



# LEGAL STATUS OF PROSTITUTION WORKERS IN INDIA: AN ANALYTICAL STUDY

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## Chapter 1

### Introduction

Congratulations to Nadia Murad of Iraq and Mr. Mucawege of Congo who were conferred Noble Peace prize of 2018 for fighting against forced prostitution. Congratulations to Kailash Satyarthi who was conferred noble peace prize of 2014 for protecting rights of child, fighting against forced labour, abduction, trafficking etc. congratulations to all those 45 thousand Lijjat Papad Sisters who were at a time poor, helpless, destitute widows, some left by their husbands but instead of choosing any illegal and unethical for livelihood method they co-operated and have established a 1600 crore industry by rolling delicious lijjat papads which is consumed all over India as well as exported in twenty five other countries. Congratulations to all those girls and women who for their livelihood have utilized several government schemes like ajivika yojana, cooperative services etc. But we must be ashamed of all these people who have chosen illegal means for earning money. we must be ashamed of those people who organize commercial prostitution and forcefully recruit innocent girls and women for prostitution. We must be ashamed of our government for not taking any strict actions for prohibiting commercial prostitution. We should strongly condemn those prostituted women also who instead of fighting for their freedom, have given up all their hope and professed to work as a prostitute. These all trafficked prostituted women of India can get the inspiration from nadia murad, who was trafficked by ISIS but she always fought for her freedom and never gave up. She worked for protection of rights of sexually exploited girls, later for her courage and initiative she was conferred Noble peace prize. We must be ashamed of our narrow minded approach also, because we like to talk about politics but reluctant to raise issues of gross human rights violations. When a prominent leader of our country advocates about selling 'Pakaudas' for employment, everybody comes for criticizing him but very few people raise voice when millions of girls and women are forced to do prostitution for employment. Selling pakaudas may not be a good option for employment but it is far better than recruiting minor girls and helpless women for prostitution. At least people are choosing legal and honest methods instead of robbery, murder or organizing any illegal activity.

Unemployed and needy people must be helped through welfare schemes, teaching of technical and vocational skills with basic elementary education must be the first priority of government.

Unlike old days, in this modern world people have become sensible; they respect rights of each other. Modern gadgets, vehicles, advanced technology, high quality education, good transportation system, proper healthcare, changed lifestyle etc, have all made life so easy and blissful. Everyone wants to live a prosperous life like this and enjoy all those modern advanced creations. But still there is a section of society who can only dream about this kind of lifestyle because that section is very poor and are suppressed by rich and powerful people<sup>1</sup>. Those poor people are treated like slaves and no rights of them are respected. Some are found to be indulged in forced labor, some are found to be working in domestic servitude, minors are found to be doing child labor or they are forced to do begging, women and girls are forcefully recruited in commercial prostitution and many of these are trafficked for some more illegal purposes like organ trade, surrogacy, forced marriage, drug dealing and smuggling, some are made members of criminal gangs etc. So these all can be said as a form of modern slavery. And the life of these people become like a never ending curse.

There is no uniform data which can exactly inform us about the real number of people involved in slavery, bonded labor and other persecutions of the similar nature, but still efforts have been made in this regard through some surveys, studies and reports. According to Global Slavery Index (GSI) report 2018<sup>2</sup> on any day of 2016, Trafficking in persons report<sup>3</sup>

There are estimated 40.3 million people in modern slavery around the world, including:<sup>4</sup>

- 10 million children
- 24.9 million people in forced labor
- 15.4 million people in forced marriage
- 4.8 million people in forced sexual exploitation
- 99% of people trafficked for sexual exploitation are women and girls

According to a data, total revenue generated worldwide by prostitution is \$186 Billion and only in China \$73 Billion, is generated through prostitution.<sup>5</sup> It is estimated that total number of prostitutes in the world are near about 14million (13,828,700), whereas in China alone 5 million and in India 3 million prostitutes can be found.<sup>6</sup> . In 2014 the International Labour Organization estimated \$150 billion in annual profit is generated from forced labour alone.<sup>7</sup> There are found various other kinds of activities also in which the victim is forcefully recruited by trafficking. In the year 2016 alone, 8132 human trafficking cases have been reported in India.<sup>8</sup> There are an estimated 27 million adults and 13 million children around the world who are victims of human trafficking.<sup>9</sup> It is hard to know how many women and girls are trafficked in India, but the United States State Department, the United Nations and India's Human Rights Commission have all identified India

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<sup>2</sup> Walkfree Foundation, Global Slavery Index 2018 (2018)

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<sup>4</sup> <https://www.antislavery.org/slavery-today/modern-slavery/>

<sup>5</sup> <https://www.havocscope.com/prostitution-revenue-by-country/>

<sup>6</sup> <https://www.havocscope.com/number-of-prostitutes/>

<sup>7</sup> <http://www.rediff.com/news/report/rediff-labs-human-trafficking-in-india/20180308.htm>

<sup>8</sup> <http://www.rediff.com/news/report/rediff-labs-human-trafficking-in-india/20180308.htm>

<sup>9</sup> <https://sites.google.com/a/uw.edu/human-trafficking/research-links/data-and-statistics>

as a major hub in the international sex trade, a global phenomenon that may involve upwards of 27 million people.<sup>10</sup> India, alone is home to 40 per cent of the world's estimated 45.8 million slaves, according to a 2016 global slavery index published by the Australia-based Walk Free Foundation.<sup>11</sup> The cases of human trafficking are increasing year by year. In India, poor minor and young women have become the most vulnerable, to become victims of trafficking who are forcefully recruited in prostitution.<sup>12</sup>

In India there are so many wrongful money makers who perform various kinds of unauthorized acts for raising money. And these wrongful money makers suppress so many rights and freedoms of poor and marginalized people. Poverty, illiteracy, unemployment, low rate of income, lack of women empowerment, restricted availability of welfare schemes, huge difference of literacy rate between men and women, lack of information of the laws, slow speed of getting justice, less modernisation, following of many numbers of the unusual customs, considering girl child as a burden, not providing girls a proper education and getting them married at an early age, lack of availability of medical services to poor people, difference in the birth rate of boys and girls, lack of care of marginalised people, poor implementation of laws, poor vigilance and corrupted system etc, are some of the factors which are the roots of many numbers of wrongful and illegal acts in India. The above mentioned factors aggravate the happening of numerous illegal and wrongful acts and make people (who suffer from those factors) vulnerable to such illegal and wrongful acts.

In India, People do several kinds of activities for earning money and that activity may be legal, illegal or that may not be morally appreciated. When people are not able to find any proper jobs and they are not able to earn money in a legal way, then they start doing some illegal kinds of activities for making easy money. In this modern world there are so many numbers of such illegal activities which are done by wrongful money makers and business out of exploitation of women in forms of forced prostitution is one of those activities in which huge amount of illegal money is generated, in many countries it has become a source of income for many people and India is also one of them. Today in India forced Prostitution has become a source of income and earning money for many people who exploit the vulnerable women. Today millions of prostituted women are forced to sell their body for sex and millions generated out of exploitation are shared by profiteers such as recruiters, pimps, brothel owners and many others. But very few countries in this world support this immoral trend and consider it as a legal act and on the other hand there are many numbers of countries where prostitution is considered illegal and banned. In many countries prostitution is conducted as an organised sex trade. This sex trade is given legal sanction in many countries while it is considered a criminal act in various numbers of countries, so punishment is given for running and managing brothels for prostitution. In some countries doing prostitution at private places is allowed and that private place may be of the prostitute or it may be of any other person, but it is not allowed when it is performed at public places and carried on, as an organised activity. Despite having several laws, stand of India regarding prostitution is not quite clear, because commercial prostitution is banned but openly performed in India.

It is hard to know how many women and girls are trafficked in India, but the United States State Department, the United Nations and India's Human Rights Commission have all identified India as a major hub in the

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<sup>10</sup> <https://www.nytimes.com/2013/10/16/opinion/sex-trafficking-in-india.html>

<sup>11</sup> <https://everylifecounts.ndtv.com/latest-data-shows-25-per-cent-rise-in-human-trafficking-in-india-in-2015-4623>

<sup>12</sup> K.K. Mukherjee and Deepa Das, *Prostitution in Six Metropolitan Cities of India* (Central Social Welfare Board, New Delhi 1996).

international sex trade, a global phenomenon that may involve upwards of 27 million people.<sup>13</sup> India, alone is home to 40 per cent of the world's estimated 45.8 million slaves, according to a 2016 global slavery index published by the Australia-based Walk Free Foundation.<sup>14</sup> The cases of human trafficking are increasing year by year<sup>15</sup>.

Why is it a disputed issue in India?

It is a disputed issue because performance of prostitution at a commercial level is illegal but still it is functioning. Laws were made to abolish it but those laws are not able to stop it completely. No one would ever like to get employed in this industry because it is disrespected so much. Sex workers are mainly recruited through trafficking<sup>16</sup> or they opt for doing this because either they were poor or they were deprived, helpless and needing money. Some of them do it because it was their family business. It is a disputed issue because some people say that it must be legalized while some other says that it must be abolished completely. Another reason of dispute is the involvement of rich and famous people in running sex rackets and brothels for prostitution, some of these organizers belong to various reputed and good fields, while most of them are corrupted politicians and notorious criminals.

The business of prostitution is having a lot of demerits. There are so many reasons for criticising the business of prostitution. In many cases girls and women are forcefully recruited. They are kidnapped then trafficked in this industry. They are deceived on the name of jobs or on the promise of marriage but later they are cheated and trafficked in this industry. Many times newly married women are deceived by their husbands in the same way, in such cases sex trafficking is committed through sham marriage. Many girls were sold by the poor parents when they were lured by the traffickers, in the name of lucrative jobs.<sup>17</sup> Other greedy relatives of girls also sell these minors to traffickers in return of some nominal price. Prostituted women and girls are not paid properly and never treated well. They are kept as slaves and so many numbers of human rights of them are violated. Sometimes it becomes a family business, in which family members are found to be involved in the business of prostitution, particularly in a community where inter generation prostitution is prevalent such as Nat and Bedia community.<sup>18</sup> Commercial sexual exploitation (CSE) has threatened the basic dignity of women besides exploiting them in most despicable manner, destroying them physically, psychologically, socio-economically and in many other respects.<sup>19</sup> Prostitution may be the reason of causing many number of STDs that is sexually transmitted diseases. There is always a chance to get infected by HIV virus (human immunodeficiency virus) that causes AIDS (acquired immune deficiency syndrome) which is a dangerous disease that affects the immune system of a human being which later can become the reason of death of the affected person. Through commercial sexual exploitation huge amount of money is generated which is all illegal. This money is used for doing so many kinds of illegal activities. And some part of this money is paid as

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<sup>13</sup> <https://www.nytimes.com/2013/10/16/opinion/sex-trafficking-in-india.html>

<sup>14</sup> <https://everylifecounts.ndtv.com/latest-data-shows-25-per-cent-rise-in-human-trafficking-in-india-in-2015-4623>

<sup>15</sup> Add 2018 report also ,, tip report

<sup>16</sup> In *Bachpan Bachao Andolan v Union of India*(2011) 5 SCC 1, Supreme Court criticised commercial prostitution which is responsible for trafficking of children in most of the cases.

<sup>17</sup> Shankar Sen and P. M. Nair, *Trafficking in women and children in India*(ORIENT LONGMAN, NEW DELHI 2004)

<sup>18</sup> For detailed explanation on intergenerational prostitution, ANUJA AGRAWAL, *CHASTE WIVES AND PROSTITUTE SISTERS: PATRIARCHY AND PROSTITUTION AMONG THE BEDIAS OF INDIA* (ROUTLEDGE, NEW DELHI 2008).

<sup>19</sup> Sinha, Indrani, *Trafficking- a Reality*, Jonaki, Vols. 2-3, 1997, p.7.

bribe to the public officers and ministers for not interrupting and providing some relaxations in keep them doing this illegal business, as well as providing protection from various laws also active involvement of these so called white collar people cannot be denied.

Several people support women who are involved in this industry on their own will but they have to understand that, every person does a job or any kind of work for making some contribution in the development of the country and what a person contributes for his or her country by doing all these immoral activities and providing the services of prostitution. We can't see any contribution, instead of that; multiple kinds of problems are raised by these kinds of acts for the country. Again these prostituted women face unbearable torture and punishment from their owners and also from clients, but they cannot complain or leave that place because they are not allowed do such things and if they dare to do that, then they are tortured more and sometimes they try to commit suicides. Again the clients who go to sex workers also face so many problems, sometimes their money is snatched, sometimes they are not provided those sexual services, sometimes they are beaten by sex workers and madams but they also can not complain or take legal actions because they themselves were doing the illegal things. Because sex trade generates huge funds, many numbers of red light areas have been established which is now very difficult to eradicate.

Those people who are in favour of the business of prostitution say that, it contains some merits also. Like, it provides money to people who are not able to find any good source of income. It may help poor people in earning money just by renting their bodies for sex. They also say that women must be having right to choose their profession and if they want to do such things then nobody should restrict them or impose their orders on women. The services of prostitution fulfil the sexual desires of lonely people and clients. It also helps in decreasing the chances of rapes. If it may be legalised in a country then extra income for government can be generated through the process of taxation. But these all arguments are not enough to support the business of prostitution because every country will like to provide its people proper education and then to provide them a proper job so that they can contribute for the nation and no country would like to allow its people to do such type of disgraceful activities which fulfils the lust of lonely and horny people. If somebody is poor then he or she is required to be empowered by the policies of the government and it is not appropriate to indulge that privileged person in the business of sex trade. People are required to be educated, social awareness about the problems of the prostitution are required to be spread and people are required to respect the rights of women and it is not appropriate to say that they should enjoy the services of the prostituted women who are forced into prostitution. Moreover, entire argument that, with established sex trade number of rape will decrease is baseless and not supported by any statistics. Rather Nirbhaya case is witness of the fact that those men who visit red light area may be rapist. That what happened in Nirbhaya case when perpetrators were to to red-light area and on the way they found helpless victim they sexually exploited her.

The prostitution is carried on in many countries including India. But India is also that country where prostitution as an organised activity is declared unlawful according to the immoral traffic (prevention) act 1956.<sup>20</sup> Prostitution was existing in ancient India also but very slowly it reached to this stage where it has taken a form of a business. Though it is illegal but still there are many places where it is carried on and those

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<sup>20</sup> Immoral traffic (prevention) act 1956(sections 3 to 8)

places are popularly known as red light areas like SONAGACHI area of Kolkata, G.B. ROAD area of Delhi, KAMATHIPURA of Mumbai etc. These areas are filled with huge numbers of brothels, where prostituted women are kept and managed by madams and owners. Brokers are also there who bring the clients to the brothels. Some other banned activities like pimping, soliciting, luring for sex are also performed. These red lights areas in India are daily visited by many numbers of people who are given sexual pleasures in exchange of money. Delivery of girls and services of call girls are also provided at the desired places of the costumers. In many places this flesh trade at a small level is also performed. Many sex rackets are also organised to provide sexual services. Generally girls are kidnapped from rural and other poor areas and then they are forcefully trafficked in this industry. Smuggling of girls from foreign countries is also prevailing here. And all these types of acts are always committed by illegal means as well as by violating so many laws. In India, the act of prostitution is not morally supported and appreciated. And it is known as a taboo in India because in these cases the sex workers for getting some money have to sell their body for any specific time period. In this way providing sexual pleasure just by selling the body of sex worker, money can be made very easily and that is why it is not morally appreciated in India.

In India, many people have said that there must be made some strict laws and some strict actions must be taken that can prohibit all these types of activities. It is also said that the rights of sex workers must be protected. And the chain of demand and supply of sex workers are required to be broken because if this link of demand and supply can be broken only then the proper abolition of this menace can be done. Apart from this it is also said that prostitution at commercial level must be given legal validity by the parliament. So in India, whether prostitution be legalised or not, has become a debatable issue.

It will be challenging for government to make laws to legalise prostitution because many non government organisations and social activists may go against this move. And it will be very difficult to change the perception of Indian society which considers prostitution as a taboo. Legalisation may also give full freedom to those wrongful money makers to recruit more and more girls by trafficking and then exploit them. Further, if it is going to be prohibited completely even then it will be quite difficult for government to eradicate it because in that way many numbers of prostituted women will loose their livelihood and the society will show very less interest in accepting them back. In that way government can make arrangement for financial support to such women that is quite challenging step. Finally it can be said that the legalisation is not the better option and total abolition of this menace is the only solution. So before eradicating it, government should make some proper plans for giving prostituted women some other employments. Hence government should take responsibilities for educating them and providing them a job by honing some of their skills.<sup>21</sup> And again the laws which are related to prohibition of sex trade are required to be strengthened and main of them are Indian penal code 1860, and the immoral traffic prevention act 1956 which must be applied properly. But a great political will is required for this. All the red light areas are required to be finished because they are growing year by year. Poor and marginalized people must be protected by government. Siddhartha Kara has said that globalization is one of the main factors which influence the trafficking in people. In his book Inside the

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<sup>21</sup> Anne T. Gallagher, *The International Law of Human Trafficking* 418 (Cambridge University Press, New York 2011)

Business of Modern Slavery, he argues that sex trafficking grew exponentially due to the economic disparity created by globalization.<sup>22</sup> (kara)

Globalization has also played a big role in developing this business of prostitution. In the process of globalization countries come together for the purpose of trade and investment, as well as these countries exchange their cultures, traditions, languages, resources and so many other things also. Earlier this prostitution was performed at a very low level but with the growth of globalization this industry also started developing and then reached to this level in the modern day. Because illegal money generators saw that this business is having so much money involved in this so they started investing in it and many numbers of brothels were opened and then many numbers of sex workers were recruited in this industry but there were no proper laws also which could have stopped it from developing and then what happened after that can be easily seen today. Because of globalization the small scale industries in many countries have been demolished. So because of that the poor and unskilled workers have been forced to do some other businesses and some workers have indulged themselves in prostitution. Transportation has increased so much because of globalization. There are many examples where it is seen that sexual services are provided near highways. Like in India it is found that truck drivers have been provided sexual services near highways. Sexual tourism has increased with globalization also. Poor people have suffered so many problems because of this globalization.

Like every business, this business of sex trade is performed for earning huge money. It requires so much investment also. In this business the sex workers are treated like goods, which are sold and used. These goods are always in demand, and the producers have to supply these goods continuously and young girls are demanded so much, that is why they recruit young girls on regular basis and for that; girls are forcefully trafficked in this industry. So in this way this whole business depends on a chain of demand and supply of sex workers. If this link between demand and supply is broken then certainly this business can reach to its lowest level. For reducing the demand factor the people who go to enjoy these services must be made aware of the problems related to this business and they must be told that how can they contribute in demolishing this business. They must be told about the laws against it, and these clients must be punished if they are found to be using the services of sex workers. And for controlling the supply factor proper vigilance is required so that trafficking and smuggling processes can be stopped, poor and people vulnerable to such crimes are required to be strengthened and protected by government. All the brothels must be finished so that no trafficked girl can be accommodated in brothels.

Statement of problem-

According to the Immoral Traffic (Prevention) Act 1956, Prostitution is held valid in India, so for getting some money one can make sexual relations with others but not at public places and not by organising it at commercial levels. But still these guidelines have been ignored by many wrongful money makers and a simple prostitution has been converted into a sex trade in India. Though it is illegal according to the laws of India, still sex trade has been established firmly in many places of India. And the existing laws are not able to eradicate it completely, because they are not applied properly and government just ignores this issue. Many red light areas can be seen in India and many sex rackets are formed here. There are very less sex workers

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<sup>22</sup> **SEX TRAFFICKING INSIDE THE BUSINESSES OF MODERN SLAVERY BY SIDDAHRTA KARA**

who indulge themselves in this on their own choice, they indulge themselves because of some difficult circumstances, and because of need of money they become constrained to get involved in this. But this business contains huge numbers of sex workers and these sex workers are consistently demanded, so for fulfilling the demands of clients and customers, girls are kidnapped, deceived, cheated and then they are trafficked in this industry. Smuggling of girls and sex workers from other countries are also committed (from Nepal, Bangladesh etc). After recruitment, these sex workers are treated as slaves. Many of their rights are violated. Main problem of this industry is that it provides so many sexually transmitted diseases. Huge amount of money is generated in this industry but that is all illegal.

So in views of these factors it, becomes imperative to study and analyse the status of prostitution and sex trade in India and norms which are related to it and thereby finding a solution for the abolition of this menace by explaining the measures which are required to be followed for this abolition.

Research question-

During the course of the dissertation, an insight into the following questions is sought by the researcher:

- 1- What is the status of prostitution in India?
- 2- What are the factors and reasons for conducting sex trade in India?
- 3- How the business of the commercial prostitution is performed in India?
- 4- What are problems faced because of this sex trade in India and how does it violate so many human rights of sex workers?
- 5- What are the measures which have been taken to reduce or eliminate this problem and how much successful they are?
- 6- Is it now necessary to legalise and decriminalise sex trade and what may be the consequences if the legalisation of this sex trade is done?
- 7- Is it true that legalisation is the solution of this problem? And if not then what are those strict measures which are required to be taken to eliminate it completely?

Hypothesis-

As the initial working hypothesis the researcher believes that the prostitution as sex trade is really illegal in India, so for erasing it completely some harsh steps are required to be taken and the chain of demand and supply of sex workers are required to be broken. The factors like, poverty, illiteracy, less awareness, unequal treatment of girls, early marriage of girls are required to be reduced because these factors makes the traffickers job easy to do. Also the existing laws are required to be strengthened and if necessary new laws are also required to be brought which can cover the whole issue properly. It is assumed that if the total abolition of this sex trade is done then there will be very huge decrease in the cases of the sex trafficking and smuggling of the girls. It is also believed that total abolition of this sex trade is very difficult so legalising the sex trade in India is also an option which can be taken. But there is no guarantee that after the legalisation all the problems will be solved, because the legalisation may give a license to the wrongful money makers to indulge more girls by trafficking in this industry for making huge money. So it seems that legalisation of the sex trade in India is not the proper solution and the only solution is to demolish this sex trade completely and after

rescuing all the sex workers they are required to be given some employments through the process of rehabilitated.

### Objectives-

The present study is done with the following objectives-

- 1- To analyse the position of India regarding prostitution and towards organised sex trade.
- 2- To study the international regime for the protection of sex workers, protection of trafficked people, prevention of prostitution and their efficacy in solving the problem.
- 3- To study the Indian laws which deal with prostitution and other related immoral activities?
- 4- To analyse the ways in which prostitution and sex trade is performed.
- 5- To analyse whether existing laws are able enough to tackle with this problem.
- 6- And to explain the problems which are related to the legalisation of prostitution as a sex trade.
- 7- And to explain the measures which are required to be taken for the total abolition of this problem.

### Scope of the study-

Prostitution is prevalent in many numbers of countries. However the scope of this study is limited to the issue of prostitution in India. The reasons behind organising sex trade, forming sex rackets in India, and problems created by these will be discussed. The national and international provisions for the same issue will also be seen. The problems and benefits of the same will also be checked. The present work will also be focussed on two main issues, first one to eradicate this menace through some strict steps, as well by strong laws and then discuss the consequences of complete abolition of this problem. The researcher will also explain the reasons and factors which are responsible for the happening of all these things. The second issue is to discuss about decriminalisation of organised sex trade and consequences of total legalisation of the sex trade in India. The main attention of this study is to explain the benefits of the total abolition of the sex trade in India and to criticise the move of the legalisation of the commercial prostitution in India.

### Research methodology-

The research is primarily doctrinal in nature and the researcher has used both primary as well as secondary sources of data. However, efforts would be made to do empirical research by conducting interviews with sex workers, brothel keepers, madams, brokers, and trafficked girls, persons convicted for prostitution and with several government authorities who are related with this issue. The primary sources regarding Indian laws include the immoral traffic (prevention) act 1986 and Indian penal code 1860. some other relevant laws and provisions will also be cited, as well as emphasis will be placed on some important and famous judgments of high courts and Supreme Court. And relevant international provisions will also be placed. The secondary sources referred by the researcher include books, journals, and various articles available online. The researcher has adopted an analytical and critical approach on the subject. The researcher has reviewed a range of scholarly data based on library based study to ascertain the various aspects on the same issue of prostitution in India and across the world.

### CHAPTERISATION—

The researcher has aims to divide the research study in the following tentative chapters;

#### Chapter 1: introduction-

Through this chapter the researcher will introduce in detail his research topic and explain why it is really necessary to abolish and eradicate this business of prostitution from India. This chapter will describe the problem raised because of this menace and also explain how the researcher has conducted his research, what are the research questions, what is his research methodology, what are his objectives and scope of the study, what hypothesis he has taken, what literature he had taken as reference, and the chapters in which this research work has been divided.

#### Chapter 2: Prostitution and its presence in India-

This chapter delves into the meaning of prostitution according to Indian and international provisions. Prostitution is known by many names like harlotry, whoredom etc. Prostitution is like providing a service. It is a service of providing sexual pleasures to the customers. In this process sexual pleasure is provided and the customers have to pay for it. Generally it may be enjoyed in exchange of money but sometimes instead of money any other material things can also be given as a mode of payment. This chapter will also describe the historical presence of prostitution in India and what is present situation regarding prostitution. The famous places for prostitution in India will also be discussed. And present laws will also be discussed. The provisions which criminalise commercial prostitution and other related activities will be discussed in detail.

#### Chapter 3: Forced prostitution as a form of modern slavery, reasons for its performance and factors which aggravate such performances

This chapter will describe the reasons for performing this sex trade. Since it has been given form of a business, so one of the main reasons are, earning as much money as possible. It is also noted that every business depend on a chain of demand and supply, so to fulfil the demand of people services of sex workers are provided because there is a huge demand for the services of sex workers. But these all depend on some factors which are responsible for the happening of all these things, so those factors will also be discussed.

#### Chapter 4: Conduction of commercial prostitution and legal provisions against it-

This chapter will describe the manners in which all this business is performed and how trafficking plays a big role in recruiting girls in this industry, how the brothels are managed, how girls are tortured, some stories of girls will also be discussed which was explained to the researcher in some interviews, it will be also discussed that how the girls are transferred from one place to another, how are they paid, what happens when raids are conducted by police, and some stories of clients will also be discussed who were not treated well by sex workers and their money was stolen by them.

#### Chapter 5: Arguments in favour vs. problems created by business of prostitution-

This chapter will discuss the arguments which support the prostitution and the consequences of legalisation will also be discussed. But these arguments will be criticised by the researcher by explaining that how legalization will further aggravate the present problem. The researcher will explain the problems which are created by the business of prostitution, and solutions of these problems will also be discussed.

#### Chapter 6: Suggestions and conclusion-

This chapter would conclude by listing out the findings of the study especially in relation to the research question and the hypothesis. This chapter will also deal with the suggestions, conclusions and final comments on this research topic of prostitution in India.

#### Literature review-

1- Dr SARFARZ AHMED KHAN, JOURNAL OF THE INDIAN LAW INSTITUTE, Vol.56 No.4 October-December 2014 ISSN 0019-5731-

The paper highlights issues of human trafficking. Through several case studies the impacts of modern day slavery and vulnerability factors for becoming victim of this crime are also discussed. Recommendations of Justice Verma Committee for legal reforms and initiatives suggested by the committee have also been explored in this paper. Suggestions have also been explained so that cases of human trafficking and prostitution may be reduced.

2- SEX TRAFFICKING INSIDE THE BUSINEES OF MODERN SLAVERY BY SIDDAHRTA KARA- In this book, Kara provides a riveting account of his journey into this unconscionable industry, sharing the moving stories of its victims and revealing the shocking conditions of their exploitation. He draws on his background in finance, economics, and law to provide the first ever business analysis of contemporary slavery worldwide, focusing on its most profitable and barbaric form: sex trafficking. Kara describes the local factors and global economic forces that gave rise to this and other forms of modern slavery over the past two decades and quantifies, for the first time, the size, growth, and profitability of each industry. Finally, he identifies the sectors of the sex trafficking industry that would be hardest hit by specifically designed interventions and recommends the specific legal, tactical, and policy measures that would target these vulnerable sectors and help to abolish this form of slavery, once and for all.

3- Immoral trafficking of women and children, transnational crime and legal process by SUNANDA GOENKA-

The author suggests the formation of an inter-governmental task force on trafficking and a joint initiative on trafficking involving all international agencies. Preventive and rehabilitative measures require to go hand in hand in dealing with this organized crime. The contents of this book includes, international concern and instruments to combat cross – border trafficking of women and children, legal framework in India and some other countries to combat human trafficking with special reference to trafficking of women and children, implementation of trafficking laws in perspective of cross- border trafficking, victimological study of women and children as victims of transnational crime of trafficking, conclusion, annexures.

4- Child prostitution in India BY JOSEPH GATHIA-

This book is an attempt to bring into focus some important emerging trend in sexual commercial exploitation of children in the name of culture and tradition. The reader opens by examining the contemporary studies and moves on to discuss the myths prevailing. Some shocking facts and figures have also been given. This timely, path breaking report examines the challenges in realizing the human rights of girl child.

5- Law relating to prevention of immoral traffic in India by R.P. KATARIA, MANZAR SAEED-

This book on the subject attempts to explain the various provisions of the act lucidly. Each section of the act has been explained by befitting head –notes, provisions deleted/inserted/substituted have been marked under the footnotes suitably. To make the book self- contained the bare text of the rules framed by the various states find places in the appendices. The book aims at various aspects of the act in bringing out the loopholes and the success achieved in seeking to eliminate the evil of immoral traffic in human beings.

6- HUMAN TRAFFICKING , the stakeholders' perspective edited by VEERENDRA MISHRA-

This book is an attempt to discuss various issues of human trafficking, including perspectives of various stakeholders. The book argues that crime cannot be dealt with only by applying piecemeal tactics. Instead it will require an organized professional, multi- agency approach, calling for concerted, collaborative and participatory efforts of all stakeholders. All the essays included in this book are original works delving deeply into various forms of human trafficking. They are organized into different themes such as sexual exploitation, child trafficking, trafficking outside India, legal aspects, state experiences and case studies.

7- TRAFFICKING, women and children for sexual exploitation by Dr. P.M. Nair

This handbook is oriented in a human rights paradigm. His main focus is on women and children who are trafficked for commercial sexual exploitation (CSE). The author has tried to demystify the concepts, present a workable and doable and SOP. The presentation in this hand book has been kept simple and straight forward, so that it may be easily utilized by all.

8- GUILTY WITHOUT TRIAL, WOMEN IN THE SEX TRADE IN CALCUTTA by CAROLYN SLEIGHTHOLME AND INDRANI SINHA –

THE AUTHORS OF THIS BOOK WRITE ABOUT THE LIVES OF SEX WORKERS IN CALCUTTA WHO HAVE SHARED THEIR STORIES WITH THEM. THROUGH INTERVIEWS , SURVEYS, AND CASE STUDIS, THEY INTERROGATE THE DOUBLE STANDARDS OF SEXUAL MORALITY THAT GOVERN THE LUCRATIVE SEX TRADE IN INDIA, THUS MAKING VISIBLE THE MORE THAN TWENTY THOUSAND MOTHERS, HEADS OF HOUSEHOLDS, AND COMMUNITY MEMBERS WHOSE ACTIVITIES AND VOICES HAVE BEEN SILENCED SO THA OTHERS MAY PROFIT FROM HEIR ACTIVITIES.

## Chapter-2

### Prostitution and its presence in India

Article 23 of Indian constitution provides for the prohibition of traffic in human beings and forced labour. According to clause (1) of this article, "Traffic in human beings and begar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law".<sup>23</sup> This article is mentioned under part 3 of Indian constitution. This part provides multiple fundamental rights like right to equality, right to freedom, right to life and liberty, right to education, right against exploitation, right to freedom of religion, cultural and educational rights, and right to constitutional remedies. Right against exploitation which is mentioned in article 23 and 24 of the Indian constitution, gives a fundamental right to its people that they will be protected against exploitation and for this purpose the acts which are responsible for the exploitation of human beings which may be human trafficking, beggar, forced labour etc, are prohibited. It also declares that performance of such things will not be tolerated and punishment will be imposed according to the laws made in this regard by parliament. In this way the Indian constitution declares the performance of all such exploitative activities as an offence.

Human trafficking has become a big problem in India. Every year thousands number of minor girls, boys and women are reported as missing and kidnapped. Basically these victims are poor, needy and marginalised people who are targeted by traffickers. Most of these missing people are trafficked in several kinds of illegal and dangerous acts where they are kept as slaves and these victims are not given any kind freedom, as well as their basic rights are snatched. In India human trafficking is done for many purposes like, for forced labour, domestic servitude, forced prostitution and sexual exploitation, forced marriage, begging, commercial surrogacy, organ trade etc. In 2014 the International Labour Organization estimated \$150 billion in annual profit is generated from forced labour alone.<sup>24</sup> There are found various other kinds of activities also in which the victim is forcefully recruited by trafficking. In the year 2016 alone, 8132 human trafficking cases have been reported in India.<sup>25</sup> There are an estimated 27 million adults and 13 million children around the world who are victims of human trafficking.<sup>26</sup> It is hard to know how many women and girls are trafficked in India, but the United States State Department, the United Nations and India's Human Rights Commission have all identified India as a major hub in the international sex trade, a global phenomenon that may involve upwards of 27 million people.<sup>27</sup> India, alone is home to 40 per cent of the world's estimated 45.8 million slaves, according to a 2016 global slavery index published by the Australia-based Walk Free Foundation.<sup>28</sup> The cases of human trafficking are increasing year by year.

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<sup>23</sup> ARTICLE 23(1) OF INDIAN CONSTITUTION

<sup>24</sup> <http://www.rediff.com/news/report/rediff-labs-human-trafficking-in-india/20180308.htm>

<sup>25</sup> <http://www.rediff.com/news/report/rediff-labs-human-trafficking-in-india/20180308.htm>

<sup>26</sup> <https://sites.google.com/a/uw.edu/human-trafficking/research-links/data-and-statistics>

<sup>27</sup> <https://www.nytimes.com/2013/10/16/opinion/sex-trafficking-in-india.html>

<sup>28</sup> <https://everylifecounts.ndtv.com/latest-data-shows-25-per-cent-rise-in-human-trafficking-in-india-in-2015-4623>

Basically the exploiters and traffickers do all these inhuman activities for earning easy money. In the modern world people for surviving, earn money by doing several acts. The earning of money can be done in multiple numbers of ways. One way is to earn money in a legal way on the other hand people indulge themselves in activities which is not recognised by the law of their country and which is illegal. In this way earning money has become very much important in this world so one can support his family, get food and enjoy other pleasures of the world. But getting a job or doing some other activities for survival is not an easy task. One has to do a hard work for getting good jobs in private or government sectors. And for that he has to study hard and learn good technical and vocational skills. Some people get jobs. Some involve themselves in their family businesses; few people take initiatives like opening a new business, doing partnerships etc. But there is a problem because these activities may be legal or illegal or those may be not appreciated morally. The legality or illegality, of these activities is based on the various laws of that country in which it has been happening and morality or immorality is decided by the individual or social perception of people of that country. There are many numbers of legal things which are performed for survival by the people of a country and these activities are mainly regulated by the labour laws and by some other laws of that country. But apart from that, people perform various illegal acts and generally these acts are not regulated and supported by the laws of that country and people are punished if they are found to be involved in those wrongful acts. Some acts of earning money may be legal but regarded as immoral and some acts may be illegal but they may be considered as morally good. But these things vary from country to country like; one act which is legal in one country may be illegal in other country and vice versa. Again the performance of an act may be moral in one country but immoral in other country and vice versa.

Prostitution is also that kind of activity which is having many above explained issues and giving answers of these disputed issues are very difficult task. Today sex trafficking, forced prostitution, child prostitution, pornography etc have emerged as killers of human rights of millions of deprived persons. Prostitution has become a source of income and means for earning money in many countries. Millions of sex workers just by renting their bodies for sex are earning their livelihood. But very few countries in this world support this and consider it as legal and on the other hand there are many numbers of countries where prostitution is considered illegal and banned. In many countries prostitution is performed as an organised business. This sex trade is given legal sanction in many countries while it is considered a criminal act in various numbers of countries, and hence punishment is given for running and managing brothels for prostitution. In some countries sex in exchange of money at private places is allowed and that private place might be of the sex worker or of any other person, but that must be situated away from public place because doing such acts at public places are prohibited also it is declared illegal when it is carried on as an organised activity.<sup>29</sup>

In India also, it is a disputed issue because performance of prostitution at commercial level is held illegal but still it is functioning all over in this country. Laws were made to abolish it but those laws are not able to stop it completely. Performance of prostitution is being done in India since historical times. Initially such immoral acts were controlled by the Indian penal code, 1860 but soon after independence a new law was made to prohibit commercial prostitution and sex trafficking in India. The name of that law is the Immoral Traffic

(Suppression) Act 1956, which was later amended and named as the Immoral Traffic (Prevention) Act 1986.

This act prevents and criminalises the performance of commercial prostitution. While, sex in exchange of money is legal in India because the provisions of the above act clearly signify that the act of prostitution must be committed at a private place which has to be situated away from public places and it must be done without soliciting for sex, pimping, child prostitution, running brothels etc. As well provisions of Indian Penal Code and provisions of some other acts are also applied for controlling commercial prostitution. The Business of Prostitution is illegal in India so it is not regulated through labour laws.

No one will like to get employed in this industry because it is immensely disrespected and considered as a taboo in India. Sex workers are mainly recruited through trafficking or they opt for doing this because either they were poor or they were in need of money. Some of them do it because it was their family business. It is a disputed issue because some people support for the legalisation of commercial prostitution while some other say that it must be abolished completely. Another reason of dispute is the involvement of rich and famous people in running these sex rackets and brothels. As well as involvement of some politicians and police officials are also found in providing support for running brothels and sex rackets.<sup>30</sup> By forcefully recruiting girls and women in this industry many basic rights and freedom of them are snatched like right to dignity, right to privacy, right against exploitation, freedom of movement etc. They are tortured and punished by owners and madams of brothels<sup>31</sup>. They are forced to live in small dark rooms<sup>32</sup>. Many sex workers are doing this work against their will because after being trafficked they are having no other choice but to do the same and nobody comes for their rescue.

#### 1-Historical presence of prostitution in India-

The act of prostitution is having historical presence in India and there are many instances which suggest that, in past the act of prostitution in many forms was prevalent in India. There are numerous instances which tell that sex workers used to provide such services to people. In many kingdoms sex workers were used. There were many performers and dancers who used to amuse and entertain royal families and common people. Later they became poor and because of that they indulged themselves in the act of prostitution. In British period the prostitution was carried on for providing sexual pleasures to British people and members of British military. For that reason many brothels were opened and some of them are still functioning. In the British era this industry evolved impressively and many red light areas which still exist in Kolkata, Mumbai, Delhi and other parts of India, were established during that time. Many brothels were opened near the British military camps and huge numbers of sex workers were brought from foreign countries to India.

If we go back in history then we can find the details about, Nagarvadhu or "brides of the town", who used to sing and dance for amusing rich people.<sup>33</sup> Basically Nagarvadhu was a courtesan or prostitute who used to entertain people by singing and dancing but she was having a reputation like a queen or Goddess.<sup>34</sup> There was Devadasi system prevalent in southern and some western part of India, a Devadasi was known as the servant of god who used to worship and other various services in temples like singing and dancing for their whole

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<sup>33</sup> [https://en.wikipedia.org/wiki/Prostitution\\_in\\_India](https://en.wikipedia.org/wiki/Prostitution_in_India)

<sup>34</sup> "*~victor/wisdom/osho/marriage*". *phys.uni-sofia.bg*. Retrieved 2014-02-09.

life. It is also argued that they were indulged in the act of prostitution. The Devadasi system was abolished in India in the year 1988 but still this practice is followed in many southern states of India.<sup>35</sup>

Portuguese ruled in Goa for more than four hundred fifty years, these Portuguese during 16th and 17th centuries used to bring Japanese slaves to Goa. These slaves from Japan were women and children brought for the purpose of sexual slavery.<sup>36</sup> During the Mughal Empire and British East India company rule many activities related to prostitution evolved, and the art of Nautch is one of them.<sup>37</sup> The tawaifs excelled in and contributed to music, dance (Mujra), theatre, and the Urdu literary tradition during mughal era.<sup>38</sup>

Before 1860 there was no specific and proper law for regulating prostitution. During the British period, Cantonment Act of 1864 was enacted to regulate Prostitution.<sup>39</sup> The Cantonment Acts regulated and structured prostitution in the British military bases which provided for about twelve to fifteen Indian women kept in brothels called chaklas for each regiment of thousand British soldiers. They were licensed by military officials and were allowed to consort with soldiers only.<sup>40</sup> Later in 1923 some provisions were added in Indian Penal Code 1860, to stop the acts related to prostitution. Initially it was controlled by the Indian penal code 1860 but soon after independence a new law was made to prohibit all such type of activities in India. The name of that law is the immoral traffic (suppression) act 1956, in pursuance of the [Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others \(1949\)](#). This act prevents and criminalises the performance of commercial prostitution. Sex in exchange of money is legal in India because the provisions of the above act clearly say that the act of prostitution must be committed at a private place which has to be situated away from public places and it must be done without soliciting for sex, pimping, child prostitution, running brothels etc. As well provisions of Indian Penal Code and provisions of some other acts are also applied for controlling commercial prostitution. The Business of Prostitution is illegal in India that is why it is not regulated through labour laws.

## 2: What is prostitution?

It becomes very imperative to understand the meaning of prostitution before examining the problems related to the business of prostitution. This part delves into the meaning of prostitution according to Indian and international provisions. It is known by many names like harlotry, whoredom, prostitution, sex work etc. Prostitution is mainly related to providing a service, it is a service of providing sexual pleasures to customers and the customers have to pay for it. Generally it may be enjoyed in exchange of money but sometimes instead of money any other material or non material things can be given as a mode of payment.

According to THE IMMORAL TRAFFIC (PREVENTION) ACT, 1956, “prostitution” means the sexual exploitation or abuse of persons for commercial purposes or for consideration in money or in any other kind, and the expression “prostitute” shall be construed accordingly,<sup>41</sup>

<sup>35</sup> [https://en.wikipedia.org/wiki/Devadasi#cite\\_note-skepdic.dev-7](https://en.wikipedia.org/wiki/Devadasi#cite_note-skepdic.dev-7)

<sup>36</sup> Leupp, Gary P. (2003), *Interracial Intimacy in Japan*, Continuum International Publishing Group, p. 49 & 52, ISBN 0-8264-6074-7

<sup>37</sup> "Nautch girls: Sahibs danced to their tune". Retrieved 25 July 2004.

<sup>38</sup> "Mapping cultures". *The Hindu*. Chennai, India. 2004-08-11.

<sup>39</sup> Tambe, Ashwini (19 February 2005). "The Elusive Ingenue: A transnational Feminist Analysis of European Prostitution in Colonial Bombay". *Gender and Society*: 160–79.

<sup>40</sup> Bhandari, Sudhanshu (June 19, 2010). "Prostitution in Colonial India". *Mainstream Weekly*. XLVIII (26). Retrieved October 13, 2012

<sup>41</sup> Section 2(f), immoral traffic prevention act 1956

The above definition clearly suggests that in the process of prostitution the victim (who is referred as 'prostitute' by this act which is not a dignified term) is sexually exploited. This exploitation happens in many ways. First of all, the rights of privacy and dignity of victim is violated. She is not paid properly. If the sex worker is working in a brothel then it is quite usual for her to serve and satisfy ten, twenty or more clients in a day<sup>42</sup>. There are many girls and women who are forcefully brought to brothels, later they are tortured and punished until they become ready for doing all immoral acts. Mental, physical and sexual abuse of those girls and women are done and minors are also not spared. This sexual exploitation and abuse are mainly done for commercial purposes, which are popularly known as commercial sexual exploitation. This commercial sexual exploitation is done in an organised way by opening brothels, recruiting sex workers, trafficking girls and thereby generating huge amount of illegal money. Apart from this commercial sexual exploitation the prostitution is also done at non commercial levels, it is also done for getting some money that is known as sex in exchange for money. The definition uses the term 'in any other kind', hence it can be assumed that, if the sexual exploitation and abuse of persons is done apart from commercial purposes or for getting some money, even then it will come under the definition of prostitution. From the above definition the meaning of prostitute can be construed as well, hence it can be said that prostitute is a person who is sexually exploited or abused for commercial purposes or for consideration in money or in any other kind. Basically prostitute is a person who rents his or her body for sexual purposes. It is not clear from the above definition that what the gender of a prostitute is, whether prostitute is a female person or male person or a person of third gender. Basically the Immoral Traffic (Prevention) act 1956 is a gender neutral act, so it can be construed that a prostitute may be of any gender, who can be a male prostitute, female prostitute or a prostitute of third gender. Generally the term prostitute is referred for female prostitutes because their population and demand is much higher than prostitutes of other genders. These female prostitutes are having so many names like, street prostitutes, call girls, harlots, whores etc while the male prostitutes are known as gigolos, call boys. But the approach of above mentioned law is not victim friendly, because this law give them name of PROSTITUTE, which is not a dignified term, and when most of the prostituted women are forced to indulge in this industry against their will then it is very derogatory to give them an undignified name instead of calling them a victim<sup>43</sup>.

Before the 1986 amendment the section 2(f) defined prostitution as, "Prostitution "means the act of a female offering her body for promiscuous sexual intercourse for hire, whether in money or kind."<sup>44</sup> The word "prostitution" is not confined to the acts of natural sexual intercourse but includes any act of lewdness. Prostitution is proved if it is shown that the woman offers her body for purposes amounting to common lewdness in return in for the payment of money.<sup>45</sup>

Black's Law Dictionary, explains prostitution as "the act or practice of engaging in sexual activity for money or its equivalent; commercialised sex."<sup>46</sup>

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44 Section 2(f), immoral traffic (suppression) act 1956 before the 1986 amendment(act no. 44 of 1986, w.e.f. 26-1-1987 )

45 Emperor v. Lalya Bapu Jadhav, AIR 1929 Bom.266.

46 Black's Law Dictionary, Eighth Edition at page 1259.

According to SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution, "Prostitution" means the sexual exploitation or abuse of persons for commercial purposes.<sup>47</sup>

Therefore it is a sexual exploitation and harassment of prostituted women for which some money is paid to her. Prostitution is generally known as, renting bodies of sex workers in return of some consideration. Generally in a market, people purchase goods or enjoy various kinds of services and they are charged some money for that. In other words, customers have to pay for goods purchased and services enjoyed, to the seller or to the service provider. The same applies in the market of prostitution also, where sexual services to the clients and customers in the exchange of some money or in exchange of any other material or non material thing are provided. The sexual services and pleasures are enjoyed mostly by alone, deserted, drug addicts and drunkards, criminals, people who live away from their wife and many other people come to enjoy the services of sex workers and to fulfil their lust for sex. This act of prostitution is performed in India in various ways. There are many sex workers who individually do such kinds of things at some private places<sup>48</sup> while there are many places where prostitution has become a sex trade or it has taken shape of a business and for performing this business many brothels have been opened and sex rackets are formed.

If we go through the practice of prostitution in India and analyse Indian perspective for prostitution then we find that banning of prostitution means, prevention and prohibition of commercial prostitution, business of prostitution and sex trade. Because sex work for money done secretly by mutual consent at private places, is not carrying that much problems as it is having in commercial prostitution. According to Indian laws prostitution when performed at the private residence or at any private place away from public by getting consent of both the parties in exchange of some consideration then that conduct is not contrary to law. But when such activity is performed at or near public places, then that conduct will be illegal, in the same way soliciting, pimping, luring clients for sex, opening brothels, recruiting sex workers are all illegal. Today there are many famous places in India where these all illegal activities are performed at a big level; these places have been established as red light areas as well as existence of sex rackets cannot be denied which is related to underground operation of sex trade<sup>49</sup>.

During an interview, when it was asked how we should understand prostitution and sex work, the sex worker replied: "First off, we're not sex workers. We're raped workers."<sup>50</sup> For the victims who are forcefully recruited and work against their will, consider sex done in business of prostitution as rape. Clients enjoy the services of sex workers but in reality the victims of sex trade bear it all for earning some money by getting harassed and sexually assaulted and exploited. The act of prostitution and rape both are the immoral things. Rape is done by making forceful sexual intercourse with anyone while Prostitution can be defined as rape done in exchange of money.<sup>51</sup>

### 3- Business of prostitution, commercial prostitution, sex industry and sex trade-

A business is the activity of providing goods and services involving financial, commercial and industrial aspects. Everyone would like to invest in a business which can provide some profits. But when there is an

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<sup>47</sup> ARTICLE 1(2), SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution.

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<sup>50</sup> <https://e-tangata.co.nz/comment-and-analysis/breaking-the-silence-on-prostitution-and-rape-culture/>

<sup>51</sup> <https://e-tangata.co.nz/comment-and-analysis/breaking-the-silence-on-prostitution-and-rape-culture/>

opportunity to generate immense profits just by recruiting some sex workers, then it lures some wrongful money makers to invest in it, and organise commercial prostitution in red light areas and through underground sex rackets at other public places. Through these investments which generate huge profits, commercial prostitution has become a well organised business in India<sup>52</sup>. Eventually commercial prostitution by providing sexual services to millions of customers has helped a lot in the establishment of the billion dollar industry of prostitution. Sex trade includes various elements like prostitution, selling sex, pornography, erotic dance, phone sex, sex trafficking, interstate smuggling, smuggling of sex workers from foreign countries, selling and purchasing of sex workers etc and with the advent of internet this business has got stupendous growth, now many clients are booked online for running several underground sex rackets<sup>53</sup>. In an industry the organized action of making goods and services for sale are done, in Sex industry prostituted women have become nothing but a good, their services of sex are provided for sale, and this sex industry is a well developed illegal industry in India.

#### Sex in exchange for money versus commercial prostitution-

It is to be noted that prostitution at individual level for earning some money is legal in India, when it is performed at private places in which mutual consent of parties are involved but this consent was taken without the performance of pimping and solicitation for sex at public places. But the performance of commercial prostitution is totally illegal according to Indian laws, in which girls and women are forcefully recruited for sex works by torturing and punishing them, pimping and solicitation for sex in public places is an integral part, and brothels and sex rackets are formed for providing such services, also several other illegal activities are performed for smooth workings<sup>54</sup>. Commercial prostitution is performed by organising prostitution at commercial level not only in few parts but all over India in brothels and through sex rackets by recruiting sex workers for treating millions of clients.

The above distinction of legality and illegality is based upon various grounds like, consent principle, sex trafficking, acts of torture and punishment, treatment like slaves, improper payments, bonded labour etc. Performing prostitution at individual level without disturbing the public is legal because there is no victimization of the sex worker, she is not tortured, she is doing it on her own will and the money earned by her is not snatched by anybody and she is the complete owner of her own. But no such freedom is given to sex worker in commercial prostitution. If sexual intercourse is made by getting mutual consent of parties then it is okay, but if it is done forcefully without taking consent of the victim then it becomes a crime which may lead to rapes, sexual abuse, sexual harassment, sex trafficking etc. Some acts are not criminalised when those acts were performed by taking the assent of other parties. Indian Penal Code 1860, from section 87 to 92 related to justifying some acts which were performed after taking consents of parties. Though the prostituted women earns money by renting her body but it never involves her free consent, she is trafficked and forcefully recruited, she is forced to do the same for her livelihood, hence by taking advantage of her situation she is exploited by her customers, pimps and recruiters. She must be regarded as a victim. While women who, by their own consent, are earning money through prostitution are responsible for violating several provisions of

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immoral traffic prevention act 1956, because they need help of pimps, they arrange customers from public places, the place where they are residing accommodates more than two sex workers which is enough to declare that place a brothel, hence these sex workers must be treated as criminals.<sup>55</sup>

Illegal business of prostitution-

Prostitution is technically illegal but widely practiced in India. By one count prostitution is an \$8 billion a year industry with more two million prostitutes and 275,000 brothels. In another count in all of India, there are as many as 10 million commercial sex workers. Their core clientele has traditionally been truck drivers, migrant workers and other men separated from their families for long periods of time.<sup>56</sup> It becomes very necessary to stop this business which is flourishing day by day.

This act of prostitution is mainly performed in two ways. First way is to do it in a non organized fashion which is generally conducted secretly behind the doors. Another way is to perform it at a commercial level as an organised activity in red light areas or through sex rackets.

Non commercial prostitution- It is very difficult to stop such kind of prostitution which is done in a clandestine way at private places of sex worker or any other private place and this type of prostitution involves very less or no torture because sex workers themselves choose this way of earning money, also they are not owned by anybody who can suppress their rights and the sex work is done after taking the consent of parties involved, in this way it is very difficult to say that, this kind of prostitution involve any kind of sexual exploitation or sexual abuse.

But problem arises in the business of prostitution or sex trade which is responsible for sex trafficking, sexual exploitation as well as mental and physical abuse of victim. When prostitution is performed in an organised way at a commercial level then it becomes the business of prostitution which is also known as sex trade. It is performed at commercial level by opening brothels, recruiting millions of sex workers, providing sexual services, performing the acts of pimping; soliciting for sex etc. in this business, the sex workers are forcefully recruited and they are forced to perform the sexual acts against their will, which leads to the sexual exploitation and abuse of the prostituted women. The customers are arranged through pimping by brokers or sex workers. These brokers and sex workers go to public places and ask people or solicit people for enjoying sexual services. This kind of activity is held illegal in many countries. In red light areas of India one can find many numbers of brokers and sex workers on roads, bargaining to people for sex. Pimping and soliciting are some essential tools for performing sex trade and without using these methods it will be difficult to get more clients and customers. The Business of prostitution is included among top three illegal businesses of world along with the trade of illegal weapons and trade of illegal drugs. Sex trade has been established firmly by wrongful money makers in which millions of people are trafficked and thereby billions of dollars are raised worldwide. So it can be assumed that, at an organised level this prostitution is very harmful which gives many challenges to human rights.

There are multiple reasons for the success of this trade. First of all the demand for sexual services of the sex workers never decreases. It is very easy for traffickers to indulge poor and powerless people in this business. The laws made to prevent all this are either so weak or those laws are not applied properly, government also

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<sup>56</sup> [http://factsanddetails.com/india/People\\_and\\_Life/sub7\\_3h/entry-4190.html](http://factsanddetails.com/india/People_and_Life/sub7_3h/entry-4190.html)

shows very less interest to prohibit such activities by ignoring and tolerating it. People of society, media etc are also care very less towards the problems created by this business and towards the violation of rights of people involved in this industry. There are very limited numbers of NGOs (non government organisations) and social activist who work for the rights of sex workers and trafficked people. Because of these loopholes, confidence is gained by the wrongful money makers and traffickers by which they perform their acts fearlessly. This sex trade is having a unique feature, that is, a single human being can be sold again and again while in other businesses the producers have to produce the goods every time.<sup>57</sup> It means that the production cost in this business is very less but the margin of profit is tremendously huge. A single sex worker is used again and again in a brothel, hotel, bars etc, whereas on the name of salary she is given just a nominal share of huge profits, even that is given by deducting her rents, living costs, cost of food, clothing, cost of makeup materials etc.

#### 4: Prostitution in other parts of world-

According to a data, total revenue generated worldwide by prostitution is \$186 Billion and only in China \$73 Billion, is generated through prostitution.<sup>58</sup> It is estimated that total number of prostitutes in the world are near about 14million (13,828,700), whereas in China alone 5 million and in India 3 million prostitutes can be found.<sup>59</sup> So it becomes very important to focus on status of prostitution in other parts of world. Prostitution is prevalent in many countries but not all support, managing, running brothels, pimping and doing solicitation for prostitution. The same thing is legal in a few numbers of countries. In countries like Netherland, Bangladesh, Turkey the prostitution can be carried on the commercial level and for the same reason brothels can be opened and it can be managed and operated by brothel owners and keepers. Whereas in countries like India, Kazakhstan etc only sex in exchange of money is valid and it must be performed at the private places of the sex worker or the customer and opening brothels etc are illegal here. While there are many countries where prostitution in any form is banned and people involved in these acts are given severe punishments.

The legal status of prostitution varies from country to country. There are some countries where the act of prostitution is given legal sanction because of its historical presence, some countries allow it only in some specific parts, some counties are trying to diminish this phenomenon by criminalising it, and there are some countries where it is considered as a sin according to their religion and severe punishment is inflicted on the performance of the same. Some countries have tried to protect rights of sex workers while in some countries no attention is paid towards protection of the rights of sex workers. Because of prostitution sexual tourism have become very popular and country named Thailand is a perfect example of this, where the act of prostitution is illegal but still it is performed there as an organised industry in which huge amount of money is generated and every year millions of people come to visit this place for sexual tourism. It is also noted that, there are many countries where it has become a debatable issue; to legalise or criminalise the act of commercial prostitution. Countries have adopted various kinds of approaches for controlling and regulating prostitution. These various kinds of approaches are Decriminalization, Legalization, Prohibitionism, Abolitionism, and Neo-abolitionism. It is noticed that there is no uniformity regarding the status of prostitution

<sup>57</sup> <https://sites.google.com/a/uw.edu/human-trafficking/research-links/data-and-statistics>

<sup>58</sup> <https://www.havocscope.com/prostitution-revenue-by-country/>

<sup>59</sup> <https://www.havocscope.com/number-of-prostitutes/>

among countries. United Nation as well as many international laws and conventions have criticised the act of prostitution and several guidelines have also been given to stop performances of it at commercial levels. The states have been asked to follow all these guidelines by making laws for the same and a duty is given to states to stop all such activities in their country.

There are countries like New Zealand, Guinea Bissau, and Nueva Gales Del Sur which is a part of Australia, where decriminalization of prostitution has been done, hence no criminal penalties are imposed for performing prostitution. In this way these countries have adopted the approach of decriminalization. The approach of legalisation is followed in those countries where prostitution is considered legal and it is regulated by several laws of that country. Some name of those countries are Netherlands, Germany, turkey, Bangladesh, Eritrea, Peru, Chile, Ecuador, Colombia, Venezuela, Senegal, Tunisia, Taiwan , and in some parts of Australia (Territorios Del Norte , Queensland, Victoria, Tasmania). The approach of abolitionism is followed in countries where prostitution is legal only when it is performed at private places by getting consent of parties involved where generally the purpose doing all this is gaining some money but when it is performed at public places by organizing and managing brothels, performing pimping, soliciting for sex etc then in that case doing all these things are declared illegal by statutes and prostitution at commercial level is not regulated (by other laws like labour laws etc). Some examples of those countries are India, in some parts of Australia (Del Deste, Del Sur), Brazil, Paraguay, Nicaragua, Honduras, Costa Rica, Guatemala, Cuba, Malaysia, Brunei, Kazakhstan, Tajikistan, Kyrgyzstan, Finland, Poland, Romania, Poland, Spain , Belgium, Italy, Algeria, Mali, Madagascar, Namibia, Botswana, Zambia, Democratic Republic of the Congo, Central African republic, South Sudan, Ethiopia, Lesotho, Mozambique, Benin, Togo, Cote d'Ivoire, Sierra Leone. The approach of Neo-abolitionism is followed in countries where it is legal to sell sex but it is illegal to buy sex. Name of those countries are Canada, France, Norway, Sweden, Iceland. While there are countries where the legality of prostitution depends on the local laws of that place, state Nevada of United States of America, Mexico, El Salvador, Argentina, Nigeria, Kenya, Indonesia are some examples. There are countries where the approach of prohibitonism is followed because prostitution is totally illegal here. Name of those countries are United States, China, Russia, South Africa, Japan, Guyana, Suriname, Mongolia, Pakistan, Sri Lanka, Nepal, Bhutan, Myanmar, Niger, Chad, Sudan, Saudi Arabia, Yemen, Oman, Kuwait, Qatar, U.A.E. Iran, Afghanistan, Libya, Egypt, Angola Mauritania, Western Sahara, Thailand, Cambodia, Vietnam, Laos, Uzbekistan.<sup>60</sup>

##### 5- Legal status of prostitution in India-

This part focuses on the legal status of prostitution in India. Prostitution is present and performed in India but, like many countries do not permit prostitution as an organised activity, India has also adopted the same stand. It is not unlawful right here to get paid for making sexual intercourse if it was not done at public places. But asking people in public to have sexual intercourse in return of money is not permitted. Arranging and keeping sex workers, selling sex workers, recruiting sex workers and thereby providing sexual pleasures on payment is all illegal in India.

Mainly the red light areas are famous for commercial prostitution but many brothels are found to be opened on a small level by some non social elements in areas different from red light areas. It is common in India to

<sup>60</sup> [https://en.wikipedia.org/wiki/Prostitution\\_law](https://en.wikipedia.org/wiki/Prostitution_law)

hear or read such type of news like sex racket team are busted by police, several people and sex workers are arrested for running brothel and delivering girls etc. And sometimes very famous people are found to be involved in these rackets. In past it has been seen that many rich and influential people were supporting it financially and providing habitats for running these rackets<sup>61</sup>.

In India laws are made to criminalise all these things. With the help of these laws many cases of such nature have been disclosed and people involved in those activities were punished. But still those laws are not so successful in removing it completely. There are many famous places in India where prostitution is performed commercially from decades. But these laws are not able to stop such wrongful deeds in those famous red light areas.

Prostitution as an organised activity is held illegal in India and hence various kinds of punishments are provided for performing the same. India has taken inspiration from popular international laws for getting rid of this problem, for instance the immoral Traffic (Prevention) act 1956 was made for prevention of immoral traffic, in pursuance of the [Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others \(1949\)](#).

According to some International laws-<sup>62</sup>

Prostitution is indeed incompatible with articles 3 and 5 of [the Universal Declaration of Human Rights \(1948\)](#) which states that “Everyone has the right to life, liberty and security of person” and “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment”.

- The United Nations [Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others \(1949\)](#) of 2 December 1949 adopted by its General Assembly states says in its preamble that “Prostitution and the accompanying evil of the traffic in persons for the purpose of prostitution are incompatible with the dignity and worth of the human person”.

- The United Nations 1979 [Convention on the Elimination of All Forms of Discrimination against Women \(CEDAW\)](#) asks states to “take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women”.

Palermo protocols was brought to supplement the 2000 Palermo convention that is convention against transnational organised crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children was very helpful in bringing some changes related to trafficking laws of India.<sup>63</sup> For example a new definition of trafficking was added in section 370 of Indian penal code 1860, and amendment was brought to add definition of trafficking in section 5A of Immoral Traffic (Prevention) Act 1956. The guidelines given in the Slavery convention 1926 and Convention On the Abolition Of Slavery, The Slave Trade, And Institution And Practices Similar To Slavery, 1956 is also followed for prohibiting slavery in the form of prostitution. The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, which was adopted by the United Nations General Assembly in 2000 and which came into force in 18 January 2002, asks the parties to the convention to protect

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<sup>62</sup> <http://www.fondationscelles.org/fr/tribunes/134-international-law-defines-prostitution-as-a-human-rights-violation>

<sup>63</sup> [https://en.wikipedia.org/wiki/Palermo\\_protocols](https://en.wikipedia.org/wiki/Palermo_protocols)

rights of child by prohibiting the sale of children, child prostitution and child pornography under article 1.<sup>64</sup>

There is a regional convention which has been adopted by the members of south Asian association for regional cooperation (SAARC) that is named as SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution. This convention also gives guidelines for not supporting the act of prostitution, because it is against human rights. The convention also asks for assistance, rehabilitation and repatriation to victims of trafficking for prostitution.

The main legislation in India to prohibit commercial sexual exploitation and abuse of sex workers is the immoral traffic (prevention) act 1956. India has adopted the approach of 'abolitionism', for dealing with prostitution. This approach tries to eliminate all form of slavery. The act of prostitution is also a kind of slavery, in which the sex workers please and treat the customers because they are forced by their owners and traffickers to do such things. According to the convention on the abolition of slavery (1956), "Slavery" means, as defined in the Slavery convention of 1926, the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised and 'slave' means a person in such condition or status.<sup>65</sup> Today forced prostitution has become a form of modern slavery, in India there are millions of girls and women who are trafficked and forcefully recruited in this kind of slavery. In red light areas brothels can be found full of sex slaves these slaves have to work for their owners but they get very little share of profit.

Section 3 of immoral traffic (prevention) act 1956 gives Punishment for keeping a brothel or allowing premises to be used as a brothel, it also provides punishment for managing a brothel or assisting in keeping or managing a brothel and if vehicles are allowed to be used as a brothel then also that will be an offence under this section.<sup>66</sup> The above act, under section 7,<sup>67</sup> strictly prohibits the performance of prostitution at public place or near public places. The act of prostitution is allowed at those places which are 200 meters away from public places, and which are performed at a non organised level, behind the doors, without soliciting for sex at public places. Section 7 provides punishment for doing such kind of things at public places.

There are some more offences which have been covered by this act which are briefly explained as follows-<sup>68</sup>  
"Section 4- Punishment for living on the earnings of prostitution, this section gives punishment to those people who are living, wholly or in part on the earnings of prostitution.

Section 5- Procuring, inducing or taking persons for the sake of prostitution as well as attempt to procure or take would constitute the offence.

Section 6- punishment is provided for detaining a person in premises where prostitution is carried on and that premises may be a brothel or any other place.

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[https://en.wikipedia.org/wiki/Optional\\_Protocol\\_on\\_the\\_Sale\\_of\\_Children,\\_Child\\_Prostitution\\_and\\_Child\\_Pornography#cite\\_note-Protocol2-1](https://en.wikipedia.org/wiki/Optional_Protocol_on_the_Sale_of_Children,_Child_Prostitution_and_Child_Pornography#cite_note-Protocol2-1)

<sup>65</sup> Article 7(a), the convention on the abolition of slavery, the slave trade, and institutions and practices similar to slavery, 1956

<sup>66</sup> Immoral Traffic (Prevention) Act 1956,

Section 3. Punishment for keeping a brothel or allowing premises to be used as a brothel. —

<sup>67</sup> Immoral Traffic (Prevention) Act 1956, Section 7. Prostitution in or in the vicinity of public place. —

<sup>68</sup> Section 4- 9, ITPA 1956, PROHIBITORY PROVISIONS

Section 8- provides punishment for seduction or soliciting for the purpose of prostitution in public places or near public places.

Section 9- punishment for Seduction of a person in custody and it also include causing or assisting seduction for prostitution of a person in custody."

With Immoral Traffic (Prevention) act, the sections and provisions of some other acts are also applied which are relevant in prevention of exploitation, immoral activities, prostitution, trafficking etc, these are-

- 1- Indian Penal Code 1860,
- 2- some provisions of Code of Criminal Procedure 1973,
- 3- The Juvenile Justice (Care and Protection of Children) Act 2000,
- 4- Information Technology Act 2000,
- 5- Protection of Children From Sexual Offences (POCSO) Act 2012,
- 6- Prohibition of Child Marriage Act 2006,
- 7- Bonded Labour System (Abolition) Act 1976,
- 8- child labour(Prohibition and Regulation) Act 1986,
- 9- Transplantation of Human organs act, 1994,
- 10- The Protection of Women From Domestic Violence Act, 2005,
- 11- The Protection of Civil Rights Act 1955,
- 12- The Indecent Representation of Women (Prohibition) Act, 1986,
- 13- National Commission For Women Act, 1990,

The above mentioned acts are the examples of those legislations which also cover and criminalise several acts related to prostitution like, rape, kidnapping, abduction, confinement, torture, sexual harassment, sexual exploitation of minors, domestic violence, online arrangements of customers, forced labour, rehabilitation of minors and needy people etc. Apart from central acts, State governments have also legislated some acts for preventing trafficking in human beings, some examples are, The Punjab Prevention of Human Smuggling Act 2012, The Goa Children's Act, 2003 etc.

5- Difference in principle and practice regarding commercial prostitution-

There is a huge difference between the principle and practice regarding the performance of prostitution in India. Indian laws prohibit the act of commercial prostitution but in reality these acts are performed all over India at a commercial level and many places has become famous as red light areas for prostitution. These acts violate various Indian laws also many international laws and guideline are disrespected. The authorities take very less action in applying the relevant laws to stop prostitution and generally these types of acts are tolerated and ignored by authorities.

Mainly red light areas and sex rackets are famous for this sex industry. These activities are happening at a big scale in many states like, Delhi, Maharashtra, West Bengal, Madhya Pradesh, Goa and Uttar Pradesh, Bihar and in some other parts of India.

Name of some famous and notable red light areas are mentioned as follows which are mainly responsible for exploitation and abuse of girls and women <sup>69</sup>-

- 1- In Delhi, the area covered by G.B. (Garstin Bastion) road, is famous for treating people with services of sex. It is estimated that more than 1000 sex workers are working in hundreds of brothels located there.<sup>70</sup>
- 2- In Maharashtra (in the capital city Mumbai) Kamathipura and Falkland road are those areas where it is carried on. According to police reports in 2005, there are 100,000 prostitutes working in five star hotels and brothels across Mumbai.<sup>71</sup>
- 3- In West Bengal's capital city Kolkata, Sonagachi area is a famous hub of commercial prostitution and it is the biggest red light area in whole Asia where more than 11,000 sex workers are providing their sexual services.<sup>72</sup> The place got globally known, when an American documentary film, 'Born into Brothels: Calcutta's Red Light Kids' won the Academy Award for Documentary Feature in 2004.<sup>73</sup>
- 4- In Madhya Pradesh (in the Gwalior city), Reshampura is famous area for commercial prostitution. Many girls and women are brought from several parts of India for sex work.
- 5- In Uttar Pradesh, Meergunj area of Allahabad and Shivdaspur area of Varanasi are known for commercial prostitution. Meergunj area is a dangerous place where many girls and women are brought from several parts of India and as well as from Nepal and Bangladesh.
- 6- In Jaipur, one can find such areas like, Tilawala, Chandpole, Bhojpura, Mahala area. Many sex workers are easily available right there for clients and they have to pay some nominal prices for enjoying sex services.<sup>74</sup>
- 7- In Hyderabad, Mehboob Ki Mehendi,
- 8- In Bundi, Mohanpura area,
- 9- In Muzaffarpur, Chaturbhuj Sthan, of Bihar,
- 10- In Nagpur, Itwari area,
- 11- In Pune, Budhwar Peth is a red light area, where more than 5000 sex workers are involved in commercial prostitution.<sup>75</sup>

Other traditional places for commercial prostitution-

There are some places where the act of prostitution is followed because of some local customs, cultures, or because of any historical reasons. Wadia village of Gujrat, Nat Purwa village of Uttar Pradesh are some places where act of prostitution is a tradition. Some religious customs are also responsible for happening of these activities, for example Devadasi system which is mainly prevalent in southern states of India, in which women do services in the temples, they sing, dance, as well as, they are involved in the act of prostitution. Jogin system was also followed because of some blind faiths, in this system teenage girls (who were members

<sup>69</sup> [https://en.wikipedia.org/wiki/List\\_of\\_red-light\\_districts](https://en.wikipedia.org/wiki/List_of_red-light_districts)

<sup>70</sup> [https://en.wikipedia.org/wiki/Garstin\\_Bastion\\_Road,\\_New\\_Delhi](https://en.wikipedia.org/wiki/Garstin_Bastion_Road,_New_Delhi)

<sup>71</sup> <https://www.sfgate.com/news/article/Prostitution-beckons-India-s-former-bar-girls-2501037.php>

<sup>72</sup> <https://www.scoopwhoop.com/inothernews/red-light-areas-india/#.3z3iec5v3>

<sup>73</sup> <https://www.unodc.org/southasia/en/frontpage/2010/March/red-lights-of-sonagachi.html>

<sup>74</sup> <http://www.coolthoughts.in/red-light-area-jaipur-rajasthan-sex-price/>

<sup>75</sup> <https://www.scoopwhoop.com/inothernews/red-light-areas-india/#.3z3iec5v3>

of scheduled castes), were forced into prostitution by village chieftains and this system is still prevalent in Nizamabad and Medak districts.<sup>76</sup>

Sex rackets, no definite place-

These red light areas are clearly visible which is situated in a particular area generally separated from society but there is a different form of commercial prostitution which is not conducted in red light areas. Underground Sex rackets are formed for this, there is no definite area confined for these sex rackets. In some cases, Call girls are sent to please clients but generally it is conducted at private residents in a secret manner where clients come for enjoying sex. Hotels, dance bars, pubs, parlours, are also some places apart from red light areas where sex work through this illegal sex rackets are provided. Services of sex workers in hotels lures many rich people and it has become a profitable item for the many hotel owners that must be presenting in their secret menu. The dance bars and pubs not only entertain the customers with drinks and arousing dance moves but It also provides an opportunity to the customers that they can enjoy sex with those dance girls by paying hefty amount of money. This kind of prostitution is also illegal according to the Indian laws. Not only brothels are the hubs for providing sexual pleasures but there are many secret massage parlours and salons where one can also get such things. So on the name of massage parlours and salons basically a brothel is opened for making police authorities believe that it is not a brothel but a working place with legal objectives. Basically a place used for running sex rackets, accommodating prostitutes for treating customers must be declared a brothel.

A red light area is daily visited by thousands number of people. Here brothels can be found easily. In these brothels sex workers are recruited by exploiters. They may be forcefully recruited, trafficked, some sex workers work here because they need money. While in some cases it becomes a family business to get involved in prostitution and they are not provided a proper education but, since childhood they are taught only the skills involved in this industry. Their family members themselves know that it is not a good deed but still they pursue it for getting some money. In these red light areas, apart from these brothels there are many houses where female members of that family are available for prostitution and that is going on from generation to generation in that family.

From these brothels sex workers are sent to the required places of customers. But for this service charges are generally higher compared to the normal rates. The sex workers are sent to hotels, flats or the private places of customers. They are demanded on the occasion of parties. In village areas many sex workers are hired for dance programmes and it has now become a ritual in those areas on the occasion of marriage ceremonies or on any special parties. Massage parlours can be found in red light areas as well. The customers are treated with drinks on payment which may be beer, rum, whisky etc. The use of drugs like weed, cocaine, Heroin etc are also found. Consumption of cigarettes is very common. But for all these services the customers have to pay. These brothels are very famous for the indecent dance moves, popularly known as “MUJARA” which are performed by the sex workers, people pay a lot for enjoying these dance moves and sex workers and girls are asked to make vulgar presentations.

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<sup>76</sup> <https://www.thehindu.com/todays-paper/tp-national/tp-andhrapradesh/efforts-on-to-root-out-jogin-system/article4556549.ece>

During my visit to Sonagachi area of Kolkata for research purposes, I interacted with Subhash(29), a male pimp (commonly known as broker) who was arranging clients for sex. It was about ten o'clock of, 20<sup>th</sup> December 2017 night and we were three people standing near a tea stall. That area was full of crowds suddenly that pimp came and started forcing us to go to a brothel for just one thousand rupees per person. We stopped him and started asking about the services. He replied in confidence for treating us with sexual services, dance performances which he called MUJARA. We were to be offered beer by sex workers which will cost three hundred rupees for a bottle. He also offered for good massage service by beautiful Nepali girls. He asked us to enjoy minor virgin girls for which one person had to pay ten to fifteen thousand rupees. But first of all he wanted us to visit several brothels with him where we had to choose sex workers of our choice, later we followed him to three four buildings, we had to pay fifty rupees for entrance to every gatekeeper of the brothel, those brothels were full of sex workers but it was astonishing to find minors sex workers. We asked him about his role as a broker but he was unwilling to reply, we only came to know that he was twenty nine year old, his job was only to bring customers to brothels by persuading them for sexual services, by doing this he would get a share of profit from owners and was doing this job from past ten years. We tried to ask some more questions but he became angry and started misbehaving with us later we gave him fifty rupees and moved away from that place. By covering some distance we met some lady pimps who were not so young. They also started convincing us to visit their brothel where many young girls were kept. We refused there proposal and moved away from that place. For soliciting customers, Sex workers were standing on roads, some alone while some were standing in groups. We talked to a lady, looking more than forty, who was asking just three hundred for a person per shot (here shot means ejaculation of sperm).

#### 6- Future of business of prostitution-

The stand of India against prostitution has created a state of dilemma. The act of prostitution is widely tolerated and very restricted action is taken against it, at the end, there is no relevancy of having laws against it. This has made a suitable condition for raising voice to legalise commercial prostitution. Many sex workers, brothel owners, madams have started supporting for legalisation of commercial prostitution. They argue that, it has become an established business in which millions of people are involved and it will be very difficult for them to get some other employments, anywhere else. Many of them are illiterate, most of them have never been provided any technical and vocational skills so, they cannot work somewhere else, they suffer from immense poverty, most of these sex workers have been left by their families and husband. The supporters of prostitution by giving these reasons ask for the non criminalisation and legalisation of commercial prostitution.

Legally I cannot justify these arguments but it is true that many sex workers who are involved in this industry are helpless and therefore inclined to do such thing. I interviewed some sex workers who were doing these immoral things on their own will because they were suffering from acute poverty and by indulging themselves in this business they started earning some money for their livelihood but they have to choose several illegal methods from arranging customers to recruiting other girls with them.

I interviewed a sex worker named Renu (35), who was in the midnight time asking people for sex on the roadside along with other sex workers in the red light area Sonagachi, of Kolkata. In this Sonagachi area one can easily find thousands sex workers on roads and in uncountable brothels. Renu asked me to go with her

just for three hundred rupees. I agreed to go with her; she took me to a small house which was not looking like usual brothels. I asked to her about that place and reason of her involvement in this act. By listening to these questions she became angry and told me to ask nothing but later I convinced her for this interview. She narrated her story in a sad tone. She was working as a sex worker from past five years when because of poverty and helplessness she was having no other choice but to do the same. Her husband was a rickshaw puller, and having three daughters. She was illiterate but wanted her daughters to get educated. It was a daily routine of her husband to come after drinking alcohol in late nights, he used to beat her and forcefully rape her. Daily she had to face violence, for not bringing any dowry, for raising daughters, for not being lucky for him. He used to spend all his money for drinking alcohol, and it was very difficult for Renu to provide two times meals for her daughters. I asked about the ages of her daughters but she refused to tell anything about them. She said, one day she had a big argument with her husband but he beaten her a lot, also he thrashed her daughters when they came for rescue. After that incident, she decided to leave him, and later she shifted in the house of a sex worker. She also decided to become a sex worker. Since then every night she comes on the roadside, lure people for sex and earn money. Her two daughters are living in a shelter home and she will never let them to indulge in this business. I asked about the future of her daughters but she started crying on her apathy because she can do nothing more for her daughters and wants to get them married very soon.

The same night I interviewed a young girl named Kajal (19), who was a Muslim girl from Bangladesh and working in a brothel of that Sonagachi red light area. I met her through her madam, who was charging three thousand rupees for her, because she was young and beautiful. I was sent in a small room with her. I explained to her that, I had come for getting her interview but she refused because it was not allowed and her madam would become angry after knowing this. But she told me that she was brought to Kolkata by her lover for which they had crossed the border with twenty more people. She left her family because he had promised to marry her and they wanted to get settled in Kolkata. She had just met him six months ago in a stationary shop near her school where he was working. By coming in Kolkata he wanted to open a stationary shop of his own, he wanted some money but he was getting it from nowhere. He decided to sell her in a brothel and promised to take her back after sometimes. She agreed because she was having no choice and started working there after being sold by him. But he never returned back, she still thinks that one day he will come and take her back from that brothel and they will get married. She sacrificed everything for him and now she cannot return back to her home because her family members will never accept her. In this way she had surrendered herself to act in this brothel.

The case of Renu was so emotional, she was crying while narrating her story, she was so helpless, and having no links from where she could have been provided any help. Also, she was living in a red light area, which could have also been a reason for her involvement in this act because she could have thought about getting easy money just by renting her body. Many people may justify the move taken by a destitute and deprived mother of three daughters who involved in sex trade for providing two times meal and education to her daughters. Also it was easy for a destitute women living in a red light area to get involved in sex trade and if she was not living in that area then she could have certainly started begging on roads or at railway stations. But involving in the act of prostitution is not a solution of poverty and helplessness. If a woman needs help then it is the responsibility of government authorities to provide her necessary help. But no one can trust them

because these authorities are corrupted and take care only of rich and influential people. Basically Renu was a victim of domestic violence. She was required to complain about the violence in a nearest police station, also the concerned authorities were required to provide help to her. But because of ignorance of law, illiteracy, poverty she never got help and daily used to be abused by her husband. By complaining about her husband, she could have got all those financial helps which were required to support her family and probably she could have never come in this act of prostitution.

By observing the case of Kajal, we can say that she was a victim of sex trafficking and her lover behaved like a sex trafficker. But kajal was also in many ways responsible for the wrongs done with her because unlike Renu, kajal was an educated girl, and she was never required to leave her home for a boy with whom she had met just six months ago. She committed many foolish mistakes; first of all she agreed to move Kolkata without any proper document and in illegal manner, she did not plan what exactly they will do there for earning money, her second mistake was the assent given by her for letting her to be sold in a brothel, third mistake she committed by not taking any legal action against her lover when he did not come after selling her in a brothel. Fourth mistake she is still committing by not taking help of any legal authorities, social activist or any non government authorities for getting rescued her from that brothel, even I tried to offer help by asking her permission to complain about her situation to legal authorities but she scolded me and did not allow me to do such things.

It is quite clear that, these are the parts of the planning of the exploiters to hunt for needy, deserted and poor women for indulging them in this sex trade, because they show very less resistance and voluntarily accept this profession. But there are many girls and women who are forcefully made helpless. Many poor girls and women are brought to brothels, but they are not willing to indulge themselves in this industry because they are forcefully recruited and brought to brothels against their wish. These girls and women show huge resistance and do not want to get involved in this business of prostitution and never want to become a sex worker. They desire to get out of that place but they are jailed and kept in hell like places where they are not given food for many days, as well as they are tortured physically as well as mentally. But at the end they have to give their assent for becoming sex worker because the torture faced by them is unbearable and they are having no other choice but to indulge in this industry.

The same happened with Rupam(22), who was brought to Sonagachi red light area of Kolkata from a village of Jharkhand when she was thirteen years old. Now she has forgotten the name of her village and district from where she was brought. She had learnt to sew clothes in her native village. She and two more girls who were friends of Rupam were sent by their parents to Ranchi for working in a boutique shop. They were taken out by a man of her village who was known to the parents of girls and used to work in Ranchi. That man convinced their parents for providing jobs to them. But they were not taken to Ranchi, Rupam was sold to a trafficker who brought her to Kolkata and she knows nothing about those two girls and what happened with them. She was given sedatives and brought in a truck to Kolkata, recruited in a brothel and forced to become a sex worker. Initially she resisted a lot and because of that she was beaten so badly, her legs had swollen and bloods were coming out of that. She was kept in a tiny dark room and not given food for three days. There was a lady who used to be referred as madam convinced her to become a prostitute. She cried a lot, she wanted to return

back to her parent's home but nobody came for her help and finally she lost all her hope and got involved in this business.

The case of Rupam, is a proper case of sex trafficking who was deceived on the name of job. She and her parents had trusted that man but he betrayed them. Basically her uncle was a trafficker, pimp or broker, who sold Rupam. She was forced to do prostitution against her will. This is totally illegal and against human rights. The only solution of this problem is the complete eradication of Commercial prostitution, it must be abolished, all the brothels are required to be vacated and victims like Rupam are required to be rescued. Because of these illegal acts victims like Rupam suffer a lot, her parents got unforgettable pain, she felt bad, her dreams got shattered, and she can never help her poor family.

This is a lucrative business for call girls and organisers of sex rackets. During my interaction with a call girl of Kolkata, named Julie (27), I found that she had accepted prostitution on her own choice. She was working for several sex rackets, the organisers of those rackets used to arrange customers through internet. Many millionaires were her customers; they used to call her in hotels. For one night, her charges were two lacs rupees, half of which was share of her organisers. She serves only rich customers, because they are having money to spend, they can be lured very easily and hence it is a kind of honey trap for looting their money. Though she is doing it wilfully, but still she is using illegal methods for arranging customers. Use of public places, hotels are not authorised for prostitution. Some feminist may protect her by raising the issue of freedom of choice to work, but they will forget to consider the illegal methods used by her. Also it is not a valid contract; the consideration involved in the contract is against Indian laws. Further, by getting exploited after being paid, she is presenting women in a wrong image and many other greedy women can follow her footsteps to gain more and more money. She is promoting the patriarchal societies, which want to exploit women and girls. She can raise many marital problems for customer's wife, because the wife would very hardly allow her husband to cheat her like this. What happens when the same wife is enjoying sex with other man and the husband comes to know about that, certainly he would never tolerate.

In this way the Future of commercial prostitution can become so bright if it is continuously being tolerated by governments and people keep ignoring the problems faced and generated in business of prostitution. Future of commercial prostitution may become very dull if it is abolished and all these red light areas are finished and all the underground sex rackets are busted. Huge supports of people are required; government by making and implementing many welfare schemes should provide rehabilitation to sex workers. Finally the only solution is eradication and abolition of business of prostitution from India.

### Chapter- 3

Forced prostitution as a form of modern slavery, reasons for its performance and factors which aggravate such performances

In a developing country like India, various kinds of illegal trades and professions are performed by wrongful money makers and business of prostitution is one of those in which huge amount of unlawful money is generated. Today millions of prostituted women just by selling their bodies for sex are earning their livelihood. The business of prostitution has become a billion dollar industry in India, in which near about \$8.4

billion is collected every year.<sup>77</sup> This chapter will describe the reasons for performing this sex trade and factors which aggravate the happening of this illegal trade. Like other established businesses here also the prime reason of carrying on this trade is to earn as much money as possible. It is also noted that every business depends on a chain of demand and supply, this factor demand and supply is a crucial one in the growth of sex industry, to fulfil the huge demand of people for sex, sex workers are supplied in brothel of red light areas or call girls, massage girls through sex rackets. The huge demand for the services of sex workers in India influences the supply factor for which girls are kidnapped, deceived and trafficked. But these all depend on some leading factors which are responsible for giving suitable conditions and opportunities that help in the growth of this business, so those factors will also be discussed. In India there are countless wrongful money makers who perform various kinds of unauthorized acts for raising money. And these wrongful money makers suppress all basic rights and freedoms of poor and marginalized people. Poverty, illiteracy, unemployment, low rate of income, lack of women empowerment, restricted availability of welfare schemes, huge difference of literacy rate between men and women, lack of information of the laws, slow speed of getting justice, less modernisation, following of many numbers of the unusual cultures, considering girl child as a burden, not providing girls the proper education and getting them married at an early age, lack of availability of medical services to poor people, difference in the birth rate of boys and girls, lack of care of marginalised people, poor implementation of laws, poor vigilance and corrupted system etc, are some of the factors which are the roots of maximum numbers of wrongful and illegal acts in India. The above mentioned factors aggravate the happening of these illegal and wrongful acts and make people (who suffer from those factors) vulnerable of becoming victim to such illegal and wrongful acts.

For understanding the vulnerability factors, 50 cases of two states West Bengal and Bihar were analyzed. It was found that the vulnerability factor is not dependent only on one factor but there are multiple reasons for vulnerability. The research explained that 48 out of 50 trafficked victims were vulnerable because of their family poverty, 12 victims were found vulnerable because of domestic violence while 18 of them were subjected to child marriage, and 39 were vulnerable because of lack of education or illiteracy and 12 victims were found vulnerable because of caste and practice of inter- generation prostitution among the community of Nat, where parents and guardians forced their daughters and sisters into prostitution.<sup>78</sup>

#### 1-Forced prostitution as a form of modern slavery-

We are living in this twenty first century where we want to get rid of unusual practices, unusual traditions and where emphasis is placed on respecting the human rights and giving equal opportunity to everyone to become successful, so that an individual can live a dignified life. It is the basic rule these days to respect the rights of everyone whether he or she is poor or rich, powerful or weak and thereby assume everyone to be equal and not to perform such activities which can be detrimental for a group of people; also any kind of exploitation should never be supported. It has become the role of every government of all countries to stop such activities when the poor and marginalized people are controlled and harassed by the rich and powerful people. In modern world we cannot think of a situation where few powerful and rich people are dominating over poor

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<sup>77</sup> <https://www.havocscope.com/prostitution-revenue-by-country/>

<sup>78</sup> Dr SARFARZ AHMED KHAN, JOURNAL OF THE INDIAN LAW INSTITUTE, Vol.56 No.4 October- December 2014 ISSN 0019-5731

and marginalized group of people, and the marginalized people because of their helplessness treated as slaves by those powerful people. All kinds of slavery should be abolished in which powerless people are controlled and forced to work for mighty people to provide various services for free or on cheap rates and in return of that, those weak people are not paid properly, they are given no rights and they are treated like animals, beaten and given punishments when they resist. These marginalised people are found to be indulged in forced labour, some are found to be working in domestic servitude, minors are found to be doing child labour or they are forced to do begging, women and girls are forcefully recruited in forced prostitution and many of these are trafficked for some more illegal purposes like organ trade, in drugs dealing, some are made members of criminal gangs. So these all can be said as a form of modern slavery. And the life of these people becomes a never ending curse.

According to the convention on the abolition of slavery (1956), “Slavery” means, as defined in the Slavery convention of 1926, the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised and ‘slave’ means a person in such condition or status.<sup>79</sup>

Slavery is that kind of activity in which an individual or many people are forced by power or through some other means to work for or provide some services to the powerful person under whom they are working or for the owner who has purchased those people. Those working people are known as slaves and in this practice of slavery the slaves are given very less rights, they are forced to work in extreme and difficult situations, they are not given proper food as well as they are never paid properly. So in the performance of slavery the will of the workers are totally disregarded and they are not authorized to leave the work on their own will. They enjoy very less and restricted rights to move, to leave the workplace, to get a solution of their problems, and to get the justice.

When we talk about slavery, we start thinking about activities which used to happen in past and practice of slavery which used to be performed centuries and decades ago. Because the practice of slavery was very popular in old times, where people were forced to work as slaves under the authority of mighty and rich people. Mainly those slaves were black people who were not treated well by whites; they used to consider black people to be inferior to the white people, rights of those blacks were suppressed by white people by making them slaves and asking them to work under extreme, harsh and difficult situations. In past, apart from black people, there were so many other victims of slavery present, like people belonging to poor class, people of lower castes, women, and some other vulnerable and marginalized group of peoples, like victims of armed conflicts were forced in this act of slavery. Everyone knows what really the status of slaves was in those days and what rights they used to be given, which was just nothing and it is known to everyone that they were treated like animals. There were many reasons for performing such kinds of acts because first of all people were having many wrong perceptions about some group of people, there was a tradition of following some unusual practices and costumes which used to allow to suppress the rights of some kind of people by the rich, powerful and high caste people. It is also to be noted that in those days there were no proper laws to stop doing such types of activities and there was also no awareness among people to not to pursue such kinds of activities.

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<sup>79</sup> Article 7(a), the convention on the abolition of slavery, the slave trade, and institutions and practices similar to slavery, 1956

But with the advancement of modernization and coming of democracy in most of the countries, improvement in international laws and by facing many evolutionary changes till this twenty first century, it is seen that the practice of slavery has been diminished and it can be said that the old form of slavery which used to be performed mercilessly and by violating so many rights of slaves has been abolished. Now people are given equal rights, they are treated better, they are treated equally, they are protected by the government of their own country like laws made by government for the protection of the marginalized and the poor people, international law has also created big role in decreasing such cases by giving guidelines to states to frame and implement such laws which can prohibit the tradition of slavery and asked the states not to support any kind of such activity. By taking these measures the practice of slavery certainly has been decreased and it can be said that in near future there will be no mention of such kind of atrocities.

But this is not the correct fact because these days also the practice of slavery is found but it has converted a little bit and has taken the shape of modern slavery. The examples of this modern form of slavery are forced labour, debt bondage, bonded labour, forced prostitution, descent-based slavery, child slavery, forced and early marriage, pornography.<sup>80</sup> These kinds of slavery are found in every country. It has become a big issue in poor, underdeveloped and developing countries and even in developed countries. Many numbers of people are suffering with this problem; initiatives have also been taken for resolving such kinds of issues. But those all initiatives are found to be less successful than expected because the laws which are made to stop all this are very weak and even those are not implemented properly. People of these countries are not aware of the problems which are faced by the victims of slavery. It has now become indispensable to resolve all these problems for which support of national, international and individual level is required.

Forced prostitution –

According to international criminal law slavery is a crime against humanity. The performance of slavery is a big killer of human rights which is performed numbers of ways and forced prostitution is one of them. Forced prostitution is also a form of modern slavery in which young girls and women are forcefully recruited for performing the acts of sex work. These young girls and women become sexual slaves when they start doing sex works against their will. These victims face big grievances in their whole life. The victims are recruited in brothels for treating customers. These victims are paid very less and are controlled by owners or madams. When these victims are young they are used but when they become little bit older and not demanded by clients they become useless.

According to Global Slavery Index report of 2018, there are estimated 40.3 million people in modern slavery around the world, including:<sup>81</sup>

- 10 million children
- 24.9 million people in forced labour
- 15.4 million people in forced marriage
- 4.8 million people in forced sexual exploitation
- 99% of people trafficked for sexual exploitation are women and girls

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<sup>80</sup> <https://www.antislavery.org/slavery-today/modern-slavery/>

<sup>81</sup> <https://www.antislavery.org/slavery-today/modern-slavery/>

Forced prostitution is a form of modern slavery because first of all the body of prostituted women are misused and they are kept like slaves which is against the human rights and most numbers of sex workers are recruited forcefully, they are tortured and punished when they disagree for performing such activities, they are not paid properly, they are exchanged from one brothel to other like a commodity, they are given a special price tag according to their age and beauty, many numbers of minors are forcefully recruited because they are hugely demanded and employers get marvellous profit from them, these prostituted women are having no rights to move freely, no right to disclose any information about them and they are caged. Million numbers of child girls and women have become victims of this problem.

In more recent armed conflicts, girls and women have been forced into sexual slavery in East and West Timor, the former Yugoslavia, Angola, Cote d'Ivoire, Democratic Republic of Congo, Rwanda, Sierra Leone, Sudan, Uganda, and other countries. Sexual slavery is also prevalent during peacetime, in the form of trafficking for sexual purposes. 700,000 human beings-mostly women and girls-are trafficked into sexual exploitation and forced labour every year. While clearly a global problem, sexual slavery was not recognized under international law as a crime against humanity, nor as a war crime, until 1998, when it was explicitly included in the Rome Statute of the International Criminal Court (ICC). The finalization of the ICC's Elements of Crimes in 2000 resulted in another important step forward in international law, as the specific elements of the crime of sexual slavery were enumerated for the first time.<sup>82</sup>

Article 7 of the international criminal court included enslavement, sexual slavery and enforced prostitution as a crime against humanity.<sup>83</sup> For the special court of Sierra Leone, The Secretary-General's report, issued on October 4, 2000, recommended, inter alia, that the listing of crimes against humanity include "rape, sexual slavery, enforced prostitution, forced pregnancy and any other form of sexual violence."<sup>84</sup> International Criminal Tribunal for Yugoslavia (ICTY) also gave provisions for punishing the criminals for performing acts of the enslavement and violation of other human rights and indirectly the act of sexual slavery was covered under this. So main and important provisions of the international statutes and tribunals have criticized this forced prostitution and it has been asked by them to abolish organized sex industries, ban the trafficking for recruitment of sex workers, pimping and solicitation and doing all these activities in public places. One of the three, Palermo protocol was passed which was a main protocol to prevent, suppress, and punish trafficking in persons, especially women and children.<sup>85</sup> International labour organization in its conventions 29, 105, 182 provided for the abolition of these types of activities. The issue of abolition of sex trafficking and the prostitution was also raised in many international instruments like, the recommended principles and guidelines on human rights and human trafficking, convention on the elimination of all forms of discrimination against women(1979), convention on the rights of the child and its optional protocol on the sale of children, child prostitution and child pornography, convention relating to the status of refugees(1951) and its 1967 protocol, the slavery convention (1926) and its supplement, united nations convention for the

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<sup>82</sup> <https://repository.law.umich.edu/cgi/viewcontent.cgi?article=1264&context=mjil>

<sup>83</sup> Rome Statute of the International Criminal Court

<sup>84</sup> Report of the Secretary-General on the Establishment of a Special Court for Sierra Leone, U.N. SCOR, at 21, U.N. Doc. S/2000/915 (2000)

<sup>85</sup> PALERMO PROTOCOL by United Nations General Assembly, to prevent, suppress, and punish trafficking in persons, especially women and children entered into force on December 25, 2003

suppression of the traffic in persons and of the exploitation of the prostitution of others (1949). So forced prostitution is a form of slavery and under article -4<sup>86</sup> of the United Nations declarations of human rights 1948 and according to the article – 8<sup>87</sup> of the covenant of the civil and political rights (1966), slavery must be abolished and there must no slave trade.

The Geneva Convention defined enforced prostitution as "the forcing of a women into immorality by violence or threats."<sup>88</sup> Prostitution is the activities in which the sex workers have to provide the sexual pleasures to the clients and customers in return of some money. These days this activity is performed on a big level by recruiting million numbers of sex workers forcefully. Many numbers of sex workers are recruited and in this way huge amount of money is generated from this business. These sex workers have to give their services to many clients in a single day. In many countries this business is illegal. In this business most of the girls are recruited forcefully and for that purpose they are kidnapped and then trafficked in this industry. The victims are mainly vulnerable poor and marginalized girls and women. The smuggling of sex workers from one country to another has become very common. Forced prostitution is prohibited in many countries and it has been criticized by many international laws. And it has been said that these all things must be prohibited and for that strict laws are required to be made, those laws must be implemented properly and then the proper vigilance must be performed therefore there is requirement that more numbers of investigation agencies, nongovernmental organizations, and social activist should come forward to take the initiatives to stop such activities. The Geneva Convention of 1949 Related to the Protection of Civilian Persons in Time of War criticised enforced prostitution: "Women shall be especially protected against any attack on their honour, in particular against rape, enforced prostitution, or any form of indecent assault." <sup>89</sup>

These days prostitution has become a form of business which is illegal in many countries. In every business some goods are produced and sold or some services are provided on return of some money. Every business depends on a chain of demand and supply. The demand factor is dependent on the clients and customers who need those goods or enjoy those services while this supply factor is dependent upon the producers of goods and providers of services who make those goods or services to get to customers and clients and for that they have to produce the goods and avail those services according to the demand, if there is less demand then there will be less supply, if there is more demand then the supply will be more. It is also to be noted that if there will be no demand for a good or service in the market then there will be no supply and the business will move

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<sup>86</sup> Article 4- No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms. (United Nations Declarations of Human Rights 1948)

<sup>87</sup> Article 8 - 1. No one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited. 2. No one shall be held in servitude.

3. (a) No one shall be required to perform forced or compulsory labor;

(b) Paragraph 3 (a) shall not be held to preclude, in countries where imprisonment with hard labour may be imposed as a punishment for a crime, the performance of hard labour in pursuance of a sentence to such punishment by a competent court;

(c) For the purpose of this paragraph the term "forced or compulsory labour" shall not include:

(i) Any work or service, not referred to in subparagraph (b), normally required of a person who is under detention in consequence of a lawful order of a court, or of a person during conditional release from such detention;

(ii) Any service of a military character and, in countries where conscientious objection is recognized, any national service required by law of conscientious objectors;

(iii) Any service exacted in cases of emergency or calamity threatening the life or well-being of the community; (iv) Any work or service which forms part of normal civil obligations. (International Covenant on Civil and Political Rights 1966)

<sup>88</sup> THE GENEVA CONVENTIONS OF 12 AUGUST 1949: COMMENTARY (Jean Pictet ed., 1960).

<sup>89</sup> Geneva Convention Relative to the Protection of Civilian Persons in Time of War, supra note 28, art. 27, 6 U.S.T. at 3536, 75 U.N.T.S. at 306.

towards its demolition. So the same applies to the business of prostitution also where the sex workers are treated like goods and they provide the services of sexual pleasures. There is also a factor of demand and supply, in which the services of sex workers are demanded by the clients and customers and the sex workers are supplied by the people who own sex workers. So for this purpose huge numbers of sex workers are recruited in this industry. Some sex workers come in this industry on their own will while majority of sex workers are recruited in this industry by the process of trafficking, and then huge money is made. And if the demand factor of this business of prostitution is somehow controlled, then any nation can get rid of this problem.

## 2-Reasons for performance of prostitution and existence of sex industry -

The answer of this question is, just for earning money. For making easy money girls and women are forced to sell their body. The prostituted woman has to just provide sexual pleasure to her or his customer. And some non social elements for earning huge profits organise such activities. Many wrongful money makers have realised that investment in this business is very beneficial for them. They know that laws are not applied properly, there is very less risk. Cost of production is very low also because recruiting sex workers requires only some nominal money but they can be used for many years, also it is much easier to do this trade in red light areas.

For fulfilling the demand for sex of people (who are known as clients or customers in this industry), this trade is carried on. For this purpose sex workers are supplied in brothels. Customers are also responsible for getting this industry to thrive and get developed, because they continuously need the services of these sex workers. In this way through the process of demand and supply amount of huge money is generated from this industry. The young sex workers are always demanded the most so they are recruited continuously which leads in kidnapping, smuggling of young girls. While the most of the sex workers are illiterate and they do not get any other proper employment so it is very easy for them to just sell their body and earn money. The criminal laws which prohibit commercial prostitution have not been applied properly in red light areas and now this industry has been developed to that level where huge numbers of sex workers are employed. And they are earning their livelihood from that.

According to a brothel owner named Subroto(48), in Sonagachi area of Kolkata who had kept twenty five prostitutes in his double story building (BROTHEL), “the functioning of brothel is mainly done because people are ready to pay for sex and if people stop paying for it then certainly it will become very difficult for them to carry on this trade”. He also submitted that it is not a dignified profession but he gets a lot of money. Some share is paid by him to his colleagues, sex workers, and to police authorities for non interruption, at the end he gets a big share for him. He is having so many shops and houses in that area which he has rented to other people. Other houses owned by him are also used for prostitution but he only gets rents for the rooms which are occupied by some sex workers. He acknowledged that he has never faced any kinds of raids by police because he always keeps authorities in his control by paying bribes. But he did not tell about the sources from where he gets girls for recruiting in his brothels and said that they all are involved in this industry on their own will and no force is used against them ever.

From these admissions made by that brothel owner it is quite clear that this business is mainly done for fulfilling the demand of people for sex and hence clients are primarily responsible for existence of this

industry. Corruption and failure of law also helps them in carrying on their trade. It is quite true that this business totally depends on the demand for sex workers because there is demand that is why they have to supply sex workers. Clients generally prefer enjoying sex with young girls. It is beneficial for brothel owners also because they charge more money for providing young and minor girls to customers and because of this reason minor and young girls are trafficked in this industry. Also these young girls can be used for years.

There are more than 1 million prostitutes aged under 16 in eight Asian countries, with 400,000 in India.<sup>90</sup> An estimated 85% of all prostitutes in Calcutta and Delhi entered the work at an early age.<sup>91</sup>

An estimated 33% of prostitutes are young girls. In Bangalore, Calcutta, Delhi, and Hyderabad, there are an estimated 10,000 girl prostitutes. A little over 50% of prostitutes come from other countries, such as Nepal and Bangladesh. UNICEF estimates about 300,000 child prostitutes.<sup>92</sup>

Sex workers also need to earn money. So they indulge themselves in it for feeding their family. The estimate 5,000,000 children of prostitutes in India deserve priority treatment.<sup>93</sup> These sex workers are having no other jobs to do, so they for earning money, providing education and food to their children perform the acts of prostitution.

Corruption and no fear of law also make the job of exploiters and traffickers so easy. Authorities are corrupted and laws are not applied properly which gives the confidence to wrongful money makers to flourish their business. Non eradication of Red light areas is also a reason for the performance of many illegal and immoral activities. The business of prostitution is blooming in these red light areas. These red light areas are supporting so many brothels in which new girls and women are recruited daily. These red light areas help a lot in generating huge amount of money for illegal people. These red light areas are providing a big market for sex industry.

While red light areas have been established as the hub of prostitution, illegal money makers are now spreading their business all over India through underground sex rackets. This idea is becoming immensely successful for them. For spreading market of prostitution, sex rackets have reached to various areas. For example, sex rackets are blooming in Lucknow, where no established red light area is formed but these days Lucknow is targeted as a suitable market for sex industry. Places like Charbaag station, polytechnic crossing, public parks, etc have become regular spots where pimps and sex workers can be very easily. Also call girls are available, mainly through online services.

So it can be said that the main reason for running of this business is earning of profits through brothels and sex rackets. Second reason is to fulfil the demand of people for sex. Another reason is to carry on the tradition of running brothels in red light areas; it is because these red light areas are being operated since decades and very less strict action has been taken for eradication of such activities. The following of some unusual customs also provides a reason for carrying on this trade. There are some places where the act of prostitution is followed because of some local customs, cultures, or because of any historical reasons. Wadia village of Gujrat, Nat Purwa village of Uttar Pradesh are some places where act of prostitution is a tradition. Some

<sup>90</sup> <https://www.ncbi.nlm.nih.gov/pubmed/12291521>

<sup>91</sup> <https://www.ncbi.nlm.nih.gov/pubmed/12158002>

<sup>92</sup> <https://www.ncbi.nlm.nih.gov/pubmed/12158002>

<sup>93</sup> <https://www.ncbi.nlm.nih.gov/pubmed/12317286>

religious customs are also responsible for happening of these activities, for example Devadasi system which is mainly prevalent in southern states of India, in which women do services in the temples, they sing, dance as well as, they are involved in the act of prostitution. Jogin system was also followed because of some blind faiths, in this system teenage girls (who were members of scheduled castes), were forced into prostitution by village chieftains and this system is still prevalent in Nizamabad and Medak districts.<sup>94</sup>

In the Sonagachi red light area of Kolkata, I interviewed a client named Ankit kumar(20), who was an engineering student. I told him that it is illegal to come here for having sex but he laughed at me and replied that he had visited that place in past also and had sex for multiple numbers of times. He was drunk and was waiting for his friends. He was once caught by police but he paid some bribes and was left. He accepted that police system is very corrupted; police officials are just standing here and there just for show offs. He had planned for spending some two thousand rupees and having some beer on that night. He was also looking to avail some young beautiful girls. I asked whether he was having any kind of fear of suffering from HIV-AIDS, but he replied in confidence that he had always used contraceptives before sex so he was having no fear. I requested him not to use such services by explaining that indirectly clients and customers are responsible for helping this business to grow. Also he was not aware about how sex workers get employed in that industry and without knowing those he supported for legalisation of this business because according to him it was all a kind of show off to make laws for criminalising prostitution but on the name of implementation nothing noticeable was done. And he was having no problem with this sex industry because it was providing a kind of employment to poor and needy people.

The perception of Ankit was totally wrong for sex industry. Basically he can be defined as an exploiter. He was drunk and had come for exploiting minor and young girls. He was also having no fear of law and was ready to pay bribes to officials if he was caught. This case also shows that people are not aware about problems related to the business of prostitution and how girls and women are recruited in this industry. And supporting for the legalisation of this business without knowing the real backgrounds is not a good approach. But this was the case of Ankit only, there are thousand numbers of Ankit, who are young and drunkards and come for enjoyments and are supporting this business. These people are required to be made aware about the problems related to this business. They should be told about the cases of trafficking. And police system is required to be strengthened.

### 3-Reasons for non eradication from the side of government-

After independence, Indian government made laws for prohibiting commercial prostitution but did not become successful in eradicating it. These kinds of activities were never appreciated by members of society but commercial prostitution got firmly established in red light areas where it was tolerated. Actions could not have been taken because these immoral activities are performed since a long time in an area separated from common people, so laws were never strictly applied against red light areas. It is assumed by government that all the sex workers are doing these immoral activities on their own will, and they have given their consent. Government has never taken the matter of commercial prostitution seriously and has always ignored to take actions against it by giving preference to other matters. This business generates a lot of money and by paying

<sup>94</sup> <https://www.thehindu.com/todays-paper/tp-national/tp-andhrapradesh/efforts-on-to-root-out-jogin-system/article4556549.ece>

bribes to leaders and government officials it has become very easy to organise and carry on such activities.<sup>95</sup>

The problem of unemployment is also a noticeable reason for non action, and government is having no will to snatch jobs of sex workers. Government is not able to provide a proper employment to the prostituted women after their rescue, reformation and rehabilitation processes, also very less sex workers are brought for these processes which requires a lot of patience. These areas are run by gruesome criminals who are never ready to accept any ones interference in their business, because of these reasons police officials are not having guts to visit these areas or even if they go there then such areas are visited by them just for showing their presence it is absolutely true fact because during my visit to Sonagachi area I found very few police officials but they were all standing on main roads not deep into working areas because they were afraid of crowd.

With the growth of time and for generating more benefits the branches of commercial prostitution reached to private residences, hotels, bars, pubs, massage parlours etc. Generally the formations of sex rackets are responsible for this immoral achievement. But it is also an indication of failure of government actions. Lack in taking of prohibitory actions, improper and unregulated vigilance system, corrupted government officials have helped a lot of wrongful money makers to spread this business. Girls are either trafficked or brought from red light areas in these rackets; they perform illegal activities of soliciting for sex to provide sexual services. Though it is difficult to trace but still these sex rackets must have been finished because tracing of it is easier than tracing some terrorists. If government had made agencies like RAW or NIA for tracing the case of human trafficking then certainly there could have been found some commendable changes.

#### 4-Factors responsible for aggravating the performance of commercial prostitution-

There are many factors which help in the growth and continuance of commercial prostitution. The growth and continuance of this business of prostitution depends on the availability of sex workers, recruitment of new sex workers, presence of virgin and minor girls, poor implementation of laws, less vigilance, availability of customers etc. Hence it becomes necessary to understand those factors which help in growth of sex trade and carrying on this business.

The most important cause that induces a women to turn to prostitution for livelihood are described as follows-<sup>96</sup> (saeed, 2010)

- 1) difficulty of finding employment ;
- 2) excessively laborious and ill- paid work ;
- 3) hard treatment of girls at home ;
- 4) promiscuous and indecent mode of living among the overcrowded poor ;
- 5) the aggregation of people together in large communities and factories, whereby the young are brought into constant touch with demoralised companions ;
- 6) the example of luxury, self-indulgence and loose manner set by the wealthier classes;
- 7) demoralising literature and amusements ;
- 8) The arts of profligate men and their agents. It is also true that the society and the government owe a duty to rehabilitate the prostitutes if they are by law being forced to give up their profession. But

<sup>95</sup> According to a brothel owner named Subroto, explained on page 7

<sup>96</sup> R.P. KATARIA AND MANZAR SAEED, LAW RELATING TO PREVENTION OF IMMORAL TRAFFIC IN INDIA, page 1 and 2.

considerations of difficulty in rehabilitating the prostitutes in society or the fact that several causes lead to prostitution over which the girls carrying on prostitution have no control can be grounds on which the act can be invalidated if it has been constitutionally passed and is also not otherwise ultra vires.

#### Vulnerability of victims-

Vulnerability of victims is the biggest factor for sex trafficking. Vulnerability of victims for being exploited makes the job of exploiters and traffickers much easier. Because of this vulnerability the victims become more prone for getting involved in some criminal acts. Traffickers target mainly these vulnerable and marginalised victims for recruiting in this business of prostitution because it is very easy to deceive and lure these people. These people are vulnerable because they are poor and helpless and they also are having very less support of laws for their protection. These vulnerable people are kidnapped, deceived, lured and then trafficked in the sex industry. The vulnerability of the victims are caused by their poverty, illiteracy, unemployment, unawareness, no information about laws, their backward status, living in poor areas, following of unusual customs, having blind faiths, and corrupt system. Due to these reasons exploiters target them. Because of poverty it is very easy to purchase a girl child from a poor family. Because of illiteracy and unawareness it is very easy to make these people fool. These vulnerable people live in poor areas and most of the residents are found to be unemployed. Exploiters and traffickers lure these people for going with them by giving them or their child a false promise of providing employment in cities. There are many examples which show that girls were brought from poor areas on the name of employment but they were recruited in the sex industry. These poor people are not having any information about laws for their protection, they do not know about legal procedures and even when they go to seek help in police stations or to meet any authority, they are misbehaved and forced to return back. They are even not allowed to lodge FIR (first information report). Traffickers and exploiters pay bribes to public authorities for letting them do all their illegal activities. Because of corrupt system poor people never get justice and culprits are always having an advantage over these needy people. Many people become vulnerable because of their backwardness or because they belong from scheduled castes and scheduled tribes. It is found that, about 85% trafficked girls are Hindus, and about 66% are from scheduled castes and tribes.<sup>97</sup> Living in poor areas makes the residents vulnerable for becoming victims of many crimes. These areas are mainly poor rural areas and villages where it is very difficult to find any kind of basic facilities, but people living in cities are also become victims of sex trade. Living of girls and women in urban slums, in red light areas or in urban areas with no law and order makes them vulnerable for being trafficked in this industry. Poor and uneducated people are mostly found to be superstitious who blindly follow unusual customs and practices, also living in distant rural areas aggravate unawareness. These people are having blind faiths about everything whether it is a person or phenomenon. These customs and blind faiths are responsible for making them vulnerable. Like, there are customs of child marriage, dowry system, practice of not providing education to girl child, considering girl children as burden, involving girls only in household activities, and giving preference to boys over girls and some poor parents sell their girl children because they are having no money to feed them. The ritual of child marriage is very detrimental to a girl child because their

<sup>97</sup> <https://www.ncbi.nlm.nih.gov/pubmed/12158002>

freedom is being snatched; they are forced to do household works after marriage, they are not sent for further studies, they are tortured and beaten, they are left, it is also found many times that the victims of child marriage are sold to traffickers.

Many teenage girls turn to prostitution to raise money for their families or out of need for money to deal with a debt or a problem related to their husbands. Some village girls are tricked into entering the trade in the cities with promises of good money or another kind of job. One survey found that a third of all prostitute enter the trade because of poverty and more than a forth become prostitutes after marital problems.<sup>98</sup>

In a study it was found that historical traditions of dedication into sex work, financial insecurity, family discord, violence and coercion, and desire for financial independence are commonly reported reasons for entering into sex work. We also found that families and the broader sex worker community play an important role in the early stages of a woman's sex work career.<sup>99</sup>

There are some other factors also which also are responsible for vulnerability and marginalisation for becoming victims and for growth of this business of prostitution-

- 1- Fear among victims to complain against exploiters is a factor which raises the confidence of traffickers and exploiters to keep doing their illegal acts. Many victims are killed who take the steps of complaining against wrongdoers. The same happens in the judicial proceedings also where many witnesses and family members of the victims are tortured. These exploiters are so dangerous and they can go to any level for protecting their business. The risk of being murdered in this profession is 60 to 120 times more than any other profession.
- 2- A report revealed that 600 million of the 850 million illiterate adults in the world are women; they are having a lack of education which is a key factor in promoting poverty, higher HIV infection rates, and vulnerability to exploitation and trafficking.<sup>100</sup>
- 3- Male lust- for diminishing the lust of men for sex, brothels are filled with so many sex workers as well new sex workers are recruited for the reason also. Every day these places are visited by thousands numbers of clients for having sex with prostitutes. The success of this business depends on this desire and lust of men for sex.
- 4- Separation from home and wife- many people mainly men, go to big cities from villages in search of jobs by leaving their family behind. There are many husbands who are not living with their wives or they are separated. These types of people are mainly found to be the regular customers in various red light areas.
- 5- Rude and bad treatment by parents forces many children to get separated from them and get indulged in various illegal activities.
- 6- Bad company, relation with wrongful and malicious people, also makes so many people to do some unauthorised acts. Also these bad people found to be working as pimps and traffickers.
- 7- Marital unhappiness, and failures of marriages, early marriages, divorce and desertion, makes a women helpless and for supporting herself sometimes she chooses to work as a prostitute. Fake

<sup>98</sup> [http://factsanddetails.com/india/People\\_and\\_Life/sub7\\_3h/entry-4190.html](http://factsanddetails.com/india/People_and_Life/sub7_3h/entry-4190.html)

<sup>99</sup> <https://www.ncbi.nlm.nih.gov/pubmed/24236895>

<sup>100</sup> <http://www.unesco.org/education/litdecade/>

marriages also make so many girls to get involved in prostitution. Child marriage and dowry system bring a lot of problems for women and girls. Dowry system is illegal in India, still it is followed. Because of demands of dowry many married women are tortured; also many marriages become unsuccessful because of these reasons. According to a 2005 report fifteen thousand women are murdered each year over dowry disputes.<sup>101</sup> Many women become helpless because they are thrown off from the houses of in laws just for demand of dowry.

- 8- Female unemployment is a big factor which forces a woman to indulge herself in the act of prostitution. For supporting herself and her family many young girls and unemployed women are choosing the path of prostitution for earning easy money.
- 9- Gender discrimination, is one of the factors for making girl Childs and women vulnerable for becoming victims of so many crimes. According to a United Nations study, among 115 million children around the world who are not going to schools, 70 million of them are girls and most of them are belonging from South Asia and East Europe.<sup>102</sup> The gender of Female is hated so much in rural areas which can be proved by Five hundred thousand abortions of female foetuses in India per year since 1981.<sup>103</sup> This gender discrimination can be seen in negative sex ratio, discrimination in getting of food, employment, medical treatment, education, love and affection also in the acts of torture, harassment, sexual and physical violence.
- 10- Population growth also brings some problems. Poor people are having very less resources for their family but still they are having so many kids. They don't go for family planning.
- 11- Many migrated people get trapped in sex trade. Because of scarcity of resources and poverty people leave their places and move to other places. There are many other reasons for migration also like environmental problems, conflicts, riots, community battles etc.
- 12- Lack of sex education- children should be made aware of these things. Many communities oppose these kinds of things because of their narrow minded and conservative thinking.
- 13- Need for money and poverty- This is the most crucial factor in making a person to get involved in the act of prostitution. Many poor parents sell their child for getting them recruited in household activities but these children are trafficked in many illegal activities and prostitution is one of that. Because of need for money only many girls and women chose this profession. According to a report 70 percent of the 985 million people living in extreme poverty in developing countries are women.<sup>104</sup>
- 14- Desire for more luxurious life- Man young girls these days are working as prostitutes just for having a luxurious life. Many college girls are falling in this trap. They are working as dance girls in bars, pubs, they are working as call girls, escort girls, and many reputed hotels are providing services of these girls.
- 15- Lack of recreational facilities is also found to be a factor.
- 16- Many women who are mentally weak are also indulged in this trade.

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<sup>101</sup> UNIFEM 2005:2.

<sup>102</sup> UNDP, April, 2005.

<sup>103</sup> Guilimoto 2007:15.

<sup>104</sup> WORLD BANK2007:13.

- 17- Destitute and deprived women are not that much empowered and strong so they can do some other things instead of indulging themselves in sex trade.
- 18- Family prostitution, and involvement of family members in prostitution, many times forces the other members to get involved in this business.
- 19- Rape, sexual harassment, prior incest, makes many girls and women vulnerable for so many illegal acts. They are not socially accepted. They face a stigma. They are not given due respect as a member of society.
- 20- Pornography is also a factor. Many sex workers are used for pornography and they are given some money in return of that. Girls and women involved in pornography also work as prostitutes.
- 21- We found that historical traditions of dedication into sex work, financial insecurity, family discord, violence and coercion, and desire for financial independence are commonly reported reasons for entering into sex work.<sup>105</sup>
- 22- For making easy money just sell your body and get paid. One has to just provide sexual pleasure to her or his customer. And some non social elements for earning money organise such activities. . While the most of the sex workers are illiterate and they do not get any other proper employment so it is very easy for them to just sell their body and earn money. Many ignorant, and powerless women easily accept this profession for earning money. In this way easy accessibility of sex workers is one of the main factors.
- 23- Customers are also responsible for getting this industry to thrive and get developed, because they continuously need the services of these sex workers. In this way through the process of demand and supply huge money is generated from this industry. The young sex workers are always demanded the most so they are recruited continuously which leads in kidnapping, smuggling of young girls.
- 24- The criminal laws which prohibit commercial prostitution have not been applied properly in red light areas and now it has developed to that level where huge numbers of sex workers are employed. And they are earning their livelihood from that.
- 25- In the landmark judgment of Vishal Jeet v. Union of India (1990), it was analysed by the Supreme Court that parents sell their children and girls in the situations when these parents are not able to maintain them because of poverty and some other miseries, and they think that their child would be engaged in house hold duties or manual labour. But these Childs and girls are either purchased by deceitful means or kidnapped by pimps or brokers. These victims are then sold to brothel keepers and are forced to do all those immoral things. For persuading them to do sex works, these victims are punished and abused mentally and physically; they are not given food for many days. At the end these victims give up, and unwillingly start doing all those unethical activities involved in this business.<sup>106</sup>
- 26- Illegal immigration is also a factor. Many immigrants who are resource less and helpless indulge themselves in such illegal acts.

<sup>105</sup> <https://www.ncbi.nlm.nih.gov/pubmed/24236895>

<sup>106</sup> Vishal Jeet v. Union of India, (1990) 3 SCC318 at 319: AIR 1990 SC 1412

27- It is found that forced prostitution and sexual slavery can be done in armed conflict or a conflict subjected on the gender basis and it can be done in the time of peace also. During civil wars and in so many riots many girls and women become homeless and helpless. In 2016, there are an estimated 40 active conflicts, 65.3 million forcibly displaced people and 21.3 million refugees worldwide.<sup>107</sup>

28- Corruption in public services is the factor which gives exploiters many freedoms in doing their illegal deeds. Many times it has been suggested that the salaries of these officials should be increased, so that they can get satisfied, and do not go for illegal sources for earning money.

29- According to Siddhartha Kara, there is an absence of real risk which is a big failure for the law enforcement authorities for dealing with sex trafficking. There are many failure according to him like; confusion over the definition of trafficking, which results in more focus on movement than exploitation; corruption in law enforcement, border control, and judicial systems; lack of international coordination and cooperation in investigating and prosecuting trafficking crimes; lack of specific law-enforcement focus on slave-related crimes, or underfunded special law enforcement when it exist; feeble enforcement of the law and minimal prosecution of sex traffickers; insufficient protections for victims, whose testimony is required to convict traffickers; and ineffective laws that have little economic effect on sex traffickers.<sup>108</sup>

30- For the growth of the industry of sex it is very necessary to increase the number of brothels and make the rates of sex very low so that more and more customers can be attracted, for this reason more and more sex workers are recruited.

### 31- EFFECT OF GLOBALIZATION ON THE BUSINESS OF PROSTITUTION-

Siddhartha Kara has said that globalization is one of the main factors which influence the trafficking in people. In his book *Inside the Business of Modern Slavery*, he argues that sex trafficking grew exponentially due to the economic disparity created by globalization.<sup>109</sup> (kara)

Joseph Stiglitz has defined globalization as, "the closer integration of the countries and peoples of the world which has been brought about by the enormous reduction cost of transportation and communication, and the breaking down of artificial barriers to the flows of goods, services, capital, knowledge, and (to a lesser extent) people across borders."<sup>110</sup> Globalization brings the countries together and then the countries by coming together perform so many activities. Sometimes this togetherness may be for the sake of trade, for the growth of business, for improving the ties between the states, for making the cultural relationships between the states to go strong, for providing employments to people of respective countries, for generating extra income, for establishing the institutions and branches also it may be related to make the ties in between the states to go stronger and stronger. Globalization provides so many benefits like, first of all it provides the opportunity of free trade between states, it improves trade and businesses between the countries, it creates a global market,

<sup>107</sup>A) <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5192570/>

B) The International Institute For Strategic Studies, "Armed Conflict Database". [Online].

Available: <https://acd.iiss.org/>. Accessed 14 Oct 2016. [Ref list]

C) United Nations High Commissioner for Refugees, "Facts and Figures About Refugees". [Online].

Available: <http://www.unhcr.org/en-us/figures-at-a-glance.html>. Accessed 14 Oct 2016. [Ref list]

<sup>108</sup> **SEX TRAFFICKING INSIDE THE BUSINESSES OF MODERN SLAVERY BY SIDDAHRTA KARA, page-38**

<sup>109</sup> **SEX TRAFFICKING INSIDE THE BUSINESSES OF MODERN SLAVERY BY SIDDAHRTA KARA**

<sup>110</sup> Joseph stiglitz(2003),142; joseph stiglitz is a nobel prize winning economist.

it gives the opportunity of making multinational corporations, foreign trade becomes easier because of this, different types of resources are exchanged between the states, foreign investment increases because of this, it increases the healthy competition and because of this the quality of goods and services improves, it provides the opportunity of exchanging the cultures and the customs of the states, and also globalizations brings a lot of changes in social and legal environments so because of this many numbers of new laws are brought, it develops the industrialization and thereby it gives the chances for providing the employments, it also helps in decreasing the poverty by giving jobs to people and thereby improving their standard of living, globalization has brought the advancement in technology and because of globalization many numbers of new technologies have been developed, quality of education has also been developed and universities and colleges are becoming too much modern now and in the same way globalization has provided so many benefits to the world.

But apart from these benefits the globalization has given so many numbers of troubles to this world also. Like, states are now dependent on other states for getting helps for many reasons. The income of states are depended upon the relationships of the states and if any disputes are arising between the states then they may suffer so much loss, so it has become a negative side of globalization that states are not dependent on themselves but they are dependent on other states. There is also a problem of job insecurity and there is always a fear of losing of jobs and this problem is existing in all the multinational corporations of the world. It is also seen that because of globalization the prices of products and services has increased so much and thereby inflation is also increasing and there are so many basic things which are very difficult to be purchased by the poor people. It is also seen that the globalization has increased the problem of unemployment because the works which people used to perform by themselves is being done by the machines and for that thing they have been removed from their workplace. Because of industrialization, small scale industries have suffered so much loss and it has also increased the problem of unemployment. Corruption has also increased in many sectors because of this globalization. It is also seen that human trafficking has also increased and in these days trafficked people are forcefully employed in many industries and in many other services. The globalization is mainly developed because of the western countries and so there is now a tradition to follow the western cultures and because of that the local cultures are not being followed many times. It is also seen that many numbers of black markets have been opened, there are many numbers of illegal activities also which have been influenced by this globalization, and for getting extra income people have started doing so many numbers of illegal activities. So in this way there are so many numbers of problems which are developed by this globalization.

Globalization has affected every business of this world and the same applies to the business of prostitution also. Today the business of prostitution has become one of the top illegal businesses of the world in which huge amount of illegal money are generated. There are some other top illegal businesses also performed in which huge amount of money is generated like the trade of illegal arms and the illegal trade of drugs. So these three, that are the business of prostitution, the business of the illegal arms the business of the illegal drugs are the biggest illegal businesses of the world. Prostitution is the selling or renting human bodies for sexual pleasures. It is performed in many places in an organized form by opening the brothels, by soliciting the clients for sex and by pimping. Sex workers are mainly recruited forcefully in this industry and then many of their human rights are violated. Now the question arise that what is the effect of globalization on this business of

prostitution? Whether it has helped in increasing this menace or it has helped in decreasing this problem of prostitution? So the answers of these questions can be given by analyzing following points:

- 1- If we go in history then we can find that yes in earlier period also this prostitution was performed but what is the reason which caused this prostitution to grow this much in the modern day. So it can be said that it is the effect of globalization on this business of prostitution. Earlier this prostitution was performed at a very low level but with the growth of globalization this industry also started developing and then reached to this level in the modern day. Because illegal money generators saw that this business is having so much money involved in this so they started investing in it and many numbers of brothels were opened and then many numbers of sex workers were recruited in this industry and there was no proper laws also which could have stopped it from developing and then what happened was that is seen today.
- 2- Even if we take the example of India then we can also find that yes in India also this prostitution was performed in many kingdoms and in many places but it was not involving that much people and money in this industry which can be seen in these days but when the Britishers came to India they made so many numbers of brothels for enjoying the sexual pleasures and they also opened many numbers of brothels near their military camps and then many numbers of Indian girls were recruited in these brothels and many numbers of foreign girls were brought to recruit them in these these brothels. Slowly slowly these brothels started getting developed and then what was the impact on this business can be seen today when so many numbers of red light areas are developed in India and famous ones are the red light areas of Kolkata that is Sonagachi area and GB road of Delhi and Kamathipura of Mumbai, Reshampura of Gwalior and in the same way there are so many numbers of red light areas are also located in India which were mainly developed because of Britishers. Now in India though business of prostitution is illegal but still many numbers of wrongful money makers are earning money in millions by breaking so many laws. And it can be said that the coming of Britishers in India was the impact of the globalization and for the welfare of the trade and for enjoying the resources of India. And hence because of this globalization the sex trade in India was developed.
- 3- Because of globalization this business of prostitution has reached the international level and at local level it is being performed in many number of countries and thereby millions and millions of dollars are raised through this business. because of globalization the business of prostitution has increased so much and because of advancement in technology and because of internet and coming of the modern gadgets like mobile phones and televisions and because of increase in the pornography, are some factors which has helped this business to grow so much. - with the growth of this business many number of human rights of poor people are violated and the cases of human trafficking has increased so much and the sex trafficking has increased so much with the growth of this business and the main victims are poor and vulnerable people who have become marginalized because of some extreme circumstances.
- 4- Because of globalization the small scale industries in many countries have been demolished. So because of that the poor and unskilled workers have been forced to do some other businesses and some workers have indulged themselves in prostitution.

- 5- Transportation has increased so much because of globalization. There are many examples where it is seen that sexual services are provided near highways. Like in India it is found that truck drivers have been provided sexual services near highways.
- 6- Because of globalization the tourism industry has also developed. And millions of dollars are raised in this tourism industry by the states. But with the development of this tourism industry the sex tourism has also increased. There are so many countries where people go to enjoy the sexual services on the name of tourism and country named Thailand is most popular for that. Even the government does very less to stop such acts and that is because they get millions of money through this tourism. People go for sex tourism to enjoy services of massage and for making sexual intercourses, for getting the services of prostitutes and for enjoying such other services like that and they spend huge amount of money for that.
- 7- Because of globalization many numbers of industries have been opened in urban areas so poor people and unemployed people for getting some jobs and for earning money go to those places by leaving their family members behind and they go without female members and without their wives. But when they get Sexual desires they are having no choice but to get the sexual services of prostitutes and then they go to the brothels and enjoy those services. So in this way the many numbers of brothels are operating which provide services like that and they are growing.
- 8- Because of globalization or because of the side effects of this globalization poor people and people belonging to poor families, people belonging to scheduled castes, people belonging to scheduled tribes and people belonging to backward class and other marginalized people have become vulnerable to many illegal activities. Trafficking of these people has increased and they are recruited in many services at very low wages. In the business of prostitution there is always a chain of demand and supply this demand factor is dependent upon the customers and clients who want to enjoy the sexual services. While the supply factor is dependent upon the availability of prostitutes and the sex workers and they are recruited forcefully by the process of trafficking and by luring them on the pretext of providing some jobs In urban areas and then they are deceived when they reach to urban areas from the rural areas and they are not provided the jobs and they are forced to work in this business of prostitution and mainly the victims are those people who were explained earlier. There are many instances where it has been seen that girls are been smuggled from one country to other country for the purpose of prostitution. So this is the side effect of globalization that on the pretext of providing jobs in industries the minor girls, child, and women are trafficked and then indulged in many numbers of activities and prostitution is one of them.
- 9- Globalization has given so many numbers of burdens on poor and middle class people, like increase in prices is a big problem for them, maintaining a good standard of living is very difficult for them. Like, in India people belonging to middle class and poor families are having very less money to support all the members of their family so they do not provide proper education to their girls, they are considered as a liability and they are married at very early ages and sometimes this marriage is creating so many problems to those girls. Sometimes they are not supported by their husbands, sometimes they become a destitute and sometimes they are forcefully indulged in the business of prostitution by their

husbands. In the same way there are so many married women and widowed women who were having no support so they indulged themselves in the business of prostitute.

10- Today the prostitution is not confined only to the providing of sexual services but it related with the other acts also like providing the services of massage, showing dancing moves and use of prostitutes in hotels, bars, pubs, performance in various ceremonies, providing the services of call girls and other such services are also prevalent which have developed with the growth of globalization.

11- In this modern globalized world it is very necessary to earn money for living. In the modern world people for surviving earn money. The earning of money can be done in multiple numbers of ways. One way is to earn money in a legal way or the people can choose the other way of earning money which is not recognized by the law of that country and which is illegal. For earning that money they do different kinds of activities. In this way earning money has become very much important in this world so one can run his family, get food and enjoy other pleasures of the world. But getting a job or that activity for survival is not an easy task. One has do a hard work for getting good jobs in private or government sectors. And for that he has to study hard and get good skills. Some people get jobs. Some involve themselves in their family businesses. Some people take some other initiatives like opening a new business, doing partnerships etc. But there is a problem because these activities may be legal or illegal or those may be not appreciated morally. The legality or illegality, of these activities is based on the various laws of that country in which it has been happening and morality or immorality is decided by the individual or social perception of people of that country. There are many numbers of legal things which are performed for survival by the people of that country and these activities may be regulated by the labor laws and by some other laws of that country. But apart from that, people perform so many numbers of illegal acts and generally these acts are not supported by the labor laws of that country and people are punished if they are found to be involved in those wrongful acts by criminal or civil laws. Some acts may be legal but regarded as immoral and some acts may be illegal but they may be considered as morally good. But these things vary from country to country and one act which is legal in one country may be illegal in other country and vice versa. Again the performance of an act may be moral in one country but immoral in other country and vice versa. Prostitution is also that kind of activity which is having so many disputed issues like this. And giving answers of these disputed issues is very difficult. Prostitution has become a source of income and earning money in many countries. Today millions of sex workers just by selling their body for sex are earning good money through prostitution.

12- globalization has increased the problem of migration from one place to another place, inflation has increased, because of military services many number of brothels have been opened near those military camps , industrialization has been tremendously increasing and because of that, and many number of rights of people are violated, because of this globalization this world is changing with a huge speed,, and the existing laws have become very much weak ,political problems are increasing because of this , many countries have started facing wars and civil wars and it has also tremendously increased the financial problems also. Migration, civil wars, and armed conflict in a country also influence this prostitution to grow. Sometimes a group of people are targeted by the means of armed conflict to

make them work in brothels and become a victim of sexual slavery. Some gender based crimes are also conducted in such way. So these all the factors which also increases the problem of human trafficking and sex trafficking and because of that business of prostitution increases.

A lot of steps are required to be taken for handling the problems related to the globalisation. First major solution is to bring strict laws which can regulate the relations between the states properly, the law which can prohibit the supersession of poor and marginalized people. Education system is required to be improved and poverty of people is also required to be reduced, human trafficking, sexual trafficking is required to be reduced, sexual tourism is required to be controlled, all the illegal brothels are required to be shut down , and marginalized people must be helped by proper welfare schemes and finally the international law has to create a big role in this regard and it should guide the states to stop such activities which are violating the rights of people.

Everything is done for some reasons. The reasons behind doing this business of prostitution are very malicious. Fighting with this issue may be a time taking process but it not an invincible issue. Support of all people is required. We are required to take a stand and nobody should support or tolerate activities related to exploitation of any helpless person. Everybody is equal in this world and it is very sad that poor and marginalised people are subjected to slavery. In a democratic country there must not be any place for slavery. There is not a single reason or a single factor which is responsible for the operation of all these illegal activities but they are multiple, so the change cannot be seen in a single day. Many people these days are supporting for the legalisation of the business of prostitution but this is not a proper solution. It would be quite good to provide a dignified job or service instead of indulging poor and helpless people in sex industry. It is very necessary that the factors which influence the happening of such activities must be stopped and for poverty, illiteracy, unemployment, corruption etc, are required to be eradicated by the means some proper initiatives.

#### Chapter – 4

##### Conduction of commercial prostitution and legal provisions against it

This chapter will describe the manners in which all this business is performed and how trafficking plays a big role in recruiting girls in this industry, how the brothels are managed, how girls are tortured. Some stories of girls will also be discussed, which were explained to the researcher in some interviews, the real situations of some of the brothels in Sonagachhi red light area of Kolkata will also be discussed, it will also be explained that how the girls are transferred from one place to another, how are they paid, what happens when raids are conducted by police, and some stories of clients will also be discussed who were not treated well by sex workers and their money was stolen by them. As well as some relevant laws will also be explained, which are liable for reducing sex trafficking, criminalising commercial prostitution and other acts related with this.

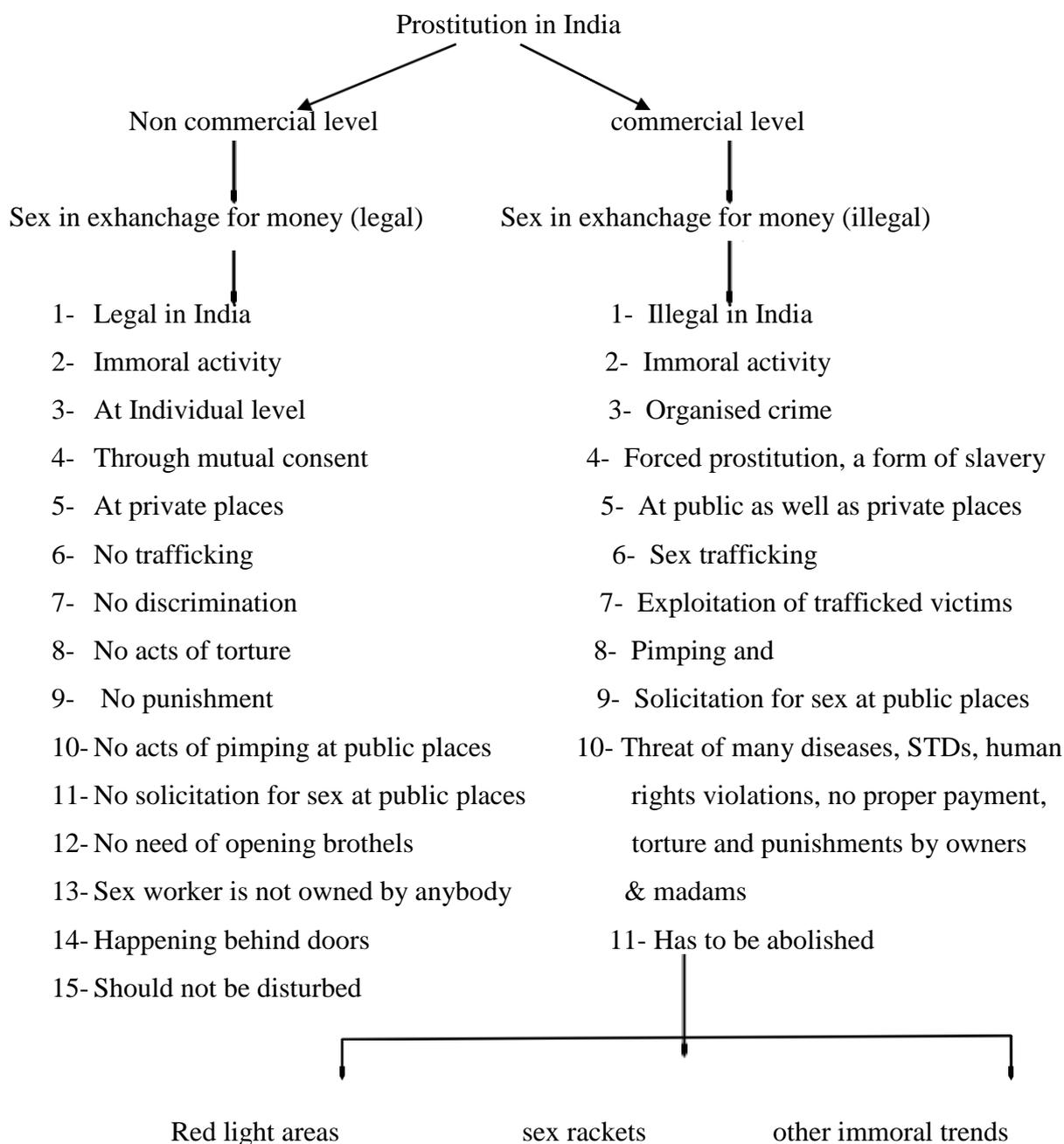
Here the main focus is paid on the activities performed and steps taken for the performance of prostitution at the commercial levels. At commercial level it is operated as an organised activity in which like a business is operated very carefully, in the same way the business of prostitution is also performed. There are so many acts which are provided in the form of sexual desires and then we are right here to interpret the laws related

to. To sexual and then we are here to simplify the cases related to Indian penal code which are interpreted as follows.

This chapter will deal with the meaning of trafficking and smuggling for recruiting sex workers in this and the manner in which these things are done will be explained. And why is it so much easy for law breakers to do such things.

Since the business of prostitution is an organised trade, so there are various kinds of activities which are performed for completing day to day functions.

Performance of prostitution-



1- Visible to everyone	1- Difficult to trace	1- Generally unorganised
2- Performed in brothels, in vehicles, delivery of girls.	2- Performance at private residences, hotels, bars, pubs, salons, massage parlours etc.	or partially organised, pimping & soliciting for sex by street prostitutes, gigolos, & independent sex workers, 2- Local customs & cultures etc.

Sex trafficking	Recruitment	Arranging clients
1- Acquisition of victim	1- Through consent, given by poor, unemployed girls & women	1- Pimping and solicitation for sex at public places
2- Transportation of victim		
3- Selling of victim to exploiters		
4- Exploitation	2- Consent of trafficked victim by torture & punishment	2- for sex services, dance moves, alcohol, drugs

1- Trafficking and smuggling of sex workers-

Most of the sex workers are recruited against their will by the process of trafficking. The process of trafficking starts from acquiring of girls and women. There are many modes of acquiring girls like kidnapping, abduction, deceiving, purchasing from parents, from other relatives, exploiters or purchasing girls from other brothels etc. In foreign countries also modes of such nature are used for the purpose of smuggling the victims. Then they are transported to the places where they are planned to be exploited or sold, then these victims are exploited at those places.

Definition of trafficking and punishment-

IPC 370: Section 370 of the Indian Penal Code 1860<sup>111</sup>-

Trafficking of persons-

1. Whoever, for the purpose of exploitation, (a) recruits, (b) transports, (c) harbours, (d) transfers, or (e) receives, a person or persons, by—
  1. using threats, or
  2. using force, or any other form of coercion, or
  3. by abduction, or
  4. by practising fraud, or deception, or
  5. by abuse of power, or
  6. by inducement, including the giving or receiving of payments or benefits, in order to achieve the consent of any person having control over the person recruited, transported, harboured, transferred or received, commits the offence of trafficking.

Explanations

1. The expression “exploitation” shall include any act of physical exploitation or any form of sexual

exploitation, slavery or practices similar to slavery, servitude, or the forced removal of organs.

2. The consent of the victim is immaterial in determination of the offence of trafficking.

2. Whoever commits the offence of trafficking shall be punished with rigorous imprisonment for a term which shall not be less than seven years, but which may extend to ten years, and shall also be liable to fine.
3. Where the offence involves the trafficking of more than one person, it shall be punishable with rigorous imprisonment for a term which shall not be less than ten years but which may extend to imprisonment for life, and shall also be liable to fine.
4. Where the offence involves the trafficking of a minor, it shall be punishable with rigorous imprisonment for a term which shall not be less than ten years, but which may extend to imprisonment for life, and shall also be liable to fine.
5. Where the offence involves the trafficking of more than one minor, it shall be punishable with rigorous imprisonment for a term which shall not be less than fourteen years, but which may extend to imprisonment for life, and shall also be liable to fine.
6. If a person is convicted of the offence of trafficking of minor on more than one occasion, then such person shall be punished with imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine.
7. When a public servant or a police officer is involved in the trafficking of any person then, such public servant or police officer shall be punished with imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine.<sup>112</sup>

Definition of trafficking and punishment according to the Immoral Trafficking (Prevention) Act 1986-

Section 5A<sup>113</sup>. Whoever recruits, transports, transfers, harbours, or receives a person for the purpose of prostitution by means of—

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

Explanation.—Where any person recruits, transports, transfers, harbours or receives a person for the purposes of prostitution, such person shall, until the contrary is proved, be presumed to have recruited, transported, transferred, harboured or received the person with the intent that the person shall be used for the purpose of prostitution.

5B. (1) Any person who commits trafficking in persons shall be punishable on first conviction with rigorous imprisonment for a term which shall not be less than seven years and in the event of a second or subsequent conviction with imprisonment for life. (2) Any person who attempts to commit, or abets trafficking in persons shall also be deemed to have committed such trafficking in persons and shall be punishable with the punishment hereinbefore described.<sup>114</sup>

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<sup>112</sup> Section 370, Indian penal code 1860

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### A- Acquisition of victims-

For the acquisition of girls and women traffickers target poor and marginalised people who are vulnerable to such crimes, and mainly these people are found from rural, poor and undeveloped areas. The modes of acquisition are discussed as follows-

#### i- Kidnapping and Abduction-

In most of the cases but not in all, sex trafficking is done by kidnapping and abduction. But still it is an important tool of exploiters and traffickers to get girls and women for recruiting them in sex trade. According to a study 270 girls and women go missing every day from India only. But many cases are never reported because most of the powerless people are not able to exercise their rights and get proper legal help, so it can be assumed that real number of missing girls and women can be much more than the existing data. Minor girls are kidnapped daily from temples, playgrounds, crowded markets, railway stations, schools premises, from deserted roads etc.

Sunita(22), a sex worker in Sonagachi red light area of Kolkata, who was kidnapped from a playground near her house, when an unknown woman gave some chocolates mixed with sedatives by consuming which she got fainted and later found herself to be trafficked in this industry at the age of 11 years. She still finds it very hard to live without their loved ones; she wanted to go back to their parents and not to indulge herself in this immoral act. She insisted to go back but was beaten and was locked in a tiny dark room for two days without food. Later, because of fear she accepted to stay there and was promised that she would be taken back to their parents after sometimes but was never taken back. For first few years in a brothel she used to learn dancing, help other sex workers and madams in their daily works and was not permitted to go anywhere else. She was not properly aware about their business but when she turned 13, she was given new clothes to wear and taken to a room where a customer sexually exploited her, she cried and shrieked a lot, she was bleeding too much. She missed her parents too much and decided to leave that place after knowing the realities but again she was tortured, beaten and given the threats of being murdered if she would ever dare to leave that place. And since that time it has become her source of livelihood.

#### Child prostitution-

An estimated 33% of prostitutes are young girls. In Bangalore, Calcutta, Delhi, and Hyderabad, there are an estimated 10,000 girl prostitutes. A little over 50% of prostitutes come from other countries, such as Nepal and Bangladesh. UNICEF estimates about 300,000 child prostitutes.

Section 2(aa) of ITPA 1956 “child“ means a person who has not completed the age of eighteen years;<sup>115</sup>

It is serious crime to make the minors as victims of sex trafficking. The immoral traffic prevention act 1956, Prevention of Children from Sexual Offences act 2012 and Indian Penal Code 1860 in its several provisions have imposed severe punishments on accused persons who target minor girls and boys for human trafficking, sexual exploitation, slavery etc.

366.

Kidnapping or abducting or inducing woman to compel her marriage, etc<sup>116</sup>

Whoever kidnaps or abducts any woman with intent that she may be compelled, or knowing it to be likely that she will be compelled, to marry any person against her will, or in order that she may be forced or seduced to illicit intercourse, or knowing it to be likely that she will be forced or seduced to illicit intercourse, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and whoever, by means of criminal intimidation as defined in this Code or of abuse of authority or any other method of compulsion, induces any woman to go from any place with intent that she may be, or knowing that it is likely that she will be, forced or seduced to illicit intercourse with another person shall also be punishable as aforesaid<sup>117</sup>.

366A. procreation of minor girl.—Whoever, by any means whatsoever, induces any minor girl under the age of eighteen years to go from any place or to do any act with intent that such girl may be, or knowing that it is likely that she will be, forced or seduced to illicit intercourse with another person shall be punishable with imprisonment which may extend to ten years, and shall also be liable to fine. <sup>118</sup>

367. Kidnapping or abducting in order to subject person to grievous hurt, slavery, etc

Whoever kidnaps or abducts any person in order that such person may be subjected, or may be so disposed of as to be put in danger of being subjected to grievous hurt, or slavery, or to the unnatural lust of any person, or knowing it to be likely that such person will be so subjected or disposed of, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.<sup>119</sup>

368. Wrongfully concealing or keeping in confinement, kidnapped or abducted person.—Whoever, knowing that any person has been kidnapped or has been abducted, wrongfully conceals or confines such person, shall be punished in the same manner as if he had kidnapped or abducted such person with the same intention or knowledge, or for the same purpose as that with or for which he conceals or detains such person in confinement.<sup>120</sup>

369. Kidnapping or abducting child under ten years with intent to steal from its person.—Whoever kidnaps or abducts any child under the age of ten years with the intention of taking dishonestly any movable property from the person of such child, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.<sup>121</sup>

## ii- Deceiving-

Various illegal tactics are used for deceiving girls, women and their parents for recruitments in the sex trade. Ignorant parents, girls and women very easily fall in the trap of traffickers who come for deceiving and luring them on the name of job, employment, travel, and on the promise of providing various opportunities for proving a bright future and career for them. These people are deceived on the name of marriages also, which

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are mostly false marriages, and the victims of these marriages are later forcefully recruited in sex trade. It is very easy to use this formula on poor and needy people because they always search for some opportunities for getting some money and help.

#### 420. Cheating and dishonestly inducing deliver of property

Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable to being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.<sup>122</sup>

##### a- Deceiving them On the name of providing job-

If somebody promises for providing a job to a poor person in bid cities then it will quite rare that the person who was offered this job will deny. The same trap is used by traffickers in which many needy people get trapped. On the name of providing jobs to girls and women in household activities, boutique shops, providing job as ladies tailor, working in beauty parlours, massage parlours, and providing help in some other activities.

##### b- Hoax Marriages-

Traffickers bring innocent girls after marrying them to brothels and there those victims are forced to do prostitution. Poor parents are always under pressure to let their daughters married. This leads them to marry their daughters at a very early age, and even they become ready to give dowries also. These people consider their daughters as a burden. Traffickers use the technique of releasing the burden these parents by promising a bright future for their daughters and then marrying them. This is generally a fake marriage in which girls are taken to brothels and their parents and relatives are always kept in darkness. After being married a woman was recruited in sex trade and the trafficker of that girl who was the husband of her, used to send the letters in the handwriting of that woman to deceive her parents.

366.

#### Kidnapping or abducting or inducing woman to compel her marriage, etc

Whoever kidnaps or abducts any woman with intent that she may be compelled, or knowing it to be likely that she will be compelled, to marry any person against her will, or in order that she may be forced or seduced to illicit intercourse, or knowing it to be likely that she will be forced or seduced to illicit intercourse, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and whoever, by means of criminal intimidation as defined in this Code or of abuse of authority or any other method of compulsion, induces any woman to go from any place with intent that she may be, or knowing that it is likely that she will be, forced or seduced to illicit intercourse with another person shall also be punishable as aforesaid.<sup>123</sup>

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## c- Fake Love affairs-

Many Innocent girls have been trafficked by their lovers in the sex industry. It is a method used by a trafficker for getting minor innocent girl, who forces the girl to leave her home and move with him to other city where they can live together without any interference. But the trafficker instead of fulfilling his promise deceives the girl and sells her in a brothel or to an exploiter. Apart from these innocent minor girls many women have also been trapped in this way.

## d- Selling by family members-

Selling of children by parents and relatives are also a big reason for trafficking. Most parents do not want to indulge their child in the acts of prostitution but they only sell them for working in houses, or in other shops. But they are deceived and sold to exploiters. Then those Childs are forced to work in sex trade.

e- Apart from above methods there exist many other modes of deceiving the victims also like, by taking victims on the name of journey and travel, acquiring girls on the name of religious trips, etc.

## iii- Acquisition of girls from foreign countries or Smuggling of sex workers-

Interstate smuggling is very common in India but sex workers are smuggled from foreign countries also and most noticeable countries are Nepal and Bangladesh from where thousands of sex workers brought to India. Some sources estimate only in Kolkata that are 30,000 Bangladeshi women in the brothels of Kolkata.<sup>124</sup>

## 366B. Importation of girl from foreign country

Whoever imports into India from any country outside India [or from the State of Jammu and Kashmir] any girl under the age of twenty-one years with intent that she may be, or knowing it to be likely that she will be, forced or seduced to illicit intercourse with another person, shall be punishable with imprisonment which may extend to ten years and shall also be liable to fine.<sup>125</sup>

## IV- Purchasing of girls, Re-trafficking and recruitment by sex workers-

The traffickers after getting girls sell them to brothels and to other exploiters. Girls are purchased from other brothels also. In the process of smuggling sex workers are sold acquired, transported and sold in these brothels and to other slave traders. Once a sex worker is rescued then it not hundred percent sure that she will never get indulged in the same trade because many times they face the problems of re-trafficking in which after getting rescued or leaving that profession, they again fall in this hell. By not getting proper help, and in the need of money also because of non acceptance of them from society and leads them to carry-on this profession again, also it is very easy for traffickers to get them involved in this business when they are very helpless after being rescued.

## V- Other modes of acquisition-

Because of genocide, civil war, environmental disaster, and because of some other bid crises 32.9 million people in the world are displaced.<sup>126</sup> It is also to be noted that 9.9 million of these displaced people are residing

<sup>124</sup> [https://en.wikipedia.org/wiki/Prostitution\\_in\\_Kolkata](https://en.wikipedia.org/wiki/Prostitution_in_Kolkata)

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<sup>126</sup> UNHCR 2007:7.

in refugee camps and 72 percent of them are women and children.<sup>127</sup> These helpless people are also targeted by traffickers. During civil wars and in so many riots many girls and women become homeless and helpless. In 2016, there are an estimated 40 active conflicts, 65.3 million forcibly displaced people and 21.3 million refugees worldwide.<sup>128</sup>

## 2-Transportation and smuggling of sex workers-

After acquiring the girls and women, the next step of traffickers is to transport them at the places of exploitation. Generally at the place of exploitation, traffickers sell these victims to the exploiters. Also through the process of transportation the victim is removed from her native place for breaking all her links and making it difficult for others to search her. This transportation step is very risky for the traffickers because there is always a chance of getting caught by police. So for removing these risks many tactics are used from controlling police authorities and law enforcement agencies. Some corrupted officials help the traffickers in making their job easy. While many other illegal documents, wrong identities, false passports and records are used for making the authorities fool escaping from being caught.

### a- Transportation in the same state and interstate transportation-

Victims after being acquired are taken to the exploiters by transporting from the place of acquisition to the place of exploitation. Those victims can be recruited for the illegal and unauthorised acts in the same state or they can be taken to other states which leads the interstate smuggling of the victims. In the process of sex trafficking the victim are transported after making them tranquilized by drugs for easy and undetectable transportation because the crying and yelling of victims may alarm others and police authorities thereby traffickers illegal deed might get failed. The victims are tortured, intimidated and punished during the transportation process. The victims are transported through vehicles, trucks, trains, buses etc. Also some deserted and secret routes are used by these perpetrators for transportation. There are many cases found when traffickers were transporting the girls in cars, trains, buses by disguising themselves as their relatives. In several cases victims were found hidden in trucks in fainted and dehydrated conditions.

### b- Transportation of girls from foreign countries to India-

Victims of sex trafficking are not only brought from several places of India but they are brought from many other foreign countries also. Nepal and Bangladesh are on the top of this list from where girls are brought to India by the process of smuggling. This is mainly done through illegally acquiring the victim and thereby transporting them to India by illegal means. Illegal documents, fake passports, forged documents and false records are used for this purpose. In many cases borders are crossed where less vigilance are done, where army is not active through proper patrolling and secret routes through which border can be crossed are used.

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<sup>127</sup> UNHCR 2007:7, 11.

<sup>128</sup>A) <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5192570/>

B) The International Institute For Strategic Studies, "Armed Conflict Database". [Online].

Available: <https://acd.iiss.org/>. Accessed 14 Oct 2016. [Ref list]

C) United Nations High Commissioner for Refugees, "Facts and Figures About Refugees". [Online].

Available: <http://www.unhcr.org/en-us/figures-at-a-glance.html>. Accessed 14 Oct 2016. [Ref list]

### c- Transportation of girls to foreign countries from India-

The victims acquired not only sent to several parts of India for exploitation but they are transported to several foreign countries through smuggling. Here also Illegal documents, fake passports, forged documents and false records are used for transportation. The victims are transported in various ways by road, by seas and by air. Many victims have been sent to gulf countries, African countries and many other parts of the world for sexual exploitation.

### 3- Selling of girls to brothels owners and to other exploiters-

The victims after being acquired are transported to the place of exploitation where they are sold to exploiters by traffickers. The exploiters generally are owners of brothels, organisers of sex rackets, pimps, and other sex workers etc. Traffickers get money on the basis of age, beauty, virginity and experience of victims. Virgin girls are high in demand so, traffickers ask big money for selling them. This price of sale in brothels is imposed as debt on the sex worker who has to return this debt with interest as soon as possible if the sex worker wants to leave that place. This makes a situation of bonded labour for sex workers, where they are forced to get exploited without payment or with nominal payment, for repaying their debt. Generally this is found to be a false promise of releasing the victims after payment, because the sex worker is sold again to other brothels and to other exploiters where they have to again repay their debt, so it is a never ending process in which victim gets trapped for her whole life.

### BONDED LABOUR SYATEM (ABOLITION) ACT 1976-

Section 2( g) - bonded labour system means the system of forced, or partly forced, labour under which a debtor enters, or has, or is presumed to have, entered, into an agreement with the creditor to the effect that - (i) in consideration of an advance obtained by him or by any of his lineal ascendants or descendants (whether or not such advance is evidenced by the document) and in consideration of the interest, if any, due on such advance, or (ii) in pursuance of any customary or social obligation, or (iii) in pursuance of any obligation devolving on him by succession, or (iv) for any economic consideration received by him or by any of his lineal ascendants or descendants, or (v) by reason of his birth in any particular caste or community, he would- (1) render, by himself or through any member of his family, or any person dependent on him, labour or service, to the creditor, or for the benefit of the creditor, for a specific period or for an unspecified period, either without wages or for nominal wages, or

(2) forfeit the freedom of employment or other means of livelihood for an specified period or for an unspecified period, or (3) forfeit the right to move freely throughout the territory of India, or (4) forfeit the right to appropriate or sell at market-value any of his property or product of his labour or the labour of a member of his family or any person dependent on him. and includes the system of forced, or partly forced, labour under which a surety for a debtor enters, or has, or is presumed to have, entered into an agreement with the creditor to the effect that in the event of the failure of the debtor to repay the debt, he would render the bonded labour on behalf of the debtor; Explanation : For the removal of doubts, it is hereby declared that any system of forced, or partly forced labour under which any workman being contract labour as defined in clause (b) of sub-section (1) of Section 2 of the Contract Labour (Regulation and Abolition) Act, 1970 (37 of 1970), or an inter-State migrant workman as defined in clause (e) of sub-section (1) of Section 2 of the Inter-State

Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 (30 of 1979), is required to render labour or service in circumstances of the nature mentioned in sub-clause (1) of this clause or is subjected to all or any of the disabilities referred to in sub-clauses (2) to (4), is \$bonded labour system\$ within the meaning of this clause.<sup>129</sup>

4. ABOLITION OF BONDED LABOUR SYSTEM. - (1) On the commencement of this Act, the bonded labour system shall stand abolished and every bonded labourer shall, on such commencement, stand freed and discharged from any obligation to render, any bonded labour. (2) After the commencement of this Act, no person shall- (a) make any advance under, or in pursuance of, the bonded labour system, or (b) compel any person to render any bonded labour or other form of forced labour.<sup>130</sup>

16. PUNISHMENT FOR ENFORCEMENT OF BONDED LABOUR. - Whoever, after the commencement of this Act, compels any person to render any bonded labour shall be punishable with imprisonment for a term which may extend to three years and also with fine which may extend to two thousand rupees.<sup>131</sup>

17. PUNISHMENT FOR ADVANCEMENT OF BONDED DEBT. - Whoever advances, after the commencement of this Act, any bonded debt shall be punishable with imprisonment for a term which may extend to three years and also with fine which may extend to two thousand rupees.<sup>132</sup>

18. PUNISHMENT FOR EXTRACTING BONDED LABOUR UNDER THE BONDED LABOUR SYSTEM. - Whoever enforces, after the commencement of this Act, any custom, tradition, contract, agreement or other instrument, by virtue of which any person or any member of the family of such person or any dependent of such person is required to render any service under the bonded labour system, shall be punishable with imprisonment for a term which may extend to three years and also with fine which may extend to two thousand rupees; and, out of the fine, if recovered, payment shall be made to the bonded labourer at the rate of rupees five for each day for which the bonded labour was extracted from him.<sup>133</sup>

19. PUNISHMENT FOR OMISSION OR FAILURE TO RESTORE POSSESSION OF PROPERTY TO BONDED LABOURERS. - Whoever, being required by this Act to restore any property to the possession of any bonded labourer, omits or fails to do so, within a period of thirty days from the commencement of this Act, shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both; and, out of the fine, if recovered, payment shall be made to the bonded labourer at the rate of rupees five for each day during which possession of the property was not restored to him.<sup>134</sup>

20. ABETMENT TO BE AN OFFENCE. - Whoever abets any offence punishable under this Act shall, whether or not the offence abetted is committed, be punishable with the same punishment as is provided for

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the offence which has been abetted. Explanation : For the purpose of this Act, abetment has the meaning assigned to it in the Indian Penal Code (45 of 1860).<sup>135</sup>

Section 371- Habitual dealing in slaves

Section 372. Selling minor for purposes of prostitution, etc..<sup>136</sup>

Every brothel is being run by a brothel keeper or number of brothel keepers and managed by madams. These brothel keepers are generally women. They manage all the activities in brothels. The sex workers give all the money of services to these brothel keepers. They take care of all the sex workers working under them. And all the sex workers give a lot of respect to them.

373. Buying minor for purposes of prostitution, etc

Whoever buys, hires or otherwise obtains possession of any person under the age of eighteen years with intent that such person shall at any age be employed or used for the purpose of prostitution or illicit intercourse with any person or for any unlawful and immoral purpose, or knowing it to be likely that such person will at any age be employed or used for any such purpose, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.<sup>137</sup>

#### 4-Exploitation

When the victims are sold to brothels and exploiters, then these victims are recruited in prostitution. Generally victims show their dissent from performing such immoral activities, but they are persuaded for doing the same after torturing and punishing them. The victims are raped, sexually abused, harassed and misused daily.

Recruitment for exploitation-

The continuous recruitment procedure is very important for running this business and also for arranging young, minor and virgin girls. This recruitment is generally involves two types of victims-

- 1- Consensual recruitment- There are many poor, unemployed and helpless deserted girls and women who are recruited in this industry by their own consent. But they come to this industry just because they were helpless and were having no other option. Generally it is part of propaganda of exploiters to recruit such girls and women who can be very easily made fool to work in this industry just for nominal payments. These victims are also exploited; they are not paid properly and are used for ten to twenty times in a day. But the consent given by them does not justifies their works because they are doing an extremely illegal act.
- 2- Recruitment of trafficked victims- The trafficked victims are forcefully recruited in this industry. When they refuse to get recruited, they are physically and mentally tortured, punished and locked in dark rooms for many days without foods. Victims are having only two choices either to give their consent or to commit suicide. Most of the girls give up all the hopes and indulge themselves in this industry while some girls prefer to commit suicide instead of performing such disgusting acts.

Torture –

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Data were analyzed from cross-sectional surveys of FSWs in Karnataka state (2007-2008), India. Multivariable logistic regression was used to assess the following: (1) relationship between client or NPP violence (physical and/or sexual) and ICU by occasional/repeat clients or the NPP and (2) relationship between social and environmental factors and client violence.

## RESULTS:

Of 1219 FSWs, 9.6% (111) and 3.7% (42) reported experiencing violence by clients and the NPP, respectively. In multivariable analysis, after adjusting for social and environmental factors, the odds of ICU by occasional clients were significantly higher for women who had experienced client violence (adjusted odds ratio [AOR], 2.7; 95% confidence interval (CI), 1.6-4.4). Similar results were found with repeat clients (AOR, 2.2; 95% CI, 1.4-3.4). Nonpaying partner violence was not significantly associated with ICU by the NPP. In multivariable analysis, only being recently arrested remained significantly associated with experiencing client violence (AOR, 1.8; 95% CIs, 1.0-3.3).<sup>138</sup>

Some sources estimate only in Kolkata that are 30,000 Bangladeshi women in the brothels of Kolkata.<sup>139</sup> There are more than 1 million prostitutes aged under 16 in eight Asian countries, with 400,000 in India.<sup>140</sup> An estimated 85% of all prostitutes in Calcutta and Delhi entered the work at an early age.<sup>141</sup>

To explore mechanisms and contexts related to sex trafficking victimization among South Asian women and girls rescued from brothels in Mumbai, India. The majority of victims (51.9%) were trafficked as minors and by individuals previously known to them (59.7%). Traffickers most commonly lured victims via promises of economic opportunity (55.0%) or kidnapped individuals via use of drugs or force (26.3%). Victims were most often trafficked from public settings (e.g., markets, train stations; 50.9%) and via public transportation (94.9%). Almost half (49.4%) reported some type of family disruption as directly leading to their being trafficked; violence involving husbands or other family members (38.0%) and marital separation or abandonment (32.9%) were the most common forms of disruption reported. Differences in experiences of trafficking were identified based on age, nationality, education, and marital status; no differences were found based on religion.<sup>142</sup>

Section 5 of the Imoral Traffic (prevention) act-1956<sup>143</sup>

## Places of exploitation-

Brothels made in Red light areas and private residences, hotels used for running sex rackets are generally the places of performance of commercial prostitution. From these brothels sex workers as call girls are sent to the required places of customers also. But for this service charges are generally higher compared to the normal rates. The sex workers are sent to hotels, flats or the private places of customers. They are demanded on the occasion of parties. In village areas many sex workers are hired for dance programmes and it has now become

<sup>138</sup> <https://www.ncbi.nlm.nih.gov/pubmed/23441335>

<sup>139</sup> [https://en.wikipedia.org/wiki/Prostitution\\_in\\_Kolkata](https://en.wikipedia.org/wiki/Prostitution_in_Kolkata)

<sup>140</sup> <https://www.ncbi.nlm.nih.gov/pubmed/12291521>

<sup>141</sup> <https://www.ncbi.nlm.nih.gov/pubmed/12158002>

<sup>142</sup> <https://www.ncbi.nlm.nih.gov/pubmed/17320087>

<sup>143</sup>

a ritual in those areas on the occasion of marriage ceremonies or on any special parties. It is very easy to find brothels in red light areas but in sex rackets brothels as place of performance are very secretly set which may include a private residence, hotel rooms, bars, pubs, massage parlours, hostel rooms etc. But these all places can be termed as brothels where commercial prostitution is performed.

#### 7. Prostitution in or in the vicinity of public place .<sup>144</sup>

##### Brothels-

According to section 2(a) of Immoral Traffic (Prevention) Act 1956- “brothel“ includes any house, room, conveyance or place, or any portion of any house, room, conveyance or place, which is used for purposes of sexual exploitation or abuse for the gain of another person or for the mutual gain of two or more prostitutes;<sup>145</sup>In the case of X v. State of Kerala (2009), for being responsible for an offence under section 3, a person must be keeping a brothel or he must be allowing a premises under his control to be used as brothel, also a room once used for sexual exploitation would not constitute a brothel if the accused was not living on the earnings of prostitution of co-accused.<sup>146</sup> Many accused person have been left on the lack of evidences. It is necessary that a brothel which is owned by owner, must allowed by him to be used as brothel or his premises must be used as brothel. He must also be living on the earnings of prostitution and must be procuring or inducing a person for prostitution.<sup>147</sup>

One of the biggest red light area named Sonagachi in Kolkata- The place got globally known, when an American documentary film, 'Born into Brothels: Calcutta's Red Light Kids' won the Academy Award for Documentary Feature in 2004.<sup>148</sup>

Illegal constructions- most of the brothel are having secret chambers, which are not authorized and without permissions these types of chambers cannot be built. These cambers are mostly used for hiding trafficked girls. Because of these illegal constructions the whole building should be demolished.

Not all forcefully recruited some sex workers have got rooms on rent wjere they bring their clients on their own. It is very common to find twenty to thirty sex workers I a brothel.

For carrying on this process of prostitution sex workers are kept at a place that is known as brothels. Brothels are the houses or buildings in which prostitutes can be found. The size of brothels may be big or small, it can be a multi storied building or a single tiny room. In many brothels some secret rooms are made to hide the sex workers. In India it is common to hide huge numbers of sex workers in brothels by making secret chambers. From outside a brothel looks like a simple common house but from inside it is decorated with colourful lights. The customers are first of all shown the sex workers at a nominal price then girls or women are chosen by those customers on full payment. Then those customers are taken to the bedrooms for getting to be treated. These brothels are found mainly in red light areas. These areas are famous for running such brothels. But apart from these red light areas it is opened secretly in many different areas like in colonies, posh localities, shops, saloons, bars, and hotels. This chapter deals with the same issues.

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<sup>145</sup> Section 2(a) Immoral Traffic(Prevention) Act 1956

<sup>146</sup> Xv. State of Kerala, 2009(78) AIC 647:2009 Cri Lj 2321(Ker)

<sup>147</sup> Dilip Jana v. State of West Bengal, 2010 (88) AIC 885 (Cal).

<sup>148</sup> <https://www.unodc.org/southasia/en/frontpage/2010/March/red-lights-of-sonagachi.html>

3. Punishment for keeping a brothel or allowing premises to be used as a brothel..<sup>149</sup>

6. Detaining a person in premises where prostitution is carried on .<sup>150</sup>

9. Seduction of a person in custody.<sup>151</sup>

18. Closure of brothel and eviction of offenders from the premises .<sup>152</sup>

#### Prostitution as a family business-

There are many red light areas in India. Here brothels can be found easily. In these brothels sex workers are recruited in many ways. They may be forcefully recruited, trafficked, some sex workers work here because they need money. While in some cases it becomes a family business to get involved in prostitution. They are not provided a proper education but, since childhood they are taught only the skills involved in this industry. Their family members themselves know that it is not a good deed but still they pursue it for getting some money. In these red light areas, apart from these brothels there are many houses of families where female members of that family are available for prostitution and that is going on from generation to generation in that family.

#### Prostitution at a small level and sex rackets-

Wherever commercial prostitution is conducted, it is considered illegal according to Indian laws and residence used for that purpose has to be treated as a brothel, whether it is a hotel room, hostel room, private residence, bar, pub, or a massage parlour etc. Mainly the red light areas are famous for commercial prostitution but many brothels are found to be opened on a small level by some non social elements in areas different from red light areas. It is common in India to hear or read such type of news like sex racket team are busted by police, several people and sex workers are arrested for running brothel and delivering girls etc. And sometimes very famous people are found to be involved in these rackets. In past it has been seen that many rich people were supporting it financially and providing habitats for running these rackets. So in this way prostitution at a small level can be found in India.

#### Exploitation through some religious and customary practices-

There are some places where the act of prostitution is followed because of some local customs, cultures, or because of any historical reasons. Wadia village of Gujrat, Nat Purwa village of Uttar Pradesh are some places where act of prostitution is a tradition. Some religious customs are also responsible for happening of these activities, for example Devadasi system which is mainly prevalent in southern states of India, in which women do services in the temples, they sing, dance as well as, they are involved in the act of prostitution. Jogin system was also followed because of some blind faiths, in this system teenage girls (who were members of scheduled castes), were forced into prostitution by village chieftains and this system is still prevalent in

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Nizamabad and Medak districts.<sup>153</sup> These are the illegal practices which must not be given any kind of existence in society. The Devadasi system has been abolished from India since 1988 but still some narrow minded and superstitious people perform such rituals.

Activities which are performed in brothels-

These brothels are famous for providing sexual intercourse on the payment of money but sexual intercourse right there is not only the thing which is performed. Massage parlour can be found right there also where services of massage are given. The customers are treated with alcohol which may be beer, rum whisky etc. They may be given narcotic drugs to consume like weed, cocaine, Heroine etc. Consumption of cigarette is very common. But for all these services the customers have to pay. These brothels are very famous for the indecent dance moves which are performed by the sex workers and this dance is popularly known as “MUJARA” in India. People pay a lot for enjoying these dance moves. And sex workers and girls are asked to make vulgar presentations.

This study examines the relationship between alcohol use, HIV status, and condom use among female sex workers in Nagaland, India. We analyzed data from a cross-sectional survey undertaken in 2009, using descriptive and multivariate statistics. Out of 417 female sex workers, one-fifth used alcohol daily and one-tenth were HIV-positive. HIV-positive female sex workers were more likely than HIV-negative female sex workers to consume alcohol daily (30.2% vs. 18.0%). HIV-positive daily alcohol users reported lower condom use at last sex with regular clients compared to HIV-positive non-daily alcohol users (46.2% vs. 79.3%), a relationship not evident among HIV-negative female sex workers. There is a need to promote awareness of synergies between alcohol use and HIV, and to screen for problematic alcohol use among female sex workers in order to reduce the spread of HIV.<sup>154</sup>

Pimping and soliciting for sex-

These are some essential tools for performing sex trade and without using these methods it will be difficult to get more clients and customers. So this chapter will explain the manner in which it is done and to how much extent it is correct.

Pimping, soliciting on roads and public places-

The customers are arranged through pimping by brokers or sex workers. These brokers and sex workers go to public places and ask people or solicit people for enjoying their services. This kind of activity is held illegal in many countries. In red light areas of India one can find many numbers of brokers and sex workers on roads doing such things.

Arranging customers online-

In majority of cases underground sex rackets arrange customers through internet. By arranging customers online, leads to pimping, solicitation for sex which is criminal act. Hence provision Information Technology act must be imposed on wrongful persons for violating IT ACT.<sup>155</sup>

Brokers and pimps-

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<sup>153</sup> <https://www.thehindu.com/todays-paper/tp-national/tp-andhrapradesh/efforts-on-to-root-out-jogin-system/article4556549.ece>

<sup>154</sup> <https://www.ncbi.nlm.nih.gov/pubmed/23970581>

<sup>155</sup>

Customers in these brothels may reach here directly or through the help of brokers. Brokers in this industry are those people who work for bringing customers to the brothels and in return of that they are paid. Generally customers prefer to go with these brokers after fixing rates or charges of services.

Section 8 in The Immoral Traffic (Prevention) Act, 1956

8. Seducing or soliciting for purpose of prostitution.<sup>156</sup>

Sex worker?

In prostitution the person who pays is the client or popularly known as customer. While the person who provides sexual services are known as the sex worker. Those sex workers in most cases are found to be girls but in some cases transgender and male persons are also used as sex workers. In this chapter the definition of sex worker will be given according to national and international instruments.

“prostitution“ means the sexual exploitation or abuse of persons for commercial purposes or for consideration in money or in any other kind, and the expression “prostitute” shall be construed accordingly;<sup>157</sup>

It is also that a sex worker must be treating every customer. She has to be available for every client. A prostitute has to provide her services to a person who has hired him; she cannot put her choice in selecting clients.<sup>158</sup>

Child prostitution-

An estimated 33% of prostitutes are young girls. In Bangalore, Calcutta, Delhi, and Hyderabad, there are an estimated 10,000 girl prostitutes. A little over 50% of prostitutes come from other countries, such as Nepal and Bangladesh. UNICEF estimates about 300,000 child prostitutes.

Section 2(aa) of ITPA 1956 “child“ means a person who has not completed the age of eighteen years;<sup>159</sup>

It is serious crime to make the minors as victims of sex trafficking. The immoral traffic prevention act 1956 and Indian Penal Code 1860 in its several provisions have imposed severe punishments on accused persons who target minor girls and boys for human trafficking, sexual exploitation, slavery etc.

Traffickers, Brothel keeper and madams-

Nagpur is an industrial hub in Maharashtra, a state in Central India that has the second highest HIV prevalence in the country. Approximately 3000 brothel-based female sex workers (FSWs) are estimated to be working in Nagpur's Ganga-Jamuna red light district. The extent to which brothel madams, known as gharwalis, support HIV/STI prevention for FSWs has not been examined. The present study sought to identify personal, social, and behavioral characteristics of gharwalis in Nagpur as well as enhance our understanding of the gharwali's role in shaping the sexual practices of brothel-based FSWs. Thirty gharwalis participated in a survey that

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<sup>157</sup> Section 2(f) Immoral Traffic (Prevention) Act 1956

<sup>158</sup> X v. State of Kerala, 2009 (78) AIC 647 at 650: 2009 Cri Lj 2321(Ker).

<sup>159</sup>

covered personal, social, behavioral, and environmental characteristics. Respondents ranged in age from 29 to 50 years ( $M = 38.9$ ) and had worked as a gharwali for an average of 5.3 years; 80% had no formal education, 43% had never married, and 30% were divorced or separated, and 93% earned money from their own sex work. Gharwalis managed an average of 4.2 FSWs (range 2-10). Overall, gharwalis reported positive attitudes toward condoms, promoted use of condoms by their FSWs with clients, taught FSWs how to use condoms, knew where to obtain condoms for free, and required HIV testing for their FSWs; however, levels of HIV prevention knowledge were low. Gharwalis also reported providing a range of support services to FSWs who lived in their brothels, including shelter, protection from drunk and aggressive clients and police, emotional support, caring and love, and health care. These data suggest the feasibility of involving gharwalis in brothel-based HIV prevention programs.<sup>160</sup>

#### 4. Punishment for living on the earnings of prostitution<sup>161</sup>

Clients and customers-

5C. "Any person who visits or is found in a brothel for the purpose of sexual exploitation of any victim of trafficking in persons shall on first conviction be punishable with imprisonment for a term which may extend to three months or with fine which may extend to twenty thousand rupees or with both and in the event of a second or subsequent conviction with imprisonment for a term which may extend to six months and shall also be liable to fine which may extend to fifty thousand rupees."<sup>162</sup>

Happening of Other illegal activities along with this business of prostitution –

Generally these brothels in red light areas and underground sex rackets are run by gruesome criminals and wrongful money makers. Huge amount of profits are generated by these criminal and wrongful money makers which is used in many other illegal activities. These profits are generated are used mainly for illegal purposes and invested in other criminal activities like, drug smuggling, illegal arms trade, illegal constructions and manufacturing etc.

Role of society and general public-

Members of society and public at large are also in many ways directly and indirectly responsible for the acts of human trafficking, commercial prostitution and exploitation of vulnerable people. First of all clients and customers are parts of the society who for enjoying sexual services visit brothels. If they stop going there by not using such services then certainly this business would get demolished. Members of the society cannot tolerate such activities in their locality but they ignore it when immoral activities are performed in red light areas. People generally hate sex workers because the profession they perform is never respected and it is considered as a taboo and stigma, which makes a sex worker to hide her/his identity also even after their rehabilitation people rarely accepts them as a member of their society. Most of the people support commercial prostitution because it provides an opportunity to the poor and marginalised people to earn some money, but

<sup>160</sup> <https://www.ncbi.nlm.nih.gov/pubmed/22877415>

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they are wrong because they are not aware about the real nature of this business. If public support the poor people in lodging complaints for getting justice, if they put pressure on the public authorities to take proper action and provide all necessary help to marginalised people, if they become aware about the real problems of this illegal sex industry, then certainly some positive changes can be brought.

Initiatives taken, social activists and organisations working for welfare sex workers-

There are many initiatives have been taken for welfare of sex workers. Many government schemes and nongovernmental organisations are working for providing good life to sex workers and making people aware of dire consequences of prostitution and the measures through which one can save himself and herself from the problems involved in this business.

Name of some eminent social activist and organisations-

- 1- Siddhartha Kara
- 2- Kailash Satyarthi
- 3- The sex workers in many red light areas have made their unions. These sex workers are given an identity card. I met a sex worker in the Sonagachi area who was showing her identity card.
- 4- METHODS:

We review an alternative response to combating human trafficking and child prostitution in the sex trade, the self-regulatory board (SRB) developed by Durbar Mahila Samanwaya Committee (DMSC, Sonagachi).

RESULTS:

DMSC-led interventions to remove minors and unwilling women from sex work account for over 80% of successful 'rescues' reported in West Bengal. From 2009 through 2011, 2195 women and girls were screened by SRBs: 170 (7.7%) minors and 45 (2.1%) unwilling adult women were assisted and followed up. The remaining 90.2% received counselling, health care and the option to join savings schemes and other community programmes designed to reduce sex worker vulnerability. Between 1992 and 2011 the proportion of minors in sex work in Sonagachi declined from 25 to 2%.<sup>163</sup>

With its universal surveillance of sex workers entering the profession, attention to rapid and confidential intervention and case management, and primary prevention of trafficking-including microcredit and educational programmes for children of sex workers-the SRB approach stands as a new model of success in anti-trafficking work.<sup>164</sup>

5- According to an article published in a newspaper-  
Sonagachhi, where thousands of women work in the sex trade in abysmal conditions, has struck a blow for the girl child. The city's biggest red light area can now boast of its first women's football team. Christened 'Amra Padatik', the team will start training from the first week of August. The initiative taken by Durbar Mahila Samanwaya Committee, which has been fighting for the rights of sex workers, attempts to tackle the stigmatisation that children of sex workers experience due to their mother's occupation through football that is globally associated with the fight against discrimination. Zoya Sheikh (name changed) is a class IX student

<sup>163</sup> <https://www.ncbi.nlm.nih.gov/pubmed/24179187>

<sup>164</sup> <https://www.ncbi.nlm.nih.gov/pubmed/24179187>

and loves to watch and play football. She is a little disappointed that her favourite team, Belgium, did not lift the trophy in the just concluded World cup in Russia. Zoya developed an interest in the game while watching her male friends playing. "At first I was hesitant, but then I thought that if boys my age can play this game, so can I without thinking of social pressure. This thought drives me to play football whenever I get time after completing my studies," she says. Ankhi Das, also a class IX student and die-hard Ronaldo fan, wants to become a professional footballer. She loves Ronaldo's passion and wants to channel the same degree of passion and hard work into her practice sessions. Like team-mate Zoya, Ankhi is unwilling to bow before societal pressures. "All these restrictions about girls not playing football are manmade and it's high time we defined such preconceived notions and proved to society that girls can play football with as much love and passion as boys," she says. Ankhi's mother is supportive of her daughter's decision. "There's hardly any difference between a girl and a boy now. I will encourage her to play football and will be there by her side if she wants to pursue it as her profession. I just want my daughter to lead a respectable life, unlike mine," she says. Smarajit Jana, chief adviser of Durbar Mahila Samanwaya Committee, said the idea of forming a team came from young girls themselves. "There was a lot of enthusiasm among these children about the world cup. I would regularly get calls from some of the girls, who later came to me and said they wanted to play football. But they were shy and afraid at the same time, worrying what people would say. There is a lack of conscience in our society which gives rise to discriminations. So, I thought this is perhaps the best time to break the notion that football can only be played by boys," said Jana. "Football, among all the team games, is a great leveller and can help break the gender stereotypes and kick away the stigma against sex worker's children," he said, adding that it would also boost self defence of these girls and help them move forward by fighting all obstacles and defying conventions and prejudices. The team, with eight girls, is ready to start training at B K Paul ground near Sovabazar from next week. The training session will take place thrice a week in the morning. More girls, not just sex workers' children but also backward and under-privileged girls, will join them later. Plans are on to begin such training sessions first in Asansol and then in other districts as well. Ismail Sardar, son of a sex worker who has represented India at International football tournaments and is part of Durbar's boys' team, said, "I want our girls' team to fight all obstacles and play the game wholeheartedly so that we, children of sex workers, are accepted in society."<sup>165</sup>

Rescue and rehabilitation measures and correction process-

16. Rescue of person—(1) "Where a Magistrate has reason to believe from information received from the police or from any other person authorised by State Government in this behalf or otherwise, that any person is living, or is carrying, or is being made to carry on, prostitution in a brothel, he may direct a police officer not below the rank of a sub-inspector to enter such brothel, and to remove therefrom such person and produce her before him"<sup>166</sup>

17-A. Conditions to be observed before placing persons rescued under Section 16 to parents or guardians .—  
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10-A. Detention in a corrective institution .—(1) Where,—

<sup>165</sup> Times Of India, July 22 2018, page no.- 1 and 5

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(a) a female offender is found guilty of an offence under Section 7, and

(b) the character, state of health and mental condition of the offender and the other circumstances of the case are such.<sup>168</sup>

15. Search without warrant .—).<sup>169</sup>

17. Intermediate custody, of persons removed under Section 15 or rescued under Section 16 .<sup>170</sup>

## Chapter – 5

### Arguments in favour vs. problems created by commercial prostitution

This chapter will discuss the arguments which support the commercial prostitution and the consequences of legalisation will also be described. But these arguments will be criticised by the researcher by explaining the problems created by this illegal business of prostitution and how legalization will further aggravate the present problem so in that case the only solution is the complete abolition and eradication of this illegal business. This business carries multiple numbers of problems, also the responsible criminals must be convicted but it has been suggested by many human intellectual people that Preventive action are required rather that punitive. Support of public at large is the most necessary factor for the success of this move, in this way prompt stern actions are required to be taken.

#### A-Arguments in favour of business of prostitution-

Initially there was no proper provision for regulating prostitution but for indecency and obscenity it was controlled by the Indian penal code 1860. Soon after independence a new law was made to prohibit all such type of activities in India. The name of that law was immoral traffic (suppression) act 1956. This law clearly says that the act of prostitution must be committed at private place which has to be situated away from public places. This law permits prostitution in the form of earning money through sexual intercourse but it prohibits solicitation, pimping, child prostitution, running brothels etc. As well provisions of Indian Penal Code 1860 are also applied if some indecent acts are performed at public places. Commercial prostitution is illegal in India so it is not regulated through labour laws.

But there are many people, groups, and unions most of them are pimps, brothel owners, sex workers and people who are unaware about the problems involved in this trade criticise about the laws which are against this business and they support for the complete legalisation of this trade. They are having so many arguments for supporting the legalisation of the sex trade. They say that legalisation will bring down the cases of trafficking and harassment of girls and women, also women would get confidence to lodge complaints against the crimes through which they had undergone. The arguments in favour of this act are given below-

- 1- Women should have freedom to choose their profession, and this freedom justifies the involvement of women in prostitution,
- 2- Poor women get employment and get a chance to make easy money without learning any skill and proper education,

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- 3- Helpless and deprived women are given help through this profession, at least on their own they can earn some money when no one is ready for helping them,
- 4- If there is a proper regulation by legalisation and control by labour laws then commercial prostitution may prove a good source of employment and help in reducing poverty,
- 5- It is very difficult to finish the tradition of decades which has properly established not only in red light areas but also has spread in public places like hotels, bars, pubs etc. So legalisation is the only option through which proper control can be performed over it.
- 6- Many sex workers are employed in this profession who may become jobless , so legalisation is the best option to provide them job security because the eradication of this business would make them unemployed, also these people may face problems in getting some other employment because they are unskilled and uneducated,
- 7- The approach of tolerance by government authorities also contributes for the support of legalisation. The act of tolerance and not taking strict actions against this illegal business shows the government's approach of supporting this business.
- 8- Customers coming to red light areas also support this business and they find it a good place for enjoying sex and have some fun by paying nominal amounts.
- 9- If trafficking is removed and sex workers are recruited in prostitution on their own will, then the existing problems can be solved, and this can only be done through legalisation,
- 10- It is argued that people should mind their own business, if they cannot provide jobs to poor people then they should also not meddle in the business of others,
- 11- The risk of STD, HIV-AID, can be reduced by using contraceptives, and proper awareness among sex workers and clients, but it is the duty of brothel owner to maintain cleanliness and hygienic atmosphere in brothels,
- 12- There will be no problem of child prostitution, if minors are removed and they are not recruited, which can be done only through legalisation and thereby providing a licence to every sex worker who is not a minor,
- 13- Government can get a good amount of money as tax revenue from this business by giving legal sanction to this business,
- 14- The services of prostitution fulfil the sexual desires of lonely people and clients,
- 15- For decreasing cases of rapes, prostitution must be supported, so that the people having sexual desires can diminish their lust,
- 16- Some say that this business should be legalised for the fulfilling the demands of deserted and lonely people who are willing to get a partner for sex.
- 17- It is argued that legalisation of prostitution will bring some shortcomings in the cases of torture of victims. The legalisation will also bring some shortage in the case of trafficking.
- 18- On happening of legalisation the sex workers will be able to lodge cases of ill treatment against them. They will be having support of law and authorities will also not hesitate from helping them.

- 19- It is also argued that government should pay its attention on important issues instead of dealing with issues like prostitution and sex trade. Government has many other important works to do rather than dealing with such issues of morality and immorality.
- 20- The rescue and rehabilitation process is not very much viable also, very less sex workers are interested in this process and the chances of getting proper employment are very less.
- 21- There are some more grounds which have been suggested for providing support to the business of prostitution.

#### B-A Basic framework of legalisation of this business-

But the arguments given above are not sufficient for protecting commercial prostitution. Also legalisation of commercial prostitution is not the correct option in India. If through a legislative act, the commercial prostitution is legalised then it will bring a lot of changes in this industry. So for proper legalisations of this business all the brothels will be required to get registered. All the sex workers must be given a licence after their registration. Only those girls and women can be recruited in those brothels that are above eighteen year old and have given their consent for the recruitment, no sex worker should be recruited without her consent. Also no sex workers should be recruited through the process of trafficking. According to a study 270 girls and women go missing every day in India. For the proper regulation of this business and for the protection of rights of sex workers, labour laws must be applied for providing the proper salary and determining the hours of works. There must exist several trade unions for the protection of rights of sex workers. It is to be noted that after legalisation government would get tax revenue on the earnings from the business of prostitution, such measures should be made so that government can get proper taxes. But the brothels must be situated away from public places and must be allowed in red light areas only. Also there must be proper prohibition of performance of such activities through sex rackets and the performance of such acts must be held illegal if it is conducted in bars, hotels, pubs, saloons and massage parlours. There must be made a proper record in which full, proper and authentic details of the brothel owners, madams, pimps and sex workers is given, also this record book must be updated regularly as well as these people must be kept in regular touch with police authorities. Customers must be above eighteen. So after legalisation, the business of prostitution must be allowed only in registered brothels. On violation of any of the rules and guidelines the registration of the brothels must be cancelled and strict actions should be taken against the wrongdoers.

#### C-Side effects and Problems related to the legalisation of this business-

In the last paragraph there is a basic legal framework which is suggested for the legalisation of this business of prostitution but it is very difficult to implement this law and chances are very less that this law would be properly followed and it would be very difficult to deal with brothel owners and pimps because most of them are notorious criminals and drug peddlers. It is also to be noted that the move of legalisation of this business have been taken in many developed countries but there also, this step of legalisation brought so many problems. It was noted that issues of trafficking and smuggling of sex workers increased there; as well the legalisation gave the brothel owners total freedom for growing their business by using various illegal means. When Germany legalized prostitution just over a decade ago, politicians hoped that it would create better conditions and more autonomy for sex workers. It hasn't worked out that way, though. Exploitation and human

trafficking remain significant problems.<sup>171</sup> The same condition may be faced in India after legalisation. India is a poor and a developing country, here the chances are very less that the legalisation of this business would work. It is quite sure that criminals and traffickers would get total freedom to recruit and exploit more and more girls and the act of torture and punishment would increase more because they would be using these brutal tactics for keeping the mouths of victims to be shut. Hence the legalisation would give a licence to violate the human rights of the victims. For making huge amount of money more and more brothels would be opened and sex workers would be recruited by violating those laws. In modern world such kinds of derogatory acts must be prohibited. The victims of sex slavery are tortured by whips, cigarette burns, metal rods, starvation, rapes and sex abuses; they get bruises, scars, broken bones in addition to many mental and psychological problems. It is performed when this act of commercial prostitution is illegal, in which punishments is provided to the exploiters. After legalisation it is presumed that such incidences of physical and mental torture would certainly increase because exploiters would get more and more freedom for recruiting sex workers and for making those victims to stop from complaining to authorities more and more barbaric acts would be used.

The legalisation of this business would be beneficial for gruesome criminals only because chances are very much high that even after legalisation this business will be controlled by criminals. At present this business is mainly controlled by wrongful money makers and notorious criminals. Many greedy political leaders and corrupt government officials are also involved in this business and they use various illegal methods for earning money. These people are responsible for running and supporting many brothels in red light areas and sex rackets in hotels, bars etc, all over India. The legalisation will be considered as a move to give sanction to these gruesome criminals who control this business for enriching themselves and perform exploitation of innocent people. There are many incidences in which sex workers were killed for the protection of this business or they committed suicide because of exploitation and torture. Legalisation will be bringing an injustice to those people who have been exploited by these criminals. Also sex workers are used only when they are young and when they become aged they are thrown out of these brothels or they are involved in doing some other criminal acts like trafficking and recruiting new sex workers and they may be used for working as pimps, madams for controlling sex workers and bringing costumers for them.

It indicates that controllers of this business consider women just like a commodity who can be used, abused and exploited according to the will of exploiters. The legalisation would provide a sanction and proper validity to this indication and it will not be good for a democratic country like India if it supports the exploitation of girls and women. Also on legalisation the policing of red light areas may decrease which would make the job of exploiters easier. On the happening of legalisation the sex workers must give assent for their recruitment but it is very easy for exploiters to get their assent by the acts of torture and punishment. So, legalisation would make the job of criminals easier.

The legalisation of commercial prostitution will work only in developed countries where people are educated, where people really respect the rights of other people and where the system of law and order is very strong. Legalisation would provide a good amount of tax revenue from this business but by getting these taxes

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<sup>171</sup> <http://www.spiegel.de/international/germany/human-trafficking-persists-despite-legality-of-prostitution-in-germany-a-902533.html>

government would get the shameful tag of a pimp, who for getting some revenue allows its people to get exploited. Also the legalisation would work properly only when all the sex workers are registered but it would be quite shameful to get oneself to be registered and have the tag of a prostitute.

D-Problems faced because of commercial prostitution and criticism of legalisation- if we look at the existing situation then we find that there are many problems related to this illegal business, and for getting rid of these problems the only solution is the abolition and eradication of this illegal and immoral business.

1-Modern slavery, Violation of human rights, forced labour, and forced prostitution-

The act of commercial prostitution makes the victim a slave through the process of trafficking who is forcefully asked to do this profession against his or her will. Article 23 of Indian constitution provides for the prohibition of traffic in human beings and forced labour. According to clause (1) of this article, "Traffic in human beings and begar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law".<sup>172</sup> Right against exploitation which is mentioned in article 23 and 24 of the Indian constitution, gives a fundamental right to its people that they will be protected against exploitation and for this purpose the acts which are responsible for the exploitation of human beings like human trafficking, beggar, forced labour etc, are prohibited. It also declares that performance of such things will not be tolerated and punishment will be imposed according to the laws made in this regard by parliament. In this way the Indian constitution declares the performance of all such exploitation as an offence. Human trafficking has become a big problem in India. Every year thousands number of girls, boys and women are reported as missing and kidnapped. Basically these are poor, needy and marginalised people who are targeted by traffickers. Most of these missing people are trafficked in several kinds of illegal and dangerous acts where they are kept like slaves and those people are not given any kind freedom, as well as their basic rights are snatched. In India human trafficking is done for many purposes like, for forced labour, domestic servitude, forced prostitution and sexual exploitation, forced marriage, begging, organ trade etc. commercial prostitution make the sex workers a victim of modern slavery.

2-Crimes of trafficking, smuggling, kidnapping, abduction, torture and punishment-

There are so many reasons for criticising the business of prostitution. In maximum numbers of cases girls and women are forcefully recruited. They are kidnapped then trafficked in this industry. According to a study 270 girls and women go missing every day in India. They are deceived on the name of jobs or on the promise of marriage and then they are trafficked in this industry. Many times newly married women are deceived by their husbands. Many girls were sold by the poor parents when they were lured by the traffickers. Sex workers are not paid properly and not treated well. They are kept as slaves and so many numbers of human rights of the sex workers are violated. Sometimes it becomes a family business, in which family members are found to be involved in the business of prostitution. Commercial sexual exploitation (CSE) has threatened the basic dignity of women besides exploiting them in most despicable manner, destroying them physically, psychologically, socio-economically and in many other respects.<sup>173</sup> Again these sex workers face so much torture and punishment from their owners and clients also, but they cannot complain or leave that place

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<sup>172</sup> ARTICLE 23(1) OF INDIAN CONSTITUTION

<sup>173</sup> Sinha, Indrani, Trafficking- a Reality, Jonaki, Vols. 2-3, 1997, p.7.

because they are not allowed do such things and if they dare to do that, then they are tortured more and sometimes they try to commit suicides. Initially the victims do not become agree for performing this derogatory act because they want to leave and go back to their parents and relatives, but this is not acceptable by their owners, so for getting their assent victims are tortured, beaten with rods, burnt with cigarette butts and sexually abused for many days by locking them in a tiny dark room without giving them food for many days and after facing these tortures and abuses the victims give up all the hopes and become ready for performing such immoral acts.

### 3-Child prostitution-

The legalisation of commercial prostitution can never abolish child prostitution. The demand is found to be very much high for enjoying minor and virgin girls. There is some superstitious belief among customers that making intercourse with a virgin girl can provide some prosperity and they will get cured from many diseases. Also it is easy to exploit a young girl than an experienced sex worker. The brothel owners also prefer to recruit young girls because in that case the young girls can be used for many years before their retirement and also they charge very high price from clients for having sex with minor girls which proves very beneficial for their owners. These are the main reasons for the committing the crimes of child trafficking. According to the United Nations Office on Drugs and Crime (UNODC) in its 2012 Report the share of minor girls trafficked increased from 13% in 2006 to 17% in 2009. The Report also shows that trafficking for commercial sexual exploitation accounts for 57-62% of all victims of trafficking.<sup>174</sup> An estimated 1.2 million children trafficked in India every year (US Department of State, 2010).<sup>175</sup>

### 4-Similarity with bonded labour-

The sex workers are sold to brothels at price. This price is imposed as a debt on the sex workers which they have to repay if they want to leave that brothel. For this purpose these sex workers serve near about five to ten men every day and sometimes even twenty men in a single day are treated by them. These debts are very hard to be paid by sex workers because huge amount of interest is added on this debt, also it includes deductions for food, clothing, rent of rooms, alcohol, electricity bills and other maintenance charges. Generally this promise of leaving the sex workers after paying the debts are not found to be correct because it is just a false promise to let the sex worker live in the brothel and work for owners. Many sex workers are never able to get out that hell and after getting old they help in preparing other sex workers also they get the job of madams. Many sex workers are resold to other brothels and the cycle of repaying the debts starts again.

### 5-Victims are poor, Deserted and helpless women, forceful assent-

Most of the victims of this illegal business are poor, deserted and helpless women. Traffickers target such women who are deserted and helpless and they promise for proving good life through this profession. These women are having no choice; they are in need of money so they become ready for doing such immoral acts. And in many cases assent is taken forcefully.

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## 6-Unhygienic, Unhealthy atmosphere and problem of sexually transmitted diseases-

These brothels are home of many diseases and living here is like living in hell. The brothels are unhygienic and there is no standard of cleanliness. There are more than thousands numbers of brothels in the Sonagachi red light area of kolkata. During my visit to some brothels I noticed the same situations. In those brothels, there were several small rooms which were taken on rents by sex workers or madams. Those small rooms were decorated with colourful lights and several vulgar posters were found to be pasted on walls. There were several two story and three story buildings which were used as brothels. But every building was full of humidity, and some corners were quite filthy, dirty and pile of stinking garbage was also found which was providing a suitable shelter for rats, cockroaches, mosquitoes and too many other non human creatures. There I could not find any proper washrooms. Many customers were found to be peeing on walls. Most of the brothels were always overcrowded. Also these places were visited by many people who were suffering from several kinds of diseases. This kind of atmosphere is quite suitable for making a person to suffer from many contagious and non contagious diseases. Because of these reasons many sex worker have been suffering from many curable and non curable diseases. The prostitution leads to many health problems for the prostitutes. Suffering from sexually transmitted diseases (STD) are the most common effect of working in these brothels and becoming the victim of HIV-AIDS is a big threat here for both sex workers and customers. Also the victims of cervical cancer, Traumatic brain injury, and victims of psychological disorders are also found to be residing here.

It was assessed whether the association between sex trafficking and HIV could be explained by self-reported forced prostitution or young age at entry into prostitution using cross-sectional data collected from 1,814 adult female sex workers in Karnataka, India, between August 2005 and August 2006. Marginal structural logistic regression was used to estimate adjusted odds ratios for HIV infection. Overall, 372 (21%) women met 1 or both criteria used to define sex trafficking: 278 (16%) began sex work before age 18 years, and 107 (5%) reported being forcibly prostituted. Thirteen (0.7%) met both criteria. Forcibly prostituted women were more likely to be HIV-infected than were women who joined the industry voluntarily, independent of age at entering prostitution (odds ratio = 2.30, 95% confidence interval: 1.08, 4.90). Conversely, after adjustment for forced prostitution and other confounders, no association between age at entry into prostitution and HIV was observed. The association between forced prostitution and HIV infection became stronger in the presence of sexual violence (odds ratio = 11.13, 95% confidence interval: 2.41, 51.40). These findings indicate that forced prostitution coupled with sexual violence probably explains the association between sex trafficking and HIV.<sup>176</sup>

A study examined the prevalence and predictors of HIV infection among sex-trafficked women and girls rescued from brothels in Mumbai, India. Approximately one quarter (22.9%) of trafficked individuals tested positive for HIV. The mean age at trafficking was marginally younger for women and girls infected with HIV (15.9 years) as compared to those not infected (17.2 years;  $P = 0.06$ ). Girls trafficked as minors reported longer periods of brothel confinement as compared to those trafficked at older ages (18.5 vs. 9.6 months;  $P = 0.007$ ). Among Indian victims, those trafficked from the states of Karnataka or Maharashtra were more likely

<sup>176</sup> <https://www.ncbi.nlm.nih.gov/pubmed/23324332>

than those trafficked from West Bengal to be HIV-positive (odds ratio [OR] = 7.35, 95% confidence interval [CI]: 2.23 to 24.21). Longer duration in brothels was associated with greater likelihood of HIV infection; a 3% to 4% increased risk for HIV was observed for each additional month of brothel captivity.<sup>177</sup>

Mobility is an important factor contributing to the spread of HIV among key population at risk for HIV; however, research linking this relationship among men who have sex men (MSM) is scarce in India. A study examined the association between mobility and sexual risk behaviour and HIV infection among MSM in southern India.

#### METHODS:

Data are drawn from a cross-sectional biobehavioural survey of 1608 self-identified MSM from four districts of Andhra Pradesh in India, recruited through a probability-based sampling in 2009-2010. Logistic regression models were used to estimate odds ratios and 95% CIs for sexual risk behaviours (unprotected sex with any male partner) and HIV infection based on the mobility status (travelled and had sex in the past year) after adjusting for sociodemographics and risk behaviours.

#### RESULTS:

Of the 1608 MSM, one-fourth (26%) were mobile. Of these, three-fourths had travelled across districts but within the state (56%), and one-fifth (20%) across states. As compared to non-mobile MSM, a higher proportion of MSM who were mobile across districts (adjusted (OR=1.42, 95% CI 1.04 to 1.95) or states (adjusted OR=3.20, 95% CI 1.65 to 6.17) reported having unprotected sex with any male sexual partner. Further, mobility across districts (adjusted OR=1.43, 95% CI 1.01 to 2.03) or states (adjusted OR=2.45, 95% CI 1.46 to 4.10) was significantly associated with HIV infection.

#### CONCLUSIONS:

Mobile MSM have a higher likelihood of contracting HIV. Interventions extending the ways to reach out to MSM with greater mobility may augment ongoing efforts to reduce the spread of HIV/AIDS in India.<sup>178</sup>

The following study examines non-disclosure of HIV serostatus to sex partners among HIV-infected adults involved with transactional sex in Mumbai, India. Surveys were conducted with HIV-infected female sexworkers (n = 211) and infected male clients (n = 205) regarding HIV knowledge, awareness of sexpartners' HIV serostatus, alcohol use, transactional sex involvement post-HIV diagnosis and non-disclosure of HIV serostatus. Gender-stratified multiple logistic regression models were used for analysis. Non-disclosure of one's serostatus to all sex partners was reported by almost three-fifths of females and two-fifths of males. Predictors of non-disclosure included lack of correct knowledge about HIV and no knowledge of sex partners' HIV serostatus. Among females, recent alcohol consumption also predicted non-disclosure. Among males, 10 + paid sexual partners in the year following HIV diagnosis predicted non-disclosure. Secondary HIV prevention efforts in India require greater focus on HIV disclosure communication and integrated alcohol and sexual risk reduction.<sup>179</sup>

7-Based upon the principle of gender discrimination-

<sup>177</sup> <https://www.ncbi.nlm.nih.gov/pubmed/17019369>

<sup>178</sup> <https://www.ncbi.nlm.nih.gov/pubmed/24670808>

<sup>179</sup> <https://www.ncbi.nlm.nih.gov/pubmed/22810892>

This business is very dangerous for girls and women. A sex worker may be a man or women. But this business has resulted as notorious mass killer of human rights of poor, vulnerable and marginalised girls and women. It is very rare to hear any kind of news about male sex workers because they are very less in demand whereas there is a huge demand for the young girls and women for sex. Generally gigolos call boys are famous as male sex workers. They mainly provide their services to the women clients and young adult girls. In Mumbai city, which is the capital of Maharashtra, services of call boys are taken in a secret manner. In a study it was found that many boxers of pubs and bars are also working as part time gigolos for earning some extra money for the maintenance of themselves and their family. They are demanded by the women and girls customers who visit that place. It can be said that male sex workers also exist in India but their problem is very much minuscule in front victimization of girls and women for sex trade. Unlike girls, the male sex workers are not trafficked and victimized also these male sex workers do this kind of job on their own will, who are generally enjoyed by rich girls and women. In this way they are paid properly as it was asked. Also the male prostitution has not reached that commercial level which female prostitution has achieved. So it indicates that the business of prostitution in India is totally based on the ground of gender discrimination and patriarchal mindset in which male people exploit these female victims and it is a serious issue which has to be abolished.

#### 8-Morality factor and gender discrimination-

Men who enjoy sex services in brothels, hotels, bars and other places narrate very proudly about their sexual experiences and they are considered as a macho man or stud. For example, in the super hit bollywood movie 'Sanju', the lead actor was bragging about the fact that he had slept with 350 girls including prostitutes, and he was praised for that. But, if a woman is having sex before marriage, or with a person who is not her husband she is considered as a whore or prostitute. These types of women are detested by narrow minded society members. The real sex workers can never survive in these societies. That is why they are sheltered in red light areas away from a society. But sex rackets are operated in many societies but in a secret manner.

It indicates that narrow minded patriarchal society considers such acts as morally wrong and it cannot tolerate a sex worker to be living among them. Here also morality factor is drafted according to the principle of gender discrimination. But the morality factor may be utilised for abolishing and banning this illegal business because people should look for a proper and respected employment, so that they can live happily and make some contribution in the development of the country.

#### 9-Brothels for male prostitutes-

This business has been set up for exploiting girls and women only. Supporters of prostitution should also think about this point that a source of income can be created for poor and unemployed men who can earn money by prostitution. Just imagine about a red light area where brothels are built for keeping male prostitutes and sexual services are provided to women and young adult girls for diminishing their desire for sex. It is very hard to find brothels where male prostitutes are kept for providing sexual services to women because it is a patriarchal society and dominant men can never tolerate women to enjoy that much freedom. Also these women would be treated as disgusting whores by the narrow minded society members. It indicates that the business of prostitution in India has totally been developed on the principle of gender discrimination. If prostitution is really good then the supporters of commercial prostitution should ask for the creation of red light areas where male prostitutes can be found in brothels and women and young by getting there, enjoy their

physical needs. If this business provides some money to poor girls and women then it is also true that there are so many poor and unemployed men, who also can do such act and earn money, but nobody would support it, but they can support for the legalisation of this existing business in which women are treated badly. Many men and young boys visit brothels for having fun which they consider visiting red light area as a bold step but it creates a wrong perception and a disgraceful representation about female members of society that they can be exploited by getting them paid some money.

This point must be seriously taken into consideration because there must be gender equality. I am not supporting for the creation of the brothels for male sex workers but I am indicating toward the approach of society in suppressing the rights and freedoms of female members. Since historical times men are given preference in most of the things over women and society considers women to be less powerful than men. They can easily exploit women for their sexual desires so brothels were created.

#### 10-Effect of prostitution in controlling rapes-

People support prostitution so that the cases of Rapes can be decreased. Acts of prostitution and rapes are committed for diminishing the desires of sex mainly by male members. But prostitution is not the remedy for decreasing the cases of rapes because it can never vanish the case of rapes from earth. There are many instances when rapes were committed with the motive of taking revenges from their enemies, rapes were committed in the acts of robberies and loots, rapes are committed in riots and in armed conflicts, rapes are also committed in brothels for punishing sex workers, also many teenagers by getting bad company commit rapes. The acts of rapes will be controlled only by maintaining a proper law and order, not by legalising prostitution. The legalisation of prostitution will increase the confidence of criminals to exploit and commit crimes against girls and women. There are many places where law and order is so weak, there are many areas where girls and women cannot move freely, the confidence of criminals are so high at those places for exploiting powerless girls and women. The mindset of these people are required to be changed by teaching them lessons for respecting girls and women and also the girls and women are required to be made powerful. There are many cases when clients and customers were looted in brothels by sex workers and those clients were able to do nothing because they were having fear of being beaten by local criminals and also those clients found sex workers in a position of advantage over them. So it can be said that criminals target only innocent and powerless people and in front of bold and powerful people they are just nothing but a jerk.

#### 11-Contribution of this business in the development of this country-

This is an industry of billion dollars in India, but that all money is illegal which is used for performing various kinds of illegal activities. Because of this business crime rates are increasing. Every person does a job or any kind of work for making some contribution in the development of the country. And what a person contributes for his or her country by doing all these immoral activities and providing the services of prostitution the answer is simply, nothing. We can't see any contribution of this business in the development of country, but instead of development multiple kinds of problems are raised for the country. Again these sex workers face so much torture and punishment from their owners and clients, but they cannot complain or leave that place because they are not allowed do such things and if they dare to do that, then they are tortured more and sometimes these activities force the victim to commit suicides. Again the clients who go to sex workers also face so many problems, sometimes their money is snatched, sometimes they are not provided those sexual

services, sometimes they are beaten by sex workers and madams but they also can not complain or take legal actions because they themselves were doing the illegal things. Because of this business of prostitution many numbers of red light areas have been established which is very difficult to be eradicated.

12-Banning a single red light area or actions taken only in a restricted and classified field is not necessary-

For protecting the rights of vulnerable people and to provide them a respected life, it is required that the strict actions must be taken from national level all over India. Solutions of getting rid of this discriminatory business against women cannot be found by taking actions against a single or few red light areas or imposing restrictions on the rights of women to work in dance bars or other such places. Taking actions only against few red light areas may increase the problem at other places because the sex workers can be migrated, transferred and sold to other red light areas and the business may shift to other places. It is not a hypothetical suggestion but these things have really happened in past. Also the action taken only against few restricted areas may agitate the people of that area involved in this business.

13-Violation of various national and international laws-

It is also to be noted that India has been violating so many international laws, regulations and promises done in various conventions for the abolition of commercial prostitution. India has participated in many international conventions and is signatory to international conventions like, Convention on the Rights of the Child (1989), Convention on Elimination of all forms of Discrimination Against Women (1979), UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (2000), South Asian Association for Regional Cooperation (SAARC) and the Convention on Preventing and Combating Trafficking in Women and Children for Prostitution (2002). Indian government constructed the Immoral Traffic (Prevention) Act 1956, on the basis of the Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others (1949). By following the principles given in these international conventions and laws, India has adopted the principle of abolitionism and performance of prostitution at public places and organising it at a commercial level is held illegal. But in reality the situation is totally different because such activities are performed in India without any fear of laws against it by organising commercial prostitution, in red light areas spread all over India, by organising sex rackets in private residences, hotels, bars, pubs, saloons and in massage parlours. Also government has adopted the approach of tolerance by not interfering in the matters of commercial prostitution in red light areas, which leads to ignoring and violating not only national but many international laws also. So it is a big shame for Indian government to make a prohibitive law for commercial prostitution but having no guts to implement it.

14-Rights of sex workers and no protection and regulation by labour laws-

Generally in any legal employment the rights of employed person are regulated by the various labour laws but in commercial prostitution it is very difficult to narrate the rights of sex workers because this business is illegal, so no protection from labour laws are provided to the sex workers, the result is that the sex workers are forced to work more than their calibre, no proper time period is fixed for their job, they are not being provided proper salary, medical helps, other allowances and compensations. When a sex worker refuses to work according to the wishes of the owners, they are treated badly by owners, in this way the sex workers are not having the rights to oppose, quit or go for strikes. Also the sex workers are kept at unhygienic places; they are having no access to proper toilets. They have to pay rents for staying in brothels; also deductions in salary

are made for mistakes committed, also they are charged for foods, clothing and other important materials. In this way the sex workers at the end get very small amount of money in their hand. These sex workers never get rights which other normal people get. It is very disgusting for street prostitutes when people on roads pass lewd comments on them.

It is also to be noted that even after legalisation the rights of sex workers can never be protected because after providing these rights the owners profit will go down drastically. Also the sex workers may gain some freedom from the control of their owners which can never be tolerated by those owners. Also rights can be enjoyed by those sex workers only who would get herself to be registered. The chance would be very less that trafficked girls and women could get registered.

#### 15-Problems faced by clients and customers-

This business is not only dangerous for sex workers but it is also not a safe for people who perform the role of clients and customers in brothels and in other sex rackets. There are many innocent people who just for fun or on the forceful recommendation of friends or pimps go for enjoyment but later they find themselves in trouble by being nabbed by police or being tortured by criminals and sex workers. There are many brothels in red light areas where the customers are get looted by sex workers, their money and other valuables are snatched and when they protest against such acts these clients are beaten and misbehaved. These clients can not complain about such wrongful acts because they themselves were doing illegal things by visiting brothels. The same had happened with Shubham, Neeraj and Ankit, these students were enjoying their weekend party at their room in Kolkata, and suddenly they made a plan to visit Sonagachi red light area for enjoying sex. They were highly drunk when they reached there; they approached a young beautiful sex worker named Sonal(19), who was standing on a roadside. She became ready to provide sexual services for 1500 rupees, 500 for per head. But when they reached in the room which was hired by that sex worker, they got themselves to be trapped in a big trouble. Four more sex workers were brought by Sonal, who started extorting those students, sex workers snatched their purses and near about ten thousand rupees were looted from them. When they started protesting, they were thrown out of that room, and some criminals were brought by those sex workers who were accusing the students of misbehaving with sex workers. Those students were just about to be beaten but they somehow managed to leave that place and returned back after being looted and they were not even treated with sex work.

In an interview a pimp in G.B. ROAD red light area of Delhi, named Rohan(32), explained that in most of cases the clients who are brought by pimps are get looted by sex workers and fifty percent of the looted money is given to these pimps. The rates of sex are very low but profitable money is made by looting clients by sex workers. These clients cannot protest against them because it is a dangerous area filled with criminals and clients are over powered by sex workers.

#### 16-No intervention by common people-

At one side common people consider prostitution as a derogatory act but on the other side they do very less or never take any initiative for eradicating such menace. They only can criticise sex workers, pass and spread unusual rumours about them. . These people can only criticise the immoral acts but they could not take actions against traffickers. It is also to be noted that people are not aware about this menace and some of them criticize it and some support such acts. People can get united for protecting cows from being slaughtered and

eaten but they would pay very less attention toward the trafficking of innocent and vulnerable people. It can be said that these people would also keep ignoring such acts after legalisation.

#### 17-No specific data and proper research-

The activities of commercial prostitution performed in red light areas and through sex rackets have never been properly studied. There is no uniformity among various data and statistics, which are generated. It is because, the researchers have fear of criminals so they don't dare to visit red light areas; also it is very difficult to trace the proper existence of sex rackets because it is very secret and performed in a clandestine manner. Without generating a proper reliable data the step of legalisation can never become a successful move.

#### 18-A headache for government-

It is very difficult to understand the approach of government towards commercial prostitution. If it is really illegal in India hence government should promptly take strict actions and should evacuate all brothels in red light areas and finish all the sex rackets which are being run in private houses, hotels, bars, massage parlours etc. But government has no proper data about exact number of people involved and how many people are doing such act on their own will. Government would not be able to provide proper employment to people indulged in this business because they are unskilled and uneducated. If government legalises commercial prostitution then it can be criticised by recognising itself as a pimp who supports the exploitation of girls and women. On the other hand government is not hundred percent ready for abolishing all such acts. In this way government has adopted the approach of tolerance and red light areas are functioning regularly, also actions taken against various sex rackets are not quite satisfying. Government brings new laws, makes amendments in existing laws never takes actions of evacuating brothels from all over India. Recently in the 2018<sup>th</sup> monsoon session of parliament a new bill was brought for controlling the acts of trafficking.

After independence, Indian government made laws for prohibiting commercial prostitution but did not become successful in eradicating it. These kinds of activities were never appreciated by members of society but commercial prostitution got firmly established in red light areas where it was tolerated. Actions could not have been taken because these immoral activities are performed since a long time in an area separated from common people, so laws were never strictly applied against red light areas. It is assumed by government that all the sex workers are doing these immoral activities on their own will, and they have given their consent. Government has never taken the matter of commercial prostitution seriously and has always ignored to take actions against it by giving preference to other matters. This business generates a lot of money and by paying bribes to leaders and government officials it has become very easy to organise and carry on such activities. The problem of unemployment is also a noticeable reason for non action, and government is having no will to snatch their jobs. Government is not able to provide a proper employment to the sex workers after their rescue, reformation and rehabilitation processes, also very less sex workers are brought for these processes which requires a lot of patience. These areas are run by gruesome criminals who are never ready to accept any ones interference in their business, because of these reasons police officials are not having guts to visit these areas or even if they go there then such areas are visited by them just for showing their presence. Also with the growth of time and for generating more benefits the branches of commercial prostitution reached to private residences, hotels, bars, pubs, massage parlours etc. Generally the formations of sex rackets are responsible for this immoral achievement. But it is also an indication of failure of government actions. Lack

in taking of prohibitory actions, improper and unregulated vigilance system, and corrupted government officials have helped a lot of wrongful money makers to spread this business. Girls are either trafficked or brought from red light areas in these rackets; they perform illegal activities of soliciting for sex for providing sexual services. Though it is difficult to trace but still these sex rackets must have been finished because tracing of it is easier than tracing some terrorists. If government had made agencies like RAW or NIA etc for tracing the case of human trafficking then certainly there could have been found some commendable changes.

E-Effect of eradication and abolition of commercial prostitution-

For stopping the acts of trafficking of innocent and vulnerable people it is indispensable to eradicate the performance of commercial prostitution all over India. If the brothels are made dysfunctional and all the sex rackets are prohibited from being operated, then no new victim can be indulged in commercial prostitution. And the rescued sex workers must be rehabilitated and provided some employment. The effect of eradication of this illegal business will only work when there is a proper mechanism for providing employment to poor and needy girls and women. The eradication will save millions of innocent, vulnerable and marginalised girls and women from being exploited. There is no bright future provided to the sex workers in this business, they work as sex workers, madams, pimps etc during their whole life. The sex workers must be taught good skills and given basic education.

The current situation of tolerance neither is good nor is the system of legalisation perfect. The only solution is the total abolition and eradication of this illegal business. The current situation creates a dilemma which legally prohibits but practically supports commercial prostitution. Also the system of legalisation would get failed in a developing country like India where million numbers of poor and marginalised people are living who are forcefully utilised for getting recruited in this business. It is good to abolish this business which is based on the principle of gender discrimination, if there is no red light area for accommodating men prostitutes then why there should be red light areas existing for female prostitutes. The people who support the act of female commercial prostitution must change their mindset.

## Suggestions and Conclusion

The business of prostitution has to be abolished and eradicated from India for providing a better and dignified future to the marginalised people and victims of sex trade. Many intellectual people have suggested various kinds of measures for bringing deficits in profits and thereby abolishing this business. But better results can only be found by evacuating brothels from major red light areas and busting all the secret sex rackets. After taking this strong step the evacuated and rescued people should be provided all the necessary helps, so they can get other employments. There are near about 40 million sex workers worldwide. It is estimated that near about 76% of them are raped while working. The business is so dangerous and chances are 60 to 120 times more likely to be murdered than any other profession.

The Global slavery index 2018 estimates that on any given day in 2016, there were nearly 8 million people living in modern slavery in India. In terms of prevalence, there were 6.1 victims for every thousand people. Among 167 countries, India ranked 53<sup>rd</sup> in terms of prevalence with North Korea at the top of the list with 104.6 per 1000 and Japan registering the lowest prevalence of 0.3 per 1000. However, as far as absolute numbers go, India topped the list on prevalence. China found itself at 111<sup>th</sup> place with a prevalence rate of 2.8 per 1000. Defining modern slavery, the Walk Free Foundation, which brought out the report, said:” In the context of this report, modern slavery covers a set of specific legal concepts including forced marriage, slavery and slavery-like practices, and human trafficking”. Reacting to the very high numbers cited for India in the index, officials in the government, which tabled the anti- trafficking bill in Lok Sabha on Wednesday(18<sup>th</sup> July 2018), questioned the definition adopted for the research and also the sample size for interviews and the question posed to those surveyed. The view that emerged from the ministry of women and child development was that the index was “flawed” in its interpretations as the terminology used was very broad-based and works like “forced labour” needed a more detailed elaboration in the Indian context, where socio economic parameters were diverse and very nuanced. Ministry officials were of the view that the index did not reflect the “true picture”. The foundation in its report pointed out that although modern slavery was not defined in law, it was used as an umbrella term that referred to situations of exploitation that a person could not refuse or leave due to threats, violence, coercion, deception and abuse of power. The estimation data was drawn from 54 surveys conducted in 48 countries and included a module on modern slavery, with a total sample of 71.158 individual interviews. The national estimates presented were calculated using individual and country-level risk factors of modern slavery. The top brass at the WCD ministry have also questioned the sample size of those interviewed. “is that not too small a number across such diverse and wide spectrum of countries? Also questions like were you ever forced to work by an employer or a recruiter or ever been forced to marry cannot be answered in simple yes and no in the Indian scenario. The social context of a community or area have to be taken into account,” a senior official said. In the Indian chapter, the study further states “while modern slavery clearly occurs within India, the realities of global trade and business make it inevitable that India, like many other countries globally, will also be exposed to the risk of modern slavery through the products it imports”. Laptops, computers and mobile phones are India’s highest value category of imports at risk of modern slavery(US\$8.3 BILLION). It is poised that India lacks a central legislative framework to regulate the

public procurement process. In the context of this report, modern slavery covers a set of specific legal concepts including forced labour, debt bondage, forced marriage, slavery and slavery-like practices, and human trafficking.<sup>180</sup>

Recent study of Free a Girl, an international organisation and the Tata Institute of Social Sciences (TISS)<sup>181</sup>- Underage survivors of commercial sexual exploitation in India have to walk a long-winded, tough road to justice, facing, callousness, deceit and numerous hurdles along the way, says recent study brought by Free a Girl, an international organisation dedicated to rescuing young girls from forced prostitution, and the Tata Institute of Social Sciences (TISS). The report identifies top procedural recommendations for positive outcomes in Commercial Sexual Exploitation of Children (CSEC) in India. These include establishments of special courts to hear cases of sexual exploitation of children in line with the POCSO (Prevention of Children from Sexual Offences) Act-2012, and having facilities like video conferencing in the courtroom to protect the underage survivors. The study lays special emphasis on ensuring survivors' privacy in the courtroom, so that they are made as comfortable as possible before their testimony. It also talks about speeding up justice delivery. Shikha Phillips, India director for Free a Girl, said, "This comprehensive focused study discusses the new strategies to ensure speedy and timely justice, and systematically combat CSEC in India. We hope the recommendations will help establish a robust, responsive and accountable Institutional framework for preventing crime and protecting and rehabilitating survivors." The study also highlights the alarmingly disproportionate and low rate of conviction in India. "There were only 55 convictions that took place in 2015," it mentions. Phillips said the report was also an attempt to share recommendations from important stakeholders within the justice delivery system for holding perpetrators criminally accountable for their actions. "It's a first-of-its-kind study based on in-depth discussion with several stakeholders, including survivors," she said. Other suggestions include ensuring medical examination of minor survivors of sexual exploitation on priority basis along with mandatory counselling. "Psycho-socio support from the state will ease the burden on NGOs in helping counsel these victims," said Phillips. The research also identifies gaps in the justice delivery system that lead to low conviction rate. It begins with the survivors and covers all others involved in the process of delivering justice- lawyer, NGOs, social activist and social workers. The report reveals that the main target of this organised crime are minors- young girls in particular. "Traffickers are motivated by high profits and low risks, considering the abysmally low conviction rates. Additionally, NGOs involved in the rescue and rehabilitation process face challenges finding committed lawyers at affordable costs. As many as 82% of brothel owners admitted selling girls younger than 16 years of age," said Phillips. The report suggests a multidisciplinary approach for improving coordination among different stakeholders, developing partnerships and mutual understanding, and ensuring better and quicker outcomes. "The study was conducted with respondents who have considerable experience in CSEC cases. The team organised interviews with survivors and those who play an important role in the process of delivering justice, from November 2017 to January 2018," said Phillips.<sup>182</sup>

There is only one solution that is abolition and eradication-

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<sup>180</sup> THE TIMES OF India, 20<sup>th</sup> July 2018, page no.- 1 and 11

<sup>181</sup> Hindustan times, 17<sup>th</sup> September 2018, page no. 04

<sup>182</sup> Recent study of Free a Girl, an international organisation and the Tata Institute of Social Sciences (TISS)-

There is no uniformity among people about the perception related to the status of prostitution, some say that commercial prostitution must be legalised while according to some others, it has to be eradicated. Following points were raised, when I discussed about the legal status of prostitution with my friends and classmates, It was a panel of fifteen people who elaborately discussed about this topic, some people were speaking in favour of commercial prostitution while most of them were speaking for total eradication of this illegal business from India at all levels<sup>183</sup> -

- 1- Why should government work on the abolition of commercial prostitution?
- 2- What is the reason that government became unsuccessful in implementing laws against it?
- 3- There are many other important matters to deal with apart from sex trade, commercial prostitution, and business of prostitution, so government should primarily pay attention on those important matters.
- 4- Poor people are getting employments through prostitution, hence commercial prostitution can be utilised for eradicating poverty.
- 5- Uneducated and unskilled people are somehow earning their livelihood through prostitution, while many educated and skilled people are unemployed or not able to get jobs according to their qualifications.
- 6- People are getting their sexual desires to be diminished and physical needs of people should be respected.
- 7- Many sex workers have professed the act of prostitution as their source of livelihood, and they may become unemployed if they are brought out of this trade.
- 8- Society is also somehow become neutral toward this issue they do not protest against it and tolerate such activities; also most of the people are not aware about the problems related to this profession.
- 9- It is very difficult to eradicate because this is an established business whereas law and order is so weak in India, which is constantly broken.
- 10- It is legal to do it at private places but illegal to do it at commercial level, but still it is happening at commercial levels.
- 11- Government is having no problems when it is performed at private places, which is performed as sex in exchange of money.
- 12- As there must be no violation of human rights and Fundamental rights given by constitution must be protected.
- 13- If all people are made educated and thereby provided some employment, then nobody would try to get indulge him or herself in illegal activities because everyone wants to live a peaceful life.
- 14- Performance of commercial prostitution involves so many violation of laws, illegal acts like kidnapping, abduction of victims are done,
- 15- The victims are sold to brothel owners and pimps, also the victims are tortured for recruitments.
- 16- The government should provide some respected jobs to the sex workers by rescuing them from brothels because there is no scope of a bright future for them and their family in brothels.

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<sup>183</sup> Members of the panel-ANKIT, SWETA, KARUN, AZAM, HAFIZ, GAUTAM, SUBHASH, ARUN, TANMAYA, SANDEEP, FAIZ, SAURABH, SHIVAM, RAJU,VIKAS(ALL OF THEM ARE LAW STUDENTS)

17- All the Brothels in red light areas must be evacuated, all the sex rackets must be traced and demolished, this must be the very first step in fighting with this menace.

18- Preventive actions are required rather than punitive. Support of public at large is needed; stern actions are required to be taken. Victims need help not punishment but the exploiters, pimps, brokers, brothel owners, madams and keepers must be severely punished.

Final decision of the panel- finally the panel reached at the conclusion that the performance of commercial prostitution is totally against the human rights, there is no necessity of such performances in society which is totally based on gender discrimination and exploitation of girl children and women. There is only one solution that is, the abolition and eradication of this illegal business from India.

The model of prosecution, prevention, protection

Supreme Court has also taken this matter seriously by giving so many guidelines for abolition and eradication for prostitution and has suggested measures for rehabilitating the victims. The important case law in this regard is, Vishal Jeet v. Union of India (1990). In this case the Supreme Court directed all the state governments and government of union territories to take this matter seriously. For the prevention of child trafficking all the law enforcing authorities should be directed by these governments for taking appropriate and speedy action under relevant laws. Steps should be taken by these states in providing adequate and rehabilitative homes which should be controlled by trained social workers, psychiatrists and doctors. These governments were advised for setting up a separate Advisory Committee within their respective zones which will consist of the secretary of social welfare Department or Board, the Secretary of the law department, sociologists, criminologists members of the women's organisations, members of Indian council of child welfare and Indian council of social welfare as well as the members of various voluntary social organisation and association etc. these advisory committees are made for suggesting the measures which should be taken for abolition of child prostitution, the social welfare programmes to be implemented for the care, protection, treatment, development and rehabilitation of the young fallen victims namely the children and girls rescued either from the brothel houses or from the vices of prostitution. Supreme Court directed that Union government should also set up a committee to make welfare programmes to be implemented on the national level for the care, protection, and rehabilitation etc, of victims and to make suggestions for improving the existing laws or make new laws for the stopping sexual exploitation of children. The advisory committee can also give suggestions for devadasi system and jogan system. Machinery should be made for implementing the suggestions of the respective committees.<sup>184</sup> (saeed, 2010)

In the case of Gaurav Jain v. Union of India(1997)<sup>185</sup>, the Supreme court had observed the performance of prostitution, mainly child prostitution, in India on the reports of V.C. Mahajan. It was explained that three Cs viz, counselling, cajoling and coercion are necessary to enforce the provisions of ITP act and JJ act. Minor sex workers either by persuading them or by forceful manner, must be brought out of this sex industry, they should be provided proper counselling and rehabilitation. It was said that the victims must not be considered as criminals, they must be considered as victims of their economic conditions, the society must show positive

<sup>184</sup> VISHAL JEET V. UNION OF INDIA, (1990) 3 SCC 318 at 323-24: AIR 1990 SC 1412

<sup>185</sup> GAURAV JAIN V. UNION OF INDIA AIR 1997 SC 3021 at 3033-37. (1997) 8 SCC 114,

GAURAV JAIN V. UNION OF INDIA, (1997) 8 SCC 114 at 137 -139 : AIR 1997 SC 3021 at 3039-41

attitude towards them in accepting them back in society. The minor sex workers must be provided help through juvenile justice act. They must be sent for the rehabilitation process. Also the help of several independent organisations and social activists are required in dealing with such issues and thereby abolishing it.

In the case of *Budhadev Karmaskar v State of West.Bengal*(2011), this case was related with the brutal murder of a sex worker. It was said that sex workers, under article 21 of constitution are having life of dignity. They are also human beings and they must not be assaulted or murdered. It was observed by the court that sex work is done by women because of poverty and if they are made self dependent so that they can do some other jobs for earning money. Because of this reason central and state governments should provide some technical and vocational training to these sex workers and some plans must be made for rehabilitation of sex workers. Plans must be made for offering the employments to these sex workers.<sup>186</sup> (Pandey, 2012) It was also said that these providing some technical trainings is not enough but it is also necessary that some markets must also be provided where the skills learned by sex workers can be used in a proper manner. For example, if the skills taught are related with sewing garments then a market for selling these garments must also be provided.<sup>187</sup>

Measures for abolition and eradication of this illegal business- Several strict measures are required to be taken which has indirect and direct effect on this business. Those measures are described as follows-

a- Indirect measures- these are the measures which indirectly attack on this illegal business and very important for eradication of many illegal activities which support the criminalisation of victims.

1- Proper study and research about commercial prostitution-

The research work done in this field is also not satisfying. There is no clear data which can exactly tell the real story behind this business. According to the National Crime Records Bureau Report (NCRB, 2015)<sup>3</sup> – the only credible government data source on trafficking - a total of 6877 cases were recorded in that year, up from 5466 in 2014. Of these, the cases pertaining to child trafficking were 3490 in 2015, which is about 50% of all trafficking cases. Unfortunately, similar data is not available for previous years to enable comparisons, but we do know from the same report that the conviction rates for child trafficking in 2015 were an abysmal 14.3%.<sup>188</sup> It is required to conduct a proper research on this subject, and it has become very necessary that more researchers should take initiatives for doing their research on this topic, also it is the duty of government agencies to conduct a proper research on this subject.

2- Awareness among people-

Movies like *Love Sonia*, *Laxmi*, *Slumdog Millionaire*, *Chameli*, *Chandni Bar*, documentaries like, '*Born into Brothels: Calcutta's Red Light Kids*' which won the Academy Award for Documentary Feature in 2004, *Caged Until Broken-Life For Mumbai Prostitutes*, *Prostitutes of Gods*, *Born in Brothels*, *The Cage Bird*, the famous book - *SEX TRAFFICKING INSIDE THE BUSINEES OF MODERN SLAVERY BY SIDDAHRTA KARA*, and several media reports, newspaper articles and coverage have contributed a lot in telling people about the realities behind this illegal business.

<sup>186</sup> BUDHADEV KARMASKER V. STATE OF W.B., AIR 2011 SC 2636

<sup>187</sup> <https://indiankanoon.org/doc/1302025/>

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file:///C:/Users/iBall/Downloads/A%20Review%20of%20the%20Immoral%20Traffic%20Prevention%20Act,%201986\_Final%20E dit%20(1).pdf

But most of the People are still not aware with the problems related to sex trafficking and commercial prostitution. Very less interest has been shown by majority of members of society to stop such kind of activities. Some social activist and non government organisations have taken initiatives to eradicate all these illegal acts, and forced the government authorities to take actions for preventions. These social activists and non government organisation have made a big contribution in tracing and exposing the cases of sex trafficking, running of brothels and sex rackets. It has now become very important that, in telling the truth about all these gruesome acts, more and more actions of such type are required to be taken. These social activists and non government organisations are required to be strengthened and funded because usually they work independently by getting very less or no support from other sectors of society as well they face threats and fear from so many criminals. If these people and organisations who really understand the rights of people will work together, then a tremendous positive impact of their action can be seen. Telling the truth about the dark side of this business would help a lot I spreading awareness about this illegal business. Awareness is required to be spread among people about the problems related to the business of prostitution. Many people are not aware about the apathies through which a victim of sex trafficking and prostitution goes through. People must be told that how are they kidnapped, deceived, lured on the name of jobs, sold to brothels and then trafficked in this industry. Many people even do not know the legal status of the prostitution in India. Many people even without knowing the exact facts support for the legalisation of the business of prostitution. They say that if a poor woman is getting some money just by renting her body then nobody should be having any problem with this and the hence business of prostitution should be made legal in India. They say that women should be having the rights to choose their profession. But they do not know that women are having right to choose their profession in India, and doing sex in exchange of money at private places is allowed. Actually law does not permit the happening of such activities at public places, and opening brothels and carrying this sex work in the form of an organised activity. The reasons of this must also be told to people from whom very less people are aware, they should be told about the tortures and punishments which are faced by the victims of this industry, many young girls are snatched away from their family and they never meet them again. Many young girls who are forced to work in this industry never get proper education nor they are taught any other skills but they are asked to do sex work fir surviving. It should be told to every people, mainly men because they demand the services of sex workers without knowing all these things. If they are being made aware of all these things and told not to use the services of sex workers then certainly demand for sex can be decreased little bit. This awareness is required to be generated by government, social activists, non government organisations as well as support of common people is also required. But the problem is that people do not take this matter seriously and it may be a time taking process. But it will be very effective if stern actions are taken by the government against all the red light areas by the process of evacuation and eradication. And by criminalising and punishing all the exploiters, traffickers, as well as clients. This procedure will certainly impose threat in the mind of the people, and clients will think twice before using the services of sex workers, traffickers and exploiters will feel the fear of law before trafficking girls and running brothels. Non government organisations play a big role in dealing with issues like that but these organisations are not funded properly, and for the most effective working of these organisations the linking of all the non government organisations is required. These organisations and social activists are very helpful in exposing the cases of

trafficking and rescuing girls and women. More and more people should come for supporting these organisations and activists. If the problems related to prostitutions are required to be abolished then it is quite necessary that all the members of society must know the problems related to this issue in which collectively involvement of government, media, NGO's, social activists and society at large is required.

Media has given very less footage in showing and highlighting the problems related to the business of prostitution. All the news channels are only concerned about political matters, trending news, gossips and increasing their TRP's. Many reporters are not having courage to go to these red light areas and show the world, the reality of sex trade. There are many incidences which have happened in past in which reporters were not treated well by brothel owners, they were beaten and were forced to leave that place. Having knowing all these things reporters and researchers show very less interest in visiting these places and even when they visit they cover stories in a clandestine manner by hiding their identity. So it is very difficult to show the world what actually the situation is in those places. But media has to play a vital role in exposing the scenes behind these curtains. It is true fact that going there and conducting interviews are a dangerous task, but it is the duty of media to bring the truth in front of society. Help of police can be taken by media for exposing this illegal trade. Today social media is also playing a significant role in enlightening people, so the help of this medium is also required in spreading awareness about this illegal business. By using this social media the victims can themselves show the world the problems which they are facing but it is also very dangerous task for them, because it is not allowed to do in those brothels and they will be punished very badly if owners or madams come to know about all these.

### 3- Poverty elevation and proper implementation of government schemes-

Poverty elevation is the most important step which can protect millions of people from getting deprived, becoming marginalised, prone and vulnerable to many criminal activities. Proper implementation of Government schemes and support of people at large is very much necessary for this step. Many people indulge themselves in illegal activities or start doing unauthorised acts because of need of money. Rich people should come forward for helping these marginalised people by providing them financial helps and employments. Government has brought many schemes for poverty elevation but these are not implemented properly, many middlemen and corrupted officials are responsible for such misdeed, because they use all such schemes for their own benefit.

### 4- Education, teaching of vocational skills and employment-

The problem of illiteracy and unemployment makes many people vulnerable for becoming victims of many criminal activities. If marginalised people are provided some basic education and then they are given some respectable jobs to do then these people would never think about taking unusual and unauthorised ways for earning money. Most of the sex workers are not educated; they are never provided any kind of skills through which they can get a respectful employment. These sex workers daily perform in brothels for fifteen to twenty hours. They never get any spare time for learning other skills; also they are not given any kind of freedom to indulge themselves in other employments or to go out of brothels.

### 5- No corruption in governance and advanced policing system-

It is found there are some defects in our police system. They are having so much works to do. They have to handle many forms of cases. They are not able to regulate and apply laws properly. It is also a correct fact

that many police officials are corrupted and they take bribes from the owners of brothels for providing them protections from laws. So it has become necessary to form a task force which should be working for the eradication and abolition of this business of prostitution and which should be working for the rescue and rehabilitation of sex workers also it should be working for stopping the cases of sex trafficking and evacuating the brothels from all red light areas and other places.

#### 6- Control on negative impacts of globalisation-

Through globalisation, rich people have suppressed so many rights of poor people. They have utilised their resources for enriching them. The rich became richer while poor ones remained poor. A lot of steps are required to be taken for handling the problems related to the globalisation. First major solution is to bring strict laws which can regulate the relations between the states properly, the law which can prohibit the supersession of poor and marginalized people. Education system is required to be improved and poverty of people is also required to be reduced, human trafficking, sexual trafficking is required to be reduced, sexual tourism is required to be controlled, all the illegal brothels are required to be shut down, and marginalized people must be helped by proper welfare schemes and finally the international law has to create a big role in this regard and it should guide the states to stop such activities which are violating the rights of people.

#### 7- Role of Judiciary and PIL(Public Interest Litigations)-

The role of judiciary must also be very important, apart from administrative executive and legislative bodies. It should force the other bodies to take appropriate actions; it should give its kind suggestions to stop the business of prostitution. As well the guidelines given by judiciary must not be ignored and other bodies should implement those guidelines. But there is also so many problems found in the judiciary and judicial system. Courts are having so many pending cases. It takes so much time in solving cases in court, so there is very less time for considering other matters.

Public Interest Litigations can also be utilised for tackling with this issue by bringing the attention of judiciary towards this unlawful activity. Arguments should be raised for total abolition and eradication of this illegal business. If government has banned commercial prostitution then it should be compulsorily made extinct, red light areas are tolerated but these areas are the most important place for recruiting trafficked victims and thereby exploiting them.

b- Direct measures- These are the measures which directly attack on this illegal business. These measures must be applied by the government for breaking the bones of this business and activities which are related to this.

#### 1- Seizure of the places of exploitation-

First measure which is required to be taken is the eradication of all the red light areas from India and for that purpose the evacuation of all the brothels are required to be done. This step will be very crucial in controlling the process of sex trafficking and business of prostitution. If all the red light areas are abolished and brothels are made dysfunctional then it will become very difficult to recruit girls and women for sexual services. Also clients who come to these red light areas will find no sex workers in these red light areas, so the cases of exploitation of sex workers will decrease. But there are so many sex workers in these red light areas so they would all become unemployed, so it is the role of the government to provide them some technical and

vocational skills and thereby providing them some employment. But this move may give access to the formation of new routes for performing the business of prostitution. Many secret sex rackets might be formed, new red light areas may be opened, and the less popular areas for sex may get nourishment by getting increase in clients, in this way the business can be shifted to these new areas. But it can be stopped when there will be a proper vigilance system, and proper regulation of laws are done. It will be very easy to stop such acts at the early stages steps of seizure are taken.

### 2- Intelligence Agency and Anti Trafficking Units and interstate cooperation-

For dealing with the issues of human trafficking and commercial prostitution, there must be established a reliable co-operation between government agencies and investigating departments. There should be formed anti trafficking units at the national, state and district levels. These all should be working to trace the incidents of human traffickers and stop the performance of the exploitation of victims. Mr. Siddharth Kara, has suggested for the creation of an international slavery and trafficking inspection force, operationally similar to the weapons inspectors utilized by the United Nations, charged with searching for establishments in which slaves are being exploited, freeing the victims, and detaining the criminals.<sup>189</sup>

Smuggling of sex workers from other countries mainly Bangladesh and Nepal is required to be finished. All such illegal activities are done against the will of most of the smuggled girls and women. No such activities should be appreciated. There must be tight security on borders. The traffickers are helped by so many people in the process of smuggling, and the vigilance system is so weak near many border areas, which also makes the job of traffickers so easy. It has become so much necessary to cover all the border areas, by fencing and tight security.

### 3- Enactment, enforcement and strong political will-

If a law is enacted then it must be enforced. But there are many laws which have been enacted but on the name of enforcement nothing has been done or by the process of enforcement no positive results are found. There are many issues for which laws have been made but those laws are not enforced properly or never used. In this way government adopts the approach of tolerating such activities by ignoring to take actions against it. Examples of such activities are dowry system, breaking of traffic rules, performance of commercial prostitution etc. This is not a commendable approach. If India needs to get developed then enacted laws must be enforced and punishment must be imposed on wrongdoers only then law abiding citizens can be generated. The same applies to the laws made for prohibiting commercial prostitution because government by taking no strict actions has totally adopted the approach of tolerating it which is openly performed in red light areas, where millions of trafficked victims are exploited daily.

The Indian laws against prostitution have just become a showpiece which shows that India prohibits such kinds of acts at commercial level and other activities related to this are declared illegal. The stand of India against prostitution is so much criticised because at one side it prohibits sex trade but on the other side it tolerates the happening of such acts by ignoring to take actions against violation of rights of girls and women.

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<sup>189</sup> Siddhartha kara, sex trafficking inside the business of modern slavery, page 41

These laws are never applied properly as well as these laws are so weak in giving threats to exploiters because the quantum of punishment is very less.

Lack of taking stern actions and by not applying relevant laws properly the government authorities itself permitting the exploiters and wrongful money makers, to keep doing their activities. It also reduces the fear of law, in the mind of the exploiters. As well as corruption is the most important thing in giving protection to all the culprits. Many government authorities, police officials, and politicians are given huge amount of bribes. In this way it has become very important to get a non corrupted system, which can enforce all those preventive laws and thereby provide punishments to all the people working against law.

A positive political will, is also lacking for abolition and eradication of this illegal business. This will is very necessary for closing down all the brothels, punishing the exploiters, illegal money makers, and giving some other employments to all the sex workers so they can live a dignified life. But yet such actions have not been taken properly. There may be many reasons for the lack of political will in taking such actions. First of all there are many numbers of sex workers involved in this business who may become unemployed if all the brothels are finished, so it can put a burden on the government to get them employed. These brothels are illegal in which sex workers are living so when these brothels are closed then the problem of inhabitation of them may arise. Even it is very difficult for the sex workers to return back to their society because chances of their acceptance are very less. The society which considers prostitution as taboo shows very less interest in accepting them. Also it is found that some politicians are having links with brothel owners and exploiters and these wrongdoers give huge amounts of bribes to these politicians for letting them do their act and to get protections from legal actions. Sometimes many politicians are found to be involved in operating all those things.

Again there is a huge confusion regarding the involvement of people and money generated through this industry. It is also not certain how many kinds of illegal acts are performed in this industry because it is a properly organised industry in which there is involvement of so many members who are belonging to government authorities as well as many numbers of gruesome criminals are involved. Many numbers of studies have been conducted but all the data shown varies so much because there is no uniformity.

#### 4- Attack on the Demand and supply factor-

The best action to derail this business of prostitution is to break the chain of demand and supply. Every business is supported by a chain of demand and supply. The goods are produced only because there is a demand for those goods in the market. And services are also provided because people need those services. If there is no demand for a good or a service in the market then no producer would venture to supply such goods or services and always hesitate to invest in that field.

For tackling with this business of prostitution, the most effective remedy is to, demoralise the factor of demand and supply. A business will certainly get failed if there is no demand for the products or services which are provided by the producers. As the demand decrease the supply will also get reduced. There are many steps which can be taken for reducing the demand of the sex workers, and thereby decreasing supply of sex workers-

- 1- First of all a market is required for any business to sell its products and provide its services. So the government has to take such initiatives because of which wrongful money makers do not get any market for sex trade. The first step should be the evacuation of all brothels in red light areas, tracing

and making dysfunctional all the sex rackets and abolishing all the unusual traditions and religious practices. These red light areas provide a proper market for this business where many minor girls and women are brought and trafficked in brothels. These brothels in red light areas are daily visited by thousand numbers of clients and customers. For reducing the visits of customers in these areas a proper policing should be done. In this way customers will very hardly find any sex worker because there would be no brothels, also because of strict policing they will have a fear of being caught. But government should take the initiative for providing some other employments for the sex workers rescued and evacuated from brothels.

- 2- It is also to be noted that red light areas are the perfect markets for this sex industry but there are some other markets also exist which are not found in these red light areas. These markets are run in a secret manner and it is not as open as red light areas. There are many secret sex rackets which are run for providing sexual services. Here also many girls are not found to be doing sex work on their own will. Some of them are call girls. Some of them are brought from brothels. Mainly private places are chosen for running these sex rackets for reducing any suspicion. Here also sex workers and pimps solicit people for sex. It is very difficult to bust these rackets, for which a proper planning and information is required. The markets for sex work are also prevalent in many bars, pubs, hotels, parlours, salons, and especially in massage parlours. These all are illegal things which should be stopped. But unlike evacuating brothels in red light areas, banning such activities in these places are not an easy task for which a proper information and tip off to police is required. Such markets are required to be finished.
- 3- The role of secret agents of police, common people, social activist, and NGO's are very crucial in giving information and tip offs to authorities. These people should not remain silent and they should quickly inform to the police if any wrongful act of trafficking or forced sex is noticed by them. The wrongful money makers get so much confidence when general people remain silent and never oppose against such activities. But there should not be any moral policing. These people should take the help of police and never do searching or disturbing anybody on the name of moral policing. The contribution of these people is immensely required in tackling with this problem, they should be brave, they should take legal actions against every wrongful act, they should not tolerate any kind of illegal acts whether done against them or anybody else but there should not disturb anybody on the name of moral policing.
- 4- But for all this stern actions and for closing down sex markets, a strong political will and an uncorrupted system is required. It is said because huge amount of bribes are given to authorities for non interruption in the businesses of wrongful money makers. As well as policing and vigilance system must be very strong. The red light areas must be continuously visited and checked by police, because the brothels may be started again after evacuation. Such measures should be taken because of which operating of sex rackets and working of sex workers in bars, pubs, hotels, parlours, salons, and in massage parlours become an impossible task for wrongful money makers, after the abolition of red light areas the above mentioned markets can be chosen by exploiters to flourish their business which should never be allowed.

- 5- Without removing the factor of vulnerability and marginalisation of victims, no changes can be brought. This factor can be tackled by government initiatives, welfare schemes, modernisation, employment and education. There is so much corruption in providing welfare schemes to needy people and very limited people are able to access to these schemes. Corrupted officials do not deserve to work for poor people and they should be punished rigorously. Education system is getting improved and literacy rate is also increasing in India but still more and more people are required to be made literate. Education and knowledge are some of the powerful tools for getting rid of helplessness and thereby helps in generating awareness. Unemployment is a big issue and it is the need of today that man and woman both should be employed. People living in poor and rural areas should be given some vocational and technical skills and a market should be provided to them so they can use those skills. Rich people should help jobless people in getting some work. Self employed persons can be encouraged. Easy loans should be provided to needy people. Farmers should be helped and they deserve a good price for their products. Foul rituals and unusual customs are required to be abolished. Boys and girls should be treated equally. Women empowerment should be the main focus. Customs like child marriage, devadasi system, jogin system and selling of child by parents, all should be stopped from being followed. The situation should be converted in such a way that people should get jobs easily, they should not take the steps of moving to other places in search of jobs, poor people should get benefits of all the welfare schemes, they should be this much empowered to get every day meals and other necessary goods, and poor girl Children should be provided various scholarships for getting educated so that they can get jobs. This change will discourage people from going to big cities in search jobs, selling Children to traffickers and indulging of people in slavery.
- 6- There should be a proper system of vigilance. The modus-operandi used by traffickers must be traced. Anti human trafficking units in poor and remote areas must be made active. The success of vigilance system can only be achieved by following some very important steps like, making people (mainly vulnerable and marginalised people) aware of the methods used by traffickers for luring, kidnapping and abducting victims, these people should be encouraged for taking help of police and other authorities also these people should be asked to inform police before sending their child and relatives to some other places, so that proper authentication can be done. Secret informers must be used for extracting information about trafficking. The situations should be converted in such a way that transportation of victims becomes impossible. Suspected vehicles passing from one state to another state must be checked. In most cases traffickers transport victims by trains, buses by disguising themselves as the relatives of victims but the truth can only be unearthed by proper checking and interrogations, so proper checking and interrogation is very necessary which should be done by vigilant team. Police system must be made corruption free, and all the complaint of aggrieved people must be heard. The reports of every case of trafficking and missing people must be taken seriously with quick and stern actions. Every culprit must be given harsh punishment so that a fear of law can be made. The traffickers can be reduced if they quit this illegal work by having fear of law or if they sent to jails for years. For proper working of this plan a well coordination among the police authorities and several government agencies of different states should be maintained.

- 7- There must be made an intelligence agency like RAW and NIA, for tracing the case of human trafficking and commercial prostitution. The intelligence agencies are found to be very crucial in detecting various illegal and unauthorised acts. Hence an agency at all India level equipped with honest and experienced officers is required. This agency after gathering several information and by collaborating with local police and Special Forces may help in bringing down the happening of various illegal activities.
- 8- Smuggling of girls from other countries should be stopped. There are many girls who are trafficked in this industry from foreign countries. There are many illegal agencies which work for making illegal passports and forged documents which should be traced and the entire wrongful person must be sentenced. There are many places near border areas from where the illegal infiltration is being performed, which can be stopped by fencing that border line and by proper patrolling.
- 9- Laws must be providing hard and tough punishment. If the punishments are tough then only fear of law can be created in the minds of people. As well as proper implementation of these laws are also required. This approach will certainly make the jobs of traffickers very difficult. Also clients and customers must be discouraged for visiting these places by sending them in jails on being caught.
- 10- The application of these measures will reflect a lot of changes. First of all, evacuation of brothels will bring a huge loss for the exploiters. Also because of strict vigilance system it will be very difficult for them to get new sex workers and new markets. Also because of fear of law clients and customers would be unwilling to enjoy sex workers.

#### 11- IMPACT ON SUPPLY FACTOR-

It

is very difficult to trace all the brothels and getting them evacuated. So it can be assumed that even after applying these measures some brothels would be operated secretly. But because of strict vigilance system and huge risk it would become difficult to recruit new sex workers by the way of trafficking. So the profits of exploiters will get reduced for which they would increase the prices for enjoying sex workers in that way clients and customers would have to pay more for enjoying sex works.

#### IMPACT ON DEMAND FACTOR-

The evacuation of brothels, increased price of sex, fear of law and police will certainly discourage a client from visiting brothels, hence there will be seen a reduction in demand for sex. But still some people would visit such places where they can find sex but they have to pay more and more money than expected. Because of these reasons even those people would stop visiting those places. In this way the number of client would keep on decreasing but still prices for sex would increase because there will be very limited clients and for running that business exploiters would try to extract all the profits from the pockets of those clients only.

- 12- Several organisations should be formed which can trace new cases of trafficking and exploitation of sex workers. The members of this organisation should be interested in protecting the rights of helpless and trafficked people.
- 13- Hence it is found that, for tackling with the problems involved in the sex industry, first step which should be taken is the closing of all the brothels, and then applying other measures which can stop this

business to flourish. This measure is having the impact of decreasing the problems involved in this trade.

#### 5- Proper utilization of Non government organisation and social activists-

The help of nongovernmental organisations and social activists are very crucial in disclosing the cases of trafficking and exploitation. They conduct many researches and studies which are also found to be very much helpful in dealing with such issues. These organisations must be funded properly and it is also suggested that they must be united together so that they all get connected to each other which may provide various positive results.

We review an alternative response to combating human trafficking and child prostitution in the sex trade, the self-regulatory board (SRB) developed by Durbar Mahila Samanwaya Committee (DMSC, Sonagachi).

#### RESULTS:

DMSC-led interventions to remove minors and unwilling women from sex work account for over 80% of successful 'rescues' reported in West Bengal. From 2009 through 2011, 2195 women and girls were screened by SRBs: 170 (7.7%) minors and 45 (2.1%) unwilling adult women were assisted and followed up. The remaining 90.2% received counselling, health care and the option to join savings schemes and other community programmes designed to reduce sex worker vulnerability. Between 1992 and 2011 the proportion of minors in sex work in Sonagachi declined from 25 to 2%.<sup>190</sup>

With its universal surveillance of sex workers entering the profession, attention to rapid and confidential intervention and case management, and primary prevention of trafficking-including microcredit and educational programmes for children of sex workers-the SRB approach stands as a new model of success in anti-trafficking work.<sup>191</sup>

#### 6- Compulsory Rescue and viable rehabilitation process-

It is found that the sex workers are not confident about the rescue and rehabilitation process. There are many rehabilitation homes run by government and private organisations which are not suitable to accommodate people, most of them are broken and unhygienic. The success of rehabilitation process is quite doubtful; this may be a time taking process. They face various problems in learning skills and getting basic educations. Sex workers may not get jobs as it was expected by them. According to Indian laws all the girls and women forcefully recruited in the sex work must be rescued. All the sex workers and victims of sex trafficking must be taken to the rehabilitation process so they can quit this illegal and immoral employment. These rescued girls and women must be taken for a rehabilitation process. During this process these girls and women must be taught various etiquettes. They must be provided basic educations and they must be learnt some vocational skills so that they can get a dignified employment.

Victims must not be criminalised, many times they are caught because they were involved in those illegal activities and then many charges are imposed on them. Even though they were brought illegally and they were

<sup>190</sup> <https://www.ncbi.nlm.nih.gov/pubmed/24179187>

<sup>191</sup> <https://www.ncbi.nlm.nih.gov/pubmed/24179187>

never willing to indulge themselves in the business of prostitution but still, they are treated like criminals.

Victims are criminalised in many ways, in the process of cross border trafficking, foreigners act is applied in which victim is also made the accused because they entered illegally without any legal document. So this must not be happening because it is not the solution of prostitution to punish the victim but to help the victim and to provide some reformative and rehabilitative measures to them.

Re-trafficking of victims must be stopped. Re-trafficking happens when once victims are rescued they are again trapped in this trade. It is caused because of many reasons, like the victim was not provided adequate help; she remained helpless after coming out from that hell. The best way to protect girl child and women from being infected by HIV virus is prevention at early stages. It means that the chances for suffering from AIDS will be very less if they are rescued or provided protective measures at early stages.

Once all the victims are rescued then next step should taken to recognize girls from foreign countries, who must be separated from Indian girls. Most of these foreign girls are not having proper and authentic passports and identity cards, hence with the help government agencies and by cooperating with the government of foreign countries from where these girls are brought, measures should be taken to return them back to their respective countries. While the remaining Indian should be sent for rehabilitation process and steps should be taken to provide them some other alternative employment, steps should be taken to provide them at least elementary basic education especially to minors. But steps should also be taken for making contacts with their respective families.

#### 7- Employment opportunities for prostituted women-

Commercial prostitution in any form must not be tolerated. According to section 370<sup>192</sup> of Indian Penal Code 1860, it is human trafficking if victim is employed in prostitution by a person even if the woman had given the consent for such recruitment. Hence prostituted women are victims of human trafficking whether they have given her consent for commercial prostitution or they were forcefully recruited. The only solution is to rescue these entire victims and then they should be recruited in other employments. They can be taught some technical and vocational skills, and because of setting up of thousands of industries skillful people are hugely demanded these days. There are numerous job opportunities for poor and uneducated people but lack of information is making non privileged people to use illegal sources to earn money. There are many schemes which poor people can avail; also with the help of cooperative societies they can they can set up small industries and help each other. These poor people should get inspired by all those 45 thousand Lijjat Papad Sisters, who were at a time poor, helpless, destitute widows, some left by their husbands but instead of choosing any illegal and unethical means for livelihood method they co-operated and have established a 1600 crore industry by rolling delicious lijjat papads which is consumed all over India as well as exported in twenty five other countries. These victims should get inspired by all those girls and women who for their livelihood have utilized several government schemes like ajivika yojana, coopertive services etc. There can be organized many industries where these victims can be recruited after teaching them required skills like, making sanitary pads and napkins which is really a necessary product for rural girls and women, stitching clothes, making food materials, sports goods etc. Government should also provide markets to these victims by horning their

skills and by making them capable of earning in some dignified ways. All women markets should be supported. In Imphal, the capital city of Manipur, there is an all women market where all the shopkeepers and helpers are women, who are selling their products of all types, whether it is cloth, furniture, raw materials, stationary, veg or non veg products, etc. After providing these victims some leadership skills with some elementary education, they can be utilized for some other important jobs. We know about manduks station, subhash Chandra buse station where all the staar are women only.

#### 8- Multiple laws and improper application-

There is an existing problem of multiple laws for a single subject. As mentioned in chapter two that there may be applied numerous provisions for the issue of prostitution from various laws. It creates a state of confusion, which must be given up. Our government should bring a well codified law which can properly cover the issue of sex trafficking and commercial sexual exploitation. Is there really a need of making strict laws to diminish commercial prostitution? This is also to be noticed that the existing laws are really not able to do its work properly. The immoral traffic (Prevention) Act 1956, provided s only seven years of punishment

There is a problem of application of laws also, many times correct provisions of Immoral Traffic (Prevention) Act 1956 is not applied, and even in many cases of prostitution and sex trafficking the provisions of Indian Penal code 1860, is applied instead of Immoral Traffic (Prevention) Act 1956. Even there are so many acts and regulations exist which should be applied with the Immoral Traffic (Prevention) Act 1956 but it is not done.

Another problem is the improper regulation of laws for combating this issue. It is also to be noted that the existing laws are so weak because the limit of punishment which is explained is very low and there are very less case in which punishments are provided. So there is an urgent need to increase the quantum of punishment and thereby imposing a threat in the mind of people. There is an amendment is required to be brought which can give strict punishment to the clients for using the services of sex workers. The legislation named Immoral Traffic (Prevention) Act 1956, is not able to provide the results for which it was made, for getting effective results some amendments are required in this act. The quantum of punishment is required to be increased in some of the provisions of this act. Like the quantum of punishment provided in section 7(1), must be increased from three months to two years or more for running brothels in or in the vicinity public places. The quantum of punishment is required to be increased because it is the problems generated by brothel owners who allow are mainly responsible for the trafficking of girls a in the brothels and three months of punishment is not enough for them. Another improvement is required to be made in section 5 (c), of this act which provides punishments to person who visit or found in those brothels for the sexual exploitation of the victims of trafficking. The quantum of punishment should be increased from three months to one year on first conviction and on the second and subsequent convictions it should be increased from six months to three years. This kind of harsh punishment is required to be given to the exploiters because these if these exploiters must be having fear of law. If they are not coming to brothels because of fear of law then certainly downfall of this business can be brought. Also the victims should be provided all the helps which may lead them to lead a good life. So the problem is the law should play an important role in correcting all the problems which are faced by the victims of prostitution. It is a good suggestion that sex workers must not be criminalised because they need rehabilitation not punishment. It should be the aim of the law to rescue and rehabilitate sex

workers but not to punish them. There are many provisions in the Immoral Traffic (Prevention) Act, 1956 which provide punishments to the sex workers who are involved in the prostitution, which must be removed. But it is to be noted that many women perform the job of pimping, soliciting for sex and recruiting new girls in the sex industry. So it must be made clear that for the acts of pimping, soliciting for sex and trafficking girls in the sex industry the punishment must be same for men and women. For the acts of pimping and solicitation for sex done by women, harsh imprisonment should be provided because they are doing such illegal acts in public, also they are having an opportunity to explain about their apathy to people and authorities by coming in public domain, but they do not do that and solicit people for sex, in this way contributing in, the growth of this business. Being a woman they are required to help the victims but they work for getting victims to be exploited, as well as these lady pimps are advertising for this industry in public. It clearly indicates that they are doing such things for supporting this business; they also do not care about the torture of trafficked victims, they are just concerned about making money. These lady pimps provide minor and young girls to clients. They help in bringing more and more customers to brothels. But it is noted that young girls are also used with other lady pimps, for soliciting people for sex. These young girls need rescue and rehabilitation; they must be given a chance to get improved before being criminalised. And women who are involved in the trafficking of victims do not deserve any mercy and they should be given rigorous punishments. The madams, lady owners of brothels, lady managers must be awarded harsh punishment.

#### 9- Strict action against costumers and users of victims -

Human trafficking is mainly done for indulging the victims in forced labour, some are found to be working in domestic servitude, minors are found to be doing child labour or they are forced to do begging, women and girls are forcefully recruited in commercial prostitution and many of these are trafficked for some more illegal purposes like organ trade, in drug dealings and smuggling, some are made members of criminal gangs etc. These activities are done because common people get benefitted with all these activities. If these people stop asking for these things then certainly a change can be brought. It can be done by making a fear of law, in the mind of these users and clients. For this purpose, they should also be treated as criminals and strict actions should be taken against them by providing rigorous punishments. The same applies to the commercial prostitution also. The clients and customers who demand the services of sex workers must be punished.

#### Trafficking of persons (Prevention, Protection and Rehabilitation) Bill 2018-

For tackling with the issues of human trafficking, and for giving more teeth to the government officials a new bill named, Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill 2018, was introduced in Parliament in the 2018<sup>th</sup> monsoon session. The existing acts were not able to deal with the problem of human trafficking properly, so there was a great necessity and also reforms were constantly demanded by human rights activist to bring a new law through which strict actions can be taken against exploiters and human traffickers.

According to Mr. Kailash Satyarthi, an organised crime like trafficking needs a legislation that systematically dismantles the complicated modus-operandi of the traffickers. The proposed bill deals a solid blow to the very

economics of trafficking as an illicit trade that fuels black money and corruption. Trafficking is the largest illicit trade in the world which is pegged at \$150 billion. Every penny earned out of human trafficking is black money. The bill proposes time-bound completion of trials against perpetrators with strong economic deterrents like attachment and forfeiture of property and also the proceeds of crime. Further, rigorous imprisonment and massive fines will cripple this organised crime. The anti-trafficking bill also provides a comprehensive framework for rehabilitation in a time-bound manner, irrespective of conviction. The bill calls for the creation of a central and state level rehabilitation fund for the survivors of trafficking for the first time ever. According to him criminal law (amendment) bill, 2018 stipulates extremely stringent punishment for perpetrators of rape on minor girls. It is appalling to note that the current pendency for disposing of rape cases in some states is as high as 50 to 100 years. Most important is the fact that the bill will pave the way for time bound disposal of trials ensuring expeditious justice delivery by setting up special fast track courts in all districts and forensic laboratories in every state. It is also argued by him that in the absence of a robust anti-trafficking law, the state is failing to fulfil its duties under the laws and judgment which are related to the protection of needy and deprived people. It is abundantly clear that to be able to deliver justice to the most vulnerable survivors of trafficking; lawmakers must ensure the speedy and unhindered passage of the trafficking of persons (prevention, protection and rehabilitation) Bill, 2018 and the Criminal Law (Amendment) bill.<sup>193</sup>

The trafficking of persons (Prevention, Protection and Rehabilitation) Bill, 2018 has been brought in parliament which after being passed may bring a lot of changes in dealing with the cases of trafficking and providing justice to victims. The minimum amount of punishment in most of the case has been increased to ten years. It establishes anti human trafficking units at national, state and district levels. But it was required to provide severe punishment to those people, who use the victims, in domestic servitudes, in child labour, for exploiting them sexually, mainly clients and customers of sex workers etc. Even though it is a good legislation but unlike other previous laws it must be enforced after getting passed from parliament.

Final comments-

My research objective was basically related to understanding the problem of commercial prostitution and thereby suggesting measures for the total abolition and eradication of this illegal activity. Thereby I found that, it must be abolished and only in that case millions of people can be saved from the adverse effects of modern slavery. People at large should also support for the abolition and eradication of this illegal business, fruitful Consequences can only be found if we unite together. Millions of minor girls can be saved from sexual exploitation; they would go to schools and be able to achieve their dreams. Poor, deprived and helpless women can be made employed so they can live a dignified life.

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<sup>193</sup> KAILASH SATYARTHI, IS A CHILD RIGHTS ACTIVIST , WON NOBEL PEACE PRIZE 2014(THE EDITORIAL PAGE , THE INDIAN EXPRESSWAY, TUESDAY, 24<sup>TH</sup> JULY, 2018)