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THE LEGAL STATUS OF PROSTITUTION IN INDIA: AN OVERVIEW

-Pallavi Sharma

‘Prostitution’ a word that is a huge taboo in India and a profession about which nobody really wants to talk. So what does it really mean? Prostitution means having intimate or sexual relationships with someone in exchange of some monetary benefits, and in other words we can say it's a sort of business practice engaging in some sort of sexual activities in exchange of some monetary value. Generally people who belong to poor and unprivileged class of society are forced into the prostitution and related activities. If we talk about the legal status of prostitution, it is not similar throughout the world, it varies from country to country. On one hand in some countries like Germany, Austria and Turkey prostitution is considered as a legal profession while in some other countries like Africa, America, Europe, it is considered as a serious crime. If we talk about the social status of prostitution in the present India the act of prostitution is seen as a heinous activity amongst the society. However, in India prostitution is not a crime but it is limited to a particular extent. Prostitution is not a criminal activity in India but some activities which are related to prostitution like owning or managing a brothel, human trafficking, child prostitution, prostitution in a hotel, kerb crawling are illegal or unlawful in India. If we go back to the roots of Indian history prostitution is one of the oldest professions having its roots in the Indian history also. In India the status of prostitution has been a debate for centuries many social, legal, political and economic factors. In ancient India the prostitutes were called as nagarvadhu's or devdasi's who used to entertain people of royal families. In initial stages they are not engaged into any sort of sexual activities. Similarly in the Mughal period the tawaif was a quotation who catered the Novelty of India particularly in the Mughal Era but scenario was changed totally after the British had possessed the Indian Territory. The nagarvadhu's Devdasi's and tawaif's which used to entertain the Novelty and the royal families in India are now forced into prostitution and now treated as sex slaves and sex workers. As we talk about the contemporary status of prostitution in India on one hand it is considered as a social problem which hinders the peace and harmony of the society and on the other side it is seen as an essential element in the society.

Even the health condition of sex workers are not that satisfactory they are very much prone to sexually transmitted infections including HIV infection. Health services are often not available to sex workers

because of peoples prejudice against them, when sex workers do go to a health centre for health checkups may be treated badly or refuse services. ¹Moreover, the criminalisation of prostitution refrain their access to healthcare, HIV prevention, and other essential health services.

Fear of arrest refrain sex workers from seeking proper medical assistance and access to legal protection, which will lead them to vulnerable health risk and violation of their basic rights.

India's approach towards prostitution is now changing and shifting from strict measures to harm reduction and right based approaches.

.If we talk about the legal status of prostitution in India according to section 372 of Indian penal code 1860 it's says that prostitution is the act of a female offering her body for promiscuous sexual intercourse for hire whether in money or in kind.²

According to immoral traffic prevention act 1956 constitution means doing sexual exploitation or abuse of a person for commercial purposes³.

In India the legal status of prostitution is a topic of debate since many years, however prostitution is legalised but with certain kind of limitations and exceptions. By the term legalised it means a profession is directly under the control of government and government allows prostitution as a profession under certain specific conditions only.

In Indian law there is no particular provision which says that prostitution is constituted to be a crime. Person involved in such activities is not considered as a criminal. Prostitution is even a legal profession in India. But as we mentioned above some activities which are related to prostitution are banned or considered illegal in India such as brothel keeping, kidnapping, soliciting, human trafficking, running brothels, child prostitution these are punishable offences under immoral trafficking act, 1956.

Like other normal people, sex workers are also entitled to the life of dignity and equal protection of law. When a sex worker is adult and he or she is willingly participated in sexual activities then police can't restrict them and can't take any action against them.

All though we have a lot of provisions in our Indian law which helps in protecting the rights and prevent exploitation against the people who are involved in the profession of prostitution but still today's framework has failed to adequately address the rights and needs of sex workers contributing to their vulnerability to exploitation and abuse.

Reform efforts should be done to prayer time the right and dignity of sex workers full focusing on harm reduction, health promotion and social inclusion.

¹A. August Burns, Where Women have no Doctor,p.344,1997

² Indian Penal Code, 1860,(s.372)

³ Immoral Trafficking Act,1956(s.2f)

Ultimately, addressing prostitution in India requires a holistic and compassionate approach that acknowledge the complex realities faced by sex workers in seeks to empower them as individuals reserving respect autonomy and equal rights under the law.