

# PROSTITUTION IN INDIA: A CRITICAL ANALYSIS

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## Abstract

Prostitution is defined as providing sex services for a fee. It encompasses not only sex gratification but also related activities such as customer solicitation, brothel management, pimping or dealing with prostitutes, sex trafficking, and other activities that aid in the growth of the sex industry. It took the path of devotion in India.

Prostitution is a severe social problem in India, and its remedy has proven challenging, despite the fact that it is an ever-present issue. Prostitution, like other forms of violence perpetrated by males against women, is a gender-specific phenomena, with the vast majority of victims being girls and women and the offenders always being men.

The Devadasi system existed in the past, and it was common practise among Hindus to donate their female child for the purpose of dancing at temples and worshipping God. However, as feudalism faded, these so-called Devadasis lost their guardians and were mistreated by temple priests.

This practise flourished during the British era, when outsiders curtailed traditional textile industries, armament, and other industries, forcing these populations to turn to prostitution for a living.

Prostitution is not explicitly banned in India, but it is considered unethical by the courts, and certain acts that facilitate prostitution are also considered unlawful.

This research paper will critically analyze that Prostitution in India should be Legalize or not.

**Keywords:** Prostitution, Article 21, UDHR, CDEDAW

## INTRODUCTION

Prostitution is a word that recounts and comments on a woman's condition. Prostitution comes from the Latin word 'prostituere,' which meaning 'to expose publicly.'

Prostitution denotes rendering sex services in lieu of money or for suitable favors. It includes, but is not limited to, acts such as customer solicitation, brothel operation and management, pimping or dealing with prostitutes, sex trafficking, and other activities that assist prostitution and hence promote the growth of the sex business.

With the approaching times ahead, it pursued the path of commitment, which saw degeneration both in the procedure and in the purpose. The Devadasi system existed in the past, and it was common practise among Hindu households to sacrifice their female child for the purpose of dancing in temples and worshipping God. However, as the feudal order faded, these so-called Devadasis were left without guardians and were abused by temple priests.

This practice further flourished in the British era when these outsiders' created policies that were unfavorable and had harsh impacts on the traditional textile industry, weaponry, etc. and these communities were forced to turn towards prostitution for livelihood.

The present times have witnessed further degradation and the money has become a means to buy out the prostitution services. The prostitute is looked upon as an entity to gain pleasure and satisfaction. It hardly matters to consider the willingness or unwillingness. The poor, uneducated, and ignorant members of society are the victims of prostitution's trap.

Prostitution is a significant societal evil that is pervasive in India, and containing and stopping it has proven challenging, with new cases emerging all the time. There are many forms of violence that is inflicted upon the women by the men and prostitution is one of them. Prostitution is a gendered occurrence, with the vast majority of victims being girls and women, and the perpetrators invariably being the other gender, i.e. men. Human resources are one of the most valuable resources in today's globalised world. The international community has adopted a forceful stance denouncing such egregious human rights violations and has encouraged respective governments to handle the issue responsibly and take meaningful countermeasures. This research paper aims to determine the best strategy to addressing the issue of legalising prostitution in India. Giving it legal status will result in a more equitable and secure society for women.

Prostitutes and sex workers should be encouraged to learn about their rights and interests, as well as their education, health, and the choice to choose whether or not to have regular medical check-ups, financial assistance, damage compensation, and other advantages. They should also be provided with a platform that allows them to seek justice in the event of any serious breach or unfavourable situation.

In this paper, the researcher will examine how legalising prostitution can help to improve the current situation, while not overlooking the important fact that prostitution does not only involve female sex workers; it also includes male counterparts, though in smaller numbers and in less deplorable conditions than the former, but as Article 14, of the Indian Constitution says, "The state shall not deny to any person equality before law or the equal protection of laws within the territory of India", while making laws for female sex workers we cannot eliminate the aspect of male sex work.

Prostitution is legal in many nations across the world, including Canada, France, Wales, Denmark, Holland, the majority of South America, including Mexico (typically in designated zones), Israel, Australia, and many others. In most of Asia, it is either legal or tolerated; Australia has a sex-service corporation that is publicly traded and whose stocks are traded in the stock market.

Legalized prostitution societies have come to the conclusion that it is best to control a profession that will never go away. Instead of living in denial and pretending that prostitution does not exist in India, India should learn from these societies. Especially when statistics show that sex-worker business declines during college holiday periods. In India, there are approximately 2.5 million prostitutes, with a quarter of them being kids! One of the difficulties that our country is dealing with right now is child trafficking and forced prostitution. The spread of the HIV virus and other sexually

transmitted illnesses is rapidly reaching a tipping point, which, if crossed, could result in an epidemic impacting the vast majority of the world's population. The sex-workers are the most vulnerable in this trade. Prostitution is a societal evil that leads to social injustice; it is a danger to the institution of marriage, and there are reasonable odds of exploitation of female partners. It was argued that a comprehensive prohibition of prostitution would be impossible to implement. Various measures have been implemented from time to time to counteract the negative impacts of prostitution and to control its unattractive characteristics, but legislation in India and many other nations has been based on the unarticulated assumption that the state cannot effectively abolish it.

### **TYPES OF PROSTITUTIONS:**

Considering the operational methods of the prostitutions there are generally different kinds of prostitutions in India:

#### **1. Brothel- House Prostitutes:**

Brothel is a house or a place which is owned by previously working sexual workers and now they are running the business with the help of other Prostitutes. The Prostitutes joining in this work are kept on the basis of daily commission as per the work associated to sexual service.

#### **2. Call Girl Prostitutes:**

These prostitutes make themselves available through telephonic or card process. They are easily available through call or takes appointment for the same from their own residence and on the basis of requirement they visit the client or the customer and earns the money accordingly.

#### **3. Window Worker Prostitutes:**

These are the female workers who are easily available on the thoroughfares and if the customer and the Prostitutes agree upon the stated conditions then the transaction takes place and they are taken to the place already decided.

Additional Types:

The other types include Escort agency employees, Bar-Club or Casino Workers, Prostitutes working in massage parlor, amusement centers etc.

### **RESEARCH HYPOTHESIS:**

H0: A significant difference is been observed among respondents, who attain the clients on daily basis and even maintain the self esteem.

Ha: A significant difference is been observed among respondents, who attain the clients on daily basis and feel satisfaction in life.

## **RESEARCH METHODOLOGY**

This research is being done by using a sample size of 60. As the population is finite so researcher used probability sampling method to collect the data for this research subject. I have taken a random method for collecting the data.

### **TOOLS FOR DATA COLLECTION:**

Considering the socio demographic factor, I preferred to use self administrated questionnaire to collect the data. To study the self esteem of prostitutes Rosenberg self esteem scale was used. A Life satisfaction Questionnaire where the scale is a 10 item Likert Scale with items on a 4 point scale to strongly agree to strongly disagree scale.

The independent variable is used to study information about respondents, details about respondents, family details, problems faced during encounter, etc.

The dependent variables the Rosenberg self esteem scale and the life satisfaction questionnaire was taken for this study.

## DATA ANALYSIS

Table 1:

**Table 1: Cross Table Distribution of Respondents  
about their family background and their marital status:  
(Authors Calculation)**

Marital Status	Family Status						Total	
	Family		Single		Livein		N	%
	N	%	N	%	N	%		
Married	42	70%	0	0%	0	0%	42	70%
Unmarried	0	0%	6	10%	9	15%	15	25%
widow	2	3%	1	2%	0	0%	3	5%
Divorcee	0	0%	0	0%	0	0%	0	0%
	44	73%	7	12%	9	15%	60	100%

From the above table it is understood that 70% respondents are married and staying with the husband and parents and among them 25% are unmarried out of which 10% are single unmarried and 15% are staying in a live in relationship. 5% are widow out of which 3% are having their family and 2% are single. I also understood that in this collection of data no divorce cases are been found indulged in sex working.

**Table 2: Distribution of Respondents At the Age when they entered in this profession  
(Authors Calculation)**

Marital Status	ENTRY AGE						Total	
	14-18		19-25		26 above		N	%
	N	%	N	%	N	%		
Married	9	15%	12	20%	9	15%	30	50%
Unmarried	13	22%	8	13%	9	15%	30	50%
	22	37%	20	33%	18	30%	60	100%

From the above table I understood that 50% respondents are at the married status when they entered this profession and 50% are unmarried at the time of adopting this profession. Out of the married respondents 15% are in the age group of 14-18, 20% are between 19-25 and finally 15% are above 26 of age at the time of choosing this profession. It is also understood from the table that in unmarried status 22% respondents are from 14-18 age, 13% are of 19-25 age group and 15% are above 26 age.

**Table 3: Distribution of Respondents Based on Physical Torture  
(Authors Calculation)**

S.No.	Physical Torture	No of Respondents	%
1	Yes	55	92%
2	No	5	8%
Total		60	100%

From the above table it is very clear that 92% of the respondents are being physically tortured and might go for mishappening which is unfavorable for them.

**Table 4: ANNOVA TABLE**  
**(Authors Calculation)**

	SS	df	MS	F	p
Between:	45.000	2	22.500	1.129	0.330
Within:	1,136.010	57	19.930		
Total:	1,181.010	59			

Since the value of  $p > 0.05$  thus the null hypothesis is accepted which means that there is no significant difference in mean, self esteem based on the number of clients been attended on daily basis.

## **ISSUES in India resulting in Prostitution**

### **1. Poverty:**

One of the biggest problems in a developing country like India is its economic position. The major reason behind prostitution is money and India is having nearly about 45% of population living under BPL. According to these figures if we calculate an average of 4 persons in a family, we have more than 3,00,000 Families who are the victims of financial issues. We can consider it as the most unconceivable numbers of financial statistics. Thus, we can't conclude that poverty lead to prostitution but it increases the venerability for those resulting in gender preception. Now days in this growing stressful life this has become one of the techniques in which people can release their stress through these measures and creates a level of satisfaction through money.

### **2. Kidnapping:**

If we see the political role and the justice of India, we find still kidnapping a great problem which is still not solved and catch hold in India. This is noted by the report of NCRB of 2015 a speedy hike is seen in the crime of kidnapping and then turning them in professional prostitute workers. This is also noted that they are either been conducted by the female or by the executive couples just for the sake of earning money. According to the report of NCRB a drastic change is noted in the Crime of India and in the case of abduction from the period of 1994 and comparing the same with 21<sup>st</sup> century then an increase of 89% is seen in the same case.

### **3. Emerging trend of Cyber Crime:**

As we all are living in the 21<sup>st</sup> century we all are well aware about the used of technology and making everything Digital in India. As per the Modi Government we are changing everything towards Digitalization and making maximum opportunities for the Indian Citizens. But as it is rightly said that "**Every Coin has two sides**" in the same way this technology has also been proven as a weapon for the country like India. Using the Technology, the unknown people are connected and the crime takes place and they the females don't have any other option to live in this society and they start working as professional prostitutes. During the period of 2010-2018 the cases have gone from 966 to 27,248 cases resulting to an increase nearly to 96%.

### **4. Devadasi System:**



If we talk about the current practice of the southern region of India (especially the States of Karnataka and Tamil Nadu) there still prevails a tradition of bestowing the undeveloped girls in the temples as an offering from their end to the goddess 'Yellamma; 'Renuka'. According to the findings it is noted that nearly 92% of the girls are of minor sections (4-12 years maximum having a minimum range of 39% from the age group of 13-18 years). Out of which nearly half of the girls i.e. 50% are sexually harassed and are forced for working as prostitutes. Thus, the reasons like irrational beliefs, the communal pressure, custom and traditions etc. are leading to the increase in the existing system which needs to be changed.

## 5. Rape:

Despite of various efforts been made by the Indian government such as "Beti Bachao, Beti Padhao" Campaign – it is heartfelt to uncover the details that in India still is reported that in every 15 minutes a rape case is reported. According to the reports of 2018 it is recorded that an increase of .9% is seen in the year 2018 and the rate of rape cases have gone up to 58.8%. As the youths of 21<sup>st</sup> Century are exposed more towards the western culture the changes are been noted which are disasters for India.

## 6. Prostitute Workers Children:

Till now there is no provision or a benign place for the female child been born by the prostitutes. Till date there are no such provisions in which they can be provided a healthy place to study and alter their childhood. So since childhood they are observing the same so till date 10% level have increased which leads an increment in the prostitution act.

## Laws for Protecting the Prostitution and Human Rights for Sex Workers:

In India sex work is deemed as a silage work, even a survey along with the article by BBC mentioned recently that the Work of Prostitution is illegal in India. There is no act in India for selling one's body for the purpose of gratifying the financial desire and needs. Even in India, organised prostitution is prohibited, including pimping, brothels, and prostitution rings. Prostitution is a choice-imposed deed in which a woman or a man can utilise his or her body for financial gain. Indian law does not recognise male prostitution. However, the IPC makes intercourse illegal.

Immortal Traffic (SITA, Act 1956) makes it illegal for people to practise their job more than 200 yards from a public area. It's also ironic that these sex workers are exempt from labour rules, despite the fact that this is a labour-intensive job. They do, however, have the right to rehabilitation if they so choose. Sex workers are given human characteristics because they have the same rights and privileges as other Indian citizens. Between 1956 and 1986, no new laws or acts were introduced or changed. However, the 1956 statute was revised in 1986 to remove one immoral Traffic (Prevention ITPA) provision. The following are the main sections of the ITPA Act:

1. ITPA for Clients
2. ITPA for Se Workers
3. ITPA for prims and babus
4. ITPA for Brothel
5. ITPA for procuring and trafficking

Under article 14 of the Indian constitution fundamental rights are been given to all citizens of India. With this article 14 constitutions says that all men and women are equal. But in practice the perception towards women who are engaged in this sex work, in article 15 (1) prohibition against discrimination based on sex. Similarly, Article 15, Article 16, Article 23, especially pertinent to sex industry, prohibits trafficking in human being and also all type of forced labour.

**Constitutional Safeguard & Judicial Interpretation Vis a Vis rights of Prostitutes:**

Preamble of Indian Constitution	-----	Social and Economic justice to all citizens, liberties, equality of status and opportunity, dignity of individuals
Fundamental Rights	Article 14	This Article provides Equality in general, it provides - "The State shall not deny to any person from Equality before Law or Equal Protection of Laws with in the territory of India".
	Article 15	Prohibits discrimination on the grounds of religion, race, caste, sex or place of birth, or any of them
	Article 15 (3)	State are empowered to frame special provisions for women and children
	Article 16(1)	Equality of opportunity in matters of public employment
	Article 21	Right to life and personal liberty
	Article 23	Prohibits human-trafficking and forced labour
Directives Principles of State Policy	Article 39 (f)	Children should be given opportunities and facilities to develop in a healthy manner and in conditions which do not put to compromise their dignity and freedom, also childhood and youth should be protected against exploitation, moral and material abandonment
	Article 46	Directs the State to promote the educational and economic interests of women and people of weaker sections of society, to protect them from social injustice and all other forms of exploitation;
Fundamental Duties	Article 51 A	Enjoins duty on every citizen to develop scientific temper, humanism and the spirit of enquiry and reform and to strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement.

**1. Maharashtra v. Madhukar Narayan Mardikar AIR 1991 SC 207**

Supreme Court held that even a woman of easy virtue also has the right to live a life in dignified under Article 21.

**2. Gaurav Jain v. Union of India (1997) 8 SCC 114; AIR 1997 SC 3021**

This case is also known to every one in which the two judges who took this case to the protective direction and according the decision of the judge were remarkable:

1. Question of Eradication of Prostitution (to take some decisions for the children taking birth from the prostitute and maintain a javelin home for the same).
  2. To rethink on the feature and scope of Articles 142 and 145 (5) the constitution of India.
- In this arisen case a review petition was been filed supported by Mr. Gaurav Jain the real petitioner. Considering the same the supreme court took a significant decision by handling the permit to the union or the state government to formulate their own policies in these areas and effectively implement the same.

**3. Budhadev Karmaskar v State of West Bengal (2011) 11 SCC 538**

it was held in this case that even the prostitutes have the equal rights as the Indian citizen and no one can assault the sex worker only just they are working for the same. As per the deep analysis of the case it was been disclosed that the prostitutes are not doing business really because they are involved and are passionate enough do that but it's because of poverty, so considering the same the state and the union governments have taken a decision to open a rehabilitation center so that some skill development trainings can be provided to them and new ventures of earning money can be given to them to come out from this dark vicious cycle. So Finally in Section 21 a rule was been amended and was stated to establish protection homes for them and they should be regulated by the license been issued to them by the government. The government also restricted the transfer of the licenses and made them for specified period only.

### PREVENTIVE PROGRAMS – POSSIBLE SOLUTIONS:

To identify and solve the problem of prostitution is very complex and is deeply considered by the Indian society. The possible solutions for such upcoming problems in India can be solved by creating following opportunities:

1. Preventive Programs
2. Common Societal policy
3. Second Generation prevention
4. Explore education and self-employment Opportunities
5. Welfare partnership between the Government of India and the State Government.
6. Rehabilitation and the follow up programs.

### CONCLUSION

According to my descriptive research I recommend following measures to be undertaken to stop or may be lessen down this burning issue:

1. For the welfare of the prostitutions repeal all forms of criminal activities and the case of human trafficking.
2. Proper efforts should be made in the way to provide them better opportunities and exit options for this business so that they can regularize their social rights.
3. Develop a specially designed team who have the rights to access the justice bar and can protect the basic rights of the human beings. Proper facilities and backhand support in term of financial matter to be provided to the victim parties, measures for the same should be undertaken.
4. The acquiring of sex should be prohibited which will be a drastic step to stop the prostitution and will help to eradicate human trafficking from the society. Private residence permits can be issued in form of licenses to be renewed after a specified period of time.
5. The proper facilities of Education and rehabilitation centers to be issued to the victim as well as to the second generation been upcoming in the prostitute business.

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