

## **An Account of Healthcare Policies for Prostitutes in India**

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**Abstract:**

*The objective of this paper is to research on the current health and legal status of Prostitutes in India, to draw comparison between India and the world and lastly to propose certain strategic measure that can be implemented in country. This topic of health and legal status of Prostitutes is under-researched, so much, that the economies around the world haven't realized the potential of this industry, an industry that is self-sufficient and full-fledged on its own. This paper explains the regulatory frameworks adopted in various countries specifically the policies prevailing in Germany, New Zealand, State of Nevada, State of Florida and Netherlands. These policies are then compared with each other and the case of India is analysed. The paper has social and practical implications arousing readers and researchers to dig deeper into this issue and gage the importance of providing health care facilities to those who were earlier known as vectors of epidemics like HIV/AIDS, gonorrhoea and other infections.*

**Key Words:** Prostitutes, Prostitution, Healthcare, Policy framework

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### **I. Introduction**

Prostitution was referred as the “world’s oldest profession” when Rudyard Kipling implied it in his book about a prostitute named Lalun in 1888 and said “Lalun is a member of the most ancient profession in the world.” It is believed that one of the first few written evidence about prostitution came from the antiquated Babylon. A king named Hammurabi wrote one of the very first legal codes of the world, which included laws to protect the inheritance and rights of prostitutes. The famous reformer, Solon, in the 6<sup>th</sup> century BC passed a law that sanctioned state-funded brothels in Athens, Greece. Whereas, Castille regulated it and France abolished it. Thus, the attitude towards prostitution was not very exuberant everywhere else in Europe at the time (*Is Prostitution the Oldest Profession in the World?*, 2018)

There are many countries around the world that have now opted for a decriminalization-regulation policy arrangement when it comes to prostitution. However, these policies differ among countries. The way each country defines the illegality, or legality rather, varies from country to country. According to the Oxford dictionary, “prostitution is defined as that occupation or practice wherein a person participates in sexual activities in exchange for some form of payment.” This payment takes a monetary form in most cases. People who engage in the same are known as prostitutes. More often than not, the term prostitute and sex-worker are used interchangeably. However, the reader must understand that sex-worker is a blanket term for prostitutes, pornographers, strippers, lap dancers, telephone sex operators etc. Thus, the term prostitute is a subset of the term sex-worker (Weitzer, 2013).

It has been observed that there is no optimal policy in this regard. The optimal policy will depend on the socio-economic condition of a nation. During policy formation, the essence of what needs to be achieved is lost between the ambiguous definitions of terms and the grey areas. The extent of access to healthcare is determined by how the state and the policy makers frame sex-work i.e. as work, occupation, a stigma, crime and so on. It also depends on how the prostitutes perceive health care and how much they care about their own body. For example, several prostitutes in the United Kingdom define being in good health by abstaining from drug and alcohol abuse (Mellor & Lovell, 2011). The policy can examine the issue from demand point of view and supply point of view. In other words, the state can choose to criminalise the demand side i.e. the clients or the supply side i.e. the sex-workers.

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The objective of this paper is to examine and analyse the current situation in policies pertaining to prostitution and why it is important to be sensitive to the healthcare needs of those part of this industry. The aim is to dig deep into the types of regulatory frameworks around the world and into the policies pertaining to healthcare for prostitutes in India. The goal is to make readers realise that prostitution has been in existence ever since inception of mankind and it is here to stay. From an economy's point of view, it is best if the presence is acknowledged and action is taken to tap into the prospects of a potential full-fledged industry for overall protection and development.

## **II. Theoretical Background**

### **TYPES OF REGULATORY FRAMEWORKS**

According to research on prostitution legislation in different countries, five kinds of regulatory frameworks for sex work are observed in the world. The identified frameworks are prohibitionism, decriminalization, legalization, abolitionism and neo-abolitionism. "Prohibitionism is a framework set out to eliminate prostitution by criminalizing all related aspects and sides of it". This is criticized mostly because it views prostitution as a "violation of dignity of man and woman". Moreover, it utilizes law enforcement tools and the law itself to slowly wipe out prostitution. Decriminalization, on the other hand is an approach that abolishes all kinds of prostitution-related laws. Legalisation constitutes of elements of prohibitionism and decriminalisation. It is when the State itself steps in to regulate prostitution just as any other form of occupation and utilises various forms of legislation to establish and exercise control over those who participate and the working conditions (Berus, 2012).

Advocates of the abolitionism or tolerationist framework believe prostitution is immoral but accept the fact that individuals may choose to enter into this occupation nonetheless. They propose that government should allow prostitution but prohibit public solicitation. Proponents of this regulatory framework attempt to meet half-way and support a more moderated solution instead of the two extreme ends of the scale. The last regulatory framework is neo-abolitionism. Neo-abolitionism views prostitution as a human rights violation and posits that sex workers do not have free choice in participating in the sex trade. Proponents of this kind of regulatory framework seek criminalisation of "Johns" or clients or customers of the prostitutes. In other words, the demand side of the trade should be charged for crime and not the supply side (Barnett, Casavant & Nicole, 2011).

These classifications provide a blanket approach to a matter which has nitty-gritties of unimaginable importance and thus mere classification can only provide an overview of the policy framework. The regulatory objective may differ from country to country. For example, the objective in semi-regulated markets is not to end consumption, but to stop oppression and coercion without interfering with supply. On reviewing existing literature, examples of Germany, State of Nevada, State of Florida, New Zealand and Netherlands were investigated for providing a background to the paper.

### **GERMANY**

Germany has an extensive set of laws imposing health and safety regulations, which must be adhered to by the employers. These regulations cover aspects such as breaks, work hours, access to daylight, hygiene, indoor temperature, maternity protection, maternity leaves, dangerous substances, leaves during menstruation periods and so on (Kavemann, 2007). Since majority of the prostitutes work independently or free-lance, such regulations and policies don't apply to most prostitutes. Despite this fact, the prostitutes can still get health insurance at lower costs and no health examinations (Seal 2013).

### **STATE OF NEVADA**

As per the law prescribed by the State of Nevada, United States of America, brothel owners must post notices about guidelines pertaining to health readily noticeable and prominent, areas of the brothel or establishment stating, "although prostitutes are tested regularly and condom use is required, there is no guarantee clients will not be exposed to a sexually transmitted disease". As per the State law, all clients of the brothel are required to use latex condoms at all times while availing services from the prostitutes. By law, potential prostitutes must undergo testing for HIV, syphilis, gonorrhoea, and chlamydia. If the test results are negative, she can then apply for a work card from the sheriff or city police of the chosen county (area) of work (Brents & Hausbeck, 2005).

Upon beginning work, she will be tested monthly for HIV and syphilis and weekly for gonorrhoea and chlamydia and will have to bear the required expenses for the same (Seals, 2013). The above described system of State of Nevada ensures transparency and order as far as the legal aspect of it is concerned. But it does little for those prostitutes who don't have enough money to fund their own regular health check-ups.

#### **MIAMI, STATE OF FLORIDA**

The reader may be surprised to see this example in this paper as prostitution is a punishable offence in the State of Florida in the United States of America. In other words, “it is illegal to give or receive the body for sexual activities for hire. Moreover, assignations (meetings or appointments meant for prostitution) and solicitation (convincing or persuading someone to engage in acts of prostitution or purchase similar services) are also prohibited in the State of Florida” (“Florida Prostitution Laws - FindLaw”, n.d.).

A study conducted in Miami, Florida dwelled on the topic of Perceived Health. In other words, it looked into what “health” means to the prostitutes. This study is important as it digs deep into what the prostitutes themselves think about health and if they even care enough to recover (if they are suffering from illness). The women interviewed were not comfortable discussing their private lives and seemed detached from their work. The interviewers observed a pattern in the answers and it suggested that women themselves were dismissive when it came to their own health. It was generally described as “okay” or “decent” by the respondents (Kurtz, Surratt, Kiley & Inciardi, 2005).

#### **NEW ZEALAND**

“Under the Prostitution Reform Act 2003, operators of prostitution business are required to conform to certain safety and health requirements, in the interest of prostitutes, the clients visiting their establishments and the owner of the brothel himself (or herself)”. One of the main requirements are to ensure the practice of safe sex. It is imperative for owners or employers to provide information to their employees and to clients on their duty when it comes to safe sex. Such information should include the various related aspects such as blood borne viruses like Hepatitis A, B and C and HIV and sexually transmissible diseases (also known as sexually transmitted infections). The employer must also provide suitable information on cleaning and disinfection of equipment as it is a non-negotiable for a safe working environment (“A Guide to Occupational Health and Safety in the New Zealand Sex Industry”, 2004).

According to a cross-sectional survey carried out with 772 sex workers and in-depth interviews with 58 sex workers in Christchurch New Zealand only 3.7% of the participants reported that they did not have regular sexual health check-ups in 2006-2007. General practitioners continue to be the preferred option for sexual health check-ups, followed by sexual health centres and then centres of New Zealand Prostitutes’ Collective. The issue in New Zealand is that the label of immoral or a stigma continues to be linked with prostitution due to which several prostitutes do not disclose their professions to their general practitioners. The very same survey also reported that 46% of the respondents did not disclose their occupation in 2006-2007 (Abel, 2014).

#### **NETHERLANDS**

The new legislation of October, 2000 on prostitution lifted the ban on brothels and allowed the state to regulate the sex industry like any other and treat sex work as labour. This meant that labour laws were applicable on any worker in the industry and the industry itself was also subject to administrative laws. Prostitutes have been identified as independent workers who must register with the Chamber of Commerce and are liable to pay income taxes as well (Cruz & Iterson, n.d.).

In the Netherlands, it is imperative for brothel owners to follow the state issued guidelines with respect to working conditions, safety and hygiene. The brothels that does not conform to the standards were liable to pay administrative fines, and subject to license withdrawal and even closure in some cases. It is the employers’ responsibility to ensure that he/she maintain a safe-sex policy and making sure that the employees are aware about the free health check-ups for sexually transmitted diseases and HIV four times a year. The Government also has provisions for those who want to exit the profession and transition into something else and thus the state-funded health centres offer classes in basic skills like book-keeping, computer sciences, self-defence etc. to give people the option of having non-prostitute jobs if they wished to have one somewhere down the line (Seals, 2013). Apart from this, the licensing conditions and regulations state that any brothel cannot have mandatory requirements pertaining to alcohol consumption (Kelly, Coy & Davenport, n.d.).

### **III. Methodology**

In this academic paper, the author has conducted a descriptive qualitative analysis where secondary data from various research papers is used to arrive at a conclusion. The author referred to several research papers, journals and books (see references) to provide background and some insight to the reader about what the issue at hand is. Various countries and regions are examined on the basis of their policy for prostitutes from the perspective of health care. It is based around a literature review of studies on the regulation of prostitution. The case study in question will determine and analyse the case of India, where there are loop holes in every possible law and policy. The case study will examine the current state of the industry in question, how the prostitutes are

affected and how changing the policy pertaining to the same can change the outlook of the society and the drive it towards the path of development, health and prosperity.

#### **IV. Case Study Of India**

##### **CURRENT STATE**

The current policy on prostitution seeks to ensure that “sex-trade” is accessible but not overtly public so that it does not come off as offensive. Sex workers in India are free to work but they are not provided with any form of legal support or security from the government. There is no other form of occupation or profession that is characterised by a confusion about what is illegal and what is legal. Moreover, no other labourer or worker or employee is punished by the state if his or her is publically visible or noticeable. Thus, no one knows where the boundaries lie. India abides by the “tolerationist” approach. This approach does not criminalize the prostitutes but those who organise trade of sex i.e. brothel keepers, pimps and so on. The Indian policy on this subject, atleast theoretically, seeks to establish a balance between two antithetical views that sex-trade is exploitative, prostitution is immoral, and the rights of prostitutes need to be promoted and protected ("Chapter 2: The Present Indian Policy of Sex Work", n.d.).As a group, prostitutes include female, male, transgenders and children in India. The prostitutes who operate from a brothel are easier to reach, whereas, the ones operating independently i.e. non-brothel based prostitutes, cannot be as easily traced. The latter is a more unorganised group and is also more vulnerable and susceptible to health issues due to varied age factor and health complications which have not been attention to. According to a study from the state of Andhra Pradesh (India), it was concluded that 50% of the female prostitutes in that state were below the age of 24 years. Prostitutes face situations that a common man or woman cannot even fathom and more often than not, they are faced with a variety of health complications. Sometimes, they don't even know that they are unwell or something is wrong with their body. It is very common for prostitutes to have infections like sexually transmitted infections and similar diseases. A study from Surat, Gujarat, found that 43% of the female prostitutes were HIV-positive and 23% of the female prostitutes had Syphilis. A study conducted in South India showed that female prostitutes often engage in tobacco and alcohol abuse and about 78% of these females had “psychiatric co-morbidity” (Paul, Suresh & Mondal, 2017).

The principle objective of the National Health Policy, 2017, is promotion of good health and deterrence of infections and diseases by development of human resources, building knowledge base, supporting medical pluralism, taking cross-sectoral actions, employing better financial protection strategies and strengthening financial assurance and regulation (National Health Policy, 2017, n.d.). The health care policy itself constitutes of various schemes and programmes such as “Control of HIV/AIDS”, programme for communicable diseases and so on. Moreover, the policy also has special provisions for disabled citizens, citizens falling in the category of “below-poverty-line”. There is one programme for Urban Health Care which “prioritizes addressing the primary health care needs of the urban population with special focus on poor populations living in listed and unlisted slums, other vulnerable populations such as homeless, rag-pickers, street children, rickshaw pullers, construction workers, sex workers and temporary migrants”. However, there is no such special provision for prostitutes. Even though they have been included in the Urban Health Care programme, it makes sense for the government to have a separate policy for health care facilities of prostitutes as it will in turn lead to success of programmes for HIV/AIDS control and thus prevent epidemics of such fatal diseases. Two Indian projects Avahan in South India and Sonagachi in West Bengal have done remarkable work by succeeding in various aspects of health care delivery among female prostitutes. Community based service delivery organisations and Non-Governmental Organisations (NGOs) and have also contributed significantly to the towards the health welfare of these people (Paul, Suresh & Mondal, 2017).

##### **IMPLICATION OF THE CURRENT POLICY**

In India, prostitutes face exploitation and discrimination when it comes to matters of importance them such as their income, their health care and so on. Due to the HIV/AIDS epidemic that has shook the world, the conditions have become worse for prostitutes. Their woes have been exacerbated even more, especially in India. For example, the medical professionals prescribe HIV tests when a patient shows signs of recurrent fever, diarrhoea or sexually transmitted diseases. However, for prostitutes, medical professionals recommend HIV tests for trivial episodes of illnesses like common cold or fever. This makes them feel like they are being looked down upon. Moreover, they are discriminated against and marginalized just because of the status of their health. For instance, health specialists working in a women's hospital in Bombay, often visited by prostitutes, draw blood samples from every woman that walks in for treatment without providing proper information regarding the purpose of taking a blood sample and nature of test. This itself is a violation of the fundamental right of Right to Information and other rights such as right to privacy and security. To top it off, the doctors reveal the

test results in an extremely indecent and derogatory manner ("Chapter 2: The Present Indian Policy of Sex Work", n.d.).

### **V. Analysis**

A lack of access to reproductive and sexual health facilities result in physiological complications and threats for prostitutes. Due to poverty, harsh working environment, social exclusion, stigmatisation, unwanted and unplanned pregnancy, unsafe abortion and their increased vulnerability to sexually transmitted diseases, it is all the more important for participants be provided with subsidised health amenities. Apart from the physical impact of prostitution, there are mental and emotional consequences as well, which more often than not, go unnoticed. Works of many researchers in this area have begun focusing on the effect of this on the mind. The studies concluded that many of the prostitutes suffer from Post-Traumatic Stress Disorder and depression. It is only logical to think that their work could be one of the reasons (if not major) why they suffer so much. Of late, many studies focus on the psychological consequences of sex work (Vanwesenbeeck, 2011).

It is more important to approach this matter objectively now that it is the 21<sup>st</sup> century. Every person is entitled to have his or her own opinion on an issue, however, an issue as sensitive as this must be viewed dispassionately. With a wide consumer base, these prostitutes cater to the thousands of men. If the prostitutes are unwell, the venereal infection can be passed on to the clients as well. Since these infections have proven to be fatal and can be easily transmitted, it is in the nation's common interest to curb their reach. Prostitutes are as much a part of the economy as much as any other worker and it is high time they get their due. Their daily job itself is dangerous, unpredictable and exposes them to situations where they are rendered helpless. As guardians of the citizenry, it is the responsibility of the government to include prostitutes – male, female and trans-genders – in their "esteemed" agenda. A separate policy and department to execute the policy must be instated. The members have to be trained and oriented specifically as they cannot approach the issue like any other issue. It is extremely diverse, as every prostitute has different problems.

Every country has different a policy based on what is benefits their nation the most. One common element is the view that eradication and suppression are not the answer to combatting prostitution. Such a framework only pushes the prostitutes underground where they are not noticeable. This makes them all the more vulnerable to exploitation, health complication and violence. The label of a "stigma" or a "criminal" does not and cannot lead to extermination. Prostitution is a hard fact of life; avoiding the issue or being in denial about its existence won't let the country move forward and make progress. As one of the fastest growing country of the 21<sup>st</sup> century, India has to deliberate on how to make it as pleasant as possible for all stakeholders of the economy. Acceptance can only stem from formulation of new policies and laws for the social security of prostitutes.

### **VI. Solutions And Recommendations**

- Possible solutions to begin with are setting up a policy framework which is implemented in phases. A society wherein majority of the population is still insular, gradual implementation will help people get accustomed to the changes. The phases should begin with sensitising the medical professionals as part of their course structure on how to treat patients that are prostitutes. The prostitutes must also be sensitised about the possible health complications. Most of them don't even realise that they are sick and even if they do, they tend to take it lightly or self-medicate to avoid going for a check-up.
- Rehabilitation centres should be set up where prostitutes can go for counselling or therapy (if they wish to) and routine check-ups. These centres should also conduct classes to improve their vocational skills such as book-keeping, computers, sewing, soft-skills etc. so that they something to fall back on if they want to quit their job as a prostitute.
- To make health facilities affordable and accessible for prostitutes, the government should have a provision for health insurance at a subsidised rate for the prostitutes.
- Another recommendation is second generation prevention. Providing social security to the prostitutes is as important to providing the same to their off-springs. Prostitutes won't be pressurised to continue working in the sex industry if they were assured of their children's future. Efforts in this aspect have already been made by "Prajwala" which is an anti-trafficking organisation based in Andhra Pradesh (Sonwani, n.d.).

### **VII. Conclusions**

This paper revolves around the health care policy for prostitutes to show the effect of the policy framework itself on the subsequent facilities. It draws the reader's attention to the need of the hour i.e. uniform and widespread health care facilities for prostitutes. It must be noted that mere provision won't be able to achieve the goal. The government has to work towards sensitising the masses and nudging the prostitutes into

taking care of themselves. The question now is should prostitution be legalised in India? Although, selling and purchasing of sex is legal in India, there are so many laws that prohibit other activities which are closely connected to it. Thus, no one actually knows where one may cross the legal boundary. Prostitution is the only profession where there is a lot of ambiguity about the profession itself. Thus, mere legalisation is not fruitful. The government should take it under its wing and implement different laws to regulate it. This way, the authorities can keep a close watch on the industry, hygiene of the brothels, implement labour laws and tackle the problem of the black-money as well. Purely from an economic perspective, based on the returns of the industry, the question should be why hasn't the government tapped into the potential of this full-fledged, fully functioning industry?

### VIII. Future Research Directions

This paper set in motion an underrated and under researched spectrum of the world. Although this paper was pretty generalised and did not dig deep into the problem, a primary research would definitely provide a much better and profound understanding of the problem and may even facilitate policy making. The health care industry is at its peak as of the 20<sup>th</sup> and 21<sup>st</sup> century, and the services must be extended to all stakeholders of a country. Although, this paper does suggest ways on how to tackle the problem, it does not make any strict policy recommendations. It is just an account on the current situation in India.

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