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**THE INTERACTION OF SEX WORK AND LEGAL FRAMEWORKS IN
INDIA: ANALYZING MORALITY AND LEGAL IMPLICATIONS**- Khushi Sharma¹**ABSTRACT**

Sex work in India is a complex and multifaceted topic. Legally, it's not explicitly banned, but there are laws against related activities like solicitation and running brothels. Morally opinions vary, with some seeing it as a personal choice and others viewing it as morally wrong based on cultural or religious belief. It's essential to approach the topic with empathy and respect for different viewpoints. The focus should be on ensuring the safety and well-being of individuals involved in sex work and providing support for alternative livelihood if they choose to exist in the industry. Morally, it's a grey area with different people having different opinions based on their cultural beliefs. Some see it as a personal choice and a way to make a living, while others think it's morally wrong. When it comes to sex work in India, it's essential to consider the social and economic factors that contribute to its existence. Poverty, lack of education, and limited job opportunities can often push individuals into this industry. Addressing these underlying issues and providing a support system that offers viable alternatives for those involved is crucial. Focusing on comprehensive sex education, healthcare, and legal protection can help ensure the safety and well-being of sex workers. This paper is on research on the connection between prostitution problems faced by prostitutes and the legality and morality involved in prostitution. Prostitution is a complicated topic which has existed to date from the ancient and Medieval periods. The legality and decency of sex work are debated with different perspectives and opinions. When it comes to sex work, there's an interesting discussion about its legality versus morality. Legally speaking, adult consensual sex work is not explicitly prohibited in India. On the other hand, the moral

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perspective on sex work varies widely among individuals and communities. Some people consider it a personal choice, while others may consider it morally wrong.

INTRODUCTION

A **prostitute** is a Latin word for prostitution, which means providing sexual service in exchange for money, and people who are engaged in this work are called prostitutes. Sex work or prostitution is one of the oldest industries in India, and many of the prominent personalities also get involved in these professions. By the time the question also arises whether the legality of sex work is good for society or not, there has been much debate on the legality of sex work that prostitution professions seem to be the most vulgar and sinful work in the community. Prosecution is not illegal, but the work related to sex trafficking, like soliciting, running brothels, and luring them into sexual activities, is considered illegal under the Immoral Traffic (Prevention) Act 1956.

In India, prostitution is not illegal. In India, many workers choose this profession for their living. Some rules and laws differ from each other in different regions. There are different types of views regarding this profession. In some cultures, prostitution is the work of the shameless. It is unethical for the wellbeing of society, and some people feel that this work targets women and is very abusive to them. On the other side, some also think that in India, there is a right to choose, and women are free to choose their work and can select the way that they want to choose their bodies. In India, there is always the debate on legalizing sex work in the limelight. In 2022, the Supreme Court of India announced the legality of sex work in India according to Article 21 of the Indian Constitution Act. Everybody has the right to life, and sex workers have equal rights as ordinary people and have equal protection under the law. There has been a large number of women in the age group 15-35 involved in this work, and there has been an increase in the number of minor girls daily. Kolkata and Mumbai are the largest red light areas or sex work bases. Sex work also hurts the health of the societies. Unwanted pregnancies, STDs, HIV, and AIDS among the women who are involved in Prostitutes work, which requires traffic, imping, and soliciting acts, are all punishable under the **Indian Penal Code, 1860, and The Immoral Traffic (Prevention) Act 1956.**

Throughout history, sex work has often been subject to legal prosecution. Law and attitudes towards sex work have varied across different societies and periods. In some cases, sex

workers have faced criminal charges and punishment, while in other instances, the focus has been on targeting buyers or third parties involved. These laws and policies have evolved, reflecting changing societal norms and perspectives on sex work. It's important to note that the prosecution approaches can differ significantly between regions and countries. The necessity of sex work in India is a topic that can be viewed from different perspectives. Some argue that it provides economic opportunities and empowers individuals, while others highlight the importance of addressing the underlying social and economic factors that lead to engagement in sex work.

In prostitution, there are a large number of buyers male and female. In most cases, women face violence and rape. Sex workers face various forms of violence, including physical, verbal, and sexual abuse. Rape occurs in 63% and violence in 73% of workers who work in prostitution. 83% of sex workers choose prostitution to obtain profit. Sex work can have various impacts on society, and opinions on this topic differ. Some argue that it can contribute to the spread of sexually transmitted infections and exploitation, while others believe in the importance of sex workers. It's a complex issue that requires thoughtful consideration and support for all individuals' well-being.²Women and men involved in the work of prostitution, including street prostitution bar dancers, and major cities like Mumbai, Kolkata, and Delhi have a significant presence of sex workers. It is a severe issue that needs attention and support. Organizations and initiatives work to provide resources and advocate for the safety and rights of sex workers. Call girls, religious prostitutes, escort girls, roadside brothels, child prostitutes, Fricatrice prostitutes, gimmick prostitutes, beat prostitutes

History of prostitution in India

Prostitution is one of the oldest forms of work or profession which is working to date. In Vedic times, it was given that women without brothers were straightly pushed into prostitution. In history, prostitutes were called "**Vaishyas**," The women who belong to a lower cast and are financially weak get involved in these professions. Before the arrival of the British in India, women who were devoted to gods left the house and society and accepted god as their husband called "**Devadasis**." After the British rule, these women forcefully got involved in prostitution. After the British arrival, these professions became visible, and many women got involved. In Ancient times, girls who hadn't attained puberty were forced by the

upper caste people to be involved in the prostitute profession.³ After the British colonial period, sex work was called prostitution. The Britishers managed prostitution for the benefit of their military and the governments of British India.

Legality of Prostitution in India

According to the Indian penal code, prostitution is not illegal. Still, it has certain limitations and restrictions; some activities, such as running brothels, soliciting, trafficking, and pimping, are punishable under **The Immoral Traffic (Prevention) Act (1956)**.⁴ As per the Indian penal code, prostitution is not illegal in the broader sense, but there are some restrictions and limitations, such as:

- Service prostitution at a service place
- Activities of prostitution in hotels
- Brothel's owner
- Pimping
- Sex act arrangement with costumers

However, the implementation and enforcement of these laws can vary across different states in India. It is important to note that organizations and activists are working towards advocating for the rights and well-being of sex workers in the country. It's essential to consider various factors, such as the well-being and agency of sex workers, the impact on society, and the potential for regulation and support systems. Many countries have adopted different approaches, ranging from full legislation to partial decriminalization or implementing comprehensive support programs for sex workers. Legalization may also help combat human trafficking by shifting the focus towards targeting those who exploit and coerce individuals into the sex trade rather than criminalizing the sex workers themselves.

In the year 2022, a judge bench made a historical order on the recognition of sex work as a profession in India, and sex workers have been provided equal protection under the law; the apex court has said that voluntary sex is not illegal and when a sex worker files complain, then the police should work upon it and take it seriously when there is any raid than sex workers should not be arrested. No child should be separated from his mother, who is a

³https://www.legalserviceindia.com/legal/article-3392-legalization-of-prostitution-in-india.html#google_vignette

⁴www.ipleders.in

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prostitute; the police also have to treat sex workers with dignity and not be violence and abuse them. These steps were taken for the benefit of sex workers.

Laws related to prostitution in India

In ITPA, the term “Prostitution” means the sexual exploitation or abuse of a person for commercial purposes, and a prostitute is a person who gains benefits.⁵ The ITPA Act was passed in 1956. This law stated that prostitution is allowed in private places rather than public areas. According to this act, any sexual activity that happened on the public site was counted as guilty and is punishable.

Sections 372 and 373 of the Indian penal code deal with prostitution but are only limited to child prostitution, engaging girl child below the age of 18 in sexual activities, and buying and selling of minors for prostitution. All acts are punishable under the Indian penal code.

A crime is related to prostitution and trafficking in the given sections

- Immoral traffic(prevention)Act 1956
- Procurement of minor girls (section 366 A) Indian penal code
- Import of minor girls (section 366B) Indian penal code
- Selling girls for prostitution (Section 372) Indian penal code
- Buying girls for prostitution (Section 373) Indian penal code

The ITPA was challenged in the court in a landmark judgment; the facts were in the case that for the decorum of the city of Kanpur, a few prostitutes were asked to be removed from their place. The High Court of Allahabad has pronounced that section 20 of the act abridged Article 14 and sub-clauses (d) and (e) of Article 19(1) of the Indian constitution. The Act was held to be constitutionally valid as there was an intelligible difference between a prostitute and a person causing a nuisance.⁶

This act also focuses on the well-being of society without harming the decorum of the community and gives the rights to prostitutes. It will help girls and women to be decent members of society.

⁵The Immoral Traffic(prevention) Act 1956

⁶<https://www.legalserviceindia.com/legal/article-3392-legalization-of-prostitution-in-india.html>

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Legality and Morality of sex work

In India, sex work is a complex and evolving topic. Prostitution itself is not illegal, but activities associated with it, such as soliciting, running brothels, or pimping, are criminalized. The Immoral Traffic (Prevention) Act of 1956 governs sex work in India and aims to prevent the exploitation of individuals involved in the industry. However, the implementation and enforcement of these laws can vary across different states and regions. It's important to note that the social stigma and challenges faced by sex workers go beyond legal frameworks. Organizations and activities are working towards advocating for the rights and well-being of sex workers in India.

When it comes to sex work, opinions on morality can differ. Some people believe it's a personal choice and should be decriminalized, while others may have moral objections based on cultural or religious beliefs. Sex work is the oldest profession, which is continuing to date. People see prostitution as immoral and unethical for society and as an exploration of the traditions and religions of the people. Sexual service, in the eye of the community, is termed sinful and shameful. It is essential to approach it with empathy and respect for the individuals involved. Society's view on morality can vary, so it's necessary to have an open and understanding conversation about it. It's crucial to listen to the experience and perspective of sex workers themselves as they can provide valuable insight into the complexity of the issue.

Problems of sex work in India

The issue of sex work in India is complex and multifaceted. There are various challenges and problems associated with it. Some of the key points include the vulnerability of sex workers to exploitation, violence, and human trafficking. Social stigma and discrimination against sex worker also pose significant barriers to their access to healthcare, legal protection, and social support. The criminalization of certain aspects of sex work can further marginalize and endanger individuals involved in the industry. Efforts are being made by organizations and activities to address these challenges, promote the rights and well-being of sex workers, and provide them support and resources.

Many sex workers face economic hardships and lack alternative employment opportunities, which can contribute to their involvement in the industry. The criminalization of certain aspects of sex work can also make it difficult for sex workers to seek legal protection or access essential services. Stigma and discrimination they face can lead to social isolation and

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limited support networks. It's essential to address their issue holistically by focusing on empowering sex workers, providing them with education and vocational training, and promoting their rights and well-being. Women in prostitution face a range of challenges and problems. They may face physical and emotional harm, including sexual assault and harassment. Limited access to healthcare, legal protection, and social support further exacerbated their difficulties.

Causes of prostitution

Various factors can contribute to the existence of prostitution. Some common cause includes economic inequality, poverty, lack of education and employment opportunities, human trafficking, and social marginalization. Women and girls may be forced into prostitution due to coercion, manipulation, or desperation for financial survival. Additionally, societal attitudes, gender inequality, and cultural norms can play a role in perpetuating the demand for prostitution. It's essential to address these underlying causes and create a more equitable society that provides opportunities and support for all individuals. Poverty and economic inequality are significant factors that can push individuals into prostitution as they struggle to meet their basic needs. Lack of education and employment opportunities can also contribute to the vulnerability of individuals to enter the industry. Human trafficking is another significant cause where people are coerced or forced into prostitution against their will. Social marginalization and discrimination can further exacerbate the situation as individuals may feel trapped and have limited options for survival. Providing support systems that offer alternative pathways for individuals to lead safe and fulfilling lives is crucial.

Prostitution leads to many health problems during the trial, like

- Cervical cancer
- Traumatic brain injury
- HIV
- STD
- Psychological disorders ⁷

Ways by which prostitution can be reduced

There are several ways to reduce prostitution:

⁷https://legalserviceindia.com/legal/article-13421-prostitution-legality-v-s-morality.html#google_vignette

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1. **Addressing the root cause:** we need to focus on addressing the underlying issues that push on addressing the underlying problems that push individuals into prostitution, such as poverty, lack of education, and limited job opportunities. By providing better economic support and access to education, we can help people find alternative paths
2. **Empowerment and support:** offering a comprehensive support system to individuals in prosecution is essential. This can include counseling, vocational training, and job placement programs that help them transition to a different livelihood and rebuild their lives.
3. **Changing laws and policies:** we should review and update existing rules and procedures related to prosecution. This could involve considering alternatives to criminalization, such as decriminalization or regulation, which prioritize the safety and well-being of those involved.
4. **Raising awareness and education:** we need to educate the public about the realities of prosecution, challenging the associated stigma and misconceptions. By fostering empathy and understanding, we can create a more supportive environment for individuals seeking to exist in the industry.
5. **Addressing the demand:** Targeting the market for prosecution is crucial in implementing strategies to discourage buyers. This can include legal consequences for those who purchase sex and effective law enforcement against human trafficking.

By taking these steps, we can progress in reducing prostitution and creating a society where individuals have better opportunities and support to lead fulfilling lives.

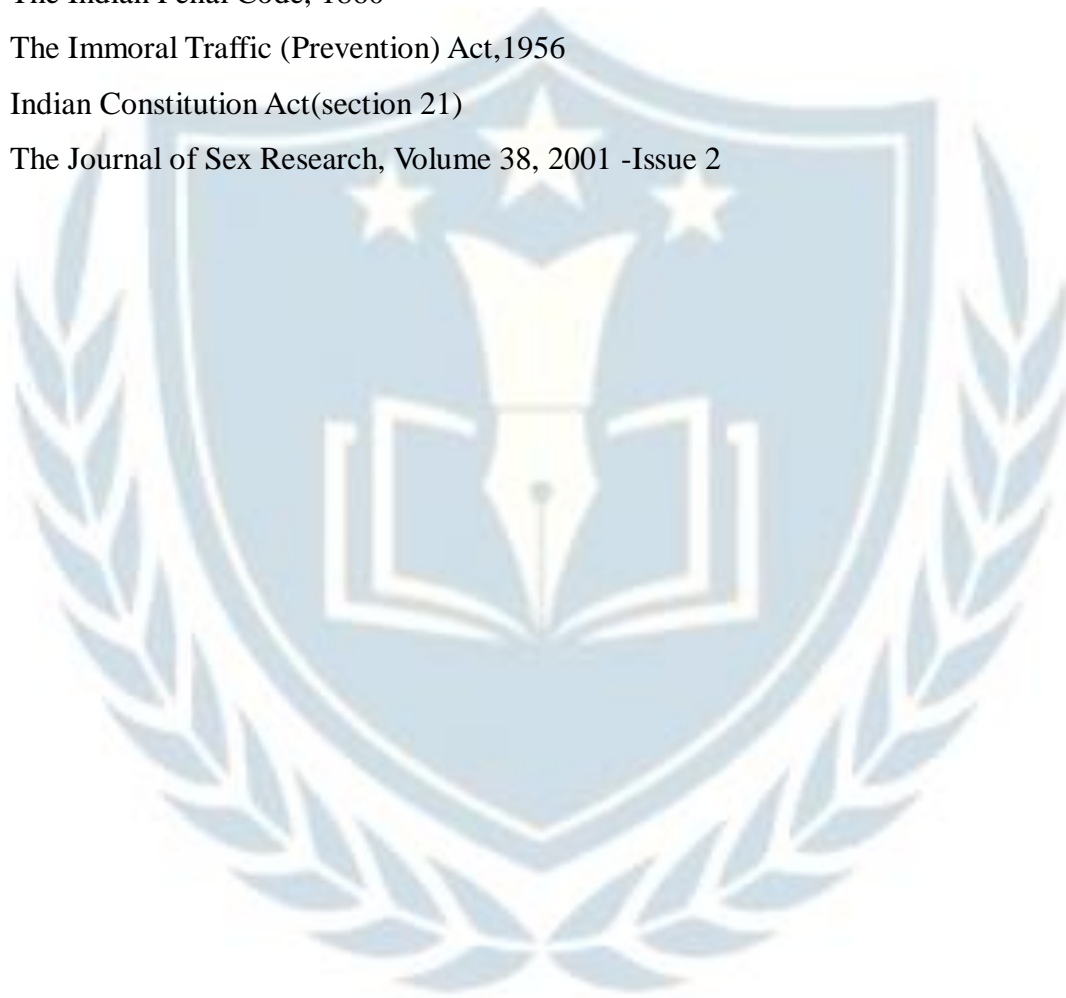
Conclusion

Sex work in India is a complex and nuanced topic. Legality and morality are debated from different perspectives and opinions. It is essential to approach the discussion with empathy, respect, and understanding of the diverse viewpoints. Ultimately, the goal should be to create a society that supports individuals involved in sex work, prioritizes their safety, and provides them with opportunities for alternative livelihood if they choose to enter the industry. Sex work in India is a complex issue with various factors to consider. From a legal standpoint, it's not explicitly prohibited, but there are laws against related activities like soliciting and running brothels. Morally, opinions differ widely. Some people believe it's a personal choice and a means of livelihood, while others believe it goes against cultural or religious values. It's

essential to approach the topic with empathy and respect for different perspectives. Safety and support for those involved should always be a priority.

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