

Women in Prostitution

Need for Informed Intervention

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Prostitution is often said to be the oldest profession. The exchange of sexual favours for money, prestige or position has been recorded in epics, mythology, poetry, drama, song, mime, puppetry—all form of expression that try to convey the nature of relationships between human beings. Indian history is unique in documenting both the open acknowledgement of prostitution and the state's responsibility to protect the rights of prostitute women. *KaiAilya'sArthashastrn* (320 BC-150 AD) has a chapter titled "The Chief Controller of Entertainers' (Courtesans, Brothels, Prostitutes and other Entertainers) Responsibilities", in which he makes a distinction between prostitution and trafficking, and emphasises the absolute necessity of the willingness and consent of the prostitute to engage in a sexual relationship. The treatise stresses the following for the protection of prostitutes:

1. The proper procedure shall be followed to take a virgin daughter of a prostitute.. .coercive methods shall not be used.
2. No one shall abduct a prostitute, keep her confined against her will or spoil her beauty by wounding her.
3. A client shall not relieve a prostitute of her jewellery, ornaments or belongings, nor cheat her of the payment due to

her . (See box on next page for more details).

Victimised Even by the Law

In modern times the courtesan tradition seems to have been replaced in many places in India by a more exploitative *devadasi* system which made the woman public

property and deprived her the right to independent choice. The *devadasi* system was first described in the British Parliament in 1885 as the "debauched primitiveness" of India, and was used to support the

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Punishments for Sexual Offences in Kautilya's Arthashastra

“ In all cases, the punishment prescribed shall be imposed for the first offence; it shall be doubled for the second and trebled for the third. If the offence is committed a fourth time, any punishment may be rewarded, as the King pleases.”

Offences against a prostitute:

For making a courtesan's daughter lose her virginity without her mother's consent	54 panas fine + compensation to the mother of 16 times the fee
Cheating a prostitute or robbing her of her ornaments or belongings	8 times the amount
Using coercion to take an unwilling virgin from a prostitute's family,	Highest specified punishment
Using coercion to take consenting virgin from a prostitute's family	Lowest specified punishment
Raping a prostitute	12 panas
Gang rape of a prostitute	24 panas for each offender
Abducting, confining or disfiguring depending on the status of the victim	1000 to 2000 panas
Killing a courtesan who has been appointed head of establishment	3 times the release price
Killing a mother, daughter or prostitute in an establishment	Highest specified punishment
Miscellaneous	
For having sexual relations with the exclusive mistress of another	48 panas

Violations by a prostitute

Handing over ornaments and jewellery to an unauthorised persons	4 1/4 panas
Selling or mortgaging her belongings	50 1/4 panas
Abusing a client	
Causing physical injury to a client	48 panas
Disfigurement (e.g. cutting off a client's ear)	51 3/4 panas
Showing dislike to a client after receiving payment	Double the fee
Refusing to sleep with an overnight client	8 times the fee
Killing a client	Death by burning alive or by drowning.

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argument for "civilising" it. The approach was consolidated in the Immoral Traffic (Suppression) Act (SITA). The abolitionist trend continues, with the Immoral Traffic (Prevention) Act (PITA) currently in force. PITA's principal mandate is to prevent the traffic of women and children into prostitution. Unfortunately, the actual enforcement of the law has been mainly against the same women and children it is supposed to protect. An examination of the records of convictions under PITA in Chennai and other cities and towns in Tamil Nadu, shows that over 90 per cent of those arrested under PITA have been picked up under Section 8 of the Act for "seducing or soliciting for purposes of prostitution, in a manner/place that makes her a public nuisance." It appears that prostitutes may exist, but must not be seen. Interestingly, women who have challenged their arrests under this section of PITA have invariably been acquitted due to lack of evidence. However, since most women are too ignorant and too frightened to go to court, they continue to be arrested in large numbers.

Section 4 of the Act says that any person over the age of 18 years who knowingly lives off the earnings out of prostitution of a girl or woman, either wholly or in part, "shall be punishable with imprisonment for a term which may extend to two years". This obviously implies that the prostitute woman may support herself with her earnings, yet she herself is usually the one who is arrested and punished.

A typical scene in court during the post-lunch session is of a group of women, arrested the previous night, huddled near the witness stand while their pimps and owners stroll in the compound. A court clerk calls out the name of the woman and

"Many retired government officials manage prostitution as a business. Since they have influential connections, they are protected from any exposure and punishment."

reads the number of the section of the law; the judge looks at the woman and nods his head; the woman whispers a 'yes' and is fined anywhere between Rs. 300 and Rs. 1,000. She then leaves hurriedly to borrow the money. Often the owner will pay up, but the amount, plus an interest rate that can reach 125-150 per cent, is debited to her account. She now has to return to the streets or the brothel to repay the debt. The Indian state collects a revenue of around Rs. 5 crore annually from these women through court imposed fines. In addition, lawyers' fees amount to about Rs. 9 crore and the *mamool* (extortion money) collected by the police amounts to about Rs. 5 crore (a minimum of Rs. 50-100 as protection money per month per woman, for every 100,000 women prostituting themselves throughout the country). Thus, the women pay a minimum of Rs. 15-20 crore a year and must be among the group of tax payers paying the highest proportion of their income as taxes.

A prostitute does not earn only for herself; she sells sex for her children, for her family. A study by the Central Social Welfare Board shows that over 60 per cent of the women in prostitution are dalits. Nearly 50 per cent maintain independent households. The average 25-year-old woman prostitute has two children solely dependent on her.

Any serious discussion on prostitution has to consider several significant factors. The woman engaged in prostitution is only one factor in the institution of prostitution. Key players include the brothel keepers and pimps, financiers, procurers, kidnappers, the police, people with influence in government, and the "mainstream" client population. Women prostitutes say that, Many retired government officials manage prostitution as a business. Since they have influential connections, they are protected from any exposure and punishment. Court records in every state show that law enforcement agencies almost exclusively target the prostituting women for arrest, instead of punishing the other participants in the business.

Under PITA, prostituting oneself is not illegal. A prostitute can only be arrested for "soliciting in a public place". The major categories of offence are trafficking of women and children, and (a third party) living off the earnings of a prostitute.

However, despite the provisions, the law enforcers, mainly the police, lose no opportunity to target, extort money from, and systematically punish the women for behaving "immorally". Severe beatings are commonplace; women are forced to hand over the jewellery and/or money that they may be carrying; in addition, in many instances, they are threatened with eviction and public humiliation.

A survey in Tamil Nadu, conducted by the National Commission for Women in 1996 to identify the origin and causes of child prostitution, exploded the myth that most women in prostitution had been trafficked. Nearly 50 per cent of the women interviewed were in prostitution with the covert knowledge of their families. Over 80

per cent were from rural areas. Though many women had studied up to the secondary level, none had skills that would get them a job. A surprisingly high number had been sexually abused within the family and had been forced to leave home. A prostitute reports: "Most of us are survivors of incest by our family members. In several cases, denial and shame has made us enter sex trade. Our family members prevented us from even whispering about this out of their fear of social ostracisation, and the stigma that they might have to face." Despite this, over half the women supported their parents, paid for the education of their brothers and got their sisters married.

Continuing gender discrimination and the failure of the state to provide women opportunities for education and economic independence is the single largest factor that fuels the entry of women into prostitution. A prostitute explained: "In my village, the only future I had was to get married, have children, work in the fields, work in the house, obey my husband and slave for his family. I wanted to earn my own money, wear nice clothes and go out with my friends. I thought that I would have a better life in a city. I did not mind having sex. I knew I would have to do it if I got married, even if I did not like the man. At least this way I would have my freedom. In the beginning, I was beaten, raped and abused by pimps, police and rowdies. Now, I have learnt to survive. Why should I leave now? When I wanted to study and to find a good job, nobody helped—not my family, not the government. Now what right does anybody have to make me stop?"

The induction of a woman into prostitution—even when she has not been forced—is often accompanied by gang rape, torture and violence in order to subjugate her will. At this point, the woman would give almost



anything to escape, but is unable to do so because the pimps and brothel keepers guard her carefully, even from other women. Her only access is to the client or the pimp. By the time she is free to prostitute herself more openly, she no longer wishes to leave because she has already paid a high price to learn her new trade. Besides, not only has she no other skills, she is also ostracised by all other sections of society for being a prostitute.

The woman in prostitution is doubly penalised—first by being forced into a position where she cannot make her own choices, and then by being hounded by the state

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for being a prostitute. Social attitudes remain hostile towards single women. Most women who are deserted by their husbands are stigmatised, and the state is unable to enforce payment of adequate maintenance. A prostitute describes her situation: "After I was deserted by my husband, I was not taken in either by my family, my friends or my husband's family. I had to learn to support my children and myself. I never imagined that I would sell my body for sex; but at least here I get paid for the sex. In my earlier job, I would not be given a work contract if I did not sleep with the supervisor."

Prostitutes' rights movements in India started in the late 1980s. Even then, societal attention was forced to focus on the prostitute because of the threat of AIDS, not because of the exploitation of the women themselves; prostitutes were claimed to be the main vectors of the spread of the disease, but little hard evidence was provided to support this. Most organisations that started working with the women were also similarly motivated. However, they soon saw the enormous violence that the women were subjected to by brothel keepers, pimps and clients, and more surprisingly, by the state.

There have been different responses to the situation and much debate about prostitution law reforms. The common trends can be summarised as:

Decriminalisation: This usually means the repeal of laws against consensual adult sexual activity, whether paid or unpaid. This calls for making a distinction between consensual sex between adults, and trafficking of women and children. This approach entails the enforcement of laws against fraud, abuse, violence and coercion, in order to protect prostitutes from abusive and exploitative managements.

Abolition: Historically, abolitionists have dedicated themselves to rescuing women from prostitution, and training women to find alternative careers or security in marriage. Abolitionist groups want to end the institution of prostitution altogether, envisioning a world where no one has to sell sexual services for any reason. In India, several women's groups have branded AIDS education and prevention interventions with women in prostitution as immoral and leading to increased prostitution. The abolitionist approach pre-supposes the widespread existence of what is not a reality—gender equality, economic opportunity and social support for women to pursue viable autonomous livelihood options.

Regulation: The “regulation of prostitution” usually refers to the criminal regulation of prostitution, but prostitutes’ rights activists also refer to regulation in terms of both civil and self-regulation. They call for civil codes to regulate prostitute businesses and also strengthen rights of women. Those who call for autonomy, support solo and collective work arrangements, and prostitutes’ control of their own lives and businesses. The discussion on regulation is primitive and non-circumspect because it is difficult to invoke concepts of self-regulation in a context that presumes police control over prostitutes.

Legalisation: Most societies that allow prostitution, do so by giving the state control over the lives and businesses of those who work as prostitutes. Although legalisation can be accomplished by creating a decriminalised, autonomous system, in most legalised systems the police is given the power to control prostitution through criminal codes. Special laws regulate prostitutes businesses and lives in a discriminatory process, prescribe

often humiliating health checks and registration of health status on them (often enforced by corrupt authorities) but not on their clients, limit prostitute women to certain geographic areas in the city, segregate the prostitute and her family from the rest of society, and so on.

Concluding Observations

Creating a framework for a discussion on the rights of women prostitutes is not easy. This is particularly true in the Indian context, where an overwhelmingly large number of the women are from rural areas where there is little opportunity beyond bare survival for many girl children; a majority are from dalit castes; a

significantly high proportion have been sexually abused within the family. Most of the times, the trafficking of women has been facilitated by the social, psychological, and economic conditions in our country, rather than by organised criminal networks. The existing explicit laws target the prostitute and discriminate against her, instead of protecting her from exploitation and harassment by law enforcement authorities and abuse by other state agencies.

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