

### **3. UNVEILING THE SHADOWS: ADDRESSING THE DARK REALITY OF WOMEN'S TRAFFICKING FOR PROSTITUTION AND EXPLOITATIVE PURPOSES**

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#### **Abstract**

*Trafficking of women for prostitution and exploitative purposes results in a grave violation of human rights and poses a critical challenge worldwide. Addressing this issue is essential to protect families, women, and girls from sexual predators and ensure their protection against the scourge of modern slavery. Historically, prostitution has evolved from a localized and informal practice into a global multi-billion-dollar industry deeply intertwined with trafficking networks. The increasing trend of trafficking women for immoral purposes and sexual labour highlights a disturbing trend wherein women are coerced into exploitative circumstances, often under the guise of economic opportunity or legal regulation. Historically, prostitution has transitioned from being a recognised, albeit marginalized profession to a widespread phenomenon closely linked with trafficking. This evolution has included the emergence of regulated prostitution in various countries, aiming to address issues of morality and legality. However, despite these regulations, the moral legitimacy of prostitution remains contentious, as does state regulation, which often discriminates against women and fails to protect their rights adequately. The global expansion of regulated prostitution has not necessarily mitigated trafficking issues and, in some cases, has worsened them by providing a facade of legitimacy to exploitative practices. International trafficking in sex labour has surged significantly, fuelled by high demand and the shortcomings in national legal frameworks. While global initiatives to combat trafficking also included various conventions, significant challenges still persist. International and historical trends highlight a complex landscape where anti-trafficking laws often fall short due to inconsistencies in enforcement and gaps in legal protections. Key issues with current anti-trafficking laws include inadequate victim support, insufficient*

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*penalties for traffickers, and the need for greater international cooperation. To address these challenges effectively, a multi-faceted approach is required, involving robust legal frameworks, enhanced public awareness, and comprehensive support systems for victims. Addressing these challenges is crucial for curbing sex trafficking and ensuring justice and protection for vulnerable women and girls worldwide.*

**Keywords:** *Sex Trafficking, Human Rights, Sex Slavery, Victim protection, Prostitution.*

## **INTRODUCTION**

All the countries across the globe, whether they are developed countries like America, Australia, England, France and Germany, or developing countries like Afghanistan, Mexico, India, Burma or Bangladesh, are facing severe problems of human trafficking and involuntary prostitution especially of women, young girls and children. Forceful prostitution and cruelty for pornography or for satisfying sadistic wants of sex-buyers are the most heinous crimes of human trafficking. These crimes affect the lives of millions and devastatingly harm their families, society and the countries' economies, health and happiness, which are the foundational fabrics of a human society.

Trafficking of women for sex, pornography and many other immoral purposes is not a new crime or a social evil. These heinous crimes have been occurring for centuries in almost every society, although in different forms and magnitudes. But in modern times, this crime against humanity has become even crueller, as new forms of cruelties, tricks and modes are being adopted to bring more and more women, young girls and children into the sex-trade to fulfil the rising demand of sex buyers and pornography seekers. Even more inhuman is the use of strong chemical stimulants on trafficked women to perform for prolonged durations of sex, with more and more clients, for making pornographic movies, unnatural sex videos, and to perform, on demand, all such sexual acts which can only be described as sadistic cruelty on the human body-which, regrettably, reduces women to a condition worse than that of dead bodies.

The immoral business of prostitution and trafficking of women for sex and other immoral purposes was prevalent even in the ancient period. Percy Bunting and Henry J. Wilson, in the year 1899, warned the officials and social reformers about the

existence of a sex-slave trade involving not only native women but also white European women. Prof. Bunting, speaking at an International Conference, stated that a regular illegal sex-trade involving young girls and women was flourishing. The girls and women were being bought, sold, imported and exported to different ports and cities of Europe and British colonies as sexual products. Such trafficking of women is nothing but a new type of human slavery. In this illegal international trade, women are being moved from one country to another illegally, without any authorised immigration. In addition, such movement of women or young girls is without their consent. It is neither free nor voluntary. It is simply a movement of slaves under stress of fear or fraud, wherein even minor girls are traded, who are incapacitated to give their consent.

Prof. Henry J. Wilson elaborated that the trafficking of women and young girls involves three main components: first, there is the supply of women and young girls; second, there are human traffickers who hunt targeted women and exploit them; and third, there is fresh demand for women by sex-buyers. To destroy the crime of women trafficking, to save the honour and prevent cruelty to women and young girls, the most crucial strategy is to cut off the supply of women. The best preventive measure is to strike at the supply of women for sex-trade, strike at the traffickers, and also strike at the sex-buyers who demand or create demand for the innocent victims.<sup>1</sup>

Prof Bunting and Prof. Wilson were the first scholars to discuss, at an international forum, the plight of women and girls who are trafficked across international borders into coercive and cruel prostitution, which tantamounts to slavery. Thanks to the efforts of these scholars, human trafficking became the first women's international issue addressed through international accords, even before other women related issues such as suffrage, education and married women's citizenship rights were.

## **NECESSITY TO CURB CRIME OF SEX TRAFFICKING TO PROTECT OUR FAMILIES, WOMEN AND GIRLS FROM SEXUAL PREDATORS**

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<sup>1</sup> Percy W Bunting and Henry J Wilson, *The White Slave Trade: Transactions of the International Congress on the White Slave Trade* (National Vigilance Association, London, 21–23 June 1899) 65 <<https://static1.squarespace.com/static/5b7ea2794cde7a79e7c00582/t/629e889e7e10696ca3dba3a2/1654556832039/White+Slave+Trade.pdf>> accessed 20 October 2024

Despite enduring centuries of coercive and brutal sex trafficking for prostitution and immoral purposes, and living under conditions akin to slavery, women have consistently played a vital role in fostering a harmonious and virtuous society. It is the woman alone, who by playing different roles- whether as child-bearers, mothers, homemakers, family caretakers, or even as labourers or workers, have always played a critical role in nation building. In addition to these distinct roles, the realities of women's involvement in sexual labour are equally important. Women's role in nation-building is extremely crucial because human reproduction depends upon the reproductive capacity and health of both women and men.<sup>2</sup>

The crucial roles played by women makes it quintessential to protect women. Thus, it is women who play an integral role in both the physical and cultural reproduction of any nation or state.<sup>3</sup>

Women are symbols and caretakers of a country's health as well as the well-being of their family members. They also fulfil roles as grandmothers, mothers, wives, daughters and- most importantly- as bearers of their family's and the country's honour.<sup>4</sup> These crucial roles played by women in both the family and also in nation-building highlights why trafficking in women and girls was prioritised in the initial international conventions pertaining to women-related issues. The issue was also addressed by the member states before any other social reforms issues were included on women's agenda.

Prof. Mosse has highlighted that, regardless of role, the sexuality of women necessitates that all countries and nations uphold respect for women's honour, bodies, and sexuality. However, it is also true that, in earlier times, any unrestricted sexual activity by women, even with their free consent and chosen partners, were perceived as dangerous, unpatriotic, and a threat to the strength of the nation and male honour.

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<sup>2</sup> Susan Gal and Gail Kligman, *The Politics of Gender after Socialism: A Comparative-Historical Essay* (Princeton University Press, 2000)

<sup>3</sup> Nira Yuval-Davis, 'Gender and Nation' in Rick Wilford and Robert L Miller (eds), *Women, Ethnicity and Nationalism: The Politics of Transition* (Routledge, 1998); and George L Mosse, *Nationalism and Sexuality: Respectability and Abnormal Sexuality in Modern Europe* (Howard Fertig Inc, 1985)

<sup>4</sup> Joane Nagel, 'Masculinity and Nationalism: Gender and Sexuality in the Making of Nations' (1998) 21(2) *Ethnic and Racial Studies* 255-56

It was a time when women were regarded as ‘mothers of the nation’, while men were cast in the role of their protectors, tasked with ensuring their defence.<sup>5</sup>

## **EMERGENCE OF WOMEN TRAFFICKING FOR IMMORAL PURPOSES AND AS SEXUAL LABOUR**

Prostitution is often referred to as the world’s oldest profession. However, its meaning, methods, organisation, and regulation have evolved over the centuries and vary across different cultures.<sup>6</sup> Many societies view prostitution as a necessary institution, providing men with a controlled outlet for their sexual needs and desires. It is often believed that prostitution helps to maintain public and social order by regulating men’s unwanted sexual behaviour, including homosexuality. Additionally, regulated prostitution is often believed to curb the spread of venereal diseases and mitigate the negative consequences of uncontrolled sexual activities.

It is also necessary for the state to provide infrastructure that ensures safe sex practices and hygienic conditions, as well as to promote the health of women. To achieve this, it is necessary to control and regulate the profession of prostitution. Such regulations typically include the mandatory registration of brothels, the registration of women engaged in prostitution, and the provision of regular, free, and compulsory health checks for women working as sex labour in brothels.

However, the regulations implemented by the State government failed to address most of the issues surrounding prostitution and instead raised several significant questions. A key concern was whether state regulation could effectively combat trafficking in women and girls, or whether it might instead increase the problem of women’s trafficking for sex or immoral trade, driving such activities further underground. Additionally, there was considerable debate about the appropriate age at which a woman should be deemed eligible for being registered and found fit for participating in prostitution?

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<sup>5</sup> George L Mosse, *Nationalism and Sexuality: Respectability and Abnormal Sexuality in Modern Europe* (Howard Fertig, 1985)

<sup>6</sup> Kathleen Barry, *Female Sexual Slavery* (New York University Press 1979); and Stephanie Limoncelli, ‘Human Trafficking: Globalization, Exploitation and Transnational Sociology’ (2008) 3(1) *Sociology Compass* 72

Instead of reducing trafficking, the regulation and registration of prostitution has significantly increased trafficking of young girls, who are often used to replace older and ill sex workers. Additionally, the regulation process has contributed to corruption within regulated brothels. A major problem in trafficking is the use of new technology in trafficking, which has facilitated these illegal activities. Traffickers are well-equipped with the latest technology and tools to target their victims, leading to an influx of tribal and migrant women into the trafficking networks. As a result, remains uncertain whether regulation would increase abuse or provide support to the migrant, tribal and other women trapped in sex-slavery.

During the British colonial era, the concept of respectability of women was simply defined by the expectation that women should limit their sexual relationships only to the men from their own country, avoiding interaction with men from other nations. At that time, it was believed that any sexual relationship of a woman across national borders-whether consensual, coerced, or involving prostitution- could endanger national security. Similar attitudes were prevalent regarding racial and ethnic relationships. However, Joane Nagel noted that these perspectives towards women's sexual conduct were influenced by the masculine perspectives of nationalism and imperialism.<sup>7</sup> This militarisation of women was a result of masculinisation of nationalism.<sup>8</sup> Consequently, since the 19<sup>th</sup> century, prostitution, though viewed as a necessity, was inherently considered as a dangerous practice for any nation.<sup>9</sup>

## **HISTORICAL GROWTH OF PROSTITUTION AND RESULTANT TRAFFICKING OF WOMEN**

To understand the nature of women trafficking as a crime, it is important to examine the historical perspective of prostitution. The profession or trade of prostitution, across the world, started as a very small-scale business. However, with increasing demand, by the 19<sup>th</sup> century, had evolved into an international industry with significant turnover and unscalable profits. The rapid growth of prostitution during the 19<sup>th</sup> century was driven by the first wave of globalization, which included

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<sup>7</sup> Nagel (n 5)

<sup>8</sup> Cynthia Enloe, *Maneuverers: The International Politics of Militarizing Women's Lives* (University of California Press 2000)

<sup>9</sup> Michael Mann, *The Dark Side of Democracy: Explaining Ethnic Cleansing* (Cambridge University Press 2005)

factors such as extensive colonial expansion, ever increasing economic interconnectedness, improved transportation facilities, and rising international migration due to natural and man-made disasters, wars, and political instability. These factors, along with other developments, facilitated the rise of international migratory prostitution and, as a result, fuelled the growth of trafficking in the global sex trade. Similar dynamics continue to drive the rapid growth of sex-trafficking even today.<sup>10</sup>

The British government significantly contributed to the national and international expansion of prostitution and trafficking for immoral purposes. During the 19<sup>th</sup> and early 20<sup>th</sup> centuries, British military and colonial regimes deemed it essential to address the sexual needs of their personnel. This was driven by extensive economic and political projects of the British in their colonies, which required the services of a large number of British administrative staff and local native workforce. These individuals often worked away from their families for very long periods, resulting in a natural demand or desire for sexual services from women.

Other alternatives were deemed harmful both for individuals and for the nation. To address this, sexual labour of women was legally recognised. Additionally, legal brothels were established by the British in various garrison towns and ports. Two primary factors motivated the setting up of legal brothels: first, the need to accommodate the British and native workforce, who were stationed away from their families for extended periods; and second, the heterosexual nature of these men, which necessitated the provision for heterosexual outlets. It was also found that alternatives such as masturbation or homosexuality were both physically and morally unacceptable.

In the initial stages of prostitution in British colonies, local and indigenous women—often referred to as *concubines*—were primarily available only for European men. This arrangement was considered more cost-effective than importing European women to the colonies. These *concubines* lived with European men and took care of their domestic and sexual needs. However, over time, such relationships led to complications due to the birth of mixed-race children. To address this problem, the

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<sup>10</sup> Human Rights Watch, *Report on the Complicity of Judges, Prosecutors and Police in Trafficking Women* (2002)

migration of European women was permitted for sexual labour in British colonies. But this measure proved to be dangerous for the English race, because these white women imported for sexual purposes in colonial areas began forming relationships with native men.<sup>11</sup> The British viewed such sexual relationships as a serious threat and a danger to both the British empire and the perceived supremacy of the white race. Yet, they considered sexual relations between white men and native women, or between some European women with native men preferable to homosexual relations.<sup>12</sup>

Thus, by importing white women to British colonies and permitting them to work as prostitutes, the British effectively sanctioned prostitution as an acceptable legal form of women's labour. Over time, in British colonies, prostitution and marriage replaced the earlier practice of concubinage. Both the institutions of marriage and prostitution coexisted to fulfil the sexual desires of men.<sup>13</sup> However, during the 18th and 19th centuries, prostitution existed relatively on a smaller scale because prostitutes often lived with a person as his *keep* and handled both the domestic work in addition to sexual services.<sup>14</sup>

Initially, brothels set up by the British served only military personnel, but over time they also began catering to the civilians. To address the increasing demand for prostitutes in army frontier areas, a significant number of women were forcibly sent to these brothels, leading to the rise of sex trafficking in women.<sup>15</sup> The British Government also used female labour as part of its economic advancement strategy. Women were allowed to migrate and set up shops, pharmacies, laundries, restaurants, and other businesses near brothels. This not only supported the local economy but also

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<sup>11</sup> Giulia Barrera, *Dangerous Liaisons: Colonial Concubinage in Eritrea, 1890–1941* (Northwestern University Press 1996)

<sup>12</sup> Philippa Levine, 'Sexuality and Empire' in Catherine Hall and Sonya O. Rose (eds), *At home with the Empire: Metropolitan Culture and the Imperial World* (Cambridge University Press 2006)

<sup>13</sup> Lenore Manderson, 'Colonial Desires: Sexuality, Race, and Gender in British Malaya' (1997) 7 (3) *Journal of the History of Sexuality* 372

<sup>14</sup> Timothy J. Gilfoyle, 'Prostitutes in History: From Parables of Pornography to Metaphors of Modernity' (1999) 104 (1) *American Historical Review* 117

<sup>15</sup> Eileen P. Scully, 'Pre-Cold War Traffic in Sexual Labour and Its Foes: Some Contemporary Lessons' in David Kyle and Rey Koslowski (eds), *Global Human Smuggling: Comparative Perspectives* (John Hopkins University Press 2001)



contributed to the growth of prostitution by increasing the number of potential clients.<sup>16</sup>

## **MORAL LEGITIMACY OF PROSTITUTION: THE GLOBAL EXPANSION OF REGULATED PROSTITUTION**

Napoleon was the first Emperor to impose state-regulated prostitution, driven by his concern for the health of his army. This *French Model* of regulated prostitution, implemented in 1802 in Paris, was adopted by the British in their colonies. State regulation included licensing of brothels, compulsory registration of women in prostitution, mandatory regular medical examination of women for venereal diseases, and forced treatment of infected women in dedicated infirmaries. These infirmaries, often referred to as lock-hospitals, were designed to prevent infected women from leaving the facilities. The regulatory measures were adopted to safeguard both clients and public health. To oversee regulation in brothels, a new enforcement body called the 'Moral Police' was created. It was responsible for licensing, the registration of women, the collection of fees, ensuring compliance with medical examinations, and enforcing all other regulations strictly.<sup>17</sup>

The British justified the moral legitimacy for regulating prostitution by arguing that it would lead to healthier and disease-free practices under legal oversight. However, many people and organisations at that time viewed such regulation as a direct intervention of the State in matters of sexuality. As Susan Gal and Gail Kligman noted, the intersection of gender and sexuality often overlaps with political dynamics.<sup>18</sup> Michel Foucault referred to regulation as akin to prisons due to its mechanisms of confinement, surveillance, compulsory medical interventions, and disciplining of individual's bodies.<sup>19</sup> Regulation was described as a form of suppression of women because it was not gender-neutral and targeted only women while leaving male customers unregulated. Critics argued that such state-regulated prostitution not only legitimated prostitution as a profession but also created a new mechanism for

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<sup>16</sup> M. Satish Kumar, 'Oriental Sore or Public Nuisance: The Regulation of Prostitution in Colonial India, 1805-1899' in Lindsay J. Proudfoot and Michael M. Roche (eds), *(Dis)Placing Empire: Renegotiating British Colonial Geographies* (Ashgate 2005)

<sup>17</sup> Miles Ogburn, 'Law and Discipline in Nineteenth Century English State Formation: The Contagious Diseases Acts of 1864, 1866, and 1869' (1993) 6(1) *Journal of Historical Sociology* 28

<sup>18</sup> Gal and Kligman (n 3)

<sup>19</sup> Michel Foucault, *Discipline and Punish: The Birth of the Prison* (Vintage Books - Random House Inc. New York 1979)

trafficking in women. Additionally, the regulation of prostitution was also viewed as a mechanism for controlling the sexual behaviour of women.<sup>20</sup> It was also characterised as an extension of women's slavery.

During that period, prostitution varied widely, ranging from streetwalkers at the lowest end to courtesans in elite brothels and availability of high-class women in upscale hotels and resorts. In India, temple prostitution, known as the *devadasi system*, was prevalent. Meanwhile, many countries opted for state-licensed brothels.<sup>21</sup>

Following the regulation of prostitution, existing small-scale and indigenous forms of prostitution were brought under a new framework in which state officials regulated all types of prostitution, defining it as commercialised women's sexual labour. In India, the indigenous women who combined dance with sexual services, as well as courtesans, were classified as common prostitutes and subjected to state regulations. In cities like Lucknow, courtesans were targeted under the English Contagious Diseases Act.<sup>22</sup>

The introduction of mandatory regulations on women's prostitution, as well as its impact on women's migration and trafficking, sparked international protests against such regulation. This gave rise to a crucial debate: did these regulations increase trafficking in women, or did they help combat it? Two key organisations, the International Abolitionist Federation and the International Bureau, launched anti-trafficking initiatives, but they differed on the issue of regulation of prostitution. The Abolitionist Federation believed that state-regulated prostitution could effectively eliminate trafficking in women. In contrast, the International Bureau argued that state control over sexual activities was not only unconstitutional but also immoral. Despite having differing views, most governments were committed to maintaining state sovereignty over prostitution. Even before the formation of the United Nations, the League of Nations prioritised protecting the States from the influx of "unwanted"

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<sup>20</sup> Kumar (n 17)

<sup>21</sup> Vern Bullough and Bonnie Bullough, *Women and Prostitution: A Social History* (Prometheus books 1987); and Nickie Roberts, *Whores in History: Prostitution in Western Society* (Harper Collins 1992)

<sup>22</sup> Judith Whitehead, 'Measuring Women's Value: Continuity and Change in the Regulation of Prostitution in Madras Presidency, 1860-1947' in Himani Bannerji, Shahrzad Mojab, and Judith Whitehead (eds.), *Of Property and Propriety: The Role of Gender and Class in Imperialism and Nationalism* (University of Toronto Press 2001)

women rather than focusing on protecting and preventing exploitation of trafficked women.

Many doctors who supported state regulation presented evidence indicating that women were generally satisfied with their experiences in state-regulated brothels.<sup>23</sup> They argued that women felt safer in brothels compared to working on the streets as they also offered them a supportive environment, where women could build connections with one another. Many sex workers were also supported by compulsory health checkups, as having a clean health card helped boost their business. Some viewed their work as legitimate due to their regulated status with government oversight.<sup>24</sup> Supporters of state regulation contended that state regulation had not led to an increase in trafficking in women. Instead, they argued that the regulation had provided safeguards and safety for women through regulatory oversight and control over prostitution and also reduced the rate of crime and assault against sex workers and imposed responsibilities on brothel owners and others legally bound to ensure their well-being. It secured freedom for women by allowing them to practice professions and safeguarded those who were underage or suffering from health issues.

The International Abolitionist Federation opposed regulation.<sup>25</sup> They argued that regulation caused significant harm and also presented evidence showing that women had suffered as a result of such regulation. For instance, women in British cantonments voiced strong dissatisfaction with compulsory medical examinations.<sup>26</sup> They also protested their confinement in *lock hospitals* by rioting, smashing windows and furniture, and breaking doors in order to escape. Such a form of rebellion became a common response against the oppression faced by them.<sup>27</sup> The Abolitionists argued that state-regulated prostitution has in fact increased trafficking of women. They asserted that traffickers were motivated not only to supply women for legal brothels but also to ensure a continual influx of new women for prostitution so that the clients remain engaged and do not become bored with the same women. They suggested that

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<sup>23</sup> James F. McMillan, *Housewife or Harlot: The Place of Women in French Society, 1870-1940* (Palgrave Macmillan 1981)

<sup>24</sup> Elizabeth M. Andrew and Katharine Bushnell, *The Queen's Daughters in India* (Morgan and Scott 1899)

<sup>25</sup> Laurie Bernstein, *Sonia's Daughters: Prostitutes and Their Regulation in Imperial Russia* (University of California Press 1995)

<sup>26</sup> Andrew and Bushnell (n 5)

<sup>27</sup> Philippa Levine, 'Venereal Disease, Prostitution, and the Politics of Empire: The Case of British India' (1994) 4(4) *Journal of History of Sexuality* 579-602

trafficking replaced women who were sent to *lock hospitals* due to venereal diseases. Abolitionists also contended that in institutionalised brothels, women were not able to exercise their free choice because brothel keepers, police forces, traffickers, and pimps denied them of their basic civil rights. Women were often sold to brothels and were subjected to conditions akin to slavery. In regulated systems, they face strict limitations in their working and living conditions and are sometimes prevented from working on the streets unless they paid bribes to the moral police. Many women are also trapped in debt bondage. Abolitionists have provided evidence of high levels of police corruption in countries with regulated prostitution. In some cases, police officers owned brothels or had financial interests in them. Fischer-Tine reported an instance where a police inspector, who was honoured with the King's Police Medal—was forced to resign after being caught accepting illegal gratifications from the prostitutes, pimps, and mistresses.<sup>28</sup>

Abolitionists criticised the narrow definition of trafficking, which focuses only on the movement of women and girls into brothels for prostitution. They argued that the definition of trafficking should be broader, encompassing 'the procurement of any woman or girl for prostitution— whether with or without her consent, and both within and across territorial borders'. They also believed that any form of third-party profiteering from prostitution should also be covered within this definition. Abolitionists were concerned that restricting the definition of trafficking only to underage girls or women who are involuntarily forced into prostitution would leave trafficking issues in many countries unchecked, given the variation in age of consent for sexual relations being different worldwide. Such a definition would enable traffickers to legally recruit young girls in one country and transport them to another country with a higher age of consent. Ultimately, this would increase trafficking in women for the sex trade. In some countries, it is an accepted practice that family members can contract out or sell their daughters to brothel owners. Furthermore, trafficking is not only confined to cross-border operations; it also includes internal trafficking of rural and tribal girls being transported to urban brothels within their

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<sup>28</sup> Herald Fischer-Tine, 'White Women Degrading Themselves to the Lowest Depths: European Networks of Prostitution and Colonial Anxieties in British India and Ceylon, 1880-1914' (2003) 40(2) *Indian Economic Social History Review* 163-190

own countries, as well as cases where girls are kidnapped or lured into this profession.<sup>29</sup>

## DISCRIMINATION OF WOMEN IN STATE REGULATIONS

In state-regulated prostitution, factors such as race, ethnicity, and nationality of prostitutes were often considered. The British government was well aware of the fact that, in many locations, men sought sex services from women who were from different racial, ethnic, or national backgrounds than their own. Due to the limited number of British women in prostitution, regulations predominantly focused on non-European women, for servicing colonial men. Within this system, Indian women were placed at the bottom of the racial hierarchy, while Japanese women ranked above them, and European women were positioned at the top. Notably, British women remained outside the purview of these regulatory mechanisms.<sup>30</sup> But in some special cases, class privileges overrode the racial hierarchy— for instance, some rich Indians were permitted entry into European brothels.<sup>31</sup>

Both English and Indian reformers challenged this discriminatory regulatory system in India.<sup>32</sup> Shri Keshab Chandra Sen, a renowned reformer, sought the assistance of Mrs. Butler to stop the trafficking of Indian and Japanese women for British troops in India. Hindu women also sent petitions to British Members of Parliament and Mrs. Josephine Butler, protesting such discrimination that imperially imposed degradation on their race and questioning its implications on their womanhood.<sup>33</sup> *Butler* at an international conference argued that if we can accept financial aid from Hindus, Muslims, and other non-Christian persons, then why should we refuse assistance to a dark-skinned man seeking justice for his dark-skinned sister? She questioned whether it was acceptable to refuse assistance simply because

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<sup>29</sup> Sheldon Garon, 'The World's Oldest Debate? Prostitution and the State in Imperial Japan, 1900-1945' (1993) 98 (3) *The American Historical Review* 710-732

<sup>30</sup> Levine (n 5); Philippa Levine, 'Orientalist Sociology and the Creation of Colonial Sexualities' (2000) 65(1) *Feminist Review* 5-21

<sup>31</sup> Fischer-Tine (n 29)

<sup>32</sup> London School of Economics, *The Association for Moral and Social Hygiene in India: A Brief Survey of its Origin and Development* (1953) (Prepared for the 19<sup>th</sup> International Abolitionist Congress, Paris)

<sup>33</sup> Josephine E. Butler, 'Mrs. Butler's Appeal to the women of America' (addressed to the International Council of Women, The Philanthropist, New York 1888) <

such dark-skinned men worshipped Buddha or Vishnu and not Christ?'.<sup>34</sup> During that period, many English women felt deep sympathy for Indian women, who were subjugated to the regulatory system. They also expressed that they viewed Indian women as their sisters who were unable to protest or seek justice. Their helplessness and subordination to a conquering power heightened their sense of guilt towards those who had plunged them into sexual slavery. They believed that these women were already so degraded that their further degradation was inconceivable.<sup>35</sup>

Abolitionists protested to stop the commercialisation of women and its legitimisation by the state. They sought the elimination of police control over prostitution. They advocated for the involvement of female social workers to assist women in this industry and provide them alternate employment opportunities. Additionally, they aimed to criminalise those who organised and profited from prostitution.<sup>36</sup> The British government accused abolitionists of cooperating with anti-colonial nationalists. In response, the Abolitionists pointed out that, while the British expressed horror at the Kanpur massacre, they ignored the atrocities inflicted upon Indian women by its own administration.<sup>37</sup> Abolitionists were dedicated to protecting women from male sexual exploitation and focused their efforts not only on European women in prostitution but also on the majority of Indian women, who were subjected to British regulation.

Abolitionists connected imperialism with the exploitation of women through prostitution. They protested against State and military officials for using racist stereotypes to justify the procurement and confinement of Indian women in military brothels known as *chaklas*. Despite this, colonial authorities and military administrators continued to portray Indian women as 'naturally sexually impure' in comparison to the 'virtuous European women'. They defended the regulation over prostitution by arguing that it aligned with the Indian indigenous culture, which, historically, had supported such practices. They claimed that regulation of prostitution aimed to lower the rate of venereal diseases, and to protect innocent European men and women. They also argued that without regulated prostitution outlets, sex starved

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<sup>34</sup> Josephine E. Butler and Henry Fawcett, 'Words of Encouragement' in James Marchant (ed), *Public Morals* (Morgan & Scott 1902)

<sup>35</sup> Josephine E. Butler, *The Revival and Extension of the Abolitionist Cause. A Letter etc.* (J.T Doswell 1887)

<sup>36</sup> Ogburn (n 18)

<sup>37</sup> Nancy L. Paxton, 'Mobilizing Chivalry: Rape in British Novels about the Indian Uprising of 1857' (1992) 36(1) *Victorian Studies* 5

Indians might assault British women in the colonies. The regulations were also to protect European wives from being infected with venereal diseases from their husbands. Regulated prostitution would ensure that their men would have access only to clean and disease-free women, rather than to unregulated and diseased prostitutes.

Thus, regulation of prostitution created a new range of issues, particularly related to racial, ethnic and national grounds. While prostitution was considered as a necessity for European men and other colonial workers, confining it only within specific racial categories raised serious concerns and complications. European women were included in brothels specifically to serve white men, yet they were regarded as the bearers of imperialism and British morality. Such contradictions posed challenges, as the British were more concerned with maintaining their imperial prestige. Consequently, they opted for both indigenous and European women in their system.<sup>38</sup> Moreover, cross-sex relationships were allowed only between European men and non-European women, but the converse was considered threatening.<sup>39</sup> The British also ensured that European women did not serve Asian men as that would have undermined the power of colonial rule.<sup>40</sup>

## **GROWTH OF INTERNATIONAL TRAFFICKING IN SEX LABOUR**

Stephanie Limoncelli defined international trafficking in sex labour as the movement of women across international borders specifically for the purpose of prostitution. This phenomenon emerged with the expansion of the British Empire and the rise of colonialism. This led to huge demand and supply of women by English administrators, European settlers, and native labour. It was facilitated through trafficking of women across international borders, leading to a significant international growth in trafficking of women for prostitution. Many European States and their colonies either facilitated or were directly involved in the international movement of women for the purpose of sex labour and prostitution. Historical documents and records from various international voluntary associations, including the United Nations, reveal that prevalent methods of trafficking of women included

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<sup>38</sup> Philippa Levine, 'Public Health, Venereal Disease and Colonial Medicine in the Later Nineteenth Century' in Roger Davidson and Lesley A. Hall (eds), *Sex, Sin and Suffering: Venereal Disease and European Society Since 1870* (Routledge 2001)

<sup>39</sup> Margaret Strobel, 'Gender, Sex, and Empire' in Michael Adas (ed), *Islamic and European Expansion: The Forging of a Global Order*. (Temple University Press 1993)

<sup>40</sup> Levine (n 28)

fraudulent marriages, deceptive promises of marriage, recruitment through fraudulent employment agencies, recruitment in the name of domestic work, and assurances of highly paid jobs in foreign countries. However, in reality, these women were often sold to brothels once they arrived. Women who were victims of forceful prostitution were often transferred to brothels in other countries. Historically, the traffickers, whether operating nationally or internationally, were typically individuals or small groups. They operated as teams of men or women, or even couples, who procured women mainly from their own native places or from their own race, ethnicity, or nationality.<sup>41</sup>

During the colonial era, the pattern of international trafficking exhibited the following five key trends:

1. The movement of European women exclusively within European countries;
2. The migration of European women to America, Argentina, Brazil, and the European Countries of Poland, France and Italy;
3. The movement of European women to British colonies, for example, presence of Russian, Polish and Austrian women sexual workers in Bombay;<sup>42</sup>
4. The regional movement of native women within their colonial and mandated areas;
5. The promotion of sex tourism, facilitated by international transportation networks.

## **GLOBAL EFFORTS TO COMBAT TRAFFICKING**

In the 1990s, the United Nations for the first time addressed the problem of trafficking of women for prostitution. It became an important issue on the global agenda because of international political and economic transition, the adoption of neo-liberal economic policies, and the rapid expansion of the global sex trade, which led to a massive increase in human trafficking of women and children. Various national and international bodies and organisations working on anti-trafficking have also intensified the pressure on the United Nations to take decisive action against human trafficking. The United Nations Report on human trafficking has identified several primary causes of trafficking and prostitution, including poverty, low status given to

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<sup>41</sup> League of Nations, *Report of the Special Body of Experts on Traffic in Women and Children* (1927)

<sup>42</sup> Fischer-Tine (n 29)



women across societies, massive institutionalization of paid sexual labour and various individual psychological, emotional, and moral issues. Contributing factors included addiction to alcohol, broken families, greed for luxury, a desire for easy income and pleasure, and compulsive sexual behaviour.<sup>43</sup>

Global efforts to combat trafficking in women and children were initiated due to the universal human right of women to be free from any type of state control and sexual exploitation. State-regulated prostitution markets violated this right. On one hand, the State condemned prostitution as an evil, but on the other hand, it resisted any effort to reduce regulation and control over prostitution. Moreover, not a single state addressed the problem of human trafficking at the time. State anti-trafficking measures were primarily focused on controlling emigration and immigration of only those women whose sexual activities were deemed as a threat to the State. This approach, however, primarily served to reinforce the legitimacy of regulated prostitution systems. State laws permitted that only women above the age of consent or those working voluntarily in prostitution further entrenched regulated prostitution. Additionally, various anti-trafficking initiatives also led to increased state regulation.

## **INTERNATIONAL PROSTITUTION AND TRAFFICKING: HISTORICAL AND CONTEMPORARY TRENDS**

International Trafficking of women, children and men has historically been driven by factors such as poverty, war, natural or man-made calamities and the effects of globalization. Typically, trafficking involves cases of movement of women from poor countries to rich countries, or from dictatorship regimes to democracies. However, human trafficking is not confined only to cross-border scenarios; as women are also being trafficked within the same country, within those regions experiencing higher levels of poverty and insecurity as compared to those regions having fewer problems. Consequently, modern trends in international trafficking depict that women from Southeast Asia are increasingly replacing women from China, Japan and other regions for prostitution. While methods used by traffickers are still similar to earlier periods, the scale of trafficking has now expanded significantly, involving organised crime syndicates and updated and advanced technology. Furthermore, human trafficking

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<sup>43</sup> United Nations, *Reports from Governments: Prostitution and Anti-Venereal Disease Measures in Ten Selected Countries: Cambodia, Ceylon, Chile, Denmark, France, Haiti, Hungary, Ireland, Poland, Spain* (International Review of Criminal Policy, 101-111)

has become a highly prosperous industry. Current trends in women trafficking also include the recruitment of attractive women through employment agencies, the entertainment industry, and even colleges, often by agents posing as students. A prevalent trend in the international sex trade involves the employment of prostitutes to recruit new women from their home regions, with false promises of marriages or lucrative employment opportunities. Another growing trend is that of highly educated women voluntarily entering into prostitution. Prostitution services are increasingly available online, and sex workers can now travel faster using luxury cars and by air rather than by relying on a bus or train. Prostitution is now rampantly conducted by staying in five-star hotels or guest houses instead of operating out of traditional brothels. Many sex workers are also functioning as escorts, with their services being advertised in various forms of media. A notable shift from the past is that women are now being trafficked to countries with stringent immigration controls, expanding the scope of trafficking beyond previously targeted regions. Locally, women continue to be trafficked into brothels, but the operations now extend to countries with active international sex or porn industries. The organisation of trafficking has also evolved: what was once managed by individuals or small groups of pimps has been replaced by organised crime syndicates. These syndicates are involved in human trafficking and smuggling, alongside other illicit activities such as drug trafficking, arms dealing, and gambling. Thus, international trafficking has now become more professionalised, corporatised, and diversified through the use of the latest communication technologies.

In addition to war and poverty, political upheaval contributes to the mass migration of men, women, and children, increasing their vulnerability to trafficking and prostitution. These displaced individuals or families often lack financial or material support, which makes them susceptible to fear, coercion, and ultimately their forceful induction into trafficking and prostitution. Extreme poverty frequently drives the selling of women and children into fraudulent marriages. Similarly, widows without family support are particularly vulnerable to prostitution as a means of survival.<sup>44</sup> The State is also responsible for institutionalising human trafficking and prostitution by creating conditions or failing to take responsibility for its citizens. This

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<sup>44</sup> Jacques Berque, *French North Africa: The Maghrib Between Two World Wars* (Frederick A. Praeger 1967)

neglect has led to the widespread movement of women into global prostitution networks. The role of the state in the regulation of prostitution has also evolved. Currently, states generally have no direct involvement in regulating prostitution markets. Though many countries have criminalised prostitution, they often overlook the existence of sex trade until it disturbs public order. Enforcement agencies typically target street prostitution, pushing the trade behind the doors and away from public scrutiny.<sup>45</sup>

The outcomes of legalising prostitution in various countries have sparked significant debate. On one hand, proponents argue that legalisation has successfully reduced human trafficking and the abuse of women within the prostitution industry. On the other hand, critics have pointed to issues such as an increase in police corruption, heightened violence against women in prostitution, a massive surge in human trafficking, and the infiltration of organised crime into the sex trade.<sup>46</sup>

Only a few countries are actively regulating prostitution through methods such as licensing the brothels or registering the women working in them. However, in practice, many countries, in the guise of fostering tourism, are inadvertently facilitating the growth of prostitution and human trafficking. This can occur through sex or organ tourism, targeted labour migration of particular groups or of particular communities, religions, or races, or by blindly adopting neo-liberal economic policies that worsen the vulnerability of people by displacing them from vast areas of land being allotted to industrialists. Evicting tribal or long-standing residents from forests and other areas not only leads to mass migration but also increases their vulnerability to traffickers. The Constitutional Courts, which were established to protect the Constitution and the rights of the citizens, often permit these detrimental policies of the government in the guise of public interest, which in turn causes mass migration and increases their vulnerability to exploitation. One of the most detrimental factors for vulnerable people is the involvement of certain government officials and politicians in sex trade and human trafficking, which occurs not only in normal periods but also intensifies, especially during and after disasters or conflicts. In some countries, ethnic riots and

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<sup>45</sup> James Marchant (ed), *Public Morals* (Morgan & Scott 1908)

<sup>46</sup> London School of Economics (n 33); Biswanath Joardar, *Prostitution in Nineteenth and Early Twentieth Century in Calcutta* (Inter-India Publications 1985)

related concerns have led the state to favour migrant women over local women to work in the sex industry.<sup>47</sup>

## **KEY ISSUES WITH ANTI-TRAFFICKING LAWS**

The governments, enforcement agencies, and legal systems still need to deepen their understanding on the operation of trafficking organisations, including the scope of trafficking, major sources of countries and regions with huge demands of trafficking, various forms of trafficking, and prostitution across the world. It is also crucial to gain insight into the efforts of different governments and anti-trafficking groups to curb prostitution and the experiences of women who have been victims of human trafficking. Analysing the past anti-trafficking and prostitution laws and their consequent success and failure ratio is essential for improvising future strategies. Understanding the history of early international anti-trafficking movements and laws provides valuable insights into contemporary trafficking methods, its organisation, and effective strategies to combat it. Trafficking of women has repeatedly mobilised women's groups and global activists to protest against this heinous crime and to push for stringent measures to stop the exploitation of women. Religious figures and social leaders have also advocated to protect women's sexual dignity. Anti-trafficking efforts have encouraged many NGOs and activists dedicated to improving working conditions for poor sex workers in brothels. While many NGOs support the decriminalisation of prostitution, a significant challenge remains in addressing the complex relationship between sex trafficking for prostitution and voluntary prostitution.<sup>48</sup>

Several groups and organisations advocate for the recognition of prostitution as a legitimate profession, viewing it as paid labour for availing of sexual services. They argue that women working in the sex-services sector should have the freedom to migrate and work legally as sex workers in cities or countries of their choice. Proponents believe that such measures could help in eliminating the problem of human trafficking, particularly of women, by mitigating the exploitation and illegal practices associated with the industry. Another important international issue concerns the status of foreign women brought into a country solely for sex trafficking or those

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<sup>47</sup> George W. Johnson and Lucy A. Johnson (eds), *Josephine E. Butler: An Autobiographical Memoir* (J.W. Arrowsmith 1928)

<sup>48</sup> *ibid*

who voluntarily indulge in prostitution. Both of these issues are still not completely resolved. It is not clear whether to repatriate these women and which country should bear the expense? Whether it should be their country of origin or the country where they were working. Additionally, there's uncertainty about whether these foreign women, either working as sex-workers or being victims of trafficking, should have the same rights as that of local women.

Another challenge is determining the conditions under which foreign sex workers or victims may be granted residency or citizenship in the countries where they are found. Additionally, most of the debates and actions have primarily focused on whether prostitution is voluntary or involuntary, often overlooking the experiences of men being trafficked into global sex trade. Society remains divided on the legal status of prostitution, debating whether it should be regulated by the State or entirely prohibited by criminalisation, regardless of whether the individuals involved are men or women. There's also uncertainty of whether all the third parties involved in trafficking or prostitution, including clients, brothel owners, those providing their spaces for keeping victims, sex-workers or traffickers, should be considered criminals and face prosecution and punishment. Public opinion and actions can significantly influence both, as to how women enter into prostitution as well as the extent of their exploitation. To effectively curb human trafficking and prostitution, it has become essential for all national and international agencies to coordinate and cooperate to examine all the underlying causes for rapid growth of the global sex trade and conditions that lead women and children into sex trafficking. It will also help to identify why some countries experience higher levels of trafficking and explore the political, economic, and criminal dimensions of sex industries, as well as the relationship between wars, prostitution, and trafficking.

## **HISTORY OF EARLY INTERNATIONAL ANTI-TRAFFICKING ACCORDS**

The first international agreement on anti-trafficking of women was established in 1904. This accord setup central bureaus for exchange of information on trafficking of women, created aid centres for women at ports and railway stations to assist them, and called for greater government participation in repatriation of foreign women

engaged in prostitution.<sup>49</sup> The 1910 International Convention declared that the prostitution of minors, regardless of whether with or without their consent, and the prostitution of adult women by means of fraud or force are punishable offences.<sup>50</sup> The 1921 convention extended protection to minors of both sexes and also raised the age of consent to twenty-one years. It also provided for extradition of traffickers.<sup>51</sup> The international accords on anti-trafficking constituted a key part of the social and humanitarian initiatives of the League of Nations. The League of Nations also established the Traffic in Women and Children Committee, consisting of nine delegates, and collaborated with five international voluntary associations for collecting reports on trafficking and prostitution from the member states. Additionally, the League of Nations also commissioned two research studies on international trafficking and convened conferences in 1933 and 1937 to address these issues. Following the constitution of the United Nations, the anti-trafficking efforts were continued and culminated in a convention held in 1949 that criminalised the procurement of women for prostitution as a punishable offence, regardless of age or consent of victims, and also made the operation of brothels a punishable offence.<sup>52</sup>

## CONCLUSION

Trafficking in women and prostitution continues to thrive because of the lack of awareness, ignorance, and indifference from both people and government. It should be the duty of every citizen to stand up against these atrocities. The government should also implement stringent measures so that no harm is caused to those people who speak against or complain against trafficking or prostitution. All conscientious people should not promote this atrocity either by their silence or inaction to this heinous crime. Instead, they must actively oppose modern slavery and raise awareness amongst authorities, their communities, and all those who can help the victims.<sup>53</sup>

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<sup>49</sup> *International Agreement for the Suppression of the "White Slave Traffic", signed in Paris, 18 May 1904* (His Majesty's Stationery Office 1905)

<sup>50</sup> *International Convention for the Suppression of the "White Slave Traffic", signed in Paris, 4 May 1910* (His Majesty's Stationery Office, London 1912)

<sup>51</sup> League of Nations, *International Conference on Traffic in Women and Children* (held at Geneva, 30 June- 5 July 1921)

<sup>52</sup> Laura Reanda, 'Prostitution as a Human Rights Question: Problems and Prospects of United Nations Action' (1991) 13(2) *Human Rights Quarterly* 202-228

<sup>53</sup> Judith Herman, *Trauma and Recovery: The Aftermath of Violence – From Domestic Abuse to Political Terror* (Basic Books 1997)