



RED LIGHT: A RIGHT OR A GUISE

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ABSTRACT

Prostitution is often regarded as the oldest profession in the world. It is said to have been a source of income for many since the beginning of time. “Accounts of prostitution go back to the sexual services provided by priestesses in the temples of Mesopotamia over 4000 years ago”¹. Since the time prostitution has existed in the world, it has been surrounded by a great deal of controversy. There is a stigma attached to the term “prostitution” or “sex work”. I believe this takes away from the actual labour by the workers and reduces it to something to look down upon and menial. To understand how stigmatising sex work harms sex workers, one must understand what stigma means and what are the different ways in which sex work is stigmatised by our society. Sociologist Erving Goffman (1963) defined stigma as a social attribute or mark that separates individuals from others based on socially given judgments². Sex work is often under the radar of moral judgement, gendered expectations, criminal suspicion and victim-blaming or dehumanising. This paints the red light in an “evil” or “dirty” light. While sex work is a legitimate form of labour and deserves respect along with protection, it may also give rise to sex trafficking, which is a gross violation of human rights. This has been at the heart of many debates. However, there is a fundamental difference between the term “prostitution” and “sex trafficking”. Before we begin discussing the objective of this article, it is pertinent to gain conceptual clarification on these terms. Sex work essentially refers to, consensual exchange of sexual services for money or goods. This can be practised in many ways, for example, online platforms, escort services or street-based work. The terms consent and agency deserve special emphasis here. Sex without consent is rape; however, agency is a rather tricky thing when it comes to sex work. While agency means sexual freedom,

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¹ C A Salmon, ‘The World’s Oldest Profession: Evolutionary Insights into Prostitution’ in J Duntley and T K Shackelford (eds), *Evolutionary Forensic Psychology: Darwinian Foundations of Criminal Behavior* (Oxford University Press 2008) 121-35

² C Benoit, SM Jansson, M Smith and J Flagg, ‘Prostitution Stigma and Its Effect on the Working Conditions, Personal Lives, and Health of Sex Workers’ (2018) 55 *Journal of Sex Research* 457

choice and even economic empowerment, it can also be used as a way to negotiate and exploit the sex workers. According to the United Nations Peace and Security, sex trafficking is “recruitment, transportation, transfer, harbouring, or receipt of individuals. This is achieved through exploitative means such as force, coercion, fraud, or deception. Common forms of exploitation include forced labour, sexual exploitation, forced marriage, forced begging, organ removal, and other mixed and emerging threats”³. In this article, I will be arguing for sex work as a form of legitimate employment and, rights of sex workers. I will also discuss the outcome of legalising or decriminalising sex work and the stigma attached to the profession.

Keywords: Prostitution, Exploitation, Human Rights, Stigma.

As mentioned above, sex work is practised in many ways. There are brothels all over the world; many are legal, and many operate under the garb of a massage parlour. With the advent of technology, the field has spread its wings even wider; online platforms like OnlyFans and various pornographic sites have become a lot more prominent than they were 10 years ago. Sex work may be legal in some places, but even there, a lot of work revolving around sex work is still illegal, such, trafficking, soliciting, running brothels and living off the earnings of sex work under the Immoral Traffic (Prevention) Act, 1956 (ITPA). The ITPA, as the name of the act itself suggests, is aimed at preventing the immoral trafficking of people, especially of women and children, for commercial sexual exploitation. Sex work as a form of employment becomes tricky because while the act of prostituting in itself is illegal, under the ITPA, activities related to it are not. Let us first understand the difference between legal sex work in India and an illegal brothel or soliciting, and more. Exchange of sexual services for money or goods by a woman is legal, as long as it is being done voluntarily and consensually. A woman has the right to use her body for material gain; however, this must be done in private, away from a public place⁴. Running a brothel would require the pimp or manager to acquire women or young children for sexual services. While it can be argued that even in a brothel, women voluntarily and wilfully choose to partake in these activities, the complications and exploitation that come into play while running an institution come into play. It is often observed that the women working in a brothel do not get paid fairly, and most of the income is pocketed by the pimps or the so-called “managers”. “...It's a system based on supply and demand. The supply is formed by marginalised women and girls, who have very little choice, so traffickers take advantage of

³ ‘Understanding Human Trafficking’ <<https://www.un.org/en/peace-and-security/understanding-human-trafficking>>(accessed on 12 July 2025)

⁴ Immoral Trafficking Prevention Act 1956

their vulnerabilities. Demand is based on pimps and johns, those who take advantage of the lack of choice these girls have..."⁵. In this interview, Gupta also further talks about how some pimps are also sex workers, but that doesn't make the situation any better because they have been brutalised and desensitised to the violence to a level where they don't necessarily do anything to prevent abuse of other workers.

Naturally, a question comes to mind: if sex work is so exploitative, why do women choose to indulge in it in the first place? Well, the answer is blatantly obvious; there are numerous reasons ranging from poverty, previous experience with sexual abuse, and dependency on substances. "There are many reasons why women become sex workers, but it is far from being an easy way to earn money; women mainly become involved as a last resort and stay out of desperation. Some women are coerced into it by a forceful or violent partner. For others, addiction to drugs forces them to earn money in any way they can."⁶ That being said, it does not mean that all women enter this profession solely for these reasons. Women also sometimes voluntarily enter into this area of work. Of course, that does not automatically imply that these women are not abused and exploited. It is important to shed light on the sexual freedom and agency of these women. Let us first consider the conditions of agency. In short, as we will see with Raz (1986), agency can be achieved by (1) having the capability to make rational choices; (2) being free from external coercion; and (3) being free from social stigmatisation.⁷ Several pro sex work feminists point fingers at anti prostitution radical feminists for denying this agency to sex workers by victimising them. However, the chapter "Prostitution and the concept of agency" by Rhea Jean argues that there is a fundamental difference between actual agency and the possibility. The agency is to be able to say no as per the workers' choice. Although there is indeed a possibility of agency in prostitution, it would be extremely unfair to assert that all women can exercise it. Most women who enter this profession do so due to coercion and are severely brutalised and abused. These women do lack agency because they are under the "supervision" of pimps and johns. One other thing that this chapter argues is the separation of sex from the workforce. This would essentially make sex work an illegitimate way of livelihood. While I do understand the complications that come with prostitution and the concept of agency and consent, I do not believe criminalising it is the solution.

⁵ Interview with Ruchira Gupta, Sex workers activist and president of ApneAap foundation, TheGuardian (Tue 4 Dec 2012)

⁶ C Allan, 'The Happy Hooker?' (2004) 54 *British Journal of General Practice* 556

⁷ R Jean, 'Prostitution and the Concept of Agency' in H Marway and H Widdows (eds), *Women and Violence* (Palgrave Macmillan 2015) 53

After much back-and-forth argument, a compelling thought surfaces. Should prostitution/sex work be considered as a legitimate form of labour? As previously mentioned, the answer is very simple to me; however, there are many things to consider while we reach a conclusion. Throughout the history of this profession, it has been looked down upon. Women who indulge in such work are considered “characterless”, “easy”, and more. They have forever been disrespected in public spheres and their opinions rejected. Yes, it is a possibility that such women, in some cases, have earned a considerable amount of money, but they have been denied a voice. This is due to heavy stigmatisation. Stigma not only leads to social boycott but also has actual physical repercussions. “Stigmatised individuals are also subjected to a range of penalising actions, from shunning and avoidance to restraint, physical abuse, and assault”⁸. Stigma creates a perception about people; it discredits the lived experiences of individuals by excluding them. Sociological studies very well explain how stigma causes inequality, which further harms stigmatised individuals. “Concerning stigma’s consequences, research in public health has considered the role of stigma as a fundamental driver of population-level health disparities through various mechanisms; for sociologists, one main mechanism is the unequal distribution of material resources given discrimination against stigmatised groups.”⁹. I believe stigma also gives rise to hatred towards sex workers, which eventually becomes the root cause of sexual and physical violence. Philosopher Martha Nussbaum asserts that apart from prostitution, many professions require the use of the body in exchange for money, such as dancers, singers, athletes and more. She uses the example of opera singers and elaborates on how several years ago, even they were considered prostitutes and were stigmatised and discriminated against. However, now that we look back at the reason for stigmatising them, it seems unreasonable. Now, singers, athletes, dancers, and actors are treated with respect, well, comparatively at least. She poses the question that if the other professions are not marginalised, then why is prostitution still being painted in the same light as before? This furthers my argument that illegitimizing prostitution as a way of employment will not solve the problem of oppression, violence and abuse.

Let’s now move on to the final section of this article, why sex work should be legalised. It is evident that just because something is illegal doesn’t mean it doesn’t happen. In India, prostitution now has a legal status, but even before the profession hit this milestone, there still existed many illegal brothels that operated in the dark of night. There are many problems

⁸ G Scambler and A Hopkins, ‘Being Epileptic: Coming to Terms with Stigma’ (1986) 8 *Sociology of Health and Illness* 26

⁹ M Clair, ‘Stigma’ in *Core Concepts in Sociology* (2018) 2

attached to this. I would like to start with an example: what if a woman consensually prostitutes herself, but it is very much possible that at a certain moment in the middle of intercourse, the woman feels uncomfortable and removes consent. There is a very good chance that this infuriates the man availing the service, and he gets violent. In case of such an emergency, it is very important that the woman feels comfortable enough to inform the police so that they can come rescue her. If the woman is in fear of being jailed or prosecuted for illegal activity (prostitution in this case), she will never alert the police and will have to be the victim of violence, rape and more. It is pertinent that we make sex workers feel safe because they are a part of this society just as much as we are. Article 21 of the Indian Constitution gives every citizen the right to life and personal liberty. The right to life encapsulates the right to the dignity of every individual. Right to employment is another fundamental right ensured by the Constitution of India. It has been interpreted under Article 21 itself. The state cannot deny citizens a profession of their choice. When done voluntarily, sex labour is an expression of both economic and sexual agency. Like many other professions, it may be formed by survival. In contrast to workers in other high-risk, informal, or insecure industries, sex workers are rarely infantilised when their agency is denied.