

ANALYSIS OF THE PROSTITUTION DEBATE WITH SPECIAL ATTENTION GIVEN TO THE INDIAN SCENARIO

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ABSTRACT

Prostitution is known widely as the “oldest profession”. However, with time and development of social stigmatization of commercialized sex work, prostitution has developed into a largely illicit business and the members of this business are regarded as social, political and even legal outcasts. With the passage of time, depending on the social demeanor towards prostitution, countries have taken up different approaches in regards to *handling* it-from decriminalization and regulation to criminalization. The most primary debacle regarding these methods relates to its effect on the ever-growing human trafficking and sex slavery industries.

The former sections of the paper seeks to develop an analysis of these techniques employed by utilizing both empirical data and jurisprudential philosophy. It further seeks to address the validity of the two sides of the long-running prostitution debate and understand the implications of both stances on the battle against human trafficking.

This paper further seeks to lay special emphasis on the current Indian legal scenario and the lacunae present in the existing legislation in regards to protection of the fundamental and human rights of sex workers. The blanket treatment of all sex workers as trafficking victims along with the social stigma that exists in India has led to sex workers being abused and harassed by members of the society, law enforcement agents, the media and even the judiciary.

This paper will provide in its conclusion various suggestions on how India can tackle these gross human rights violations so as to address these sex workers as professionals and more importantly, as citizens possessing rights and duties conferred upon them by our nation while not compromising the ongoing crack-down on the herculean underground industry of human trafficking and sex slavery.

Keywords: Prostitution, Sex Workers, Human Rights, Harassment, India.

INTRODUCTION

The argument regarding the topic of legalization of prostitution has been widely discussed among various scholars, law and policymakers across the world. While each standpoint on this issue may show its own merit, a truthful and unbiased analysis is impossible without addressing both arguments; That is, the argument of autonomy against that of public policy and its inherent effect on the global issue of human trafficking.

It must be iterated prior to delving into such arguments that the term “prostitution” refers to the act or practice of a person of prostituting or offering their body to an indiscriminate intercourse with men for money or its equivalent.¹ When referring to the act of prostitution, this paper seeks to address only those practices wherein the sex worker is a legal major and in their own volition, sells sexual favours in exchange for money.

In the Indian context, according to official estimates as of 2016, there are over 12,00,000 sex workers in India, although the actual figures suggest more than that.² Here, prostitutes, as seen in most countries like China and Vietnam that have adopted a more socialist approach to the matter, are considered to be victims while solicitors, pimps and brothel keepers are punished by the law. That is, prostitution, in terms of the already established definition, per se is not illegal in India, unless it is in areas notified by the Police and near public places or if the offense involves children.³ Public places are defined by the Act to include educational institutions, places of religious worship, hostels, hospitals and any notified area.⁴ The skewed interpretation of the existing legislation has, however, proven to be an issue in the present scenario and will be addressed in the coming pages.

Around the world, different methods from complete criminalization as seen in the United States of America save for parts of Nevada, to regulation of prostitution in countries like the Netherlands and Germany have been employed. This paper seeks to critique these established

¹ Henry Campbell Black, *Black's Law Dictionary* (4th edn, St. Paul, Minn. West Publishing Co., 1968)

² Joint Stakeholder's submission, *Violence Faced by Sex Workers in India* (2016) UPR Report 27 para 1

³ Immoral Trafficking Act 1956, s7.

⁴ Ibid 4

methods of approaching sex trade so as to create an educated, unbiased notion on how to forge a framework that benefits the current socio-political and legal scenario in India while tackling the issue of human rights violations that emerge due to the same.

OVERVIEW OF ARGUMENTS MADE IN THE FAVOUR OF DECRIMINALIZATION OR REGULATION OF PROSTITUTION

“Prostitution is labor like any other. Sex industry premises should not be subject to any special regulation or law” describes the current argument posed in support of the government of New Zealand following their endeavour to repeal any laws regarding prostitution, pimping and brothel keeping.⁵ The personal autonomy projected here is also the most primary, albeit philosophical, argument made in favour of the maintenance of sex work in the State.

It is contended that when there is trade of sex for money between consenting adults on their own volition, it is neither the place of law enforcement nor that of the society to regulate it. Research and anecdote reveal that some women leave mainstream jobs and careers to become sex workers because there are benefits, such as a preferred lifestyle, increased freedom, time and money.⁶ Men and women who choose in this manner to partake in this business should be provided with the choice to do so. In the Indian context, article 19(1)(g) of the Indian Constitution guarantees the freedom to practice any profession or to carry on any occupation, trade or business. However, this freedom is not uncontrolled. It is imposed with reasonable restriction that iterates that the state can place any restriction on employment should it be a hinderance to the well-being of the society. As aptly stated by Kimberly Klinger while making reference to the Human Manifesto II,

“Any variety of sexual exploration- as long as it isn’t exploitative or harmful- can’t be considered evil, yet that is exactly how prostitution is regarded. If a woman or man chooses to exchange sex for money and does it in a way that causes no harm to either party, then they should be free to do so.”⁷

⁵ International Committee on The Rights of Sex Workers in Europe ‘Sex Workers in European Manifesto (2005)

⁶ Teela Sanders, *Sex Work: A Risky Business* (3rd edn, Willan 2005)

⁷ Kimberly Klinger ‘Prostitution, Humanism and a Woman’s Choice: Perspectives on Prostitution’ (2003) January 2003 The Humanist

In the light of this argument, it is implied that prostitution would not fall under any reasonable restriction that the State wishes to impose on the right provided within Article 19 (1)(g).⁸

India's understanding on the existence of sex work as a profession is in line with that of most Asian countries. This is depicted in the perspective undertaken by the Asia Pacific wing of the Coalition Against Trafficking in Women (CATW) wherein it was stated that

“gender relations must be restructured so that sexuality can once again be an experience of human intimacy and not a commodity to be bought or sold.”⁹

Supporters of the legalization of sex work however, contend that a major reason solicitors approach prostitutes is in order to address their sexual and emotional needs along with relief to their sexual frustration. Research suggests that paid sex helps people with problems such as social disabilities and intimacy issues.¹⁰ In fact, prostitutes are invaluable in helping people who have been abused as children to overcome their sexual difficulties.

Another argument commonly made in support of the regulation of prostitution addresses the economic benefits that may be reaped if the government chose to capitalize on it. A method to do so, as employed in places like Bonn, Germany is to impose a tax on the service. Nevada, one of the two American states that currently allow paid sex acts, had been considering a tax of \$5 for each transaction. State Senator Bob Coffin argues that imposing state taxes on existing brothels could raise \$2 million a year (at present, brothels are allowed only in rural counties, which get all the tax revenue), and legalizing prostitution in cities like Las Vegas could swell state coffers by \$200 million annually. A conservative extrapolation from Nevada to the rest of the country would easily mean billions of dollars annually in new tax revenues.¹¹

Legalization and/or regulation of prostitution also has great implications in regards to the enhancement of safety of these sex workers. American Studies show that 94% of the

<[https://www.thefreelibrary.com/Prostitution+humanism+and+a+woman%27s+choice.+\(Perspectives+on...-a096417149](https://www.thefreelibrary.com/Prostitution+humanism+and+a+woman%27s+choice.+(Perspectives+on...-a096417149)> accessed 15th August 2018

⁸ Constitution of India 1950, a19(1)(g)

⁹ Cecilia Hoffmann 'Sex: From Human Intimacy to "Sexual Labour" or is Prostitution a Human Right?' (1997) CATW-Asia Pacific

¹⁰ Gysin, F. (2013) V.2 'Prostitution use has non sexual functions - case report of a depressed psychiatric out-patient' <<https://f1000research.com/articles/2-70/v2>> accessed 2nd August 2018

¹¹ Nick Gillespie 'The U.S. Should Implement a Sin Tax to Increase Budget Revenue.' (2010) The Federal Budget

interviewed sex workers had been subjected to sexual assault¹² and this abuse is sometimes inflicted by their pimps. An example for the same would be prostitute Tina Frundt's testimony wherein she states,

“After the abuse, [the pimp] would tell me to sit on his lap and ask me what was wrong. When I said, "You broke my arm," he hit me, and asked me again what was wrong. I had to say, "I fell down."... I wasn't allowed to see a doctor, so after my finger was broken, I just wrapped it with some tape.”¹³

Sex workers who are citizens of a country like the United States of America that have predominantly criminalized prostitution as a whole are left with no means to approach law enforcement for redressal. They are placed in the same boat as their abusers, providing them with no incentive to turn in potential human traffickers to the police. Hence, many supporters argue that legalization or decriminalization of prostitution brings the State a step closer to ensuring the safety and maintenance of human rights of sex workers.

While the aforementioned arguments are sound statements, on analysis of the various plausible methods of regulation used in different countries, it can be seen that many of the addressed issues caused by the criminalization of sex work may sometimes be aggravated by such steps taken by the State. It can also be seen that on the analysis of such concepts that the provisions enforced lack sex-worker centric nuances.

ANALYSIS AND DISCUSSION OF VARIOUS APPROACHES USED BY STATES TO HANDLE PROSTITUTION

There is no shortage of regulatory methods utilized by individuals in power around the world in order to address prostitution. The jurisprudential philosophy used to arrive at these methods commonly reflect the public notion of sex work itself and the state of recorded human trafficking in the Country. For the sake of simplicity, this critique will be focused on two main techniques: *Regulation* and *Abolition*.

¹² Melissa Farley “Bad for the Body, Bad for the Heart”: Prostitution Harms Women Even if Criminalized or Decriminalized’ (2004) vol.10 Sage Journals: ‘Violence Against Women’ 1087

¹³ Tina Frundt ‘Life with an Abusive Pimp’(2006) T. L. Roleff, Ed.

Regulation

For the purpose of definition, regulation refers to the legalization of prostitution, controlled through the use of state-regulated brothels.¹⁴ Theoretically speaking, regulation of prostitution not only enables the governments to tax sex work activities, making an increase in their overall GDP¹⁵, but also provides the law enforcement of the State to ensure that the human rights violations against sex workers can be redressed and even prevented. It additionally is a method that can be used by states to enforce regular testing for both solicitors and sex workers for venereal diseases and not allow commercialized sex work to be a reason for its spread.

This is the stance taken by liberal feminists, who believe that the choice to engage in prostitution is like any other employment decision¹⁶. It must be iterated, however, that a vast majority of prostitutes are poor women¹⁷ and the logical explanation to the same would be that women who have attained the economic status of profession do not need to turn to prostitution out of economic despair.¹⁸

Regulation, however, paves the way for a significant amount of risk as it not only provides prostitutes with the tag of a professional, but also their pimps and brothel madams who may be coercing such individuals to partake in sex work.¹⁹ An example of how this risk may materialize is an incident that was reported in *Der Spiegel* in 1977 wherein a ring of 11 procurers had been broken up as they were procuring women from Argentina and Uruguay and forcing them into sex work in Frankfurt. They were made to work for three months on Tourist Visas and then taken to Italy, where they were married off to unemployed or retired Italian men after paying them \$1000 for the marriage. This enabled these women to enter the European Common Market and hence returning to Germany to continue their work.²⁰

Regulation may additionally blur the line in terms of who exactly is a victim of human trafficking and who may be a voluntary sex worker.

¹⁴ Kathleen Barry 'The State: Patriarchal Laws and Prostitution' (1995) NYU Press 220

¹⁵ Ibid 12

¹⁶ Karen Peterson-Iyer 'A Feminist Ethical Analysis'(1998) Vol. 10 No. 2 Indiana University Press 25

¹⁷ Katie Beran 'Revisiting the Prostitution Debate: Uniting Liberal and Radical Fronts' (2012) Vol 30 *Law and Inequality: A Journal of Theory and Practice* 19

¹⁸ Ibid 18

¹⁹ Ibid 15

²⁰ Ibid 15

An instance where this issue becomes apparent is through an incident in 1976 wherein 8 procurers had been arrested after a young girl had escaped from an Eros center in Essen after she had been trafficked from Villach, Austria for prostitution. The police had failed to distinguish these victims of human trafficking from voluntary sex workers as they had arrested these women assuming that they were merely using being trafficking victims as an excuse for their expired passports.²¹

India, as of 2016, has been ranked 4th in the Global Slavery Survey,²² and In terms of Sex slavery, India's numbers are showing a steep incline with the passing years. India's National Crime Records Bureau indicates that the number of recorded cases of sex slavery has doubled from 3,422 in 2010 to 6,877 in 2015.²³ Given the aforementioned statistics and the growing urgency with which human trafficking needs to be tackled and eradicated, creating room for such ambiguity and risk may prove catastrophic to India's ability to effectively partake in the war against human trafficking within the country.

It is, further, generally contended by radical feminists that such laws of regulation are not sex-worker centric and primarily for the convenience of solicitors.²⁴ In response to the liberal feminist theory of regulation providing autonomy in terms of clientele and the sexual acts itself, radical feminists argue that clients are always the powerful ones. It has been found that a high-class client tends to demand painful ritualistic acts from prostitutes with the knowledge that "He is directing, casting and paying for the whole thing, he is completely controlling the situation. In his perverse logic, it is just when all is hopeless, he is seemingly shorn of all powers that he is most in command."²⁵ Through this state of mind, prostitutes come to believe sex to be a dehumanizing acts and tend to not have much of a sex life outside of their work, as explained by Dominica Neinhoff, a former German Prostitute to Alice Schwarzer, the then editor of *Emma*, a German feminist magazine.²⁶

²¹ Ibid 15

²² 'Global Slavery Index' (2016) <<https://www.globalslaveryindex.org/2018/findings/country-studies/india/>> accessed 3rd August 2018

²³ Anusha Venkat, 'India's Horrifying Sex Slavery Trade is Thriving with Impunity' (2017) Asia Times <<http://www.atimes.com/article/human-trafficking-india-anusha/>> accessed 3rd August 2018

²⁴ Ibid 15

²⁵ Sam Janus and Barbara Bess, 'Sexual Profile of Men in Power'(1977) Prentice-Hall 96

²⁶ Alice Schwarzer, "Domenica Prostituerte" *Emma* (Frankfurt, March-April 1993)

Radical feminists through their arguments bring to light the inadvertent harm created through the complete decriminalization or regulation of prostitution. As aforementioned, in the Indian context where human and child trafficking is an all time high²⁷, such regulations will have disastrous effects on the steps taken by the State to curb such atrocities.

Abolition

The abolitionist movement began in the 19th Century with Josephine Butler wherein she iterates that it is not the abolition of prostitution itself she seeks to achieve, but it's regulation. She Advocated heavily for the decriminalization for both prostitution the act per se and also solicitors, while heavily prosecuting the pimps and procurers that force women into prostitution or prevent them from leaving the profession of sex work on their own free will. The abolitionist principle establishes that it is not for the government to place regulations and restrictions on the profession as many a times, the regulations are merely helpful to the solicitors and not the sex workers themselves.²⁸

Another version of the Abolitionist model is the Sweden or Nordic model wherein while sex work per se is considered to be legal or merely not a crime, it is not considered legal to solicit sexual favors. This model was created in an attempt to reduce the demand for sex trade due to it's illegality. Sweden, additionally provides for "rehabilitative services" for women who partake in sex trade.²⁹ This model has also been established in France, as of 2016. The theory behind the same comes, evidently, from the assumption that sex work is not entered into with one's free will and women who partake in sex work are in need of rescue and rehabilitation. The French state, for example believe that the decriminalization of prostitution will enable sex workers to be further empowered to contact authorities and report human trafficking.

²⁷ National Institute of Public Cooperation and Child Development, *Crimes Against Children-Procuration of Minor Girls, Buying of girls for prostitution, Selling girls for prostitution* (1st edn, National Institute of Public Cooperation and Child Development 2010). 319

²⁸ Petra de Vries 'Josephine Butler and the Making of Feminism: international abolitionism in the Netherlands (1870–1914)' (2008) Vol 17, *Women's History Review* 257

²⁹ Nordic Model Now! 'What is the Nordic Model?' <<https://nordicmodelnow.org/what-is-the-nordic-model/>> accessed 5th August, 2018

The most obvious logical fallacy that lies in the inception of this model is that there is no consideration of the women who have chosen the profession of sex trade and wish to exercise their personal autonomy by carrying out their business.

This type of model also severely deprives the sex workers an influx of customers, leading to a collapse in their economic means of sustenance. Additionally, while it is argued by government officials that such an issue may allow them to crack down on the human sex trafficking industry³⁰, Many women who are still victims of human trafficking may be subjected to abuse and violence at the hands of their pimps and brothel madams due to the fact that they were unable to fulfill the monetary “goals” set for them on that day, as seen in the case of Tina Frundt, in another testimony.³¹ Additionally, due to an unavailability of customers, sex workers will be forced to accept any customer that they receive. This severely hampers their ability to refuse service, putting these workers in situations potentially detrimental to their safety and health. It also fails to address how sex workers are to pay income taxes to the state in such a system, considering the fact that they will now be unable to declare their earnings.³² Josephine Butler’s version of the abolition movement in many ways provides for the most sex-worker centric laws. However, it is not advisable to leave any profession, sex work or otherwise, without statutory regulation. Prostitution does require the State’s attention to ensure the most efficient and safe functioning of the proposed established profession, coupled with the establishment of accountability of those working in the industry and those who avail such services.

THE INDIAN SCENARIO

India’s approach to addressing sex work, where the law does not prosecute sex workers but those “professions” that involve pimping and brothel keeping, is the more sex worker-centric

³⁰ Penny Timms, ‘Prostitution in France made legal under New Law, But Paying for it Ruled Illegal’ *ABC Now* (France, 7th April 2016) <<http://www.abc.net.au/news/2016-04-07/prostitution-in-france-made-legal,-but-paying-for-it-illegal/7307058>> accessed 5th August 2018

³¹ Tina Frundt ‘Enslaved in America: Sex Trafficking in America’ (2005) Women’s Funding Network <<https://www.womensfundingnetwork.org/enslaved-in-america-sex-trafficking-in-the-united-states/>> accessed 20th August 2018

³² *Ibid* 31

approach to prostitution. The Immoral Traffic (Prevention) Act, 1956³³ deals mainly with the issue of immoral trafficking of women and children along with the act of prostitution.

Much like the socialist approach to prostitution, India seeks to treat the sex workers themselves as victim based on the assumption that all sex workers are either tricked or kidnapped into the profession.

The legislation even defines the term prostitution as the “exploitation” and “abuse” of a person for commercial purposes.³⁴ Additionally, the ITPA further has clauses that dictates police and Non -Governmental Organisations (NGOs) may conduct raid and rescue operations. Magistrates are authorised to close brothels and expel persons from premises where sex work is being carried out, including their residence.³⁵

This power acts contrary to the section in the very same Act that discusses that prostitution is forbidden in merely public places or brothels and encroaches upon the civil and human rights of sex workers who engage in the profession out of their own volition within the confines of their own home. The law additionally also provides for ambiguity in terms of what may be defined as a public place by not providing an exhaustive definition for the same. The legislation, while otherwise remaining silent on the topic of voluntary prostitution, enables a significant amount of perverted misinterpretations through it’s ambiguity.

India’s perception of the act of prostitution itself is poor, both legally and socially. A prime example to depict this is the Vishal Jeeth v Union of India judgement.

“No denying the fact that prostitution always remains as a running sore in the body of civilisation and destroys all moral values. The causes and evil effects of prostitution manning the society are so notorious and frightful that none can gainsay it. This malignity is daily and hourly threatening the community at large slowly but steadily making its way onwards leaving a track marked with broken hopes. Therefore, the necessity for appropriate and drastic action

³³ Immoral Trafficking Act 1956

³⁴ Immoral Trafficking Act 1956, s 2(f).

³⁵ Immoral Trafficking Act 1956, s 18, 20

to eradicate this evil has become apparent but its successful consummation ultimately rests with the public at large.”³⁶

Another example for the same would be the Supreme Court judgement of *Budhadev Karmaskar v State of West Bengal* wherein it was stated that a sex worker engaged in sex work to survive was not “living a life of dignity”.³⁷ There are even instances of persons of law being of the notion that in order to end the existence of prostitution and immoral trafficking in India, the law must adopt the system of criminalization adopted by the majority of states in the United States of America³⁸, despite the catastrophic effects it will have on the safety of sex workers.

However, the most dangerous part of this poor perception of sex workers is the lack of attention provided to the human rights of these individuals. This may be iterated through the case of a custodial rape, wherein a married woman was raped by police officers who threatened to arrest her husband if she resisted. While Bombay High Court acquitted the two accused on the basis that she did not resist the rape, the Supreme Court overturned the judgement on several grounds, an important one being that she was not a prostitute.³⁹

The sexual history and supposed “morality” of a woman is a valid defense used by men accused of rape, and is formally substantiated by Section 155(4) of the Indian Evidence Act⁴⁰ as well. This leaves sex workers with the inability to seek redressal for sexual violations committed against them and such an ignorance of the rights of these workers is endorsed by the state and the judiciary.

It may be deduced that this poor view of sex workers and the concept of sex work being considered “scum of the community” is the primary reason why despite the lack of provisions to formally prosecute prostitutes in the law, sex workers in India are exposed to a wide range of abuse including physical harassment by community and state authorities. They are seldom provided adequate health care, including for HIV/AIDS or other sexually transmitted disease.⁴¹

³⁶ *Vishal Jeeth v Union of India*. [1990] 1990 AIR 1412

³⁷ *Budhadev Karmaskar v State of West Bengal* [2011] criminal appeal No. 135 of 2010

³⁸ G.B. Reddy, ‘Women in Law’ (Gogia Law Agency 2014) Chapter 8

³⁹ *State of Maharashtra v Prakash and Anr* [1922] Cr. L.J.

⁴⁰ Indian Evidence Act 1872, s 155(4)

⁴¹ Rashida Manjoo ‘Report of the Special Rapporteur on violence against women, its causes and consequences, Addendum Mission to India’ (2016) 26th session Human Rights Council A/HRC/26/38/Add.1

The UPR of 2016 in its survey stated that of the 3,000 sex workers that had been interviewed, 50% of them had been subjected to abusive language, 35% had been physically abused, 37% had been threatened and 20% had been forced to bribe, all by law enforcement officials alone. Another issue created due to the skewed assumption that has been made within the legislation that sex workers are all victims is that they are forcibly rehabilitated with little attention provided to their individual needs.⁴² Many a times they are also asked to provide sexual favors for their release from arrests made on bogus charges.

Police officers commonly arrest sex workers on the grounds of the Section 294 of the Indian Penal Code, which defines obscene acts.⁴³ In the legislation, obscene acts are defined as follows

“294. Obscene acts and songs.—Whoever, to the annoyance of others—

(a) does any obscene act in any public place, or

(b) sings, recites or utters any obscene song, ballad or words, in or near any public place.”⁴⁴

While it is blatant that Section 294(b) has no relation to the act of prostitution whatsoever, 294(a) may be brought into question due to its ambiguity. Due to the fact that the concept of obscenity itself is subjective to different persons of the society, the most reliable source for the definition of the same may be obtained through judicial decisions. The most primary test for obscenity is the community standards test, wherein obscenity is determined by an average person, applying contemporary community standards would find that the work, 'taken as a whole,' appeals to 'prurient interest'. While this method is used for the purpose of assessing the obscenity of creative works, it may be used in determining the obscenity of prostitution. The primary issue with this method of determination is the fact that this test is also extremely subjective to the people they cater to. The variance of education and exposure to media along with the philosophical understanding of rights and liberties alters the opinion of any “reasonable” individual and hence, it is impossible to have a uniform perception among reasonable individuals of different parts of the society regarding the obscenity of prostitution. This issue, hence, calls for an explicitly made stance by the law in order to definitively protect sex workers from abuse and harassment.

⁴² Ibid 3

⁴³ Ibid 3

⁴⁴ Indian Penal Code 1860, S 294

CONCLUSION AND SUGGESTION

In the Indian context, even though sex workers are not explicitly prosecuted by any legislation, the ambiguities and lacunae in the law leads to several injustices and instances of abuse committed against them by both the agents of the state and by the community. Hence, it is important that the laws be amended so as to incorporate laws to protect these individuals, not as victims, but also as professionals. A method that may be used to combat the ambiguity in the concept of a public place may be the designation of “red light districts”, thus providing for a safe place to practice sex work without the fear of arrest or persecution.

This additionally would solve the issue of the misuse of the public indecency and obscenity laws in India due to the fact that only an individual looking to obtain a sexual act would require to go these areas, Any individual that may think of viewing a sex worker as an inconvenience will no longer be affected. The defence of *volenti non fit injuria* may be used, thus not hindering the safety and work of sex workers.

Further, the definition of prostitution must be amended in the ITPA so as to make a proper distinction between human trafficking victims and voluntary prostitutes. This removal of the blanket victimization of sex workers will remove the scope for individuals to be pushed into rehabilitation who do not necessarily want or require it. It will additionally enforce, far more effectively, the right to employment enshrined in Article 19(1)(g) of the Indian Constitution.

It is also important to establish penalization against police officers who bribe, abuse and harass sex workers discussed within the ITPA itself that, when read with section 29 of the Police Act that discusses the penalties for breach of duty, will be effectively enforceable. There also must be a specific committee created to handle human rights violations against sex workers by law enforcement officials, media and other members of the community for the purpose of tackling the general neglect shown towards human rights violations against sex workers.

Several issues addressed in terms of the ambiguity in laws arise due to their malicious use. This issue cannot be tackled without the change in social perception of sex work and its subsequent normalization. This may be attained through addressing sex work in the education education systems as professionals and nothing else. The formal acceptance of the existence of voluntary sex work by the legislation and judiciary alike will lead to the protection of civil, human and fundamental rights of sex workers.

The most primary issue of the currently existing laws regarding prostitution is that voluntary sex workers are not taken into consideration in the very least. Due to the lack of representation within the legislation, these individuals are left with no real civil rights and their human rights subsequently suffer due to it. It is, therefore, contended that with the inclusion of their existence into the legislation, their rights and duties will be made more apparent. This inclusion will aid the State to protect and uphold the rights of this section of its citizens and ensure the safety and well-being of these individuals.

