

Prostitutes: victims or offenders?



The profession of prostitution has existed since times immemorial, with some people even claiming that it is one of the oldest professions in the world. However, till today sex work remains a highly stigmatized and taboo topic in most states and regions of the world. Most people tend to look down upon those who pursue it and perceive prostitutes to be despicable, sex-loving and morally corrupt criminals. Others sympathize with their predicament and consider them oppressed victims of circumstances in which they had no agency. It appears that in most cases, acceptance to be subjected to degradation in the form of sex work is a direct result of poverty and lack of opportunities and hence, is a 'coerced choice' rather than an independent one.

In many countries, the profession has been given legal standing though it continues to be illegal in the United States (with the exception of ten counties in the state of Nevada), Argentina, India and a number of Muslim and Communist countries. In England and Wales, current legislations on sex-work are far from straight-forward and leave room for much ambiguity and controversy.

The Sexual Offences Act 2003 defines a prostitute as a person who 'on at least one occasion and whether or not compelled to do so, offers or provides sexual services to another person in return for payment or a promise of payment'. Strictly speaking, prostitution is and has always been legal in the United Kingdom though a number of laws criminalize certain activities directly connecting to it.

The Sexual Offences Act, 1956 makes it an offence to keep a brothel for the use of prostitution and the 2003 Act bans causing/inciting prostitution or controlling it for personal gains. Moreover, loitering or soliciting sex on the streets, pimping, pandering and kerb-crawling (the act of driving slowly against a pavement to entice somebody for sexual purposes) are all against the law.

Since 2001, adverts placed in phone booths have been banned. Human trafficking, which arguably fuels the market for prostitution, has also been addressed under the law. There are several general laws in place for indecency and public nuisance which can be said to target the sex trade industry.

In 2009, Section 14 of the Policing and Crime Act rendered it a 'strict liability' offence to pay for the sexual services of a prostitute who has been subjected to force, threat, coercion or exploited in some way by a third party – and ignorance of the circumstances will be no defence. The UK government had high hopes the creation of this new offence would reduce demand for sexual services and thereby tackle the rampant issue of sex trafficking and exploitation.

Article 1 of the Universal Declaration of Human Rights, which has been ratified by the Council of Europe and incorporated into domestic legislation through the Human Rights Act 1998, states 'All human beings are born free and equal in dignity and rights'. Moreover, the UDHR prohibits slavery and servitude and states no one shall be subjected to cruel, degrading or inhuman treatment. At the very essence of the Act, lies the notion that the

right to equality and liberty is every living person's birthright and cannot be alienated. Radical feminist Catherine Mackinnon[1] argues that women in prostitution are denied all imaginable human rights as they are 'prostituted precisely in order to be degraded and subjected to cruel and brutal treatment without human limits; it is the opportunity to do this that is exchanged when women are bought and sold for sex'. She reflects 'The gap between the promise of civil rights and the real lives of prostitutes is an abyss which swallows up prostituted women. To speak of prostitution and civil rights in one breath moves the two into one world, at once exposing and narrowing the distance between them.'

In a similar vein as Mackinnon, American radical feminist and one-time prostitute Andrea Dworkin likens a prostitute to a gang rape victim, asserting the two experience the same trauma and suffering. "Oh, you say, gang rape is completely different. An innocent woman is walking down the street and she is taken by surprise. Every woman is that same innocent woman. Every woman is taken by surprise. In a prostitute's life, she is taken by surprise over and over and over again. The gang rape is punctuated by a money exchange... That's the only difference." In Dworkin's opinion, women are generally considered to be dirty and a prostitute is not a metaphor of the dirt but in fact, a literal manifestation of scum and filth. "Prostituted women are being killed every single day, and we don't think we're facing anything resembling an emergency. Why should we? They're no one. When a man kills a prostitute, he feels righteous. It is a righteous kill. He has just gotten rid of a piece of dirt, and the society tells him he is right".

Prostitution is hardly a victimless crime – it dehumanizes and commodifies women, rendering them mere objects of fetish and lust. By its very nature, it tends to be degrading for women and involves risk of violence in the face of both physical and sexual attacks. Perpetrators of such offences vary from pimps, abusive clients and violent bystanders waiting to catch a ‘ free ride’. Women who have been involved in the profession often describe it as “ paid rape” and “ voluntary slavery”.

In a research conducted by PhD of Prostitution Research & Education, Melissa Farley entitled ‘ Prostitution: Fact sheet on Human Rights Violations’, Farley asserts that prostitution is sexual harassment, rape, battering, verbal abuse, domestic violence, a racist practice, a violation of human rights, childhood sexual abuse, a consequence of as well as a means of maintaining male domination over women. She writes: “ All prostitution causes harm to women, whether it is being sold by one’s family to a brothel, or whether it is being sexually abused in one’s family, running away from home, and then being pimped by one’s boyfriend, or whether one is in college and needs to pay for next semester’s tuition and one works at a strip club behind glass where men never actually touch you – all these forms of prostitution hurt the women in it.”

Farley and a team of researchers drafted a report titled ‘ Prostitution and trafficking in nine countries: An update on violence and Posttraumatic stress disorder’ where they interviewed 854 current/recent prostitutes in 9 countries (Canada, Columbia, Mexico, South Africa, Thailand, Turkey, United States and Zambia) inquiring about sexual and physical violence. The results were astounding. Farley discovered that prostitution is multi-traumatic: 71%
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of the respondents were physically assaulted, 63% were raped, 89% wanted to escape prostitution but had no other career options available and 68% met the criteria for PTSD.

According to a study conducted in Exeter University in the UK, at any given time, one in four hundred women is a sex worker. The global economic crisis and recession has driven young girls into the profession of prostitution, against their will. They enter the profession, young, gullible and vulnerable, only to be exploited by pimps and those who pay for their services.

Disillusioned and exhausted, they resort to drugs as a means of momentarily relieving themselves of their misery and pathetic state.

‘ Call girls’ or ‘ escorts’ as they are colloquially referred to, are an easy target for men who use them to get sexual favours and ruthlessly beat them up if they dare ask for money. Statistics show crimes committed against prostitutes usually go unreported and the few that are reported with the authorities, tend to go unpunished. There seems to be tacit acceptance of this form of violence that is prevalent in society as very few people question the status quo and the deplorable state of affairs of sex workers. This moral disdain is mirrored on the judicial level where prostitutes bear the brunt of the criminal justice system and their male counterparts, namely the pimps and clients, get off relatively lightly.

The violence and abuse, prostitutes face is illustrated by the Ipswich Serial Murders. In the winter of 2006, naked dead bodies of five prostitutes at different locations were discovered in and around Ipswich, Suffolk in England. In 2008, forty-nine year old Steve Wright, pleading guilty, was convicted for

murdering all five of them. A forensic scientist informed the court that Wright had had “ prolonged physical contact” with three of the women he later killed and had left behind “ extensive” samples of his DNA. During the court’s proceedings, Wright admitted that he had been paying for sex for the last 25 years since he had been working as a steward on cruise ships. In response to the murders, Suffolk Police launched a strategy to effectively eliminate all street prostitution in the town.

But the Ipswich case is not a one off instance. Neither will ending prostitution be a long-term solution. In 2001, twenty-one year old Vicky Glass had been missing for two months before her naked and decomposed body was discovered dumped in a stream near Damby, North Yorkshire. Similarly, thirty-three year old Julia Dorsett went missing in 2002. Six years later, her upper torso skeleton, wrapped in a duvet was found dumped in Walthamstow. In recent times, forty year old Stephen Shaun Griffiths has been charged and convicted for murdering three prostitutes in Bradford.

Soon after the Ipswich Serial Murders, an extremely pertinent and contentious issue was widely debated as to what kind of legislative measures could change the prevailing conditions of prostitutes. One of the measures proposed by the current Criminal Justice and Immigration Bill was the ‘ mandatory rehabilitation’ of women involved in the profession of sex-work. As per the Bill, street prostitutes would be obliged to attend three counseling sessions with support workers. In the case of absence, they can be held up in custody for up to three days. It is argued that rather than solving the problem, such measures will exacerbate it. Probation officers enforcing mandatory rehabilitation orders are as it is ‘ over-stretched’ and lack the

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relevant resources required to deal with the issues prostitutes and sex-workers face. Support services for prostitutes lack the capacity to address specific troubles of the latter such as client violence. For example, 15 London boroughs have no sexual health outreach provision for women in the sex industry.

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) was adopted by the United Nations in 1979 and provides for an international standard for the protection and promotion of women's human rights. The CEDAW committee, which monitors compliance with the commission, incessantly opposes forced prostitution, trafficking of women and young girls and 'exploitation of prostitution'. Though it does not legalize prostitution, CEDAW has in the past, urged certain countries such as China to decriminalize the trade so that women can come out in the open without fear of being labeled 'consensual criminals' and insofar as reducing instances of HIV/AIDS, trafficking and violence against women.

India, a country where an alarming number of rape incidents take place every year, suggested the legalization of the trade in 2002. Khushwant Singh, columnist and novelist wrote in an article titled 'How a rapist should be punished': "...[A] necessary step [to prevent rape] is to legalise prostitution – carried out in brothels or by call-girls – provided the sex workers are adults and have not been forced into the trade. The more you try to put down prostitution, the higher will be the incidence of crime against innocent women. You may find the idea repulsive but ponder over it and you will realise there is substance in the argument."

The United Kingdom has a number of sex workers' rights groups who argue that the only way to prevent gross human rights violations being committed against prostitutes is by completely legalizing the sex trade. They claim legislation will resolve many issues and have a positive impact on society. Not only will it allow law enforcement agencies to respond to more important crimes but it will also relieve the justice system from nuisance cases and allegedly trivial litigation as well as freeing women who are caught by the shackles of prostitution and preventing teenagers from being ensnared into the profession.

Over the years, the authorities have adopted an ostrich-like approach towards the predicament of prostitutes; legalizing the world's oldest profession will allow the trade to be regulated and managed. Health care safety measures can be planned which will significantly reduce instances of sexually transmitted diseases such as HIV and herpes simplex virus. Pimps and traffickers will be prevented from treating prostitutes on sub-human levels. Moreover, studies have found that when brothels are closed, incidents of rape tend to increase significantly. Countries where prostitution is legal, report less cases of murder, rape, and HIV/AIDS. Suicide rates have also been found to be lower along with divorce rates.

On the other hand, a research conducted by the London School of Economics, German Institute for Economic Research and Heidelberg University revealed that out of the 116 countries sampled, those where prostitution was legal displayed a higher inflow of trafficking as compared to those countries where the trade was illegal. Furthermore, legislation will not

remove the stigma attached to sex work and neither will it improve the economic conditions of those who resort to this profession.

In 2000 the Home Office published 'Setting the Boundaries' which was a thorough and detailed analysis of the law governing sexual offences. The report led to the milestone metamorphosis of the Sexual Offences Act 2003. In 2004, yet another strategy report was introduced, titled 'Paying the Price: a consultation paper on prostitution'. This report sought to set a realistic and coherent framework to tackle the issue of sex work. It asserted that to address the issue of social exclusion and to achieve a reduction in anti-social behaviour and violence against women, an in-depth debate on prostitution is imperative. "Organised criminality, including trafficking and substantial drug misuse, and sexually and drug transmitted infection, are all part of the problem. Systematic abuse, violence and exploitation are endemic." The strategy included prevention, tackling demand, developing routes out, ensuring justice and dealing with street prostitution.

As per the Home Office, in the UK as many as 60 women involved in prostitution have been murdered in the last 10 years; 80,000 women work in 'on-street' prostitution and the average age women become involved is a meager 12 years. Though the arguments against legalizing prostitution are plentiful and relevant, in my opinion the trade should be decriminalized insofar as it reduces exploitation of women and children. Women involved in sex-work are treated as consensual criminals and offenders of the law but are, in fact the victims of a lawless and brutal profession that strips them of their self esteem and individuality. Putting our ethical and moral views aside, if legislation can in any way improve the existing deplorable conditions of

sex workers, it should be seriously considered and accordingly reforms should be recommended by the Law Commission.

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