

# Prostitution: Decriminalisation Is The Best Recourse

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*Abstract: In the words of Isabel Paterson, "If the state wants to eliminate prostitution, it would have to kill half of the population." Though widely practiced, it is still not duly recognized and treated like any other profession is supposed to be treated. Fighting with the prejudices of the society, exploitation at the hands of the clients and the employers, facing issues of trafficking and a lot of other problems, prostitutes are still treated like filth. The question that countries are grappling with is, how to tackle this situation. Legalisation, illegalisation or decriminalisation? This article analyses each of these models and stresses on the best one. It also highlights the drawbacks of legalization and illegalization of prostitution with the help of statistics from countries all over the globe. In addition, it also goes through what prostitution is, the stereotypes associated with, difference between the often confused terms 'Legislation' and 'Decriminalisation', critical analysis of all the three mentioned models and finally, how decriminalisation is the best option. Also, the paper throws lights on the stand of Amnesty International regarding this issue. The only way in which sex work will cease to be seen as an evil is when it will be considered similar to other 'respectable' occupations. Thus, it's time that the governments all around the world start working towards achieving the same.*

*Keywords: Prostitution, Sex workers, Legalisation, Decriminalisation, Illegalisation, Exploitation, Unrecognised profession*

## I. INTRODUCTION

Prostitutes, sex workers, escorts, hookers, call girl. These words still make the people of the 21<sup>st</sup> century give the evil eye. Why is it that this occupation is looked down upon when this practice goes back to as old as time? Why is it that there is a constant conflict between illegalising and legalising it when it is not the case with other professions? Why is it that the public still chastises it to such a great extent? Are the laws of the land one of the reasons to freeze their mind sets? Are the laws instigating this treatment by treating this line of business differently? It's time we look into the various aspects of this sex tourism and look for an alternative other and better than legalising it to recognize it and eliminate the problems associated with it.

## II. PROSTITUTION: A BETTER INSIGHT

If going by the literal definition, prostitution is the practice of engaging in sexual activity in exchange for money or other compensation. "Prostitution is the act or practice of a woman who permits any man who will pay her price to have sexual intercourse with her". Prostitution has a close affinity with a host of other important social issues, in particular crime, drugs, sexual equality, poverty and health.

The definition of prostitution includes not only the exchange of money but also the rather vague concept of promiscuity and the offering of the body for indiscriminate sexual intercourse without hire.

Also referred to as 'sex work' to define it as an income generating employment, prostitution, constitutes 2 basic elements:

- ✓ Sexual contact
- ✓ Compensation

This system is institutionalized in the sex industry in the following ways: strip shows, nude juice bars, massage parlors and saunas, brothels, adult book and video stores, peep shows, live sex shows, sex rings, escort services, mail order brides, streetwalking, and pornography. Each of these forms of prostitution provides men with unlimited sexual access to women and girls based solely on their ability to pay.

A question that arises in a number of inquisitive minds is 'How old is the sex trade?' and the answer to it is bound to leave a number of people appalled. Sex work goes back to as old as the Mesopotamian civilization, beginning in the third millennium B.C where the Sumerians worshipped Ishtar, the goddess of love and war, who was born anew as a maiden every morning only to become a 'whore' every evening. Ironically, Mesopotamian religious practices gave birth to the prostitution trade, as women in Ishtar's service would help men who offered money to her temples with the 'sacred' powers of their bodies. In fact, it existed everywhere where human civilization came up. In the accounts of Herodotus, it is also mentioned how the Syrian women offered their bodies for money so that they would be able to take their earnings to their own love goddess, Astarte.

Another enthralling finding is that prostitution is also mentioned in the holy Bible in Genesis. In this it is mentioned that Judah, one of Jacob's twelve sons, gave Tamar to his eldest son. However, after getting married to the second son, she was sent back home in shame as she failed to produce children because he refused to copulate with her. In order to prove this otherwise, she disguised and had sexual intercourse with Judah in exchange of a goat and subsequently got pregnant. Thus, it was only through prostitution that Tamar proved that it was her husbands who failed in conception.

Not only in Christianity but prostitution has persisted in Islam too where Slaves served as concubines in the harems of the East. So, was the case in the Hindu religion where *Devadasis* who were symbolically married, and pledged, to a deity, exercised religious prostitution, and this practice proliferated as the arrival of West Asian invaders precipitated the decline of the temple status and they turned towards prostitution as a means of income, as the temples lost their patron kings. "As with many earlier periods of our history, the moral valence of prostitution was not nearly as strong as it is today. As opposed to today, where prostitution is seen only as a profession for the females, in the Turkish bathhouses of the Ottoman Empire, young boys known as tellaks would help to bathe and massage their male clients, and even service them sexually, for which they were compensate too."

As European colonization continuously expanded, legislation increasingly enacted a tighter control of the sex trade not only in that region, but all over the world.

Prostitution has been looked down upon in the modern era. Ironical? Unequivocally, it is. It is a 'work' which was considered a profession in times when there was no technology or education or modernization, in contrast to now, where the world claims to be moving forward towards development but is still not ready to give people their choice of occupation. On top of it, it gives them prejudiced notions, judgmental eyes and ill treatment. Further in this paper, we will be throwing light on the stigmas attached to sex work. However, in the recent years, there have been drastic changes.

Gradually, this oldest profession is also becoming the most modern profession of the world. Prostitution is no longer seen as a feudal, patriarchal remnant—it is subversive, liberating and even feminist now, with unions coming up for those working in this industry.

There are mainly 7 types of prostitutes

✓ *Independent Call Girl/Escort:*

They work for themselves in hotels and private buildings like houses, charge high prices, and stay away from the public eye. They likely advertise their services online, and they get to keep their profits since they're self-employed.

✓ *Escort Agency Employee:*

These are the employees of escort agencies who work in private locations or hotels and charge relatively high prices. They face "moderate exploitation" since they have to give a cut of their earnings to their agencies.

✓ *Brothel Employee:*

These are dedicated locations where people pay for sex and can include saunas and massage parlors.

✓ *Window Worker:*

This type of prostitution is prevalent in Amsterdam, enticing passersby to enter houses of prostitution by prominently displaying the women in windows.

✓ *Bar or Casino Worker:*

These sex workers make initial contact with men at a bar or casino and then have sex at a separate location.

✓ *Streetwalker:*

Streetwalkers earn relatively little money and are vulnerable to exploitation. It is also notoriously dangerous as the prostitutes here are more exposed to murders and other crimes.

✓ *Transport (ship, truck, train):*

Sex workers may board vehicles to service the crew or passengers or pick up clients at stations and terminals.

### III. PROSTITUTION- STILL A DISGRACE TO WOMEN

Stigma is a complex concept which is very closely linked to the idea of prejudice, that is, how people in positions of relative power and influence treat and see those who hold less power and influence. Erving Goffman, the Canadian sociologist in his work on stigma known as 'Stigma: Notes on the Management of Spoiled Identity', defines it as a "deeply discrediting" attribute that reduces an individual "from a whole and usual person to a tainted, discounted one."

One of the biggest prejudiced notions is that those who get in the business of prostitution are not rational, pragmatic, autonomous or even ordinary. They are either the victim of circumstances, addicts to drugs, migrants or uneducated. Why do we not consider prostitution as any other employment? Why do prostitutes get used and abused when all they are doing is working like any other employed person? The answer to such and many more questions lies in the caste of mind of this so called 'developed' society. Stigmas involve blaming, shaming and complete status loss for these prostitutes.

Dominant social norms and values link "being different" with "being undesirable" and this leads to negative stereotypes and that is where the problem starts. Anything done by person who deflects from the 'normal' ways of life is treated with

scorn and detestation. The stigmatized individual is considered to be “dangerous” and “to be avoided” which leads to the disapproved person being rejected by society. Consequently, the stigmatized individual becomes marginalized and ostracized, which makes the person a social outcast and thus affects every aspect of his/her life. This at times, may also lead them to engage in illegal activities. In addition to being sidelined, the personal life of these sex workers gets affected drastically. Their romantic life is adversely affected, they are rejected by their families, friends fail to recognize them let alone supporting them and they confine themselves to minimum social interaction.

Not only this, they also have to undergo a lot of emotional trauma and exertion due to this stigmatization. They suffer from feelings of resentment, depression, loneliness, anxiety, rejection, disappointment, anger, pain, frustration, stress and exhaustion from controlling their prostitute identity. What is worse is that they also experience an identity conflict in which their own positive self-image and others’ negative image contradict each other due to which there is a constant war in their brains. The incongruity between the two images evokes two different reactions in them.

A funny fact about stigmatization is that the people are unable to provide convincing or logical explanations for doing so, and yet they continue to hold and further build more such stereotypical opinions about these sex workers.

Those who choose or who are forced into this business acquire a kind of permanent identity. They might be able to escape physically from prostitution, but they cannot escape from being identified as a whore in the eyes of society for the rest of their lives. A young Cambodian woman explained a proverb in a 1993 study: “The men look like gold. When it drops in mud we can clean it, but the women look like white clothes, when it drops in mud we cannot clean it to be white again.” Agreed, that the prostitutes are looked down upon in the society but what about those men who buy sex? Shouldn’t they be stigmatized as well? If there is no demand for buying sex, there wouldn’t be any sex workers or brothels, in the first place, at all. The social stigmatization of sex work is also one of the main reasons why the “rescued” victims return to work at the brothels.

This has to stop. If we fail to do so, the world will never progress in entirety. It is only when everyone will truly be given the freedom to choose the kind of occupation they want to engage in, will today’s society be called a ‘modern’ society.

#### IV. DISTINCTION BETWEEN LEGALISATION AND DECRIMINALISATION: CLEARING THE CONFUSION

There is a crucial distinction between these two terms that is frequently blurred in the debate around the different models.

“Legalisation would mean the regulation of prostitution with laws regarding where, when, and how prostitution could take place. Decriminalisation eliminates all laws and prohibits the state and law-enforcement officials from intervening in any prostitution-related activities or transactions, unless other laws apply.”

#### V. LEGALISATION

Legalisation refers to “the use of criminal laws to regulate or control the sex industry by determining the legal conditions under which the sex industry can operate. Legalisation can be highly regulatory or merely define the operation of the various sectors of the sex industry. It can vary between rigid controls under legalised state controlled systems to privatising the sex industry within a legally defined framework. It is often accompanied by strict criminal penalties for sex industry businesses that operate outside the legal framework.” The underlying premise in legalised regimes is that prostitution is necessary for stable social order. Prostitution nonetheless should be subject to controls to protect public order and health. Some countries adopt legalisation with the aim to reduce crimes associated with prostitution such as child prostitution, police corruption, and sex trafficking and slavery etc.

Key indicators of a legalised system are the existence of prostitution-specific controls and conditions specified by the state. These can include licensing, registration, and mandatory health checks. Licenses can be managed by police and the judiciary, elected municipal authorities, or independent specialist boards. Businesses or workers without the necessary permits are subject to criminal penalties.

Countries which legalize prostitution deal differently with all the aspects of prostitution. As for example, prostitution in a state-regulated brothel is permitted while soliciting on a street is illegal. Prostitution laws vary greatly from country to country.

In Netherland, operators of brothels must obtain license from local authorities for running this business. Germany legally recognizes sex workers and in some regions requires their registration. In Iceland, soliciting is legal but third party is prohibited to profit from prostitution. In Switzerland, street based sex work is permitted only in specific areas designated by local authorities. In USA, the only state to legalise prostitution, Nevada, demands sex workers to work in state licensed brothels. Sex workers must have a background check and regular health checks. Prostitution and soliciting other than licensed brothels is prohibited by law.

#### VI. DECRIMINALISATION

“Decriminalisation refers to the removal of all criminal laws relating to the operation of the sex industry. The decriminalisation model aims to support occupational health and safety and workplace issues through existing legal and workplace mechanisms. It is usually used to refer to total decriminalisation, that is, the repeal of criminal laws against consensual adult sexual activity, in commercial and non-commercial contexts.”

Countries like New Zealand and New South Wales have decriminalized prostitution. In New Zealand, location of brothels, advertising and signage are regulated by local councils and standard business requirements. Individual sex workers do not require any registration or certificate neither the street based prostitutes require any such license. Use of persons under 18 years in prostitution and inducing or

compelling a person to provide commercial sexual services are deemed illegal activities. In New South Wales, a state of Australia, even the escort agencies are unregulated and do not require planning approval. Street based prostitution is legal in certain areas only. Living on the earnings of a sex worker (brothel owners and operators being exempt), causing or inducing prostitution, soliciting in premises held out as being a massage parlour etc and soliciting in residential areas are prohibited in South Wales.

The key difference between legalisation and decriminalisation is that with the latter there are no prostitution-specific regulations imposed by the state. Ordinary statutes and provisions covering employment and health for example will only regulate prostitution just like any other business. While decriminalisation means removal of laws against this and other forms of sex work, which does not necessarily mean government regulation. Thus, in decriminalisation prostitution is recognised as a legitimate business and, as such, it comes under conventional employment and health regulations and is subject to standard local council business and planning controls. Those involved in prostitution have the same rights and responsibilities as other workers (e.g. paying taxes). The aims of decriminalisation differ from legalisation in their emphasis. The main objective of legalisation is to protect social order. While this is relevant to decriminalisation, the main emphasis here is on the sex worker – respecting their human rights, and improving their health, safety and working conditions.

A growing number of scholars believe that the laws against prostitution do more harm than good and hence removing criminal prosecution for sex workers creates a safer and healthier environment and allows them to live with less social exclusion and stigma.

Decriminalisation is the best emerging way to tackle the issue of prostitution. It will alleviate women working in this arena from the burden of criminality which will make their life safer. Countries all over the world should decriminalize prostitution and it should be seen as any other business and common laws of land must apply as in any other business.

## VII. EXPOSING THE HARSH REALITIES OF LEGALISING AND ILLEGALISING PROSTITUTION

### LEGALISATION

Legalising prostitution is not the remedy for curing the problems of sex workers. Legalising makes the harm of prostitution to women invisible, helps the sex industry to expand and does not empower women in prostitution. Legalised prostitution is one of the root cause for sex trafficking. Netherland legalized sex to end the exploitation of desperate immigrant women who had been trafficked there for prostitution. But it was not proved to be the solution for this major problem. After adoption of legalising policy, one report found that 80% of women in the brothels of the Netherlands were trafficked from other countries. In 1994, the International Organization of Migration (IOM) stated that in the Netherlands alone, “nearly 70 % of trafficked women were from CEEC [Central and Eastern European Countries]”

Despite having legalised prostitution, Germany faces major problems of human trafficking and sexual exploitation of women. “Germany has become a “center for the sexual exploitation of young women from Eastern Europe, as well as a sphere of activity for organized crime groups from around the world,” says Manfred Paulus, a retired chief detective from the southern city of Ulm.”

Legalisation does not provide protection to women in prostitution. One of the studies interviewed 146 victims of trafficking in 5 countries where prostitution is legalized. Eighty percent of the women interviewed had suffered physical violence from pimps and buyers and endured similar and multiple health effects from the violence and sexual exploitation, regardless of whether the women were trafficked internationally or were in local prostitution.

Legalisation has been proved to segregate sex workers from the society. It demands for the registration of prostitutes but many women could not afford to be public and fear to be stigmatised further. So, for avoiding registration they continue to work in illegal areas rather than working in licensed brothel and are subjected to all the risks.

Legalisation is somewhere also responsible for expanding the sex industry and also sex slavery. State of Victoria in Australia is one such example. Sex industry in Victoria has been expanded after legalisation. Along with legalisation of prostitution, other forms of sexual exploitation, such as tabletop dancing, bondage and discipline centers, peep shows, phone sex, and pornography, have all developed in much more profitable ways than before legalization.

“The Victorian experience has demonstrated that legalisation has caused all segments of the industry to flourish, specifically the illegal sector, added to this is the factors that legitimate brothels have not been adequately monitored, regulated and policed. In 2011 Victoria Police launched an investigation into council officials who had been incriminated in taking tens of thousands of dollars in bribes to turn their backs on illegal brothels operating in their districts. Because of the increase in illegal brothels more women and children are being trafficked for sexual slavery.”

The main motive behind legalising prostitution is to drive out the criminal elements from sex businesses but the practical implementation of the same has given negative results. Studies show that the since legalisation of prostitution in Australia, the substantial growth has been seen in illegal sector.

The other goal of legalising prostitution is to reduce street prostitution and make the life of prostitutes safer. However, many women for avoiding exploitation by pimps (under the legal cover), turn to street prostitution. Also to escape health checks which might devoid them of this employment, they opt for street prostitution which clearly shows that legalisation is not the solution for the problem of street prostitution.

The major drawback of legalisation is that the countries which adopt legalized framework for prostitution becomes hotspot for this business. People from different countries travel to these hotspot for prostitution services and then these countries become home for the crimes related to prostitution such as sex trafficking, child prostitution etc. under the legal cover.



“Brazil, one such country where prostitution is legal is the most attractive zone of sexual tourism, mainly characterized by child prostitution. According to the annual report of the USA Department of State – Traffic in Persons 2010 Country Narratives – a high number of Brazilian women are transported to European countries, such as Spain, Italy, United Kingdom, Netherlands, Switzerland, France and Germany. United States and Japan are also trafficking destinies, as well as some South American countries like Suriname, Guiana Francesa, Guyana, and Venezuela. Just within 2009 to 2010, nine sentences condemning sexual trafficking were accounted, while more than 2,800 potential victims of trafficking were identified in 2012.”

Legalisation is no solution to the problem of child prostitution. Children are brought into this business and are exploited by the pimps in the countries even where prostitution is legal. Some studies even prove that the evil of child prostitution is more in countries with legalized prostitution. A study undertaken by ECPAT (End Child Prostitution and trafficking) who conducted research for the Australian National Enquiry on child prostitution, shows that child prostitution has dramatically increased in the state of Victoria compared to other Australian states where prostitution has not been legalized. Of all the states and territories in Australia, the highest number of reported incidences of child prostitution came from Victoria.

The major drawback of legalisation is that it only prescribes health examination and tests for the women involved in prostitution and not for the customers which itself paralyses the policy which implies that sex would be safer and HIV/AIDS will be controlled if the women are examined under a regulated system of prostitution. Male buyers can and do originally transmit the disease to women prostitute then why are they exempted from medical checkups?

#### ILLEGALISATION

In today's world, there is only a small fraction of the population which feels that prostitution should be illegal in countries. With the growing awareness of every individual's right to life and occupation, there is little opposition to eliminating illegality of this business because there are several difficulties associated with it. Globally the prostitution business is worth \$186 billion, according to the website, havocscope.com, which analyses the black economy. Income on that scale could generate a lot of tax revenue. It's been estimated that decriminalising prostitution across the United States, for example, could give the tax authorities around \$20 billion a year. It's time the sex industry is taxed like any other business, so that those revenues can benefit society.

According to Kingsley Davis, prostitution also helps keep the divorce rate lower than it would be if prostitution did not exist as it provides a sexual alternative for men who lack a sexual partner or are dissatisfied with their current sexual partner. These men do not fall in love with their prostitutes, and their marriages are not threatened. Hence, there are chances of divorce rates increasing if it is made illegal as men would be reluctant to engage in the act.

If prostitution is still illegal, it can threaten the lives of the prostitutes as they become more susceptible to rape, murder,

theft etc. This is because even if these crimes are committed against them, they cannot file a complaint or look for redressal. Also, illegality gives way to forced prostitution and juvenile prostitution and the other abuses which are part of an industry that operate completely in the shadows. Thus, in order to deal with these effectively, laws against prostitution have to be removed.

Out of the 39 countries that have strictly illegalized prostitution in their country, more than half have still seen no changes. On the contrary, the acts and problems associated with prostitution have risen. In Afghanistan, male sex workers have taken over. Barbados has become a centre for child prostitution. In North Korea, the men are expected to have mistresses for which they turn to the prostitutes. Cambodia, Cuba, Dubai and Grenada are considered heaven for sex tourists. There are also countries like Jamaica, Kenya, Philippines and South Korea that are regularly working towards decriminalising prostitution in their countries. Thus, illegality is definitely not an option to turn to.

#### VIII. DECRIMINALISATION: A PROMISING ALTERNATIVE

Though sounding like a less radical step than 'legalisation', decriminalisation is quite the opposite. It involves removing all the prostitution specific laws. However, it doesn't mean that there are no codes on how a sex work business can be operated. Rather, it connotes that the business of prostitution must still operate within the laws of the land like any other occupation as also explained by Mistress Matisse, a dominatrix, writer and prominent sex-worker rights advocate. When we are talking about decriminalisation, one thing which is needed to be clear is that there is distinction between voluntary prostitution and that involving force, coercion or child prostitution- the latter remaining criminal.

Sex work is also like any other commercial activity. Like all the other professions, deception, coercion, forced labour, exploitation and other nefarious activities are also prohibited here and should be punished accordingly. The bottom line on decriminalisation is that it is a means of harm reduction.

This is actually what the sex worker-led organisations are calling for. What they need is just that the sex workers too should be protected by labour, health and safety, human trafficking and other relevant law, so they would have to abide by it. Also, "Study suggests that once men start viewing prostitution as just another sector of work, they are less likely to be violent", says Dr Prabha Kotiswaran, Senior Lecturer in Criminal Law at King's College, London. Decriminalisation aims at the protection of social order and main emphasis is on respecting human rights of prostitutes and improving their health, safety and working condition. It focuses on alleviating the social exclusions that sex workers face, abolishing double standards whereby the sex worker can be prosecuted but not the clients and also aims at giving sex workers the same rights and responsibilities as others.

Decriminalising expects the governments to protect, respect and fulfill the rights of sex workers including, protecting them from harm, exploitation and coercion, ensuring they can participate in the development of laws and

policies that affect their lives and safety and guaranteeing access to health, education and employment options.

Though this method aims at decriminalising the operational aspects of sex work too, such as brothel-keeping, it explicitly states that human trafficking and coercion should still be considered a violation of law and hence penalized correspondingly.

For instance, in Thailand, many citizens support sex workers' right to have equal protection by the labour law. To them, sex workers should have the same right, like all workers, to form unions and fight for reasonable wages as well as healthy and secure work environments

Decriminalising sex work involves a number of benefits for the prostitutes and the industry in general.

- ✓ giving sex workers the rights to associate and organize
- ✓ to be protected by the law
- ✓ to be free from violence and discrimination
- ✓ the rights to privacy, health, movement and migration
- ✓ the right to work and to freely choose the nature of that work
- ✓ the ability to freely report crimes to the police without having to state that they or their clients have been committing a criminal offense and thus attacks are cleared up more quickly
- ✓ Zones where sex workers practice can be regulated more efficiently and medical testing facilities can be established.

Feminists believe that the right to sell your body is a basic human right that is not tolerated by society in most of the developing countries when actually it should. More so, decriminalising sex work will make marginalized groups and their problems visible that otherwise would only operate in clandestine spaces.

Also, advocates of decriminalisation claim that these laws prevent prostitutes from organizing their businesses and working together for mutual protection. Proponents of decriminalisation also argue that the cost of keeping prostitution illegal largely outweighs the gains, and that prostitution should essentially be seen as consenting behavior between adults.

They argue the injustice of a double standard whereby a sex worker can be found guilty of an offence, but not the client who is typically male. They also point to potential violation of civil liberties that state-regulated legalisation might involve, through controls such as registration and mandatory health checks. In decriminalised regimes, there is typically a shift in power away from the state and clients to sex workers themselves. Decriminalisation is also recognised as a way of avoiding the two-tier reality of legal and illegal operations, with the latter operating underground. Decriminalisation also aims to remove the social exclusion which makes sex workers vulnerable to exploitation and difficult for them to move out of the industry.

In June 2003, New Zealand became the first country to decriminalise sex work with the passage of the Prostitution Reform Act (PRA) 2003. The purpose of doing so was 'not intended to equate with the promotion of prostitution as an acceptable career option but instead to enable sex workers to have and access the same protections afforded to other workers' as should be the plan of action of every country

around the globe. The Bill, as introduced, had the stated aims of:

- ✓ Safeguarding the human rights of sex workers.
- ✓ Protecting sex workers from exploitation.
- ✓ Promoting the welfare and occupational safety and health of sex workers.
- ✓ Creating an environment conducive to public health.
- ✓ Protecting children from exploitation in relation to prostitution.

According to research, all kinds of sex workers operating there have reported better relationships with the police and say they feel safer. Indoor workers are protected by employment laws and can take employers to court. Contrary to fears, decriminalisation has not led to overall growth of the industry there and trafficking has not increased.

In fact, there was an estimated 5,932 sex workers at about the time the PRA came into force according to a retrospective survey of Police officers with knowledge about the sex industry in Police Districts. The following year it was estimated 2,332 sex workers were in the five locations popularly marked for this business. Any legislative change in the UK or any other country where prostitution is legalized, has to, like New Zealand, include the decriminalisation of women working on the street who are most vulnerable to violence and arrest.

Feminists for Free Expression, in its position paper on prostitution, posted on its website, stated:

"Decriminalisation allows those who are prostitutes to go into business for them. Self-determination is a tenet of feminist politics. Decriminalisation removes hypocrisy within the criminal justice system and fosters responsibility, empowerment, self-esteem and self-care."

Norma Jean Almodovar, Executive Director of Call Off Your Old Tired Ethics (COYOTE) LA and Southern California and former prostitute, said, "As a long time sex worker rights activist, I believe that a system of decriminalisation of all private, consenting adult commercial sex would be of greatest benefit to those in the sex industry... Treat adult women who become prostitutes as adults who are capable of making choices for their own lives. Stop trying to impose moral or social values on us and then tell us 'it's for our own good!'"

English Collective of Prostitutes, a self help organization of sex workers working throughout UK, favours decriminalisation and opposes legalisation of prostitution because in the countries where prostitution is legalized such as Germany, Nevada, Netherland etc no favourable results are shown. Even the working condition and safety of workers did not improve and sex workers are further segregated.

Albeit, prostitution and human trafficking are closely interlinked, when it comes to policy making they should be treated as different issues. Policy makers should therefore collaborate with both sex workers and human rights organizations when drafting new laws. As feared by most, decriminalisation of sex work may provide incentives for traffickers to increase their supply. However, what they fail to realize is that it also strengthens the rights of people who have been trafficked by drawing a clear line between legal sex work and illegal sex work that is subject to prosecution.

There are several lines of work that victimize employees, either because the occupations are dangerous, such as coal mining and construction work, or because the job requirements objectify women as sex objects, such as fashion modeling and cheerleading. Nevertheless, hardly anyone would say these jobs should be illegal. So is it really logical to say that prostitution should be illegal on these very grounds? Former US Surgeon General Joycelyn Elders thinks it makes no sense to ban prostitution simply because it objectifies women: "Why are we so upset about sex workers selling sexual acts to consenting adults?" she asks. "We say that they are selling their bodies, but how different is that from what athletes do? They're selling their bodies. Models? They're selling their bodies. Actors? They're selling their bodies?"

Many sex worker organizations look towards labor laws and anti-discrimination policies to support rights and fair working conditions. Civil rights and human rights advocates from a variety of perspectives call for enforcement of laws against fraud, abuse, violence and coercion to protect sex workers/prostitutes from abuse and exploitation.

#### IX. STAND OF AMNESTY INTERNATIONAL ON DECRIMINALISATION

Amnesty international is a global movement which involves more than 7 million people from all over the world who fight against human right abuses. They bring torturers to justice, change oppressive laws and free people jailed just for voicing their opinion.

On 26<sup>th</sup> May, 2016 after several years of research and fights with the opposition, it published a research and policy on the protections of the human rights of the sex workers who are very susceptible to exploitation. It recommends the decriminalisation of consensual sex work, including those laws that prohibit associated activities—such as bans on buying, solicitation and general organization of sex work. They believe that this is necessary as these laws often make sex workers less safe and provide impunity for abusers with sex workers often too scared of being penalized to report crime to the police. Laws on sex work should focus on protecting people from exploitation and abuse, rather than trying to ban all sex work and penalize sex workers. In addition to this, the policy reinforces Amnesty International's position that forced labour, child sexual exploitation and human trafficking are abhorrent human rights abuses requiring concerted action and which, under international law, must be criminalized in every country

Human Rights Watch, along with other groups like U.N.AIDS, the World Health Organization, the Global Commission on H.I.V. and the Law and the Open Society Foundations that support decriminalisation, acknowledge that there can be grave harms associated with the sex industry, but say that they see changes in the law as a precondition to reducing them.

Moreover, several anti-trafficking organizations including Freedom Network USA, the Global Alliance Against Traffic in Women and La Strada International also believe that

decriminalisation of sex work would have a positive role to play in the fight against trafficking.

Paul Armentano, Senior Policy Analyst for the National Organization for the Reform of Marijuana Laws (NORML), in the Dec. 1993 The Future of Freedom Foundation's *Freedom Daily* article "The Case for Legalized Prostitution," wrote:

"The most important argument for the legalisation of prostitution services is that such prohibitions violate one's most basic and inherent rights. Prostitution is the voluntary sale (or rental) of a labor service. Individuals own their own bodies and their own labor services and have the absolute right to decide how those labor services should be used. As long as the prostitution transaction is voluntary, there is no justification for governmental interference. Indeed, such interference constitutes an infringement of the privacy and personal liberty of the individuals involved."

#### X. GLITCHES IN THE PROPOSED MODEL

Just like every model has its own pros and cons, this model has it too. Decriminalisation can also be subject to criticisms on the mentioned grounds. It may fail to provide full protection to women and a safer work environment and may also prove to enrich and empower brothel owners. In Victoria, Australia where prostitution is decriminalized, an organization working for prostitutes named Project Respect claimed that access to brothels, "is limited and at the discretion of brothel management" which again forces women to work outside in unsafe area and subject them to violence.

If not taken care with appropriate measures, decriminalisation would not itself increase sex workers' access to health services and information. A report commissioned by New Zealand government confirmed that key informants "were not aware of any substantial change in the use of safer sex practices by sex workers as a result of the enactment of [the law that decriminalised prostitution]".

Decriminalisation neither deals with the intrinsic humiliating nature of prostitution, nor it focuses on improving the status of prostitutes in the society. It is just a way to recognize the rights of sex workers but it is not the mechanism to remove the stigma towards individual. Somewhere it supports the unjust power relationship between the women and her buyer, where the women involved in prostitution are stigmatized but the buyers of sex who are responsible for purchasing a human being's body for sex are not at all seen with disgrace in this biased society. This is the bitter truth regarding prostitution that women are subordinated, stigmatized, exploited and inadequately protected from harm while her buyer is given virtual immunity.

Decriminalisation also fails to take into consideration the circumstances due to which the women enters into prostitution. They enter this industry as minor because of their helplessness and yet no steps are taken to encourage self worth among girls and protect them against abuse.

Traffickers, pimps and exploiters may exert subtle psychological control and groom vulnerable girls - in addition to using physical violence over their victims. It is noticed that sex workers tend to suffer from high levels of post traumatic

stress disorder. Decriminalisation of prostitution will not be proved beneficial in upgrading the mental health of prostitutes.

## XI. CONCLUSION

Seen as a cursed profession, prostitution still has a long way to go before it is readily accepted by the society and given the recognition and respect that is due to it, as is given to the other professions. It is deeply engraved in the minds of people that those involved in this occupation have a tainted character. Though there is no straight solution to this, countries all across the world have tried adopting three main models as seen above. Legalisation and illegalisation have its own share of disadvantages that happen to overpower the benefits that it wishes to bring. Decriminalisation, though not flawless, is still the best way till now to at least start working in the right direction to combat the issue concerned, keeping in mind the need of the prostitutes as well as the social order. Thus, we believe that currently, decriminalisation is the best proven solution to truly treat prostitution as any other profession and safeguard the basic rights of these prostitutes who are also 'humans'.

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