While the types of prostitution vary from country to country, some typologies are universal. This section below explores the different types of prostitution found in India and how the aforementioned factors play a major role in classifying prostitutes.

1. BROTHEL PROSTITUTES

Brothel prostitutes are those who work in licenced brothels and are subjected to less exploitation compared to street-based prostitutes. Brothels provide a safe and secure atmosphere in which sex workers can carry out their activities (Hadzic, 2017). These establishments are managed by brothel keepers who oversee the operations and maintain records of the prostitutes, pimps, clients, and procurers involved in the business (Rahmani, 2009, p. 33).

Initially, the earnings of the prostitutes are collected by the brothel keepers from their clients. They exploit them until they recover the cost of procuring the girl and establish a regular flow of clients. Subsequently, the earnings are shared among the pimps, brothel keepers, and prostitutes. Compared to street prostitutes, these brothel-based sex workers have a more stable clientele and are less likely to encounter cheating from their clients. Their customers typically come from the lowest or lower-middle classes, such as labourers and rickshaw pullers (Zaidi, n.d.).

Sonagachi, in Kolkata, India, is a bustling red-light district where brothel prostitutes serve a large number of clients daily. It is characterised by a high population density and constant demand for commercial sexual services. The sex workers operate under the management of brothel keepers, who ensure a steady flow of clients. Nevertheless, Sonagachi encounters various obstacles, including societal stigma, marginalisation, and the criminalisation of sex work. These factors leave sex workers exposed to exploitation, abuse, and compromised health conditions.

2. RELIGIOUS PROSTITUTES

Different states have different names for religious prostitutes, including Jogini, Jeguri, Maharis, Natis, Basavis, Bhavanis, Kudikar, Jogin, Murali, and others.

- a. Devadasi: Despite being banned in India, the Devadasi system still exists in various parts of the country, primarily in South India (Zaidi, n.d.). The term "Devadasi" is derived from Sanskrit and refers to female slaves of the gods (Ankur, 2015, p. 108). According to tradition, young girls are offered by their parents to temples after reaching puberty, where they are believed to be married to the gods. However, in reality, they become victims of sexual exploitation by priests and temple patrons. As they are considered married to a god, they are prohibited from marrying anyone else and are obliged to serve the priests and other inhabitants of the temple throughout their lives (Zaidi, n.d.). These girls are frequently referred to as God's servants, although they are seen as the wives of the entire town. The Devadasi system continues to persist in states like, Karnataka, Goa, Andhra Pradesh Maharashtra and Orissa.
- b. The Jogins: The Jogin practise is similar to the Devadasi system and is very popular in the state of Andhra Pradesh. Before they reach puberty, girls are "married" to God; after they do, they start working as prostitutes.

- c. Basavi: Basavi is a term associated with a female bull, which is believed to possess the capacity to roam freely. It is believed that Basavis are expected to devote their lives to religious obligations. This practice can be found in the state of Andhra Pradesh and some parts of Karnataka. Owing to the inadequate income generated from their religious duties, individuals involved in this system often resort to engaging in prostitution (Gathia, 1998, p. 11).

Religious prostitution in India represents a unique manifestation of prostitution where religious rituals and beliefs are intertwined with sexual exploitation. The complex interplay of religion, culture, and socioeconomic factors contributes to the perpetuation of these practises.

3. HEREDITARY PROSTITUTES

The historical roots of prostitution within certain communities in India dates back to the time of Mughal Empire. These communities consist of individuals from both Muslim and Hindu backgrounds who have traditionally practiced prostitution, and this profession is often inherited by daughters from their mothers (Chakraborty, 1999, p. 87). This intergenerational transmission of the profession reflects the deep cultural and social influences that have shaped the lives of these individuals over time.

4. SINGING AND DANCING GIRLS

The singing and dancing girls are different from Devadasi; they are not married to God but are completely dedicated to the art of music and dance. In northern India, these individuals are commonly known as "tawaif," while in Bengal, they are referred to as "tawaifwali" or "vaji." They typically come from families belonging to the lower or middle class. These women are Kathak masters who work hard to keep the Kathakali tradition alive. They resort to prostitution only out of acute necessity, which means that they are not always involved in

prostitution. When a dire need arises, they entertain their clients by singing and dancing and end up giving sexual favours. Pimps play an important role in providing them with clients, and these pimps also receive a share of these women's income (Sudha, 2006, p. 55).

To conceal their identity as prostitutes and to avoid the stigma of calling their homes brothels, these women resort to marriage as a cover (Joardar & Mukherjee, 1986, pp. 110–111). They secretly engage in prostitution while presenting themselves as married individuals. This arrangement allows them to maintain a certain level of social acceptance while continuing their profession discreetly.

5. BARMAIDS

Not all barmaids are involved in prostitution; reports suggest that a few of them may engage in prostitution after the bar closes. These women remain in a cluster to prevent them from being taken advantage of by the management or their clients. (Mukherjee & Das, n.d.). By forming a collective, they aim to create a support network where they can look out for each other's well-being. This group dynamic helps to establish a sense of safety and solidarity among the barmaids. By staying together, they can minimise the risks associated with their work and reduce the chances of exploitation.

6. CINEMA/THEATRE GIRLS

Prostitution has been actively promoted in theatres. The playhouses are frequently found next to brothels. Although the theatre's supporting actresses are paid very little, their presence on stage serves as an advertisement for them. Smart actresses are able to attract good clients with the aid of doorkeepers (Mukherji, 1997, p. 112).

Cinema/theatre girls also refer to women who accompany men in theatres and, after the show is over, go with them to their hotel rooms. This is how they earn their income. This type of prostitution is mainly prevalent in Bombay (Sudha, 2006, p. 55).

7. MESSAGE PARLOURS

These women work secretly in massage parlours. They begin with massages, physical activities, or check-ups, and they often lead to sexual activity. Their services are designed to meet the needs of middle- and upper-income clients, and they generate considerable income, which they divide with the individual who provides them with clients. Prostitution may not be their only source of income, but it's certainly very common. These women are known to operate in convenient locations for both clients and prostitutes (Mukherji, 1996, p. 16).

The practise of prostitution in massage parlours is no longer a secret in society. In the past decade, several massage parlours have been busted by the police. The growth of prostitution through massage parlours can be attributed to the high demand in the tourism industry and a preference for decentralised apartments rather than traditional red-light areas. Despite occasional raids and arrests, prostitution in massage parlours continues to thrive.

In the newspaper article "Massage parlours: A cover for prostitution?" (2011), a case of Ayurvedic herbal massages in Kerala was highlighted. This was a significant highlight of Kerala tourism, attracting visitors from around the world. However, allegations have been made by Wikitravel that these massage parlours serve as a cover for promoting prostitution and sex tourism. Thus, massage parlours are essentially a different form of prostitution and are prevalent in society.

Prostitution in massage parlours is a common phenomenon; however, it is essential to recognise that not all massage parlours engage in illicit activities.

Many legitimate establishments adhere to professional standards and offer therapeutic massages for health and relaxation purposes.

8. INDEPENDENTLY OPERATING PROSTITUTES

These independent prostitutes, as the name implies, operate independently and do not heavily depend on pimps to find clients. They usually originate from lower or lower-middle-class backgrounds and get involved in prostitution as a way to earn extra money. Their motivations for entering this profession can vary, including economic necessity, limited employment options, or personal circumstances. Clients of these independent prostitutes usually share the same socioeconomic background and seek affordable sexual services or companionship. However, due to the low-income status of their clients, the earnings of these prostitutes remain relatively low.

9. CALL GIRLS

In general, "call girls" specifically refer to individuals who are contacted by clients through phone calls or other forms of communication to arrange meetings. The emergence of call girls as a distinct category within the sex industry is closely tied to technological advancements, particularly telecommunication devices and the internet. Technology provided a means for call girls to promote their services and connect with clients more conveniently and discreetly.

Many of them come from well-groomed backgrounds and upper-class families. They live in fancy apartments with luxurious amenities and provide services to clients in posh hotels. Compared to other prostitutes, they enjoy better legal security due to their affluent backgrounds (Sudha, 2006, pp. 55–57).

Unlike brothel prostitutes, call girls are not confined to a specific location. They are highly mobile and operate either independently or through pimps. Their

clientele consists of upper-class and upper-middle-class individuals, which allows them to earn a substantial income in return. These women often possess a strong cultural background and higher academic qualifications (Panja, 2008, p. 156). Compared to workers in brothels and massage parlours, call girls typically experience a greater sense of control over their working environment and demonstrate levels of job satisfaction.

10. ESCORTS

Escorts are individuals who provide companionship and often engage in intimate or sexual activities in exchange for a fee. They typically charge higher rates compared to other prostitutes due to several factors:

1. **Service Offering:** Escorts often offer a broader range of services beyond sexual encounters. They may provide companionship for social events, travel companionship, emotional support, or intimate experiences. The versatility and additional services they provide contribute to their higher fees.
2. **Professionalism and Presentation:** Escorts often invest in their appearance, grooming, and overall presentation. They may prioritise physical fitness, fashion, and maintaining a polished and professional image. This attention to detail enhances their marketability and allows them to command higher rates.
3. **Clientele:** Escorts tend to target a more affluent or high-end clientele. These clients may have specific preferences, seek discreet encounters, or desire a higher level of sophistication and companionship. The exclusivity of their client base allows escorts to charge premium rates.
4. **Safety and screening:** Escorts often prioritise their personal safety and may invest in security measures and thorough client screening. These additional precautions come with associated costs, which can contribute to the higher fees they charge.

5. **Market Demand and Reputation:** Escorts who have established a strong reputation for quality service and client satisfaction can demand higher rates. Positive word-of-mouth, online reviews, and a loyal client base can significantly impact their earnings.

It is crucial to recognise that the factors influencing the higher earnings of escorts can vary depending on the specific context and location. The escort industry is complex and multifaceted, and individual circumstances may differ.

11. HITCH-HIKING PROSTITUTE

This specific form of prostitution, as described, is commonly found in states like Gujarat, Maharashtra, and Rajasthan in India. The women involved in this type of prostitution tend to solicit customers along national and state highways, targeting truck drivers and other individuals seeking adventure who travel through these routes. Operating on a contractual basis, these women work under the supervision of a brothel owner or an experienced prostitute (Sudha, 2006, p. 57).

12. THE ROADSIDE HARLOTS

The roadside harlots engage in sexual activities with any male who can afford to pay a reasonable amount for the night. These individuals cater to a diverse range of customers, including intoxicated soldiers, sailors, impoverished labourers, thieves, and rowdy individuals. This indicates that the clients of these prostitutes come from diverse backgrounds, including individuals who may be marginalised or involved in illicit activities themselves.

These prostitutes are often associated with heavy drinking habits, which may serve as a coping mechanism or a consequence of their operating environment. Such behaviour can also be influenced by the expectations and requests of their customers. Such drinking habits underscore the potential risks and

vulnerabilities faced by these sex workers, including health issues and further marginalisation. In their pursuit of clients, some of these women strategically target village fairs, exhibitions, and other large gatherings. By setting up temporary shelters in these locations, they capitalise on the increased flow of people and potential customers. This showcases their adaptability and entrepreneurial spirit as they seize opportunities to engage with a larger client base (Mukherji, 1997, p. 110).

13. CONCUBINES

Concubinage, an age-old practise, involves an individual, typically a man, maintaining a woman as a partner or companion without formalising the relationship through marriage. Unlike a legally recognised spouse, a concubine does not possess the same social status or legal entitlements. Their association is primarily driven by sexual desire and is often transitory, allowing either partner the option to terminate it. Children born from such unions are often seen as a disgrace to society.

Concubinage is strongly condemned in Hindu society, reflecting disapproval of such unions. However, it is quite common in Muhammedan society, as Muhammedan men are allowed to have up to four wives and can also keep concubines. Princes, unable to marry lower-caste women, often opted for concubines they preferred. These relationships could last a lifetime or be of a temporary nature. Women often changed partners frequently, moving from zamindars to wealthy merchants, landlords, and so on. One instance illustrating this is the story of an ex-Maharaja of Indore who became enamoured with a prostitute named Mumtaz, captivated by her beauty and exceptional dancing skills. He chose to maintain her as a concubine; however, she eventually fled and started living with a lover who met a tragic end through murder. As a consequence of the lover's murder, the Maharaja was compelled to abdicate his throne (Joardar & Mukherjee, 1986, pp. 113–115).

In contemporary times, the practise of concubinage has significantly diminished, primarily due to changing societal norms and legal frameworks that prioritise equality and the recognition of legal marriages.

14. TEMPORARY WIVES

The Shia sect of Muslims recognizes the practice of temporary marriage, which is utilised by prostitutes belonging to this religion for their benefit. Temporary marriages, established through contracts, can span from a few days to months or even a year. These arrangements enable women to avoid the label of prostitution as long as they are married to men. Under the pretence of marriage, they engage in prostitution discreetly. Men enter into these marriages to fulfill their sexual desires and have the company of a woman, while women seek temporary marriages until they find a permanent husband who can support their basic needs (Joardar & Mukherjee, 1986, pp. 121–122). Prostitution, thus, utilises temporary marriages as a means to engage in sexual activities without being labelled as prostitutes, providing a convenient cover to avoid stigma.

15. CLANDESTINE PROSTITUTES

Clandestine prostitutes are individuals who engage in prostitution discreetly and operate outside the boundaries of formalised sex work establishments. They often work in secret, blending into other occupations or communities during the day while engaging in covert sexual activities at night. This hidden nature of their work makes it challenging to identify and regulate their activities, contributing to the complexity of the sex industry.

Clandestine prostitutes can be found in various professions and sectors, reflecting the diversity of circumstances that lead individuals to choose this form of sex work. Some examples include female cooks who offer sexual services alongside their cooking duties; young women working as labourers in mills who indulge in vices at night; panwallis who travel from nearby brothels to provide

sexual favours; and shop and telephone girls who work in legitimate jobs during the day while engaging in prostitution to supplement their income.

16. PROSTITUTES BELONGING TO A BACKWARD TRIBE

These prostitutes are from backward criminal tribes. In the North, they are the Bhairas, Sansis, Kanjars, Berleas, while in the South, they are the Kolliatis, Dombars, Koyis, Bedlyas, Mang, Garudus, Basavis, Hamis and Beradas. Women from the Basadi tribe make a living through prostitution. Prostitution is a way of life for the inhabitants of this tribe. The Wadia tribe from North Gujarat is one of the Baster tribes that is mainly dependent on the income of the women who are involved in prostitution. In West Madhya Pradesh, among the Banchchara group, the eldest daughter is expected to work as a prostitute to provide for the family. Large hordes of Nuts, Chandravedis, and others openly acknowledge that the prostitute trade is not stigmatised. They openly lure women into it, believing that prostitution is a better alternative than starvation or begging. It is customary to dedicate women to prostitution (Singh, 2004).

It is crucial to recognize that the engagement in prostitution within these tribes is often influenced by social and economic circumstances rather than personal choice. Many individuals from these tribes openly acknowledge that the stigma associated with prostitution is not prevalent within their communities. They view prostitution as a means of survival, considering it a better option than starvation or begging. In some cases, dedicating women to prostitution has become a cultural practise.

17. COMFORT WOMEN

Before and during World War II, the Imperial Japanese Army coerced women and girls into sexual servitude as "comfort women" or "comfort girls" in captured nations and territories (Ward & Lay, 2018). Two official reasons were given behind the creation of the comfort women: first, to prevent the rape of

women in territory newly occupied by Japanese military forces, and second, to prevent the spread of sexually transmitted diseases (STDs) among the Japanese military forces (Who were the Comfort Women?—The Establishment of Comfort Stations, n.d.). The majority of women were from China and Korea, with the remainder coming from Taiwan, the Philippines, Indonesia, Malaysia, Vietnam, Thailand, East Timor, the Dutch East Indies, and European films from Japanese-occupied regions (Roy, 2023). It has been alleged by survivors that they were initially offered employment as cooks, laundresses, and nurses for the Japanese Imperial Army, and were subsequently coerced into providing sexual services. (Lewis, 2020).

These comfort ladies were responsible for serving males ranging from four to five men per day to sixty troops. The troops' expenses were not paid to comfort ladies but to the people who ran the 'comfort stations.' The women were not provided with basic healthcare. If they refused to serve the troops, they were subjected to significant mistreatment. These comfort women were given inhuman treatment, and for years they remained silent, and there was no mention of them. However, these survivors, activists, and international organisations worked hard to be heard. In 2015, Japan accepted full responsibility and offered an official apology for the comfort women. Japan also offered 10 million yen to establish the Foundation for Reconciliation and Health in support of the survivors. (Roy, 2020).

Recognising the typology of prostitution and comprehending the concept of comfort women is of utmost importance, given its historical significance and the ongoing discussions surrounding this issue. This system existed in the past with great importance and remains a subject of contemporary debate and analysis.

ROUTES AND PATHWAYS INTO PROSTITUTION

Numerous studies have been conducted to explore the factors contributing to a woman's involvement in prostitution. While some studies focus on a single factor, others identify multiple interconnected variables that collectively contribute to women entering prostitution. According to Levy Abigail, young people become involved in prostitution through a complex web of interconnected factors that are challenging to disentangle.

"An overview of the reasons behind women's entry into prostitution, according to NSPCC (National Society for the Prevention of Cruelty to Children publication), suggests that because young people involved in prostitution experience multiple interconnected problems, it is often difficult to sort out the respective influence of these on an individual and impossible to identify any single cause. For this reason, it is better to think of the factors involved as contributory problems" (Levy, 2004, p. 31).

Roger Mathews presents a three-stage model illustrating the process by which a woman becomes involved in prostitution. This model highlights a common pattern or path followed by women engaged in prostitution. The first stage involves young people entering prostitution due to experiences with abuse and dysfunctional families. The second stage is characterised by stigmatisation and marginalisation. The third stage, known as facilitation, involves individuals being coerced into prostitution by pimps, peers, and procurers. While a significant percentage of prostitutes may pass through these three stages, not all individuals will go through each stage (Matthews, 2008, pp. 71–72).

It is important to note that while the sequential three-stage model may apply to certain countries, not all countries adhere to the same model. Economic factors play a critical role in driving women into prostitution, particularly in countries like India and Nepal. As a result, this model may not have universal applicability

worldwide. The model fails to consider individuals who enter the profession voluntarily.

Significant factors that drive women into prostitution have been exhaustively discussed below.

1. **POVERTY**

Poverty is a significant factor driving women into prostitution. When considering statistical data, it is evident that a large portion of the world's population lives in extreme poverty, and despite globalisation, poverty levels in many countries remain unchanged. It is deeply concerning that one billion children worldwide endure dire poverty. The extent of wealth inequality is astonishing, as exemplified by the collective net worth of the top seven richest individuals surpassing the combined GDP of 41 countries with a population totalling 567 million people. Alongside this disparity, there are distressing statistics: 640 million individuals lack adequate shelter, 270 million lack access to healthcare, and 400 million lack clean water. Moreover, over three billion people survive on less than \$2.50 per day, constituting nearly 50% of the global population. Women worldwide face limited educational and employment prospects, leaving them vulnerable to poverty. As poverty intensifies, some women resort to prostitution as a means of livelihood. Prostitution offers an accessible option for earning money as it does not require specific qualifications or skills (Borgen Magazine, 2015). While economic factors are often cited as a driving force behind prostitution as women seek financial stability, this explanation fails to account for why many impoverished women choose alternative paths. Ultimately, entering the profession of prostitution remains a personal choice made by individuals (Matthews, 2008, pp. 71–72).

Moreover, there are cases where young girls aspire to pursue education but lack financial support from their families and the means to meet their needs. These

girls may turn to prostitution to earn money, fulfill their basic requirements, and continue their education (Bresamana, 2022).

In the Nat Purwa village of Uttar Pradesh, extreme poverty has led to generations of prostitution. Women who work as sex workers are sometimes the sole income earners for their families and play an important part in the family's economics. Other villages in Rajasthan, Madhya Pradesh, etc. have similar generational prostitution practises (Wright, 2015).

Poverty serves as a significant driving force pushing women into prostitution globally, as it exposes them to dire circumstances caused by extreme poverty and economic inequality. Limited access to education and employment opportunities further exacerbates their vulnerability. Prostitution becomes an accessible means of survival for these women, as it does not require specific qualifications. However, it is important to acknowledge that individual circumstances and choices also contribute to their involvement in prostitution.

2. CHILD ABUSE

Numerous studies from different countries have explored the significant correlation between child abuse and the involvement of individuals in prostitution, whether through physical or sexual abuse. A study conducted in London by May et al. (2001), as cited in Roger Matthews' book "Prostitution, Politics, and Policy," revealed that two-thirds of the participants reported unhappiness during their formative years, with half of them disclosing a history of physical or sexual abuse during childhood. Women who have experienced child abuse often enter prostitution at a young age, perceiving it as a continuation or adaptation of the abuse they suffered during their formative years.

The emotional and psychological damage induced by child abuse during the formative years has a tremendous influence, leading to low self-esteem since

individuals frequently blame themselves for the abuse they experienced. It also results in stigmatisation by friends and relatives, adversely affecting their education. According to Julia Herman, "Participation in forbidden sexual activity also confirms the child's sense of badness. Any gratification that a child can derive from the exploitative situation becomes proof, in their mind, that they initiated it and bear full responsibility" (Herman, 1992, p. 67).

The link between child abuse and the subsequent involvement of individuals in prostitution highlights that a considerable number of people engaged in this profession have endured physical or sexual abuse during their developmental years. This traumatic past leaves long-lasting emotional and psychological wounds, leading to diminished self-esteem and a burden of guilt and responsibility. In this process, she gets involved in prostitution. For some individuals, engaging in prostitution may be seen as a way to cope with or adapt to the trauma they experienced, perpetuating a cycle of exploitation.

3. ILL-TREATMENT OF GIRLS AT HOME

The ill-treatment of girls at home has a significant impact on some women's decision to enter prostitution. Girls who experience mistreatment, abuse, or neglect within their families may develop negative emotions and a distorted perception of themselves and their relationships. These experiences can lead to low self-esteem and a desire to escape their difficult circumstances (Mukherji, 1996, p. 165). As a result, some girls seek refuge outside their family environment and turn to prostitution. They may view it as a way to regain control over their lives, earn income, and find a sense of independence. The absence of a supportive and nurturing home environment drives them to seek validation, financial stability, and a sense of belonging elsewhere. Overall, the mistreatment of girls at home contributes to their vulnerability and can push them towards engaging in prostitution as a means of escape and survival.

4. TOURISM

The rapid growth of the tourism sector in the 19th century led to notable rise in human trafficking. Tourism plays a vital part in increasing the revenue of the economy and increasing the country's GDP. As the tourism sector expands, business travellers and tourists create a demand for young women, fuelling the sex tourism industry. Statistical data shows that in 1995, there were 12 million tourist arrivals from various nations, generating substantial foreign exchange revenues of Rs. 6509 crore, thus giving an incentive to the promotion of prostitution.

To meet the growing demand for prostitutes in the market, brothel owners, procurers, and pimps maintain a steady supply. They employ various techniques to lure women into prostitution, including manipulation, abduction, and trafficking. The influence of tourists on local communities often leads individuals to yearn for a lavish lifestyle and seek quick ways to earn money. In countries like Thailand, Sri Lanka, and the Philippines, sex tourism has made a massive contribution to their economies, and even in India, it serves as a major source of foreign exchange (Sudha, 2006). The relationship between tourism and prostitution is complex and intertwined. The growth of the tourism industry has brought economic benefits and opportunities to many countries, but it has also created a demand for prostitution that has fuelled the sex tourism industry.

5. RUNNING AWAY AND GOING INTO CARE

Many young girls frequently flee their residences and turn to local authorities for support for a multitude of reasons, such as child abuse, neglect, and dysfunctional family environments. These girls, coming from broken homes where they experienced routine abuse and neglect, sought protection in these care institutions. Regrettably, rather than providing care and assistance, these institutions become breeding grounds for prostitution and other illicit activities.

Moreover, they become platforms that facilitate training and entry into the sex industry.

According to the National Centre for Missing and Exploited Children (1999), in the US, up to 77 percent of prostitutes are teenagers running away from home. Around 30 percent of runaway prostitutes were found to be street kids living in shelters. These Runaway kids need food and shelter, and in order to fulfill their basic needs, they seek companionship. Thus, they fall easy prey for pimps and procurers. It is reported that up to 90 percent of young girls involved in prostitution either began under the direction of a pimp or became involved with one in the course of their involvement in prostitution (Flowers, 2001). Indeed, there exists a troubling correlation between runaway incidents, seeking assistance from local authorities, and the entanglement of young girls in prostitution. Statistical data indicates that a considerable proportion of girls involved in prostitution have a prior history of running away from home and seeking support from various sources.

6. DRUG ADDICTION AND SUBSTANCE ABUSE

Drug addiction and substance abuse can be significant driving forces that drive women into prostitution. The following factors elaborate on why drug addiction often leads women to resort to prostitution:

- a. **Financial desperation:** Drug addiction is an expensive habit to maintain. Women struggling with drug addiction often experience a continuous state of financial desperation due to their need to support their substance abuse. This dire need for money can push them to search for quick and high-paying options, and unfortunately, prostitution may emerge as the most accessible way for them to meet their financial requirements.
- b. **Impaired judgement and decision-making:** Substance abuse affects cognitive function, impairs judgement, and alters perception. Women

facing drug addiction often encounter difficulties in thinking rationally and making sound decisions. This impairment can result in engaging in risky behaviours, such as entering into prostitution, without fully considering the potential consequences or long-term effects on their lives.

- c. Dependency and prioritisation: Drug addiction creates a cycle of dependency where the need for drugs becomes the primary focus in a person's life. Addiction may take over a person's life as it progresses, driving them to prioritise drug acquisition over all else, including personal relationships, professional possibilities, and personal well-being. This intense focus on satisfying their drug cravings can lead women to perceive prostitution as a fast and effortless means to acquire money for their addiction.
- d. Coercion and exploitation: Women who are dependent on drugs can become vulnerable to manipulation and exploitation. Pimps, traffickers, or drug dealers may take advantage of their addiction, coercing them into prostitution as a means to control them and maintain their drug dependency. The power dynamics in these situations leave women feeling trapped and unable to break free, perpetuating their involvement in prostitution.
- e. Escaping emotional pain and trauma: Substance abuse is often linked to underlying emotional pain, trauma, or other unresolved issues. Drug use is a common coping method used by women to dull their pain or run away from horrible experiences. The cycle of addiction and the need to support it through prostitution can become a way for them to temporarily avoid confronting their emotional challenges.

7. DESTITUTION

Individuals may feel obliged to resort to prostitution as a way of surviving in the midst of severe poverty when they struggle to satisfy their necessities and

face the impending prospect of starvation and homelessness. Prostitution becomes a last-ditch effort for women imprisoned in poverty to get cash and meet their needs, allowing them to survive themselves and potentially provide for their families. The dire circumstances they endure severely limit their choices and leave little room for hope of improvement. The lack of access to education, job skills, and stable employment opportunities further ensnares them in a cycle of poverty and vulnerability. Widows, in particular, encounter significant challenges when confronted with destitution. After the death of their husbands, widows often face social and economic marginalisation, lacking the support of their families or the means to sustain themselves independently. Left abandoned or without a safety net, some may resort to prostitution as a means of survival, enduring the associated stigma and hardships.

8. TRADITION/RELIGION

In India, tradition and religion also serve as contributing factors in driving women into prostitution. The Devadasi system serves as a prime example in this regard. As mentioned earlier, the Devadasi system is prevalent in certain states of South India. Historically, young girls from marginalised communities were dedicated to temples as Devadasis, or "servants of God." However, despite the portrayed image of devotion, these girls, who were meant to be dedicated to God, were actually forced into a life of prostitution. Initially, these women enjoyed a higher social status, but with the influence of the Mughal and British powers, many temples were destroyed, leading to the degradation of their status. The Devadasis and their children suffered exploitation and degradation. Despite being illegal, the Devadasi system continues to persist in certain parts of India today. Within the Devadasi system, the daughters of Devadasis are expected to carry on the family lineage by being dedicated to the temple in a similar manner as their mothers. They are intended to fulfill the same purpose and perpetuate the tradition of prostitution disguised as a religious practise. Overall, the

Devadasi system serves as a stark example of how tradition and religion serve as reasons for a woman to be involved in prostitution.

9. HUMAN TRAFFICKING

Human trafficking is a crime that profits from the exploitation of men, women, and children. It involves the illegal practise of transferring or coercing persons in order to use their employment or service, frequently through forced labour or sexual exploitation. There are various forms of trafficking, each targeting individuals for different reasons. One particularly prevalent form is sex trafficking, which is intricately linked to the world of prostitution. It may occur both inside and across borders. The organised networks or individuals responsible for these profitable crimes prey on those who are weak, in need, or just looking for a better life. Traffickers primarily target rural girls under the guise of marrying them or tempting them with work prospects and the promise of a better life. When these innocent village girls fall for them, they travel with the traffickers to the city, where the traffickers leave them in brothels. They have to face a lot of hardships in the brothels; they are beaten up and starved to death until and unless they agree to engage in prostitution. Thus, they fall into this vicious cycle of exploitation. At present, many prostitution rackets have been busted and are being rescued.

10. PEERS, PIMPS, AND PROCURERS

Pimps play a significant role in luring women into the sex trade by initially posing as ideal partners and then manipulating them. They feign love and make promises to win the woman's affection, leading her to fall for their deception. Pimps employ psychological, emotional, and physical manipulation to coerce women into prostitution. They isolate the woman from her loved ones, leaving her with no support system, and convince her that engaging in prostitution is the only way to make ends meet (Adiya, 2022).

Once inside the brothels, pimps become integral to a prostitute's life. While a prostitute may be desperate for money, going out on the streets alone to find clients and negotiate service contracts is a challenging task. This is especially true for young women with low self-esteem who may struggle to attract clients. In such situations, peers, pimps, or procurers play an important role in providing a regular flow of clients.

Research indicates that the majority of women involved in prostitution are brought into brothels by pimps. Pimps tend to target younger women due to their vulnerability and easier accessibility. Reports from the United States suggest that pimps lure women into prostitution by encouraging them to use drugs. Once these women become addicted and lack the funds to sustain their addiction, pimps exploit this vulnerability to persuade them into prostitution in exchange for a steady supply of drugs. Although there has been an increase in women engaging in prostitution without the involvement of pimps, the presence of prostitutes operating under pimps remains significant (Matthews, 2008, p. 70).

Peers also play a role in driving women into prostitution. Various studies have shown that women are forced into prostitution by family members, close relatives, friends, and others. In India, many village women are sold by their own families. Similar cases have been reported in Nepal as well. Margaret Melrose's research in the United States discovered that half of the young women in her sample were involved in prostitution through peer group affiliation. Peers appear to be particularly influential in introducing people into prostitution among the homeless and those in care. Melrose contends that peer group relationships and contacts may be just as significant, if not more, than pimps and procurers in supporting prostitution. A similar conclusion was achieved in Canadian study, which discovered that a large percentage of respondents were exposed to prostitution through peer networks. (Busby et al., 2002). Pimps, peers, and procurers indeed play significant roles in driving women into

prostitution. Their involvement can be seen as one of the important factors contributing to women entering the sex trade.

11. ARMED CONFLICT AND PROSTITUTION

When a country undergoes violent political upheaval, it is often women who bear the brunt of the consequences. Prostitution and trafficking tend to increase significantly during international wars, civil wars, military operations, or armed conflicts.

This pattern was evident during the Vietnam War, when the military build-up in Asia unexpectedly had a positive impact on the economies of several countries. Countries such as the Philippines, South Korea, Thailand, Vietnam, and Okinawa in Japan experienced a rapid growth of the sex industry outside military bases. The provision of rest and recreation facilities led to the emergence of new cities and injected much-needed capital into these nations' overall economies. In the Philippines, the sex industries largely contributed to the country's economy; the sex industries surrounding the bases alone generated over \$500 million by the mid-1980s. Shockingly, by the end of the Vietnam War, Saigon had a staggering population of 500,000 women involved in prostitution, equivalent to its total population before the war. In response to this booming sex industry, some countries implemented policies and legislation that indirectly supported and facilitated the sex business. For example, Thailand introduced the Entertainment Act, which included the "Hired Wife Service." As a result, around 800,000 Thai women engaged in prostitution by the mid-1970s. The openness of cities like Bangkok and Manila allowed men from countries where such activities were illegal to travel and take advantage of these services.

Turning our attention to the Russia-Ukraine war, the impact on women and the rise of trafficking are concerning consequences of this armed conflict. The war between Russia and Ukraine, which began on February 24, 2014, has led to

significant political and social instability in the region, resulting in various adverse effects on women's lives. The prevalence of illicit sex trafficking among women and children in Ukraine and its surrounding regions has been a cause for concern (Meyer, 2022). The country's geopolitical challenges and ongoing armed conflict with Russia have created an environment characterised by socioeconomic vulnerabilities and instability, making women and children more susceptible to exploitation and trafficking. Regrettably, Ukraine has transformed into a fertile ground for traffickers who exploit and traffic women to various countries. The ongoing conflict has intensified socio-economic vulnerabilities and instability, thereby amplifying the risks endured by women and children in the region.

12. PSYCHOLOGICAL CAUSES

Apart from socioeconomic and cultural factors, psychological elements play a crucial role in sustaining prostitution as an institution. Not all women are coerced into this profession; some choose to enter it voluntarily. Motivations for voluntary entry can range from the desire for a luxurious lifestyle, seeking physical pleasure, the pursuit of higher earnings, illiteracy, the effects of urbanisation leading to migration, and other administrative factors, all contributing to the expansion of this institution.

Amnesty International highlights the failure of governments worldwide to fulfill their obligation to provide legal redress for abused women. This gender discrimination is evident in the persistence of inadequate laws against abuses and institutional shortcomings within the criminal justice process, including the police and the judiciary. Often, these findings mutually reinforce each other (Amnesty International, 2001).

In the book *A Study of Prostitutes in Bombay: With Reference to Family Background*, Punekar S.D. and Kamala Rao observe:

"She (the women in prostitution) is, therefore, the result of the action and interaction of the various forces in her life, the product of her cumulated experience, and we have already seen that the background factors that go into the making of a prostitute are several and divergent. They vary in their importance according to the intensity of the impact they make on the individual, and they assume a relatively major or contributory role. It is difficult to pinpoint a single cause and say that was the most important cause that led the respondent into prostitution. It was observed that in most cases, while one cause was mainly responsible for the predisposition or vulnerability of the respondent, another cause was directly responsible for making her a prostitute" (Punekar, 1967, p. 85).

Punekar and Kamala Rao have identified 26 causes of prostitution, classified into six groups according to their nature and origin. They are:

Group I: 1. Death of father/mother/guardian/husband/relative

Group II: 1. Poverty

2. Destitution

Group III: 1. Ill-treatment by father/ mother/ guardian/husband/ relatives.

2. Neglect by father/ mother/ guardian/ husband/ relatives.

3. Otherwise unhappy family relations.

4. Unfaithfulness of the husband

5. Desertion by the husband

6. Otherwise unhappy marriage

Group IV: 1. Connivance of parents/ husband/ relatives

2. Introduced by parents/ husband/ relatives

3. Bad influence
4. Deception
5. Kidnapping
6. Tradition or hereditary
7. Environmental influence

Group V 1. Sexual urge and sex curiosity

2. Illicit sexual relations
3. Illegitimate pregnancy
4. Rape.

Group VI 1. Desire for easy life

2. Love of adventure
3. Hatred of marriage
4. Ignorance
5. Low moral values
6. Desire for revenge

Punekar and Rao state that Group IV causes from the largest group of contributory causes and major predisposing causes, while Group III causes are the largest in number (Punekar, 1967, p. 86).

13. SOCIO-CULTURAL CAUSES

The Central Social Welfare Board (CSWB) has categorised socio-cultural causes in the following manner:

- i) Ill treatment by parents.
- ii) Social customs like the devadasi system.
- iii) Desertion by spouse.
- iv) Family tradition or involvement of family members in prostitution.
- v) Widowhood and restrictions on widow remarriage.
- vi) Social or personal reasons, e.g. low position of women in society, inability to arrange, violation by incest, etc.
- vii) Bad company and neighborhood.
- viii) Connivance of partner or husband.
- ix) Lack of sex education and influence of media.
- x) Absence of recreational facilities (CSWB, 1996).

Prostitution is a multifaceted issue, influenced by a myriad of socio-cultural causes. The Central Social Welfare Board (CSWB) has classified these causes into various categories to better understand the complexities involved. Among these categories, the socio-cultural factors stand out in terms of their prevalence and impact on the population of prostitution. The CSWB acknowledges that the socio-cultural causes exert a major influence on the prevalence of prostitution when compared to economic or other related factors.

CSWB states:

"The causes under the socio-cultural category are more in number than the others. It is fair to say that socio-cultural categories are more in number than others. It is fair to say that socio-cultural factors contribute in a major way in the population of prostitution vis-à-vis the other factors. Detailed analysis shows that desertion by spouse is a major cause in the socio-cultural ones as poverty is among economic

causes. These two contribute to the maximum number of women's entry into prostitution (as per the findings of the studies)" (CSWB, 1996).

14. VOLUNTARY CASES

Voluntary prostitution refers to engaging in the exchange of sexual services by consenting adults who willingly choose to participate in sex work. It involves individuals willingly and autonomously offering sexual services in exchange for money or goods. Voluntary cases of prostitution are a significant factor in leading women to resort to prostitution. There are several important reasons that may motivate women to choose voluntary prostitution. These reasons encompass the following:

1. **Economic Reasons:** Voluntary prostitution is often driven by economic considerations as individuals turn to sex work as a means to earn income and support themselves and their families. This decision is influenced by various factors, including a lack of viable employment options, inadequate wages in other industries, and prevailing financial challenges. By engaging in voluntary prostitution, individuals seek to address their financial needs and improve their economic circumstances.
2. **Sexual Enjoyment:** Some individuals may have a strong sexual drive or a deep-rooted interest in exploring their own sexuality. Engaging in voluntary prostitution allows them to satisfy their sexual desires and engage in intimate encounters with clients. They may find pleasure and fulfilment in providing sexual services to others, as it aligns with their own sexual needs and preferences. Some individuals enjoy aspects of the work itself, such as providing companionship and intimacy or engaging in sexual exploration. They may find satisfaction in meeting the emotional and physical needs of their clients.
3. **Empowerment and Agency:** Some people may view sex work as a means of regaining control of their sexuality, exploring their desires, and

exercising bodily autonomy. They may view it as a legitimate choice and a means of expressing their sexual autonomy.

4. **The Desire for a High-Profile Lifestyle:** Some individuals see voluntary prostitution as a pathway to experiencing a high-profile lifestyle that may be otherwise inaccessible through conventional means. They may aspire to luxurious material possessions, expensive experiences, or a glamorous image. By offering sexual services to affluent or influential clients, they can potentially access a higher income and enjoy the perks associated with a high-profile lifestyle.
5. **Survival and Coping:** In challenging circumstances, such as homelessness or addiction, some individuals may turn to voluntary prostitution as a survival strategy or to cope with difficult circumstances. For individuals grappling with homelessness, the income generated from sex work can provide a temporary solution to secure shelter, food, and other essential resources. Likewise, those struggling with addiction may turn to prostitution as a means to support their habits or find financial stability during a challenging time.

CONCLUSION

Looking into the evolution of prostitution, we see that it has undergone a lot of changes in regard to its nature, people's perspectives, the intensity of the matter, and various issues concerning it. Prostitution in ancient times was sanctioned socially and culturally, and the prostitutes, though their names were different, occupied a dignified position in society. They fulfilled diverse roles within the state, including entertainment, espionage, economic endeavours, and even political functions. Consequently, recognising the importance of prostitution and its contributions that extended beyond providing sexual pleasure, the authorities implemented regulations aimed at safeguarding the rights of prostitutes. Historical accounts illustrate instances where certain prostitutes

even entered into marriages with kings, highlighting the level of respect and dignity bestowed upon them.

However, the arrival of the British marked a significant turning point in the status of prostitutes. The British condemned and marginalised courtesans, dancing girls, and devadasis, categorising them all under the single label of prostitutes. Operating outside the marital framework, these women were viewed as unfavourable to the British agenda, leading to their stigmatisation and the stripping away of their respect and autonomy. The merging of these distinct groups into a single category further marginalised and devalued them. As a result, the institution of prostitution gradually deteriorated over time, losing its essence and becoming a profession viewed with contempt. The stigmatisation of prostitutes and the negative perception of their occupation continue to persist today. Their profession is often met with judgement and disdain, perpetuating a cycle of marginalisation and social exclusion.

The chapter also explores various typologies of prostitution, shedding light on the diverse forms it takes across the world and highlighting the classification of women involved in the trade. By exploring these typologies, we gain insight into the different types of prostitution and the corresponding clientele each class of prostitute caters to. Each class possesses a unique identity shaped by factors such as the location of service provision, income earned, social class, level of freedom, and the economic status of clients. The chapter further delves into the various causes of prostitution, offering an exploration of the numerous reasons that compel women into this profession. It differentiates between voluntary and involuntary forms of prostitution and examines the various manifestations of the trade that fall under each category.

The chapter delves into a detailed analysis of these matters, intricately exploring the evolution, typologies, and fundamental factors that shape the intricate landscape of prostitution. Moreover, it provides a holistic comprehension of the

multifaceted aspects associated with prostitution, establishing a solid groundwork for the thesis. Subsequently, the succeeding chapter will provide an in-depth exploration of the various legal approaches and theories pertaining to prostitution in India.

CHAPTER II

LEGAL APPROACHES AND THEORETICAL PERSPECTIVES ON PROSTITUTION

This chapter extensively examines the diverse approaches to prostitution, such as abolitionism, neo-abolitionism, decriminalisation, legalisation, and criminalisation. It offers a comprehensive and critical analysis of these models, exploring their implementation in various countries and highlighting the strengths and weaknesses associated with each approach. The chapter also looks into feminist theory, which is fundamental for understanding the complexities surrounding prostitution. It investigates the wide range of perspectives within feminism, spanning from considering sex work as an act of violence to recognising it as a valid means of employment and personal autonomy.

The chapter also further delves deeply into the prevalent model of prostitution adopted in the country, shedding light on its implementation and intricacies.

MODELS OF PROSTITUTION

The approaches to prostitution are categorised into five models by governments and NGOs, which are discussed below.

PROHIBITIONIST MODEL/CRIMINALISATION

A prohibitionist approach is a legal framework in which prostitutes, customers, landlords, managers, and pimps are all subject to criminal sanctions. (Mac & Juno, 2018, p. 114). This model is also known by the name criminalisation. It criminalises all aspects of prostitution and considers prostitution to be immoral and against public order. It is strictly prohibited to engage in activities such as the sale of sex, the buying, and selling of sex, advertising sex, and organisation of sex. Prostitution is considered an inhuman and immoral activity. Its belief

system is that whoever is involved in prostitution is the victim of human trafficking and is forced into it with no escape route. This model views prostitution largely as a criminal justice issue rather than a moral, health, or human rights concern. Prostitution problems are viewed as similar to those produced by other criminal actions (Phoenix, 2000, p. 15). Prohibitionist model has been introduced in Sri Lanka, Uganda, Iran, Pakistan, Haiti, Jordan, the Maldives, Russia, South Africa, and the United States, except for Nevada's few counties, China, Kenya, etc. (Jha, 2020).

Selling sex is often seen as a non-violent survival strategy, but the prohibitionist model treats prostitution as a crime and considers individuals involved in it criminals who can be arrested at any time. This approach relies on punitive measures such as arrests, prosecution, and penalties for both sex workers and clients, aiming to deter participation in the sex industry through stringent legal measures. In the prohibitionist model, sex workers and the police often share an adversarial relationship. They frequently arrest the sex workers, sexually harass them, extort money, and sometimes also subject them to beatings. The model's primary focus is to decrease the overall demand for sexual services by criminalising the profession and employing harsh legal penalties if it's violated. Proponents of the model assert that there is a strong correlation between prostitution and trafficking in human beings, thus emphasizing the need for increased efforts to combat trafficking.

Their goal is to combat trafficking by targeting the sex industry and implementing measures to disrupt networks involved in coerced or forced prostitution. Support is offered within this model to assist individuals in exiting the sex industry, including alternative job opportunities, education, counselling, and rehabilitation programmes for those who wish to leave prostitution. However, critics argue that the prohibitionist model tends to stigmatise and marginalise sex workers, viewing them primarily as individuals in need of support or assistance. This results in stigmatisation and marginalisation of sex

workers, thus increasing hardship for the women involved in prostitution willingly. The prohibitionist model is strongly criticised for its limited understanding of sex work, which makes it effective but also undermines the wellbeing of sex workers and overlooks their rights. The criminalisation of individuals involved in prostitution is regarded as a harsh, clumsy, and unjust system deeply rooted in disgust, hatred, misogyny, and racism. Some authors critical of prostitution tend to avoid discussing the topic of full criminalisation, likely because they anticipate extreme criticism and substantial backlash from critics (Smith & Mac, 2018, pp. 114–116).

When a country adopts a prohibitionist model, it inadvertently creates an environment where serial killers often target prostitutes as they are unprotected by law. Individuals harbouring hatred towards prostitutes may take advantage of the criminalisation policy, using it as an opportunity to mistreat them. Consequently, prostitutes become vulnerable and easy victims. Numerous accounts from the past, where countries have adopted a prohibitionist model, highlight instances where prostitutes were specifically targeted and fell victim to such crimes.

Mikhail Popkov, a Russian serial killer, got away with the killing of eighty-two women over eighteen years as part of a crusade to cleanse the streets of prostitutes (Smith & Mac, 2018, p. 29).

Gary Ridgway, also known as the Green River Killer, once said -

"I picked prostitutes as my victims because they were easy to pick up without being noticed. I knew they would not be reported missing right away and might never be reported missing. I picked prostitutes because I thought I could kill as many of them as I wanted without getting caught" (Smith & Mac, 2018, p. 115).

Chi Adanna Mgbako who holds the position of clinical professor of law and serves as the director of the Walter Leitner International Human Rights Clinic

at Fordham Law School, had written about a police officer in Uganda who ‘has long made grotesque sport of tormenting street-based sex workers, stripping them naked, and parading them through town’ (Mackinnon, 2011, p. 55). When his victims filed complaints, he was not given any punishment; he was only transferred to another unit, where he again continued doing what he had done before. The sex workers complained that the officer forced his way into the homes of pregnant and nursing women, ‘dragging them out by the hair to dump them in the police station’ (Mackinnon, 2011, p. 55).

The prohibitionist model not only fails to be a progressive approach but also perpetuates the vulnerability of sex workers. This model criminalizes everything about prostitution, from the sex worker to the clients and third parties. This makes sex workers vulnerable to all kinds of abuse, like being harassed, sexually assaulted, and being subjected to racist policing. Research frequently demonstrates that police officers abuse sex workers, subjecting them to assault and extortion by taking advantage of the power disparity.

The criminalisation of prostitution under the prohibitionist model makes sex workers invisible to the public, in addition to denying them their rights to safety, freedom, and self-defense. By primarily viewing sex workers as criminals rather than recognising them as individuals deserving of care and support, society intensifies their marginalisation, resulting in widespread neglect and justification of mistreatment and violations of their rights.

THE ABOLITIONIST MODEL

In the abolitionist model, prostitution is not prohibited, but there is certain legislation to control and regulate it. When prostitution occurs in the private realm, it is legal, but the moment it comes into the public sphere, it is criminalised. Activities such as soliciting, pimping, running a brothel, etc. are prohibited. Several nations, including India and England, have adopted this

model. Though both countries have adopted the abolitionist model, the level and nature of control differ from one nation to the next, indicating a significant disparity in their regulatory approaches (Nahar, 2021). The abolitionist model is believed to be the best way to combat sex trafficking. This approach was in vogue at the end of the 18th century, when trafficking in human beings was recognised around the world. (Sudha, 2006, p. 85).

NEO-ABOLITIONIST MODEL

The neo-abolitionist model closely aligns with abolitionism but diverges from it by criminalizing the purchase of sex services. The Neo-abolitionist model is known by different names, such as “End Demand”, sex buyer Law, sexkopslagen, asymmetric criminalisation, the nordic model, and sex purchase prohibition. In 1999, Sweden became the first nation to use this innovative concept, and subsequently, several countries adopted the abolitionist approach in subsequent years, such as Norway and Iceland in 2009, Canada in 2014, Northern Ireland in 2015, France in 2016, Ireland in 2017, and Israel in 2020 (Kraus, 2021). The core tenet of this model is that the act of participating in prostitution is not deemed a criminal offence. However, the model criminalises the exploitation of another person's prostitution, specifically targeting the involvement of third parties. In this perspective, prostitutes are not perceived as deviants or criminals but as victims. The underlying concept is that prostitution continues to exist primarily due to the actions of procurers and pimps, the "third parties," who exploit women for financial gain. Therefore, the approach to eliminating prostitution and safeguarding women from harm involves penalising those "third parties" engaged in recruitment, profiting, and organising prostitution. In contrast to penalising prostitutes themselves, the model recognises them as victims deserving protection. However, in practise, there are often additional restrictions that go beyond targeting third parties. These restrictions may encompass activities such as soliciting, loitering, and advertising. Consequently, these limitations severely restrict professional opportunities and encroach upon

individuals' personal lives, resembling aspects of a prohibitionist system. For instance, in France, the law prohibits two prostitutes from jointly renting a flat and working together, automatically labelling one as the other's pimp (Wijers, 2001).

In Sweden, prostitutes themselves are not prosecuted, but sanctions are imposed on clients, as buying people for sex is a criminal offence. Great Britain and Ireland have also adopted measures to penalise clients, albeit with less extensive laws primarily focused on curbing activities like kerb crawling. Thus, this form of the abolitionist model exhibits features of a semi-prohibitionist model (Wijers, 2001).

It is important to note that the abolitionist model views prostitution as a form of male violence against women, assuming that women engage in this profession out of compulsion rather than free choice (Nahar, 2021). To check sex trafficking, the model advocates for the decriminalisation of all prostitutes, the provision of support services to assist them in leaving the industry, and the criminalisation of buying people for sex (Nordic Model Now).

The abolitionist model encompasses four key elements:

1. Decriminalisation of sex workers: The abolitionist model decriminalises sex workers. This means that prostitution is not considered a criminal offense, and those who practice it are allowed to solicit clients. However, when it comes to the practise of soliciting clients, it's vital to remember that there are limitations and prohibitions in several nations.
2. Comprehensive support for exiting prostitution: Extensive assistance is provided to empower individuals to exit the industry. This includes the provision of psychological assistance, safe accommodation, education, debt management, trauma treatment, and other necessary resources.

3. Education and prevention initiatives: Extensive efforts are undertaken to educate and raise awareness about prostitution through school programmes and public campaigns. In order to ensure that laws pertaining to prostitution are executed effectively, training programmes are undertaken for law enforcement, the judicial system, social workers, and other pertinent parties.
4. Prohibition against purchasing sex and criminalisation of profiteers: According to the neo-abolitionist model, prostitution, pimping, and trafficking of individuals for sexual exploitation should all be made illegal (Kraus, 2021). This model's important component is changing the emphasis from punishing those who sell sex to holding purchasers responsible for their conduct. The aim of the abolitionist approach is to reduce prostitution by prohibiting the sale of sexual services. The abolitionist model plays an important role in apprehending those people who actually benefit from the exploitation of sex workers, such as sex traffickers, pimps, and others.

One significant concern within the abolitionist model is the marginalisation and silencing of sex workers' voices. The abolitionist model tends to view sex work primarily as a form of violence against women, potentially leading to the perception that sex workers are always on the receiving end of injustice. The model may unintentionally exclude and overlook the experiences and opinions of people who do not match the victim narrative by portraying sex work exclusively as a form of violence against women. This exclusion can obstruct productive debate and policy-making since sex workers must be directly involved in debates about their rights, safety, and well-being. Proponents of the abolitionist model aim to dismantle the systems and structures that perpetuate prostitution and create a society free from its harms.

DECRIMINALISATION

With time, the prohibitionist model faced severe criticism as it completely overlooked the consent factor, or the idea of voluntary choice, when it came to prostitution. The critics argued that not all women who are in this line of work are forced into this profession. Critics of the prohibitionist approach advocate a decriminalisation model in order to protect the socioeconomic, political, and cultural rights of those women who engage in prostitution.

The perspective advocated by the decriminalisation model stands in stark contrast to the prohibitionist model. The decriminalisation model acknowledges prostitution as a legitimate profession and includes it within the purview of labour laws. Its objectives are twofold: to safeguard the rights of women who engage in prostitution, and to address their working conditions. Decriminalisation is seen as a significant step towards the potential legalisation of prostitution (Sudha, 2006).

Decriminalisation repeals laws that target sex workers and also abolishes the laws that criminalise persons who engage in consensual adult sex work. This simply means that sex workers under this model are not treated as criminals and are not subjected to arrest, prosecution, or are not penalised just for doing sex work. The fundamental characteristic of this model is that it seeks to eliminate any legal penalties related to client solicitation. Making prostitution illegal promotes a safer and more secure environment for sex workers while also reducing stigma and social marginalisation.

Decriminalisation aims to extend labour rights and protections to sex workers. The primary objective is to guarantee that sex workers are provided with the same level of protection and compensation as workers in any other industry. Decriminalisation proponents contend that doing so would allow the sex business to function on an equal footing with other professions and adhere to

the same workplace health and safety laws that apply to other types of employment (Phoenix, 2009).

Decriminalisation emphasises a human rights approach, recognising the autonomy and dignity of sex workers and protecting them from discrimination, violence, and exploitation. This model also focuses on implementing health and safety regulations, promoting safe working conditions, and providing access to healthcare services and harm reduction practises. Supportive services and resources, including healthcare, counselling, legal aid, housing, and social support networks, are recognised as essential for empowering sex workers and assisting them in overcoming challenges.

This model also involves the regulation of third parties involved in the sex industry, striving to guarantee adherence to labour regulations and standards for health and safety. While decriminalisation removes criminal penalties for consensual adult sex work, it strongly condemns exploitation, coercion, and human trafficking, addressing these issues through appropriate legal measures and support services.

Decriminalisation focuses on addressing exploitation and human trafficking by targeting individuals or entities involved in coercion, exploitation, or trafficking rather than sex workers themselves. It aims to distinguish between consensual sex work and abuse, with regulations or restrictions on third parties like pimps or brothel owners to prevent exploitation. The model normalises sex, removes taboos, and views prostitution as a consensual act for financial gain. Countries like New Zealand, Kenya, Nigeria, and Australia have adopted this approach (Nahar, 2021).

While some countries have fully decriminalised prostitution, others have chosen to decriminalise only certain aspects. For instance, in New South Wales, Australia, brothel-based prostitution is decriminalized, while individual

localities possess the power to enact regulations limiting street prostitution within designated zones. In contrast, New Zealand decriminalised all types of prostitution by enacting Prostitution Reform Act of 2003 which confirmed the legitimacy of contracts for commercial sexual transactions. Nevertheless, in New Zealand, individuals who engage in sexual activities with individuals under the age of 18 are subject to criminal penalties. In 2008, New Zealand's Prostitution Law Review Committee came to the conclusion that the decriminalization of prostitution did not result in a rise in the participation of individuals in the sex trade or an increase in trafficking. Moreover, it has had a significant impact on safeguarding the rights and safety of sex workers (Phoenix, 2009).

The specific details and implementation of decriminalisation may vary across jurisdictions to suit the unique needs and contexts of different regions or countries. Under the decriminalisation model, sex workers are given the opportunity to assert their autonomy and rights, thus challenging the stigmatisation that has long been associated with them. It aims to empower individuals by acknowledging their autonomy and providing legal protections, access to healthcare, and support services. By removing barriers and addressing stigma, it aims to make the workplace a safer and more inclusive environment for sex workers.

LEGALISATION

The legalisation model, also known as the regulationist approach, involves the governance and regulation of prostitution by the government (Jha, 2020). The legalisation concept has been implemented by nations like Germany, Turkey, Austria, Latvia, Hungary, Greece, Switzerland, Senegal, Bolivia, and others. Prostitution is only allowed in specific regions within Nevada, United States, and exclusively within the Yoshiwara district of Edo, Japan. (Nahar, 2021).

Under the legalisation model, prostitution is viewed as a voluntary choice, affirming individuals' agency in consensual sex work. It aims to regulate the industry, provide legal protections, and address trafficking concerns. It seeks to ensure the health, safety, and rights of sex workers while distinguishing between consensual work and exploitation. Legalisation opposes the criminalisation model, as it believes that criminalising prostitution primarily harms the women involved. Instead, legalisation focuses on creating a regulated framework that safeguards the rights and well-being of sex workers. When sex work is legalised, they are granted permission to work in certain locations and are obliged to register with local government officials or other approved organisations. This allows for the oversight and control of their activity.

One of the key goals of legalisation is to ensure the health and safety of sex workers. This entails actions like requiring regular health examinations, doing STI testing often, and putting safety regulations into place to minimise health risks. This lessens susceptibility to other health risks, such as sexually transmitted illnesses. The legalisation model provides a safer working environment for sex workers by establishing rules that clients must follow, reducing the likelihood of economic and physical exploitation. Moreover, sex workers no longer need to work in secrecy and can report any criminal activity committed against them by clients and pimps without fear of legal repercussions (Thakur, 2016).

With the legalisation of prostitution, criminal sanctions for buying and selling of sex are removed and replaced with civic laws that specify the legality of contracts between sex workers and their customers as well as the circumstances under which sex can be sold. This creates a framework for assessing and enhancing working conditions in the sexual services sector while granting considerable contractual rights to people who engage in prostitution (Phoenix J., 2009, p. 19). By removing the threat of criminalisation, sex workers are more empowered to seek protection and justice when faced with violence or abuse.

Contractual rights are also granted to sex workers, identifying their line of work as a legitimate profession. This includes the ability to negotiate working conditions, set boundaries, and establish fair compensation for their services. Moreover, the legalisation model emphasises the monitoring and improvement of working conditions and rights for sex workers. This can involve regular inspections, licencing requirements, and ongoing dialogue between sex workers, authorities, and relevant stakeholders.

The important features of the legalisation model are as follows.

1. **Licensing-** The legalisation model involves the establishment of a regulated market for sexual services, which is overseen by the government through the issuance of a license, where sex workers are officially registered with the local authorities, and also brothels are to be registered for their functioning. In order to get the licence, sex workers have to fulfill certain criteria. Depending on the country's regulations, an age bar is set for a woman to enter the profession, the consent factor is taken into consideration, and a woman has to choose the profession willingly and should not enter the profession under force. The licensing ensures that the women do their job in a controlled and safe environment and can access various benefits and protections.
2. **Brothel Regulation:** The operation of brothels or other establishments where prostitution occurs is regulated under the legalisation model. The government may impose specific guidelines and standards to guarantee the safety, health, and health of sex workers. These regulations may cover aspects such as cleanliness, security, access to healthcare, working hours, and the mandatory use of protective measures during sexual activity.
3. **Health and Safety Measures:** To ensure the safety of the sex workers and the customers, obligatory HIV testing is done as well as frequent health examinations in order to avoid contracting sexually transmitted diseases. The model makes sure that sex workers always have access to

contraceptives. To help sex workers with any psychological or emotional problems, counselling and support services are also available.

4. **Taxation and Employment Rights:** Legalising prostitution can act as a source of revenue for the government, as the legal status will treat the prostitutes like any other workers who are involved in business and are compelled to pay taxes like them (Mohan, n.d.). They may also obtain access to employment benefits such as social security, sick leave, and other safeguards enjoyed by workers in other businesses.
5. **Regulation of Trafficking and Exploitation:** While the legalisation model focuses on regulating consensual adult prostitution, it also includes measures to combat human trafficking and exploitation. Strict laws and enforcement efforts are implemented to target individuals involved in coercing or forcing others into prostitution. This aspect aims to distinguish between voluntary sex work and situations where individuals are trafficked or coerced into the industry (Joulaei et al., 2012).

Proponents of the legalisation model argue that bringing prostitution under legal protection and oversight can promote the safety, rights, and well-being of sex workers while addressing issues of violence, exploitation, and health risks associated with unregulated practises. Proponents of the legalisation model argue that bringing prostitution under legal protection and oversight can promote the safety, rights, and well-being of sex workers while addressing issues of violence, exploitation, and health risks associated with unregulated practises.

FEMINIST THEORY ON PROSTITUTION

The feminist theory of prostitution is of utmost importance to discuss as it addresses the intricate and controversial aspects associated with sex work. Within feminism, there exist divergent viewpoints regarding prostitution, spanning from considering it a manifestation of violence against women to

acknowledging it as a valid form of labour and personal decision. Grasping these perspectives is crucial for formulating impactful policies and legal frameworks that safeguard the rights, autonomy, and welfare of sex workers.

Feminist scholar Prabha Kotiswaran acknowledges that the interaction between feminist legal principles and sex work is characterised by conflicts and differing viewpoints. One of the fundamental issues confronting feminist legal theory is how to conceptualise and address sex work. The primary debate is whether or not sex work constitutes violence against women, or if it is a legitimate form of employment (Halley, Kotiswaran, Shamir, & Thomas, 2006).

There are two groups within the feminist movement, i.e pro- and anti-prostitution feminism. According to anti-prostitution feminists, prostitution is a result of patriarchal societal institutions that perpetuate women's oppression and exploitation, resulting in their enslavement and subordination (Halley, Kotiswaran, Shamir, & Thomas, 2006). They oppose all forms of forced or voluntary prostitution, believing that prostitution is inherently harmful to women. On the other hand, Pro- prostitution feminists contend that women have the choice to enter the industry willingly and that doing so might be an act of empowerment. They advocate for classifying sex work as a respectable career and emphasise the value of respecting the choices made by those who operate in this sector (Singh, 2015).

The feminist perspective on prostitution has undergone significant evolution across different waves of feminism. Prostitution was typically perceived throughout the first and second waves of feminism as a kind of violence against women, and women who engaged in it were considered the victims of exploitation. These feminists emphasised the oppressive nature of prostitution and aimed to address the systemic inequalities that perpetuated its existence, emphasising the importance of respecting the decisions made by those working in the sector (Singh, 2015). However, there has been a shift in outlook since the

third wave of feminism. This wave rejects the idea that prostitution is fundamentally repressive, instead seeing it as a viable route for women's empowerment. Third-wave feminists contend that women have the freedom to choose sex work as an occupation and that prostitution may be considered an act of agency and autonomy. They emphasise that women willingly enter the profession and reject the idea of victimhood (Mesce, 2020, p. 7).

Organisations like CATW (Coalition against Trafficking in Women) support the anti-prostitution stance of the first and second waves of feminism. The CATW supports the ban on prostitution because it perceives the practice as a form of violence against women. Influenced by such perspectives, even the United Nations Commission for the Prevention of Crime and Penal Justice has attempted to categorise prostitution as a crime associated with violence against women, potentially leading to its banning. Conversely, the third wave's pro-sex work stance finds support from activist organizations like Call Off Your Old Tired Ethics (COYOTE), The Red Thread and The International Committee for Prostitutes (ICPR). These groups aim to support sex workers and ensure that women choose to engage in sex work voluntarily, free from coercion or exploitation (Fechner, 1994).

Within feminist legal theory, various frameworks have emerged to address the complexities of sex work. These frameworks include abolitionist, neo-abolitionist, decriminalisation, and pro-legalisation perspectives. Each framework offers distinct views on the permissibility and regulation of sex work. Abolitionists contend that sex work is a component of a broader structure or system designed to oppress women. They consider it a kind of violence and demand its abolition. Neo-abolitionists share similar concerns but may propose alternative approaches that focus on targeting the demand side or addressing the root causes of sex work. On the other hand, those who support decriminalisation contend that the sex trade should be treated as a profession rather than a crime and should thus be decriminalised. They think that making

sex workers criminals just makes them more vulnerable and marginalised. Pro-legalisation perspectives go a step further, advocating for the complete legalisation and regulation of sex work, treating it as any other form of labour (Kotiswaran, 2006).

Dr. Alexandra Lutnick, a feminist legal scholar and a research professional in the Behavioral Health and Criminal Justice Research Division at RTI International, argues that sex work should be acknowledged as a valid occupation.. This viewpoint contends that sex workers need to be granted the same rights and safeguards as other employees (Lutnick and Cohan, 2009). She stressed that there is a sizable danger of harm and injury involved with sex employment. So like workers in other industries that involve physical labour, sex workers should be afforded legal protections and workers' rights. The possibility of harm and exploitation exists within various job sectors and should not exclude sex workers from receiving legal safeguards. His perspective challenges the notion that sex work is inherently deviant or morally inferior. Instead, it seeks to demonstrate that sex work is a lawful occupation that should be covered by labour laws and regulations. By recognising sex work as a form of work, proponents of this viewpoint aim to improve the safety and well-being of sex workers and ensure their legal rights are upheld.

Feminist theories on prostitution encompass various typologies, including Marxist feminism, domination theory, liberal feminism, radical sex-positive feminism, and Intersectional feminism.

MARXIST FEMINISM

Marxist feminism offers an analysis of prostitution within the framework of capitalism. It asserts that prostitution represents a form of exploitation rooted in the power dynamics between the ruling class and the working class. In this context, the working class comprises the prostitutes, while the pimps represent

the exploiting class. Marxist feminists see prostitution as a reflection of the class struggle, where the working class is oppressed and subjected to economic exploitation. Prostitution, from this perspective, symbolises the larger issue of the exploitation of the working class within the capitalist system. It draws parallels between the socio-economic position of wage labourers and that of prostitutes in society.

In simple terms, Karl Marx compared the situation of workers in a capitalist system to being "enslaved." He used the analogy of prostitution to highlight the extreme lack of freedom experienced by workers who sell their labor to capitalists. Marx didn't mean that the conditions were exactly the same as slavery or prostitution, but he wanted to emphasise the workers' ultimate lack of freedom when they had to sell themselves to capitalists for wages.

Marx pointed out that the more workers became estranged from their lives and humanity, the worse their conditions became. He described how the workers' passions and activities were overshadowed by the pursuit of profit and survival, leaving them with very little freedom. This condition, according to Marx, also applied to prostituted women, who were part of the marginalised and exploited workforce (Malini, 2016).

According to Marxist theory, prostituted women are like slaves who experience extreme exploitation in the capitalist system. They lose control over personal areas of themselves and have few options for employers and compensation. The exploitation of prostituted women is seen as greater than that of other types of labour since they must alienate themselves from any personal pleasure in order to satisfy the customer's expectations. In this way, they have little control over their sexual agency, just like a slave has little control over their lives and decisions.

DOMINATION THEORY OF FEMINISM

The domination theory, as proposed by feminist scholar Catherine Mackinnon, centres on the significance of women's sexuality in perpetuating their subjugation. In the context of prostitution, the dominance theory contends that women who engage in sex work have no legitimate option. It asserts that women are pushed or forced into prostitution rather than choosing to do so because of cultural causes such as economic disparity, gender stereotypes, and patriarchy.

The domination theory, as proposed by feminist scholar Catharine MacKinnon, emphasises the significance of women's sexual experiences in perpetuating their subjugation. According to this theory, women's sexuality is regarded as a commodity that men in society seek to control, purchase, trade, and exploit. Women are seen as lacking ownership and agency over their own sexuality, leading to their objectification and subordination (MacKinnon, 1987, p. 58).

In the context of prostitution, the dominance theory argues that there is no genuine choice involved for women who engage in sex work. It posits that women do not willingly choose to be prostitutes but are instead coerced or forced into it due to various societal factors, such as economic inequality, gender norms, and patriarchy. Prostitution, according to this perspective, is viewed as inherently oppressive, violent, and a means for men to maintain dominance over women (Lacey Lohan, 2000).

However, the domination theory has faced criticism for its emphasis on male dominance over women. Critics argue that the theory fails to acknowledge that men can also be involved in prostitution, either as clients or sex workers themselves. The theory does not address the demand for male prostitutes by gay clients, challenging the theory's exclusive focus on male-female power dynamics (Robinson, 2007).

Moreover, the domination theory has been criticised for its assumption that only women are victims of sexual objectification. Critics argue that individuals of all genders can experience objectification and exploitation within the context of prostitution, highlighting the need for an inclusive understanding of the diverse experiences and perspectives within the sex industry.

The domination theory suggests that women's sexuality is a significant factor in their oppression, and prostitution perpetuates this oppression by victimising women and reinforcing male dominance. While the theory has provided valuable insights into gender-based power dynamics, it has been criticised for its narrow emphasis on male dominance, exclusion of certain experiences within the sex industry, and failure to recognise that individuals of all genders can face objectification and exploitation within the context of prostitution.

LIBERAL FEMINIST

Liberal feminism offers a perspective on sex work that treats it as a form of labour comparable to any other occupation pursued for financial gain. According to liberal feminists, sex work should be seen as a consensual agreement or social contract between the sex worker and their clients. They argue that sex work involves the provision of a service in exchange for payment, much like other types of wage labour.

Liberal feminists emphasise the agency and autonomy of sex workers, arguing that they ought to have the freedom to engage in sex work if they choose to do so. They advocate for the recognition of sex work as legitimate work deserving of the same legal protections and labour rights afforded to other occupations. This includes access to fair wages, safe working conditions, healthcare, and the ability to form labour unions or associations to collectively advocate for their rights.

In the liberal feminist framework, the focus is on individual choice and the right of individuals to control their own bodies and make decisions about their work. They reject the idea that sexual work is inherently exploitative or demeaning, arguing that it is the stigmatisation and criminalisation of sex work that lead to harm and marginalisation for sex workers rather than the work itself (Robinson, 2007).

Liberal feminists view sex work as a type of employment and advocate for the recognition of sex workers' agency, choice, and rights. They argue for the destigmatisation and decriminalisation of sex work, focusing on improving the working conditions and overall well-being of sex workers through legal protections and social support systems.

RADICAL FEMINIST

Radical feminists hold a critical perspective on prostitution, considering it a form of oppression and violence against women. They view the act of prostitution as inherently objectifying and dehumanising, perpetuating the subordination and enslavement of women. According to radical feminists, women involved in prostitution are seen as victims of abuse, regardless of whether their engagement is voluntary or coerced (Rosewarne, 2017).

One of the key principles of radical feminism is the abolition of the sex industry as a whole. They argue that the commodification of sex perpetuates gender inequality and reinforces patriarchal power structures. Radical feminists believe that the root causes of prostitution lie in systemic oppression and the objectification of women. They advocate for dismantling the entire system rather than seeking to regulate or reform it (Sanders, 2005).

Radical feminists support the abolition of the sex industry because they think prostitution places women in a position of subjugation and enslavement. This movement seeks to reduce the violence of men against women and girls (Bindel,

2017). According to Weitzer, no sex worker would want to "sell their bodies" because prostitution is a violent experience for all women (Fitzgerald and Garry, 2018).

Radical feminists do not distinguish between forced prostitution and voluntary prostitution, as they view the conditions under which women enter sex work as inherently coercive. They argue that societal norms, economic inequalities, and gender-based violence create a context in which women are compelled to engage in prostitution, even if they perceive it as a choice. From their perspective, any form of prostitution reinforces the subordination of women and sustains the harmful dynamics of the sex industry.

Radical feminists believe that the sex business oppresses women in all ways, and because prostitution is viewed as degrading, they conclude that all women engaged in the sex industry are victims. The radical feminist movement seeks to outlaw the sex business in order to lessen women's oppression and violence, but outlawing prostitution, in reality, would have severe ramifications because sex workers would no longer have a job and would result in financial instability, making it difficult for them to survive.

INTERSECTIONAL FEMINISM

Intersectional feminism provides a robust framework for understanding and analysing prostitution by recognising the complex interplay between social identities and oppressive systems. It acknowledges the experiences of individuals involved in the sex industry. They are influenced by a wide range of elements, including gender, race, class, sexuality, and ability. These intersecting identities create unique experiences and challenges within the context of prostitution.

Through the lens of intersectionality, it becomes evident that marginalised communities bear a disproportionate burden of the difficulties and inequalities

present in the sex trade. People of colour, individuals from low-income backgrounds, transgender individuals, and migrants often face heightened vulnerabilities and increased exposure to exploitation and discrimination. The intersections of race, class, and gender further compound their marginalisation as they navigate overlapping systems of oppression.

For example, the impact of racism is evident as individuals of colour within the sex industry face both racial and gender-based discrimination, which can heighten their susceptibility to violence and limit their access to resources and support. Economic disparities intersect with gender dynamics, as those from low-income backgrounds may face limited choices and may be forced into prostitution as a means of survival. Transgender individuals often confront transphobia and discrimination, which heightens their risk of violence and restricts their access to safe working conditions and adequate healthcare. Migrants may face additional challenges due to their immigration status, which can lead to exploitation and further marginalisation (Collins & Bilge, 2016).

By recognising and analysing these interconnected forms of oppression, intersectional feminism highlights the importance of addressing the specific needs and experiences of different groups within the sex industry. It calls for approaches that prioritise justice, equity, and empowerment, aiming to challenge and dismantle the intersecting systems of oppression that perpetuate inequalities. This includes advocating for policies and interventions that address the unique barriers faced by marginalised communities, promote safety, and provide comprehensive support to individuals engaged in sex work.

SEX-POSITIVE FEMINISM

Sex-positive feminism is a branch of feminism that embraces and supports sexual autonomy, freedom of choice, and the celebration of diverse sexual experiences and expressions. When it comes to prostitution, sex-positive feminism takes a

complex and nuanced view that varies among different individuals and groups within the movement. It recognises that perspectives on prostitution can differ significantly and that there is not a single unified stance among sex-positive feminists.

Some sex-positive feminists argue that consensual adult sex work should be acknowledged and valued as a valid form of employment and personal agency. They believe that individuals should have the right to engage in sex work if they choose to do so and that their choices should be respected and protected. They advocate for the decriminalisation or legalisation of prostitution with the aim of protecting the health, safety, and dignity of sex workers

These proponents of sex-positive feminism argue that criminalising or stigmatising sex work often leads to greater harm and vulnerability for sex workers. They assert that by removing legal barriers and providing support services, such as access to healthcare, legal protection, and social services, sex workers can be empowered to assert their rights and improve their working conditions. They emphasise the importance of addressing issues like labour rights, health and safety regulations, and combating exploitation and coercion within the sex industry.

There are also sex-positive feminists who recognise the complexity and problematic aspects of the sex industry, particularly concerning issues of exploitation, human trafficking, and the intersectionality of gender, race, and economic inequality. They argue that while they support the agency and choice of individual sex workers, they also acknowledge the need for comprehensive social and systemic changes to address the root causes of the sex trade. This includes tackling poverty and gender inequality and creating alternative economic opportunities to reduce the reliance on sex work as a means of survival (Easton & Hardy, 2009).

Sex-positive feminism is not a monolithic or universally held position within feminism. There are differing perspectives and ongoing debates within the movement regarding the impact and implications of the sex industry. Ultimately, the discussion around sex work and sex-positive feminism involves consideration of diverse viewpoints and experiences and an ongoing commitment to centering the rights and well-being of those involved in the sex industry.

The different opinions among feminists regarding prostitution reveal the complexity and controversy surrounding this issue. Some feminists perceive it as a form of violence against women, contributing to oppressive systems, while others argue that it can be a legitimate choice made by individuals exercising their autonomy. This diversity of perspectives underscores the ongoing debates and challenges within feminist discourse. Moreover, it highlights the difficulty of finding a balance between recognising exploitation and respecting individual agency.

From Prostitution to Sex Work: Evolving Perspectives and the Question of Agency

During the late 1960s and early 1970s, a contentious debate surrounding prostitution emerged, sparking a new arena of conflict that centred on the rights and lived experiences of sex workers. In this discourse, radical feminists who contended that sex work was inherently harmful found their arguments challenged and countered by opposing viewpoints.

An essential aspect of this era was the re-evaluation of the terminology employed to depict those involved in the sex industry. The term "prostitute" was recognised as problematic and derogatory since it confined and defined women solely based on their role as prostitutes, carrying negative connotations associated with criminality and social stigma. In response, the term "sex

worker" emerged to highlight that engaging in sexual labour could be seen as a legitimate form of employment, acknowledging that a woman's identity extended far beyond her bodily performance. This linguistic adjustment played a pivotal role in strengthening the movement's demand for recognition as workers with fundamental rights.

During the 1980s, Carol Leigh, a sex worker who was also known as Scarlot Harlot and a member of COYOTE, introduced the term "sex work" as an alternative to the stigmatising connotations linked with the term "prostitute." By adopting this new terminology, Leigh aimed to challenge the prevailing notions of shame, unworthiness, and wrongdoing associated with the old label. Instead, she sought to promote a different perspective that normalised sex workers as "service workers" and "caregiving professionals" (Bernstein, 1991, p. 111). The adoption of new terminology played a crucial role in strengthening the movement's call for acknowledgment as workers entitled to labour rights. The discussion surrounding language has persisted, resulting in ongoing debates.

The discussion surrounding language continued to shape the movement for sex workers rights. In 2008, the Criminal Justice and Immigration Act acknowledged the stigmatising impact of the term "common prostitute" and proposed its removal from legislation. These changes reflected an evolving understanding of the importance of using inclusive and non-stigmatising language.

One of the major points of difference between different feminist perspectives was the issue of agency and choice for individuals in the sex industry. Radical feminists often portrayed sex workers as victims, while emerging perspectives emphasised the importance of recognising women's freedom of choice and control over their bodies. These perspectives acknowledged the complex

interplay of structural factors and personal circumstances influencing decisions to enter the sex industry (Phoenix, 2008).

The argument for "choice" acknowledged that women's decisions to engage in the sex industry were influenced by various factors, including economic structures, oppressive conditions caused by poverty, and limited job opportunities. It recognised that while women may choose to enter the sex industry, it was not a simple assertion that equated it with any other career choice. Rather, it emphasised that women's choices were shaped by structural considerations and the recognition of elements of consent within their individual circumstances.

While some theories differ from the radical feminist view that only sees prostitution as a form of sexual exploitation and coercion, it is crucial to recognise the complexity of individual experiences. Various factors influence the choices made by sex workers, ranging from well-informed, rational decisions to survival tactics in the face of extreme poverty or limited opportunities. It is within this broader context that some theoretical perspectives challenge the reductionist view of prostitution as solely exploitative.

Nagel and other feminists who engaged in the sex trade, such as porn actors, peep show performers, and sex providers, acknowledge that their involvement is a result of their "economic and racial privilege," indicating that they have the choice to participate (Nagel, 1997, p. 2). It's crucial to understand that not all women working in the sex business share this viewpoint. The experiences of sex workers vary greatly; although some are positioned along the spectrum of choice, others are faced with coercion, exploitation, and tactics for survival (Nagel, 1997, p. 4). The political positions and grassroots efforts of non-governmental organizations (NGOs) and advocacy groups reflect a shift in theoretical thinking concerning women in the sex industry. The discursive practises, attitudes and activities of HIV/AIDS-focused NGOs are moving away

from the predominant perception of the "prostitute" as always a victim. These organisations are moving away from viewing all sex workers as perpetual victims and are adopting more empowering approaches. Their initiatives aim to provide practical support and resources to help sex workers protect themselves against HIV and other dangers (Sanders, 2009, pp. 9–11).

Over the years, the discourse surrounding sex work has undergone changes fueled by feminist movements and evolving understandings of individual agency, labour rights, and the intricacies of women's experiences. The use of the phrase "sex worker" attempted to combat the stigmatising implications connected with the term "prostitute" and to underline that engaging in sexual labour might be viewed as a respectable kind of employment. This linguistic adjustment played a crucial role in demanding the recognition of sex workers as labourers with fundamental rights. The evolving discourse on sex work and the re-evaluation of language have had significant implications for challenging stereotypes, empowering sex workers, and advocating for their fundamental rights. By critically examining and questioning the prevailing narratives, society has started to recognise the diverse experiences and contexts within the sex industry. This shift has led to a more nuanced understanding of sex work and the individuals involved, fostering a more inclusive and equitable approach.

POLICIES ON PROSTITUTION ACROSS COUNTRIES: A GLOBAL OVERVIEW

Laws pertaining to prostitution vary across the world, and prostitution exists in various forms globally. The legality of prostitution differs from one country to another and even within different states or counties. A country's stance on prostitution reflects the prevailing opinions within its society, determining whether it is viewed as a matter of choice or as a criminal activity.

Prostitutes are marginalised, stigmatised, and considered victims in certain nations, while others perceive them as adults engaging in consenting adult work. This has resulted in contrasting perspectives on the legalisation and criminalisation of prostitution. These divergent views have resulted in the development of various legal approaches to prostitution that differ among countries. Examining diverse prostitution models in different nations gives us an extensive overview that aids in our understanding of the complex interactions between culture, societal values, legal systems, and governmental policies. This information is essential for evaluating how various models affect the rights of sex workers, public health, human trafficking, gender equality, and cultural perceptions of sex work.

In addition, it offers insights into the diverse approaches taken by countries towards addressing prostitution. These countries have been selected for their contrasting policy perspectives stemming from diverse historical and political trajectories regarding prostitution across various continents.

UNITED STATES

Prostitution is illegal everywhere in the USA, except for the state of Nevada. Prostitution is legal in ten of Nevada's seventeen counties. Carson City, Clark, Eureka, Douglas, Lincoln, Washoe, and Pershing are the counties where prostitution is illegal in Nevada. In cities like Las Vegas and Reno, located within Clark and Washoe counties, prostitution is illegal. However, the majority of prostitution in Nevada occurs illegally in the Las Vegas and Reno metropolitan regions. Customers spend about 66 times more money on illicit prostitution in Nevada than on authorised brothels located in legal counties. Brothels are authorised, and prostitutes are taxed in counties where prostitution is legal (World Population Review, 2023).

In 1971, Nevada became the only state to legalise prostitution. While prostitution was formally legalised on October 1st, 2003. Nevada is the only state to have legalised prostitution, for a few reasons. Firstly, the state was suffering from a severe fiscal deficit at the time, and legalising prostitution was then seen as a relief from the financial strain it was facing. Legalising prostitution was believed to provide a safer option for both prostitutes and their customers since it allowed for the implementation of explicit and enforced restrictions. Attracting tourists was thought to be a useful method to boost the local economy (Wallace, 2022).

In Nevada, there are numerous laws pertaining to prostitution that govern where brothels can operate, as well as specifications for the size of the buildings, the number of houses permitted for prostitution, the maximum number of prostitutes permitted in each house, and the permitted operating hours per day or week. These regulations are formulated with the view of regulating the industry. Certain restrictions are in place concerning the activities of prostitutes in certain areas of Nevada. These restrictions may include designated times for when prostitutes are permitted to enter the town, limitations on the places they can visit, and regulations on whom they can interact with. In one town, there is a strict prohibition on prostitutes forming friendships within the community where they work. These restrictions are imposed with the intention of ensuring that male customers do not experience discomfort or run into a prostitute in public whom they have hired before.

An organisation called Cut off Your Old Tired Ethics (COYOTE), founded in 1973 in the USA, has championed the rights of sex workers and has played an active role in amplifying their perspectives. This organisation has been instrumental in promoting the fundamental rights of individuals involved in sex work and highlighting the voluntary nature of their choices. COYOTE advocates for the decriminalisation and elimination of all legal restrictions on prostitution at the national level, aiming to improve the quality of life for sex

workers and bring about transformative changes. They have contributed to the repeal of laws on prostitution that were detrimental to sex workers' well-being and have worked towards eliminating the stigma associated with sex work. COYOTE has strongly emphasised the need to differentiate between voluntary and forced prostitution and has championed the rights of sex workers. COYOTE's advocacy encompasses promoting equal treatment for sex workers akin to other service workers, guaranteeing their access to health and safety regulations, and supporting their right to organise (Davis, 1993, pp. 323–324).

In the United States, the laws governing prostitution vary from one state to another. However, Nevada stands out as the only state where it is legal in certain counties, while the majority of the country still considers it illegal.

SWEDEN

In 1999, Sweden adopted the Nordic model of prostitution, which criminalises the buying of sex and decriminalises the sale of sex. At present, this model is known by different names, such as the sex buyer's law, the abolitionist model, and the equality model. This strategy reduces the demand for sex workers by criminalising the customers, attempting to drastically outlaw prostitution in the future.

Prostitution is not considered a crime in Sweden under the Nordic model. This implies that those who solicit clients or provide sexual services are not liable for criminal prosecution. However, activities such as purchasing sex, pimping, promoting prostitution, and human trafficking are legally prohibited (Kraus, 2021).

Proponents of the Nordic model argue that it provides crucial protection for individuals involved in prostitution, particularly women, by reducing violence against them and challenging entrenched gender stereotypes. They contend that this approach effectively curbs sex trafficking and reduces street

prostitution. Moreover, it aims to shift the social stigma away from women who engage in transactional sex and place more responsibility on the individuals purchasing sex.

A 2010 government evaluation report indicated a significant decrease in street prostitution, with the number being halved compared to pre-Nordic model implementation. There has also been a reduction in the number of men purchasing sex in the country. The impact of the legislation of the Nordic model on human traffickers is said to have made it more difficult for them to operate within Sweden, prompting them to shift their operations to other countries.

However, the efficiency of the Nordic model is still being debated. Sceptics dispute whether the decrease in reported prostitution and the number of men buying sex indicates a true decline or merely a decrease in the number of people being caught. Critics, notably those who support the rights of sex workers, believe that the legislation is solely concerned with reducing prostitution while failing to sufficiently address the rights and well-being of sex workers (Moore, 2014).

The Nordic model which has been implemented in Sweden has had a profound impact on the global discourse surrounding sex work regulation. By shifting the focus from criminalising individuals in prostitution to targeting the demand for sexual services, this model has challenged traditional approaches and sparked debates on alternative strategies for addressing prostitution. As a result, the Nordic model has influenced other countries and regions to consider similar approaches to sex work regulation.

The Nordic model has garnered praise for its focus on human rights and its potential to combat sex trafficking and reduce violence against individuals in the sex industry. Advocates argue that criminalising the purchase of sex, it disrupts the demand that fuels exploitation and promotes a more equitable and safer

environment for those involved in the trade. However, the model also faces criticism. Some argue that it may push prostitution further underground, making it more dangerous for those involved and hindering access to support services. Others raise concerns about potential negative consequences for marginalised and vulnerable communities, which may face increased policing and stigmatisation.

Nevertheless, the impact of the Nordic Model extends far beyond Sweden's borders. It has sparked important discussions, encouraged innovative thinking, and prompted policymakers to consider alternative approaches to sex work regulation that give top priority to the rights and welfare of those who are engaged.

CHINA

Prostitution in China is illegal. Visiting a prostitute is punishable by 10 to 15 days in prison in China, and a fine of 5,000 RMB is levied on the criminal according to the Administrative Penalties for Public Security. Carrying out prostitution and activities such as group sex has been criminalised in the country. China has prioritised combating human trafficking in recent years with increased anti-prostitution efforts. The eradication of prostitution was one of the most important goals of China's Plan of Action to Combat Human Trafficking (2013–2020). The plan aimed to address labour exploitation by cracking down on prostitution and solicitation. However, because prostitution and trafficking are commonly used interchangeably in China, this strategy makes it difficult for those who wish to engage in the industry. Despite the fact that prostitution is illegal, the occupation thrives in China. It is common at pubs, clubs, hotels, massage and beauty parlours, and karaoke bars.

In China, Controlling prostitution has posed severe challenges, as there exists a dilemma among government officials regarding whether to prioritise economic

prosperity or preserve traditional values. Prostitution and the tourist industry are often intertwined, with one complementing the other. When tourism becomes a major source of revenue for the state, the government cannot completely close its doors to foreign tourists, and likewise, the presence of prostitutes persists (Expatriate Rights, 2019).

Although government officials may try to overlook the issue, it is undeniable that Chinese prostitution currently pursues two distinct objectives: economic growth and sexual liberation. Harsh punishments alone will not eliminate the problem unless the Chinese government completely shifts its economic policy. In the era of modernisation, maintaining the illegality of prostitution presents challenges for the Chinese authorities, as the industry continues to exist and cannot be fully eradicated (Davis, 1993, pp. 104–105).

Despite the illegality of prostitution in China, the challenges of controlling and eradicating the industry persist. The complex interplay between economic prosperity, tourism, and social values creates a dilemma for the government in addressing the issue effectively. As China continues its modernisation journey, finding a balance between economic policies and societal norms remains a key challenge in addressing the issue of prostitution.

GERMANY

Germany is renowned as Europe's bordello. It is a coveted title. It has over 3000 brothels in the country, and it's estimated that there are 500 brothels alone in Berlin. The yearly worth of Germany's sex business is estimated to be more than \$11 billion. Since 1927, prostitution has been legalised in Germany and is controlled by the government, which also taxes it. The legalisation of prostitution in Germany has been instrumental in the expansion of the country's sex trade, which is estimated to involve 400,000 female prostitutes and 1.2

million male clients (out of a population of little more than 80 million) engaging in daily purchases of sex (Bindel, 2022).

The criminal legislation concerning prostitution is governed by Articles 1 and 2 of the German constitution. Human dignity is intrinsic, according to Article 1(1), and the state is accountable for defending and protecting this inherent right. Article 2 emphasises individual freedom, stating that all persons have the right to freely develop their personalities as long as they do not infringe on others rights, the constitutional order, or moral laws in the process. It is argued that sexual self-determination falls within the realm of both human dignity and individual freedom. Consequently, adult women are legally allowed to engage in prostitution. However, actions that threaten or violate sexual self-determination are considered illegal.

There are two specific activities that are considered threats to sexual self-determination:

1. The exposure of children and young people to sexual activities
2. The imposition of sexual acts on others

Activities associated with prostitution are deemed harmful when they pose a threat to young individuals and undermine public decency. Therefore, certain prostitution-related activities are regulated to prevent public annoyance and the disruption of public peace (Davis, 1993, p. 130). With a view to improving the legal position of sex workers, the Prostitution Protection Act was passed by Germany in 2016. It made the registration of prostitution activities mandatory and prohibited engaging in prostitution without the use of condoms (World Population Review, 2023). The relationship between a client and a sex worker is governed by law, and the contractual agreement between them can be legally enforced in civil courts. The working conditions of the women are also subject to health and safety guidelines. One important fact here is that, though

prostitution is legal in Germany, it does not have the same status as other professions in the country. Job aim to centres do not advertise prostitution jobs, and women receiving government benefits are not penalised for not working in prostitution. Moreover, prostitution-related occupations are taxed at a higher rate, and local governments possess the authority to designate specific areas where prostitution is prohibited. In various parts of Munich, street prostitution is not authorised, whereas it is permitted in almost all areas of Berlin. In Hamburg, it is only allowed at designated locations and during specific times (Phoenix, 2009, p. 18).

Germany's approach to prostitution has faced challenges from different groups. On the one hand, prostitutes demand more rights and changes in their socio-political, legal, and occupational status. On the other hand, the public seeks greater protection against AIDS. As a result, Germany is navigating efforts to both enhance and restrict the rights of prostitutes, reflecting the complex and evolving nature of the country's approach to regulating prostitution. Overall, Germany's legal framework and regulations regarding prostitution aim to safeguard the rights of sex workers, prevent harm to individuals, especially minors, and maintain public order.

AUSTRALIA

Prostitution has been a long-standing issue in Australia and has long confounded criminal justice officials there, as well as in most other countries in the world. The challenging task of reconciling the conflicting interests of many societal groups is one that legislators have to confront. Like other countries in the world, the lawmakers of Australia are faced with two opposite demands in the country: on the one hand, there is a demand from the liberals who want to allow individuals to carry on prostitution who are taking it up voluntarily, and However, they must also take into account the concerns of residents who are

concerned about the 'nuisance' aspects of prostitution, and those who oppose prostitution for religious, ethical, or other reasons.

AIDS has been a major issue in recent years. The problem of AIDS has surfaced in recent years, further complicating the argument and generating worries about the potential spread of the illness among prostitutes and their clients.

This complexity and uncertainty surrounding prostitution are evident in the laws that govern it in Australia. The laws frequently lack clarity and include inconsistencies, posing difficulties for law enforcement officers and industry professionals who may struggle to comprehend the actual legal status of some parts of prostitution. Most Australians are unaware of the unique rules governing prostitution in their various states or territories.

The laws related to prostitution in Australia vary from state to state and territory to territory, with each jurisdiction enacting its own set of rules and regulations. Throughout the country, several types of models of prostitution, such as decriminalisation, legalisation, and abolitionism, have been found (Pinto, Scandia, & Wilson, 1990).

In Queensland, Victoria, and Tasmania, prostitution is legal. The Prostitution Regulation Act was passed in Victoria in August 1987, making prostitution legal. The main aim of the Act was to protect young people of either gender from exploitation, sex workers from physical abuse and intimidation, and society from the disturbances caused by prostitution-related activities.

In New South Wales prostitution is totally legal; however, pimping is still a crime here. In New South Wales, with the passing of the Summary Offences Act, soliciting "near or within view of a dwelling, school, church, or hospital" is an offence. It is also illegal to use a premise for prostitution if it is allocated for other purposes.

While actions like running a brothel and pimping are prohibited, sex work is legal but unregulated in jurisdictions like Western Australia, South Australia, and the Northern Territory. There is a certain common set of rules that are valid across the country, regardless of the prostitution models that each state chooses to implement. A woman who wishes to register herself as a sex worker must be 18 years of age or older and have no past criminal records. Federal legislation also prohibits sex trafficking, child prostitution, and sex slavery.

The argument about legalising prostitution in Australia has raged on, with opposing views. Some claim that legalising prostitution will harm society by creating toxic environments. Others who advocate legalisation say it will empower sex workers and provide them with a safer working environment. Criminalising sex work in Australia may create a harmful atmosphere for sex workers since pimps and customers may threaten or intimidate them into working. Moreover, sex workers may fear approaching authorities for help due to the risk of arrest. The lack of centralised legislation on the sex industry in Australia, combined with the varying approaches taken by individual states, has contributed to its distinctiveness as a nation (LY Lawyers Criminal Law Specialists, 2020).

Australia's approach to regulating prostitution reflects a decentralised system with varying laws and models across different states. While some uniform laws exist, such as age requirements and federal prohibitions, the complexity of the issue is evident in the ongoing debate and the absence of centralised regulations.

JAPAN

In January 1946, Commander General Douglas MacArthur and the SCAP (Supreme Commander for the Allied Powers) instructed the Japanese Government to eliminate all laws that allowed licenced prostitution in Japan. As a result, all brothels were closed in 1948. However, a new type of establishment

called "special restaurants," also known as "tokuin" or "tokushuinshoku ten," emerged to replace the brothels. These were located in areas called the "Red Line" districts, while the "Blue Line" districts had bars and restaurants that disguised themselves as houses of prostitution.

There were several attempts, led by congresswomen, to eradicate these quasi-brothels, but they were unsuccessful. Finally, in June 1956, the Prostitution Prevention Law, known as the Baishun Boshi Ho, was passed by the Japanese Congress. This law declares prostitution morally wrong. However, it didn't make prostitution itself illegal but focused on preventing the solicitation and facilitation of prostitution. Japan's anti-prostitution law enacted in 1956 states that "No person may either do prostitution or become the customer of it", however, the law does not have any provisions for punishing these acts. Thus, loose enforcement of these acts has allowed the sex industry to flourish in Japan. As a result of this law, all special restaurants were closed in 1958. Since then, prostitution has continued in other forms, such as bars, meeting places, and Japanese-style restaurants. The individuals working in these establishments are referred to as waitresses (jyokyu), geigi, and nakai (Iga, 1968, p. 127).

The fact that prostitution is prohibited but not punishable has received significant criticism, leading to the perception of a flawed law. With time and an increase in sexual awareness, the nature of prostitution has changed. The number of prostitutes punished under this law at present has significantly decreased. However, in Japan, open solicitation by a prostitute is still a crime, and if caught, they have to pay a fine of 10,000 yen or can be sentenced to jail for six months. Other acts that promote prostitution are prohibited in Japan, such as establishing contracts for prostitution, giving financial aid for prostitution, pimping, coercing people into prostitution, operating brothels, and supplying premises for prostitution.

In Japan, the focus of social policy issues surrounding prostitution is to reduce both acts of prostitution and related penalties. According to public opinion polls regarding whether prostitution should be criminalised or decriminalised, the demand for penalising both prostitutes and clients is very strong (Shimizu, 2022).

The historical and legal developments surrounding prostitution in Japan reveal a complex interplay between legislation, societal attitudes, and effective government policies. The transformation of Japanese prostitution from legal brothels to clandestine operations illustrates how legal changes alone are ineffective without a shift in societal attitudes. It also emphasises the importance of studying the social structure to support effective government policies.

NETHERLAND

Since October 1st, 2000, prostitution has been legalised in the country. After the imposition of the legalisation model, the bans on brothels were lifted, and laws were established to ensure the safety of the sex workers. Voluntary prostitutes who possess a valid municipal permit are certified to have met the necessary legal requirements to operate, and they are obligated to pay taxes to the government. The major goal of legalising prostitution was to prevent sex worker violence, punish persons involved in human trafficking and minor exploitation, and give social security and protection from criminal gangs (Siegel, 2009, p. 5).

Various mediums are used in the Netherlands to recruit prostitutes, such as newspaper and magazine advertising, word of mouth, and various networks. In order to be a sex worker, there are certain requirements that need to be fulfilled. They must be Dutch and at least eighteen years old. It is important to understand that soliciting customers on the street is legally illegal. One unique aspect of Dutch prostitution is window prostitution, predominantly found in

Amsterdam's Red Light District. Sex workers stand or sit behind windows, dressed in revealing clothing, and interact with potential clients who pass by. If an agreement is reached, they may proceed to a designated room for sexual activities. This approach provides visibility, regulation, and safety measures for sex workers and clients. However, practises may differ in various jurisdictions. There are a limited number of windows that are available for prostitution, and the city controls the prices that are charged (Pao, 2022).

To protect the interests of sex workers, several organisations have been established in the Netherlands. The Red Thread organisation, formed in January 1984, serves as a self-help group for prostitutes and ex-prostitutes. In 1985, the Pink Thread Organisation emerged to facilitate better communication between prostitutes and members of the women's movement. Later, the Red Thread Organisation was succeeded by the PROUD labour union in 2015. In 2019, Red Light United was established as a trade union representing window workers in Amsterdam's De Wallen district (Davis, 1993, p. 203).

While prostitution is legal in the Netherlands, social acceptance of the industry remains limited. With the legalisation of prostitution in the Netherlands, sex workers comparatively enjoy a better position than in countries where prostitution is illegal, but there is still potential for further advancement in the manner in which society perceives and supports sex workers.

Since 2000, the Netherlands has legalised prostitution in order to address concerns of violence, human trafficking, and exploitation by giving social security and safety to sex workers. While organisations have been formed to advocate for their rights, social acceptance of prostitution still requires further progress. Nonetheless, the Dutch model stands as an example for other countries to consider when contemplating approaches to regulating and protecting individuals engaged in sex work.

CANADA

Prostitution in Canada is legal, but there are several laws and regulations surrounding it. In the 2014 case of *Bedford v. Canada*, the Supreme Court ruled that certain laws on prostitution violated sex workers' rights to security. It invalidated certain provisions of the Criminal Code that pertain to prostitution. The court acknowledged the negative consequences of criminalising specific aspects of sex work and emphasised the necessity for a more comprehensive and rights-based approach that prioritised the safety and well-being of sex workers. By striking down these laws, the court aimed to safeguard the human rights and dignity of sex workers while also addressing the issue of demand for sexual services. The court granted the government a one-year period to develop new legislation in light of this decision.

The subsequent legislation, the Protection of Communities and Exploited Persons Act, regulated the sex industry by criminalising the purchase of sex while allowing the sale of sexual services. The Protection of Communities and Exploited Persons Act, allow sex workers in Canada to engage in communication with customers for the purpose of selling sex; however, it is a crime when a customer approaches the sex worker intending to buy sex, as it is illegal to buy sex in Canada (*Canada v. Bedford: The Decision in 705 Words*, n.d.).

It is legal for sex workers to advertise their work, but it is illegal to sell sex in public places where a minor could be present, such as schools, playgrounds, etc. The new law does not criminalise the sale of sexual services (Countries where prostitution is legal, 2023).

It is important to note that the current laws in Canada do not constitute a full decriminalisation of prostitution. However, they do offer some safeguards and support for sex workers. The intention is to strike a balance between protecting

the rights and well-being of sex workers while addressing issues related to exploitation and the demand for sexual services.

SENEGAL

Prostitution is legal in Africa, but certain prostitution-related actions, such as solicitation, pimping, procuring, and keeping a brothel, remain illegal according to the Penal Code. Solicitation is absolutely forbidden in Senegal, according to Article 318 of the Penal Code. Third-party involvement in activities like procuring and maintaining brothels is expressly forbidden under articles 323 to 325 of the Penal Code. These laws aim to regulate and control the practise of prostitution in the country.

In order to legally engage in sex work in Senegal, one must register with the law enforcement agency and have a valid health certificate that certifies their negative status for sexually transmitted infections. The police oversee sex workers and ensure they undergo monthly medical screenings. Though there is a legal framework that regulates prostitution, it's a fact that registered sex workers are still subjected to violence, are often harassed by police or enforcement officials, and are even arrested by them for fake charges of solicitation. To escape incarceration, some sex workers resort to bribing corrupt police officials with a portion of their earnings. This unfortunate situation instills fear among sex workers, dissuading them from officially registering.

To address these challenges, it is crucial to tackle corruption within the police force and eradicate the harassment experienced by registered sex workers. By doing so, sex workers can feel safe and empowered to register, thereby gaining access to government-provided medical care benefits. These benefits include routine medical check-ups, housing assistance, school fees, and prescription medications. The registration system facilitates harm reduction and safeguard the health and safety of sex workers. (Foley, 2018).

Senegal also forbids pimping, underage prostitution, and the involvement of illegal foreign prostitutes. The maximum sentence for coercing a minor into prostitution is five years in prison and a fine of nearly \$7,600. However, the enforcement of these laws is generally considered ineffective (Mgbako& Smith, 2010).

While Senegal has taken steps to legalise and regulate prostitution, there are significant challenges that need to be addressed. Police harassment and corruption must be addressed in order to protect the rights and well-being of the country's sex workers. By establishing a secure and friendly atmosphere, registered sex workers may fully benefit from the services and safeguards provided by the government.

NEW ZEALAND

New Zealand is the country that serves as the best current example of implementing the decriminalisation model. Here, the sex industry is regulated by labour law, and the sex worker, the customers, and third parties such as managers, drivers, and landlords are decriminalised. (Mac, 2018, p. 190). New Zealand decriminalised sex work with the Prostitution Reform Act, which came into effect in 2003. The PRA provides legal safeguards for street sex work and permits the development of brothels. The decriminalisation of sex work in New Zealand presents a viable and practical alternative to the frequently referenced Swedish Model (Crichton, 2015).

Along with the decriminalisation of prostitution, the Act also serves various purposes:

1. The Act protects sex workers' rights and shields them from being exploited.
2. The Act advocates for sex workers' welfare as well as their workplace health and safety.

3. The Act establishes a framework that promotes public health.
4. The use of juveniles under the age of 18 in prostitution is prohibited under the Act.
5. Other related reforms are implemented by the Act (Abel, Healy, Bennachie, & Reed, 2010, p. 77).

The Prostitution Reform Act has a clause that allows sex workers to quit the sector at any time if they want to. If a sex worker decides to quit the industry, they are entitled to instant access to Social Security payments without experiencing any interim penalties, as opposed to voluntarily leaving other jobs (Mac, 2018, p. 196). This clause recognises sex workers' agency and autonomy and guarantees that they are not disadvantaged while leaving the profession. With an emphasis on the rights and welfare of sex workers, these provisions combine to form a complete legal framework that addresses the complexities of prostitution in New Zealand.

Before 2003, the regulation of sex work in New Zealand followed a different approach, whereby it was not explicitly illegal but various activities associated with it were criminalised under existing Acts. One such clause was Section 26 of the 1981 Summary Offences Act, which made it illegal for sex workers to solicit customers for sex in exchange for money in public areas. Paying for sex was not a crime, so clients were not arrested; however, sex workers were prosecuted for solicitation, which resulted in them bearing a criminal record. There were discrepancies in the treatment of sex workers and their customers, illustrating the need for a more fair and comprehensive policy to govern sex work in New Zealand. Thus, these factors contributed to the adoption of the decriminalisation model (Abel, Healy, Bennachie, & Reed, 2010, p. 75).

With the decriminalisation model coming into effect, New Zealand has not only made it safer for women to engage in their line of work, but it has also done away with punishments for activities like street prostitution, running or

maintaining brothels, allowing a group of sex workers to work together, and working in managed brothels. Employers are accountable to sex workers under labour law. This framework adopted by New Zealand has won praise from various organisations, such as human rights organisations, women's rights organisations, and international bodies like Human Rights Watch, Amnesty International, UNAIDS, and the World Health Organisation (Smith & Mac, 2018, p. 191).

Opposition to decriminalisation often arises from fundamentalist groups and certain factions of feminism. In 2013, a faith-based organisation called Freedom from Sexual Exploitation presented a petition to parliament, urging New Zealand to adopt the Swedish Model, which criminalises clients of sex workers and other third parties. These third parties can include brothel owners, security personnel, other sex workers, landlords, and even family members residing with sex workers. The Justice Committee conducted a thorough review of a petition advocating for the adoption of the Swedish Model, which criminalises clients and third parties in the sex industry. However, the committee rejected the petition, acknowledging the concerns about street prostitution while recognising the impracticality of eradicating it completely. They also acknowledged that a ban on street prostitution could have negative consequences for the well-being of sex workers. Instead, they endorsed local approaches as the most effective means of addressing street prostitution (The New Zealand Model, n.d.).

Decriminalisation of sex workers in New Zealand has been a success in safeguarding the rights and wellbeing of sex workers. New Zealand has decriminalised sex work with the introduction of a new law, known as the Reform of Prostitution Act. This comprehensive framework prioritises human rights, promotes occupational safety, and emphasises public health. The rejection of alternative models, such as the Swedish Model, by the Justice

Committee highlights the understanding that a localised approach is more effective in addressing the complexities of street-based prostitution.

Even though there has been a lot of progress, more has to be done to eliminate the persistent stigma associated with sex work and guarantee the inclusion of marginalised sex workers. The sex business has to accept and respect the agency and autonomy of all those who work in it, which calls for ongoing efforts to promote awareness, confront preconceptions, and develop such an atmosphere. New Zealand has provided a good model for other nations attempting to provide safer and fairer circumstances for sex workers by emphasising human rights and supporting comprehensive approaches.

BANGLADESH

The legal status of prostitution in Bangladesh shifted dramatically in 2001 following a ground-breaking judgement by the country's High Court. Until then, prostitution in the nation was a highly taboo and stigmatised topic. But after the court's ruling, prostitution was made lawful, making it possible for the government to monitor and sanction prostitution. Despite prostitution being legalised in Bangladesh, the constitution states that the "State shall endeavour to prevent gambling and prostitution". Bangladeshi laws prohibit Child prostitution, forced prostitution, solicitation, and operating brothels without a licence.

Sex workers who want to join the industry willingly have to register with the authorities and have to produce an affidavit stating that they are in this line of work out of their own choice. This mandatory step introduced by the government is a way to check that women are not forced into the profession, thus checking trafficking in the country.

Despite the legal recognition, sex workers in Bangladesh often face numerous challenges and adverse social conditions. They are frequently subjected to

societal degradation and discrimination. One of the most important challenges the government faces in implementation is the corruption-ridden system, where police officials not only extort money from sex workers but also sexually harass and abuse them. Thus, since police officials are the main perpetrators of harassing prostitutes, it actually becomes difficult for the sex workers to access justice and seek protection.

One of the serious challenges that sex workers face is the use of vagrancy laws against them. These laws are sometimes employed to detain sex workers indefinitely in shelters. In these shelters, women charged with vagrancy provisions are either released to male "guardians" or required to pay bribes for their release. The detention centres themselves have been reported to be sites of abuse, with sex workers facing mistreatment and exploitation. Those without guardians or funds for bribes often endure longer periods of detention or are released to individuals who continue to exploit them (Zwaki, 2020).

Nevertheless, there have also been constructive legal developments in the country with respect to prostitution. In 2000, the Bangladeshi High Court upheld the legitimacy of prostitution as a profession by declaring that the imprisonment of more than 100 prostitutes during brothel raids was illegal. This historic decision recognised the rights of sex workers inside the legal system and offered some protection and respect for them (Bangladesh Prostitution Legal, 2000).

To address illegal activities within the industry, the police periodically conduct crackdowns, particularly targeting hotels known for facilitating prostitution. These enforcement actions aim to address issues such as human trafficking, underage prostitution, and other illicit practises that can harm vulnerable individuals (Zwaki, 2020).

In Bangladesh, there are around 20 brothel villages, with Daulatdia being the largest and housing over 1,300 sex workers. However, these brothels are unhygienic, sex workers live in appalling circumstances, and they have very little access to essential amenities (Hammond, 2008).

Sex workers in Bangladesh nevertheless confront a number of challenges despite the fact that prostitution is legal and controlled there, including stigmatisation, exploitation, law enforcement officer corruption, and unsanitary brothels. There are continuous efforts to address these problems and defend the rights of sex workers, particularly those of vulnerable groups like children. To safeguard the welfare and rights of sex workers in Bangladesh, more adjustments to the legal system, cultural norms, and support networks are still required.

UNITED KINGDOM

In the United Kingdom, which comprises England, Wales, Northern Ireland, and Scotland, laws surrounding prostitution vary. In Wales, England, and Scotland, prostitution is legal, but activities such as soliciting, kerb crawling, maintaining a brothel, pimping, and pandering are all illegal. These regions follow the abolitionist model of prostitution. The laws that regulate Northern Ireland are quite different from those in the rest of the region. Since June 1, 2015, stricter laws have been employed in this region, and paying for sex has been made illegal. (Prostitution in the UK, n.d.)

Although carrying out sex work is legal, many activities associated with it are considered illegal to varying degrees. The Sexual Offences Act of 2003 makes prostitution unlawful and punishable by law if it is controlled or encouraged for personal benefit. The 1956 Sexual Offences Act specifically forbids operating brothels, and loitering or solicitation on the street is also prohibited. Kerb crawling was banned, stating that the individual's actions are causing long-term nuisance; also, advertisements for sexual services placed in telephone boxes were

banned in 2001. The Act also addresses measures to combat human trafficking, which is considered a component of modern prostitution. General laws on public nuisance and decency are also used to target the sex trade. The rules in Scotland are identical to those in the rest of Great Britain; however, it has recently implemented changes to reinforce legislation against kerb crawling and soliciting the services of a prostitute (Casciani, 2008).

The present legislation on prostitution in the United Kingdom has been attacked for driving the sex business underground and out of the public eye. This has led to hazardous working conditions for sex workers and an increased risk of consumer exploitation. Proponents of legalisation are of the view that legalising prostitution may relieve the problem by enhancing sex workers' protection and well-being. They argue that legalisation will offer safer conditions for women engaging in sex work, access to better support services for sex workers, reduce the stigma connected with it, and give sex workers more control over their working conditions.

While opponents of legalisation have voiced concerns regarding the process, they contend that adopting the Nordic model or sex buyer law could offer a promising solution to address the challenges faced by sex workers. Selling sex is permitted in this model, but purchasing sex is prohibited. By criminalising consumers of sexual services rather than sex workers, they diminish demand for sex work, reducing human trafficking for sexual purposes along with the exploitation of sex workers. A study conducted by Human Rights Info in the UK found that a majority of people surveyed were in favour of supporting sex work rather than opposing it. The poll, which involved 2,000 participants and was the first survey on sex work decriminalisation in four years, revealed that 44 percent believed sex workers should not be prosecuted for street solicitation. If a prostitute is caught soliciting in the streets, they face a £500 fine for a first-time crime (Allen, 2021).

To summarise, laws on prostitution in the UK vary across the country. There are arguments for and against legalising and regulating sex work, with supporters claiming increased safety and rights for sex workers and opponents advocating for the criminalisation of purchasers. Striking a balance between safeguarding business participants and addressing social concerns remains difficult. Continued communication and evidence-based methods are essential for developing effective solutions that prioritise the well-being of all parties involved.

THAILAND

Thailand is one of the countries that are undeniably key centres for the practise of the world's oldest profession. Prostitute's Paradise is the nickname given to this Southeast Asian country. Thailand is now one of the world's greatest prostitution hotspots, attracting thousands of men from all over the world to enjoy the services of Thai sex workers. Pattaya is the country's most popular red-light district, famous for its sexual services all over the world. The sector has expanded tremendously over the years and is now valued at billions of dollars (Ghosh, 1998).

Despite the fact that Thailand is well-known for its sex industry around the world, it is peculiar that prostitution is not legalised in the country. In general, prostitution is not illegal in Thailand, but many actions related to it, such as pimping and sex trafficking, are both criminal offences punishable by long jail sentences and substantial fines. However running a brothel is against the law and punishable by fines or imprisonment. Despite a number of limitations imposed on the sex industry, Thailand's sex business is nevertheless flourishing, in large part because the country's laws on prostitution are not strictly enforced. Prostitution is freely practised in numerous regions of Thailand, and sex work is openly practised in street corners, massage parlours, and pubs.

There are numerous factors that drive a woman into prostitution. Some women are trafficked into this industry and forced to do sex work. These women are trafficked from impoverished rural areas or neighbouring countries such as Myanmar and Cambodia. Once they are trafficked, women are forced to work long hours and frequently face assault from pimps or customers. However, it is not true that only forced prostitution exists in the country; there are women who choose this career voluntarily. Due to the high wages compared to other jobs, many see it as an easy way to make money. While some regard prostitution as a kind of exploitation, others argue that it provides employment opportunities for women who would otherwise struggle to find work. Many people believe that legalising prostitution would help regulate the sector and protect sex workers from mistreatment.

Though the industry makes millions of dollars every year, the fact that the sector is functionally illegal has been a controversial topic. The issue of sex work has now spilled into public forums, and a bill has been introduced in parliament to legalise it. Its supporters claim that the criminalisation of prostitution has not only stripped sex workers of basic labour rights and protections but also made them more vulnerable to violence and exploitation and subjected them to numerous health risks.

The fight to legalise professions in the country is difficult. As Conservative sections within the country, as well as global anti-trafficking organisations, continue to vehemently oppose the legalisation of prostitution in the country, Thailand is a "source, transit, and destination country" for human trafficking, according to the United States Agency for International Development, so they claim that legalisation would make the matter worse in the country. Opponents believe that sex businesses would result in widespread exploitation of women and children in Thailand and would result in large-scale trafficking from neighbouring countries such as Cambodia, Laos, and Myanmar (Wadekar, 2023).

INDIA

India has adopted an abolitionist approach to address the issue of sex work. Under the abolitionist model, India criminalises the organisers of the sex trade but not the sex workers themselves (SITA, 1949). The 1949 United Nations Convention promoted an abolitionist/tolerant policy, which numerous countries subsequently adopted, including India. In 1956, India passed the Suppression of Immoral Traffic Act (SITA), which was subsequently changed in 1986 to become the Immoral Traffic (Prevention) Act, in compliance with its obligation as a party to the 1949 United Nations Convention (Singh, 2003, p. 51).

Sex work in India is considered legal, but it operates within a grey area—not explicitly legal or illegal (Sleightholme & Sinha, 1996). Prostitution in India is a complex and sensitive topic with a significant history and ongoing presence in the country. Sex workers themselves are not considered criminals if they engage in private and independent practises. While prostitution itself is not illegal, certain related activities, such as soliciting customers in public places, running brothels, and profiting from prostitution, are deemed unlawful under the Immoral Traffic Prevention Act (ITPA) (Sabherwal, 2009). Thus reflecting the features of the abolitionist model of prostitution.

The ITPA, which is the current law governing prostitution in India, was theoretically enacted with the aim of improving the conditions for sex workers. However, in reality, it has repeatedly worked against them. This can be seen in the very definition of prostitution in the ITPA, which categorises it as "the sexual exploitation or abuse of persons for commercial purposes," indicating that it is considered illegal (Goyal & Rajanujam, 2015, p. 1083).

Unfortunately, this law has not proved beneficial for the women involved in prostitution; instead, it has further increased their hardships. By criminalising

prostitution and aiming for its eradication, these laws project sex work in a negative light (Sabherwal, 2009). Consequently, the legal status of prostitution in India can be viewed as neither fully illegal nor fully legal.

The ITPA has drawn criticism and sparked controversy. Critics believe that the law has failed to fulfill its goals; in reality, the law works against sex workers. The laws have further marginalised and stigmatised sex workers. They claim that criminalising certain facets of prostitution has driven the sector underground, preventing sex workers from accessing fundamental rights, healthcare, and safety from assault.

In the global implementation of the Abolitionist (tolerationist) system, a notable characteristic has been its disproportionate impact on sex workers themselves. In India, the Immoral Traffic (Prevention) Act, 1956, has resulted in a significant number of arrests, primarily targeting women under sections 7 and 8. An extensive empirical study conducted in Bombay between 1980 and 1987 revealed that during the four-year period from 1980 to 1984, 596 brothel keepers were arrested, while not a single pimp or landlord faced arrest. The study further examined the number of arrests made under the Bombay Police Act sections related to 'indecent behaviour,' finding that 1,395 pimps were apprehended compared to 53,866 sex workers between 1980 and 1987. These statistics clearly demonstrate that sex workers faced more severe penalties than those who run brothels and pimps. Consequently, it is evident that the enforcement of the Act discriminates against sex workers (D'Cunha, 1991).

The debate over the legalisation of prostitution in India has persisted for decades, with mixed opinions from the public. While some support legalisation, others oppose it. Even the Supreme Court of India has shown empathy towards the idea of legalising prostitution through various judgements, including a recent order recognising sex work as a profession.

In addressing the rights and problems faced by prostitutes, two prominent organisations in India are the Durbar Mahila Samanwaya Committee (DMSC) and Veshya Anyay Mukti Parishad (VAMP). DMSC, founded in 1992 and based in Kolkata, focuses on advocating for sex workers. VAMP, on the other hand, is a Maharashtra-based organisation. Both organisations initially started with HIV intervention programmes but have since expanded their scope to include health awareness initiatives, cooperative societies, and educational programmes for women involved in prostitution and their children. Their contributions have been significant, leading to the organisation of events such as the first sex worker conference in Kolkata in 1997, the Asian Meet that took place in Kolhapur in 1991, and the sex worker Carnival Millennium Mela held in 2001. These events have empowered sex workers to raise their voices against injustices and fostered autonomous activism among women in the sex trade (Tambe, 2008).

On the other hand, there are organisations such as Sanlaap and Prerana that oppose the legalisation of prostitution in India and focus on anti-trafficking measures. Sanlaap, established in Kolkata in 1991, views prostitution as a form of violence that causes sexual and economic exploitation of women. The organisation fights against trafficking and provides rehabilitation facilities to survivors. Its goal is to establish a world free of sex trafficking and the exploitation of labour for sexual purposes. Similarly, Prerana, an organisation located in Mumbai, views prostitution as a form of sexual exploitation, and the women involved as victims of human trafficking. Nishant, an organisation in which Sanlaap has played an important role, believes that prostitutes are manipulated and coerced into thinking that their demands can only be resolved if sex work is acknowledged as a form of employment.

Thus, Sanlaap and Prerana highlight prostitution as a consequence of poverty and the sexual exploitation of women, while DMSC and VAMP Champion the

legitimisation of sex work as a valid occupation and actively campaign for the sexual rights of women.

CONCLUSION

This chapter provides an extensive analysis of the models of prostitution that exist across the world, thus shedding light on the success and failure of these models in different countries. The chapter also looks into the feminist perspectives on prostitution, such as radical feminism, liberal feminism, Marxist feminism, dominance theory, intersectional feminism, and sex-positive feminism. Each of these perspectives offers a unique interpretation of prostitution, contributing to a more nuanced understanding of the subject

Thus, this chapter provides insight into international approaches to prostitution, which is essential for evaluating their practicality at a national level. The next chapter will focus on legislative and judicial approaches to prostitution, further clarifying the legal landscape in India.

CHAPTER III

LEGISLATIVE AND JUDICIAL APPROACH TOWARDS SEX WORK

The Legislative and judicial approach toward sex work in India has been a focus of intense debate and criticism. This chapter looks into India's legislative and judicial approaches to sex work. It offers an extensive examination of important laws and major Supreme Court decisions that have shaped the existing regulatory framework. The chapter gives a comprehensive review of how sex work is governed in India by exploring the various regulations on sex work from the colonial era to the present. It will examine a variety of laws, including the Immoral Traffic (Prevention) Act of 1956 and its amendments, as well as key landmark Supreme Court judgements that have shaped discussions and attitudes around sex work.

This chapter also highlights the impact of legislative and judicial interventions on the lives of sex workers. It contextualises the legislative and judicial approaches within broader social and political contexts, aiming to provide insights into the diverse aspects of sex work in India.

PROSTITUTION IN COLONIAL INDIA

In order to grasp the current law regarding prostitution, it is crucial to comprehend the historical legal landscape surrounding this issue and how it eventually culminated in the formulation of the present Immoral Traffic (Prevention) Act (ITPA) 1956.

As discussed in the first chapter, prior to the arrival of the British, sex workers held a respected position in society. During the colonisation of India, sex workers became subject to cultural misunderstandings and colonial ideologies (Banerjee, 2021). During the advent of the British in India, the status of women involved in prostitution underwent a change. The British soldiers who were in

India away from their wives needed to satisfy their sexual needs. At that point in time, it was in the prostitutes that they found solace. The fear of the soldiers turning out gay in the absence of a partner to satisfy their physical needs also became a matter of concern. Thus, the British government opened up several brothels in the state, but under strict regulation. Prostitution started flourishing, but fear of contracting the venereal disease among the English soldiers crept up. Taking this background into consideration, on April 22, 1805, Lord William Bentick, Governor of Madras, passed a resolution that imposed strict rules for the prostitutes, and Lock hospitals were formed in areas where British troops were stationed. Here the prostitute women were ill-treated, physically assaulted, sexually abused, underfed, and imprisoned (Goyal & Ramanujam, 2015, p. 1079)

The Calcutta Police Act of 1860, the Bombay City Police Act of 1887, and the Madras City Police Act of 1888 were among the laws passed in India to control solicitation in public areas and regulate prostitution. Local administrations were given the authority to create rules and regulations by the Military Cantonment Act of 1864, which was subject to prior approval from the Governor General of India-in-Council. These regulations were aimed at inspecting and controlling the residences of prostitutes while preventing the transmission of venereal diseases among English soldiers in India (V. Sithannan, 2006, p. 89).

In 1865, the Governor-in-Council of Madras established a committee that included Scott, Quarter Master General, W.W. Robinson, Inspector General of Police, Pritchard, and President of the Sanitary Commission, Ellis. The committee's objective was to create rules for controlling brothels and preventing venereal diseases. The Cantonment area became the exclusive location for prostitution as a result, and even there, approval from the superintendent of police was required. Prostitutes also needed to register in order to participate in prostitution and receive treatment for venereal illnesses. Due to the prostitutes' inability to register under the prior law, there was unchecked prostitution and a

rise in troops contracting venereal illnesses. The Contagious Diseases Act of 1868 was passed in response. This act strictly regulated prostitution and made registration mandatory for both brothel owners and prostitutes (Sithannan, 2006, p. 90). The Contagious Diseases Act aimed to provide British soldiers with sexual services while protecting them from contracting diseases through these encounters (Bhandari, 2010).

Under the act, each regiment of approximately a thousand soldiers was assigned twelve to fifteen local women residing in designated homes known as chaklas. These women received licences and were registered with the Cantonment Magistrate. They were only permitted to engage with British soldiers. In addition to the chaklas, each Cantonment had lock hospitals where patients were involuntarily confined. The women were required to visit these hospitals regularly, often weekly, for examinations to ensure they were free from any signs of diseases that could be transmitted to soldiers through immoral relationships (Bhandari, 2010). Infected women were kept in hospitals until they were cured, resulting in loss of income and inhumane treatment (Sithannan, 2006, p. 90).

Whenever a regiment entered a large cantonment, all these women were taken to a government brothel, where they were closely monitored by uniformed guards. In open fields, tents were set up for the women at the rear of the encampment while the troops were spread out. The women were transported by rail or cart, accompanied by British soldiers, depending on the regiment's destination. A caretaker or brothel keeper known as the Mahaldarni was assigned to oversee these women and recruit more as needed. The Contagious Diseases Act faced significant opposition, and its failure to be effectively enforced resulted in its repeal in 1888 (Bhandari, 2010).

Initially, international conventions in 1904 and 1910 aimed to stop slavery among white men. The United States and Britain then passed the White Slave

Act in 1910, and India followed suit with similar laws based on the British Act. In 1923, the Government of Bengal passed an act to prevent girls under 13 from being forced into prostitution. In Madras (now Chennai), a bill was introduced in 1928 to combat the importation of women for prostitution. It didn't, nonetheless, become a law. A new law known as "The Madras Suppression of Immoral Traffic Act" was adopted in 1930. It allowed the removal of girls under 18 years old from brothels and empowered police officers to take action against those involved in the prostitution business. Over time, the Madras Act underwent amendments to make it more effective. After India gained independence in 1947, the government of Madras further improved the law by increasing sentences for certain offences and establishing protective homes for affected females.

To put into effect a global agreement made in New York in 1950, a law titled "The Suppression of Immoral Traffic in Women and Girls Bill, 1956" was introduced in the Lok Sabha. The bill was proposed in December 1954 and was signed into law as the "Suppression of Immoral Traffic in Women and Girls Act, 1956" on December 31, 1956. It repealed previous provincial acts, and state governments were authorised to create rules. This act came into force across India on May 1, 1958. The act was also extended to various Union Territories through specific regulations and acts. By combating exploitation, the Suppression of Immoral Traffic in Women and Girls Act (SITA) aimed to protect the welfare of women and girls. It served as a significant measure in fighting against immoral trafficking and forced prostitution in the country. Act 44 of 1986 revised the Act in order to increase the law's efficacy. (Sithannan, 2006, pp. 91–93).

In summary, social, cultural, and colonial considerations all influenced the historical legal framework surrounding prostitution in colonial India. Over time, regulations and acts were implemented to control and regulate prostitution, with the primary goal of protecting British soldiers from venereal diseases. The

evolution of laws and legislation, such as the Madras Suppression of Immoral Traffic Act and the Suppression of Immoral Traffic in Women and Girls Act, aimed to address immoral trafficking and forced prostitution. Currently, the ITPA plays a crucial role in safeguarding individuals from exploitation and preventing human trafficking.

EXAMINING THE LEGAL LANDSCAPE OF PROSTITUTION IN INDIA

The Indian Constitution guarantees basic human rights to all Indians. It promotes the ideal of socioeconomic justice by providing equal opportunity for individuals to access government benefits and equal legal protection. This undoubtedly suggests that prostitutes, like any other regular citizen of India, are entitled to all constitutional rights. Individuals associated with prostitution have the same basic rights ingrained in the Indian Constitution, according to constitutional protections. Therefore, people who participate in prostitution cannot in any manner be denied their fundamental rights. In the following aspects, prostitutes and citizens are equal:

Article 14 states that the state must not deny anyone equality before the law or equal protection of the laws within India's territory. Discrimination on the basis of religion, race, caste, gender, or place of birth is prohibited.

Article 15(3) of the Indian Constitution states that nothing in this article limits the State's ability to provide special provisions for women and children. It is critical to acknowledge that the affirmative action provision included in this article is one of the least-implemented fundamental rights in our Constitution.

Article 19(1) states that all citizens shall have the right to free speech and expression; to assemble peacefully and without arms; to form associations or unions; to move freely throughout the territory of India; to reside and settle in

any part of the territory of India; and to practise any profession or carry on any occupation, trade, or business.

Article 21 of the Indian Constitution addresses the protection of life and personal liberty. It states that no individual shall be deprived of their life or personal liberty except in accordance with a procedure established by law. In *Sunil Batra vs. Government of Delhi* and *Maneka Gandhi vs. Union of India*, the Supreme Court interpreted Article 21 to encompass the right to live with dignity (Ministry of Labour and Employment, n.d.).

Article 23(1) of the Constitution of India prohibits the trafficking of human beings, forced labour, and other similar forms of exploitation. **Article 23(2)** also states that any violation of the provisions outlined in clause (1) shall be considered an offence.

Article 39(f) of the Indian Constitution emphasises the importance of providing children with opportunities and facilities to develop in a healthy manner, ensuring conditions that promote freedom and dignity, while also safeguarding them from exploitation, moral abandonment, and material neglect.

Article 41 of the Indian Constitution mandates that the State establish robust provisions to protect the rights of individuals in terms of education and employment. The state is responsible for guaranteeing the right to work, attend school, and receive public aid in cases of unemployment, age, illness, disability, and other cases of unjustified need, to the extent of the state's economic capacity and progress.

Article 51A of the Indian Constitution lays down certain duties to be performed by each and every citizen of India and also calls upon the State to eliminate practises that demean women's dignity and promote humanism. Consequently, our constitution not only guarantees the right to live with dignity but also

mandates the protection of women and children from exploitation, reinforcing its commitment to their well-being.

The aforementioned Articles serves as evidence of the Indian Constitution's commitment to preserving the rights and dignity of all its citizens, including those involved in prostitution. It guarantees equal treatment under the law, safeguards fundamental freedoms, and emphasises the protection of women, children, and marginalised individuals.

PROVISIONS OF THE INDIAN PENAL CODE, 1860, ON PROSTITUTION IN INDIA

The following provisions are not directly related to prostitution but are nonetheless indirectly related to those activities that are related to the act of prostitution:

Section 354	According to Section 354 of the Indian Penal Code, any person who commits an act of assault or employs criminal force against a woman with the intent to outrage her modesty or with the knowledge that such act is likely to outrage her modesty shall be subjected to penalties including imprisonment for a period of up to two years, a fine, or both.
Section 366	Section 366 of the Indian Penal Code addresses the act of kidnapping, abducting, or inducing a woman for the purpose of compelling her into marriage or engaging in illicit intercourse against her will or with coercion. The provision states that anyone found guilty of such actions shall be subject to imprisonment for a period of up to ten

	<p>years, along with potential fines. (Indian Penal Code, 1860, Section 366) Sections 366A and 366B of the Indian Penal Code specifically target the trafficking of minor girls for the purpose of prostitution, both domestically and internationally. Section 366A focuses on the procurement of minor girls from one part of India to another, while Section 366B addresses the importation of girls under the age of twenty-one from foreign nations for prostitution. The offence of abducting and luring a juvenile girl is punishable by up to ten years in jail and a fine under Section 366 of the Indian Penal Code (IPC) and Section 366A of the same statute. Moreover, if a girl under the age of 21 is imported from another country for the purpose of prostitution, Section 366B imposes a 10-year prison sentence.</p>
<p>Section 372</p>	<p>Section 372 of the Indian Penal Code criminalises the sale, hiring, or disposal of any person under the age of eighteen for the purpose of prostitution, illicit intercourse, or any unlawful and immoral activity. Violators can face imprisonment for up to ten years along with a fine.</p>
<p>Section 373</p>	<p>Section 373 of the Indian Penal Code addresses the act of buying, hiring, or taking a minor into one's possession with the intent to use them as a prostitute. These offences are punishable by up to 10 years in jail and a fine.</p>

Section 375	Section 375 of the Indian Penal Code defines rape as a criminal offence. This section states that a man is guilty of rape if he engages in sexual relations with a woman without her permission, or if she is under the age of 18. Notably, Section 375 states that even a single penetration is sufficient to constitute the act of rape.
Section 497	In contrast, Section 497 formerly criminalised sexual relations between an individual and another man's wife without the consent or connivance of the husband. However, in 2018, the Supreme Court declared Section 497 to be unconstitutional, thereby decriminalising adultery. This landmark judgement overturned three previous rulings by the Supreme Court pertaining to Section 497, effectively establishing that adultery is no longer considered a criminal offence in India.
Section 498	Section 498 of the Indian Penal Code deals with the act of taking or luring away a married woman, knowing she is married and with the intention of engaging in illicit relations, or hiding and keeping such a woman for the same purpose, which is punishable by up to two years of imprisonment, a fine, or both. This Act was later amended in 1983 to incorporate matrimonial cruelty and its definition, and it came to be known as Section 498A of the IPC. The punishment for the offence is up to two years, a fine, or both.

SUPPRESSION OF IMMORAL TRAFFIC ACT (SITA)

On December 30, 1956, the Suppression of Immoral Traffic in Women and Girls Act was passed and became a national law. The Act was put into effect because India was a signatory member of the United Nations International Convention for the Suppression of Traffic in Persons and the Exploitation of Women, held in New York in 1950. The main aim of the Act was to combat immoral trafficking, but its scope was very limited, as the Act attempted to suppress immoral trafficking only in women and girls, so the Act was amended twice since its implementation, in 1978 and 1986 (The Immoral Traffic Prevention Act, 1956).

The need to make amendments to the Act emerged due to the following reasons:

1. **Change in Emphasis:** The original title of the Act, "Suppression of Immoral Trafficking Act," reflected a focus on the suppression of prostitution. In 1986, the Act was renamed as the Immoral Traffic (Prevention) Act (ITPA) to emphasise prevention of prostitution rather than suppression. However, even with the amendment, the Act still carried negative societal and government views towards prostitution, aiming to eventually eliminate it.
2. **Limited Scope:** The scope of SITA was narrow, as it primarily targeted the trafficking of women and girls. This exclusion overlooked a significant section of individuals who were exploited within the realm of prostitution, such as boys, men, hijaras, and koti sex workers. These marginalised groups were not considered under the purview of the Act, thereby neglecting their plight and leaving them vulnerable to exploitation.
3. **Incomplete Definition of Prostitution:** The definition of prostitution provided by SITA considered only voluntary acts where a female "offered her body" for sexual intercourse in exchange for money or goods. This definition failed to acknowledge the existence of forced prostitution and

did not adequately address cases where individuals were coerced or trafficked into the sex trade.

4. **Inadequate Protection for Minors:** SITA categorises females into two groups based on age, distinguishing women above 21 as adults and those below 21 as girls. The Act prescribed different treatment for women and girls involved in soliciting or engaging in prostitution. While women were sent to protective homes, girls were referred to rehabilitation centres. However, the Act failed to differentiate between the exploiters of women and girls, treating them the same and thus neglecting the specific vulnerabilities of underage victims.
5. **Lack of Accountability for Persons Involved in Prostitution:** Another issue that became evident after the enactment of this law was that individuals involved in prostitution, aside from the prostitutes themselves, could only be prosecuted under this Act if they were proven to have “knowingly” and “willingly” engaged women in prostitution. Consequently, pimps, brothel owners, and others would feign ignorance to avoid legal viability. This aspect lacked clarity and posed challenges in prosecuting pimps, brothel proprietors, and others involved in the sex trade (Tambe, 2009, p. 212–213).

Due to the aforementioned flaws in the Suppression of Immoral Traffic Act (SITA), it became evident that amendments were necessary to address its shortcomings. Recognising these flaws, SITA underwent amendments.

IMMORAL TRAFFIC (PREVENTION) ACT 1986

The ITPA Act was enacted to do away with the defects of the Suppression of Immoral Traffic in Women and Girls Act (SITA). The ITPA Act has widened the scope and application of SITA, working to suppress not only trafficking in women and girls but also trafficking in human beings. According to the definition of a prostitute in SITA, it referred only to a female prostitute; now the

term "prostitution" is no longer restricted to women and girls, as it has been extended to include "persons" as well. This definition extends the application of the law to include men, boys, hijras, koti workers, etc.

The previous law did not recognise their existence and did not take into account their exploitation, making their status horrible. The proposed modifications to the Act were seen as a fundamental shift in the social fabric, as they acknowledged the existence of male prostitutes, hijras, and koti workers who were also being exploited and exploited for commercial gain under the Immoral Trafficking (Prevention) Act.

Another alteration in the Act was the division of prostitutes into three groups, namely minors, majors, and children, as opposed to just two categories under SITA. The two categories were women (over 18 years old) and girls (under 21 years old). However, as previously stated, the primary problem of the SITA Act was that the exploiters—both women and girls—were subjected to the same penalties without discrimination. Section 5 of the ITPA Act addresses this issue by establishing differing penalties for obtaining a person for prostitution within each of the three groups. This approach understands the different vulnerabilities and conditions encountered by minors, adults, and children participating in prostitution and tailors the punishment to better accommodate and protect their individual needs.

If a person is major, the penalty is a term of not less than 3 years and not more than 7 years, as well as a fine that could reach up to Rs. 2000. If a person is procured against their will, they face a punishment of imprisonment for a term of 7 years that could increase to a term of 14 years. The quantum of punishment in case the person is a minor than its imprisonment for a term of not less than 7 years and not more than 14 years, and in the case where the person is a child then the punishment shall extend to rigorous imprisonment for a term of not less than 7 years but may extend to life (Sahni, 2008, p. 217).

DEFINITION OF PROSTITUTION UNDER THE IMMORAL TRAFFIC PREVENTION ACT (ITPA)

Prostitution is described as "the sexual exploitation or abuse of persons for commercial purposes" under Section 2(f) of the ITPA. A prostitute is a term used to describe an exploited individual. The SITA's definition of prostitution was deemed inadequate since it solely defined prostitution as the act of a woman or child offering her body for sexual gratification, ignoring the crucial aspect that exploitation or force was frequently utilised. The new legislation changed the definition of 'prostitution' to mean the sexual exploitation or abuse of persons for commercial purposes, and the expression 'prostitute' shall be considered accordingly (Ghosh, 1993).

Thus, two components are required to classify sexual conduct as prostitution.

1. A female offers her body for indiscriminate sexual intercourse, and
2. She does it for payment.

The new definition of 'prostitute' under the 1986 amendment has changed the definition of prostitution from a simple act seen as being against cultural standards to the more serious criminal offences of sexual exploitation and sexual abuse.

LEGALITY OF PROSTITUTION

The legal position of prostitution in India is ambiguous, with the act of prostitution being deemed legal; however, certain prostitution-related acts are forbidden under the Immoral Traffic (Prevention) Act of 1956. These unlawful actions include soliciting, kerb crawling, owning or operating a brothel, practising prostitution within a hotel, involvement in child prostitution, and pimping and pandering. (The Immoral Traffic Prevention Act, 1956).

KEY POINTS OF THE TRAFFIC PREVENTION ACT

Sex Workers: Prostitutes who solicit or seduce will face legal action. They can carry out prostitution in privacy but are prohibited from publicising their phone number. If they violate this prohibition, they could be subjected to a maximum jail sentence of six months. A three-month sentence is also imposed for engaging in prostitution close to public areas or specified venues.

Clients: If a customer participates in sexual activity with a sex worker within 200 yards of a public space or "notified area," he may be charged with consorting with prostitutes and sentenced to up to three months in jail. If the sex worker is under the age of 18, the customer may also be penalised.

Pimps: It is illegal for pimps or live-in lovers to make a living by taking advantage of prostitutes. Every adult male who lives with a prostitute is guilty of a crime and can be subjected to a maximum penalty of two years' imprisonment and a prescribed monetary fine.

Procurement and trafficking: anyone who attempts to purchase or procure someone faces criminal charges. Human trafficking is a crime punishable by 7 years in jail and a fine for the first offence and up to life in prison for subsequent offences.

Brothel: It's against the law to operate a brothel. If found guilty, the owner or operator of a brothel could incur a maximum prison term of three years. Keeping someone in a brothel with the intent to exploit them sexually can result in a sentence of up to seven years in jail. Hotel prostitution is also a criminal offence (The Immoral Traffic Prevention Act, 1956).

Penalties and Provisions: The Immoral Traffic Prevention Act

Section 2(a)	Section 2(a) of the Act defines a brothel as any house, room, conveyance, or place used for the purpose of sexual exploitation or the gain of another person or multiple prostitutes. This provision targets establishments involved in facilitating prostitution.
Section 3	Section 3 of the Act imposes penalties for keeping a brothel or allowing premises to be used as a brothel.
Section 4	Section 4 of the Act imposes penalties on those who profit from the income generated by prostitution. This provision includes family members and aims to deter individuals from financially benefiting from prostitution.
Section 5	Section 5 of the Act penalises the act of enticing, persuading, or taking a person for the purpose of prostitution. This provision specifically targets pimps, brothel owners, and traffickers who engage in the exploitation of prostitutes.
Section 6	Section 6 of the Act imposes penalties for the act of confining a sex worker in a brothel or any location where prostitution occurs. This provision specifically targets middlemen and brothel owners who restrict the freedom of sex workers. Arranging, encouraging, or confining with

	<p>the intent of for the purpose of prostitution (Sections 5 and 6) Penalties are harsher when minors (under the age of 18) are involved (Chandrakar, 2020).</p>
Section 7	<p>Section 7 of the Act states that prostitution is legal, but it should not be carried out within 200 meters of any public places, including religious institutions, educational establishments, hostels, hospitals, nursing homes, or any public locations, as determined by the Commissioner of Police or Magistrate through notification, individuals may face a fine or a prison sentence of up to three months. It is also stated that anyone found guilty of committing one of the aforementioned crimes against a child will receive a prison sentence that varies from seven years to life imprisonment and if the offence is committed against a child, then a person will be imprisoned for a term of 10 years, along with a fine.</p>
Section 8	<p>Section 8 of the act addresses soliciting. On the first conviction, a woman faces up to six months in prison or an Rs. 500 fine, or both, for her involvement in soliciting their clients. If the person gets convicted again, then the perpetrator might end up spending a year in jail.</p>
Section (13, 14,15)	<p>Police personnel entrusted with the application of the Act locally (Special Police Officers) as well as at the national level (Trafficking Police Officers) are conferred special</p>

	powers (Section 13) to raid, rescue, and search properties suspected of serving as brothels (Section 15) (Chandrakar, 2020).
Sections (16, 17, 18, and 20)	Magistrates are authorised to order arrests and removals, direct custody of rescued persons, close down brothels, and remove sex workers (Sections 16, 17, 18, and 20) (Chandrakar, 2020). Section 20 of the Act deals with the removal of a prostitute from any place. The magistrate can also issue an order under this section requiring a prostitute to leave the area and not return. The magistrate must abide by the notice and hearing requirements set forth therein while removing the prostitute from the region (Sahni, 2008, p. 217).

The ITPA Act has proven to be a useful instrument for law enforcement in preventing the proliferation of prostitution throughout India. The Act is all-inclusive, including all the steps necessary to conduct searches, detain suspects, remove victims from brothels, and provide required presumption provisions with regard to specific charges. It has been a crucial instrument in keeping proprietors of brothels and human trafficking under control. However, the fundamental issue is with the conduct's unfavourable attitude towards prostitution, as the term prostitution itself conveys a negative message by classifying it as an unlawful conduct that discriminates against prostitutes. (Sithannan, 2006). The definition of prostitutes under the ITPA Act as the sexual exploitation or abuse of persons for commercial purposes gives a negative connotation to prostitution by defining prostitution as an illegal act. The limitation of the definition of prostitution to a form of sexual abuse or

exploitation, however, creates an additional obstacle and hinders the ability of prostitutes to pursue their profession.

POWERS OF POLICE UNDER THE ITPA ACT

Prostitution has been a part of Indian society for ages, and it has evolved with time. At present, the profession has assumed some dangerous implications as a result of numerous antisocial actors working together. The police are well-known and integral to the prostitution racket. Police officers bear a heavy burden in solving this issue, as they play a crucial role in curbing prostitution and combating the increasing trafficking. It is essential for them to exercise equal caution to avoid wrongfully implicating innocent individuals while searching for real offenders.

The Criminal Procedure Code has clearly defined sections that grant police officers the authority to register a case, conduct investigations, carry out search and seizure operations, make arrests, and present a final report (charge sheet) to the court. However, due to the highly sensitive nature of immoral trafficking, which primarily affects women and girls, the Immoral Traffic Prevention Act of 1956 grants police officers additional powers beyond those provided by the Criminal Procedure Code. These additional powers are aimed at dealing with unique situations, effectively combating trafficking and the commercialisation of vice, while also safeguarding the rights and privacy of those involved and providing assistance to victims of prostitution (Sithannan, 2006).

According to the provisions of the ITPA Act, these are the duties listed above that are to be performed by police officers. However, the way police officers actually function in reality differs significantly. The police play a key role in the prostitution racket, with brothel owners regularly providing them with bribes known as "hafta" to avoid legal repercussions. During raids, it is largely women engaging in prostitution that are harassed. They are arrested under the guise of

soliciting and extorting money from them. Meanwhile, pimps and brothel operators are frequently unscathed by these operations. One significant concern is the disparaging use of the term "prostitute," which is widely used to denigrate women in a variety of contexts. The police have not established any specific criteria for evaluating whether a woman is involved in prostitution. They usually rely on subjective criteria like attitude, stride, cosmetics, clothing, and even the time of day. A police official's perception of women can be a powerful tool for restricting their movement and enforcing socially conservative norms regarding dress and behaviour.

Soliciting is a crime under Section 8 of the Act, and if any woman is caught soliciting, she can be imprisoned for a period of six months, fined a certain amount of money, or be pressed with both charges. If a woman makes any gesture, say words, or wilfully exposes herself, even from her own house, for the purpose of prostitution, she may be found guilty of prostitution. This Act is believed to prevent prostitution, but it is more frequently used to intimidate and extort money and sexual favours from prostitutes, ultimately leading to their harassment (Sudha, 2006, p. 104).

In reality, the authority granted to the police under the ITPA Act is often marred by corruption, harassment, and the targeting of vulnerable individuals involved in prostitution. Power abuse, such as accepting bribes and wrongfully arresting innocent people, undermines the Act's stated purpose of efficiently combating trafficking and respecting the rights of those involved. To genuinely address the issue of prostitution and trafficking, a holistic approach is required that prioritises the welfare and safety of all persons involved while holding accountable those who exploit and perpetuate this illicit trade such as the pimps, procurers, and brothel owners.

MAGISTRATE AND HIS POWERS

Section 2(c) defines a magistrate as "specified in the second column in a Schedule as being competent to exercise the powers conferred by the section in which the expression occurs and which is specified in the first column of the Schedule" (The Immoral Traffic Prevention Act, 1956).

A magistrate under this Act is vested with the following powers:

- A magistrate has the authority to remove a person who is engaged in prostitution in a brothel in accordance with Section 16, for this task, an officer of at least the rank of sub-inspector shall be assigned the duty of entering and bringing the person taken from such a brothel before him.
- If the person who was rescued or removed is not brought before the proper court, they can be transferred to the nearest magistrate, who will issue an order for their secure confinement. When the appropriate magistrate takes charge of the situation, an inquiry is directed to the probation officer when the proper magistrate assumes control of the case, and an order under Section 17 (2) of the same sort as indicated above may be passed.
- The person may be sent for one- to three-year confinement in a protective home if the investigation determines that they need care and protection.
- To carry out his or her duties under Section 17 (2), a magistrate may seek the aid of a panel of five honourable members. He or she may also keep a list of social professionals who are working to curb immoral traffic in society.
- The addition of Section 17A has authorised the magistrate to examine the legitimacy of the parent, guardian, or husband of the person rescued under Section 16 and pass necessary orders in accordance with Section 17.

- A magistrate may issue a show cause notice to the in-charge of premises or a location purportedly utilised as a brothel located in a public area. Within seven days, the in-charge must convince him as to why the property shouldn't be seized for inappropriate usage; if the magistrate disagrees, he may issue an order evicting the occupier or directing the landlord or owner of the place to obtain to seek the magistrate's permission in advance of renting the property out. If the owner, lessor, or landlord is found to be innocent, the premises shall be given to them on the condition that they will not give it on rent to someone who will use them inappropriately.
- A magistrate has the authority to remove any prostitute in his jurisdiction, give her notice, and require her to show cause why she should not be barred from remaining in his jurisdiction and re-entering it. After conducting an investigation and hearing the suspected prostitute, the magistrate may issue an order for her deportation if he believes it is in the best interests of the public (Saji, 2020).

PROTECTIVE HOMES AND CORRECTIONAL INSTITUTIONS

Section 21 of the ITPA deals with the protective Home and a corrective institution. Section 21(b) deals with the "corrective institution," which means an institution in which persons who are in need of correction may be detained under this Act and includes a shelter where persons under trial may be kept in pursuance of this Act.

No victim under Immoral Traffic Prevention can be sent to a correctional institution against her wishes if she is an adult. It also differs in the sense that the former does not contain a correctional facility or a shelter where under trials are kept, but the latter does include a shelter where under trials are detained in accordance with the act.

Section 21(g) deals with "protective home, which means "an institution where people in need of care and protection are kept" under the supervision of technically trained personnel, with the necessary equipment and other facilities for the institution's appropriate operation (The Immoral Traffic Prevention Act, 1956).

Section 21 empowers the state government to establish as many such homes and institutions as it sees proper. These institutions must adhere to the guidelines established by the state government. The following are the procedures for a protective home or a corrective institution:

1. A person or entity, such as a non-governmental organisation, must submit an application to the State Government.
2. Upon acceptance of the application, a licence is issued to the individual or authority. This licence is made in accordance with the rules prescribed under the Act.
3. Preference is given to women for the management of such a home or institution.
4. Before granting the licence, a thorough investigation shall be conducted by the state government.
5. No licence issued or renewed is transferable.
6. If it is found that the protective home or correctional institution is not operating in accordance with the norms or provisions of this act, the licence granted can be revoked. However, before taking such an action, the licence holder shall be heard. Revocation of the licence will cease the functioning of such a home or institution.
7. The licence holder is expected to provide records and other paperwork as requested by the court.

If a trafficked person applies to a magistrate seeking placement in a protective home or care and protection, the court will conduct an inquiry into the matter

and can accept her application for a specified duration. During this time, the trafficked individual must get protective care and vocational training in order to become self-sufficient and economically independent.

A court under Section 10A may send a female offender to the institution if she is found guilty under the provisions of Sections 7 or 8 and her detention in the institution would be advantageous for her. The detention order can be extended for two to five years in lieu of a prison sentence (Saji, 2020).

Overall, the Immoral Traffic (Prevention) Act seeks to assist and protect vulnerable individuals while also addressing corrective measures and rehabilitation for offenders. However, in reality, women who willingly engage in the profession of prostitution are held against their will in these correctional institutions, despite claims that forceful detention would not occur.

BIAS IN IMPLEMENTATION

The implementation of the law not only exhibits gender bias but also demonstrates class bias. This bias is evident in the contrasting treatment of women involved in prostitution based on their social status.

While the institution of prostitution is tolerated, women who provide these services are socially stigmatised. Street prostitutes, who are more visible, face harassment in the name of preserving public morality and decency, while those engaged in prostitution behind closed doors often escape scrutiny. Extensive research conducted by Jean D'Cunha highlights that the enforcement of the Immoral Traffic Prevention Act (ITPA) not only suffers from delayed implementation but also disproportionately targets and penalises women involved in prostitution (as victims, survivors, or workers). Meanwhile, those operating the prostitution racket, including entrepreneurs, landlords, brothel managers, pimps, and procurers, often go unpunished. This disparity in enforcement reflects a discriminatory bias based on social class.

The implementation also exhibits gender bias in favour of men. In an environment where prostitution is controlled primarily by men, including the police, landlords, entrepreneurs, brothel managers, pimps, procurers, and clients, these powerful figures exert control over the women engaged in prostitution yet rarely face accountability for their actions. In contrast, the women who are exploited as sex commodities, enabling the operation of this enterprise, bear the brunt of penalties and legal consequences (Cunha, 1991, p. 43).

Overall, the gender and class biases in the implementation of the law reveal a skewed system that penalises the vulnerable women involved in prostitution while allowing those profiting from their exploitation to evade justice. Addressing these biases requires a comprehensive reform of the legal framework, ensuring equal protection for all individuals involved in prostitution, and holding accountable those who perpetuate exploitation and abuse.

NON-RECOGNITION OF RED-LIGHT AREAS IN THE IMMORAL TRAFFIC (PREVENTION) ACT (ITPA)

The implementation of the ITPA displays a significant blind spot when it comes to recognising the existence of "red light" areas where prostitution activities are concentrated. This exclusion leads to a lack of recognition and comprehension of the specific dynamics and problems that exist in these regions. As a result, even in these well-known areas, women participating in prostitution are always in danger of being identified and exposed to the scrutiny and activities of law enforcement authorities.

The unpleasant fact is that "red light" districts frequently become the major target of law enforcement activities, resulting in repeated raids and crackdowns. These operations not only interrupt the lives and livelihoods of prostitute

women, but they also contribute to a climate of fear and instability. Moreover, instead of recognising the complexities and nuances of the situations faced by individuals involved in prostitution, law enforcement often resorts to setting traps and attempting to catch individuals discreetly carrying out their profession in less overt and public spaces (Khan & Singh, 1987, p.449).

The failure of the implementation of the ITPA to acknowledge "red light" areas and the unique challenges within them perpetuates a cycle of risk and vulnerability for women involved in prostitution. The focus on raids and crackdowns in these areas creates an environment of fear and instability, further marginalising and endangering the individuals who work there.

INADEQUACIES AND CHALLENGES IN THE IMMORAL TRAFFIC (PREVENTION) ACT (ITPA)

The case of Sahyog Mahila Mandal & Another versus State of Gujarat & Others highlighted the indifference and lack of empathy displayed by the courts in enforcing the provisions of the Act. In this case, women from Surat's Chakla Bazaar area who had been working there for about 400 years were apprehended by police under different sections of the Act. Due to the city's expansion, schools, temples, hospitals, and other establishments were built in the area. In the course of a three-month period in 2003, the Deputy Commissioner of Police, Senior Inspector of Police Chakla Bazaar, and their subordinate officers conducted a series of arrests, resulting in the apprehension of 547 female prisoners and 37 male prisoners. Under the threat of imprisonment, the police extorted money ranging from Rs 1,000 to Rs 1,500 from the imprisoned individuals. Surprisingly, the arrested women were not told of the legal rules under which they were being held, and only a few of them were taken before a magistrate. Prostitutes were expelled from their residences under Section 20 of the Act. Landlords who took in these women were warned not to let them in their homes, making them homeless. The government's plan was to transfer the women to

Nari Suraksha Gruh (women's shelter) in the national capital city of Chandrapur and transfer their children to detention homes. However, the women found this unacceptable, as it would violate their constitutional rights under Articles 14 and 21.

In the Court proceedings, the assistant government pleader argued that the conduct of the police officers in apprehending and searching the petitioners in accordance with the Act did not violate any fundamental rights, including the fundamental right to privacy. The Pleader claimed that considering the objectives of the Act and the nature of the offences involved, it was necessary to grant the police officers the power to make arrests and conduct searches without a warrant. They argued that the Act had sufficient safeguards to prevent any abuse of these powers. In its judgment, the court rejected the pleas of the sex workers to amend sections 7(1) b, 14, and 15 of the Act. Unfortunately, the court disregarded the pain suffered by the prostitutes during the course of the proceedings and approved the conduct of the police officers, allowing them to continue their abuse of power, which they claimed was restricted by the Act. (Barde, 2008; p. 226-227).

Activists and non-governmental organizations (NGOs) have called for ITPA's Section 8 to be removed from the Act. This section specifically deals with the act of soliciting or enticing individuals for prostitution purposes. It pertains not only to sex workers but also includes male individuals involved in solicitation, as they fall under the wider scope of the legal framework. Regrettably, since its implementation, this provision has been widely abused by law enforcement agencies, resulting in the further victimization of individuals. While the genuine intention behind advocating for the removal of Section 8 is to prevent the misuse of the law, its removal could potentially allow brothel keepers and pimps to expand their illicit activities. In the absence of this section, there would be no distinct provision in the current Indian legal framework, apart from Section 8 of the ITPA, which expressly prohibits individuals involved in the sex trade from

actively seeking or enticing customers, whether through direct engagement or by publicly offering trafficked victims for such purposes. The only recourse would be the provisions of the Indian Penal Code (IPC) relating to 'indecent behaviour in public places.' However, it is important to note that prostitutes would still be subject to prosecution and victimisation under these provisions. It is clear that the current situation necessitates a careful examination of the implications of removing Section 8. While the provision has been misused, eliminating it completely without addressing the concerns of protecting vulnerable individuals in the flesh trade may inadvertently empower brothel keepers and pimps. Balancing the need to prevent victimisation by ensuring appropriate regulation is crucial to bringing relief to the victims without enabling further exploitation.

Section 20 of the Immoral Traffic (Prevention) Act (ITPA) has been frequently used as a tool for violating the fundamental right to privacy. In the case of *Maharashtra v. Madhukar Narayan Mardikar*, the court emphasised that even a woman with a promiscuous lifestyle is entitled to privacy, and her privacy cannot be invaded at will. She is entitled to the preservation of her private space and is equally entitled to legal protection. The court rejected the argument that a complaint made by an unchaste woman should be considered unreliable and insufficient to jeopardise the career or reputation of a government official. The observation stated that the personal life or intimate relationships of the complainant should not diminish the importance of her testimony or undermine her right to justice. Despite these legal principles, corrupt police officials continue to raid the private residences of sex workers on a daily basis. These officials exploit the situation by extorting money from the sex workers under various false pretences that the prostitutes may not fully comprehend. The fear of prosecution leads the sex workers to pay up, perpetuating a cycle of abuse and exploitation. It is evident that the enforcement of Section 20 of the ITPA has led to violations of the right to privacy and targeted harassment of sex workers.

Efforts should be made to ensure that the law is applied in a just and fair manner, respecting the privacy and dignity of all individuals, regardless of their occupation or lifestyle (Barde, 2008, pp. 226–227).

Any location designed for use by or accessible to the general public, including public transport, is referred to as a "public place" under Section 2 (h) of the Immoral Traffic (Prevention) Act (ITPA). This definition grants the police extensive powers to conduct raids and arrest sex workers. Under this definition, a sex worker's home or workplace can be considered a public place because it is open to the public at any time. There is also a problem with the lack of a clear distinction between the sex worker's residence and public roads. Many areas where brothel-based sex work occurs are often characterised by narrow lanes and densely populated localities. This lack of delineation leads to a lack of clarity and makes it challenging for sex workers to distinguish between their private dwellings and their public spaces (Sarode, 2008, p. 233).

The implementation process of the Immoral Traffic (Prevention) Act (ITPA) is susceptible to significant discrimination. Section 3 in the ITPA lays out the penalties for owning a brothel or allowing premises to serve as a brothel. However, there are very few cases brought against individuals who rent their property to pimps operating a brothel. Similarly, few pimps themselves are arrested. It is worth noting that both the owners of the premises and the pimps are individuals who profit from prostitution and are deemed guilty under Section 4 of the Act. The existence of such discrimination in the enforcement of the law raises important questions about equality and equal protection under the Constitution. If there is a principle of equality before the law and equal protection of the law for all citizens, then why does such discrimination occur during implementation? This crucial question encompasses various human rights concerns.

The current definition of prostitution as 'commercial sexual exploitation' or 'abuse of persons for commercial purposes' fails to recognise sexual activity as a legitimate form of work. The prevailing negative connotation surrounding prostitution further obstructs the acknowledgment and acceptance of sexual activity as a legitimate occupation. The women engaged in prostitution themselves bear the brunt of legal action. Statistics reveal a disturbing trend where they are frequently arrested, charged, and convicted under the provisions of the ITPA. While brothel owners, traffickers, pimps, and procurers are seldom apprehended, let alone brought to trial or punished, The ITPA, which is ostensibly intended to protect individuals engaged in prostitution, falls short of punishing those who exploit these women. Instead, it exacerbates their victimisation and undermines their rights. The law, in its current form, fails to provide adequate safeguards against the exploitation that plagues these vulnerable individuals, thus compounding their suffering (Reforms of Laws Relating to Prostitution in India, 1998).

Under the ITPA, prostitution racketeers often escape punishment, while the women involved in prostitution shoulder the majority of the legal repercussions. Various factors contribute to this regrettable situation. Many offences related to prostitution are bailable, enabling racketeers to secure their release on bail without much difficulty. Moreover, there is often a lack of political will to diligently track down these racketeers once they are out on bail.

Another factor contributing to the ineffective prosecution of offenders is the failure to accurately record statements, or in some cases, to record them at all. This deficiency undermines the legal proceedings and weakens the case against the perpetrators. The collection and presentation of evidence also pose significant challenges, further hampering the successful prosecution of those involved in the exploitation of women. Corruption also plays a detrimental role in the fight against prostitution rackets. Bribery can lead to cases being dropped or weakened, allowing the offenders to escape justice. Moreover, the submission

of false age certificates in court obstructs successful legal action against the racketeers. This deceitful practise often results in the dismissal of cases and allows the culprits to continue their illicit activities with impunity (Cunha 1997, 241).

The Immoral Traffic (Prevention) Act (ITPA) in India has proven to work against the women involved in prostitution, highlighting the need for significant changes. The Act's enforcement has resulted in the violation of fundamental rights and has disproportionately targeted sex workers. To create a more favourable environment for these women, comprehensive reforms are necessary. It is imperative to prioritise their rights, recognise sex work as a legitimate profession, and ensure equal protection under the law.

THE IMMORAL TRAFFIC (PREVENTION) AMENDMENT BILL 2006

The Immoral Traffic (Prevention) Amendment Bill was introduced in the Lok Sabha on May 22, 2006, and subsequently, the Bill was referred to the standing committee on June 2, 2006. The committee's report was then finalised on November 23, 2006. The main objective of the Immoral Traffic (Prevention) Amendment Bill, 2006, is to amend the existing Immoral Traffic (Prevention) Act of 1956 in order to successfully tackle trafficking and commercial sexual exploitation. However, it does not outlaw prostitution. Instead, it focuses on tackling human trafficking by addressing both the supply side (traffickers) and the demand side (clients) of the industry. There are three critical issues that need to be addressed: First, it needs to be determined whether prostitution should be considered a lawful source of income when individuals willingly enter or remain in the profession. Second, there is a debate regarding the effectiveness of punishing clients as a strategy to combat trafficking. The question arises as to whether penalising clients is the most efficient approach to reducing demand and ultimately combating human trafficking. Third, there is a need to decide whether human trafficking for purposes other than sexual exploitation should

also be subject to punishment under the Bill. These concerns are further addressed below.

Legality of Prostitution: The Bill provided a definition for "prostitution" as the sexual exploitation or abuse of individuals for commercial gain and "brothel" as any location or premises used for the purpose of sexual exploitation either for the advantage of another person or for the shared advantage of two or more prostitutes. While the Bill did not impose penalties on individuals engaged in prostitution for personal gain, it penalises prostitution if it takes place within a brothel or within 200 metres of specified establishments such as educational institutions, places of religious worship, hotels, hospitals, nursing homes, or other public places as determined by the Commissioner of Police or Magistrate. These restrictions do not explicitly outlaw prostitution, but they create significant obstacles for individuals working as prostitutes. Consequently, it becomes exceedingly difficult for a person to engage in prostitution as a profession. Therefore, the Bill lacked clarity on whether prostitution should be recognised as a legitimate source of income for individuals who voluntarily choose to enter or continue working in the industry.

Punishing Clients: The Bill sought to impose penalties on individuals who enter a brothel with the intention of sexually exploiting a victim of trafficking. However, several issues arose from this provision. One challenge was that distinguishing between a trafficked person and a non-trafficked person can be difficult for visitors to a brothel. Under the Bill, only when a victim of human trafficking is sexually exploited would someone be subject to punishment. The client wouldn't be subject to any sanctions if the victim wasn't a trafficked person.

Nonetheless, the lack of a clear definition of "sexual exploitation" in the Bill raised concerns that it could potentially lead to the harassment of anyone entering a brothel, regardless of their intentions or reasons for being there. The

provision to sanction clients may not be an effective technique to combat sexual exploitation, as evidenced by international experience. For instance, countries like Sweden penalise the act of acquiring sexual services, considering prostitution a form of violence against women and children. However, some argue that this approach has driven the trade further underground.

Increased Police Harassment: The bill lowers the required rank of the special police officer from Inspector to Sub-Inspector of Police. This proposed amendment raised concerns about potential consequences for sex workers, such as increased police harassment and illegal detentions.

Trafficking Limited to Prostitution: India is a signatory to the UN Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention against Transnational Organised Crime. According to this Protocol, "trafficking in persons" is defined as the recruitment, transportation, transfer, harbouring, or receipt of individuals through the threat or use of force. Exploitation must involve the use of another person for prostitution, sexual exploitation, forced labour, slavery, akin to servitude, slavery, or organ harvesting.

In contrast, the Bill under consideration criminalised trafficking only if the victim is used for prostitution. It did not encompass human trafficking for other purposes such as domestic labour, bonded labour, begging, camel racing, or organ trade. While certain laws exist that target specific offences, including begging, camel racing, household labour, forced servitude, they do not comprehensively cover all forms of exploitation faced by victims of trafficking. Consequently, there may be a case for enacting a comprehensive law on trafficking in persons that goes beyond its association solely with prostitution (The Immoral Traffic (Prevention) Amendment Bill, 2006).

The following are the key components of the bill:

1. Provisions that penalised prostitutes for soliciting clients were deleted
2. Anyone who enters a brothel with the intention of sexually abusing another person, the trafficked victims would be subject to punishment.
3. All of the offences specified in the Bill would be prosecuted in secret, which would bar the general public from attending the trial.
4. The Bill criminalised trafficking in persons for the purpose of prostitution.
5. The Bill established authorities at the centre and state levels to combat trafficking. (The Immoral Traffic (Prevention) Amendment Bill, 2006).

KEY ISSUES AND ANALYSIS

1. Prostitution is not a crime; however, it is forbidden to engage in it in a brothel or within 200 meters of any public place. The question of whether prostitution should be considered a legal means of subsistence if chosen voluntarily seems unclear.
2. The potential consequences of penalising clients who visit prostitutes could result in driving this sector underground, thereby hindering the establishment of legal channels of support for victims of trafficking.
3. This Bill criminalised trafficking for the purpose of prostitution. Other forms of trafficking, such as those used for bonded work and domestic employment, were not addressed by the Bill.
4. The rank of the special police officer responsible for enforcing the Act was downgraded from Inspector to Sub-Inspector. Delegating such powers to junior officers may raise concerns about the potential for increased harassment.
5. In order to combat trafficking, the bill created federal and state agencies. Yet it doesn't go into detail about the composition, role, or function of these authorities.

When sex workers' associations learned about the proposed amendment, over four thousand sex workers staged protests against the changes. Despite the opposition, the amendment was introduced in Parliament in May 2006. Subsequently, it was referred to a Parliamentary Standing Committee for further examination. The bill was strongly criticised by Durbar Mahila Samanwaya Committee as it was seen potentially detrimental.

The Standing Committee, after reviewing the bill, called on the government to reconsider the proposed criminalisation of clients. It also emphasised the importance of prioritising the rehabilitation of sex workers from a public health perspective. However, the Committee's mandate was limited, and the focus on criminalisation remained a central aspect of its recommendations. However, the conflicting priorities of different government ministries and the challenge of balancing law enforcement and public health concerns as well as strong opposition to the bill from sex workers organisations led to the demise of the proposed amendment.

Ultimately, the amendment to the Immoral Traffic (Prevention) Act faced challenges due to conflicting perspectives and priorities between the law enforcement and health ministries within the Indian government. The government struggled to strike a legislative balance between addressing trafficking concerns and tackling issues related to HIV and public health. As a result, the proposed amendment to the Act, aimed at addressing these complex issues, was unsuccessful. The conflicting priorities of different government ministries and the challenge of balancing law enforcement and public health concerns ultimately led to the demise of the proposed amendment (Swaran, n.d.).

While the Immoral Traffic (Prevention) Amendment Bill sought to address the pressing issues of trafficking and sexual exploitation, its limitations, lack of clarity, and inability to address all forms of exploitation prevented its successful enactment.

LANDMARK JUDGEMENTS ON SEX WORK IN INDIA

Gaurav Jain v. Union of India and others (1997)

In the case of *Gaurav Jain v. Union of India and others* (1997), the bench consisted of K. Ramaswamy and D. P. Wadhwa, and JJ. An advocate filed a PIL in the matter of *Gaurav Jain v. Union of India* after reading an article in "India Today" that emphasised the difficulties experienced by the children of prostitutes. The advocate sought separate residential facilities and schools offering vocational training specifically for these children. The aim was to provide them with a conducive environment for their well-being and integration into mainstream society.

However, the court, after hearing the State Governments and Union Territories, decided against segregating these children by establishing separate schools and hostels. The court believed that such segregation would not be in their best interest or that of society. The court opted to separate the children from their mothers and allow them to interact with other individuals, enabling their integration into society. It recognised that living in the undesirable environment of prostitute homes could lead to abuse and the potential for these children to enter the same profession as their mothers. While the court declined to support the plea for separate hostels, it emphasized the importance of ensuring sufficient lodging in both hostels and reformatories to facilitate the separation of these children from their mothers.

To address the issue comprehensively, the Supreme Court formed a committee comprising advocates and social workers. This committee was tasked with investigating the matter and proposing appropriate actions. The committee's report highlighted various factors contributing to women's involvement in prostitution, such as poverty, social intolerance, family customs, poor health, desolation, and a lack of alternative livelihood sources. It also emphasised the

significant role of NGOs in rehabilitating and educating these children. Based on the committee's report, the court identified two main issues for consideration. First, it examined the rights of prostitutes' children and explored ways to ensure their safety, rehabilitation, and integration into society. Second, it considered strategies to eliminate prostitution and address its underlying causes.

The court stated in its judgement that victims of prostitution often come from disadvantaged and illiterate portions of society, where they face prejudice that breaches their human rights. The court upheld the rights of prostitute children to equality, dignity, equal chances, protection, and care, emphasising their rightful place in society. It also held society responsible for the suffering of these women and called for collective efforts to combat human trafficking and rescue victims. The state was entrusted with the responsibility of rescuing, rehabilitating, and economically empowering the victims.

The court issued comprehensive directions to address the rescue and reestablishment of prostitutes and their children. These directions included recognising women involved in prostitution as victims rather than offenders and focusing on their economic independence through self-employment and vocational training. The court also called for the establishment of juvenile homes to ensure the rehabilitation and safety of children. In addition, a committee was created to thoroughly investigate the problem and provide solutions to help sufferers.

One justice, however, dissented from the majority judgement, contending that the case should concentrate on rehabilitating the offspring of prostitutes rather than outlawing prostitution or rehabilitating prostitutes themselves. A review petition was then submitted, which caused the case to be moved to a bigger three-judge bench. The review petition overturned the initial judgement's directions for the elimination of prostitution. However, the guidelines formulated for the welfare of prostitutes' children in the original case were

upheld in the review petition as well (*Gaurav Jain v. Union of India and others*, 1997).

The case highlighted the need to protect the rights and welfare of the children of prostitutes, emphasising their integration into mainstream society and the importance of their separation from the unfavourable environment of prostitute homes. The court recognised the role of various stakeholders, including NGOs, in rehabilitating and empowering these children.

Delhi v. Pankaj Chaudhry &Ors. (2009)

This cases were presided by Judges: R. Bnaumathi, Indira Banerjee, and J.J. In this case, the Supreme Court reviewed the decision made by the Delhi High Court, which had acquitted four individuals accused of gang rape. The Supreme Court disagreed with the High Court's decision and upheld the conviction made by the trial court. So, the accused individuals were found guilty, and their earlier acquittal was overturned.

This case involved allegation of gang rape against the accused individuals. They lived in the same neighborhood as the prosecutrix in Delhi. According to the prosecution, on the evening of July 28, 1997, the accused entered the prosecutrix's dwelling and demanded bidi and water, which she refused. They allegedly switched off the electricity, and one of the accused held her hands while the other tore her clothes and raped her in succession. The prosecutrix raised an alarm and lost consciousness. When her mother arrived on the scene, she discovered the prosecutrix unconscious and witnessed the defendant flee the house. The prosecutrix was transferred to the hospital, where a physical examination revealed bruising on her thighs and a ripped blouse. Upon receiving information about the incident, the police arrived at the scene and later recorded the prosecutrix's statement. A case was registered against the accused under Section 376 of the IPC (Indian Penal Code). During the trial, the prosecutrix

testified, and medical and forensic reports were presented. The trial court found the accused guilty and sentenced them to ten years of rigorous imprisonment. However, the accused filed an appeal before the High Court.

The High Court accepted the appeal and reversed the accused's conviction under Section 376 of the Indian Penal Code. The High Court raised concerns about the prosecution's case, referring to a previous incident involving the prosecutrix and other sex workers who were in police custody. The High Court raised concerns about other sex workers who were in police custody. The High Court noted that the timing of the alleged rape, as stated by the prosecutrix, coincide with her being in custody with other sex workers, making it implausible for the rape to have occurred during that period. The High Court questioned the timing of the alleged rape in relation to the prosecutrix's past interaction with the police. It was alleged that the police and the victims conspired together to fabricate a false rape case. The police officers implicated in the case faced strong condemnation and were directed to undergo prosecution for a number of violations following the High Court's ruling. Aggrieved by these remarks and directions, the police officials filed a separate appeal.

The accused had alleged that the woman involved in the case had questionable moral character and was involved in prostitution. They claimed that the woman had filed a false rape case against them as an act of revenge, citing a previous case that the accused had supposedly filed against her. However, upon thorough examination by the Supreme Court, it was uncovered that the accused had never filed any case against the victim. The Supreme Court affirmed the decision of the trial court, stating that even if the accused's assertions regarding the character of the woman involved were accurate, it in no way justifies or grants them the authority to engage in non-consensual rape. It is crucial to understand that evidence suggesting past consensual sexual relationships does not automatically imply loose moral character, nor does it justify or excuse rape. The law recognises that even a woman who is perceived as sexually liberal

cannot be subjected to rape solely based on her character. Regardless of a woman's sexual history or societal perception of her morality, she is entitled to equal protection under the law, including protection against rape. It is essential to uphold the dignity and rights of all individuals, irrespective of their past actions or societal judgements. The Supreme Court reviewed the submissions and the evidence, including the prosecutrix's testimony and medical reports. It found no reason to disbelieve the prosecutrix's statement, which was corroborated by her mother's testimony. The Supreme Court criticised the High Court for relying on the respondent's arguments and disregarding the complaints made by the women involved. The Court noted that the police officers were not given the opportunity to present their side of the story. As a result, the Court dismissed the perjury charges against the police officials. Ultimately, the Court upheld the original ten-year sentence imposed by the trial court for the accused individuals (*Govt. Of NCT of Delhi v. Pankaj Chaudhary and Ors.*, 2019).

The Supreme Court's decision in the case of *Delhi v. Pankaj Chaudhary & Ors.* (2009) highlights the importance of upholding the dignity, rights, and equal protection under the law for all individuals, regardless of their past actions or societal judgements. The Court firmly stated that evidence of consensual sexual relationships or perceived moral character does not excuse or justify non-consensual rape. The judgement serves as a reminder that every individual has the right to refuse sexual activity and should be protected from any form of exploitation or harm.

Budhadev Karmaskar v. State of West Bengal (2011)

The judges presiding over this case were Markandey Katju and Gyan Sudha Misra. In 2004, Budhadev Karmaskr was accused of brutally murdering a prostitute. The Calcutta High Court, after a thorough examination of the case, reached the conclusion that Karmaskar was guilty of murder. Following the

announcement of the conviction, the appellant decided to challenge the severity of the punishment handed down to him by appealing to the Supreme Court. However, the Supreme Court upheld the decision of the Calcutta High Court and took the extraordinary step of converting the appeal into a Public Interest Litigation, demonstrating its own initiative in the matter. Consequently, in 2010, Criminal Appeal No. 135 was dismissed, effectively affirming the previous judgements. (*Budhadev Karmaskar v. State of West Bengal*, 2012)

The Judgment in the case of *Budhadev Karmaskar v. West Bengal* stands as a landmark decision that has had a profound impact on securing the rights of sex workers in India. This significant ruling not only shed light on the vulnerabilities faced by sex workers but also exposed the prevailing social stigma attached to their profession. The Supreme Court of India established that the right to life enshrined under Article 21 of the Constitution of India applies to sex workers as well. The Court emphasised that sex workers are human beings and, like any other person, they have the right to live without fear of assault or violence. By upholding the right of sex workers to live with dignity, as enshrined in Article 21 of the Indian Constitution, This case brought to light the fundamental idea that everyone deserves to be treated with respect and to have their innate dignity honoured, regardless of what they do for a living. In essence, this pivotal judgement played a vital role in reshaping the legal landscape surrounding sex work and paved the way for the protection and advancement of the rights of sex workers in the country.

To address the issues confronting sex workers, the court instructed both the central and state governments to adopt proactive measures. It instructed them to establish rehabilitation centres and offer technical and vocational training opportunities, such as sewing, to help sex workers find alternate means of income and improve their livelihoods (*Budhadev Karmaskar v. State of West Bengal*, 2011). In line with the Court's directive, the Immoral Traffic

(Prevention) Act introduced Section 21, which mandates State Governments to construct and maintain protective residences for sex workers. These protective residences should operate under licences issued by the appropriate authorities after thorough investigations. These licences have a specified duration and are non-transferable. The Act grants the Government the authority to establish supplementary regulations concerning the licensing, management, and upkeep of these protection homes, in addition to addressing other pertinent issues (The Immoral Traffic Prevention Act, 1956). The court's ruling and the subsequent provisions in the Immoral Traffic (Prevention) Act aim to protect the rights and dignity of sex workers, acknowledging their vulnerability and seeking to provide them with opportunities for rehabilitation and a chance to lead a dignified life beyond sex work.

The Budhadev Karmaskar case holds immense significance in fostering an inclusive and compassionate stance towards the matter of sex work in India. Its impact was far-reaching, as it not only questioned societal attitudes but also shed light on the rights and dignity of sex workers, ultimately opening avenues for protective measures and rehabilitation opportunities. This pivotal judgement served as a catalyst for recognising and upholding the fundamental principle that every individual, irrespective of their occupation, is entitled to respect and acknowledgement of their inherent dignity. In essence, the Budhadev Karmaskar case sparked a transformative narrative that emphasised inclusivity, compassion, and the imperative need to safeguard the rights and well-being of sex workers in India.

Manoj Shaw v. State of West Bengal (2013)

Manoj Shaw v. State of West Bengal case was presided over by the Judges Manojit Mandal, Joy Malya Bagchi, and JJ. The Chief Justice of the Calcutta High Court issued an order to the investigating officer to issue notice under Section 41A of the Code of Criminal Procedure against the owner of a health

spa. This spa had employed minor girls in the business of prostitution, which is a grave offence. During the hearing, there were conflicting reports regarding the presence of the investigating officer.

Despite this, the court emphasised the importance of a serious and sensitive approach when dealing with offences that involve carrying out prostitution under the disguise of lawful businesses like health spas. There were conflicting reports regarding the presence of the investigating officer during the hearing based on the information given by the judicial officer. The court observed this disparity and highlighted that in circumstances where the offence involves a sentence of seven years or more, the investigating officer should carefully evaluate all facts before determining whether to issue a notice under Section 41A of the Code of Criminal Procedure. The court acknowledged the gravity of the acts under Section 5 of the Act, which entail prostitution under the cover of authorised companies such as health spas. It emphasised that such grave offences require sensitivity, attention, and a serious approach from law enforcement authorities.

However, the court recognised a major imbalance in the treatment of the parties engaged in this case. Only a warning letter was sent to the spa owner, but the victims, who were previously exploited and came from financially impoverished and uneducated families, were imprisoned. It is vital to remember that the victims in this instance were juveniles, and under the Immoral Trafficking (Prevention) Act, pushing kids into the prostitution business is punishable by more than 7 years in jail. By treating victims as accused and imprisoning them, the court increased their vulnerability to threats and intimidation. Recognising this significant mistake, the court denied the petitioner's anticipatory bail since interrogation was deemed essential. The court also sent the investigating officer a show-cause notice and ordered the victims' immediate release. It further directed that their statements be recorded in line with Section 164 of the Criminal Procedure Code.

In addition to these measures, the court emphasised the need to give interim compensation to victims under the state victim compensation scheme. It also emphasised the need for their rehabilitation in conformity with the law. These procedures are critical in acknowledging the victims' status and giving them the required support and assistance (*Manoj Shaw v. State of West Bengal*, 2013). This case serves as a depressing reminder of the judicial system's deficiencies in dealing with the predicament of sex workers. In order to ensure their safety, well-being, and ultimate reintegration into society, they must be treated as victims rather than perpetrators. The Calcutta High Court's decision, in this case, paved the way for a more compassionate and just approach to dealing with the complex issues surrounding sex work.

Kajal Mukesh Singh and Ors v. The State Of Maharashtra (2020)

The case Kajal Mukesh Singh and Ors. V. The State of Maharashtra was heard by Judge P.K Chavan. In this case, sex workers Kajal Mukesh Singh, Sneha Anil Singh, and Bhumi Ail Singh were the petitioners who filed a case against the State of Maharashtra. The petition was brought before the Bombay High Court by three sex workers who were registered under the Immoral Traffic (Prevention) Act of 1956. The petition attempted to dispute the validity of their imprisonment and confinement, stating that their legal rights should be respected and safeguarded, including their right to dignity, autonomy, and the ability to choose their own career. The petition challenged an order dated October 19, 2019, issued by the Metropolitan Magistrate, Mazgaon, under Section 17 (2) of the said Act, as well as an order dated November 22, 2019, issued by the Additional Session Judge, Dindoshi, in Criminal Appeal No. 284 of 2019, which upheld the aforementioned order of custody and detention. Following the filing of the petition in the Bombay High Court, certain observations were made by the court. The central focus of the Case revolves around a trap set by the complainant, Rupesh Ramchandra More, and a police

constable who received confidential information about a pimp named Mr. Nizamuddin Khan. This information suggested that Mr. Khan arranged customers for prostitutes at a guest house in Malad, Mumbai. In order to apprehend Mr. Khan, two individuals were used as decoys, posing as customers seeking his services. The plan involved conducting a raid on the guest house where Mr. Khan had arranged for a prostitute to meet the decoys. This resulted in the arrest of Mr. Khan, and also the victims, who were prostitutes and they were also taken into custody.

The Magistrate began an investigation into the victims' ages and ordered a medical check to determine their health condition. The victims were temporarily placed in the custody of an NGO tasked with providing them with primary education and counselling to protect them from engaging in prostitution. Reports submitted by the probation officer and the Magistrate revealed that the victims belonged to the 'bediya' community, where girls are often coerced into prostitution after reaching puberty. Since the victims' parents had given consent for their involvement in prostitution, the Magistrate decided not to grant custody to their mothers. An appeal challenging this order was filed in the Court of Session at Dindoshi, but it was ultimately dismissed. Subsequently, the victims were detained at a government institution called 'Nava Jeevan MahilaVastigruha' for a period of one year, providing them with care, protection, and shelter. However, the Court found that the victims had been detained for a year without being prosecuted, essentially treating them as accused individuals without any final order. The Court held that both lower courts had handled the case casually, ignoring the factual details and the provisions of Section 17 of the Immoral Trafficking (Prevention) Act. The Court emphasised that the Act does not authorise the magistrate to hold victims in custody for more than three weeks without a final order. It also highlighted that if the magistrate is satisfied with the inquiry conducted under Section 17(5) of the Act, they should direct the victim's custody to a protective home. The inquiry under Section 17 (5)

should be conducted by a panel of individuals with a social work background, preferably including three women if feasible.

The Court stressed that the goal of the Act is to punish sexual exploitation, commercial sex, the management of brothels, and the seduction of others, not to abolish prostitutes or prostitution. After carefully reviewing the facts and circumstances of the case, the Court found that there was no evidence to imply that the victims were guilty and that they had the right to dwell freely and choose their career, as provided by their constitutional rights. As the victims were adults and possessed the same fundamental rights as ordinary citizens, their consent should have been obtained before placing them in a correctional home (*Kajal Mukesh Singh and Ors. v. The State of Maharashtra*, 2020).

Ultimately, The Bombay High Court overturned the custody and detention orders, acknowledging and supporting the sex workers' fundamental rights, resulting in their release, and reiterating the significance of protecting their dignity, autonomy, and freedom of choice.

Vishal Jeet v. Union of India and Other States and Union Territories (1990)

In the case of Vishal Jeet v. Union of India and Other States and Union Territories, the bench comprised Justices S. Ratnavel Pandian and K. Jaya Chandra Reddy. A petitioner filed a PIL before the Supreme Court requesting rehabilitation for girls, devadasis, and joints who were coerced into prostitution. The petitioner stated that young girls, upon reaching puberty, were forced into prostitution either by their parents or by kidnapping. Parents who are no longer able to care for their daughters because of extreme poverty push them into these occupations. While profit-driven brothel owners employ prostitution rackets to kidnap these young girls.

In light of this background, the petitioner filed a PIL along with the affidavits of nine girls who were forcefully driven into this unethical practise and demanded their rehabilitation. The submitted PIL sought recommendations in three areas.

1. Asking the CBI (Central Bureau of Investigation) to launch an investigation against the police officers who are in charge of the Red Light areas where the Devadasi and Jogin traditions are flourishing and to take the necessary action to punish such lawbreakers and incompetent police officers.
2. Transferring all detainees from red-light districts and those involved in prostitution to state-run rehabilitation facilities where they would be given access to essential services such as healthcare and medical treatment.
3. To rescue young girls from the racquets of the flesh trade and to bring the children of prostitutes who are discovered begging to safe homes.

The court deemed the issue to be of utmost concern and highlighted that Article 23 of the constitution provides "the right against Exploitation" and outlaws human trafficking in all its forms. A breach of this article is a punishable offence. In addition, Article 35(a) (ii) declares that regardless of anything else in the constitution, Parliament (and not the state legislature) has the authority to enact laws that specify penalties for offences that are punishable under the constitution. The court further pointed out that Article 39, subsections (e) and (f), of the constitution directs the state to focus on protecting minors from exploitation and moral and material abandonment while also ensuring that children at a young age are not abused. Other laws that ensure child protection were also taken into consideration by the court. Like the Juvenile Justice Act of 1986, the Immoral Traffic Prevention Act of 1956, and Sections 366-A, 366-B, and 372, 373, of the Indian Penal Code of 1860.

The court ruled that it is not necessary to conduct a CBI investigation throughout the whole nation. Only strict law enforcement will ultimately be able to eradicate this problem. As a result, the court issued the following instructions:

1. The governments of all the states and the UTs should order law enforcement to act quickly to end child prostitution.
2. In each of their respective zones, the State Governments and UTs shall establish independent advisory committees (*Vishal Jeet v. Union Of India and Other States and Union Territories*, 1990).

The case's importance lies in combating forced prostitution and human trafficking and protecting the rights of vulnerable children and girls, setting crucial precedents for effective law enforcement and rehabilitation measures.

The State Of Uttar Pradesh v. Kaushaliya and Others (1963)

On October 1, 1963, the Supreme Court bench consisting of Justices Gajendragadkar, P.B., Subbarao, K., Wanchoo, K.N., Shah, J.C., and Dayal, Raghubar, delivered the verdict in "The State of Uttar Pradesh vs. Kaushaliya and Others." In this case, the respondents were accused of carrying out prostitution in the City of Kanpur. Following information from a Sub-Inspector of Police who was not a Special Police Officer, the City Magistrate of Kanpur issued notices to the respondents under Section 20(1) of the Act, requesting that they provide justification as to why they should not be required to leave the residences where they were living and be barred from returning there. After receiving the notifications, the respondents objected, arguing that the proceedings could not be maintained legitimately. These objections were rejected by the magistrate; thus, going against the magistrate's orders, the respondents approached the Additional Sessions Judge in Kanpur, but the case was rejected. Subsequently, the respondents filed a petition with the High Court

in Allahabad seeking a review of the case. The High Court approved their requests and temporarily suspended the legal proceedings against the respondents in the City Magistrate's Court in Kanpur. Section 20 of the SITA was invalidated by the High Court in 1963 on the grounds that it violated Articles 14 and 19(1)(d)(e) of the Constitution.

Justice W. Broome stated that if a profession or trade is an "inherently immoral activity like prostitution," then "it is open to the state to impose a total ban, and no one can claim any fundamental right to carry out such an activity. The Supreme Court also dismissed the claims that the Magistrate's authority was unconstitutional and discriminatory and that the information should only come from a Special police officer.

The Bombay High Court's assertion that Section 20 infringed on basic rights protected by Article 19(1)(d)(e) was rejected by the court. The Supreme Court stated that the limitations imposed by Section 20 are "reasonable limitations imposed in the public interest" and did not infringe upon basic rights. Finally, the Supreme Court upheld the appeals of the Additional Session Judge and overturned the judgement of the High Court. Justice Subba Rao invalidated several of the critical and significant arguments made by the High Court in support of their ruling in a unanimous Supreme Court verdict. (*The State Of Uttar Pradesh v. Kaushaliya and Others*, 1963).

The Supreme Court's decision, in this case, reaffirms the constitutionality and reasonableness of Section 20(1) of the Suppression of Immoral Traffic in Women and Girls Act. The court's ruling ensures that the state has the authority to impose necessary restrictions on activities like prostitution in the interest of public welfare and morality. By upholding the legality of the Magistrate's actions and rejecting the challenge to the section, the court has upheld the integrity of the law and balanced the protection of fundamental rights with the greater societal good. This landmark judgement sets an important precedent for

dealing with issues of public interest and maintaining the social fabric while safeguarding individual rights.

SEX WORKERS MANIFESTO

On November 14, 1997, in Kolkata, the Durbar Mahila Samanwaya Committee (DMSC), also known as the "Unstoppable Women's Synthesis Committee held the first-ever national conference for sex workers in India. The conference was titled "Sex Work is Actual Work: We Demand Worker's Rights." During this significant event, a document called the "Sex Workers' Manifesto" was unveiled, consisting of eight pages that laid the foundation for the rights of sex workers.

The manifesto represents the views and concerns of sex workers and addresses various issues related to their lives, sexuality, and social structures. It emphasises the need to challenge societal norms, moral judgements, and oppressive structures that marginalise and stigmatise sex workers. The manifesto seeks to create awareness and understanding about the sex workers' movement and advocates for their rights and dignity. The sex workers' movement emerged from the collective community of sex workers involved as health workers, known as Peer Educators, in an HIV/STD Control Project in Sonagachi since 1992. Through their involvement in the project, they recognised the importance of viewing sex workers as complete individuals with emotional and material needs rather than reducing them to their sexual behaviour alone.

The manifesto highlights the complexities of promoting safe sex practises among sex workers. It recognises that promoting condom use alone is not sufficient if sex workers lack self-worth, face exploitation, or struggle with basic survival needs. The manifesto also questions the attitudes and behaviours of clients, societal perceptions of sex workers, and the influence of ideologies such as love, family, and motherhood on sexual interactions. The manifesto

highlights that sex workers are usually not in a position to negotiate with their clients. If a sex worker is starving, either because she does not have enough customers or because most of her income is spent on maintaining a room or meeting the demands of madams, local power brokers, or the police, how can she be in a position to refuse a client who is not persuaded to use condoms or views it as an unnecessary impediment in his pursuit of 'absolute' pleasure?

Historically speaking, "sex work" is regarded as one of the world's oldest vocations, primarily because it meets an important social demand. In the past, the term "prostitution" was widely used to refer to a group of individuals who provided sexual services in order to meet a societal need. However, in the present day, it is more commonly used to describe a homogeneous group of individuals, typically women, who are perceived to pose a risk to public health, moral standards, social cohesion, and civic order.

The manifesto challenges the stigmatisation and social exclusion faced by sex workers. It critiques the moralising and controlling impulses of dominant social groups. The manifesto argues that sex work is a legitimate occupation that meets a social demand, and therefore, sex workers should have the right to demand better working conditions and rights within the industry. The manifesto challenges the notion that sex work is not considered "real work" and calls for the recognition of sex workers' rights and needs within the sex industry. It questions the feasibility and desirability of rehabilitation programmes and argues that sex workers should be able to demand better working conditions and fair treatment without being forced to leave their chosen profession.

The manifesto delves into the history of sexual morality and its influence on societal norms and regulations. It critiques the narrow confines placed on sexuality, the control over women's reproduction, and the privileging of heterosexuality. It also examines the unequal treatment of men and women regarding sexual expression and the societal expectations placed upon women's

behaviour. The manifesto clarifies that the sex workers' movement is not anti-men but against patriarchal ideologies that oppress women. It acknowledges the diversity among men and emphasises the need to address gender oppression within labour and social movements. The manifesto also clarifies that the movement is not against the institution of the family but seeks to challenge the inequities and oppressive structures within traditional family norms (Sex Worker's Manifesto, 1997).

The Sex Worker's Manifesto established a solid groundwork for acknowledging the rights and dignity of sex workers, challenging societal perceptions, and demanding better treatment and working conditions within the sex industry. It remains an important document in the ongoing struggle for the empowerment and social justice of sex workers in India and beyond.

THE HISTORICAL DECISION OF THE SUPREME COURT ON PROSTITUTION

In its recent order, the Supreme Court of India has officially recognised sex work as a legitimate profession, providing important legal protection to sex workers. This significant decision affirms that sex workers have the right to dignity and equal rights under the law, as guaranteed by Article 21 of the Constitution. The court explicitly prohibits the arrest, harassment, and victimisation of sex workers engaged in voluntary and consensual adult work. It emphasises the necessity of providing immediate medical care and legal support for sex workers in cases of sexual offences. The court also advocates for the inclusion of sex workers in decision-making processes concerning policies that affect their lives. The ruling prohibits the media from disseminating images or identities of sex workers who have been arrested or subjected to a raid, and imposes criminal sanctions for voyeuristic activity. Moreover, the court upholds the rights of sex workers' children, ruling that kids should not be separated from their mothers

until there is proof of trafficking (*Budhadev Karmkaskar v. The State of West Bengal and Ors.*, 2022).

This historic Supreme Court decision provides optimism for significant developments in the lives and rights of sex workers across the country. However, the successful execution of these guidelines continues to be a significant concern. The next chapter will extensively explore and debate the meaning and ramifications of this ruling.

CONCLUSION

This chapter provides an in-depth examination of legal and judicial attitudes towards sex work in India, beginning with the establishment of British colonialism to the present day. The introduction of British control dramatically reduced the status of women involved in prostitution in Indian society, turning prostitutes who were once admired into despised figures. As our nation moved closer to independence, regulations against prostitution got more and more stringent, denying women the right to choose their profession. Indian legislation during the post-colonial era pushed sex workers beyond social norms perpetuating their marginalisation. Despite gaining freedom, policies continued to marginalise and stigmatise sex workers, effectively transforming them from ordinary citizens to criminals.

The chapter also highlights major landmark judgements relating to sex work in India. While the Indian Constitution enumerates various Fundamental Rights to which a prostitute is entitled like any other ordinary citizen, they are prohibited from exercising these Rights due to the stigmatisation of their profession, and as a result, they fail to take advantage of the various government schemes introduced for the socio-economic welfare of the nation. The Immoral Trafficking (Prevention) Act (ITPA) of 1986, which is the primary law regulating prostitution in India, has also failed to achieve the objectives or aims

that it envisaged. Although the ITPA's stated goal is to protect sex workers, it is routinely used against them.

Law enforcement personnel who are tasked with protecting sex workers frequently take advantage of and harass sex workers. This pervasive exploitation emphasises how urgently better government policies are required to solve this problem. Moreover, the recent ground-breaking verdict by the Supreme Court acknowledging sex work as a legitimate industry and affirming the rights of sex workers to dignity and equal legal protection is a highly positive step. However, the effective implementation and enforcement of this ruling remain uncertain, creating doubts about its practical implications. These issues will be thoroughly explored in the next chapter.

CHAPTER IV

EMPOWERING SEX WORKERS: SUPREME COURT'S LANDMARK DIRECTIVES

19 May 2022, witnessed a historic moment as the Supreme Court of India recognised sex work as a legitimate profession. The Supreme Court upheld the fundamental rights of sex workers to be treated with dignity and respect. This landmark decision represents a significant stride in the ongoing advocacy for the rights of sex workers, solidifying the legality of consensual sex work. As a result of this ground-breaking decision, strict laws on prostitution have been relaxed, and extensive guidelines have been established to safeguard sex workers' rights, dignity, and general well-being.

In this chapter, we will closely examine the details of the Supreme Court's Order and guidelines therein and explore the potential implications and challenges that may arise during their implementation. It is essential to understand that while the judgement recognises sex work as a "profession" and validates the legality of voluntary sex work, it does not fully decriminalise the profession. It is critical not to misinterpret this recognition as affording sex workers full labour rights or comparing their occupation to other professions. However, the latest ruling has not only legalised consensual sex but also unequivocally awarded sex workers the right to dignity and equal protection under the law, representing a significant step forward in acknowledging their status and rights. Sex work is legal in India if it's carried out at least 200 metres away from public places, according to the Immoral Traffic (Prevention) Act of 1956. Nevertheless, despite this legal standing, sex workers have experienced abuse and incarceration while engaging in their line of business. Numerous cases have been reported where sex workers are forcefully sent to rehabilitation centres and coerced to abandon their livelihood. There is also a dearth of information

regarding the legality of sex work among the majority of the Indian populace, resulting in stigmatisation and the misconception that it remains illegal.

The laws surrounding the legality of prostitution in India are notably ambiguous. While the act of prostitution itself is recognised as legal, certain related activities are explicitly prohibited under the Immoral Traffic (Prevention) Act of 1956. Engaging in the solicitation, running a brothel, kerb crawling, indulging in prostitution within hotels, involvement in child prostitution, and acts of pimping and pandering are all outlawed.

The ambiguity about the laws related to prostitution, a general lack of public awareness about its legality, and the harsh treatment of law enforcement towards sex workers, even though their profession is legal, culminated in the recent order that formally recognises sex work as a legitimate profession. The guidelines provided in this Order offer clarity, confirming that consensual sex work is indeed lawful in India and that sex workers should no longer be treated as criminals. This chapter will thoroughly examine the case that led to the passing of this Order, providing a detailed analysis of each guideline and the necessity for their implementation. Moreover, it will explore the potential implications and challenges associated with the Order. Recognising the importance of this milestone, the chapter marks a significant stride towards acknowledging and legitimising sex work in India, potentially paving the way for the gradual legalisation of prostitution in the country in the long run.

SUPREME COURT'S PERSPECTIVES ON PROSTITUTION

In India, despite prostitution being legally allowed, it remains stigmatised and treated as a criminal activity. This unfortunate perception leads to the marginalisation and mistreatment of women engaged in this profession. As a result, they endure harassment, violence, and social discrimination, intensifying their hardship. The associated stigma further compounds their struggles,

making it difficult for sex workers to access basic rights and earn a decent livelihood. It is worth mentioning that the Supreme Court has consistently shown empathy towards prostitutes, advocating for the legalisation of prostitution and condemning their exploitation on multiple occasions.

In December 2009, the Supreme Court raised an important question regarding the expansion of the industry of prostitution. Recognising that prostitutes face significant challenges and live in harsh conditions without basic rights, the court suggested that if the government is unable to effectively curb the growth of this industry, it should consider legalising prostitution. The Supreme Court further emphasised that legalising prostitution could regulate the industry and facilitate the rehabilitation of sex workers, offering them better support and opportunities for improvement (Roy, 2015, p. 3204). In 2011, the Supreme Court of India heard a PIL submitted by NGOs Bachpan Bachao Andolan and Childline calling for the large-scale cessation of trafficking in the nation. The judges of the apex court stated that no nation has been able to totally eradicate sex work, so only through legalisation will the government be able to curb trafficking. Justices Dalveer Bhandari and AK Ptanaik told Solicitor- General Gopal Subramaniam. "When you say it is the world's oldest profession and when you are not able to curb it by laws, why don't you legalize it? You can then monitor the trade, rehabilitate and provide medical aid to those involved." (The Economic Times, 2009). Subramaniam had mentioned that he would look into the suggestion. These questions by the apex Court demonstrate that the judiciary has historically had a pro-legalisation stance and has time and again reflected an empathetic approach toward prostitutes.

Recently, the Supreme Court made news when it invoked Article 142 of the Indian Constitution, using its discretionary power. On May 19, 2022, the Supreme Court recognised sex work as a profession, a socially and historically ground-breaking decision that stirred both applause and controversy. It provided guidelines to acknowledge prostitution as a profession and emphasised

the importance of treating sex workers with dignity and ensuring their access to constitutional rights. The ruling granted persons who practise this profession and their children the same "decency and dignity" as other people. The verdict acknowledges the agency and autonomy of consenting adults engaged in the trade, grants them legal protection, and aims to address the deep-rooted social stigma surrounding sex work. It reaffirmed that they are also entitled to a dignified life under Article 21 of the Constitution. This verdict came from a three-judge bench—Justices L Nageswara Rao, BR Gavai, and AS Bopanna (*Budhadev Karmaskar v. The State of West Bengal, 2022*).

In order to fully comprehend the importance of the Supreme Court's landmark decision, it is important to examine the series of events that preceded it. In particular, a pivotal judgement in the case of *Budhadev Karmaskar v. State of West Bengal* must be explored in depth in this context.

BACKGROUND

Budhadev Karmaskar vs. the State of West Bengal

The landmark ruling in the *Budhadev Karmaskar v. State of West Bengal* case set a significant precedent in affirming the rights and dignity of sex workers. This case brought attention to the vulnerable position of sex workers and the pervasive social stigma they confront while also upholding their right to live with dignity, as enshrined in Article 21 of the Indian Constitution. In response to this case, the Supreme Court took proactive measures by issuing regulations to address the challenges faced by sex workers, aiming to prevent future crises. This ruling played a pivotal role in promoting wider public awareness that sex workers should not face discrimination solely due to their profession. Instead, they deserve to be acknowledged as individuals with the same rights and privileges as any other member of society.

On the fateful night of September 17, 1999, at about 9.15 p.m., a heinous murder of a sex worker, Shrimati Chayay Rani Pal alias Buri, 45 years old, occurred in the red light district of Jogen Dutta Lane, Kolkata shocking the general public. Buri resided in a three-story building on Jogen Dutta Lane, where the incident occurred. Prior to the unfortunate incident, the victim was sleeping near the staircase, in front of her room on the second floor. The accused, Budhadev Karmaskar, walked up to the second floor and accidentally stumbled upon the victim, resulting in a loud commotion. Subsequently, the accused physically assaulted the victim using his fists and legs, leading to severe bleeding. As a result, she fell to the ground, and the accused further subjected her to violence by pulling her hair and forcefully pushing her head against the wall.

The horrifying incident resulted in the victim experiencing bleeding from the top of her head, nose, and ear. An eyewitness named Asha Khatun, who was present on the second floor during the incident, promptly raised an alarm. Other inmates rushed to the scene and witnessed the accused ruthlessly attacking the victim. When people protested, the accused hastily abandoned the victim, forcefully pushed the onlookers aside, and fled. Within five hours of the incident, the accused was apprehended by the police on Jogen Dutta Lane at around 2.15 a.m. unfortunately, upon arriving at the hospital, the victim was pronounced dead. For committing such a heinous crime, a case was registered against the accused.

In the appellant's arguments, the learned advocate vehemently refuted all charges brought forward by the prosecution. The advocate argued that because Asha Khatun did not face cross-examination, her statement should not be regarded as acceptable under Section 164 of the Code of Criminal Procedure, 1973. Also, no inhabitants of the neighbourhood where the crime happened were brought as witnesses, throwing doubt on the prosecution's case. In response, the prosecution presented evidence suggesting a strained relationship between the deceased and the accused, highlighting intermittent quarrels. The prosecution

contended that eight out of eleven injuries were enough to cause death under normal circumstances. The appeal was ultimately rejected by the Hon'ble High Court of Calcutta. The court rejected the appellant's claim that the eyewitness statement was inadmissible under Section 164 and instead saw it as an important piece of evidence that gave a vivid description of the accused's behaviour. The court discovered evidence of animosity between the accused and the dead, which resulted in repeated altercations. Moreover, it was established that the accused tripped upon the sleeping deceased near a staircase, triggering the altercation. The Court recognised the serious injuries caused by the accused, which were confirmed by the post-mortem analysis. These injuries were considered serious enough to cause the deceased's death in the normal course of nature. The court was particularly dissatisfied with the fact that there was no justification for the injury near the left eye of the accused when the defence case was pure denial. Ultimately, the High Court upheld the conviction and dismissed the appeal. Subsequently, the case reached the Supreme Court through a criminal appeal, where his conviction was upheld (*Budhadev Karmaskar v. State of West Bengal, 2011*).

This ruling held significant importance for the sex workers' movement, as it shed light on the grim reality of the torture and murder faced by sex workers at the hands of individuals who perceive them as mere commodities. It emphasised that being a sex worker in a stigmatised profession does not justify taking away their lives. The Court's decision affirmed that individuals engaged in sex work are indeed human beings, and it firmly declared that no one possesses the right to take their lives unlawfully. One turns to prostitution due to poverty rather than because they enjoy it. The sex industry must be treated with compassion by society and should not be despised. In the light of Article 21 of the Constitution, they too have a right to live with dignity. The case firmly established that such inhumane acts should not be tolerated in society. The judgement solidified the right of sex workers to live with dignity,

acknowledging their humanity and equal entitlement to rights and privileges like any other member of society. Just because their profession carries a social stigma does not deprive them of the right to live with dignity. According to Article 21 of the Indian Constitution, every individual is entitled to the fundamental right to life and personal liberty, regardless of their occupation or societal perceptions. In its directives, the Supreme Court mandated both the central and state governments to create comprehensive schemes aimed at tackling the problems faced by sex workers. The Supreme Court stated that the Central and State Governments, through Social Welfare Boards, should devise strategies for the rehabilitation of physically and sexually abused women, commonly known as prostitutes. The Supreme Court ordered the Central and State Governments to develop schemes to provide technical and vocational training to sex workers and sexually abused women in all Indian cities. The schemes should specify who will provide technical and vocational training and how they will be rehabilitated and settled by providing work. For example, if technical training is for a skill such as sewing clothing, etc., arrangements should be made to provide a market for such items; otherwise, they would go unsold and unused, and the woman would be unable to sustain herself. (*Budhadev Karmaskar v. State of West Bengal, 2010*).

Beyond merely stirring the public conscience, this ruling sparked inspiration and facilitated social change. Budhadev Karmaskar's case transformed the legal landscape of sex workers' rights in India. Recognising the gravity of the crimes perpetrated against sex workers and the challenges arising from societal stigma, the Supreme Court took proactive measures through a suo moto intervention. This case was subsequently transformed into a Public Interest Litigation (PIL), enabling the court to address the issues afflicting sex workers.

On July 19, 2011, the Supreme Court established a panel comprising Mr. Pradip Ghosh as Chairman, Mr. Jayant Bhushan as Senior Counsel, Usha Multipurpose

Co-operative Society through its President/Secretary, Durbar Mahila Samanwaya Committee through its President/Secretary, and Roshni through Ms. Saima Hasan to assist and advise the Court in issuing appropriate directions in the matter. The panel was chaired by Mr. Pradip Ghosh, a senior advocate, to effectively address the issues faced by sex workers and propose potential solutions. The panel diligently worked on the matter, delivering seven interim findings and a final report in 2016. The report underlined the importance of the panel's recommendations for both federal and state governments while enacting new legislation. Through these proactive actions, the Supreme Court aimed to raise awareness of the challenges faced by sex workers, combat the stigma associated with their line of work, and push for the adoption of practical solutions to improve their well-being

The panel presented a series of recommendations in the report addressing the following terms of reference:

- (1) Prevention of trafficking,
- (2) Rehabilitation of sex workers who wish to leave sex work, and
- (3) Conditions conducive for sex workers who wish to continue working as sex workers with dignity

Through an Order dated July 26, 2012, the Court amended the third term of reference to emphasise the importance of creating conditions that enable sex workers to live with dignity, in alignment with the provisions of Article 21 of the Indian Constitution. Following extensive discussions with all relevant stakeholders, the Panel meticulously examined the terms of reference and subsequently presented a comprehensive report (*Budhadev Karmaskar vs. The State of West Bengal, 2011*).

Although the panel was active in submitting findings and making recommendations and the central government had said that it would take them into account when drafting legislation, Parliament has not yet passed any laws, despite the fact that the recommendations were made by the panel in 2016. The panel's reports primarily focused on the fundamental rights of sex workers. The lack of central government legislation to address the issues confronting sex workers has hampered their advancement in terms of legal rights and protection.

The Supreme Court's three-judge panel, headed by Chief Justice L. Nageswar Rao, relied on its exceptional powers to issue an Order in accordance with Article 142 (Gopal, 2022). This Article grants the court discretionary authority to pass decrees or orders necessary to ensure fair and complete justice for pending cases or subjects before it. The Supreme Court stated that the guidelines in the Order would stay in effect until the Union of India approved relevant legislation. It was further mandated that all relevant authorities, including the police, central government, and state governments, strictly adhere to these directions until a comprehensive law is passed by the state to address the rehabilitation, protection, and upliftment of sex workers.

This report became the foundation for the Court's 10 recommendations regarding the recognition of sex work as a profession. Out of these recommendations, six were embraced by the central government and incorporated into the Court's order. However, the remaining recommendations have faced reservations from the central government, prompting the Court to instruct the Union government to submit its objections or response on the matter. The court emphasised that its directions will remain in effect until the Union of India enacts legislation. The Supreme Court justified this crucial step by citing the Central government's delay in enacting a law, prompting the Court to assert its authority to ensure progress in this regard. (Kumar, 2022).

The Supreme Court uses its jurisdiction to step in when the Indian government fails to solve a constitutional issue through legislation. This has been shown in a number of instances, including the creation of guidelines to address workplace sexual harassment that ultimately formed the basis for the law. (Schmall & Yasir, 2022). In line with the principles articulated within Article 21 of the Indian Constitution, the recent Supreme Court ruling emphasises the necessity for rehabilitation and the promotion of enabling conditions that uphold the dignity of sex workers. This ruling demonstrates the Court's commitment to ensuring that sex workers receive essential support and conditions to live with dignity.

The panel's ten recommendations are summarised in the points below; each recommendation will be examined in detail later.

- Sex workers have the right to equal legal protection. Criminal law must apply equally in all circumstances, regardless of age or consent. When it is obvious that the sex worker is an adult engaging with consent, the authorities must refrain from intervening or taking any criminal action.
- When a sex worker complains about a criminal, sexual, or other forms of sexual offence, the police must take it seriously. Any sexually assaulted sex worker should have access to all resources available to sexual assault survivors, including immediate medical care.
- It is not illegal for sex workers to engage in voluntary sex work, and the only thing that is illegal is the operation of a brothel. Consequently, the sex workers involved should not be subject to any form of criminalisation, such as imprisonment, sanctions, harassment, or victimisation. Therefore, when conducting raids, this should be taken into account and sex workers should not be penalised.
- State governments may be required to do a survey of all the ITPA Protective Homes so that any cases of adult women being held against their will can be assessed and processed for release quickly.

- The sex workers and/or their representatives are required to be involved in the development, formulation, and implementation of any sex workers' policy or programme, as well as should be involved in making any changes to sex work legislation.
- A sex worker's child shouldn't be taken away from her just because she's a sex worker.
- The Court mandated that the media should refrain from publishing photographs of sex workers or disclosing their names while covering rescue efforts and that the Indian Penal Code's voyeurism provision under Section 354C be enforced if the media does post images of sex workers with their customers.
- The police should treat all sex workers with respect, and they should not verbally or physically abuse sex workers, use force against them, or force sex workers to engage in any sexual activity.
- The use of condoms by sex workers as a means of protecting their health and wellbeing should not be viewed as a criminal offense or used as proof of a criminal offense.
- Workshops should be held by the Central government and state governments to sensitise sex workers about their legal rights with regard to sex work, the responsibilities of the police, and what is permitted/prohibited under the law, through the Legal Services Authority at the National, State and District level. Sex workers should be informed as to how they can approach judicial system to uphold their rights and avoid unwarranted harassment at the hands of traffickers or the authorities (*Budhadev Karmaskar vs. The State of West Bengal, 2022*).

In addition, the Court instructed the UIDAI to give Aadhar cards to sex workers while exempting them from the requirement of evidence of domicile. The Supreme Court's ground-breaking decision establishing the profession of sex workers covers a wide range of concerns concerning the protection and

empowerment of those involved in sex work. These suggestions attempt to address long-standing issues confronting sex workers and guarantee that they are treated with the same dignity, respect, and rights as any other person, free of prejudice and abuse.

At the centre of these recommendations is a holistic approach aimed at bringing about fundamental changes in how society sees and treats sex workers. This entails resolving legal, social, and policy issues in order to establish an environment that respects the rights and dignity of sex workers. The recommendations will be discussed in detail in order to understand how each one affects a sex worker.

MAJOR POINTS IN THE JUDGEMENT

POLICE VIOLENCE AGAINST SEX-WORKERS

The complex dynamic between the police and sex workers has been a longstanding topic of debate in Indian films and literature. This connection has been fraught with strain and conflict throughout history. According to various comprehensive investigations on the issue, the police regularly play a significant role as perpetrators of crimes against sex workers. Given that police personnel are responsible for ensuring everyone's rights and safety, when it comes to sex worker's, the scenario is quite different. Unfortunately, a significant number of sex workers are subject to exploitation and violations of their rights by law enforcement authorities, jeopardising their citizenship status.

According to a report by the policy research organisation Centre for Advocacy on Stigma and Marginalisation, the police "ignore complaints related to family and partner violence" with regard to such workers and instead "offer advice to women to quit sex work and settle domestic matters 'amicably.'"(Schmall & Yasir, 2022). Based on a report encompassing a span of three years, data from 22 High Courts across the nation was analyzed from 2010 to 2013, there were

only eight cases filed by sex workers throughout the country, despite the fact that it's believed that there are at least 3 million sex workers in India. The reason behind this abysmally low number of cases is indicative of the fact that they have poor access to legal recourses, and it's also an indicator that when a sex worker approaches a police station to register their case, their complaints are not taken seriously and are not registered. (Chatterjee, 2020).

The implementation of the Immoral Traffic (Prevention) Act (ITPA) has significantly hindered the autonomy of sex workers by granting excessive power to the police, who exploit their authority under the pretext of enforcing the law. This legislation enables police to make false accusations of illegal solicitation, leading to the unjust arrest of sex workers. Unfortunately, the law is often misused by the police to harass and extort money from prostitutes. If they don't comply with that, then they are subjected to beatings as well. *To* survive in their profession and evade arrest, sex workers are compelled to bribe police officers, further exacerbating the problematic dynamics of their relationship.

Nevertheless, a recent Order from the Supreme Court has sparked hope for a positive change in this predicament. The Court's guidelines, designed to tackle the violence inflicted by the police upon sex workers, represent a crucial stride towards addressing this longstanding issue in India. It is anticipated that this order will result in an enhancement in the conditions and rights of sex workers, offering a glimmer of hope for a more equitable and just relationship between them and law enforcement.

The very need for the Supreme Court to outline these guidelines indicates the lived reality of sex workers in India. The requirement for this to be specified in a judgement as of 2022 demonstrates how deeply ingrained patriarchal viewpoints are within the system of law. The ruling maintains:

"When it is clear that the sex worker is an adult and is participating with consent, the police must refrain from interfering or taking any criminal action. There have

been concerns that the police view sex workers differently from others. When a sex worker makes a complaint of criminal, sexual, or any other type of offence, the police must take it seriously and act in accordance with the law." (Mutsuddi, 2022). The court instructed the police to provide all necessary services, including emergency medical and legal care.

The bench further said:

"It has been noticed that the attitude of the police towards sex workers is often brutal and violent. It is as if they are a class whose rights are not recognised. The police and other law enforcement agencies should be sensitised to the rights of sex workers, who also enjoy all the basic human rights and other rights guaranteed in the Constitution to all citizens. Police should treat all sex workers with dignity and should not abuse them, both verbally and physically, subject them to violence, or coerce them into any sexual activity" (*Budhadev Karmaskar vs. The State of West Bengal, 2022*).

Thus, with the enforcement of the Supreme Court's directions, police authorities will have to treat all sex workers equally and with due respect, providing them with proper medical care in accordance with Section 357C of the Criminal Procedure Code, 1973. They have to be attentive towards sex workers, and no physical force, harassment, or arrest will be permitted when a private act of work is involved. Police have been the main perpetrator throughout history in harassing prostitutes, and this direction of the Supreme Court with respect to police can safeguard thousands of sex workers from unjustified police bullying and harassment. The Supreme Court has emphasised the necessity of sensitising the police and other relevant law enforcement authorities regarding the rights of sexual workers. It is critical to educate police officers about sex workers' rights since they are seen as the primary offenders in harassing prostitutes; hence, it is critical to educate them about sex workers' rights and build an empathetic attitude towards sex workers. The government should offer in-depth training on human rights, sex work, and the particular problems sex workers face. Understanding consent, non-discrimination, privacy, and harm reduction

strategies should be part of this training. Police officers should be trained to approach sex work with sensitivity, empathy, and respect. They may help create a network of support and facilitate access to essential services. The police should prioritise addressing violence and exploitation within the sex industry. This includes actively investigating cases of violence against sex workers, ensuring their safety, and supporting them in seeking justice without fear of retribution. Thus, sensitising the police about sex workers rights will serve as a crucial step towards a better future for sex workers.

MEDIA

The media has the potential to fulfill a crucial function in raising awareness among the public about the challenges faced by sex workers and presenting them in a favorable and empathetic manner. Responsible media coverage may lead to informed public discussions and, perhaps, constructive changes in policy and public attitudes. But the media has time and again depicted sex workers in a negative light and highlighted them as criminals. With time, the prevalence of media coverage of the experiences of sex workers has increased in recent years, but the media has played a vital role in perpetuating negative stereotypes and misconceptions. Such a negative depiction of sex workers contributes to increasing discrimination against sex workers (Yadav, 2020).

The media's portrayal of sex workers has been extremely insensitive over the years. During raids or rescue operations in brothels, the media has often assisted the police and published images of trafficked victims or sex workers, solely to garner higher ratings and viewership. This immoral practise has had serious ramifications for sex workers, who face persistent harassment and societal shame as a result of the public revelation of their identities. Recognising the significance of protecting sex workers' dignity, the Supreme Court issued strict directions to the media to show extraordinary caution while covering sex worker-related issues.

The Supreme Court also asked the Press Council to come up with some special rules for the media to follow when dealing with these kinds of situations. It explicitly warned against the publication or broadcasting of images featuring sex workers in the company of their clients while falsely portraying them as part of rescue operations and declared such behavior as a criminal violation.

The 2022 Norms of Journalistic Conduct, developed by the Press Council of India, firmly emphasise the importance of responsible media practices and discourage the exposure of sex workers' identities in news reports and broadcasts. Norm 39, clause (e) of the Norms of Journalistic Conduct 2022, calls on the media to refrain from publishing or broadcast images of sex workers during arrest, raid, or rescue operations, both as victims or accused, and not to publish or broadcast any photo that would result in the disclosure of such identities. As per the directive of the Press Council:

"Besides, the newly introduced Section 354C of the IPC, which makes voyeurism a criminal offence, should be strictly adhered to by the media, so as not to publish or broadcast photos of sex workers with their clients in the garb of capturing the rescue operation.".(Press Council, 2022).

IPC Section 354C carries a maximum punishment of three years imprisonment for a first-time offence and up to seven years for a subsequent offence (Press Council, 2022). This directive clearly states that voyeurism violates the dignity of sex workers and criminalises it. The media holds significant influence and has the power to shape public opinion and impact individuals' reputations. Unfortunately, when it comes to prostitutes, the media has consistently exhibited negligence in recklessly exposing their identities, resulting in severe consequences for these individuals. Therefore, the introduction of Section 354C of the IPC was crucial to enacting Section 354, IPC, to put an end to such carelessness, which costs prostitutes a fortune.

SEX WORKERS AND THEIR CHILDREN

Due to the stigma associated with their work, sex workers are currently pushed to the periphery of society. This deprives them of the opportunity to live with dignity, and as a result, their children also suffer the same. The Supreme Court stated in its recent order that the fundamental principles of human dignity and respect for human life will be upheld in the context of sex workers and their children.

According to one of the guidelines, a sex worker's child shouldn't be separated from the mother just because she's doing sex work. It should not be presumed that a minor found residing in a brothel has been trafficked. (The Pioneer, 2022). If the sex worker claims a child in a brothel to be her son or daughter, testing can be performed to ascertain whether the claim is correct or not, and if found to be true, the minor should not be separated forcibly. If there is a case of a trafficked minor, a magistrate may place the minor, who has been rescued from a brothel, in any Juvenile Justice Act-approved child care institution. In 1997 in *Gaurav Jain v. Union of India*, the Supreme Court ruled that the children of sex workers should not be permitted to reside in brothels, and instead be provided with the opportunity to attend reformatory homes. To comply with the Supreme Court's mandate, a reasonable alteration may be made while keeping the child's welfare in mind. (Vij, 2022).

The bond between a mother and child is incredibly strong, perhaps one of the strongest human connections. Motherhood is traditionally seen as a central role for women, providing them with self-esteem, pride, and a sense of fulfillment. It is unjust to separate a woman from her children simply because of the stigma attached to her occupation. This recommendation seeks to ensure that they are not forcibly separated by the authorities, who, in reality, were supposed to protect them. Sex workers, like any other individuals, have the right to maintain a relationship with their children. A sex worker's job should not be the main

determining factor in judging their parenting abilities. Engaging in sex work does not automatically make someone incapable of being a loving and responsible parent. Ensuring stability and continuity in the lives of children is essential, and separating them from their sex worker parents can have severe emotional and psychological consequences for both parties. The sense of abandonment and loss experienced by children and the trauma of separation faced by parents can be detrimental.

To improve the lives of these children, the Supreme Court should issue more comprehensive and stringent orders. Given the potential exposure to abuse in their environment, the mental health of these children is of utmost concern. It is crucial to pay close attention to the trauma they may endure. The Court should thus mandate the legislature to provide appropriate shelter facilities for these children, similar to the guidelines set in the case of *Gaurav Jain v. Union of India*, which addressed rules for rehabilitation centres. Instead of separating sex workers from their children, efforts should be made to provide support and resources that can enhance the well-being of the entire family. This could include ensuring access to social services, counselling, financial assistance, and other support networks that contribute to a stable home environment. By prioritising the holistic welfare of these families, we can foster a more compassionate and inclusive society.

On the contrary, Tapati Bhowmick of Sanlap, an organization dedicated to supporting trafficked women and their children, expressed her opposition to the recommendation. She emphasised the viewpoint that the children of sex workers should not be allowed to stay in the brothel. She stated, "We have been operating a shelter home for children of sex workers for the past 30 years, and our experience shows that mothers working in brothels wish to keep their daughters away from that environment. It is not a safe space for children and young girls, who are susceptible to abuse and exploitation." Bhowmick added that, according to child protection laws, a brothel is not an appropriate

environment for a child who needs care and protection. There were several instances of juvenile children being pimped for sex work during the COVID-19 epidemic, when brothels were closed. (Chowdhury, 2022). Because of its complexity, the central government expressed reservations on this recommendation, and a decision needs to be taken after extensive deliberations.

VOLUNTARY SEX AS LEGAL

The Bench ordered that sex workers should not be "arrested, penalised, harassed, or victimised" whenever there is a raid on any brothel, "since voluntary sex work is not illegal and only running the brothel is unlawful". (Rajagopal, 2022). Under the ITPA Act, which governs prostitution in India, engaging in sex work itself is considered legal. However, certain related activities such as soliciting, pimping, operating brothels, and kerb crawling are deemed illegal in the country. Unfortunately, this legal distinction can make sex workers residing in "red light areas" susceptible to police intervention. While the police's primary objective is to combat trafficking in human beings, however, they frequently exceed their legal powers by prosecuting both sex-trafficking practitioners and their customers, even when the transactions involve consensual and private sex work. (Kanika Chugh, 2021).

So, despite the fact that sex work was never illegal in India, these sex workers have to face such atrocities. Also, arguments such as 'sex work cannot be a consensual job' and 'sex work is about the objectification of women' by critics over the years have led to the development of the perception of sex work as something illegal.

While many women step into this industry due to poverty, lack of alternatives, or trafficking, it must not be disregarded that there are sex workers who are involved in this line of work voluntarily. Indian law, however, views sex work through the lens of exploitation; rather than safeguarding the rights of sex

workers, it puts more effort into outlawing the institution. The existence of red-light districts and their terrifying stories demonstrate how effective the government has been in reducing prostitution. All of these conditions indicate the necessity of altering our approach to them (Kanika Chugh, 2021).

Finally, in its Order, the Supreme Court mentioned that voluntary sex is legal in India and trafficking is illegal. Prostitution and trafficking have always been confused as singular concepts. There is a need to treat these two concepts on a different plane; not all prostitutes are trafficked victims. When it comes to prostitution, people in general tend to overlook the idea of consent. It is the major factor that demarcates consensual and forced prostitution, and it's crucial to understand that some choose this line of work willingly.

It is difficult for sex workers to make a living because of their inability to distinguish between the two concepts. It is essential to differentiate between involuntary and voluntary prostitution, as many people mistake the two. By addressing these distinct aspects separately, we can better comprehend the reasons behind advocating for the legalisation of prostitution in the country. Thus, with these Supreme Court directions, it's a relief for the sex workers that now their work will not be considered a crime and they won't be treated as criminals. The court ruled that a sex worker who is consenting adult will not be subject to any legal consequences. During raids, only brothel owners are to be arrested for maintaining a brothel, and sex workers are not to be arrested as voluntary sex is legal.

But the question here still arises: if brothels are illegal, then where will these prostitutes work? As prostitutes are prohibited from soliciting or advertising themselves in any way, brothels offer them a venue where they can earn a consistent source of income. But by making brothels illegal, the sex work would become unorganised. This question is left unanswered by the Supreme Court. (Palash Varyania, 2022). It is an undeniable fact that brothels do exist in India

and are operating and giving employment to thousands of sex workers, so making this aspect illegal still gives the police an opportunity to harass prostitutes in the future. So the directions laid down by the Supreme Court to change their attitude towards sex work might prove to be a failure by keeping the brothel illegal. Because of these confusing statements and the rules that regulate prostitution in India, they are open to multiple interpretations. Thus, it is critical to consider legalising the trade, as, after legalisation, prostitution will be controlled and regulated by the government, removing all misunderstanding.

REHABILITATION OF SEX WORKERS

The Supreme Court has issued a number of rehabilitative directives. The court has mandated that all states carry out a comprehensive nationwide assessment of Protective Homes operating under the Immoral Trafficking (Prevention) Act. This evaluation aims to facilitate the prompt review and resolution of cases involving adult women held against their will, enabling their timely release (G, 2022). The practise of holding prostitutes in rehabilitation institutions against their will raises severe concerns about human rights breaches and a lack of autonomy. It is critical to recognise that sex work is a complicated subject and that the people involved should be able to make decisions about their own bodies and lives.

Detaining women forcibly in adult homes is a typical harassment strategy used by the police; fear of this among prostitutes is also used by brothel operators to keep the women in line. Numerous cases have been reported where sex workers, in the name of rescue operations, are forcefully detained in rehabilitation centres, given training, and asked to abandon sex work. Instead of being permitted to work in their chosen field with dignity, these women are compelled to learn a craft, trade, or perform services respected by society.

The primary objective of most rehabilitation centres is to assist sex workers in transitioning out of the sex industry. The process of rescuing and rehabilitating sex workers is controversial due to the fact that women are frequently subjected to violence during police operations and detained against their will. The question here arises: why is there a need to rehabilitate a sex worker when a person is doing sex work willingly? The order now directs the state governments to check the illegal detention of adult sex workers.

Complying with Supreme Court directions, the Mumbai session court ordered the release of a 34-year-old sex worker who had been apprehended following a raid on a brothel in Mulund. The woman moved to the session's court after a magistrate directed her to be detained at home for one year for care, protection, and shelter. The session court said:

"The victim is a major... if she is detained without reason, then it can be said that her rights are infringed... from the report of the police nowhere does it appear the victim indulged in sex work in a public place...victim is at liberty to reside anywhere and to move freely." (Samervell, 2023).

The additional session judge, CV Patil, observed, "She has the right to do work. As per rule, being involved in sex work is not an offence, but doing sex work in a public place so as to cause annoyance to others can be called an offence." The judge overturned a magistrate's order to keep a woman in the Navjeevan Mahila Vastigriha in Deonar for one year for her safety and protection due to her involvement in a previous prostitution episode. The order was issued in accordance with Section 17 of the Immoral Traffic (P) Act. Moreover, the woman had two minor children, the judge noted. "Certainly they need their mother, and if the victim is detained against her will, certainly it curtails her right to move freely all over India." (Hakim, 2023).

The court freed the woman by citing the Supreme Court's Order, which asked for the release of women who had been detained at protective homes against

their will. Thus, this step by the Mumbai session court is a positive step towards the recognition of the rights of sex workers and an example of compliance with the Supreme Court's Order. Forced detention in rehabilitation centres deprives them of their autonomy and agency, violating their basic human rights. It is crucial to respect their choices and provide support and resources instead of coercive measures.

INVOLVEMENT OF SEX WORKERS IN DECISION-MAKING

The Supreme Court mandated that the union and state governments include sex workers and/or their representatives in all policy design, and implementation of any policy for sex workers and any changes to sex work regulation. The Supreme Court ordered the union and state governments to include sex workers and/or their representatives in all the decision-making processes, including planning, designing, and implementing any policy or programme for sex workers, as well as formulating any changes to sex work legislation. This can be achieved through their participation in decision-making bodies or commissions, and/or by expressing their opinion on any matter that concerns them (Sarda, 2022). Involving sex workers in the decision-making process is essential for several reasons:

1. **Expertise and lived experience:** Sex workers have first-hand experience and expertise in the realities of the industry. Their distinct viewpoints can offer insightful information on the difficulties, needs, and goals of sex workers. Incorporating sex workers in the decision-making process can be a crucial step towards comprehending the challenges and hardships they encounter. By doing so, lawmakers may establish more inclusive and effective policies that accommodate the special needs and concerns of sex workers.
2. **Representation and Empowerment:** Including sex workers in decision-making processes ensures their representation and empowers people to

have a voice in decisions that have a direct impact on their lives and livelihoods. It acknowledges their agency and recognises their right to participate in shaping policies that impact them. By being actively involved in decision-making, sex workers can advocate for their rights, articulate their concerns, and assist in the formulation of fairer and more effective policies.

3. **Ensuring Relevance and Effectiveness:** Policies and interventions designed without the input of sex workers may overlook or misunderstand the realities of the industry. Involving sex workers helps ensure that policies are relevant, practical, and effective. Their insights can shed light on the challenges they face as well as potential solutions and strategies for addressing them. By incorporating their input, decision-makers can develop more evidence-based and contextually appropriate approaches.
4. **Avoiding further marginalisation and stigma:** Exclusion of sex workers from decision-making processes can perpetuate their marginalisation and reinforce the stigma they already face. By actively involving them, decision-makers can challenge societal biases and work towards destigmatizing sex work. This inclusivity sends a powerful message that sex workers' voices and perspectives are valued, fostering a more inclusive and respectful society.
5. **Promoting accountability and ownership:** By integrating sex workers in decision-making, they become key stakeholders with an essential feeling of ownership over the policies that directly affect their lives. This generates a deeper sense of accountability among decision-makers since they have direct involvement with individuals who are immediately affected by their choices.
6. **Improving Policy Outcomes:** Involving sex workers in decision-making can lead to more informed, innovative, and successful policies. Their

comprehensive understanding of the sector enables them to provide insights and ideas that might otherwise go unnoticed.

Involving sex workers in decision-making is crucial for developing policies that are inclusive, effective, and rights-based. It acknowledges their expertise, recognises their agency, and empowers them to shape the policies that directly impact their lives. By listening to their voices, decision-makers can develop more contextually appropriate, evidence-based, and accountable approaches that foster the well-being and rights of sex workers.

AWARENESS DRIVES

The Supreme Court's directive also instructs governments to educate the general public and sex workers on the rights of sex workers, the legal aspect of sex work, and the duties of law enforcement, as reported by Sarda (2022). This crucial directive is set to have substantial implications for the protection and empowerment of sex workers in India. The goal of using this proactive approach is to bridge the information gap, educate sex workers, and develop a sense of autonomy among this marginalised population.

In the past, sex workers have faced various difficulties; there has been a lack of legal awareness about their legal rights, and they are also not aware of the laws that govern prostitution. This lack of awareness has resulted in them being driven into a vicious cycle of vulnerability and exploitation, leaving sex workers exposed to abuse, discrimination, and harassment.

The Supreme Court acknowledges the significance of public awareness campaigns, as they play a crucial role in disseminating precise and pertinent information to empower sex workers. By enabling them to gain knowledge, these campaigns facilitate informed decision-making regarding their work and lives, ultimately promoting their well-being and autonomy.

Public awareness campaigns are critical for eliminating myths and misconceptions about sex work, addressing societal stigma, and encouraging a more inclusive view of this industry. These initiatives effectively combat prejudice, minimise discrimination, and build a friendly and empathic atmosphere for sex workers by educating the public about the legal framework governing sex work. Finally, such programmes help to challenge the current stigma and discrimination encountered by sex workers, resulting in a more understanding and caring society. By promoting a more empathetic understanding of sex work, society can move away from judgement and discrimination and towards acceptance and support.

These awareness campaigns seek to educate sex workers about the police's obligations and restrictions in their encounters with them. It is well documented that sex workers have often been subjected to exploitation and abuse by law enforcement personnel who exploit their vulnerable position for personal gain. By educating sex workers on their legal rights and the duties of law enforcement agencies, these awareness campaigns seek to empower them to assert their rights, report instances of abuse, and seek legal recourse when necessary.

In addition to addressing the immediate concerns of sex workers, these awareness drives also serve the broader purpose of promoting the rule of law and upholding the principles of justice and equality. By ensuring that sex workers know what is prohibited and permitted by law, these campaigns contribute to a more transparent and accountable legal system. This awareness can also help reduce instances of wrongful arrests, harassment, and extortion by the police as sex workers become more knowledgeable about their rights and can assert them confidently. Public awareness campaigns can empower sex workers by providing them with information about their legal rights, access to healthcare, and avenues for support. Education about their rights and available resources can help sex workers make informed decisions and protect themselves from exploitation and abuse.

The success of these awareness drives will depend on their comprehensive implementation and the active involvement of various stakeholders. Collaboration between governmental institutions, non-governmental organisations, and community-based organisations may enable the effective design and implementation of these programmes.

AADHAR CARD FOR SEX WORKERS

Along with the above points discussed, the Supreme Court also took a major decision to issue Aadhar cards to sex workers. At present, the Aadhar card has become an important document to access a variety of government schemes and is also needed to access government and private-sector services. An Aadhar card has a 12-digit number that represents an Indian person's digital identity. An Aadhar card has the cardholder's name, date of birth, biometric information, e-mail ID, and phone number, among other things. UIDAI is a statutory authority entrusted with the task of issuing Aadhar cards and making changes to the document. Aadhar cards are issued only when an applicant provides their name, age, gender, and address, further information, such as email or mobile phone number, is optional. Sex workers' failure to show evidence of domicile made them ineligible for the Aadhar card. Sex workers, on the other hand, were unable to get an Aadhar card since they did not have evidence of residence (Zee News, 2022).

During a hearing on December 14, 2021, the Supreme Court expressed its displeasure with the states' inability to comply with its 2011 demand to give ration cards and voter identity cards to all sex workers. The Supreme Court expressed concern over the food insecurity of thousands of sex-industry workers in India. However, the pandemic made the situation even worse for sex workers, as they were deprived of government rations (Zee News, 2022). For the UIDAI, advocate Zoheb Hossain argued that, it was a duty to guarantee that all

segments of society have access to basic rights like as food, notwithstanding the fact that they do not have an Aadhaar card. (Rajagopal, 2022).

Concerning the failure to issue Aadhaar Cards to sex workers due to their inability to present residential proof, the Court had previously issued a notice to UIDAI and sought its recommendations on waiving off the requirement of residency proof for the sex workers. According to a proposal made by the UIDAI, if a "proforma certificate" is submitted by a Gazetted Officer at NACO (National AIDS Control Organisation) or the State Health Department certifying the applicant's details, then, sex workers on the NACO's list will be able to get an Aadhar Card without needing to provide a proof of residence.

The organisations that support sex workers have put forward some suggestions for the UIDAI's approach, including that the process of sex workers getting an Aadhaar card should be made known through outreach under targeted intervention programmes, and that the issuance of cards should not only be limited to sex workers on NACO's list, but also to sex workers recognised by CBO's after verification. Since the UIDAI had accepted these suggestions, the court ordered that sex workers should be provided with Aadhaar cards even though they cannot provide any proof of residence based on the "proforma" certificates issued by Gazetted Officers at NACOs or State Health Departments certifying their details. The Court emphasised:

"There shall be no breach of confidentiality in the process, including the assignment of any code in the Aadhar enrolment numbers that identify the cardholder as a sex worker."

The Supreme Court said that sex workers enjoy equal rights to dignity, decency, and privacy under the Constitution, so they should be provided with Aadhar cards at the earliest. (Rautray, 2022). The Court further ordered the state governments to provide sex workers identified by the National Association of Certified Organisations (NACO) and community-based organisations with

voter cards after verification of their lists. The Court further ruled that the state governments should continue to provide dry food services to sex workers without requiring them to disclose their identities. The Court stated that the information in the status reports submitted by several states on sex worker identification and ration card issuance was "not accurate." The Court also ordered the states to submit a new report to obtain the actual data (Rajagopal, 2022).

"The Right to dignity is a fundamental right that is guaranteed to every citizen of this country, irrespective of his or her vocation. There is a bounden duty cast on the government to provide basic amenities to the citizens of this country. The state governments, union territories, and other authorities are directed to commence the process of issuance of ration cards and voter identity cards immediately to sex workers from the list that is maintained by NACO."(Rajagopal, 2022).

In the meantime, many states and union territories have expedited the process of granting sex workers voter identity cards and ration cards as a result of the Supreme Court's directive (Sinha, 2022). Due to their lack of voter identification cards and Aadhar cards, the majority of sex workers in the country are unable to take advantage of different central and state schemes. This recommendation of the Supreme Court will help them get access to various schemes and will also provide them with ration cards.

IMPLICATIONS

The Supreme Court Order has significant implications for a variety of stakeholders, including sex workers, society at large, and the government. The most significant implications of this order are as follows:

1. **Recognition of Agency and Autonomy:** The Supreme Court order has acknowledged the agency and autonomy of consenting adults engaged in the trade. It affirms people' ability to make decisions regarding their own bodies

and livelihoods, in accordance with the concepts of individual freedom and bodily autonomy.

2. **Human Rights Protection: Recognising sex work as a profession** provides a chance to safeguard sex workers' human rights. It tries to alleviate the vulnerability and marginalisation that sex workers frequently endure because of their profession being criminalised. The ruling establishes a legal framework to defend worker rights, guaranteeing that they may work in safer settings, seek legal remedies if their rights are infringed, and report incidents of abuse without fear of legal penalties.
3. **Social stigma and Discrimination:** The Supreme Court Order challenges the social stigma and discrimination that have long been associated with sex work. By recognising it as a profession, the ruling aims to shift societal attitudes towards sex workers and reduce the prejudice and social exclusion they face. This can contribute to changing public perceptions and fostering more inclusive and respectful attitudes towards sex work.
4. **Change in the attitude of the police:** The Supreme Court Order shall afford equal legal protection to sex workers. They shall have the same protections and privileges as everyone else, regardless of their profession. They will be given respect and dignity while being shielded from intimidation and arbitrary police arrests. The police will act in line with the law and treat a sex worker's report of a criminal, sexual, or other form of offence seriously. The police shall ensure that all sex workers are treated with respect and dignity, avoid any form of verbal or physical abuse, implement any form of violence against sex workers, or force them to engage in any sexual activity.
5. **Distinguishing between Consensual Sex Work and Trafficking:** One of the primary challenges in recognising sex work as a profession is to clearly distinguish between consensual sex work and sex trafficking. While consenting adults engaged in sex work have the right to autonomy and agency over their bodies, sex trafficking involves coercion, force, or deception to exploit individuals for commercial sex. It is crucial to have robust

mechanisms in place to identify and address instances of trafficking, ensuring that victims receive the necessary support and protection while punishing traffickers. It will be crucial to ensure that the recognition of sex work as a profession does not inadvertently foster an environment for increased sex trafficking or coercion. There should be continuous efforts to combat sex trafficking and provide support to victims.

6. **Public Perception and Backlash:** Despite the court's ruling, there may be resistance and opposition from certain sections of society that hold conservative views about sex work. It could take some time for public opinion to shift, and there might be continuous discussions and opposition to the acceptance of sex labour as a respectable vocation. Advocacy and awareness campaigns will be essential to educating the public about the reasoning behind the Court's decision and the importance of protecting the rights of sex workers.

While the recognition of sex work as a profession is a positive step towards acknowledging the rights and dignity of sex workers, addressing the challenges and ensuring effective implementation will be critical to making a real difference in their lives.

CHALLENGES

The implementation of recognising sex work as a profession in India faces various challenges and complexities. Despite the Supreme Court's landmark ruling, the practical execution and successful implementation of this recognition encounter several hurdles.

1. **Lack of Legislative Action:** While the Supreme Court Order has laid down directions to recognise sex work as a profession, it is crucial for the government to enact supportive legislation to operationalise this recognition effectively. Without specific laws and regulations that protect

the rights and welfare of sex workers, the ruling may remain symbolic and fail to bring about substantive change.

2. **Social Stigma and Resistance:** Sex work in India continues to be heavily stigmatised due to societal norms, cultural attitudes, and moral biases. This stigma often leads to social resistance to accepting sex work as a profession. Conservative social beliefs and strong religious views may hinder progressive policy implementation and create challenges to embracing sex work as a valid form of employment.
3. **Lack of Public Awareness and Education:** There is a lack of public awareness and understanding about sex work, which perpetuates misconceptions and biases. Insufficient education and awareness campaigns about the realities of sex work and the rights of sex workers hinder efforts to gain broader societal support for implementing the recognition. Public education and awareness initiatives are essential to dispel myths and foster empathy and understanding.
4. **Complex Interplay of Laws:** India has a patchwork of laws that intersect with sex work, including laws related to trafficking, public order, and moral policing. These laws often create confusion and contradictions, making it challenging to navigate the legal landscape for sex workers and law enforcement agencies alike. Harmonising these laws and aligning them with the recognition of sex work as a profession is necessary to ensure clarity and effective implementation.
5. **Law Enforcement and Corruption:** The successful execution of the recognition of the Supreme Court Order requires cooperation and training for law enforcement agencies. Sensitising police officials about the rights of sex workers and developing protocols to address cases of abuse, exploitation, and trafficking is crucial. Combating corruption within law enforcement agencies is also vital to prevent harassment and protect the rights of sex workers.

6. Lack of Stakeholder Consultation: To effectively establish sex work recognition as a profession, it is imperative to actively involve and seek input from all pertinent stakeholders. These stakeholders encompass sex workers themselves, organisations advocating for their interests, policymakers, and law enforcement agencies. Their participation is paramount in developing well-rounded and equitable policies that address the unique requirements and apprehensions of sex workers while also considering the wider societal framework. While a recommendation has been made to integrate sex workers into the decision-making process, a legitimate concern arises about whether their opinions will genuinely be considered or if they will be included practically in the decision-making process.
7. Political Will and Prioritisation: Effective implementation of any law reform requires political will and government prioritisation. Unfortunately, politicians may not always prioritise sex work, resulting in a lack of resources, financing, and attention committed to the formulation and implementation of supportive policies. Without adequate political commitment, the implementation process may be hindered or neglected.

ENVISIONING THE FUTURE: THE EXTENT OF IMPLEMENTATION

After the passing of the Supreme Court's landmark Order, the next hearing was scheduled for 27th July 2022. The following hearing was to discuss the rationale behind the preservation of these recommendations and to explore the possibility of dropping them in favour of implementing a new law that would be beneficial for sex workers. The anticipation was that the centre would align with the Court's ruling and give precedence to the rights and welfare of sex workers. The distressing truth remains that the centre has chosen to postpone the scheduled hearing without providing any information on a new date. This action reflects the centre's apparent lack of prioritization for the needs and concerns of sex

workers. The fight to uphold the rights and dignity of sex workers is hampered by this lack of cooperation. Without the active support and cooperation of the centre, ensuring the proper execution of the Court Order becomes challenging. The centre's support is vital for ensuring the Court's ruling is effectively implemented.

According to the news, sex workers in Bhubaneswar have complained that the authorities in Bhubaneswar are not abiding by the Supreme Court's decision. According to a newspaper report, the sex workers have asked:

“The Supreme Court has directed that sex workers are entitled to dignity. But here in Bhubaneswar who cares for us? We are being treated very inhumanely. The government is doing nothing for us. Our demand is that the government should allow us to live with dignity. We should have houses, ration cards, health cards, and other benefits as well,” alleged a sex worker (Pattnayak, 2023).

“Our work has been recognised as a profession. But why the State government is discriminating against us. During Hockey World Cup, our houses were demolished and we were forced to spend nights under the open sky. Why we are being treated in such a way? Even today we don't have a roof over our heads. We are living in miserable conditions without any basic amenities,” said another sex worker (Pattnayak, 2023).

This sheds light on the extent to which the Supreme Court's directives are followed. Bhubaneswar is the first city to report about the failure of the state to adhere to recent Supreme Court directions, but there may be more states where sex workers are facing the same issue, but if these are not reported in the media. The centre's lack of compliance and the failure of certain states to adhere to the Supreme Court's Order demonstrate the urgent need for action. Protecting the rights and dignity of sex workers requires a comprehensive approach involving collaboration, support, and recognition from the government and stakeholders. Only then can meaningful change be achieved, and the welfare of sex workers ensured.

Empowering Legal Discourse: Supreme Court's Handbook on Gender-Inclusive Terminology and Empowerment of Sex Workers

On August 16, 2023, the Supreme Court unveiled a handbook encompassing a dictionary of gender-insensitive terminology alongside suggestions for alternative words and phrases. Terms like "street sexual harassment," "sex worker," and "homemaker" are poised to replace less equitable alternatives such as "eve-teasing," "prostitute," and "housewife" in legal contexts. The handbook was unveiled right after a panel made up of five judges, headed by Supreme Court Chief Justice DY Chandrachud, heard arguments on a bunch of petitions challenging the repeal of the special status granted to Jammu and Kashmir under Article 370 of the Constitution. "This is to assist judges and the legal community to identify and understand" stereotypes about women in legal discourse," he said. The Supreme Court of India stated in a news release that the "Handbook on Combating Gender Stereotypes" aims to equip judges and members of the legal profession to recognise, comprehend, and challenge damaging stereotypes about women.

The handbook offers substitute terminology and phrases for use in legal documents, such as petitions, orders, and judgements, and includes a glossary of terms that are gender-unjust. The compilation uncovers prevalent misconceptions about women and illustrates their unreality, as well as how these prejudices may affect how the law is applied. The release of the handbook, it is suggested, is a vital step towards a fairer and equitable society since it will provide the legal community with skills to notice, explain, and reject stereotypes. It is believed that this would pave the way for a judicial system that is more inclusive, unbiased, and gender-just.

The groundbreaking endeavour, directed by Chief Justice of India Dr. Dhananjaya Y Chandrachud, aims is to fulfill the objective of the Indian judiciary to remove preconceived notions of gender from judicial discourse, particularly

those relating to women. The Supreme Court has provided a list of stereotyped terminology and offered replacement terms for usage in legal discourses and judicial declarations in the 30-page handbook. According to the manual, instead of phrases like "seductress," "whore," or "woman of loose morals," the word "woman" must be used. It also forbids the use of terms such as "hooker" and "prostitute," instead recommending the term "sex worker." There are many other derogatory terms which have been replaced by the handbook (Deccan Chronicle, 2023).

The Handbook on combating Gender Stereotypes aims to assist judges and the legal community in identifying, understanding, and combating stereotypes about women. The intention is not to criticise or cast doubt on the past judgments but merely to show how stereotypes may unwittingly be employed," said the handbook's foreword written by Chief Justice of India (CJI) DY Chandrachud (Times of India, 2023).

The handbook's emphasis on replacing pejorative words with neutral alternatives, such as "sex worker" rather than "prostitute," marks a critical movement towards recognising the dignity and autonomy of those who work in the sex industry. The handbook's goal is to decrease stigma, develop an environment of inclusion, and promote a more egalitarian legal discourse by promoting the use of respectful language. This move not only recognises sex work as legitimate labour, but it also helps larger initiatives to protect sex workers' rights, safety, and well-being. Sex workers should expect increased legal protection, decreased discrimination, and a more compassionate knowledge of their experiences within the legal system as the legal community becomes better able to fight preconceptions, eventually contributing to a more just and respected society.

CONCLUSION

This chapter has dealt with the Supreme Court Order recognising sex work as a profession in detail. Before dealing with the Supreme Court guidelines, the chapter has dealt in detail with the background that led to the passing of the Order. It has highlighted the recommendations, ramifications, and challenges to the Supreme Court's Order. The implementation of this Order could lead to empowering transformations, including granting sex workers equal legal protection, enhancing their safety and welfare, and diminishing the social stigma associated with their profession. This ruling will give sex workers the liberty to withhold consent without fear of repercussions from solicitors, police, or unruly clients. Rape complaints of sex workers will be taken seriously by the police henceforth, and medico-legal aid will be provided to them. Women who practise sex work will take a step towards a more dignified life. Acknowledging sex work as a legitimate profession marks a positive stride in transforming sex workers from marginalised individuals into respected members of society.

The successful implementation of a Supreme Court Order recognising sex work as a profession would depend on several factors. These factors include the government's seriousness in formulating appropriate laws to regulate the industry, the willingness of society to accept and support these changes, the commitment of authorities to enforce regulations, and the availability of necessary resources and support systems for sex workers. While the recent Order represents a positive development, it also raises significant questions about its actual enforcement and the challenges it may encounter in practise. With persistent pressure from the Supreme Court on the centre, we can anticipate positive changes in the long run.

Also, the recent handbook released by the Supreme Court marks a positive development for sex workers. In this handbook, the word sex worker is now to replace the word prostitute and is to be used by the legal community with a view

to identify, comprehend, and combat gender stereotypes. Thus, this marks a positive step for the sex workers, as they have always demanded the use of the word sex worker rather than prostitute. The word prostitute is believed to have derogatory connotations, so they have been demanding to be addressed as sex workers. The shift towards "sex worker" reflects a more respectful and dignified way of referring to individuals in this profession. Sex workers have long advocated for this change, as it aligns with their desire to be recognised and addressed with more accurate and compassionate terminology. This advancement marks a crucial step forward, fostering a more inclusive and empathetic environment for sex workers.

CHAPTER V

PROSTITUTES, ORGANISATIONS, LAW ENFORCEMENT: PERSPECTIVES FROM THE FIELD

This chapter is entirely based on fieldwork and aims to analyse the data gathered from various sources. It includes insights from interviews with the Durbar Mahila Samanwaya Committee, Sanlaap, sex workers, and police officials. The chapter examines the interview conducted with the Durbar Mahila Samanwaya Committee, an organisation in Kolkata advocating for the empowerment of sex workers. It also incorporates data obtained from interviews with sex workers from Sonagachi red-light Area and Rabindra Sarani red-light Area, which could help in comprehending the ground reality of sex work and the perspective of sex workers on the legalisation of sex work in India. The chapter also extensively covers the interviews conducted with Sanlaap, a Kolkata-based organisation dedicated to combating trafficking in the country. The chapter then explores the data gathered from interviews with police officials at Bhavani Bhawan Kolkata, the headquarters of West Bengal Police.

The office bearers of the two organisations of Kolkata were interviewed for this study: the Durbar Samanwaya Mahila Committee and Sanlaap. These organisations were selected due to their opposing stances on the legalisation of prostitution in India. Durbar supports the legalisation, while Sanlaap opposes it. The cooperation of the Durbar organisation was instrumental in providing the necessary information and facilitating access to interview sex workers. Interviewing sex workers was an uphill task here. It was very difficult to convince the sex workers for the interview, as they were thinking the researcher was a journalist or a police informant and were not comfortable at first, so winning their confidence at first seemed difficult.

An interview with the Sanlaap organisation was also secured, although they initially declined the request. They mentioned that since the thesis focused on the legalisation of prostitution and their organisation firmly believes that prostitution should not be legalised in India, there appeared to be a mismatch between their ideologies and the research topic. However, later, they were very kind to reconsider the request, and allowed the researcher to interview the organisation. Request to interview the trafficked victims to gain more insight was placed, but they stated that as per the West Bengal Government rule, no interns, volunteers, or outsiders are allowed to interview the trafficked victims staying at their shelter homes because almost all of them have ongoing court cases, and all of them are minor victims.

The contrasting stances of Sanlaap and DMSC on legalisation were pivotal for a comprehensive study, capturing diverse perspectives. Conducting interviews with both organisations ensures a balanced inclusion of their viewpoints on the legalisation of prostitution in India within this chapter. The chapter also explores the interviews with police officials to understand their stance on legalisation as well as their perceptions of human trafficking and prostitution.

The choice of Kolkata, West Bengal, for the field study, was driven by its well-established reputation as a prominent hub of sex work within India. The treatment of sex workers in terms of exploitation and various forms of harassment has however evolved over time, as evident from the perspectives shared by both the organisations and the sex workers in this chapter. Conducting the field study in Kolkata was also motivated by other factors, such as the city has the largest red light area in the country, making it a significant focal point for this research. Among the various organisations advocating for the rights of sex workers in India, Durbar stands at the forefront. Known for its active engagement in advocacy, Durbar played a pivotal role as a panel member in the recent Supreme Court order that upheld the fundamental rights of sex workers to be treated with dignity and respect. In contrast, Sanlaap is a renowned

organisation recognised for its efforts in combating trafficking and advocating against trafficking. While the field study included interviews with sex workers from Sonagachi and Rabindra Sarani, who highlighted police harassment as a significant issue, it was crucial to corroborate these claims with the perspective of the police in West Bengal itself. Thus, an interview was conducted with police officials from West Bengal, specifically from the CID branch at Bhawani Bhawan, the headquarters of the Kolkata Police.

DURBAR MAHILA SAMANAWAYA COMMITTEE

The Durbar Mahila Samanwaya Committee comprises a diverse collective of 65,000 sex workers, including individuals of varying gender identities (male, female, and transgender) across West Bengal which represents their voices, demands, and perspectives. Since its founding in 1995, the Durbar Mahila Samanwaya Committee (DMSC) has been involved in tackling the social, cultural, and institutional constraints that shape the lives and livelihood of sex workers. Sex workers are compelled to live on the periphery of society due to the stigma attached to sex and sex work, as well as the negative attitudes of the general public towards them. The political objective of Durbar is quite clear; they advocate that sex workers should be treated like any other workers in our society and should be regarded as a legitimate vocation. Durbar also actively participates in the advocacy of reforming laws and policies that limit the human rights of sex workers, criminalise them, and impede their ability to participate as citizens of the country (A continuing battle, 2022, p.5).

A brief background is vital to grasp the organisation's context and purpose. In 1992, an HIV intervention program was conducted by the All India Institute of Hygiene and Public Health in the Sonagachi red-light area of Kolkata. The programme had three components: first, providing health services to the sex workers, which also included the treatment of STDs contracted by the sex workers. Secondly, it was IEC, i.e., information, education, and communication;

and lastly, it was condom programming. The program was peer-based research, with sex workers being selected from within their own community and given training on health and HIV, and they were entrusted with the task of sensitising their fellow sex workers and encouraging and helping them to avail themselves of the clinical services provided by the programme. But with time, the programme failed to achieve its goal due to numerous limitations, such as frequent police raids, the blackmailing by the local thugs, and the hostile attitude of the researchers and the service providers. Providing the above services was not enough; a strong need was felt to change the strategies of the programme with a view to empowering the sex workers. Thus, against this backdrop, DMSC was formed in 1995 with 12 sex workers as stakeholders. The DMSC aimed to create a platform for the collective solidarity of sex workers. Later in 1999, DMSC took over the HIV intervention programme, the Sonagachi Project, from AIIH. DMSC, after gaining full authority over the Sonagachi project, has replicated the Sonagachi model in other red-light areas of West Bengal. Durbar's mission is to promote social and political change aimed at safeguarding the rights, dignity, and social standing of all sex workers worldwide. Its mission is to spark a worldwide movement that secures the rights of all disadvantaged people, especially sex workers and LGBTKH (lesbian, gay, bisexual, transgender, Kothi, and hijra). (Durbar Mahila Samanwaya Committee website.)

In 2010, DMSC conducted a survey with 11394 sex workers in 16 red-light areas of Kolkata to document violence against sex workers. The goal of the study was to identify the various kinds of violence that sex workers face. It was discovered that sex workers experience a range of forms of violence, including harassment, stigma, and discrimination. These include physical assault, verbal abuse, threats, and extortion for money. According to the survey, the police were accountable for 31.14% of all acts of violence against sex workers and abuse of sex workers using their position and authority. Local hooligans who extort

money and threaten sex workers with repercussions in and around the red-light area are additional violent offenders. Even the malkins and house owners often resort to violence against the sex prostitutes. Through this survey, it was clear that the police were the main perpetrators of harassing prostitutes. The police mostly use violence against sex workers and their clients by harassing and detaining them. Police raids occurred often as well. The sex workers viewed the police as perpetrators rather than protectors.

Due to the strained relationship between sex workers and the police, Durbar recognised the urgency of enhancing their advocacy efforts. Initially focusing on engaging with local police station staff, the organisation gradually extended its outreach to higher-ranking officers, including commissioners, DGs, and OCs. Over time, Durbar has worked diligently to mend this relationship and improve communication between sex workers and law enforcement.

Recognising that even the clients of the sex workers were facing harassment from the police, Durbar took a novel step by introducing the Customer Care Centre. This initiative was designed not only to address issues of harassment but also to serve multiple other purposes. Durbar introduced the Customer Care Centre in 2008. Initially, the Customer Care Centre was established in Sonagachi and the Bowbazar Redlight area. Subsequently, its reach expanded to other red-light districts, including Rabindra Sarani and Khiderpore in Kolkata, and Durgapur in Bardaman district. The Customer Care Centre establishes direct communication with customers /clients, promotes condom usage, provides education about the risks of HIV/AIDS, and assists in resolving harassment-related issues. These issues could arise from encounters with the police, local troublemakers, brothel operators, or pimps. Moreover, the centre aims to discourage clients from seeking out young girls and trafficked victims. (A continuing battle, 2022, p. 11).

According to the DMSC, sex labour is a contractual service that is negotiated between consenting individuals. The organisation is against the use of force against sex workers by anybody, including clients, brothel owners, landlords, pimps, local thugs, police enforcement, or traffickers. DMSC established the Self Regulatory Board (SRB), which is presently operating in 30 red-light districts throughout West Bengal, in order to institutionalise the right-based work with the goal of reducing the prevalence of violence, including trafficking.

SRB provides safety and security to sex workers and prevents trafficking into the sex trade. When a sex worker experiences any kind of violence from customers, brothel owners, local thugs, or the police, it is reported here and handled by the self-regulatory board. It puts a check on all the exploitative practices within the sex trade and also ensures child protection mechanisms for the children of sex workers. Through these SRBs, DMSC has saved and reintegrated over 1,000 children and reluctant women and put them in vocational training based on their preferences. The Self-Regulatory Board is well on its way to becoming a role model for stopping trafficking and defending the rights of marginalised communities like sex workers, and it has already achieved a tremendous amount of progress in this regard. SRB is on its way to becoming a globally recognised model for anti-trafficking programmes.

The main demands of the DMSC are scrapping the ITPA Act and legalising prostitution in India. (Bagchi, 2005). DMSC has criticised the ITPA Act because it views prostitution only through the lens of trafficking; the consent factor is overlooked here, and even if a person willingly migrates to become a sex worker, there is a notion that the person has been trafficked.

This kind of attitude towards prostitution put forward by the ITPA Act aggravates the situation as it criminalises and marginalises the women involved in it. The outlook of prostitution as violence has been strongly criticised by

DMSC because this way it leaves little space for the address of violence within prostitution. (Tambe, 2009).

The fight for legalisation for sex workers in India was led by the Durbar Mahila Samanwaya Committee (DMSC) of Kolkata and Sangram, which operates in Sangli, Maharashtra. With the inaugural Conference of Sex Workers held in Kolkata in 1997, the prostitution issue gained momentum in India. NGO groups from throughout the nation fighting for legalisation came together. Those opposed to legalisation gathered there as well, arguing that it was a pointless activity. The 'Sex Workers Manifesto' was unveiled by the DMSC during the conference, a historic document that encapsulated one of the most compelling arguments in favour of legalisation.

According to the DMSC, 'sex work,' like many other professions, is a job that is likely one of the world's 'oldest professions' since it satisfies an essential societal demand. To explain this, it states in the manifesto: "Next to any factory, truckers check points, market there has always been red-light areas. The same system of productive relations and logic of profit maximisation, which drives men from their homes in villages to town and cities, make into sex workers for these men." DMSC's explicitly political goals include working for the legalisation of prostitution and the acknowledgment of sex workers as employees, as well as the social security of sex workers and their children. They aim to change laws that impede sex workers' human rights and support legalising prostitution. It demands that sex work be recognised like any other form of work in society and strives to develop a positive image of sex workers. (Sex workers Manifesto, Durbar Mahila Samanwaya Committee, 1997).

INTERVIEW WITH THE SEX WORKERS

Interviewing the Durbar and understanding their viewpoints on legalisation were crucial aspects of research. It was through the support of the organisation

that the sex workers could be interviewed. For data collection in-depth interviews with fifteen sex workers using open-ended questionnaires were done. Open-ended questions were opted instead of closed-ended ones to allow them to freely share their narratives and opinions about sex work without being constrained by predetermined options.

The selected sex workers represented a diverse cross-section of the sex work community. Each interview lasted approximately thirty minutes. Sensitivity and respect were paramount in approaching the sex workers, and they were assured of the research's confidentiality of identity and maintenance of anonymity for all the sex workers, thereby creating a safe place for them to share their perspectives. Recording was not allowed, so the research depended on the field notes. Before conducting the interview, ethical protocols were established in order to ensure the confidentiality and anonymity of the sex workers.

Variations were ensured in this interview, as the sex workers were selected with the view of representing a diverse sex work community. Diversity was ensured by focusing on factors such as age, their native place, the typology of sex work, and various other characteristics. The sample for the study included individuals ranging in age from 20 to 60, originating from both urban and rural areas. The intention behind covering this age range was to capture a wide spectrum of experiences within the profession according to their age and to document experiences and perspectives across different stages of life. Older sex workers may contribute historical background and longer-term views on the evolution of sex work, while younger individuals could provide insights into more recent trends and challenges they face in the field of sex work. This approach will enable to draw a comparative analysis from their personal experiences. In the interview, five sex workers were of age above 40, and the remaining 10 were of age between 20 - 30.

The study included various typologies of sex work, which ensured diversity. These typologies are based on prostitutes working in brothels, independently operating prostitutes, and street prostitutes. These categories reveal differences in their hierarchy, client flow, and earnings from sex work, shedding light on how each operates. Among these typologies, brothel prostitutes occupy a relatively advantageous position. Brothel keepers ensure a consistent clientele, leading to higher earnings compared to the other two types of prostitutes. Moreover, brothel prostitutes benefit from the safety provided by the brothel keepers. These keepers handle interactions with police officials, goons, and unruly clients. However, a drawback of working in a brothel is that half of their earnings must be given to the brothel keepers. Staying in a brothel and working is often chosen by younger prostitutes.

Street prostitutes are those who stand on the streets to attract clients. They often rent rooms to carry out their sex work. One positive aspect about this variety of prostitutes is that they don't have to share their earnings with any other person; they get to keep the whole amount they earn. However, a major drawback is the lack of a steady flow of clients since they don't work through pimps. Working on the streets also exposes them to unsafe conditions, with higher risks of harassment from police, criminals, and clients. This category is commonly comprised of younger prostitutes who choose this path to avoid working under anyone else.

Independently operating prostitutes, on the other hand, are usually older and have fewer clients. They may have just 1-2 loyal clients whom they serve. They temporarily rent rooms to conduct their business. However, their earnings are relatively low compared to those of other prostitutes. This information was derived from interactions with sex workers during the interview. Out of the 15 sex workers interviewed, 7 were brothel prostitutes, 3 were street prostitutes, and 5 were independently operating prostitutes. The last category comprised women in the age group of 40–60. The majority of the sex workers interviewed

were brothel prostitutes due to the advantages mentioned above. Street prostitutes claimed that they charge Rs. 350 per client, while brothel prostitutes claimed that they are only given half of what they are actually paid, which is typically Rs. 150 per client. Brothel prostitutes claimed that they have no idea what the actual rate of a client is because it is set by the brothel keeper and kept a secret from them.

The sex workers interviewed were both from urban and rural settings. 8 sex workers were from an urban area, while 7 sex workers were from a rural area. The assumption that sex workers are mainly from rural areas is thus not true in this case. Regarding education, 5 sex workers had done their higher secondary education, 9 had at least studied till class V, and 1 had not received any formal education but could write her name.

Another important question posed to the sex workers during the interviews was whether their involvement in the profession was voluntary or a result of trafficking. All 15 sex workers responded that they had willingly chosen this line of work. They shared diverse reasons for their choice, reflecting their unique circumstances and motivations.

They said that they chose this line of work due to financial hardships at home; some were married and had children to look after; some were widowed; and some were abandoned by their husbands. Some also expressed a lack of alternative opportunities. Two sex workers stated that they were forced to have sex when working as domestic help, so they thought, if she has to do the same job, then why not join the sex industry and earn more money? Some were in this line of work because it was the easiest way to earn a good amount of money, which the other jobs wouldn't provide them with. All these individuals showed the desire to take their lives and make independent decisions about their work.

RELIGION

Hindu	13
Muslim	2

Given that Kolkata has a predominantly Hindu population, it was quite expected that most of the prostitutes would turn out to be Hindus. 13 out of 15 women were Hindu; the remaining 2 were Muslims.

CASTE

GENERAL	4
SC	5
ST	2
OBC	4

While looking into the caste backgrounds to which they belonged, 4 of them were Generals, 5 were SC, 2 were ST, and 4 were OBC. Thus, the data hardly revealed significant information indicating a concentration of members from a particular caste. Also, out of the 15 sex workers, 10 were from West Bengal itself, 2 were from Assam, and the remaining 3 were from Nepal.

Discussing whether they possessed official documents such as voter cards and Aadhar cards, all the women confirmed having them and said that they had participated in past elections. Out of the 15 women, 5 didn't have ration cards. These sex workers stated that during COVID, the government was providing dry rations to those who didn't have Aadhar cards, but now the government has stopped distributing dry rations, causing more hardships for them. When inquired about any government assistance they received, they all indicated receiving none. Only two women mentioned that they were benefiting from the Lakshmir Bhandar scheme, which provides relief to women in the State of West Bengal. Under this scheme, the government offers financial aid of Rs. 500 per

month to General and OBC women and Rs. 1000 per month to SC and ST women. Some sex workers were not aware of this scheme and had not applied for it.

However, everyone did agree with the fact that during the COVID-19 pandemic, they received assistance from the government. The government provided free rations, relief funds, masks, and sanitisers, and distributed clothes to the sex workers in Kolkata. Even Durbar played an active role in providing them with all the basic necessities during that period, including rations, financial aid, and health facilities.

When questioned about their opinions on the legalisation of prostitution in India, 8 sex workers did not know what the term meant, how this prostitution model operates, or what the Immoral Traffic Prevention Act was. This reflected a lack of legal awareness among them. These women were also unaware of the recent Supreme Court ruling on prostitution, which has resulted in improvements for individuals who engage in prostitution. The need to sensitise these sex workers on their legal rights and increase awareness among them was felt since failing to do so would leave them vulnerable to exploitation, less susceptible to abuse and arrest, and make it easier for them to access justice. The remaining 7 sex workers were aware of the law and supported legalisation. They stated numerous reasons for the need for the profession to be legalised. One common reason they mentioned was that they wanted sex work to receive the same level of respect as any other profession in society. They expressed that their profession is stigmatised and that they do not receive the respect they deserve within society. Presently, they are constantly living in fear because their work is deemed immoral, and they might be arrested by the police at any time. They also fear potential harassment from local goons.

Five sex workers shared their experiences of harassment by the police. They described instances of being abused, extorted for money, and pressured for

sexual favours. They also reported that police officials harassed their clients, exploiting them for money. This highlighted the fact that clients are also subjected to harassment. The sex workers also voiced complaints about facing harassment from local thugs. Also, the brothels they work in are subjected to frequent raids. Since brothels are considered illegal, they lamented that police officials exploit these situations to arrest them and their clients.

While interviewing the older sex workers, a group comprising five individuals, they shared that their living conditions in the past were significantly worse. They explained that they had previously endured violence from both clients and police officials. Those days, they recounted, were characterised by sheer horror, and merely surviving in such a hostile environment was a formidable challenge. The police wielded considerable authority during that period, and physical assaults were distressingly common. These sex workers reflected on how Durbar's intervention has brought about a remarkable transformation. They noted that their circumstances have improved considerably, with the organisation providing a safer setting for their work. They now receive protection from harassment by both police officials and clients. They also have access to essential facilities such as health check-ups, AIDS screenings, and the distribution of condoms among sex workers. One of the sex workers recounted a staggering experience, sharing that she had to undergo abortions on nine occasions due to the lack of access to condoms during that time.

MARITAL STATUS

Single	Married	Separated	Widowed
5	6	3	1

Out of 15 sex workers interviewed, 5 were single, and they stated that they were in this profession to earn money, considering the fact that it's the easiest way to earn a substantial income. They stated that they were saving all of their income

and that they intended to leave their jobs whenever they felt they had enough money to buy a flat and start a business. 1 sex worker also expressed her plans to adopt a child after quitting sex work.

Six women were married and shared that they were married to their clients, and five women among them stated that their husbands didn't have any problem carrying out sex work to earn money; however, 1 woman left sex work due to her husband's disapproval, and her husband now supports her financially.

Three women interviewed were separated from their husbands. Two sex workers disclosed that they had married their clients, but after marriage, they were asked to quit sex work. The woman disagreed because they claimed that they wanted to be financially independent and that their husbands were earning a meagre amount, which was not sufficient to run a family. One sex worker mentioned that she had married her client, but her husband abandoned her after 5 years. On the day the researcher visited Durbar for the interview, she returned to register as a sex worker at Durbar. There, she underwent verification and signed documents affirming her voluntary engagement in this line of work, emphasising that no one was coercing her.

Lastly, 1 woman was widowed and said that she joined sex work after the death of her husband as there was no source of income to support her needs.

10 out of 15 sex workers had children, and they also cited that it was one of the reasons why they joined sex work because they had the responsibility to look after their children. When questioned about whether they wanted their children to become sex workers in the future, a common response emerged. They mentioned that they are working hard to ensure that their children have a better future. Naturally, all parents aspire for their children to do well in life and be in a better position than them, but they also said that if their children have a destiny

like hers and for survival, if she has to choose prostitution, then they don't have any problem; at least they don't want their children to die of hunger.

PROBLEMS

When asked about the problems they face, sex workers shared numerous challenges in their daily lives. Some of the specific issues they highlighted include:

1. They sometimes have to deal with unruly clients who are intoxicated with alcoholic drinks and emit an unpleasant odour. These clients sometimes even argue not to use condoms for the sake of their pleasure over safety. So handling such clients is very difficult for them. In cases where clients refuse to use condoms, it falls upon the women to wear them for their own safety.
2. Some sex workers complained that they are harassed by police officials, and some stated that brothels frequently become subject to raids and frequent police raids take place. So they always have to live in constant fear of potential arrests. Along with them, even clients face harassment, and money is extorted from them. Some sex workers recounted instances where the police apprehended clients, forcing them to withdraw money from ATMs and hand over all the cash they possessed. These encounters with the police have left clients fearful of revisiting sex workers.
3. During the Durga Pujas, "Chanda Walas" get hold of the clients and extort large amounts of money, which hampers their business. The amount that might be given as tips is seized by these individuals.
4. Some sex workers keep all their daily earnings with the brothel keeper. However, after 5–6 months, when they ask for their money back, either for sending money home or saving in their respective bank accounts, the brothel keepers often refuse to return the money. So they often get involved in an ugly spat with her, and there have been instances in the

past where the brothel keeper took away their money and never returned it. However, the sex workers stated that at present, when they face such problems, they approach Durbar for assistance.

5. They also shared that the stigma associated with their profession makes it difficult for them to live a dignified life. 7 sex workers stated that their parents have not kept in contact with them after they came to know that they are involved in this line of work, while 3 sex workers mentioned that their parents knew about it, and 5 sex workers stated that their family has no idea about the work they do and that it is essentially being kept a secret from their family.
6. The older sex workers said that as they get older, their income gets drastically reduced. One sex worker aged 60 stated that she earns only Rs. 3000 per month, which makes it very difficult to make a living with that amount. She has been lucky that she has been offered the job of outreach worker in Durbar, but it's not the same for all the sex workers. As they age, life becomes difficult for them. So they stated that if the government could come up with some schemes for the older sex workers, it would be a boon for them.
7. Last but not least, the sex workers claimed that there isn't always a steady flow of customers; there are also moments, particularly during inflation, when there are fewer customers, and sometimes there are none at all. People with low incomes suffer the most from inflation since it reduces their purchasing power. Because their clients are of poor socioeconomic status, it is difficult for them to support their families, and paying a prostitute is out of the question. As a result, sex workers' income is negatively impacted during these times.

These are the few problems they mentioned that they face in their profession. Some sex workers who were aware of legalisation believe that legalisation could serve as a potential remedy for the challenges experienced by individuals in the

sex work profession. They also claimed that the recent Supreme Court order might change the exploitative scenario they are living in.

At the end of the interview, a question was asked to all the sex workers if, given the opportunity, they would leave this job and look for an alternative. As mentioned earlier, only 5 sex workers stated that after earning enough money they will quit sex work, while the remaining 10 stated that they have no plans to leave sex work and will continue until they can serve clients.

In addition to interacting with brothel keepers and prostitutes during the fieldwork, the researcher also had the chance to interact with the children of the prostitutes. Researcher got to observe firsthand how the sex workers actually live, where they reside, and how they stand in front of brothels to entice clients.

INTERVIEW WITH THE ORGANISATION

It was vital for the research to interview an organisation that has been campaigning for the rights of sex workers, and Durbar has been an important institution fighting for their rights since 1995. Brief background on the organisation has already been given, so because of its relevance mentioned earlier the researcher chose to do an interview with the organisation. In order to understand the organisation's point of view, researcher interviewed Dr. Protim Ray, the organisation's Doctor in Charge and Senior Research Executive. The decision to interview him was taken because of his seniority and role; he has been working with the organisation for 16 years and has a deeper understanding of the organisation's activities, research initiatives, and advocacy. Semi-structured interview was undertaken for the organisation, where a few questions were predetermined and others were not.

Based on the questionnaire in the interview, certain themes or central ideas that emerged from the interview data have been discussed below.

EMPOWERMENT AND CONTRIBUTION

Dr. Roy stated that the most important and successful tactic used by Durbar to unite all sex workers under a single banner or group has been collectivisation, which has been successful in empowering the sex workers. He claimed since a large number of sex workers in red-light area in Bengal are members of the DMSC, all of their disparate voices have been brought together through collectivisation. It gives sex workers a platform to come together, learn from one another, support one another, and advocate more effectively. Durbar organises a rally, mela, where sex workers gather to discuss the organisation's objectives and aims. Collectivised sex workers have successfully combated violence and extortion, which were extreme before Durbar, and have always been active in fighting for the rights of sex workers. Thus, the collective action of sex workers through Durbar has resulted in their empowerment.

RECENT SUPREME COURT ORDER

Dr. Protim Roy said it is important to note that sex work is not yet acknowledged as a profession, and it is important to avoid interpreting this development as giving sex workers full labour rights or equating their line of work with other professions. The ruling merely provides guidelines to protect sex workers' rights, dignity, and general well-being. Though the order has shed some positive light, he stated that it was important to discuss the basis for the government's reservation of a few recommendations, and it was believed that the Centre would drop it. However, the Centre has postponed the scheduled hearing without assigning a new date. He said the Supreme Court has always shown favourable attitudes towards sex workers, but there is no positive sign from the Central government.

DIFFERENTIATION BETWEEN SEX WORK AND TRAFFICKING

Durbar has been advocating that sex work and trafficking are completely different concepts and are not even the opposite sides of the same coin. It is very important to sensitise the masses that all the women who are involved in sex work are not victims of trafficking. There are women who are willingly joining this profession. It is their personal decision to enter the sex trade, and others should respect their decision rather than questioning and stigmatising them. Any woman above the age of 18 can join the profession willingly, but before that, they have to go through Self-Regulatory Board of Durbar.

When it comes to women's trafficking, it is a type of violence in which a woman is compelled into prostitution, and DMSC does not condone women being coerced into prostitution by force. To ensure that trafficked women are not present in the Redlight Zone, Durbar has a branch committee that ensures that if they ever find a new girl in the Redlight Zone or if they become suspicious of a man who has arrived with a young girl, Durbar intervenes and discovers the truth. Thus, Durbar's Board and branch committees play an essential role in combating trafficking. Dr. Protim Roy stated that "At present, trafficking in the red-light Area, where Durbar has its footprint, is almost zero, especially trafficking of underage girls".

Given below is the data provided by Durbar in its publication, *A Continuing Battle*.

TRAFFICKED AND UNDERAGE GIRLS SEPARATED FROM THE RED-LIGHT DISTRICTS OF KOLKATA

Girls and unwilling women identified and separated (2009- 2021)

Year	No. of Girls brought to SRB	Under Age Girls (below 18 years)	Percentage	Unwilling women	Percentage	Wants to continue sex work
2009	628	55	8.8	14	2.2	559
2010	692	58	8.4	11	1.6	623
2011	875	57	6.5	20	2.3	798
2012	907	38	4.2	23	2.5	846
2013	1134	43	3.8	27	2.4	1064
2014	1083	39	3.6	11	1.0	1029
2015	1051	30	2.9	7	0.7	1015
2016	1142	23	2.0	3	0.3	1116
2017	1030	13	1.3	3	0.3	1014
2018	858	6	0.7	2	0.2	850
2019	1235	5	0.4	0	0.0	1229
2020	720	6	0.8	0	0.0	714
2021	1280	4	0.3	0	0.0	1276
Total	12635	377		121		12133

Source (A Continuing Battle, p.88).

LEGALISATION PERSPECTIVES

Legalisation, according to the DMSC, is the process through which commercial sex trade will be acknowledged as labour. DMSC believes that legalisation would have a variety of advantages, including an end to arbitrary police raids

and harassment of sex workers. Legalisation will also result in the empowerment of sex workers, as through legalisation they will be in a position to refuse clients they do not want to serve and will also acquire the freedom to leave the industry whenever they want. Fighting for complete legal recognition of prostitution is the DMSC's long-term objective.

Dr. Protim Roy asserted that Durbar considers sex work as a valid profession on par with any other occupation, emphasizing that sex workers possess the autonomy to make choices regarding all facets of their lives and careers. At present, sex work is stigmatised, and society treats sex workers with contempt. They are driven to corners of the city, where they could be subjected to numerous acts of violence by clients, pimps, and police officials. While Durbar strives to protect sex workers in West Bengal, the conditions for sex workers in other states are not equivalent. Therefore, the legalization of sex work could potentially provide a solution to the myriad challenges encountered by sex workers across India.

However, Dr. Roy stressed that the country's laws on legislation should not be recklessly drafted. The legalisation model should be effectively executed, with the government developing proper rules and regulations to regulate it as well as developing a system to combat trafficking in the country.

When a question of how Durbar has contributed to or can continue to contribute to the legalisation of sex work in India was posed, he claimed that Durbar has consistently advocated for the rights of sex workers and has participated in numerous advocacy campaigns on their behalf. He also claimed that Durbar will fight for legalisation when the time comes, but at present the progress is very slow due to a lack of initiatives from the government.

RELEVANCE OF CURRENT LAW

According to Dr. Protim Roy, the Immoral Traffic Prevention Act, which is the legal framework governing sex workers, goes completely against them. He stated that numerous provisions of the ITPA have been criticised for criminalising sex workers, so one of the demands of DMSC is the repeal of the ITPA; if not repealed, the government should at least consider removing certain provisions from the ITPA and making necessary amendments to restore the rights and dignity of sex workers.

POLICE HARASSMENT OF SEX WORKERS AND CLIENTS

When questioned about whether the police are the biggest perpetrators of harassment of sex workers, Dr. Protim Roy stated that formerly, sex workers experienced significant violence at the hands of police, being routinely detained, beaten up, sexually exploited, and money were extorted from them, but that the violence has now greatly decreased, although it has not been fully eliminated. Police violence existed until 2011, and it was only after that that it began to diminish. He said, "previously, the police violence was very high, but now it's less but not zero". He also claimed that the same is true when it comes to police raids on brothels. Previously, the frequency of police raids was relatively high, but police raids are still carried out, albeit less often.

Client harassment occurs in addition to harassment of sex workers. As Durbar aggressively campaigned against harassment of sex workers in the past, it is now the customers that are harassed the most. There has been a shift in their target; these days, police harass customers who come to see sex workers and confiscate their money, making it difficult for them to pay sex workers fairly and therefore affecting the income of sex workers.

PERCEPTION ON UNDERREPORTED CASES

One of the major reasons cited by Dr. Protim Roy for the low number of cases reported against violence against sex workers is a lack of legal awareness among sex workers and a lack of financial resources to fight a case. Also, when police arrest sex workers, they have no idea under what law they are arrested, so he suggests sensitising sex workers about their legal rights.

SEPARATION OF CHILDREN FROM THEIR MOTHER

Durbar does not physically separate children from their mothers but also does not let children remain with mothers during their professional time; instead, they encourage their children to be kept in a hostel or at their native place. Even though they may live some distance from their kids, the sex workers maintain contact with them.

Dr. Roy stated that Durbar works to educate the children of sex workers. Currently, there are seven active educational centres with a total of 25–30 children and one teacher per centre. Children as young as three years old and occasionally as old as ten are kept in these centres.

REHABILITATION

When asked whether prostitutes can be rehabilitated, Dr. Protim Roy stated that rehabilitation is a myth and, in reality, it's not possible because society never enables them to shed their identification as 'prostitutes'. Even if the prostitutes are rehabilitated and reintegrated into society, society is never going to accept them because the stigma of having worked as a prostitute will always be there.

INITIATIVES DURING COVID

The Durbar Mahila Samanwaya Committee provided full support and assistance to sex workers both during and after the lockdown period in all the red-light

districts under Durbar. Like other people, sex workers too lost their regular earnings, making it difficult for them to look after their basic needs. During COVID, Durbar, interacted with various funding agencies, organisations, and individuals for donations and distributed food items and other essentials among the sex workers. They were also given sanitizer, masks, soap, sanitary napkins, clothes, etc.

Durbar also distributed biscuits, oats, books, copies, and colour pencils among the children of sex workers. Durbar held a series of sensitisation and awareness sessions for sex workers on COVID-19, and it is a successful record of Durbar that not a single sex worker contracted COVID during that time.

The interview with Durbar has been enlightening, providing the researcher with the opportunity to gain a detailed understanding of their work, learned about their efforts to empower sex workers, their views on legalisation, and how their advocacy initiatives could contribute to the potential legalisation of prostitution in India.

SANLAAP

Sanlaap is one of the most prominent organisations combating human trafficking in South Asia, particularly in the Indian subcontinent. Since its inception on 30th June 1989, it has been a trailblazer in not just developing successful anti-trafficking methods but also in developing programmes that assist in empowering and rehabilitating survivors of trafficking within society. Sanlaap, which has over three decades of experience working at the grassroots level to combat this pervasive issue, aspires to fight towards the creation of a society devoid of sex trafficking and underage sexual exploitation.

As an organisation, Sanlaap provides assistance to women and teenage girls who are engaged in commercial sex, as well as to those who have been trafficked or forced into prostitution. In the battle against human trafficking, the most

egregious and dehumanising human rights violation, Sanlaap emerges as a major anti-trafficking organisation. The goal of Sanlaap's campaign against trafficking in women and girls for the purpose of commercial sexual exploitation is to provide psychosocial rehabilitation to children who have been victims of prostitution and also to women who are trafficked. (A study of integration of survivors of trafficking in West Bengal, Sanlaap)

The word 'Sanlaap' means 'Dialogue'. The 'conversation' is therefore with the survivor, allowing them to speak. It is intended to give prostitutes and trafficked victims an opportunity to voice their plights and concerns in this situation. Since its foundation, it has prioritised programmes that promote Child Rights and assures Child Protection against vulnerabilities, including trafficking. Although it still does so, its current emphasis is mainly on the empowerment of trafficking survivors.

Sanlaap operates in a few states across the nation as well as several Red-Light districts in Kolkata and West Bengal. In 1989, Sanlaap conducted a research study on sexually abused girls within the red-light districts of Kolkata and spent the following years painstakingly inventing, designing, and building various anti-trafficking methods. In 1992, the first Drop-In Centre (DIC) was built, followed by Sneha, a shelter home for young girls, in 1993. In 1996, a Mental Health Intervention Programme for trafficked individuals, the Srijoni Vocational Training and Income Generation Programme, was launched. Many government organisations and entities, including the United Nations Development Programme, have consistently partnered for various types of work with Sanlaap for its leading role in combating trafficking. Sanlaap's activity grew beyond West Bengal and throughout India over time. Currently, it is active in grassroots activities and anti-trafficking programmes throughout South Asia.

A successful youth programme with several centres, a Legal Aid Programme, training programmes for judges, police, BSF, and Anganwadi workers of ICDS,

among other partnerships, have made it possible for Sanlaap to become a significant organisation influencing policy in South Asia today. It has also won the National Award twice: once in 1997 for "Child Welfare" and again in 2002 for "Women's Empowerment and Promoting the Cause of Women."

When it comes to the legalisation of prostitution in India, Sanlaap strictly believes that it should not be legalised. Sanlaap is an important organisation in India that is fighting against legalisation, and since the organisation stands completely against legalisation from a research point of view, so it was very important to include their perspectives on legalisation.

Indrani Saha, the founder of Sanlaap, in her book *Mothers for Sale: Women in Kolkata's Sex Trade*, argues that legalising prostitution will lead to more trafficking in children and increased abuse of current prostitutes. Due to the ever-growing demand for young girls, child trafficking may even increase as a result of young girls being permitted to work as adults in the sex industry. Legalising prostitution may also result in greater police harassment since red-light districts may become easy targets for extortion of money and favours (Sinha and Das Gupta, 2009, p. 49).

HOW GIRLS ARE TRAFFICKED?

According to Sanlaap, there are three stages to the hiring process of girls for prostitution in Bengal. In the first phase, the spotters on the ground level work continuously on the lookout for girls and women who are vulnerable. Numerous studies have revealed that these spotters target those they already know.

They wait for the right moment to take advantage of a family crisis, an economic crisis, or a natural disaster. These people act as genuine friends, listen to their concerns, and provide real solutions, such as loans. By demonstrating that they are sincerely in love, luring them for marriage, or offering them higher-paying jobs abroad, they gain the girls' trust and take them with them. The spotters

then contact the middleman. In the second phase, the middlemen serve as a liaison between the spotters and the brothel owners and as a mediator to discuss the prices at which the girl would be sold.

The girls are bought at a certain price at the last stage by the brothel keeper who then grooms and introduces them to prostitution. Naturally, these stages frequently overlap rather than being easily distinguishable. The goal of the entire operation is to enlist helpless girls and women for commercial sex, often by misleading them or using any other successful technique. The girls and women are either incorporated in West Bengal's red-light districts after recruiting and initiation, or they are trafficked to different states and even other countries (Sanlaap website).

These are the traditional modes of operation for traffickers; however, with the advancement of technology, traffickers are developing new modes of operation, and Sanlaap claims that it is often quite difficult to track them down.

INTERVIEW WITH SANLAAP

For the interview with Sanlaap, researcher had the opportunity to interview Ms. Tapatai Bhowmick, who kindly reconsidered the request for interview. She provided insights into the organisation's mission, goals, and contributions to society, and stance on legalisation.

Having been associated with the organisation for the past 33 years, Tapatai Bhowmick holds the position of Secretary and Programme Coordinator at Sanlaap. Semi-structured interview was undertaken for the interview of the organisation. The interview has been organized into various themes, which are discussed below:

BACKGROUND

The interview began with Ms. Tapati providing a brief background of Sanlaap, which was necessary to understand how the organisation initiated its work. When Sanlaap originally began its mission, it first concentrated exclusively on young girls; subsequently, it added women to its list of priorities. When they first began their journey in 1991, they had little understanding of the modus operandi and manifestations of human trafficking. However, as their interactions with the women in red-light districts increased, they began to gain clarity and develop strategies to combat trafficking. Miss. Tapati Bhowick also mentioned an event in which she was invited to a police training on trafficking in PTS, and when she arrived, she found that all the police charged with traffic duties on the streets were there, indicating that they had little awareness of trafficking and mistook trafficking for traffic police. Thus, there was a zero-level understanding among the stakeholders.

In the 1990s, there was no terminology called protection, as during that time there were no precautions such as condoms used. So the women had to bear many unwanted pregnancies and have children from them. In the 1990s, Sanlaap conducted a survey, and while doing this survey, the mothers raised their concerns about their children and stated that their children were not safe in this area. The term "mother" here refers to the women who had children and were staying in the red-light area. This term will be further used while discussing the interview.

The mother's concern for their children's safety stemmed from the fact that children were often left on the streets while a mother entertained a client since it was not feasible to keep them in the room. It was discovered throughout the study that children of sex workers grew up with inadequate physical and mental care and minimal supervision. They claimed that, despite their best efforts, their boys had turned into local 'mastan' because they had started engaging in

activities such as drinking alcohol, playing cards, getting involved in sexual activities, etc. The youngsters found it difficult to resist the easy access to alcohol and substances like ganja and charash, as well as the open practices of sexual dealings. As a result of early sexualisation and a lack of parental direction and regulations in their lives, they acted without thinking twice. By their early teens, the majority of guys were purchasing sex regularly. The sex workers clients would send the boys to buy cigarettes, alcohol, food, etc. and give them some money as tips; thus, the boys were driven by the desire to earn money that they would spend for their own amusements.

According to sex workers so surveyed, it was a daunting task to raise a daughter in the red-light area. There was always a looming concern that their daughter might be driven to prostitution at an early age because they were aware of the horrible world they were living in. They lived in the locality where the men visited them only with the motive of buying sex. These men made no distinctions between who was a 'professional' and who was not. Many tried to woo these young girls into having sex with them because they wouldn't be carrying any sexually transmitted diseases. Some females were introduced to alcohol at an early age and developed addictions to drugs. Some females who experienced early sexualisation also tried to entice their mother's clients to meet their wants.

During the police raids, the police not only extorted money from the customers but also asked for sexual favours from them. In order to avoid ending up in jail, they promptly cooperated by providing sex without asking for money in return. However, there are situations when the police are not happy with these agreements and urge women to give up their young daughters. All this would result in serious disputes between the police and the sex workers.

So, out of a desire to protect their daughter, the sex worker mother would wed her girl to a local lad in a red-light district. However, after having two to three

children, their spouse abandon them, and they would return to their mother. So for survival, the same cycle is then followed by their children. Thus, the mothers of the red-light areas realised that they had already lost their chastity and family and would never be able to return to their home, so they appealed to Sanlaap that at least their children should not have the same life that they are living right now. They wanted to break this vicious cycle of exploitation and provide a better future for their children. When the legalisation discussion first arose in 1993–1994, the mothers made it explicitly clear that they did not want to see their own daughters in the prostitution business. So they approached Sanlaap to give them education and vocational training and make their daughters self-sufficient. With these ideas, Sanlaap started their shelter home on July 16, 1993, with 15 children from the red-light area of Kalighat.

Because of our unique geographical location, India shares borders with several countries. West Bengal's geographical position and socioeconomic conditions make it both a source, transit hub, and destination for the trafficking of women and children. West Bengal is bordered by Bangladesh, Bhutan, and Nepal, which are the primary cross-border sources for illegal trafficking. Bordering districts include Cooch Behar, Darjeeling, Malda, Murshidabad and the North 24 Paraganas. Sanlaap focuses on border areas to check trafficking. North 24 Pranganas, South 24 Paranganas, Hoogly, Darjeeling, Malda, and Murshidabad are the six districts where Sanlaap is working. Sanlaap has rescued many numbers of girls from Nepal and Bangladesh. When Sanlaap began its prevention programme in 2000, it discovered that six districts were the most susceptible in terms of trafficking, so it focused its efforts on these areas. It tries to check trafficking in the border area too.

PROGRAMMES AND ACTIVITIES OF SANLAAP

SNEHA is a Sanlaap-run care institution that addresses the needs of young girls and women who have fallen victim to trafficking, sexual slavery, abduction, child

marriage, and other forms of exploitation. They are provided with education, given mental support, legal aid, and vocational training to get access to rehabilitation, and they are eventually reintegrated into society.

Sanlaap currently runs its Child Protection Programme in Kolkata's red-light Districts to provide all children with a secure environment where they may pursue formal education, develop skills, and escape fears of being trafficked or subjected to sexual abuse. The children's drop-in facility has also grown into a gathering space for women who live in the red-light District to discuss their problems and future strategies to counteract the violence they face while working as prostitutes.

One of the crucial initiatives undertaken by Sanlaap is the identification of Civil Society Organisations (CSOs) and a strong emphasis on Capacity Building. Sanlaap has successfully identified and engaged with 49 civil society groups across the state. It has provided comprehensive training to these groups, aiding them in comprehending the complexities of trafficking, effective management of trafficking situations, and the techniques involved in rescuing trafficking victims. These efforts aim to heighten awareness within the community, among individuals, and among civil society organisations regarding this issue.

Sanlaap also operates in collaboration with the international entity Global Alliance Against Traffic in Women (GAATW), which staunchly opposes the legalisation of prostitution. This partnership underscores Sanlaap's dedication to combating human trafficking and its commitment to advocating for a stronger stance against such exploitative practices.

One of the major activities that it undertakes to sensitise the masses is to educate them on safe migration and how an individual should migrate while keeping in mind their safety. Sanlaap is also a part of the Swamsiddha programme for

adolescent girls, which is developed by the police to create awareness about child trafficking, child marriage, and child sexual abuse.

To educate communities and other stakeholders, Sanlaap actively collaborates with a variety of parties, including panchayats, CBOs, the police, and district administration, and also works towards building their capacity on anti-trafficking issues. In the district, crisis centres have been established, and they help to increase children's capacity for prevention, rehabilitation, and follow-up for survivors.

Between 1992 and 1995, Sanlaap engaged in extensive efforts to gather data directly from various sources. They collected information from different mothers and learned about the modus operandi of traffickers, the methods used to traffic and exploit women, the challenges they faced in dealing with daily abuse, and the aspirations they held for their children. This phase marked a significant learning curve for Sanlaap, as prior to this, they had no insight into these critical aspects.

In order to identify and address the core causes of trafficking and sexual exploitation, Sanlaap conducts a number of campaigns and advocacy projects. As an illustration of evidence-based lobbying, the Sanlaap was successful in influencing the court's decision to separate the accused from the victims by placing a curtain between them so that the victim wouldn't feel threatened when testifying against the trafficker. Moreover, official tools like video conferencing and recording have been included (in the event that the victim has been repatriated to her native community and is unwilling to return). Sanlaap has long been a key player in facilitating the process of long-term reintegration.

With its extensive experience, Sanlaap has discovered that a multi-stakeholder strategy is necessary to successfully rehabilitate and reintegrate victims into mainstream society. Economic rehabilitation is a crucial component of total

psychosocial rehabilitation procedures and not a stand-alone programme. Given that rehabilitation is a prolonged process, suitable strategies—which are fundamentally unique to each child—would be carefully designed. Through these endeavours, each survivor discovers a new identity, which is likely the most significant success of the reintegration process.

Over 10,000 girls and women have been successfully restored and repatriated throughout the first 25 years of Sanlaap to their homes in West Bengal, other Indian states, Bangladesh, Bhutan, and Nepal. Sanlaap has also worked closely with the police and actively assisted in the criminal investigation and punishment of numerous traffickers, brothel keepers, and others who were guilty. It has also rescued over 1000 girls from forced prostitution. Numerous national and international organisations have also recognised and backed Sanlaap's multifaceted efforts to prevent human trafficking.

PERSPECTIVES ON TERM “SEX WORKER” AND LEGALISATION

Ms. Tapati Bhowmick vehemently opposes the usage of the term "sex worker". She asserts that Durbar advocates for legalisation and presents their profession as a fight for their labour rights. She raises the question that if they are viewed as labourers, a fundamental characteristic of labour is the creation of a tangible product. In this context, she questions what exactly sex workers are producing—is it merely the satisfaction of a man's desires?

She further questions the classification of this role as an occupation, pondering whether catering to male pleasure qualifies as a legitimate job. Ms. Bhowmick also states that prostitution is a vicious cycle that drives minor girls into the realm of prostitution. Where does a woman stand to gain from it, she asks, when it's all about violence?

In 1996, when Sanlaap had just started its journey, a small survey was conducted with a mother in a red-light area, and Ms. Tapati Bhowmick stated that not a

single mother wants her child to be a prostitute. No one would ask her children to be the finest prostitutes to entertain their clients. She raised an important question: How can a woman who engages in prostitution advocate that it should be legalised if she cannot envision the future of her child as a prostitute? She said that when all the women engaged in prostitution agree that they see their child's future as a prostitute, then she will be in favour of legalisation.

She pointed out that women often enter this career due to their vulnerability rather than a genuine desire. The profession lacks dignity and respect, making it unlikely for anyone to willingly choose prostitution. Despite societal progress, the acceptance of prostitution as a legitimate occupation remains implausible within our cultural context. Even if a woman possesses an ID card labelling her as a sex worker, she won't receive the same level of respect afforded to other professionals. Within society, prostitutes are unfortunately still perceived as morally compromised individuals.

She stated that sex is an emotion rather than an item that can be purchased, and it's important for men to understand that. If everyone understands this, violence will be lessened. She stated that Sanlaap views prostitution as starting with violence and ending with violence.

Prostitution should not be legalised, as legalising prostitution will lead to a rise in child prostitution, an increase in human trafficking, and overall exploitation of women and children. It may also legalise traffickers because they are part of the trafficking network. If prostitution is legalised, traffickers will have more power because there will be no penalty, which will result in increased trafficking. Sanlaap underscores the pivotal issue of a third party exploiting an individual's vulnerability. Ms. Tapati Bhowmick states that the stance against legalisation finds its foundation in their direct experiences at the grassroots level. The sheer profitability of prostitution raises a substantial concern, as its legalisation could potentially lead to exponential growth in this trade.

SUCCESSFUL RESCUE INITIATIVE

Ms. Tapati Bhowick shared some of Sanlaap's successful rescue initiatives:

1. In the case of *Gaurav Jain v. Union of India*, it was decided that if a juvenile girl was discovered in a red-light district, it was acceptable to assume that she was brought there to engage in prostitution, so it was crucial to remove or rescue her in order to protect her. Following the ruling, Ms. Tapati Bhowmick took part in a rescue operation in November 1996, during which 473 females were rescued from Mumbai's Kamathipura red-light area. West Bengal and Andhra Pradesh topped the list of states from where the prostitutes belonged. Among the rescued minor girls, 25–35 were HIV positive, with 9 of these girls hailing from West Bengal. These girls so rescued were brought there by traffickers, and the reason for the large number of girls being trafficked was that at the time when a girl vanished, parents take very little initiative to look for their child. They were also reluctant to file a General Diary (GD) with the police because they believed that having one less family member would ease their financial burden. Since the Maharashtra government was unable to accommodate all of the girls who had been rescued, they were sent back to their respective states.

All the girls from Bengal were brought back by Sanlaap and kept at Liluha shelter home, which was the only shelter home at the time, but when they discovered 9 girls were HIV positive, they refused to keep them in the main building and kept them in a small room and fed them from outside. The term "girls of line baari," which refers to women who wait in lines to attract men, was used to describe all of these rescued ladies at that time. As a result, stigma was attached to these girls in society.

There was very little understanding of HIV at the time, and there was a misconception that it was a contagious and fatal sickness that would kill

everyone, so they were mistreated, and other females stoned them because they were HIV positive. Seeing the mistreatment of females, the government authorities asked Sanlaap to take those 9 girls and place them in a secure environment, as they did not want to bear the responsibility of these girls. So, overnight, Sanlaap secured a house for them; everything was set up, and they waited for the girls to arrive by bus, but they never arrived. They later learned that the bus driver refused to drive them because they were HIV-positive. The next day, another driver was arranged, and he dropped the girls off; no government staff accompanied these girls. This demonstrated the government's lack of concern for the safety of these girls, as though they just intended to get rid of them, and these incidents also reflected the stigma that was attached to these girls who were HIV positive. These girls were given medical treatment at the new shelter home, and the doctor was quite supportive at the time. Some of the females survived, but not all.

While speaking with these girls, they recounted their experiences, and they learned that after being trafficked, they were kept in the Kamathipura Redlight Area, where they endured extreme violence from their clients, brothel keepers, and thugs. They were designed to work like machines, with little time to rest. One girl stated that they did not have a regular routine like other people since they were required to entertain the clients all of the time. They also had to have several abortions at such a young age since protection was not available at the time.

2. On August 29, 2020, Sanlaap conducted a rescue mission during COVID-19 in the Murshidabad district. Nine of the 15 females that were saved from the location were from Bangladesh.

3. Since Sanlaap focuses on border areas, it has rescued many girls from Nepal and Bangladesh. The most recent rescue operation was done in the Maishadal Mednipur district, where 55 Nepali girls were rescued; the youngest was 9 and

the oldest was 40. Although there is no red-light district here, they were made to work in hotels.

Ms. Tapati Bhowmick stated that over the past 30 years, Sanlaap has rescued over 1500 girls and women from human trafficking.

REHABILITATION OF PROSTITUTES

Ms. Tapati Bhowmick pointed out that in the past; there were discussions about closing down brothels due to the trafficking and sale of vulnerable women within them. While obtaining a notice from the Supreme Court to shut down these establishments could be accomplished in a day, it wouldn't constitute a genuine solution. The trade would likely migrate to another area, giving rise to a new Sonagachi-like district. Thus, a more practical approach was imperative, leading to the concept of rehabilitation.

The government did develop a rehabilitation programme; however, it turned out to be an abject failure because there was no beneficiary and the benefits provided by the programme were very less. The meagre financial support offered by the rehabilitation programme failed to motivate women to leave sex work. Nonetheless, as per Miss Tapati Bhoumick's perspective, the rehabilitation plan could potentially succeed in the future if the government sets up realistic wages as a part of the plan.

She also mentioned a new trafficking bill which is set to be introduced, with a significant emphasis on expanding rehabilitation efforts. The forthcoming rehabilitation programme aims to provide an alternative avenue for individuals, steering them away from pathways of exploitation. This comprehensive rehabilitation initiative is being developed on a larger scale. While the bill has been presented in Parliament, its progress remains pending.

If the bill is accepted by Parliament, there is also a potential opportunity to overhaul the functioning of the Immoral Traffic Prevention Act (ITPA). Despite the ITPA declaring brothels illegal, they continue to operate, and the lack of clarity on the definition of public space further complicates matters.

REASON BEHIND WOMEN'S ENTRY INTO PROSTITUTION

The decision to enter prostitution is often driven by the commodification of women's bodies. Some women are forced into the profession due to violence and abuse within their own households or their in-laws' households. They face torture and starvation, so they start working in red-light areas where they believe they can make independent choices. These women highlight the distinction between the violence they experience within their families and the violence they encounter from customers. Ms. Tapati Bhowmick states that while both situations involve violence, the difference lies in the red-light area's potential for self-determination.

SUPREME COURT ORDER

Following the recent Supreme Court order, Sanlaap has initiated a dialogue with the Global Alliance against Traffic in Women (GAATW) to address the concerns raised by the court's decision. The lack of clarity surrounding the definition of a "public place" is a key issue. With the legalisation of consensual sex, the Supreme Court seems to overlook the concept of public space, potentially allowing sexual activities to occur anywhere. Consequently, Ms. Tapati Bhowmick said that there is a pressing need to introduce amendments to the Immoral Traffic Prevention Act (ITPA) with a view to establish clarity about the term public place.

The interview with Sanlaap was illuminating, offering valuable insights into their perspectives on the legalisation of prostitution. These insights are crucial for the research. Moreover, the discussion provided researcher with an

understanding of the various activities they undertake to combat human trafficking within the country. Their diligent efforts to prevent the trafficking of minor girls and women in the prostitution industry were particularly noteworthy.

INTERVIEW WITH THE POLICE OFFICIALS

Interviewing the police officials was vital for the research, as it provided insights into their comprehension of laws related to prostitution and their understanding of issues concerning prostitution and trafficking. These interviews have also shed light on how law enforcement handles cases involving sex workers.

Given that police are often viewed as the primary perpetrators of harassment against sex workers, it was imperative to engage with them and comprehend their perspectives on this matter. Understanding their stance on the legalisation of prostitution in India was of paramount importance. Through these interviews, researcher was able to effectively document and record their viewpoints.

For the interview, researcher got the opportunity to interview the police officials of Bhavani Bhavan, one of the two police headquarters in Kolkata. IPS officer and also the Inspector of police, 2 Sub-inspector, and an Assistant Sub Inspector of police who were working in the Anti Human Trafficking Unit (AHTU) of CID, West Bengal were interviewed. AHTUs are integrated task forces that work together to prevent and fight against human trafficking. They are made up of police officers, staff from the Department of Women's and Children's Welfare, and representatives from other relevant state agencies. AHTUs work as cohesive groups to stop trafficking. The police officials of AHTU address all cases related to human trafficking and conduct rescue operations to rescue the women who have been forced into prostitution and dismantle trafficking rings. It deals with all the cases of trafficking in the state and focuses primarily on

those cases in which human trafficking from an interstate angle are involved. As they possessed extensive knowledge about trafficking, conducting interviews with them was the most suitable option for me.

In interviewing all the police officials, everyone stated that prostitution is neither legal nor illegal in India. Two of the police officials even stated that it's illegal in India. So this was quite surprising because they lacked clarity and no one stated that prostitution is legal under the ITPA Act, but activities such as soliciting, pimping, or brothel keeping is illegal. However, the confusion regarding the legality of prostitution could be because of the confusing definition of prostitution in India, because of this lack of awareness about the legal status of prostitution, the general public often perceives it as illegal.

Interestingly, it was only the IPS officer, ADGP CID, R. Rajashekar, who demonstrated a clear understanding of the laws surrounding prostitution. He correctly stated that prostitution itself is legal in India and went on to discuss the recent Supreme Court order. He elaborated on how the Supreme Court has provided guidelines and recognised voluntary sex as lawful. He also acknowledged that while prostitution has existed for ages, it remains a stigmatised profession with women facing numerous challenges, so India should legalise prostitution in India. He also explained that sex is just a basic human need, and if prostitutes are fulfilling those physical needs, then what is the harm in legalising prostitution? He also stated that prostitution also contributes to reducing rapes in the country. As its presence fulfills a variety of critical functions, it should be legalised.

He further expressed that the ITPA exhibits a significant bias as it places stringent regulations solely on impoverished women engaged in red-light areas. These women encounter violence and societal stigmatisation. In contrast, high-class prostitutes like escorts and call girls operate within five-star hotels without

interference. He emphasised that it is primarily the disadvantaged who bear the brunt of the violence.

Gautam Saha, Inspector of Police, stated that the law that deals with prostitution is the ITPA, and if any prostitutes are involved in any crime, they are arrested under 370 IPC or the appropriate section of immoral trafficking. He also explained how ITPA is used to deal with cases of commercial sexual exploitation or abuse of individuals. On enquiring about how they differentiate between a consensual sex worker and a trafficked victim, he stated that they don't arrest a sex worker unless they have committed some crime, and when it comes to dealing with cases involving human trafficking, police generally raid a place on the basis of prior information, and post-raid, the rescued victims are interrogated. This interview provides insights into how they were trafficked and identifies individuals involved in the trafficking process.

When asked if the police are the main perpetrators of harassing prostitutes, the official stated that they have not come across such cases in West Bengal, and this is basically a false allegation. He said this might be true when it comes to other states, but he says he is not sure about it. When asked about his point of view on the legalisation of prostitution, he stated that legalising prostitution would result in sex workers being recognised as legitimate professionals. This move could potentially address the myriad issues they currently encounter. If there are cases of harassment by the police in certain states, which is not the case in West Bengal, legalising prostitution could help resolve such situations. Moreover, the implementation of proper laws would act as a deterrent against client harassment.

When questioned about the frequent raids that occur in red-light districts and the harassment that clients experience at the hands of police, he responded that in some instances, it could only be the case that the criminals are visiting the prostitutes at the time the raid may occur, and in such cases, they take away the

prostitutes clients, they being the criminals, and sex workers may claim it as harassment.

When asked about how often they have to deal with the trafficking cases, Sub Inspector Tapan Kumar Chakraborty stated that for the past 2-3 years, the number of human trafficking cases has reduced a lot. The primary reason for the decrease in human trafficking cases is the active involvement of the Anti-Human Trafficking Unit in investigating these cases. They regularly conduct rescue operations and dismantle prostitution rackets engaged in commercial sexual exploitation. This concerted effort has made it challenging for traffickers to sustain and expand their illicit operations.

He stated that the women who are involved in prostitution join the profession out of poverty. In order to survive and run their families and due to economic compulsion and distress, these women join prostitution willingly. He highlighted that some people tend to believe that women who join prostitution are victims of trafficking, which is not true. He said that prostitution exists because there is a demand in society and should be legalised in the long run.

Assistant Sub Inspector Soma Chakraborty, who had recently been promoted to ASI after serving as a constable for 16 years was also interviewed. When asked about the frequent raids by the police, she explained that the police do not conduct raids on brothels without accurate information. Raids are typically carried out when they get a piece of information about minors working in a brothel or cases of trafficking involving individuals coerced into prostitution. It's important to note that fake claims of police harassment against prostitutes may sometimes arise in response to such enforcement actions.

She shared that if the police don't visit the red-light area, there will be an absence of law and order. Soliciting is a crime, and if police interfere in it if they are soliciting in a public place, it is the duty of the police to tell them that they are

not allowed to do so, and the prostitutes may make false allegations that they were soliciting, so they might just be defaming the police officials for doing their rightful duty. However, she had nothing to say when asked about the allegation of police officials of the extortion of money and sexual favours.

Sub-Inspector Priya Sen pointed out that a significant portion, about 85% to 90%, of the cases involving trafficked women are linked to kidnappings for prostitution. Moreover, there are instances where men deceive women under the guise of fake love, coercing them into prostitution. Moreover, some individuals entice women with false promises of employment if they relocate to the city. The process of trafficking often involves a network of individuals participating in various roles. She further stated that trafficking operates as a chain, with numerous people being involved from the source to the destination. Women are passed along by different individuals at different stages of this process. It's difficult to crack down on the modus operandi of the traffickers because it keeps changing. She stated that legalisation could be the solution to put a check on the rising trafficking rates. Stringent laws in force would make it difficult for the traffickers to operate and would subsequently lower the trafficking rates in the country.

When asked why there is a lower number of cases filed by sex workers when there are almost 3 million sex workers in the country, she stated that one important reason behind it could be a lack of legal awareness among the prostitutes. As prostitutes are not educated, they don't know how a legal step can be undertaken. There is a need on the part of the government and the NGO's to sensitise the prostitutes on how legal action can be undertaken in cases of violence.

She stated that prostitution is legal in many countries, and India can also join them. She feels that prostitution is a job like any other job in the world; if a person is willingly selling her body, then there should be no issue with that

choice. India has been progressing and has come up with many progressive laws, so India can come up with one more law, as by legalising, no one would be in loss, rather the respect that the sex workers deserve will be rightfully afforded to them. She stated that sex workers deserve to live their lives with dignity.

An intriguing finding from the interview was that all of the police personnel interviewed agreed that prostitution should be legalised in the country. Given their roles in the Anti-Human Trafficking Unit, it was presumed that they might be against legalisation and thought their stance on legalisation would be like that of Sanlaap, as even Sanlaap is fighting against trafficking, but it was completely the opposite. They stated that, based on their expertise and knowledge in this field, legalisation could help control extensive human trafficking. They believed that legalising prostitution could prevent minor girls from being forced into prostitution, as proper laws and regulations would be in place. In addition, they highlighted that, with legalisation, the profession could be strictly regulated in the country.

However, when the question of whether police officials are believed to be the main perpetrators of harassing prostitutes was asked, all the police officials stated that they had not heard about such cases in West Bengal and that they might be taking place in some states, while some even went to the extent of saying that those might just be false allegations against the police and may not be true.

When questioned about the recent Supreme Court Order that outlined specific guidelines pertaining to the treatment of sex workers in India, all the interviewed police officials were well-informed about the order. ASI Soma Chakraborty and SI Priya Sen highlighted that the guidelines mentioned in the Order stipulate that when a sex worker reports a criminal, sexual, or other form of sexual offence, it must be treated seriously. They emphasised that all sex workers should be treated with dignity by the police, and officers should refrain

from verbally or physically abusing them, using force, or coercing them into sexual activity. They assured that these guidelines are being adhered to in police stations. This positive implementation of the recent Supreme Court Order showcases that the police officials in West Bengal are also following the directives set forth by the Order.

CONCLUSION

The chapter extensively examines and presents the perspectives of various stakeholders, including the Durbar Mahila Samanwaya Committee (DMSC), Sanlaap, sex workers, and police officials. Through a series of interviews and interactions, this chapter provides invaluable firsthand insights into their diverse viewpoints on critical issues such as prostitution, sex work, human trafficking, and the legalisation of prostitution in India.

Starting with the DMSC, their perspective sheds light on the efforts and initiatives they undertake to empower sex workers. Their viewpoint highlights the importance of recognising sex work as legitimate labour and advocating for the rights and dignity of sex workers. They emphasise the need to challenge societal norms and prejudices that stigmatise sex workers. Moreover, the DMSC's role in advocating for legal rights and improved working conditions within the sex industry is explored in depth.

While Sanlaap's perspective offers a counterpoint by advocating against the legalisation of prostitution, this organisation's position is based on its dedication to combating human trafficking. They offer a special perspective on the possible dangers and difficulties posed by legalising prostitution as seen through the lens of an organisation dedicated to anti-trafficking efforts.

The chapter also looks at the first-hand narratives of sex workers. The chapter highlights the varied viewpoints of sex workers in red-light areas. These observations represent their life's intricacies, covering themes such as violence,

exploitation, social attitudes, and their views on the legalisation of prostitution. These interviews provide insight into the realities of sex work and shed light on the obstacles and possibilities that sex workers face.

Another significant dimension is the viewpoint of police officials, particularly those working in the Anti-Human Trafficking Unit of the CID. Their perspectives provide an understanding of how law enforcement agencies handle cases related to prostitution and human trafficking. The interviews reveal how they distinguish between consensual sex work and trafficking victims, discuss their efforts to curb trafficking through rescue operations and targeted investigations, and share their views on the legalisation of prostitution in India.

The chapter presents an extensive overview of the complicated discussion surrounding prostitution, sex work, human trafficking, and the eventual legalisation of prostitution in India through this varied spectrum of opinions.

CONCLUSION TO THE THESIS

Prostitution, an age-old institution, still lacks acknowledgment in society. Prostitutes in the country face stigmatisation and endure significant violence at the hands of pimps and clients. While the act of prostitution itself is legal, associated activities such as soliciting, pimping, brothel-keeping, kerb crawling, and living on the earnings of prostitutes are criminalised. Despite its legal status, prostitution faces societal backlash and police scrutiny. Prostitutes not only suffer from social stigma but are also frequently subjected to arrests and harassment by law enforcement officials. Debates surrounding the legalisation of prostitution in Indian society have persisted over time, with proponents advocating legalisation as a potential remedy to the challenges faced by sex workers and opponents expressing concerns about the potential increase in trafficking. Thus, this research aims to provide answers to these questions and shed light on the evolution of prostitution, the associated laws, relevant theories, recent developments, and fieldwork findings to support the theoretical framework. To achieve this, the thesis is structured into five Chapters, each delving into various facets of prostitution.

It's crucial to mention here that I have used the term "prostitute" rather than the term "sex worker" because of its broader and more commonly recognised usage. As my thesis has incorporated the viewpoints of both the proponents and opponents, it is essential to mention that opponents of legalisation often reject the term "sex worker" as they do not consider prostitution a legitimate occupation. Conversely, I've also employed the term "sex worker" in specific chapters, particularly when discussing the perspectives of proponents of legalisation, as even they believe that the term prostitute holds a negative connotation.

ANALYSIS OF THE CHAPTERS

Chapter I, titled '**Prostitution in India: Historical Overview, Diverse Typologies, Routes, and Pathways**', has traced the evolution the institution of prostitution has undergone. The Chapter has examined how prostitution has changed through different phases of history. Through the lens of history, it has traced the varying phases that have marked the evolution of prostitution, ranging from prehistoric times to the contemporary era. The Chapter has comprehensively covered the multifaceted changes that have occurred in relation to the nature of prostitution, societal perspectives, the roles and social standing of prostitutes, and the various issues linked to the practice.

The Chapter has also looked into the various typologies of prostitution that are present across different countries. Prostitutes do not belong to a single homogeneous group; there is a wide variety of prostitutes found all over the world. Although variations exist among different countries, certain typologies remain universal. A comprehensive discussion of 17 distinct types of prostitutes is presented in this Chapter based on the aforementioned factors.

The Chapter has further discussed the causative factors that drive women into this profession, providing an exploration of the numerous reasons compelling them to do so. The Chapter has discussed a myriad of factors that drive women into prostitution, spanning from voluntary engagement to coercion. The Chapter has delved deeply into an exhaustive analysis of these subjects, intricately exploring the evolution, various typologies, and fundamental factors that shape the complex landscape of prostitution. Moreover, it has provided a holistic comprehension of the multifaceted aspects associated with prostitution, establishing solid groundwork for the thesis.

Chapter II, titled '**Legal Approaches and Theoretical Perspectives on Prostitution**', has explored various models of prostitution such as abolitionism,

neo-abolitionism, decriminalisation, legalisation, and criminalisation. The Chapter further examined how these models have been implemented in diverse countries across different continents, providing valuable insights into their practicality.

The Chapter has also discussed the feminist theories on prostitution such as radical feminism, liberal feminism, Marxist feminism, dominance theory, intersectional feminism, and sex-positive feminism. Each of these perspectives has offered a unique interpretation of prostitution and has helped in understanding the subject. Some feminist theories perceive sex work as a type of violence, whereas others regard it as a legitimate avenue for employment and personal independence. This chapter has offered valuable insights into international approaches to prostitution, a crucial aspect to consider when assessing their practicability on a national scale.

Chapter III, titled **Legislative and Judicial Approach towards Sex-Work**, examined the legal and judicial perspectives on sex workers in India, spanning from the time of the British colonial era to the present day, and has covered all the significant acts pertaining to prostitution during the specified time frame. The Chapter also emphasised major landmark judgements related to sex work in India.

The Immoral Trafficking (Prevention) Act (ITPA) of 1986 is the primary law governing prostitution in India. This Chapter has extensively analysed its strengths, failures, and effectiveness in protecting women involved in prostitution. The ITPA contains certain provisions that work against the interests of prostitutes, and the Chapter has discussed why sex workers are advocating for its repeal. I have highlighted the impact of legislative and judicial interventions on the lives of sex workers and contextualised the legislative and judicial approaches within broader social and political contexts.

The Chapter IV, titled **‘Empowering Sex Workers: Supreme Court’s Landmark Directives’**, examined the recent Supreme Court Order that has recognised sex work as a profession and has upheld the rights and dignity of sex workers. The analysis presented in the Chapter has highlighted the recommendations, ramifications, and challenges to the Supreme Court's Order.

The potential implementation of this Order promises transformative empowerment, including equal legal protection for sex workers, improved safety and well-being, and a reduction in the social stigma attached to their profession. Importantly, this ruling grants sex workers the freedom to refuse consent without fearing repercussions from solicitors, police, or unruly clients. Under the Order, rape complaints of sex workers will be taken seriously by the police henceforth, and medico-legal aid will be provided to them.

The successful implementation of the Supreme Court Order recognising sex work as a profession hinges on several critical factors and, at the same time, also raises substantial questions about its practical enforcement.

The Chapter has also addressed the recent handbook released by the Supreme Court, which represents a positive development for sex workers. In this handbook, the term "sex worker" replaces "prostitute" and is recommended for use by the legal community. This change is aimed at identifying, understanding, and challenging stereotypes about women involved in sex work. Consequently, this signifies a significant advancement for sex workers, who have consistently advocated for the use of "sex worker" over "prostitute". This change covered in the Chapter represents a crucial step forward in creating a more inclusive and empathetic environment for sex workers.

Chapter V, **‘Prostitutes, Organisations, and Law Enforcement: Perspectives from the Field’**, is entirely based on fieldwork and has analysed the data collected from various stakeholders, including the Durbar Mahila Samanwaya

Committee (DMSC), Sanlaap, sex workers, and police officials. DMSC champions the empowerment of individuals involved in sex work and supports legalisation, while Sanlaap is fighting against legalisation. The inclusion of contrasting viewpoints from Sanlaap and DMSC on legalisation was pivotal for conducting a comprehensive study, ensuring the incorporation of diverse perspectives. The Chapter has also provided insights into the real-life experiences of sex workers collected from the interviews of sex workers in Sonagachi and Rabindra Sarani red-light areas and has also covered the interviews conducted with police officials at Bhavani Bhawan in Kolkata. As such, their insights were valuable in explaining how law enforcement authorities approach instances involving prostitution and human trafficking. It was also important to gain insight into their views on legalisation. Through the lenses of a diverse range of viewpoints, the Chapter has provided a summary of the intricate debate surrounding prostitution, sex work, human trafficking, and the question of the legalisation of prostitution in India.

RESEARCH FINDINGS

The present study has attempted to respond to the research questions posed in the introductory Chapter in the following manner:

What are the changes the institution of prostitution has undergone over time, and what effect these changes have meant for the prostitutes?

The existence of prostitution has been found in history, mythology, literature, music, drama, sculpture, archaeological structures, ruins, etc. The institution of prostitution has developed greatly over time; it has undergone significant changes in perception, social acceptance, and legal frameworks.

Prostitutes in the past held a very respectable position in society; they were known by different names in the past, such as Devadasi, Praganika, Ganika, Dasi, Rupajiva, Devadasi, Apasaras, etc. Each of these categories was unique in

its own way, and apart from providing sexual services, these prostitutes served different roles in the state, including entertainment, spying, aiding escapes, and even political functions. Prostitutes were skilled in the past and mastered the arts of singing, dancing, writing, arts, music, arithmetic, chess, dice, poetry, shooting arrows, fighting, and so on. They were also subjected to State taxes, thus contributing to the development of the State. Severe penalties in the form of substantial fines were imposed on individuals responsible for the harm or killing of a prostitute; fines were also imposed on men who coerced prostitutes for sexual activity. There have been many instances in the past where prostitutes, through Gandharva marriage, married kings and, after marriage, enjoyed the status of queens. These aforementioned factors reflect prostitutes' excellent standing in the past.

During the reign of Chandra Gupta Maurya, Pataliputra emerged as a prominent center where prostitution rapidly thrived. The state implemented measures to control this institution and integrate it into the taxation framework, believing that operating brothels would generate revenue for the state. The prevalence of prostitution was widespread during the Sultanate period. Prostitutes in this era occupied tough lives filled with uncertainty and objectification, unlike in other historical periods.

Regarding the Mughal emperors, some enforced strict regulations, while others showed favour and support for prostitutes. Emperor Akbar and Aurangzeb implemented stringent measures to control the activities of prostitutes, but these efforts proved ineffective as prostitution continued to thrive in society despite numerous attempts to regulate it. The Mughal period was characterised by the existence of regulated prostitution, with emperors adopting various approaches, ranging from strict control to patronage. Despite efforts to suppress or regulate prostitution, it persisted throughout this era. Some of the Mughal emperors even married prostitutes. No matter how many restrictions were

imposed, prostitution persisted and held a respected position in society due to its role in serving essential purposes.

However, the arrival of the British marked a significant turning point in the status of prostitutes. With the advent of the British in India, the status of women involved in prostitution underwent a change. The British soldiers who were in India away from their wives needed to satisfy their sexual needs. The fear of the soldiers turning out gay in the absence of a partner to satisfy their physical needs also became a matter of concern. With this view, the courtesans, dancing girls, and devadasis were all brought under a single category so that it would be easier to control them. The Contagious Disease Act of 1864 was passed, which made it mandatory for prostitutes to register with governmental authorities and undergo periodic examinations aimed at detecting venereal diseases. Sex workers found to be infected were confined in locked hospitals and released only after complete recovery. They were ill-treated, physically assaulted, sexually abused, and underfed during this time, and they also lost their daily income. Those who refused treatment were imprisoned for life. The Act was biased, as British soldiers were exempted from this process despite the high probability of them being carriers of diseases and transmitting them to prostitutes, but there was no such test for them. The Contagious Disease Act was revoked later, and the British departed from India; however, the stigmatisation of prostitution remained. What was once legal came to be viewed criminally and unfavourably by society. The essence and respect that the prostitutes held before were no longer theirs and now they were perceived as mere individuals providing sexual services.

The Suppression of Immoral Trafficking Act was enacted in 1956 after Independence and subsequently amended to become the Immoral Traffic Prevention Act (ITPA) in 1986. It currently serves as the primary law governing prostitution in India, but it has consistently been applied against

prostitutes. There is a growing demand among prostitutes and NGOs for the repeal of this Act.

Currently, the institution of prostitution is looked down upon, viewed as shameful, and as posing a significant threat to society. Prostitutes are treated with contempt and are denied the opportunity to remain respected members of society. They are subjected to abuse and exploitation by pimps, clients, and police officials. Prostitutes in present society have been looked down upon, belittled, prejudiced against, and treated with contempt. There are women who voluntarily choose to engage in prostitution, but there is a growing social perception that prostitutes are forced into this profession and no one voluntarily sells their bodies, which makes it difficult for these women to carry out their profession for a living. In this way, women caught in the raids are seen as victims of human trafficking and are forced to quit their jobs.

Looking into the evolution of prostitution, we see that it has undergone a lot of changes in regard to its nature, people's perspectives, the intensity of the matter, and various issues concerning it. The institution of prostitution gradually deteriorated over time, losing its essence and becoming a profession viewed with contempt. The stigmatisation of prostitutes and the negative perception of their occupation continue to persist today. Their profession is often met with judgement and disdain, perpetuating a cycle of marginalisation and social exclusion.

How best to understand the legal framework regulating prostitution in India in terms of its content, lacunae, and effectiveness?

The law governing prostitution in India is the Immoral Traffic Prevention Act of 1986 (ITPA). Prostitution, as per Section 2(f) of the ITPA, is defined as "the sexual exploitation or abuse of individuals for commercial purposes," and the

term prostitutes is used to refer to an individual engaged in this exploitative practice.

The ITPA Act has proven to be a useful instrument for law enforcement in preventing the proliferation of prostitution throughout India. The Act is all-inclusive, including all the steps necessary to conduct searches, detain suspects, remove victims from brothels, and provide required presumption provisions with regard to specific charges. It has been a crucial instrument in keeping proprietors of brothels and human trafficking under control. However, the fundamental issue is with the ITPA's unfavourable attitude towards prostitution, as the term prostitution itself conveys a negative message by classifying it as an unlawful conduct that discriminates against prostitutes. The definition of prostitutes under the ITPA Act as the sexual exploitation or abuse of persons for commercial purposes gives a negative connotation to prostitution by defining prostitution as an illegal act. Narrowing down the definition of prostitution solely to a form of sexual exploitation or abuse, nonetheless, presents another obstacle and hinders sex workers from continuing their profession.

One major defect of the ITPA Act is Section 8, which sex workers organisations advocating for legalisation are demanding be repealed. Soliciting is a crime under Section 8 of the Act, and if any woman is caught soliciting, she can be imprisoned for a period of six months, fined a certain amount of money, or be pressed with both charges, but in reality, Section 8 of the ITPA is more frequently used to intimidate and extort money and sexual favours from prostitutes, ultimately leading to their harassment. In practice, the powers granted to the police under the ITPA Act are often marred by corruption, harassment, and the targeting of vulnerable individuals involved in prostitution.

According to Section 21(b) of the ITPA, persons who are in need of correction may be detained under this Act. However, in reality, women who willingly

engage in the profession of prostitution are held against their will in these correctional institutions, despite claims that forceful detention would not occur.

The ITPA also exhibits gender bias in favour of men. In an environment where prostitution is controlled primarily by men, including the police, landlords, entrepreneurs, brothel managers, pimps, procurers, and clients, these powerful figures exert control over the women engaged in prostitution yet rarely face accountability for their actions. In contrast, women who are subjected to exploitation as sexual commodities, enabling the operation of this enterprise, bear the brunt of the penalties and legal consequences. The failure of the implementation of the ITPA to acknowledge "red light" areas and the unique challenges within them perpetuates a cycle of risk and vulnerability for women involved in prostitution.

Section 2(h) of the Immoral Traffic (Prevention) Act (ITPA) defines "public place" as any place intended for use by or accessible to the public, including public conveyances. Under this definition, a sex worker's home or workplace can be considered a "public place" because it is "open to the public" at any time. There is also a problem with the lack of a clear distinction between the sex worker's residence and public roads. Many areas where brothel-based sex work occurs are often characterised by narrow lanes and densely populated localities. This lack of delineation creates confusion and makes it hard for sex workers to distinguish between their personal spaces and public spaces.

The Immoral Traffic (Prevention) Act (ITPA) in India has proven to work against the women involved in prostitution, highlighting the need for significant changes. The Act's enforcement has resulted in the violation of fundamental rights and has disproportionately targeted sex workers. During the interview with Dr. Protim Roy of Durbar Mahila Samanwaya Committee (DMSC) he stated that one of the major demands of the DMSC is scrapping the ITPA Act and legalising prostitution in India. DMSC has criticised the ITPA Act because

it views prostitution only through the lens of trafficking; the consent factor is overlooked here, and even if a person willingly migrates to become a sex worker, there is a notion that the person has been trafficked. This kind of attitude towards prostitution put forward by the ITPA Act aggravates the situation as it criminalises and marginalises the women involved in it. If not repealed, Dr. Protim Roy stated that there is a need to at least remove certain provisions from the ITPA.

Considering the numerous loopholes outlined above, there is a compelling need to repeal the ITPA, as the Act has failed to adequately address the challenges witnessed by sex workers. A new law should be formulated to effectively combat human trafficking while also being more accommodating to the needs and rights of sex workers.

What are the implications and challenges facing the Supreme Court's Order recognising sex work as a legitimate profession?

19th May, 2022, witnessed a historic moment as the Supreme Court of India recognised sex work as a legitimate profession. The Supreme Court upheld the fundamental rights of sex workers to be treated with dignity and respect. Strict laws on prostitution have been relaxed, and extensive guidelines have been established to safeguard sex workers' rights, dignity, and general well-being.

The important elements of the Order are that, in cases where it is clear that a sex worker is a consenting adult, the authorities must abstain from taking any legal action against them. Also when a sex worker lodges a complaint regarding criminal, sexual, or other forms of sexual misconduct, the police must take it seriously. As regards the legal context, the Order asserted that voluntary sex work is not prohibited and that legal repercussions should only be imposed on those who operate brothels. The guidelines also stated that all the women kept in ITPA protective homes against their will should be released in a timely

manner. Sex workers should also be involved in framing legislation governing sex work, and a child of a sex worker should not be separated from their mother solely due to her occupation as a sex worker.

The recommendation further specifies that the police should treat sex workers with respect, and refrain from verbal or physical abuse, use of force, or coercing them into sexual activity. The most significant implications of this Order are that the Supreme Court has acknowledged the agency and autonomy of consenting adults engaged in the trade, safeguarded sex workers' human rights, and sought to reduce the vulnerability and marginalisation that sex workers frequently endure as a result of their profession being criminalised. The ruling establishes a legal framework to defend sex worker rights, guaranteeing that they may work in safer settings, seek legal remedies if their rights are infringed, and report incidents of abuse without fear of legal penalties. The Supreme Court Order challenges the social stigma and discrimination that have long been associated with sex work. Sex workers will be shielded from intimidation and arbitrary police arrests.

However, the implementation of recognising sex work as a profession in India faces various challenges and complexities. Sex work in India continues to be heavily stigmatised due to societal norms, cultural attitudes, and moral biases. This stigma often leads to social resistance to accepting sex work as a profession. While a recommendation has been made to integrate sex workers into the decision-making process, a legitimate concern arises about whether their opinions will genuinely be considered or if they will be included practically in the decision-making process. Effective implementation of any law reform requires political will and government prioritisation. Unfortunately, politicians may not always prioritise sex work, resulting in a lack of resources, financing, and attention committed to developing and implementing supportive policies.

During the interview with DMSC, when asked about the recent Supreme Court order, Dr. Protim Roy said it is important to note that sex work is not yet acknowledged as a profession, and it is important to avoid interpreting this development as giving sex workers full labour rights or equating their line of work with other professions. The ruling merely provides guidelines to protect sex workers' rights, dignity, and general well-being. While he acknowledged the positive aspect of this development, he expressed skepticism about its effective implementation.

After the passing of the Supreme Court's landmark Order, the next hearing was scheduled for July 27, 2022, but the distressing truth remains that the central government has chosen to postpone the scheduled hearing without providing any information on a new date. This action reflects the centre's apparent lack of prioritisation for the needs and concerns of sex workers. The centre's support is vital for ensuring the court's ruling is effectively implemented. The current circumstances have cast serious doubt on the Order's successful execution. According to reports, certain states, like Odisha, are still not abiding by the Supreme Court's directives. Bhubaneswar is the first city to report about the failure of the state to adhere to recent Supreme Court directions, but there may be more states where sex workers are facing the same issue, but these are not reported in the media. The centre's lack of compliance and the failure of certain states to adhere to the Supreme Court's Order demonstrates the urgent need for action.

While the recent Order represents a positive development, it also raises significant questions about its actual enforcement and the challenges it may encounter in practice. With persistent pressure from the Supreme Court on the centre, we can anticipate positive changes in the long run.

Should India consider the legalisation of prostitution as a potential solution to address issues related to sex work, regulation, and the well-being of sex workers?

Although India is a signatory of many international conventions on women's rights, has a Constitution that prohibits gender-based discrimination and exploitation, and has numerous related laws and regulations in place, it has failed to ensure adequate protection of sex workers' rights. For a long time, one of the most ignored groups has been prostitutes.

Prostitutes in India frequently endure mistreatment at the hands of both their clients and pimps. Police are also believed to be the primary perpetrators of harassment against prostitutes, which further dissuades the prostitutes from seeking assistance from law enforcement. Police are believed to use their powers to extort money and ask for sexual favours from sex workers under the pretext of raids. There are also complaints that when a sex worker approaches a police station to register their case, their complaints are not taken seriously and are not registered. Prostitutes also frequently experience unintended pregnancies due to the unwillingness of their clients to use condoms, and they are also at significant risk of acquiring various sexually transmitted diseases. Because of these aforementioned factors, there's a need to consider legalising prostitution in India.

Legalisation will subject the prostitution sector to labour laws, treating their work like any other occupation. Under legalisation, prostitutes will no longer endure economic or physical exploitation since they will be safeguarded by labour laws. Legalisation would have a variety of advantages, including an end to arbitrary police raids, harassment of sex workers, and strict rules for the client's use of protection. When prostitution is legalised, prostitutes will no longer be required to share their earnings with pimps, intermediaries, and brothel keepers, who currently take away half of their income. Prostitution also plays a major role in decreasing the rate of rape in a country; legalising

prostitution will give these sexually frustrated men open access to satiate their cravings. With legalisation, the stigma associated with the profession will also be lifted, and their chance of acquiring STDs will also decrease since they will have access to better healthcare services. By lowering workplace violence, legalisation will also make their jobs safer. According to estimates, India's prostitution market is worth \$8.4 billion. Taxing it would be advantageous for the government since it would allow them to make money while simultaneously defending the rights of sex workers by investing in their advancement.

Out of 15 sex workers interviewed, from Rabindra Sarani and Sonagachi Red-light Area for the research, 7 sex workers supported legalisation while the remaining 8 had no idea what the term meant, thus reflecting a lack of legal awareness among them. However, they did highlight numerous challenges they face in their profession and expressed hope that the situation might improve in the future. The 7 sex workers who supported legalisation stated numerous reasons for the need for the profession to be legalised. One common reason they mentioned was that they wanted sex work to receive the same level of respect as any other profession in society. They expressed that their profession is stigmatised and that they do not receive the respect they deserve within society. Presently, they are constantly living in fear because their work is deemed immoral, and they might be arrested by the police at any time. They also fear potential harassment from local goons.

There have been many instances where the Supreme Court has shown a favourable attitude towards prostitution. In December 2009, the Indian Supreme Court asked the government to legalise prostitution if it couldn't stop the industry's expansion. Since prostitutes lack fundamental rights and lead miserable lives, and the government fails to curtail their growth, the question was raised by the Supreme Court: why not legalise it? In 2011, the Supreme Court of India heard a PIL⁶⁷ submitted by NGOs calling for the large-scale cessation of trafficking in the nation. The judges of the apex court stated that no

nation has been able to totally eradicate sex work, so only through legalisation will the government be able to "monitor the trade, rehabilitate, and provide medical aid to those involved". We can observe that the Supreme Court has consistently displayed a tendency favouring legalisation.

There is always a fear that the legalisation of prostitution might increase trafficking, but in reality, the legalisation of prostitution will help curb trafficking. It will put a check on the involvement of minors in this profession by enforcing strict rules to regulate it. Since prostitution is an illegal business that runs underground, traffickers exist, but once prostitution is legalised, these traffickers will disappear as stringent laws are employed to check trafficking.

An intriguing finding from the interview conducted with the police officials of Bhavani Bhavan for the research was that all police personnel interviewed, including IPS officer R. Rajasekaran, agreed that prostitution should be legalised in the country. Given their roles in the Anti-Human Trafficking Unit, it was presumed that they might be against legalisation and that their stance on legalisation would be like that of Sanlaap, as even Sanlaap is fighting against trafficking, but it was completely the opposite. They stated that, based on their expertise and knowledge in this field, legalisation could help control extensive human trafficking. They believed that legalising prostitution would bring up stringent rules to check trafficking and prevent minor girls from being forced into prostitution, as proper laws and regulations would be in place. They further highlighted that, with legalisation, the profession could be strictly regulated in the country, and they stated that the government should give deep thought to legalising the profession.

To ensure that minors are not forced into this profession, proper registration of sex workers should be done with the verification of original documents and a background check should be done to ensure that a woman is not a minor and a trafficked victim. Following legalisation, the government can establish a body

like a self-regulatory body, similar to the one created by Durbar, to ensure that trafficked women are not coerced into prostitution. Also, interviews of the prostitutes could be conducted by the firms hired by the government at intervals to determine whether those women are working there by choice or are trafficked women. If the latter is the case, the man implicated in the trafficking should be imprisoned, and the brothel license should be revoked immediately. Also, surprise checking of the brothels once in a while could aid in checking the involvement of minors in the profession. Government

We can see that there are prohibitions on the use of narcotics, alcohol, and marijuana, and these restrictions can be defended on the grounds that such consumption is harmful to a person's health. Contrary to them, prostitution does not impose such health hazards; it neither harms the person mentally nor physically. Therefore, imposing such prohibitions and restrictions on prostitutes cannot be justified. When abortion is legal in India, homosexuality has been legalised, and adultery is no longer a criminal offence, why not bring about a change in this aspect? Prostitution is a choice; if 'my body, my right' can be applied to abortion, then why not the same attitude be developed for prostitution? Sex work is a human right and should be given to people and respected like any other work in society.

Thus the endeavour of the research has been to investigate the evolution of the institution of prostitution and how the standing of sex workers gradually declined over time. The thesis also explores the need for potential reforms within the ITPA, which may involve removing certain provisions or replacing it with an entirely new law. The research examines the setbacks faced by the Supreme Court Order due to non-compliance by the State and suggests that the legalisation of prostitution in India could offer a solution to the challenges encountered by sex workers in the country.

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