

# ISSUES OF VICTIMS OF TRAFFICKING AND COMMERCIAL EXPLOITATION AND ISSUES OF TRANSGENDERS

Presentation by:

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- A Constitutional Democracy is not where majority rules over minority but where human rights of minority are respected by the majority.

# VICTIMS OF PROSTITUTION

vaoSyaa vyavasaayaacao baLI @

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- Definition of prostitution under unamended SITA Act 1956 :-
- Prostitution means, the act of a female offering her body for promiscuous sexual intercourse for hire, whether in money or in kind.
- But definition of prostitution under amended SITA renamed as ITPA 1986 : .
- Prostitution means sexual exploitation or abuse of persons for commercial purposes and the expression "Prostitute" shall be construed accordingly.

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# OFFENCES

- Sec. 3 : Running of Brothel.
- Sec. 4 : Living on the earnings of Prostitution
- Sec. 5: Procuring, inducing or taking persons for the sake of prostitution.
- Sec. 6: Detaining the person/ child in premises where prostitution is carried on.

- Sec. 7: Prostitution in and around the vicinity of public places
- Sec. 8: Seducing or soliciting for purpose of prostitution in public place.
- Sec. 9: Seduction of a person in custody.



# Aaya.Tl.pl.e. kayad\yaa AMtga-t ]calalaolal kahl pavalao:

1. ipiDtaMcao punava-sanaasaazi  
P``aaoTo@Tlvh haoma
2. samaaijak dRYT\yaa saMvaodnaSalla duba-  
la va saMBaavya gaTasa SaOxaiNak maaga-  
dSa-na
3. vaoSyaa vyavasaayaaSal saMbaMQalt  
gaunh\yaaMcyaa tpasaasaazi maihlaa  
paolalsa AsalsTMT sahlit ivaYaoSa paolalsa  
AiQaka-yaaMcal naomaNaUk.
4. spoSala kaoT-.

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nyaayaalayaanao p` ornaa iva.

maharaYT/ Saasana yaa daona

- kosaosamaQyao idlaolao AadoSa :  
ma<sup>m</sup> jaist/othar p qamat.

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- **yaaogya vya@tl va ena.jal.Aao.yaaMcal paolalsa AiQaka-yaaMnaa madt.**
- **maharaYT/ sToT laigala sarvhlsaosa Aa^^qaa^rITl yaaMnal naamaaMikt kolaolyaa vakllaaMcal madt / sahayya.**
- **ipiDtaMcao jabaaba var ]llaoiKt vya@tl AaiNa / ikMvaa saupirMToMDoMT / p`aobaoSana Aa^^flsar / jabaabadar kma-caarl yaaMcao samaaor naaoMdvaNao.**
- **maulaaMnaa %yaaMcao maatocvaa**

- **vaacavalaolyaa pliDtaMnaa  
kaoNa%yaahl p`karo paolalsa  
zaNyaamaQyao na zovaNao.**
- **ma^^ijasT/oT va saoSana kaoT- yaaMcal  
jabaabadarl :**
  - **vaacavalaolyaa ipiDt maulaaca jabaaba  
naaoMdvatovaoLI ka]Misalarcyaa  
]pisqatlcal Ka~I k\$na GaoNao.**
  - **kuMTNaKanaa baMd krNaocao AadoSa  
pairt krNao AaiNa toqalla  
gaunhogaaraMnaa toqaUna baahor  
ka7Nao**

**–ASaa sava- kosaosacaa inakala  
saha maihnyaaMcao Aat  
laavaNao.**

**–doh ivak/I tskripasaUna  
ipDltaMcao saMrxaNa krNaosaazi  
dRt gatInao kama krNao.**

**–[na k^^maora kaoT- kamakaja**

**–maharaYT/ rajya maihlaa  
Aayaaoga yaaMnal sadr**

**iyaYavaabaabat n``it yaYal- irnaoT-**

**–maihlaa va baala ivakasa  
maM~alaya maharaYT/ rajya  
yaaMnal :**

- vhl@TIma T/^^kIMga rijasT/I  
A^^MD DoTa Asao saa^FTvaoAr  
tyaar krNao va sadr  
saa^FTvaoArcaa vaapr  
gaaopinaya pwtlnao maharaYT/  
Saasanaacyaa ivaiyaOa**

# ITPA AND VICTIMS OF TRAFFICKING

- The Supreme court lamented that investigating officers and courts fail to make distinction between rescued girls, on the one hand and the persons who organize immoral traffic- this leads to re trafficking as the girls are let off on bail, rather than protected, and they are forced into prostitution again. Guria , Swayam Sevi Sansthan Vs State of U.P. 2010 (2) Cri. L.J. 1433

# What can courts do?

- Stop offensive cross- examination that is designed to harass and exhaust the witness, Indian Evidence Act. Sc. 151 and 152.
- Follow Supreme Court directives in case of child sex abuse or rape, Sakshi Vs Union of India, A.I.R 2004 S.C. 3566
- Direct the defense counsel to provide in writing to the Presiding Officer of the Court, cross examination questions that directly relate to the incident. The presiding officer can put them to the victim in a manner which is clear and not embarrassing.



# What can courts Do?

Demonstrate sensitivity towards survivors.

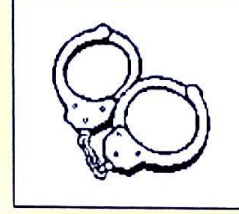
- Make eye contact.
- Speak kindly to the survivor
- Repeat instructions without getting impatient
- Listen to the victim.
- After the trial compensation for the victim must be looked into

## 💡 लक्षात ठेवा!!

वेश्या व्यवसाय करणाऱ्या महिलेला राष्ट्राच्या इतर नागरिकांसारखेच हक्क आहेत:



अटक करण्याचे कारण विचारा



अटक करण्याच्या वेळी हातबेड्या न घालणे.



रात्री अटक होत असल्यास, म्हणजे सूर्यास्तानंतर व सूर्योदयापूर्वी महिला पोलिस अधिकारीच्या उपस्थितीत अटक व्हा.



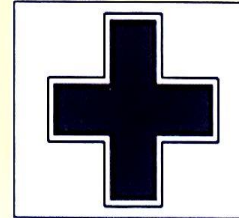
व्यक्तीला २४ तासांच्या आत मॅजिस्ट्रेटसमोर हजर करायची मागणी करा.



एखाद्या नातेवाईकांना किंवा मित्राला अटक झाल्याची माहिती देणे.



पोलिसांकडून छळ झाल्याची घटना घडल्याची वरीष्ठ अधिकारी किंवा मॅजिस्ट्रेटकडे नोंद करा.



अटक झाल्यानंतर लगेच तसेच त्यानंतर दर ४८ तासांनी महिला डॉक्टरने वैद्यकिय तपासणी करणे.



अटक होण्याच्या वेळी पोलिस अधिकार्याचे नाव व बिल्ला बघणे लक्षात ठेवा. ह्यामुळे तुम्हाला कोणत्याही प्रकारच्या छळाची तक्रार नोंदवायला मदत होईल. जर पोलिस अधिकारी गणवेशात नसेल तर अधिकार्याकडे ओळखपत्र मागा.

# STATISTICS

- Every hour 4 women and girls in India enter into prostitution, three of them against their will.
- In 2007, there were 2.8 million sex workers in India. 35% of them were minors when they were induced or forced into the trade ( Ministry of Women and Child Development )
- Secretary General of the United Nations (July 23, 2012 report) says 20.9 million persons have been trafficked into forced labour, with 43% of those trafficked for sexual exploitation.

# LEGALIZING PROSTITUTION ?

- Burtrand Russel (Nobel Laureate)- prostitution is necessary social evil.
- To stop sex trafficking
- To stop illegal prostitution
- To protect women
- To promote women's health and to give access to medical facilities particularly relating to HIV.
- 15 countries of the world have legalized prostituion.

## AIR 2014 SUPREME COURT 563

### SURESH KUMAR KOUSHAL V. NAZ FOUNDATION AND OTHERS

- **Sec. 377 of Indian Penal Code held to be constitutional.** However, competent legislature is free to consider desirability and propriety of either deleting S. 377 or amending Sec. 377.
- Sec. 377 would apply irrespective of age and consent
- Sec. 377- does not criminalize a particular people or identity or orientation. It merely identifies certain acts which if committed would constitute an offence.

- Section 377 in The Indian Penal Code
- 377. Unnatural offences.—Whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animal, shall be punished with 1[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine. Explanation.—Penetration is sufficient to constitute the carnal intercourse necessary to the offence described in this section.

Related issue of Transgenders ( f=fr;  
iaFkh ) who turn to prostitution.

- Hindu Mythology- prominent role played by Transgenders.
- However, British passed Criminal Tribes Act, 1871 and treated Transgenders inhumanly.

**AIR 2014 SUPREME COURT 1863**  
**NATIONAL LEGAL SERVICES AUTHORITY VS UNION OF**  
**INDIA**

- J.Radhakrishnan :
- People whose mind and body disown their biological sex.
- Seldom our society realizes or cares to realize the trauma, agony and pain which the members of Transgender community undergo.



- Issues of transgenders community- social, cultural, political and economic integration,
- Sexual re assignment surgery and public health rights.

- Amendments required to certain laws which use the words man or woman only.
- IPC 1860, personal laws, labour laws and insurance laws.

# **AIR 2014 SUPREME COURT 1863 National Legal Services Authority Vs Union of India –**

- The Court declared that -
- (1) Hijras, Eunuchs, apart from binary gender, be treated as "third gender" for the purpose of safeguarding their rights under Part III of our Constitution and the laws made by the Parliament and the State Legislature.
- (2) Transgender persons' right to decide their self-identified gender is also upheld and the Centre and State Governments are directed to grant legal recognition of their gender identity such as male, female or as third gender.

- (3) We direct the Centre and the State Governments to take steps to treat them as socially and educationally backward classes of citizens and extend all kinds of reservation in cases of admission in educational institutions and for public appointments.
- (4) Centre and State Governments are directed to operate separate HIV Sero-surveillance Centres since Hijras/Transgenders face several sexual health issues.
- (5) Centre and State Governments should seriously address the problems being faced by Hijras/Transgenders such as fear, shame, gender dysphoria, social pressure, depression, suicidal tendencies, social stigma, etc. and any insistence for SRS for declaring one's gender is immoral and illegal.

- (6) Centre and State Governments should take proper measures to provide medical care to TGs in the hospitals and also provide them separate public toilets and other facilities.
- (7) Centre and State Governments should also take steps for framing various social welfare schemes for their betterment.
- (8) Centre and State Governments should take steps to create public awareness so that TGs will feel that they are also part and parcel of the social life and be not treated as untouchables.
- (9) Centre and the State Governments should also take measures to regain their respect and place in the society which once they enjoyed in our cultural and social life. (Para [129](#))

# Latest Development.

- The Union Cabinet under the Chairmanship of Prime Minister Narendra Modi approved the Transgender Persons ( Protection of Rights ) Bill 2016
- Through this bill the government has evolved a mechanism for their social, economic and educational empowerment.
- The bill will benefit a large number of transgender persons, mitigate the stigma, discrimination and abuse against this marginalized section and bring them into the mainstream of society.

- ekda gauṣdova rivaMd`naaqa Tagaaor  
yaaMnal maha%maa gaaMQalMnaa  
ivacaarlao :

gaaMQaljal tumhl [tko AsaMvaodnaSalla ksao  
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ixatljaavar psarNaarl laalal, pxaamcal  
maMjaUL gaaNal, ]malanaara gaulaaba  
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bUlku ugh curk-**



- Winston Churchill:
- Courage is what it takes to stand up and speak.

Courage is also what it takes to sit down and listen!

Aa Bb