

SEX TRAFFICKING IN INDIA: THE LEGAL PERSPECTIVE

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INTRODUCTION

“Woman’s degradation is in man’s idea of his sexual rights. Our religion, laws, customs, are all founded on the belief that woman was made for man.” – Elizabeth Cady Stanton.

Sex trafficking and commercial prostitution is an organized crime based on this, women are at the beck and call of men as sex slaves. Preventing such a heinous crime is an objective that cuts across geographical, racial and religious boundaries.

United Nations in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children also referred to as the Trafficking Protocol or the Palermo Protocol defines trafficking as –

“ the recruitment, transportation, transfer, harbouring or receipt of persons, by means of threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal, manipulation or implantation of organs”;¹

1(2017) <http://www.jgu.edu.in/chlet/pdf/Indias-Human-Trafficking-Laws-Report-Book_Feb-2015.pdf> accessed 19 July 2017.

This is also the first legally binding definition of trafficking accepted by a number of countries including India. The United States Department of State's annual trafficking in persons report criticized how India had not ratified the Palermo Protocol for over eleven years and many campaigners and supporters were worried about the lack of clear definition of the organized crime in India and the lackluster approach of the government in dealing with the crime.

Finally, in 2011 the government accepted the Palermo Protocols and also launched schemes to educate police about trafficking. It was a web based course and was in association with the Indira Gandhi National Open University. It was a welcoming change considering the apathetic approach the state had previously taken.



VICTIMS OF SEX TRAFFICKING & COMMERCIAL PROSTITUTION

Mahatma Gandhi once famously expressed how shameful it was women have to sell their bodies just to satisfy men and their lust for women. Trafficking of women must be one of the most detestable and diabolical violation of human rights. And yet, redressal mechanisms are largely inadequate and the way police officials and governmental and non governmental agencies have dealt with this crime is shameful and not an example that should be set. Till date nothing substantial has been done to ameliorate life for the victims.

The government of India's 1998 action plan succeeded very little in ensuring prompt and adequate rehabilitation. The fact that a woman's rights to live with dignity have to be driven home should be a worry for the nation. According to a study conducted by National Human Rights' Commission, in a total of 929 trafficked victims from 12 states, 32.3% belonged to scheduled castes, 5.8% to scheduled tribes, 21.9% to other backward classes and 60% belonged to socially deprived section while a larger percentage of 70% were barely literate.² The analysis clearly highlights how women from the lower rung of the society have been target. But this does not mean that cities are any safer for our women. Below is that data collected from police state agencies of 6 metropolitan states. This has been collected from a period of 1996-2001 and shows how the number of reported missing and has been collected by Action Research on Trafficking in Women and Children³. Except Kolkata all states show a gradual increase in number of women missing reported missing from metropolitan cities.

Cities	1996	1997	1998	1999	2000	2001	Total for 6 years	Yearly average	2001 over 1996
Delhi	1948	2016	1920	2141	2114	2116	12255	2043	6%
Mumbai	2716	2783	2185	2808	2803	2904	16199	2700	7%
Hyderabad	228	242	249	265	289	279	1552	259	22%
Kolkata	NA	2145	2322	2028	1284	1037	8816	1763	52%

² 'National Human Rights Commission, New Delhi, India.' (Nhrcc.nic.in, 2017) <<http://nhrcc.nic.in/>> accessed 19 July 2017.

³ (2017) <http://ncrb.nic.in/StatPublications/CII/CII2015/FILES/Statistics-2015_rev1_1.pdf> accessed 19 July 2017.

Bangalore	831	788	845	784	815	879	4942	824	6%
Chennai	292	320	404	456	413	426	2311	385	46%
Total	6015	8294	7925	8482	7718	7641	46075	7679	27%

THE SUGGESTED APPROACH-

For the victims, we believe that the best approach will be a right based approach. Because number one, it gives importance to the victims - their rehabilitation, restitution and empathises with their suffering which is often neglected. And secondly, it sees and reasons out everything through the human rights' perspective because right to a dignified life⁴ is the most substantial human right and no one should be allowed to toy around with that. This method recognises trafficking as both a cause and a consequence. According to Mary Robinson, "trafficking is the cause of human rights violation because it violates fundamental human rights, such as the right to life, the right to dignity and security, the right to equality and the right to be recognised as a person before the law. It is the consequence because it is rooted in poverty, inequality and discrimination".⁵ Rights based approach also works in improving the already existing methods and approaches available.⁶

For any right there has to be a duty holder. In this case the duty holder is the state whose prime and most important responsibility is to take care of its citizens. The already existing Immoral Traffic Prevention Act 1956 is a major legislation. It was updated last in 1978. With new changes and ever increasing risks, the government needs to introduce major changes to give way to a comprehensive solution for victims. Correctional justice and rehabilitation, medical treatment, psychological issues should be dealt with in details and proper emphasis should be put in these issues in the ITPA. Moreover most victims prefer that their anonymity remains as life can become difficult due to social taboos. Just like IPC offers anonymity to

⁴ (2017) <<https://www.stu.edu/Portals/Law/docs/human-rights/ihr/r/volumes/1/373-406-KumarRegmi-TraffickingintoProstitutioninIndiaandtheIndianJudiciary.pdf>> accessed 19 July 2017.

⁵ (2017) <http://www.ohchr.org/Documents/Publications/Commentary_Human_Trafficking_en.pdf> accessed 19 July 2017.

⁶Sankar Sen and Jayasree Ahuja, *Trafficking In Women And Children* (Concept Publ 2009).

rape victims given in 228 (A) of the Indian Penal Code⁷, it should also be extended to trafficking victims. Moreover, they should be provided with better legal representation as is given to rape victims in the case Supreme Court in Delhi Domestic Working Women's Forum v Union of India⁸. Also, justice delivery time should be regulated and if possible states should provide for special courts for facilitating the same as S 22 (AA) authorises them to do so. Lastly, there should be proper programs to assist the victims just like legislations in Pakistan and US provide for their citizens. These legislations have don't have a narrow prospect but also believe in assisting and rehabilitating the victim.



⁷ 'Section 228A In The Indian Penal Code' (Indiankanoon.org, 2017) <<https://indiankanoon.org/doc/1696350/>> accessed 19 July 2017.

⁸ 'Delhi Domestic Working Women's ... Vs Union Of India And Others On 19 October, 1994' (Indiankanoon.org, 2017) <<https://indiankanoon.org/doc/1765970/>> accessed 19 July 2017.

RITUALISED PROSTITUTION AND TRAFFICKING

The normative structure of the country we live in has been formed by the institution of religion. Religion has a number of dimensions and many customs and practises and that are unfair to women and fail to see them as equal to men. This chapter deals with one of such culturally sanctioned customs- the devadasi system. Spread in a distinctive number of states in India, the term “devadasi” means “female slave of God”. The saying in Marathi is ‘Devdasidevachi, baykosaaryagavachi’, means servant of God but the wife of whole town. It also has local names a few being, ganika in the state of Odisha and nati in Assam.

The genesis of this cult is traced back to the practise of dedicating girls in place of human sacrifice. Women in the lower castes are often expected to take up the devadasi life. This also has the patronage of upper castes and classes. Moreover, most of the lower castes have very less income and even look for other opportunities to get some cash and push their women to take up prostitution either at city red light areas or in the village itself. They expect her to get cash rewards through her visitors.⁹ The reason that this system is exploited because Devadasi cult provides them with a license for prostitution with religious sanction thus preventing law courts and police officials from arresting them or taking any kind of action against them. Thus, this status as a religious functionary becomes a very profitable proposition for commercial proposition¹⁰.

Activists who have closely studied how Dalit women are the main target reiterate that the nexus between caste and forced prostitution is unmissable. Devadasi life is “designed to kill whatever vestiges of self-respect the untouchable castes have in order to subjugate them and keep them underprivileged”.¹¹

⁹Act Against Devadasi System, SC Tells States' (The Hindu, 2017)

<<http://www.thehindu.com/news/national/act-against-devadasi-system-sc-tells-states/article8229560.ece>>
accessed 19 July 2017.

¹⁰ 'Act Against Devadasi System, SC Tells States' (The Hindu, 2017)

<<http://www.thehindu.com/news/national/act-against-devadasi-system-sc-tells-states/article8229560.ece>>
accessed 19 July 2017.

¹¹ Human Rights Watch Broken People: Caste Violence Against India's Untouchables, p.151

The Ambedkar Centre for Justice and Peace has pointed out through their research how female children deemed as untouchable or those that belong to the scheduled castes (between 6 and 8 years) are forced to take up this kind of ritualised prostitution and are taken from their families, never to see them again. Later only to be “raped by the temple priest and finally auctioned secretly into prostitution and ultimately die from AIDS.”¹²

This system of prostitution violates the innumerable clauses of The Universal Declaration of Human Rights, including Article 4 which states that "No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms"¹³ But the initiatives taken by the Indian Government has been largely inadequate.

Various laws have been enacted in the past to stop the menace of Devadasi system-

- Bombay Devadasi Protection Act, 1934¹⁴
- Madras Devadasi (Prevention of Dedication) Act of 1947¹⁵
- Karnataka Devadasi (Prohibition of Dedication) Act, 1982¹⁶
- Andhra Pradesh Devadasi (Prohibition of Dedication) Act, 1988¹⁷

¹²YogeshVarhade., "International Advocacy and the Role of the United Nations and Civil Society" ,Ambedkar Centre for Justice and Piece,p.3

¹³Ishita Gupta, 'Perceptions Of Prostitution: The Devadasi System In India' (Academia.edu, 2017) <https://www.academia.edu/7856458/Perceptions_of_Prostitution_The_Devadasi_System_in_India> accessed 19 July 2017.

¹⁴ 'Laws Of India : The Bombay Devadasis Protection Act, 1934' (Lawsofindia.org, 2017) <<http://www.lawsofindia.org/statelaw/7977/TheBombayDevadasisProtectionAct1934.html>> accessed 20 July 2017.

¹⁵ 'MADRAS DEVADASIS (PREVENTION OF DEDICATION) ACT, 1947 - Lawyerservices Act' (Lawyerservices.in, 2017) <<http://www.lawyerservices.in/MADRAS-DEVADASIS-PREVENTION-OF-DEDICATION-ACT-1947>> accessed 18 July 2017.

¹⁶ 'The Karnataka Devadasis (Prohibition Of Dedication) Act, 1982. | Troubles' (Dalitweb.org, 2017) <http://www.dalitweb.org/savari_troubles/?p=68> accessed 20 July 2017.

¹⁷ 'Laws Of India : The Andhra Pradesh Devadasis (Prohibition Of Dedicated) Act, 1988' (Lawsofindia.org, 2017)

- Maharashtra Devadasi (Abolition of Dedication) Act, 2006¹⁸

Apart from the above, the section 372 of the IPC prohibits selling minors for purpose of prostitution. Immoral Traffic (Prevention) Act, 1956, also makes prostitution in or the vicinity of public places an offence.

In February 2016 in a case filed by Kerala-based NGO, S.L. Foundation, the Supreme Court put its foot down and took a hard stance condemning and criticising the illegal practise of facilitating prostitution through rituals and customs. The laid back and lacklustre approach of the State authorities and the police forces of states like Karnataka, Andhra Pradesh, Maharashtra and Tamil Nadu to the problem. Apart from this, the esteemed Supreme Court has also instructed all the states and union territories to strictly enforce rules and laws to check such practises.



<<http://www.lawsofindia.org/statelaw/2693/TheAndhraPradeshDevadasisProhibitionofDedicatedAct1988.html>>
accessed 20 July 2017.

¹⁸ 'Act Against Devadasi System, SC Tells States' (The Hindu, 2017)

<<http://www.thehindu.com/news/national/act-against-devadasi-system-sc-tells-states/article8229560.ece>>
accessed 19 July 2017.



NGO RESPONSES TO TRAFFICKING

In spite of having limited access to information, data and financing, the attempts made by the NGOs to combat trafficking in their respective countries makes them lead the pack. Anti-trafficking policies and measures taken up by the NGOs are directly or indirectly connected with the cultures of their nation and establishes a relation with the governmental institutions to bring about a social change. But the major problems faced by these NGOs include remains of an obstinate and orthodox society, lack of stringent legal measures and insufficient backing from the government to legalize their work. An absence of experienced faculty and limited capacity further adds to the challenge. An extensive variety of local, national and international organizations are working together to fight trafficking despite political, geographical and cultural differences. Support for casualties frequently incorporates social and mental help, protection, financial assistance, return, and reintegration help, phone guidance and advice, lodging, vocational training, lawful counsel, and documentation help.¹⁹

Most of the times, female victims prefer discussing these issues in a more gender sensitive environment and for this reason, women friendly NGOs have frequently been the principal line of activity - bringing issues to light, campaigning for change, and giving help. Survivors of trafficking are referred to support services administered by local NGOs on repatriation. NGOs in countries of origin are largely involved in assisting women on their return. They meet them at the airport and provide them with first aid, emergency housing, food and other supplies, medical care, and immediate psychological assistance. In some cases they help women to contact their families, or may contact the families directly.²⁰

Re-integration help is a region of expanding worry that NGOs can't approach in disengagement. Monetary help, group support, and state and institutional help are fundamental to keep victims from getting trafficked once again. Without adequate help for recuperation from their horrible encounters, victims confront troubles recovering control over their lives and re-coordinating into society. The re-joining process can't be done by a solitary

¹⁹ShimaModak, HasinaKharbhih and Barbie Lyngdoh, Improving Inter Agency Response And NGO Coordination To TIP In The North East, India (Impulse NGO Network 2005).

²⁰ Rachel Masika, Gender, Trafficking, And Slavery (Oxfam 2002).

NGO, despite the fact that some Eastern European and Asian NGOs put a great deal of effort into helping survivors in this range of work. Actually reintegration in nations of origin is confined to few cases. A few recovery programs are financed by the International Organization of Migration (IOM) or other global association and, actualized by neighborhood associations. Regardless of these challenges, a few NGOs do help victims.



SOCIAL AND MORAL RESPONSIBILITIES

Trafficking in people affects them individually; it exploits them in all spheres of their lives. At each phase of the trafficking procedure, casualties endure physical, sexual and mental mishandle and infringement, hardship and torment, the forced utilization of substances, manipulation, financial exploitation, and harsh working and living conditions. Unlike most other violent offences, trafficking more often than not includes delayed and rehashed trauma. Hence, when casualties of trafficking are protected they require special consideration for their reintegration. Social, economic, cultural, religious and political steadiness are a portion of the vital factors typically thought to be the most compelling within the reintegration procedure for the casualties of trafficking.²¹

Right around 20,000 women and children were casualties of human trafficking in India in 2016, an ascent of almost 25 percent from the previous year and the funds allotted for giving assistance to these casualties of extreme violence is not adequate to address trafficking issue in the nation. This poor subsidizing circumstance is frequently a snag for the program of reintegration procedure of casualties.²²

Then again, the socio-cultural condition and mental circumstances into which a casualty of trafficking is reintegrated assumes a noteworthy part in their economy and well being. Reintegration, mostly, relies upon the way family relations and relations in the greater social environment can support and adapt to the casualties of trafficking. This is again somewhat subject to the individual qualities and conduct of the trafficking casualty. For the reintegration procedure, it is often required a specific readaptation from the individual being reintegrated. Where issues of social acknowledgment and individual readaptation are not legitimately tended to, vilifying can turn into a predominant drive of condemnation

²¹ 'International Social Justice Commission: Human Trafficking' (Www1.salvationarmy.org, 2017) <http://www1.salvationarmy.org/IHQ/www_ihq_isjc.nsf/vw-sublinks/97D576234A111C0480257646005873D0?openDocument> accessed 20 July 2017.

²² Alicia W Peters, Responding To Human Trafficking.

influencing a casualty of trafficking in such negative ways that some feel pushed once again into their previous condition.

These diverse issues of reintegration should be taken into consideration from alternate points of view, which albeit distinctive, may supplement each other. As an individual, reintegration is affected by their sentiments of disgrace and low confidence, disappointment with life and unfulfilled duties in regards to monetary commitments for the family. From the perspective of the family, considerations in regard to family relations, family respect and expectations with respect to financial commitment assume an imperative part in the reintegration procedure. In the social, cultural and religious situations, the inaccurate conduct and the contagion of disgrace can prompt social demonization with respect to the casualties of trafficking.²³

In spite of the fact that during the last decade, India has endeavored to battle against trafficking, to date the reaction from the government is not exceptionally viable as far as indictment, safeguarding and avoidance of sex trafficking in the nation is concerned. There is dire need to expand subsidizing, upskill staff, and give viable security to witnesses and casualties, increment preparing on casualty distinguishing proof and treatment for law enforcement officials, immigration officers and work overseers, prosecutors, judges, caseworkers and other government representatives, guaranteeing that anti-trafficking enactment at the union and state levels reflect global anti-trafficking laws and enhance coordination component between union, state and local organisations.

²³ Frances P Bernat, *Human Sex Trafficking* (Taylor and Francis 2013).

JUDICIAL RESPONSE

"The judiciary is one of the most important sectors that need to be sensitised on gender issues and violations of rights of women due to trafficking. An analysis of the attitudes of judges reveals a protectionist approach rather than a substantive approach in their judgment of criminal cases against trafficking." — *Combating Human Trafficking in Asia*.²⁴

India, being the world's largest democracy, has constitutionally forbidden human trafficking for sex or for any other purpose, and as per Article 23 of the Indian Constitution, it is a fundamental right guaranteed to all its citizens to be free from all kinds of exploitations. "India was one of the earliest parties to the Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others of 1949, and it claims to have implemented this treaty within its domestic legal framework through the Suppression of Immoral Traffic in Women and Girls Act of 1956, subsequently amended and renamed the Immoral Traffic (Prevention) Act of 1986."²⁵ Even then, it is broadly reported that in India a large number of girls and women are trafficked each year with the end goal of business sexual abuse, and they are compelled to work and live in states of servitude.

At the point when the Constitution of India came into force in 1950, it consolidated many parts of the Indian Penal Code, which went back to 1860. Fortunately enough, the issue of trafficking in people was tended to in the Indian Penal Code, which proscribed trafficking of women and children into coercive prostitution in India and endorsed illiberal penalties for the wrongdoers. The Indian Penal Code states that any individual who purchases or offers or gets ownership of anybody under the age of 18 years for "the purpose of prostitution or illicit intercourse . . ." or for an "unlawful or immoral purpose . . ." or "knowing it to be likely that

²⁴ (2017) <http://shodhganga.inflibnet.ac.in/bitstream/10603/63874/12/12_chapter%205.pdf> accessed 16 July 2017.

²⁵ (2017) <<https://www.stu.edu/Portals/Law/docs/human-rights/ihr/r/volumes/1/373-406-KumarRegmi-TraffickingintoProstitutioninIndiaandtheIndianJudiciary.pdf>> accessed 17 July 2017.

such person will at any age be employed or used for any such purpose . . .” is liable to detainment in prison for up to ten years.²⁶



²⁶ 'Section 372 In The Indian Penal Code' (Indiankanoon.org, 2017) <<https://indiankanoon.org/doc/1938563/>> accessed 17 July 2017.

**CONTEMPORARY PUBLIC INTEREST LITIGATION FILED UNDER
SUPPRESSION OF IMMORAL TRAFFIC IN WOMEN AND GIRLS ACT AND
IMMORAL TRAFFIC (PREVENTION) ACT**

In the case of, [Dr. UpendraBaxi v. State of Uttar Pradesh](#)²⁷ a PIL was registered by Dr. UpendraBaxi and Mrs. Lotika Sarkar looking for court's orders to the State Government to ensure the fundamental rights of the occupants of the protection home at Agra which was set up under the Suppression of Immoral Traffic in Women and Girls Act 1956.

The Supreme Court gave certain orders to the Uttar Pradesh state Government and the Administrators of the earlier specified Protective Home, to give better living conditions to the occupants. They were ordered to make sure that they don't keep living in cruel and corrupting conditions and that the privilege to live with poise ensured under Article 21 of the Constitution of India is made genuine and important for them.

Nevertheless, Mrs. Shrivastava, the Superintendent of the home, documented an affirmation before the Court expressing the move made by the State Government in consistence with the orders of the Supreme Court. Mrs. Shrivastava had stated in the affidavit that the only purpose of Dr. Baxi and Mrs. Lokita behind filing the petition was to secure the title of the Home.

First of all, the Court unhesitatingly denounced the indication made by MrsShrivastava that Dr. Baxi and Mrs. Sarkar needed to secure the possession of the Home for themselves. It at that point continued to consider how far the orders given by it were adhered to. The Supreme Court had ordered earlier that every one of the prisoners of the Home ought to be therapeutically inspected.

As per the report of the Incharge of the Department of Psychiatry, S N Medical College Agra, who analyzed the 50 inmates of the Home, found that 33 of the prisoners were experiencing

²⁷ 'Dr. UpendraBaxi (I) Vs State Of Uttar Pradesh And Anr. On 31 July, 1981' (Indiankanoon.org, 2017) <<https://indiankanoon.org/doc/1916816/>> accessed 20 July 2017.

moderate to considerate subnormality. In any case, they had not been medicinally inspected at the season of being conceded in the home.

The Supreme Court looked for a clarification from the Superintendent of the Home in the matter of whether any psychiatric treatment was given to them and whether any initiative had been taken towards their recovery. Further, the Supreme Court ordered the State government and furthermore the Superintendent of the Home, to isolate the inmates with subnormality from the ordinary inmates and to choose which classifications group of mental patient ought to be transferred to an appropriate Institution. `

The Court additionally ordered that the costs for the same ought to be borne by the State Government. The Supreme Court noticed that just after its previous order, 16 prisoners , who were accounted for to have been in a mentally disturbed condition, had been released by the Superintendent of the Home subsequent to acquiring orders allowing the same, from the Additional District Magistrate.

The way in which these prisoners were released made the Court to notice that they might have been released simply to evade an enquiry by the Court. The Court likewise communicated its dissatisfaction over the way that the detainees had been released without giving them railroad tickets as pondered under area 37(4) of the Suppression of Immoral Traffic in Women and Girls Act 1956 and that the authorities did not try to enquire as to where they were going or whether they had any cash or how they proposed to take care of themselves.

The Court demanded for a clarification from the Additional District Magistrate in the matter of how the previously mentioned detainees, who had been observed to be mentally disabled to some degree, were permitted to be released. The court looked for clarification on these issues from the State Government and the Superintendent of the Home, and from there on the case was posted for hearing on another date.

The issue came up for hearing a few times after that and different orders were given with respect to the welfare of the occupants of the Protective Home. In the final order, the Supreme Court held that it was glad to take note that the State Government had responded to

the different orders and had made efforts with a view to enhancing the living states of the occupants of the Home



CASE STUDY (Cuttack, Orissa)

CASE STUDY I –

NR was born in the poverty stricken district of Korapu, Odisha. This area is often associated with starvation, poverty and deprivation. She studied till class VI and was then sold off by her dad to a seth. The seth kept her as a domestic help and made her do household works for almost ten people. At the tender age of fifteen, she was raped by the master of the house and was then sold off when the mistress came to know about it. She stayed at a brothel in West Bengal and although she wanted to run away, she felt that her livelihood and survival options were very less. One day, at the age eighteen she finally decided to run away with a few other girls because the pain of the present was greater than her fears of the future. Today at 53, she is a single mother and works as a help in a university in Cuttack and also, works part-time at a local NGO in Cuttack, Odisha.

CASE STUDY II:

Kuntalika, now sixty, was only nineteen years old was abducted from Sundargarh, her native place. At that time, her mother had run away with another man and she stayed with her father. She ran away from her house after her father, who was a drunkard, repeatedly raped her. She took shelter at her aunt's place who stayed nearby. Her aunt after taking care of her for 3 years sold her off after continued pressure from her in-laws. A fighter from the beginning she tried to escape the brothel six times before she actually succeeded. A NGO in Orissa took her up and helped her finish her education. Today, she is a nurse at a clinic in Cuttack and also works part-time at the NGO in Cuttack that gave her shelter.

CONCLUSION

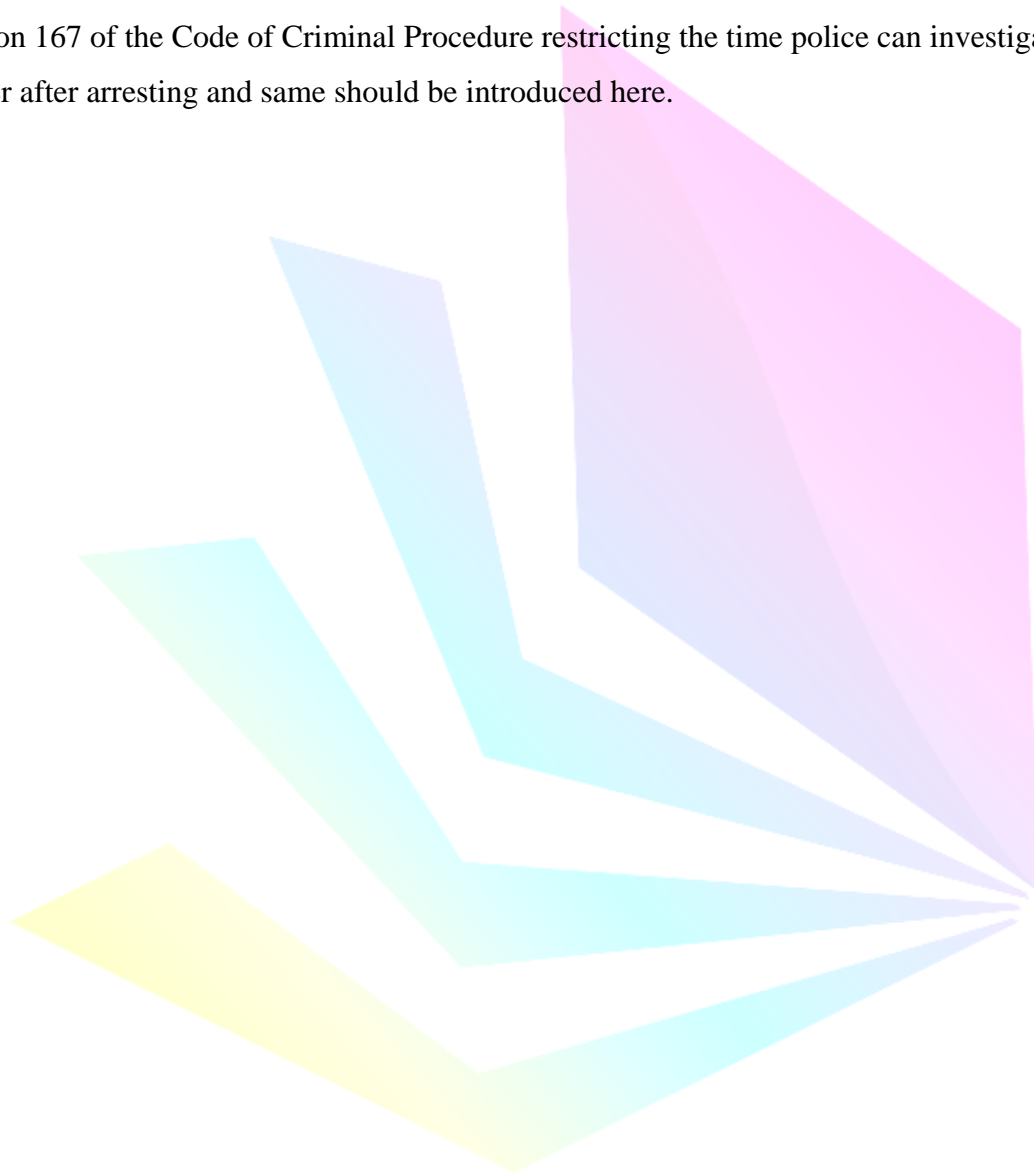
After researching on the issue at hand, we would like to suggest some plausible solutions to give better access to legal aid. First and foremost, as suggested before the Immoral Trafficking Prevention Act should have fresh laws with procedures to be followed to take investigation beyond brothels, give victims better access to rehabilitation and medical assistance. Minimum standards of care and attention to victims and their health should be facilitated by the act and laws should be stricter to check the apathetic approach taken by states. Our understanding of the problem is that access to legal aid can only be made easier if public awareness programmes are extensive and substantive. Along with the poorer section, police officials should also have a detailed understanding of the crime they are dealing with. The Action Research carried out by NHRC highlighted how prevention of the crime is only possible if the entire community is involved in anti-trafficking activities. The provision of special courts provided by Immoral Trafficking Prevention Act has also been minimally implemented. Adding to the change in laws and procedures suggested throughout the paper, we would also like to suggest a few changes in a few sections of the ITPA-

- 1) The definition provided by Immoral Trafficking Prevention Act²⁸ in Section 2(f) should include both males and females to be inclusive and sensitive to the needs to the of both genders.
- 2) Section 2(b) if read with 2(g) seems to include jails and prisons as corrective homes. This being a social legislation should not be so impassive and detached from the plight of those forced into commercial prostitution.
- 3) Section 7(1)(b) provides for only a 3 month punishment for those who demand services unless the victim is a child. This punishment is very less and will fail to serve as a deterrent. If the demand increases, commercial sexual prostitution would not be easy to curb.

²⁸HRLN Administrator, 'The Immoral Traffic (Prevention) Act, 1956' (Hrln.org, 2017)

<<http://hrln.org/hrln/child-rights/laws-in-place/1715-the-immoral-traffic-prevention-act-1956.html>> accessed 20 July 2017.

- 4) Section 8 has been highly misused and women and children have charged of soliciting. The section should make it compulsory to know intent and knowledge of the women and children because they are often coerced into these acts. It should be proved beyond doubt that the act was done voluntarily without any kind of threat.
- 5) Time frame should be set and justice delivery should be faster. There is a provision under Section 167 of the Code of Criminal Procedure restricting the time police can investigate a matter after arresting and same should be introduced here.



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