

**NOT A BEAT-UP WORKER:A STUDY OVER ACHIEVABLE
AMELIORATION REQUIRED IN THE INDIAN POLICIES ON
PROSTITUTION CONSIDERING THE ADVERSE EFFECT OF THE
IRREGULARITIES ON THEIR HEALTH**

Anukriti Singh Solanki¹

Abstract

Prostitutes are denied the opportunity to engage with the society as a citizen because of the concept of “immorality” attached with their occupation. This leaves them with no choice but to suffer in silence such inhumane working conditions which deprive them of the cardinal human rights. Sex workers are not supposed to be paid for getting thrashed by their clients or their owners. When the patriarchal society of India linked the honour of a woman with her chastity it simultaneously created such a world for the prostitutes where it surpassed all the limits of disregarding human life. Although in the eyes of law prostitution is not a crime here, due to the irregularities they are living a life worse than that of convicted criminals. Highly vulnerable to Sexually Transmitted Infections, sex workers experience consistent traumas while facing physical as well as mental abuse leading them towards severe depression resulting in increased suicidal tendencies on their part. In this paper we have discussed how the policies on prostitution in India have miserably failed, adversely affecting their health and what successful policies from all around the world can be imposed to provide sex workers with a better dignified livelihood.

Introduction

Perceived as a survival tactic by the indigent and as an opportunity by the traffickers, Prostitution sustains as one of the most parlous and pernicious occupation. Sex industry being gigantic, ubiquitous and money-making is getting constantly innovative in its hunt for utmost human exploitation. With the increase in poverty, the probability of supply of exploitable individuals increases. This increases the dexterity of the traffickers to get hold of trafficked sex workers which in turn reduces the price of sex because of higher number of workers. Because of the low price the number of people who can buy sexual services from these sex workers

¹ 5th year, Batch of 2022, Amity University, NOIDA

increases. The increasing demand keeps the business of selling sex perpetual at the cost of unrecognised human rights of the sex slaves.

United Nations Office on Drugs and Crime in its global report on Trafficking in Persons states that 83% of women victims of trafficking are trafficked for sexual exploitation² and 68% of trafficked persons for sexual exploitation³ are women and 26% are girls. Legalising prostitution in a country can either curb the increasing rate of human trafficking as the demand would shift towards the legal prostitutes or it can lead to an expansion of the sex industry as purchasing sex would be no longer a crime resulting in need of more sex workers which would become the biggest reason for traffickers to boost up buying and selling humans⁴.

Indian laws legalise prostitution but criminalise the related activities as owning and operating a brothel, soliciting in public and living on the avails of a person selling sex services. The laws have so far failed in preventing trafficking as well as in providing basic care and protection in form of fundamental rights to the sex workers. With no hope of escape prostitutes suffer severe physical as well as sexual assault without a proper legal recourse, without the power to defend, without the support of their employers, without the freedom and authority to seek help from the police and without the basic self-respect to live their lives with dignity. The inhumane conditions of work and living has an adverse impact over their physical as well as mental health increasing the chances of psychiatric morbidity.

The paper shall examine the severe consequences of the inappropriate prostitution policies in India with regard to sex workers' living conditions and health and shall also discuss the laws in other countries which can be adopted by the Indian policy framers in order to

- prevent human trafficking for sexual exploitation
- provide sex workers a better stand in defining the terms of the transaction
- prevent spread of HIV (human immunodeficiency virus) and other STIs amongst the sex workers
- provide the sex workers with a platform to report physical assault and forced sex

² United Nations Office on Drugs and Crime, Global Report on Trafficking in Persons 28-33 (2020), https://www.unodc.org/documents/data-and-analysis/glotip/2018/GLOTiP_2018_BOOK_web_small.pdf.

³ Id

⁴ Seo-Young Cho, Axel Dreher & Eric Neumayer, *Does Legalized Prostitution Increase Human Trafficking?*, 41 World Development 67-82 (2013).

- provide sex workers a recognition equal to that of other occupations with an intent that they can avail equal protection in the eyes of law from any form of exploitation.

What we consider a tragedy is just a normal day for them

Broadly considered as an immoral, harmful and risky occupation by the society at large Prostitution is the practise of providing sexual services in exchange of money to the people who seek an opportunity to express their sexual freedom.

The level of undesirability for such a profession is hardly consistent with the level of demand it carries. The sex workers are discredited with deviant⁵ social labels and then are visited by those very people for satisfaction of their sexual needs. With the increasing demand and the varying laws to govern the profession worldwide be it complete criminalisation or decriminalisation or legalisation, sex workers are always at the verge of being exploited at the hands of the clients, brothel owners, pimps, traffickers and the general public.

Entering into this profession voluntarily or being sold to or by pimps forcefully, in both the cases the sex worker is exposed to structural violence which is normalised as an inherent nature⁶ of selling sex. Fundamental need of having protected and safe sex is hardly recognised by the people running the industry resulting into high rates of HIV(human immunodeficiency virus) /STIs(sexually transmitted infection) and BBV(blood borne virus) spreading amongst the prostitutes due to regular contact with multiple sex partners as well as the clients and through the clients into the general population. Continued exposure to trauma often leads them into injecting drug use to reduce the impact of the activity and achieve the feeling of being numb in order to facilitate sex⁷. If not voluntarily, substance use is also forced upon the sex workers by the pimps and/or clients to keep control.

Women are lured into prostitution with the promises of job prospects and trafficked to different countries and then are introduced to their terrifying future. Virgins are preferred by men which increases the probability of old workers making the young ones run away so that their clients

⁵ Andrea Krüsi et al- "They won't change it back in their heads that we're trash": the intersection of sex work-related stigma and evolving policing strategies, 38 *Sociology of Health & Illness* 1137-1150 (2016), <https://onlinelibrary.wiley.com/doi/full/10.1111/1467-9566.12436>.

⁶ id

⁷ Amanda Roxburgh, Louisa Degenhardt & Jan Copeland-Posttraumatic stress disorder among female street-based sex workers in the greater Sydney area, Australia, 6 *BMC Psychiatry* (2006), <https://link.springer.com/article/10.1186/1471-244X-6-24>.

stay entangled with them. Locations of sex worker are changed very rapidly in order to avoid tracking the whereabouts by the anti-human trafficking authorities.

The extremely complex vulnerabilities faced by the women in this profession are associated with multigenerational effects of poverty and subordination. Dealing with such factors lead them towards depression and posttraumatic stress disorder eventually resulting in suicidal attempts⁸. PTSD is more pervasive among these women than in general population due to the ongoing exposure to trauma in day-to-day life at work in the sex industry.

As majority of these women end up into practising such a profession as a result of force or fraud the sex workers are universally constructed as victims which undeniably becomes a major cause of concern for the ones who voluntary step into prostitution as it undermines sexual labour as a reasoned choice for income generation. It deprives the sex industry to be treated under regulatory policies in a fashion similar to other industries carrying on different profession. As a consequence, prostitutes require to struggle for a share of the illegal economy and pay major portions of what they earn to pimps for survival.

Such a practise of commodification of human beings needs proper regulation under law to help these women attain their basic human rights to live a life and not just survive it.

Are the Indian policies any good in tackling the monstrous impact on the sex workers?

The high morals along with a name to maintain in society prostitution is looked down upon with regard to the traditions and cultural heritage which have been in practise since years. Here a female's honour is closely linked to her chastity⁹ and practising such a profession is a huge deviation from the norms of the society which results in stigmatisation and ostracization of those females. Sex workers here operate outside the societal protections which the other citizens often take for granted.

India's deeply religious culture strictly discourages casual sex before marriage. Young people don't have the opportunity to engage in a sexual activity with someone they are dating without the added burden of commitment and merger. The extreme gender inequality, exacerbating poverty, low literacy rate, discrimination towards women from marginalised groups, the increase in number of child marriages and their victims, deserted women from failed marriages

⁸ id

⁹ Robynne A. Locke- Rescued, Rehabilitated, Returned: Institutional Approaches to the Rehabilitation of Survivors of Sex Trafficking in India and Nepal, 2010.

and widows, survivors of incest and sexual abuse. These incorporate the major causes which is leading to an increase in demand for sex industry where men can express their sexual freedom and women with all the opportunities eliminated to earn income can turn into voluntarily or are lured into by fake job prospective. But as it is considered immoral to sell one's own body in return of money, the entire community of sex workers is outcasted, their basic needs and desires are unrecognised and undervalued and they are forced to live outside the law.

Considered wrong by the right-minded people prostitution is treated as a menace to the social and moral order of the society.

The Immoral Traffic (Prevention) Act 1956 of India to govern prostitution is very much similar to that of the laws governing prostitution in UK which are Street Offences Act, 1959 and Sexual Offences Act, 1956, both the countries criminalising procurement of a person for prostitution¹⁰, pimping, operating a brothel¹¹, living off the avails of a person selling sex¹², soliciting in public¹³ and legalizing prostitution solely. In simpler words owning and managing a brothel is a crime but an adult providing sexual services out of her own home alone is not a crime. As most of the related activities are illegal, sex workers are pressurized to work in isolation or depend upon a pimp for protection as there is hardly any legal recourse for them.

This results in the sex industry going underground which leaves no choice for the sex workers but to suffer defencelessly. Because of which this system is self-perpetuating as it not only involves new victims of trafficking but also the daughters of sex workers who are vulnerable to sexual abuse since childhood and sons of sex workers who gain an understanding of the trade and aim to acquire high positions of a pimp, brothel owner and dealer themselves.

Crestfallen Physical and Mental Health Standing

India owns a set of laws to protect women from workplace violence and sexual harassment¹⁴ but due to the constructed gendered morality as a result of the male dominant society sex workers reside out of the scope of these laws. Lack of proper regulations constraints sex worker's ability to negotiate the conditions for providing the service which includes but is not

¹⁰ "Immoral Traffic (Prevention) Act 1956, 5-Procuring, inducing or taking [person] for the sake of prostitution"

¹¹"Immoral Traffic (Prevention) Act 1956, 3-Punishment for keeping a brothel or allowing premises to be used as a brothel"

¹²"Immoral Traffic (Prevention) Act 1956, 4-Punishment for living on the earnings of prostitution"

¹³ "Immoral Traffic (Prevention) Act 1956, 8-Seducing or soliciting for purpose of prostitution"

¹⁴ The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

limited to condom use while performing the sexual activity and amount of force used which may lead to violent actions to get aroused.

Persistently re-experiencing physical and sexual assault, sex workers are exposed to higher possibilities of developing posttraumatic stress disorder¹⁵. Along with the continuous trauma witnessed by them there are various other factors associated with it including childhood sufferings, domestic abuse, stigmatisation, labelling, substance abuse and mental torture due to male dominance all of which leads to impairment in functioning. The more persistent the trauma is the more severe the symptoms of the disorder are. As per a research conducted in the United States¹⁶, sex workers displayed inexorably higher psychological distress, based independently on having gone through traumatic events.

Drug dependence to reduce the impact of sufferings on one's feelings lead to higher complications in PTSD. The lingering effects of physical and sexual abuse is not limited to mental traumas but it also leads to chronic illness as HIV and STIs as due to lack of power to negotiate for a protected sex in exchange of payment sex workers can hardly defend themselves from such unknown, communicable diseases. Moreover, unprotected sex results into unwanted pregnancy which in turn shove the children into the vicious cycle of sex industry.

In a study conducted¹⁷ it was observed that prostitutes facing restrictive policing practises are exposed to higher risk of dealing with physical and sexual abuse from their clients and operators (across 5204 respondents). Such repressive policies imposed on sex workers was also linked with heightened risk of unprotected sex across 9,447 participants making them more vulnerable to getting infected with STIs and HIV. The qualitative synthesis of the study also suggested that decriminalisation and proper regulation of prostitution shall result in establishing better relationship between the sex workers and the police, better and equal access to justice as that of all the citizens of the country and improved and recognised status in framing the terms of the transaction providing them more power to negotiate and demand protected sex.

¹⁵ *Supra* note 6

¹⁶ El-Bassel DSW, Schilling R, Irwin KL, Faruque S, Gilbert L, Von Bargen J, Serrano Y, Edlin BR: Sex Trading and Psychological Distress among Women Recruited from the Streets of Harlem. *American Journal of Public Health*. 1997, 87: 66-70.

¹⁷ Lucy Platt et al., Associations between sex work laws and sex workers' health: A systematic review and meta-analysis of quantitative and qualitative studies, 15 *PLOS Medicine* e1002680 (2018), <https://journals.plos.org/plosmedicine/article?id=10.1371/journal.pmed.1002680>.

In India, state governments are authorised and made responsible for establishing Protective homes¹⁸ for the rescued survivors of sex trafficking and prostitution with the intention of ensuring their safety if reunification with her family is not possible or is not in the best interest of the victim/survivor. When there are possibilities of re-exploitation or the family is ill equipped in order to protect the victim/survivor the rescued sex worker is kept in these shelter homes for a period not defined in the act. No adequate policy has been framed for proper rehabilitation of the residents of these protective homes.

A Rights Based Approach¹⁹ is required to be practised in these protective homes for rehabilitation and reintegration by recognising the capabilities, strengths and wants of the survivor and not by treating her as a “damaged” or “broken” substance which cannot work independently without any support or “welfare”. In order to prevent re-victimization, focus needs to be shifted towards the individuality of the survivor, the individual skills and talents rather than taking a holistic approach with a purpose to escape donor dependency of the NGOs and other shelter homes.

POSSIBLE IMPROVEMENTS BASED ON LAWS FROM DIFFERENT COUNTRIES

PURPOSE

- The intention is to provide sex workers with the same and equal basic human rights and working conditions with utmost importance given to health and hygiene as well as safety to that enjoyed by other occupations.
- To prevent sex industry from going underground by providing license with applied terms and conditions to be complied with in order to conduct regular inspection for the protection of sex labourers.
- To prevent child trafficking and prostitution by limiting whom the brothel owners can employ.

¹⁸ “Immoral Traffic Prevention Act, 1956, 2(g) “protective home“ means an institution, by whatever name called (being an institution established or licenced as such under Section 21), in which persons who are in need of care and protection, may be kept under this Act and where appropriate technically qualified persons, equipments and other facilities have been provided but does not include,— (i) a shelter where undertrials may be kept in pursuance of this Act, or (ii) a corrective institution; (h) “public place“ means any place intended for use by, or accessible to, the public and includes any public conveyance; (i) “special police officer “means a police officer appointed by or on behalf of the State Government to be in charge of police duties within a specified area for the purpose of this Act; (j) “trafficking police officer“ means a police officer appointed by the Central Government under subsection (4) of Section 13”.

¹⁹ *Supra* note 8

DEFINITION CLAUSE

Distinguishing between sex workers who have voluntarily chosen the profession and those who have been coerced into it while defining “Prostitutes”, with the purpose of giving them indistinguishable status in the eyes of law and sanctioning those individuals who exploit women by forcing them into sex industry. As it is defined in Netherlands²⁰ where prostitution was legalised in 2000.

The ability to anticipate and make a choice between morality and immorality is a prerogative of privilege which can only be understood by the women facing life and death situation because of poverty and patriarchy. Deciding to sell one’s body in order to survive and provide better lives to their children becomes the only choice a woman with no support can make. As discussed earlier, prostitution is considered against the culture and traditions, Indian policies require to provide a fair and equal recognition to sex labourers as that of other occupations in order to regulate and provide basic protection enjoyed by other labourers.

REGISTRATION/LICENSING

Licensing to carry out business in sex industry shall bring strict adherence to the rules and regulations of the policy whereas registration is comparatively easier option to prevent the industry from going underground because of the higher complications and fees involved in licensing as opted by Australian Capital Territory where prostitution is decriminalised with certain regulations²¹.

As per the present circumstances in India, licensing shall be most suitable reform. Brothel owners shall be checked for any criminal background as demanded in Australian Capital

²⁰ “Dutch Penal Code,2009, 273f (1) Any person who:

.

.

. 3° recruits, takes with him or abducts a person with the intention of inducing that person to make himself/herself available for performing sexual acts with or for a third party for remuneration in another country;

.

.

(2) Exploitation comprises at least the exploitation of another person in prostitution, other forms of sexual exploitation, forced or compulsory labour or services, slavery, slavery like practices or servitude”.

²¹“Sex Work Act, 1992, 11-Register

12-Registration notice etc to be given to commissioner— commercial operators

13-Annual notice to be given to commissioner—commercial operators

14-Other notices to be given to commissioner—commercial operators and former commercial operators”

Territory where any individual who has been convicted for any of the “disqualifying offences²²” provided in schedule 1²³, schedule 2²⁴ and schedule 3²⁵ of the Prostitution Act 1992 shall not be permitted to own, operate and manage a brothel. A valuation of finance of these individuals shall as well be asked for submission²⁶.

STATE CONTROL AND REGULATION

State governments can be handed over with the responsibility of protection of the sex workers and authority of controlling the conduct of the business including the allotment of zonal areas for operating brothels as is practised in New Zealand²⁷ where prostitution is decriminalised as per The Prostitution Reform Act 2003²⁸. In India every state owns different resources and differ in culture and custom practise as well. Hence in order to frame suitable policies for regulation of sex industry, the state government should be authorised to determine-

- The establishment of brothels at a location which is at a reasonable distance from educational institutions, hospitals, place of worship or any alike place as practised in Victoria, Australia.
- Confining prostitution to certain zones of the state²⁹.
- Deciding the appropriate amount of licensing fees as per the financial status of the state.

²² “Sex Work Act 1992, 6- Meaning of disqualifying offences

(1) In this part: disqualifying offence means

(a) an offence against any of the following: (i) a provision of the Crimes Act 1900 mentioned in schedule 1; (ii) a provision of this Act mentioned in schedule 2; (iii) the Crimes Act 1900, section 114B (Money laundering); (iv) the Criminal Code, chapter 6 (Serious drug offences); or

.

.

(f) an offence against a law of a foreign country of a kind mentioned in schedule 3”

²³ See Appendix 1

²⁴ See Appendix 2

²⁵ See Appendix 3

²⁶ **Sex Work Act 1994,S.33(2)(d)(ia)-(i)**the prescribed licence fee;

(ii) any other things that are prescribed. **Victoria, Australia**

²⁷ “Prostitution Reforms Act 2003, 14 Bylaws regulating location of brothels

Without limiting section 125 of the Local Government Act 2002, a territorial authority may make bylaws for its district under section 146 of that Act for the purpose of regulating the location of brothels. (New Zealand)

²⁸ “Prostitution Reforms Act 2003,13 Procedure for making bylaws”

(1)A bylaw made under section 12 must be made in the same manner in all respects as if it were a bylaw made under the Local Government Act 2002.

(2) Despite subsection (1), a bylaw may be made under section 12 even if, contrary to section 155(3) of the Local Government Act 2002, it is inconsistent with the New Zealand Bill of Rights Act 1990”.

²⁹“Sex Work Act 1992,18 Brothels—other than in prescribed location

(1) A person must not operate a brothel other than in a prescribed location. Maximum penalty: 100 penalty units, imprisonment for 1 year or both. (2) Each owner of a brothel that operates other than in a prescribed location commits an offence. Maximum penalty: 100 penalty units, imprisonment for 1 year or both. (3) This section does not apply to an escort agency or premises used by a single sex worker”. (Australian Capital Territory)

- Establishing the required governmental bodies to delegate the execution authority suitably.

While authorizing the states to frame bylaws the centre shall have to make certain if the policies are not completely prohibiting prostitution in disguise of strict control.

BINDING AND SYSTEMATIC STI TESTING

A list of sexually transmitted infections should be incorporated in the schedule of the Act as defined in Sex Work Regulations 2016³⁰, Victoria, Australia along with guidelines with respect to the safety including the mandatory use of personal protective equipment.

The sex workers infected with any of the STIs (sexually transmitted infection) shall be prohibited from providing services whereas the infected clients shall be prohibited from seeking any sexual services. Making all the parties responsible shall put the sex workers into a better position to negotiate the terms of transaction assisting them in resisting unprotected sex with their clients.

EQUAL RECOGNITION

- Occupational health and hygiene as well as safety codes for other industries should be expanded to sex industry accordingly.

- Article 39 of the India Constitution states that

“The State shall, in particular, direct its policy towards securing—

(e) that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength;

(f) that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.”

- Article 42 of the Indian Constitution states that

³⁰ “Sex Work Regulations, 2016, 6 Sexually transmissible infection

For the purposes of the definition of sexually transmissible infection in section 3 of the Act, the following diseases or conditions are prescribed— (a) chlamydia; (b) chancroid; (c) donovanosis; (d) genital and anal herpes (when lesions are visible); (e) genital and anal warts (when lesions are visible); (f) gonorrhoea; (g) infectious syphilis; (h) HIV”.

“The State shall make provision for securing just and humane conditions of work and for maternity relief”.

These provisions make the state government responsible to look after the basic needs of the workers at their workplace regarding their working conditions. “Prostitution exists as a given fact, even for the government. That requires a realistic approach, without moralism”³¹ as stated in the first report of Dutch National Rapporteur when the ministry was moving towards bringing a reform in the prostitution policies in Netherlands. In India as well the government shall have to accept the fact of its existence as a separate industrial occupation which involves humans to be considered equally as labourers of other industries and fulfil the required responsibilities as per the Indian Constitution. There are sixteen enactments in total consisting the basic requirements regarding the working conditions of workers in India. There is a need to expand the scope of such laws to cover the sex workers in order to enable them protect themselves against exploitation at the hands of their employers.

- The local bodies authorised by the state shall have the power to enter the premises believed to be operating as a brothel at any reasonable time as per their due diligence and conduct an investigation to confirm compliance with the stated guidelines similar to the inspection conducted as per the sections 24 -29 Prostitution Reforms Act 2003³², New Zealand.

³¹ Bureau Nationaal Rapporteur Mensenhandel, Netherlands, Trafficking in Human Beings: First report of the Dutch National Rapporteur, 15 (2002).

³²Prostitution Reforms Act 2003, “**26 Powers to enter and inspect compliance with health and safety requirements**

(1) An inspector may, at any reasonable time, enter premises for the purpose of carrying out an inspection if he or she has reasonable grounds to believe that a business of prostitution is being carried on in the premises.

(2) For the purposes of the inspection, the inspector may—

(a)conduct reasonable inspections:

(b)take photographs and measurements and make sketches and recordings:

(c)require any of the following persons to provide information or assistance reasonably required by the inspector:

(I)a person who operates the business of prostitution, or an employee or agent of that person:

(ii)a sex worker or client of the business of prostitution:

(d)take copies of the information referred to in paragraph (c).

(3)An inspector may seize and retain anything in premises entered under this section that the inspector has reasonable grounds to believe will be evidence of the commission of an offence against [section 8](#) or [section 9](#).

(4) Nothing in this section limits or affects the privilege against self-incrimination.

(5) An inspector may take any person acting under the inspector’s direct supervision into the premises to assist him or her with the inspection.

27 Entry of homes

(1)An inspector may not enter a home under [section 26](#) unless he or she—

(a)has the consent of an occupier of that home; or(b)is authorised to do so by a warrant issued under subsection

(2).

PROHIBITING IMMIGRATION

As per the United Nations data³³ 58% share of the detected victims of trafficking are within their own borders, 28% within same subregion, 5% within same region and 9% from another region. Trafficking women from other countries has been increasing rapidly. In order to combat it, brothel owners and managers shall be prohibited to bring into business women from outside and any individual who seeks to invest or involve or operate the sex industry. Individuals visiting India for temporary period or for limited purpose shall also be denied to be a part of the industry and conduct any allied business.

PENALTIES TO DETER

Non-compliance with the policies shall result into reasonable fines varying from state to state and conditions shall also be laid down in which there can be temporary or even permanent revocation of the license and seizure of the property and premises. It should be kept in mind that fine should not be such which forces the sex workers to work even more as a part of the industry to pay the complete amount³⁴.

CONCLUSION

Decriminalised and regulated prostitution cannot be expected to eradicate the sex market with the increasing demand and the high willingness to supply but it can definitely provide the sex workers a chance to live their lives with dignity. The multi-layered reality of stigma and structural violence makes a sex worker's life similar to that of a slave with no laws for humanizing their working conditions. The government needs to bring a transformation in the policies on prostitution with a purpose of not promoting it as an acceptable or preferable career option but to provide such basic rights and protection under the law which are enjoyed by others practising different professions.

(2)A District Court Judge, Justice, Community Magistrate, or Registrar of the District Court (who is not a constable) may issue a warrant to enter a home or part of a home if, on application made on oath, he or she is satisfied that there are reasonable grounds for believing that—

(a)a business of prostitution is being carried on in the home; or(b)the home or the part of the home is the only practicable means through which to enter premises where a business of prostitution is being carried on.

(3)The warrant must be directed to an inspector by name and must be in the prescribed form”.

³³ *Supra* note 1

³⁴ Laura Barnett & Lyne Casavant, *Prostitution: A Review of Legislation in Selected Countries*, (2011), https://lop.parl.ca/sites/PublicWebsite/default/en_CA/ResearchPublications/2011115E#a9.

Close and easy access to police authorities to report any abuse or non-compliance with the health and hygiene guidelines can only be achieved if the sex workers feel free from the labels of immorality imposed over them by the society. And the society shall only recognise them as much as rightful citizens as they themselves are if the law governing the sex industry is “sex workers’ rights” oriented and not “victims of immorality” centric. Occupational laws need to extend their scope to incorporate sex workers as labourers with the intent to bring them within the ambit of provisions protecting the interests of the working class from exploitation. It is the bitter reality that until the poverty and inequality in nation is completely eradicated, sex trafficking cannot be curbed but it is also true that victims of sexual exploitation can be saved by giving them a powerful stake in the industry they work for enabling them to defend themselves against consistent traumatic experiences and to put forward their terms of transaction.

BIBLIOGRAPHY

- Amanda Roxburgh, Louisa Degenhardt & Jan Copeland, *Posttraumatic stress disorder among female street-based sex workers in the greater Sydney area, Australia*, 6 BMC Psychiatry (2006), <https://link.springer.com/article/10.1186/1471-244X-6-24>.
- Andrea Krüsi et al., *‘They won't change it back in their heads that we're trash’: the intersection of sex work-related stigma and evolving policing strategies*, 38 *Sociology of Health & Illness* 1137-1150 (2016), <https://onlinelibrary.wiley.com/doi/full/10.1111/1467-9566.12436>.
- Bureau Nationaal Rapporteur Mensenhandel, Netherlands, *Trafficking in Human Beings: First report of the Dutch National Rapporteur*, 15 (2002).
- Lucy Platt et al., *Associations between sex work laws and sex workers’ health: A systematic review and meta-analysis of quantitative and qualitative studies*, 15 *PLOS Medicine* e1002680 (2018), <https://journals.plos.org/plosmedicine/article?id=10.1371/journal.pmed.1002680>.

- Robynne A. Locke, *Rescued, Rehabilitated, Returned: Institutional Approaches to the Rehabilitation of Survivors of Sex Trafficking in India and Nepal*, 2010.

- Seo-Young Cho, Axel Dreher & Eric Neumayer, *Does Legalized Prostitution Increase Human Trafficking?*, 41 *World Development* 67-82 (2013).

- UNITED NATIONS OFFICE ON DRUGS AND CRIME, GLOBAL REPORT ON TRAFFICKING IN PERSONS 28-33 (2020),
https://www.unodc.org/documents/data-and-analysis/glotip/2018/GLOTiP_2018_BOOK_web_small.pdf.

APPENDIX 1

Schedule 1 Disqualifying offences—Crimes Act 1900

(see s 6 (1), def *disqualifying offence*, par (a) (i))

column 1 item	column 2 section	column 3 description
1	12	murder
2	19	intentionally inflicting grievous bodily harm
3	20	recklessly inflicting grievous bodily harm
4	22	assault with intent to commit other offence
5	32 (1) (a)	make demand with threat to kill or inflict grievous bodily harm
6	32 (2) (a)	make demand with threat to endanger health etc
7	35	stalking
8	36	torture

column 1	column 2	column 3
item	section	description
9	38	kidnapping
10	51	sexual assault in the first degree
11	52	sexual assault in the second degree
12	53	sexual assault in the third degree
13	54	sexual intercourse without consent
14	55	sexual intercourse with young person
15	55A	sexual intercourse with young person under special care
16	56	sexual relationship with child or young person under special care
17	57	act of indecency in the first degree
18	58	act of indecency in the second degree
19	59	act of indecency in the third degree
20	60	act of indecency without consent
21	61	acts of indecency with young people
22	61A	act of indecency with young person under special care
23	62	incest and similar offences
24	63	abduction
25	63A	bestiality
26	64	employment of young people for pornographic purposes
27	65	possession of child exploitation material
28	79	sexual servitude offences
29	80	deceptive recruiting for sexual services

APPENDIX 2

Schedule 2 **Disqualifying offences—this Act**

(see s 6 (1), def *disqualifying offence*, par (a) (ii))

column 1 item	column 2 section	column 3 description
1	17	duress used to induce person to provide commercial sexual services
2	18	brothel operating other than in prescribed location
3	19 (2)	accost a child for the purpose of offering or getting commercial sexual services
4	20	cause or permit child to provide commercial sexual services
5	21	receive proceeds of commercial sexual services by child
6	23	permit child on premises
7	26	obligations in relation to medical test and medical examination of sex worker
8	26A	obligation to supply health and safety equipment
9	27	obligations about use of prophylactics

APPENDIX 3

Schedule 3 **Disqualifying offences—foreign countries**

(see s 6 (1), def *disqualifying offence*, par (f))

3.1 **Kinds of offences**

- (1) An offence that consists of or involves—
 - (a) murder; or
 - (b) torture, abduction or kidnapping; or
 - (c) sexual assault; or
 - (d) sexual servitude; or
 - (e) child exploitation material; or
 - (f) violence, intimidation or coercion related to provision of commercial sexual services; or
 - (g) causing serious physical harm to another person; or
 - (h) money laundering; or
 - (i) illegal immigration; or
 - (j) supplying illegal drugs.
- (2) An offence that consists of, or involves, in relation to an offence mentioned in subsection (1)—
 - (a) aiding and abetting the commission of the offence, or
 - (b) being an accessory after the fact; or
 - (c) attempting, inciting a person, or conspiring, to commit the offence.

