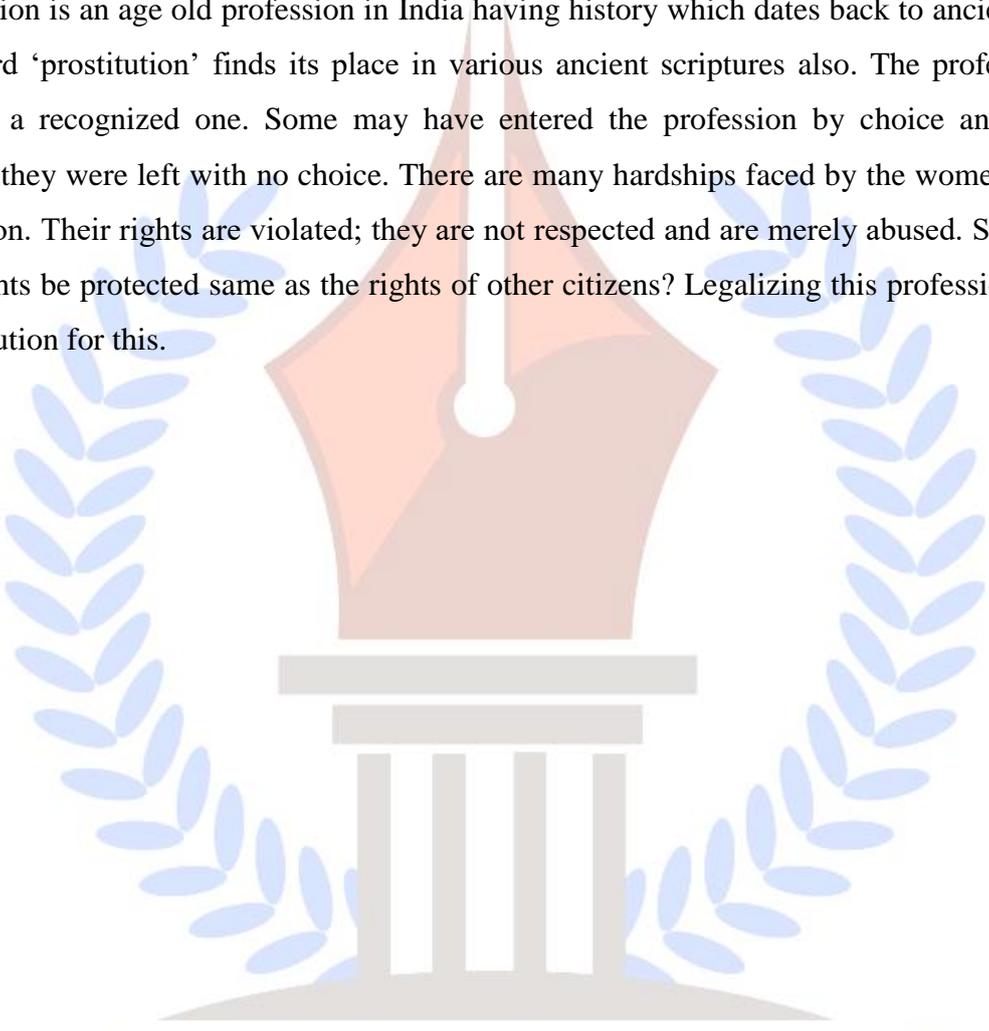


STATUS OF PROSTITUTION IN INDIA: SHOULD IT BE LEGALIZED

By :- Prerana Chhopia

ABSTRACT

Prostitution is an age old profession in India having history which dates back to ancient time. The word 'prostitution' finds its place in various ancient scriptures also. The profession is still not a recognized one. Some may have entered the profession by choice and others because they were left with no choice. There are many hardships faced by the women in this profession. Their rights are violated; they are not respected and are merely abused. Shouldn't their rights be protected same as the rights of other citizens? Legalizing this profession is the only solution for this.



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INTRODUCTION

"Prostitution" - a word that makes the people rethink if you spoke it once. "Sorry?" They will interrogate.

Yes. They will!

While we Indians consider ourselves a democratic country, a country wherein the bundle of rights for the citizens are the most beautiful gift from its constitution to them, where we flaunt about being a nation for the people, of the people, by the people in front of the world, there are certain loop-holes that go unnoticed. The loop-holes consists of many such facts that will make you think and then ponder whether actually you are a DEMOCRACY or just a SO CALLED DEMOCRACY behind the veil of everything that just seems perfect!

These facts include so many indigestible ingredients like the thinking process of the people. The people of India give assurances that they are citizens who have got the freedom of thought, expression and also free trade.

But when it comes to the activities like Prostitution, they are the same people making faces as if you just said something so sinful that they would now be needing to rush to the ghats of Ganga to get them purified!



PROSTITUTION-LET US KNOW IT IN DEPTH

We live in a society wherein people are judged on the basis of their profession. The women in the society are judged based on the time when they reach their home. The women living in home whole day is considered as an ideal woman by the society but working woman who returns late to her home is not an ideal woman in the eyes of society.

Prostitution is an age old profession. It has been practiced in the society since time immemorial. India belongs to one of those countries in the world wherein there is long history of this profession. In 6th century there was a practice called 'devdasi' in which the girls were married off to the deities and then they used to serve as prostitutes to the upper caste people, this further ritualized prostitution. The word 'sadharani' which means a woman, who offers sex for payment, finds its mention in Rig-Veda also. A prostitute is a person, "who in return for the payment allows her body to be used". Prostitution is the sale of sexual services, such as oral sex or sexual intercourse, for money¹. 'Prostitution'- the word itself speaks about the troubles faced by the women engaged in such profession. In other words prostitution can also be said to be the business of engaging in sexual activities in exchange for payment or some other benefit. Prostitution is sometimes described as commercial sex or hooking².

Prostitution in India is \$8 billion a year industry with an unofficial count of 2 million prostitutes and 2, 75,000 brothels³. Also according to a survey nearly 1.2 million children are involved in this profession.

Some may have entered the profession by their own choice and others may have entered because they were left with no choice. Every hour 4 woman enters into the profession of prostitution out of which three are against their will. Almost all of the prostitutes do not willingly take up this profession. It is social situation, which forces women to take up this profession. There can be social setting or environment behind this like financial need, husband abandoning wife, human trafficking, personal tragedies in some of this situations, the woman is left with no choice but to enter into the flesh trade.

¹ <http://www.legalserviceindia.com/article/l269-Prostitution-in-India.html>

² <http://www.lawvedic.com/blog/prostitution-in-india-society-law-39>

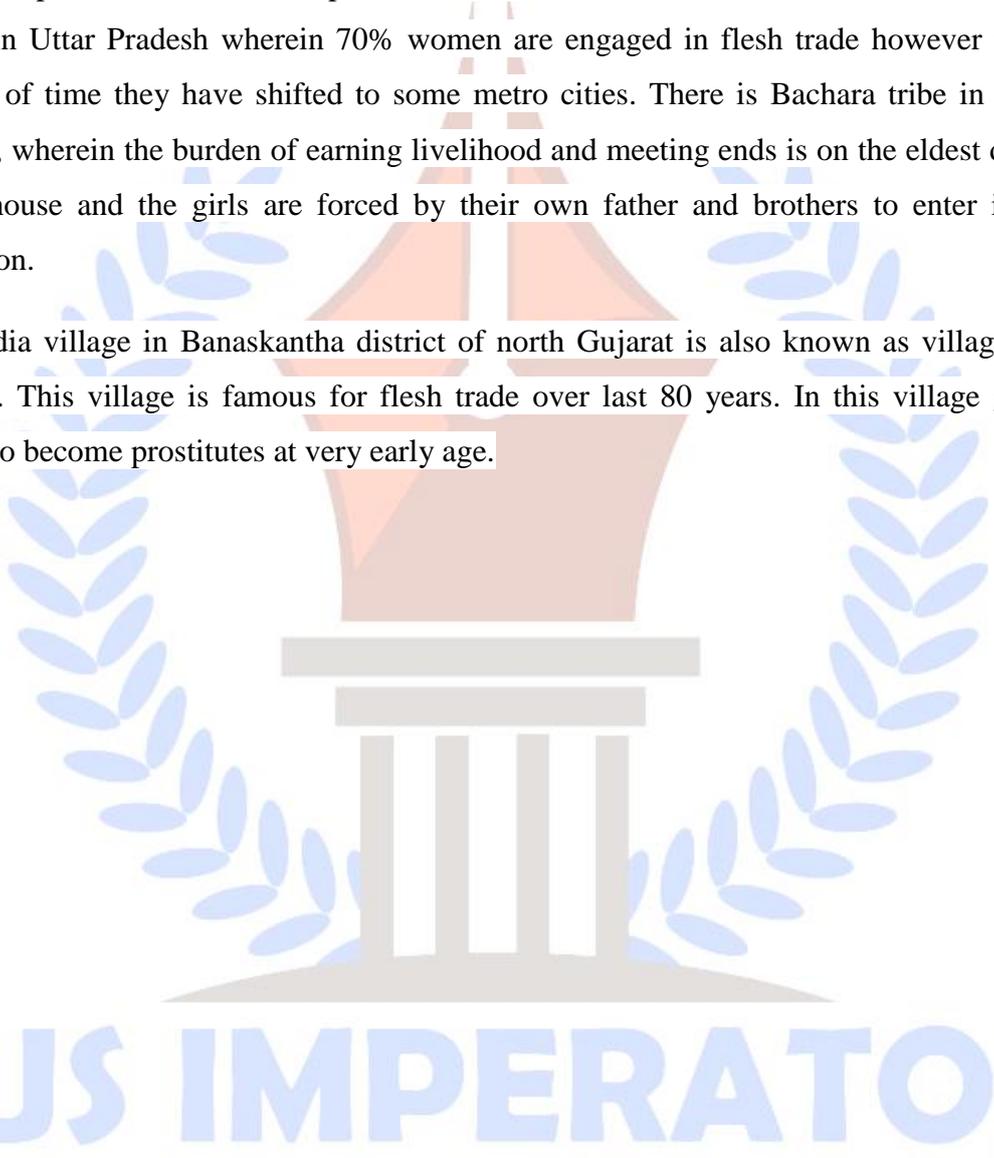
³ http://factsanddetails.com/india/People_and_Life/sub7_3h/entry-4190.html

Young girls are dragged into this profession either by selling them or by the way of human trafficking. Out of the total number of prostitutes, 35% enter into the profession before the age of 18 years. Young girls are trafficked from Nepal and Bangladesh and are put into this profession.

The major red light areas in India are in Mumbai, Calcutta, Pune and Gwalior.

There are places in India where prostitution is the main source of income. The natpurwa village in Uttar Pradesh wherein 70% women are engaged in flesh trade however with the passage of time they have shifted to some metro cities. There is Bachara tribe in Madhya Pradesh, wherein the burden of earning livelihood and meeting ends is on the eldest daughter of the house and the girls are forced by their own father and brothers to enter into this profession.

The wadia village in Banaskantha district of north Gujarat is also known as village of sex workers. This village is famous for flesh trade over last 80 years. In this village girls are trained to become prostitutes at very early age.



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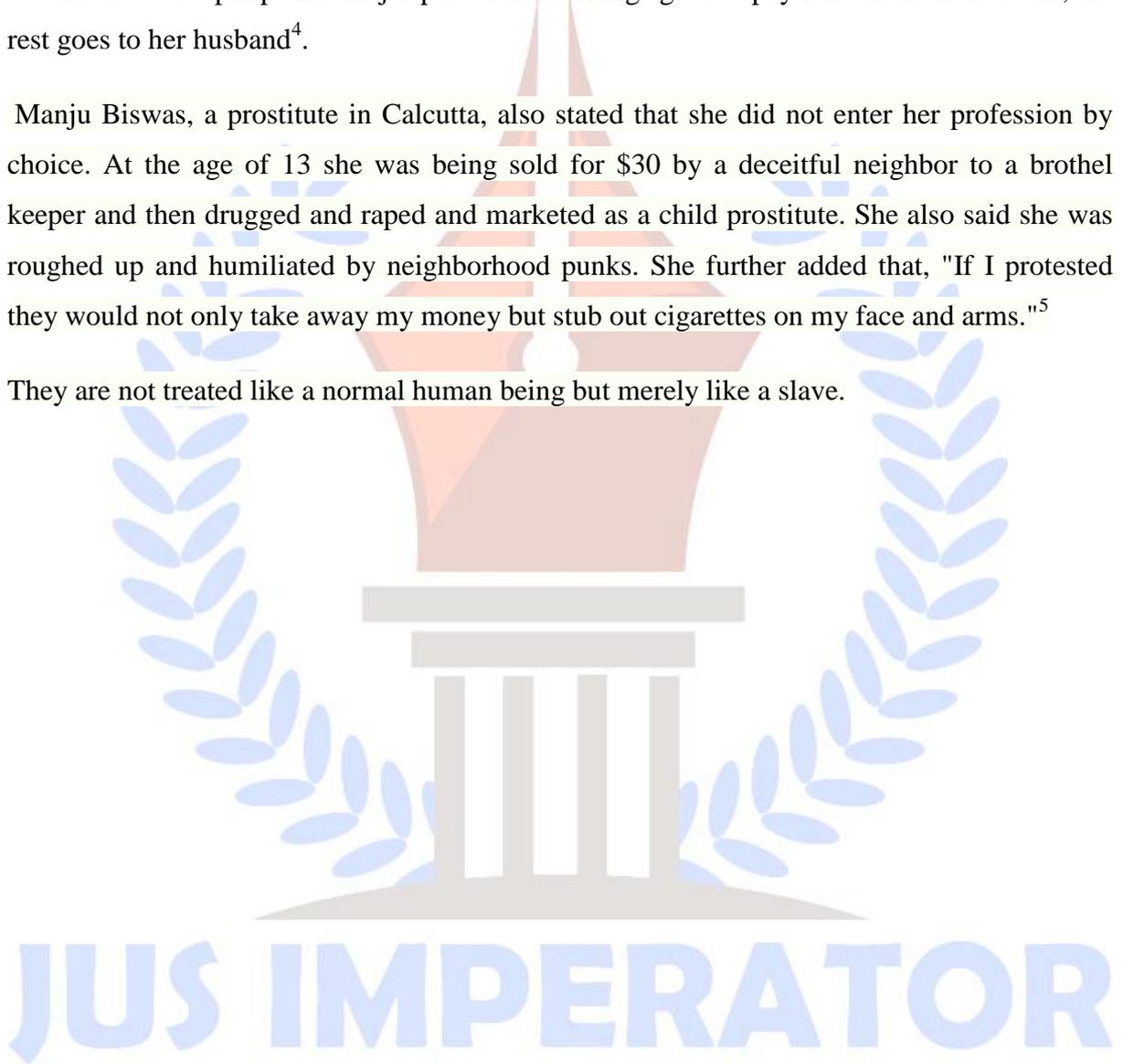
THE UNTOLD STORIES

“I have not been treated well throughout my life. I cannot live with others of my age; I cannot breathe the same air. I chose my profession, and I am paying for it.” – **a self proclaimed prostitute**

Meena was married off at 12. Soon after she was taken to Delhi, by her husband, she found out that he was a pimp. The major part of her earnings goes to pay rent on the little room; the rest goes to her husband⁴.

Manju Biswas, a prostitute in Calcutta, also stated that she did not enter her profession by choice. At the age of 13 she was being sold for \$30 by a deceitful neighbor to a brothel keeper and then drugged and raped and marketed as a child prostitute. She also said she was roughed up and humiliated by neighborhood punks. She further added that, "If I protested they would not only take away my money but stub out cigarettes on my face and arms."⁵

They are not treated like a normal human being but merely like a slave.



⁴ www.legalserviceindia.com

⁵ http://factsanddetails.com/india/People_and_Life/sub7_3h/entry-4190.html

LEGISLATIONS IN INDIA

There are certain laws which criminalize prostitution. The very first act, 'The Immoral Traffic (suppression) act' was passed in 1956. The act stated that prostitutes are not allowed to practice their business in open but they can carry out their trade in private.

Immoral traffic (prevention) act

This act was passed in the year 1986, amended the act of 1956. The act stated that prostitutes can be arrested for soliciting sexual services. It also stated that call girls cannot make their contact numbers public. Non-compliance would lead to 6 months imprisonment.

The act provides for the imprisonment of up to 2-4 years for the pimps, panderers and anyone who is feeding off of the money that comes from prostitution. The act also provides for the punishment of 10 years of imprisonment for sex with a minor, someone who is below the age of 18 years. Under the act, there is imprisonment for 3-7 years for managing and owning brothels and forcefully keeping sex workers. Even after strict laws laid down by the PITA, 1986, the regulation of the prostitution seems like a dream too big.

The main intention with which the act was passed is to shift major liability on their customers. But generally they are prosecuted under IPC and not under this act.

Though there are these legislations enacted, no proper steps are taken by the authorities to regulate it. The prostitutes are more abused and less respected. The prostitutes cannot even take their clients to the court as it is not a recognized profession. as their profession is not recognized, it is difficult for them to fight for their rights against their clients. The prostitutes are trapped into the shady brothels and are not given many basic rights also.

When this prostitutes get old they are left somewhere on the streets without giving them any means of survival. These are those who were forcefully dragged into the profession and are than left with no means of earning.

LEGALISING PROSTITUTION IN INDIA

Though there are laws regulating prostitution, it is not legal in India. When we talk about legalizing prostitution in India, it is not in sense of criminal offense but to solicit in public place and prostitution in public as illegal.

The main reason why prostitution should be legalized in India is that as the profession is not recognized one the prostitutes are not respected. They are abused. There are violations of their rights.

Decriminalization of the entire prostitution industry will help to put a legal control on the profession and this will enable law upholders to find out the instances of compulsory prostitution and help victims of the same. The current unfortunate system makes it impossible to decide upon the willingness for recognizing the ones who have willingly entered the profession and the ones who have been forced to enter by any social milieu. A legal system in place will check criminal behavior and significantly reduce the human trafficking and slavery of women and children prostitution in approximately an \$8.4 billion industry in India.

Legalizing prostitution will also benefit the government. After recognizing prostitution as a trade government can impose taxes on it.

Legalizing prostitution will also lead to advancement in the industry. The middlemen, pimps and the brothel keepers can be removed. This will lead to reduction in crimes towards them and will also increase their earning.

Regulating prostitution will also enable regular medical check-ups for the prostitutes which will in turn reduce the risk of sexual diseases which are communicated by the sex workers to the clients. The diseases like HIV/AIDS can be brought under control.

Since prostitution is not morally accepted, therefore the people involved in this trade face a lot of stigmatization. This stigma not only affects the prostitutes but also affect their children and their lifestyle. So many times they are embarrassed due to their mother's profession and also their lifestyles.

Once it is legalized they can openly talk about their profession without being ashamed of it. The children will get a better lifestyle and life style of the sex workers will also improve. Their children will not be denied similar educational facilities.

EFFORTS BY THE JUDICIARY

The judiciary has taken initiative and has tried to bring about change as and when it is required.

In **Tara v. state**⁶, lawyers collective had brought petition under article 226 of the constitution. The Delhi high court in this case overturned the forcible detention and transportation of 15 adult sex workers to Andhra Pradesh, terming it illegal and violative of their fundamental rights.

In **Budhadev Karmaskar v. State of West Bengal**⁷, the Court observed that “the prostitutes also have a right to live with dignity under Article 21 of the Constitution of India since they are also human beings and their problems also need to be addressed”. It further noted that “a woman is compelled to indulge in prostitution not for pleasure but because of abject poverty. If such a woman is granted opportunity to avail some technical or vocational training, she would be able to earn her livelihood by such vocational training and skill instead of by selling her body.”

The Supreme Court directed “the Central Government and all the State Governments to prepare schemes for giving technical/vocational training to sex workers in all cities in India.”

In **Gaurav jain v. Union of India**⁸, the apex court in this infamous case issued directions for the upliftment of prostitutes and establishment of the juvenile home for the children’s of prostitutes so as to provide them social security which is one of their right as a human being.

⁶ W.P. (CRL) 296/2012
⁷ JT 2011 (8) SC 289

⁸ 1990 AIR 292

CONCLUSION

When the world is changing for all good things, for all the social causes, for being a human being in REAL sense, why not also change the mindset? It has got nothing wrong in growing mentally too. The people in this world need to be a little more human towards the fellow humans now. Differentiating between the wrong and the right, the good and the bad is the only efficiency that God gave the humans and not the other beings on this earth. Then let us all together make this earth a happy place to live for all of us around us! Let us be a human being in Real sense.

It is now high time that the mentality of people should be changed towards prostitution. This can only be done by legalizing prostitution in India. Sex workers should enjoy same benefits and rights like the other citizens and workers in the country. Legalizing will give them right against various unsocial elements and discrimination.

This is the irony that exists in such a great nation, where all the professions, all the associations, all the businesses are perfectly alright when it comes to earning money but selling oneself for getting a bread is a sin!

