

**The New Openness:**

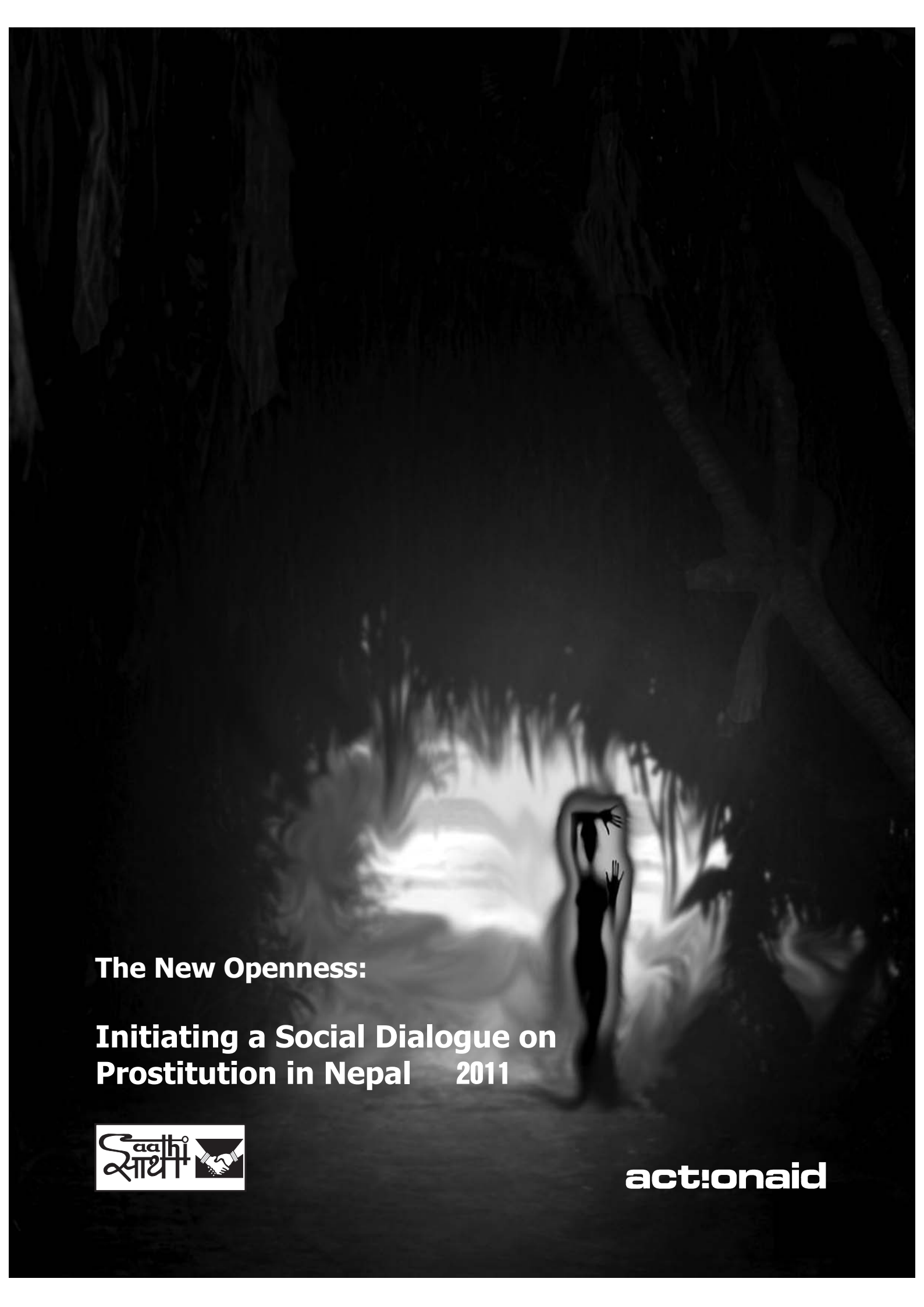
**Initiating a Social Dialogue on  
Prostitution in Nepal 2011**



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## The New Openness: Initiating a Social Dialogue on Prostitution in Nepal

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## LIST OF ACRONYMS

<b>BBC</b>	- British Broadcasting Corporation
<b>CA</b>	- Constituent Assembly
<b>CNN</b>	- Cable News Network
<b>CREHPA</b>	- Center for Research on Environment Health and Population Activities
<b>CDO</b>	- Chief District Officer
<b>CAC</b>	- Community Action Centre
<b>CATW</b>	- Coalition Against Trafficking in Women
<b>CSW</b>	- Commercial Sex Worker
<b>DMSC</b>	- Durbar Mahila Samanwaya Committee
<b>ECPAT</b>	- End Child Prostitution And Trafficking
<b>FWLD</b>	- Forum for Women, Law and Development
<b>HIV/AIDS</b>	- Human Immunodeficiency Virus/Acute Immunodeficiency Syndrome
<b>ILO</b>	- International Labour Organisation
<b>INGO</b>	- International Nongovernmental Organisation
<b>INHURED</b>	- International Institute for Human Rights, Environment and Development
<b>NGO</b>	- Nongovernmental Organisation
<b>NHRC</b>	- National Human Rights Commission
<b>ONRT</b>	- Office of National Rapporteur of Trafficking in Women and Children in Nepal
<b>STI</b>	- Sexually Transmitted Infection
<b>TU</b>	- Tribhuvan University

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- Ms. Padma Mathema, National Rapporteur on Human Trafficking
- Advocate Sabin Shrestha, Executive Director, FWLD
- Mr. Anand Tamang, Director, CREHPA
- DIG Parvati Thapa, Nepal Police
- Ms. Ayesha Barthson, Reporter, Former BBC Correspondent
- Dr. Gopal Krishna Siwakoti, President, INHURED International
- Dr. Poonam Thapa, Management & Evaluation Consultant/  
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## FOREWORD

It has been almost a decade since Saathi started addressing the rights and problems of women and girls working in cabin/dance restaurants, massage parlors. Over the years, there has been increasing involvement of minors in these establishments which in many instances also operate as brothel in the guise of guest house, open restaurants. The increment in the incidences of sexual violence, abuse and exploitation from owners, clients, police, media, family and society as a whole is what prompted us to begin this dialogue on prostitution and its different dimensions.

Given the rapid growth in the entertainment industry in Nepal and its evident linkage with increasing prevalence of prostitution in different forms, it has been critical to understand the magnitude of the problem. We need to look at different legal mechanisms adopted in other countries and see how effective these measures have been.

Voices for legalization are heard from certain sectors and even from those who are in this trade. However, we need to see whether these voices echo well informed understanding of the socio-cultural, health, legal and economic implication of legalization in the context of Nepal.

For us, legalization is not a solution. Prostitution should never be a decent means of earning a living even if it be informed consent or choice. In a county like ours we know that in that choice lies many underlying push factors. Those who have unshakable belief in human dignity, we think, would never consider this as a respectable profession. Leaving aside our own prejudices and personal opinions, it is imperative that we listen to the perspectives that are emerging from different point of views with the aim to protect and promote the human rights of women and girls.

This report is an attempt to gather different perspectives, the Dos and Don'ts and experiences of other countries. I am sure this will be followed by further dialogues, debates and discussion which will significantly contribute towards designing an apt model to best ensure a violence free life for those engaged in this trade.

Bandana Rana  
President  
Saathi

## ACKNOWLEDGEMENTS

I would like to express our sincere gratitude to Ms. Anuradha Koirala who graced the function. It was a pleasure to honor her in recognition to all the contribution she has made in addressing the social evil like trafficking that has destroyed lives of many Nepali women and girls. The recipient of CNN hero award for her bravery and dedication is a matter of great pride to all Nepali women. Our hearty congratulations to her.

I would like to thank our past president and Constituent Assembly (CA) Member Hon. Dr. Arzu Rana Deuba who has been our constant inspiration, for her insightful paper. My gratitude is to CA Member Hon. Sapna Pradhan Malla a great ally in this sector for her presence and presentation. My special thanks to Ms. Pinky Singh Rana, our Saathi member, for agreeing to make a presentation on an issue which is felt to be controversial in nature. Our thanks go to all the commentators who added a different dimension to this discussion with their valuable inputs.

I greatly appreciate the support of ActionAid International Nepal (AAIN) for enabling Saathi to initiate this dialogue. Our special thanks to Ms. Mona Sherpa from ActionAid International Nepal (AAIN) for understanding the urgency of this issue and accepting to help with all the proceedings. I would also like to thank Mr. Pranaya Rana for proofreading the report and Samjhana Kachhyapati, Saathi program officer, for rapporteuring.

My greatest gratitude and sincere thanks is reserved for Ms. Pramada Shah, our immediate past president and board member who has provided deep insights, guidance and support from the inception of the program “Creating an Enabling Work Environment for Women/Girls Engaged in the Entertainment Sector through Holistic Care and Support.” It was through this program and with her constant support and guidance that this dialogue as well as the continuity of this program has been possible. My very special thanks to our program coordinator Sulakshana Rana who worked very hard to conceive, coordinate and compile all resource materials for the dialogue as well as prepare this report. Having worked in this program right from the beginning she has insightful experiences which enabled us to open up this critical dialogue.

Bandana Rana  
President  
Saathi



## EXECUTIVE SUMMARY

The New Openness: Initiating a social dialogue on prostitution in Nepal is an attempt to understand and document different perspectives presented by people from various sectors that work and advocate for the promotion of human rights of women and children, thereby offering conceptual clarity on the discourse surrounding prostitution.

This report offers an overview of prostitution in relation to different views: Criminalisation/ Legalisation/ Decriminalisation/ Regulation/ Abolitionism.

Ms. Pinky Singh Rana, in her paper on “Regulation of Prostitution in Nepal: Understanding Contextual Needs and Impacts” presents a brief overview of prostitution in Nepal, where she discusses about how the patriarchy society like ours views prostitution adding how this trade operates under different guises as an organised crime. She talks about the fundamental factors pushing women/girls into this business. She also provides the Netherlands and Victoria, Australia’s experience on legalising prostitution and also sheds light into the model adopted by Sweden.

Ms. Sulakshana Rana in her paper titled “Legalising Prostitution: Is it a solution” begins with the definition of prostitution providing a brief historical background on prostitution. She talks about the magnitude of the problem and reflects on how it further contributes to human trafficking. The paper talks of the different approaches to prostitution propagated by various scholars, feminists, activists and government namely, Prohibition, Legalisation/Regulation, Decriminalisation and Abolitionism. The paper examines the pros and cons of legalising prostitution and explores different countries’ experimentation with legalisation namely, the Netherlands, Victoria in Australia, Germany and New The paper concludes with the mention of two models adopted in India and Sweden, emphasising on promoting the abolitionism approach, the Swedish Model 1999.

Hon. CA member Dr. Arzu Rana Deuba in her paper entitled “Decriminalisation of Prostitution in Nepal: The end to Dignified Nepali Womanhood” appeals to keep the dignity of the Nepali women intact and decriminalising prostitution would mean giving Nepali women a tag of a country of whores and is no way to achieve success. She demands an honest response from those promoting the idea of decriminalisation/ legalisation if prostitution would ever be acceptable profession and dignified means of livelihood for themselves or their daughters, sisters and so forth. She puts forth arguments against decriminalisation with an analysis of the Nepali culture and the status of women and the economic variables within this context. She provides examples and facts from other countries that have adopted decriminalisation in order to argue against this model.

Hon. Ms. Sapna Pradhan Malla offers clarity on terminologies like sex work and prostitution and makes a distinction between the concepts: criminalisation, decriminalisation and legalisation. Offering her views from human rights perspective and talking about different legal measures she emphasised on the need to safeguard the rights of those in this trade and prevent others from entering this trade. She provides underling reason for legalisation to gain ground stating that the arguments for legalising prostitutions are myths and does not guarantee that clients adopt safe sex behaviour neither does it reduce trafficking. She praised the Swedish model where for the first time the demand side is punished and asked to consider on persuading this model. She talks about the different forms of violence and exploitation prostitution/sex workers face at the hands of pimps, society and media and stresses on the need to form a mechanism to address this problem. She put an emphasis on the need to adopt human right approach while drafting any law and that laws should be comprehensive, encompassing all aspects like prevention, protection and prosecution measure.

The different presentations and comments reflect on the importance of understanding the contextual impact of different approaches and finding appropriate mechanism to internalise the issues, localise it

and find ways to address it with an emphasis on looking at it from a women's human rights lens. The discussion also offers new insights into this trade and proposes to strategise on ways to enhance protection, prevention and prosecution to put an end to sex slavery/ prostitution which impinges upon human liberty and dignity. The discussion emphasises the importance of creating alternatives for those in prostitution in order for them to get out of this vicious circle. The dialogue accentuates the need to formulate laws keeping in mind those who are already in the profession and those who are at risk, thereby indicating the need to protect the victims instead of re-victimising them.

This report intends to provide groundwork for future debates/discussion/ dialogue on this particular issue. In a situation where there is a dearth of relevant documents in the Nepali context, this report seeks to fill in the vacuum and open up avenues for further discussion, research and strategies to formulate comprehensive legal measures to address this problem.

This report is a drop of water in the ocean but we hope it will lay a strong foundation for future discussions to be based on. We anticipate this report will prompt us to carry forward this debate with an open mind exploring in depth the different perspectives and drafting solutions to this problem within the Nepali context.

## Background

In the Nepali context, internal as well as cross border trafficking takes place due to uncountable socio-economic, cultural and political reasons. Economic opportunities are very limited, and this reality is further exacerbated in rural areas, especially for women and girls. Internal and external trafficking of women and children is directly associated with gender based violence especially domestic violence as most of the trafficked victims have testified that one of the reasons for being trafficked is the violence they face from their families, leaving them vulnerable to traffickers. One school of thought argues that the lack of economic opportunities is also a factor for trafficking. Other major factors that contribute to trafficking are poverty, unemployment, illiteracy, the patriarchal construct of society, sexual exploitation, gender discrimination and domestic violence.

Rapid urbanization has created a number of employment and income opportunities for Nepalis. However the prospects of job opportunities are limited for women in areas where a high degree of expertise and training is required, due to their lack of education and skills. Along with this, the displacement of women and girls from rural areas to urban areas due to the poverty has led to many of them seeking job opportunities in urban and semi-urban areas. The lack of employment opportunities in organized sectors for women, due to their low levels of education and skills, has left them open to exploitation through employment in unorganized sectors like cabin/dance restaurants and massage parlors, namely the entertainment sector of Nepal. These establishments provide incentives for young, desperate, vulnerable and poor girls/women who only seek to earn an honest living.

It is there that the destinies of the girls are shaped. Some are not able to cope with such demeaning situations and try to quit but desperation might make them give in to the client's demands. Most of them do their best to adjust to wandering hands and sexual advances of predatory men. Slowly, they are lured into prostitution for a little bit of extra money. Their earnings range from a basic salary of two to three thousand rupees per month, plus tips.

The rise of such establishments, namely the "entertainment sector of Nepal" could be the result of chaotic changes that have swept the country in recent years. Apart from that, poverty, illiteracy, conflict and domestic violence are some of the main reasons that force females to work in such places.

Another probable reason, the patriarchal structure of Nepali society as well as rapid urbanisation has led to the disintegration of conventional and collective social controls and has promoted the growth of the sex workers' industry. In the metropolitan area, the availability and access to any form of sexual satisfaction has led to the objectification of women. Men want to be sexually fulfilled, when and where they wish. Women are no more than a commodity. The continuing migration of people to cities has also created a huge demand for cabin and dance restaurant employees.

The patriarchal structure restricts women in their search for a decent job that can meet their economic needs. In the end, they are forced to give in. They only have sex work in their limited horizon and it is better paying than any other job open to unskilled and uneducated female job seekers. Thus, society controls the sexual freedom of women and divides them into two categories: good and bad. The "bad" ones are engaged in sex work and help maintain unequal gender roles. This divide is getting more and more pronounced.

In Nepal many situations lead women to come to Kathmandu and they end up in places where they are exploited and pushed to the brink of accepting sex work as a way of life. Most of the girls/women are not willing participants in this degrading situation but are not vocal about the nature of their work either. How could they be? The popularity of cabin establishments underlines the structure of our world that caters to men, who have the time and the resources to take advantage of the flesh trade. The women who work there have to bear the brunt of society's disdain and disapproval of their actions. They suffer the

consequences of social stigma that is their chief salary.

Sex work is illegal as well as criminalized in Nepal but everyone turns a blind eye to it. Although prostitution is prevalent in Nepal, the government chooses to ignore the magnitude of the problem and no one in the civil society nor the health department seems to care. This is a serious offence to human rights. In 2004, the Supreme Court issued a directive making sexual harassment in the workplace illegal but no law has been formally observed. And even if there are laws, how will they be enforced given the general indifference to the fate of women?

Despite sex work and prostitution being illegal and criminalized we are faced with problems where women/girls working in the entertainment sector are easily lured into the flesh trade. The employees of the entertainment sector are looked down upon by society at large and are often victims of harassment from security personnel.

The stated arguments are not baseless. The magnitude of the problem reflected is based on the evidence of our work experience in the 'entertainment sector' for almost a decade. Our findings reveal that women/girls based in these establishments are violated sexually, physically and emotionally. The emerging trends in the entertainment sector suggest women are lured into pornography, drug abuse and alcoholism. There are cheap guest houses operating within close vicinity of the cabin/ dance restaurants. Some places in the guise of restaurant are operating like brothels where the owners send the girls/women out with clients and the women/girls have to provide a certain percentage of their earning to the owners, so basically the owners play the role of pimps. This business has also provided a fertile ground for women/girls to adopt unsafe means of migration which pushes them into further exploitation and makes them vulnerable to external trafficking. Even from a reproductive health point of view, these women/girls are very susceptible to different kinds of STIs (Sexually Transmitted Infections) and HIV/AIDS. The women/girls are also victims of unwanted pregnancies and frequent abortions might have serious negative impact on their reproductive health.

There are many organisations working with street based prostitutes and sex workers engaged in the entertainment sector, providing them with different services and protection. But there is still the need for a holistic approach. Research in all the problems highlighted also needs to be carried out in order to address the problems appropriately.

Hence it is a fact that the problem is there and is increasing at an unprecedented rate and the indication of violence and exploitation has been coming out through different forms of media, from NGOs through their direct engagement with the girls/women working there and is further evident through frequent police raids.

Despite the graveness of the situation, no initiative has been taken to address it and in this context, Saathi decided to invest in finding solutions through legal redress. Though Saathi is against the legalisation of prostitution, the organisation has always advocated for the decriminalisation of sex workers in Nepal and the criminalisation of clients and pimps. Therefore, it is essential for civil society to get together and start focussed discussions on this issue so that the rights of those in the sex trade are secure and they are not further victimised. Most importantly, before civil society and the government make any move towards legalising /decriminalising and regulation of sex work, it is essential that the women and girls engaged in the entertainment sector be consulted and their views/opinions be taken into consideration. Therefore, we would like to hear from those women/girls who are engaged in the entertainment sector as well as organisations working in the area and the security sector, their views and opinions and their stand on the legalisation/decriminalisation of sex work.

This interaction is also important for civil society and government bodies to come together and get engaged in a constructive dialogue on the pros and cons of legalising prostitution versus just decriminalisation and regulation of the sex work, which is also the stand of many NGOs working for women rights.

## **1. THE NEW OPENNESS: INITIATING A SOCIAL DIALOGUE ON PROSTITUTION IN NEPAL FROM DIFFERENT PERSPECTIVES.**

The program that welcomed the new openness to initiate social dialogue on prostitution in Nepal and looked at the issue from different perspectives was held at Hotel Himalaya on 11 January 2011.

Individuals representing government sector, police, embassies, INGOs, NGOs, media and those working in the entertainment sector were invited to this interaction program to share their thoughts and opinions as well as provide their comments and constructive feedback.

### **Main Objectives**

- To initiate dialogue on prostitution in Nepal and create an unbiased and objective view of the dichotomies this entails.
- To generate different perception on prostitution in Nepal.
- Initiate dialogue on prostitution in Nepal.
- To understand different practices adopted in various countries to address prostitution.

### **1.1 Proceedings**

The program started with a brief introduction of Saathi. Ms. Bandana Rana, President of Saathi and facilitator of the program provided glimpses into Saathi's current undertakings. She further provided a brief introduction of the program on the entertainment sector and Saathi's involvement in providing holistic services and support to girls/women working in these establishments along with rapport building with different stakeholders like police, restaurant owners, clients to create a safe and enabling work environment for those engaged in this business.

Ms. Rana informed the participants that Saathi's work in the area of gender based violence against women and children started since its inception in 1992 but Saathi started looking into the challenges, difficulties and abuses faced by the workers in the entertainment establishment from 2005.

She further said Saathi has gained insightful exposure into the realities of women/girls working in this sector in regard to their working condition, the kind of abuses and violence they face at the hands of the clients, owners and the police, the stigma attached to their work, the risks of being trafficked and the vulnerabilities of easily being sucked into the flesh trade. Based on Saathi's experience working closely with employees of the entertainment sector, we are aware that most of the girls/women are working there due to various socio-economic reasons and are compelled to take up this job in order to make a living. If provided with an alternative option, most of them are willing to quit their job anytime. The work environment in the entertainment establishment is coloured with exploitation, sexual and verbal abuse and harassment. In such place, the language of money is understood more than human values, therefore, it is easy for women/girls to fall prey to the lucrative business of sex trade. We have come across many women/girls involved in prostitution but they don't want to come out and identify themselves as sex workers. Therefore, we recognise that most of their involvement in the sex trade is a result of exposure to such a work environment and not one made out of CHOICE.

While working with women and girls in the sex trade, it is important to bridge the gap between informed consent, choice and force. We see a very thin line between these three aspects and feel the need to dissect each of them in order to understand the bigger picture of accepting different perspectives on prostitution.

Saathi has championed the issue of gender based violence against women and girls and also worked on trafficking. Based on 19 years of experience working with exploited and vulnerable women/girls we have understood they are not for legalisation. But since a different outlook on prostitution is coming up among different groups, it is important to listen to and understand varied perspectives that will be expressed through the paper presenters, distinguished speakers as well as the audience on this matter.



Saathi's work experience with women/girls based in the entertainment sector has indicated that legalisation is not a solution. Legalisation does not ensure the rights of the sex workers neither does it protect them from violence. So in a situation where a solution needs to be sought, it is advisable to embark on a dialogue that will enable understanding from different perspectives- criminalisation, decriminalisation, legalisation and regulation and provide us a comprehensive strategy for a way forward.

She further affirmed Saathi as a women rights organisation that has always advocated to ensure the security of women and girls therefore, it would never fully justify or support the argument for legalisation but still the need to hear different perspectives that guarantee and secure the rights of the sex workers in one way or the other prompted Saathi to initiate this dialogue.

She reiterated that Saathi had approached different individuals to present a paper on legalisation of prostitution but since everyone was hesitant, Saathi decided to compile different thoughts on this particular topic and present a paper. The paper highlights the global upcoming debates on legalisation and has attempted to present it in this context.

Ms. Rana diverted the attention of the audience to honouring Ms. Anuradha Koirala as scheduled. Ms. Koirala, founder of Maiti Nepal stood the test of time in her mission to rescue, repatriate and rehabilitate trafficked survivors. For the survivors of trafficking Maiti Nepal is synonymous to home (Maternal home) away from home. Her dedication, determination and undying activism has restored the fate of many destitute Nepali women/girls languishing in the brothels of India and aboard and at home she has fought to create a conducive environment for the trafficked survivors to lead dignified lives.

In order to acknowledge her endeavours for the commitment she has shown for this issue, she was honoured with the CNN Hero Award. This prestigious award bestowed upon her is indeed a matter of great pride and honour for all Nepali especially Nepali women. Saathi has taken this opportune moment to celebrate with her in this success and also honour her for all the contributions she has made to this field. Amid the presence of people who worked with her closely and on behalf of all other activists working for human rights of women and the women rights movement, Ms. Rana requested two Constitutional Assembly Members (CA Members) Hon. Dr. Arzu Rana Deuba and Hon. Ms. Sapna Pradhan Malla to commemorate her achievements.

The honouring ceremony was followed by four presentations on different perspectives on prostitution. The presentations were on the following order:

- The regulation of prostitution in Nepal: Understanding contextual needs and impacts: Ms. Pinky Singh Rana
- Legalising Prostitution: Is it a solution: Ms. Sulakshana Rana
- Decriminalisation of Prostitution in Nepal: The end of Dignified Nepali Womanhood? : Hon. Dr Arzu Rana Deuba
- Looking into different perspective on prostitution through a human rights lens: Hon. Ms. Sapna Pradhan Malla

### **1.1.1 Synopsis of the Paper Presentations**

Ms Pinky Singh Rana on her paper titled "The regulation of prostitution in Nepal: Understanding contextual needs and impacts" attempted to examine this issue by dividing the paper into four parts. In the first part of the paper, she has provided a brief overview of prostitution in Nepal. She stated that legalisation of prostitution has remained an ambiguous topic. In the past voices for and against legalisation have risen from different quarters only to be overlooked due to uncertainty on measures to be adopted for dealing with the issue. Therefore, she admitted that a discussion on legalisation on the outset of the paper has remained a "Pandora's box" in Nepal.

She said prostitution in Nepal is detectable in different guises and there are fundamental factors pushing women/girls into this business. Trafficking and prostitution have become an organised crime but due to conflict of interests, banning of places that promotes prostitution has not been possible as a result of involvement of high profile personnel's within the nexus.

She further implied patriarchy views prostitution through the male perspective. For a man buying sex is looked upon as enhancing their masculinity while women engaged in sex trade are stigmatised. The gender power relation is further disrupted as those selling sex are also subordinated to pimps, clients, employees or all of them. The entire process is damaging psychologically, socially or physically for those engaged in this trade.

The second part of the paper explores the Netherlands and Victoria, Australia's experience of legalisation of prostitution and also sheds light into the model adopted by Sweden.

The third section of the paper inquires whether or not to regulate prostitution in Nepal's context. She builds her arguments saying regulation of prostitution prevents organised crime but poor implementation of policies in Nepal could bring forth massive and uncontrollable increase in trafficking and prostitution. She further says regulation could give self respect to those involved in prostitution and enable them to stand up for their rights but the Netherlands and Australian experiences indicate that it is utopic to expect that such regulations will protect their rights. In the Nepali context, regulating prostitution would only lead to dignifying the sex industry while women would be further exploited and discriminated.

Talking about whether regulating prostitution would prevent STIs and HIV/AIDS, she said the experiences from within and outside the country indicate that women are not safe once inside the room with the client - in such a circumstance, regulation will not come to her aid.

She further stated regulation would give women in prostitution empowerment but the very notion goes against the long fought women's movement and women will still be looked down upon as commodities. Regulation can lead to a decrease in child prostitution but the evidence of Victoria, Australia suggests the opposite.

She puts forth in Nepal regulation will have a negative impact and advantage outweighs disadvantages. Nepal does not possess such funds or technical capabilities to address such problems.

She concluded her paper stating instead of regulating prostitution, the other alternative of criminalising clients who seek sexual services could be an effective measure to eliminate trafficking and prostitution. Nepal should come out with innovative measures to address this problem. (Please see Annex I "The regulation of prostitution in Nepal: Understanding contextual needs and impacts")

Ms. Sulakshana Rana's paper titled "Legalising Prostitution: Is it a Solution" is divided into six sections and the paper begins with a definition on prostitution and provides a brief historical background on prostitution. She presents the magnitude of the problem stating that prostitution is a multibillion dollar business that employs millions of women worldwide. It further contributes to the phenomenon of human trafficking. It is said that human Trafficking is the largest trade after drugs and arms trafficking in the world. Trafficking cannot be negated from prostitution since one complements the other and are very closely linked. When some states adopted different measures to tackle the problem of prostitution, a new outlook surfaced among women towards their own position in life, which made them view prostitution not in the male terms, but see women as victims of a male society. Her paper quotes research conducted by Dr. William Sanger which brings out the circumstances that lead women/girls into prostitution and that research still holds true to this day.

The second section of the paper deals with different approaches to prostitution propagated by various scholars, feminists, activists and government namely:-

- a) Prohibition
- b) Legalisation/Regulation:- ( Netherlands, Germany, Austria, Switzerland, Greece, Turkey, Hungary and Latvia in Europe and some states of Australia and counties in Nevada)
- c) Decriminalisation:- (New Zealand)
- d) Abolitionism:- (Sweden, Norway and Iceland)

The third section of the paper focuses on the argument on reasons for legalising prostitution. The main premise put forth is that anti-prostitution laws do more harm to those in the sex trade than good urging legalisation would benefit those in this profession as well as the state through taxation.

The fourth section of the paper examines different countries' experimentation with legalisation namely: the Netherlands, Victoria in Australia, Germany and New Zealand. It provides evidence through quotes on the repercussion each country is facing legalising prostitution. The fifth section provides arguments for and against legalisation of prostitution weighing various propositions on prostitution being one of the world's oldest professions, distinction between freedom and choice, views of radical and liberal feminists, how legalisation would benefit or be detrimental in terms of health, crime rates and an increase in violence and so on.

The sixth section of the paper briefly mentions two models adopted in India and Sweden. The Indian model adopted by the prostitutes based in Sonagachi, Kolkata lobbies for the recognition of their work as dignified labour. The second model, the Swedish Model 1999 recognises the abolitionist approach in which the law punishes those seeking sexual favours as perpetrators but protects the prostitutes. The paper concludes with an emphasis on promoting the abolitionism approach, the Swedish Model 1999. (Please see Annex II "Legalising Prostitution: Is it a Solution")

Hon. CA member Dr. Arzu Rana Deuba's paper titled "Decriminalisation of Prostitution in Nepal: The end to Dignified Nepali Womanhood" is divided into five segments. In the first section "Dignity of Nepali womanhood" she talks about the significant leap Nepal has taken in terms of development indicators which point to the overall improvement in the status of women. She states that Nepali women are progressive, proactive and have great capacity for progress and change. Nepal still has a lot to do in terms of women empowerment but decriminalising prostitution and giving Nepali women the tag of "a country of whores" is not a way to achieve progress.

Citing an example from Far Western Nepal, she talked about a custom of the past where people used to refer about girl's marriage as selling daughter and the normal conversation would be "have you sold your daughter" instead of "is your daughter married off?" She said that though this was an old custom but the people who grew up in communities guided by such patriarchal mentality would still not give due respect to women.

She says legalizing prostitution in Nepal where different communities have different perception of women, where they are regarded as commodities can be dangerous and would only promote the thinking that selling girl/women for prostitution is legal.

In the section "Bigamy or Misplaced Activism" she points that there is no glamour and romanticism in radical ideas but has questioned prostitution being the choice of one's means of livelihood. She urged us to be thoughtful about the inter-generational impacts of prostitution. She cited examples of the Deuki and Badi community who are traditionally and socially sanctioned sex workers but still stigmatised. She pointed to the negative psychological impact of the children of sex workers.

She prompted the audience to reflect on whether to advocate for decriminalising prostitution or promoting empowerment of women, leaving us to ponder on the question: Is it misplaced activism or bigamy? Should activists not work to stop the demand market rather than increase the supply for prostitution?

In the third segment “What is the logic for decriminalisation” pointing to arguments for decriminalisation presented earlier, she put to light that effective measures could be adopted to provide alternative means of dignified livelihood to women forced into sex work. In the context of Nepali women no matter how empowered or economically well off they might be, they would never declare themselves a prostitute openly. History has witnessed that women from low economic strata are usually compelled to choose prostitution as a means of earning their living.

From a psychologist’s point of view, she deemed having numerous sexual partners as abnormal behaviour resulting from psychological cost to the individual. She claimed that any logic would not suffice to make her believe that the government should provide legal space to a behaviour which would reinforce the exploitation and enslavement of women and girls in Nepal.

The fourth part of the paper “Variables defining Nepali Society” states Nepal’s society is defined by patriarchy and casteism where commodification and objectification of women is sanctioned. She reiterated that by decriminalising an “everytime” violation of human rights in the form of commercial sex work (CSW) would only strengthen the stance of men towards sex as a commodity while exploiting women and dehumanising their dire circumstances even further. No women would prefer CSW as a preferred profession of choice. If found any evidence of women, who claimed to be socially or economically empowered, through their involvement in the sex industry, maybe then it could be considered as a dignified profession for Nepali women.

In the last section “Experience of other nations” presents experiences of countries like US (Nevada), New Zealand, Australia (Victoria), The Netherlands, Mexico and Canada who have decriminalised or legalised prostitution. (Please see Annex III “Decriminalisation of Prostitution in Nepal: The end to Dignified Nepali Womanhood”)

Hon. CA member Sapana Pradhan Malla while talking about different perspectives on prostitution has used the word sex worker and prostitute implying that prostitute denotes individuals who sell sex and are judged as being involved in a practice that is corrupt and shameful. “Sex work” on the other hand is neutral and a far more respectful alternative. She further said that “sex worker” refer to a wide range of people who sell sex and work in different environment and can include women, men or transgender people and they may either work full time or part time in brothels, bars, on the street or from home. She emphasised the need to use two different terminologies while talking about people who are in this profession and who are exploited in this line of work. She clarified that where there is consensus that is sex work and when there is no agreement that is prostitution.

She said while many concepts like decriminalisation, criminalisation or legalisation are gaining ground for discussions. In such a situation, it is important to perceive and understand these concepts from a human rights perspective. In doing so she suggested that it is important to identify whose rights are being discussed and who is making the decision. She further stated that she would have been happy had this demand been made by those who are already in the profession or in prostitution as this would have further added to its legitimacy.

She said while talking about the different legal measures, it is important to consider how we can ensure respect for the rights of those who are already in this profession. She said it is important to understand the needs and perception of those who are trafficked and exploited and those who are already in this profession claiming it’s their right to profession. Even while considering the right to one’s profession, it is important to explore whether it’s an informed choice with knowledge and awareness of its consequences.

She shared the finding of a study conducted by FWLD with sex workers and trafficked women where a majority of them said that prostitution should be legalised. But this voice for legalisation was due to undue harassment and exploitation faced at the hands of police or clients. The women did not understand the negative implication of legalising this trade and how legalisation would affect them. Given the lack

of conceptual clarity and the need to understand this issue from the perspective of equality, one cannot jump to conclusion on the legalisation model. She further said there is a need to consider three situations: the entry point (how they got into this profession), sex work (what happens in their work) and exit (how to create feasible environment for rehabilitation).

She said there is divided thought amongst feminists regarding this issue. Radical feminists were in support of criminalisation but are now pushing for decriminalisation i.e. not granting legal status to the trade but just decriminalising this profession, further adding that there is a very little distinction between legalisation and decriminalisation. Liberal feminists are in support for legalisation but few support decriminalising prostitutes. When talking about decriminalisation she said that we should consider the Swedish model where for the first time the demand side is punished. People who buy sex are punished while those who sell sex are decriminalised. She informed the audience that the Nepal Anti Trafficking Act is based on the decriminalisation aspect of the Swedish model where the pimps or traffickers are punished.

She said that the reason for legalisation to gain ground is because it is assumed that if prostitution is legalised the problem of HIV/AIDS can be controlled and will reduce trafficking. But legalisation will not guarantee that clients will adopt safe sexual behaviour. There is high reported evidence that clients pay more for sex without use of condom. It has also been shown that legalisation does not substantiate reduction in trafficking. Moreover, the paper presentation has reflected the increase in demand where prostitution is legal.

While talking about choice she shared a case where a prostitute was raped in Kaski and the rapist was set free for a mere fine of Rs.500 as per the decision of the court passed in 2002 that stated if a person rapes a prostitute, the person will be fined up to Rs.500 or imprisoned for a year. The case was taken to the Supreme Court arguing whether or not the state should be accountable for acknowledging such discriminatory law that allows the perpetrator to escape punishment for raping a woman who happened to be a prostitute, saying laws like these only further create divisions among women themselves. Moreover, the constitution of Nepal guarantees its citizens the right to any profession, be it sex work and that even sex workers have the freedom to say no to unwanted sex and under such circumstance if she is forced then this is rape for according to the definition, rape is an act without consensus, therefore punishable. The Supreme Court was recommended to look into this demarcation and following this, the act was revoked.

Similarly she also talked about different forms of violence and exploitation prostitutes/sex workers face at the hands of pimps, society and media. In response to the mention of women sex workers in Calcutta forming a union to bargain their rights she cited an incident of Gaganganj in Nepalgunj where women sex workers were displaced for coming out in the open in an organised manner. She asked whether we have been able to secure their rights to be organised. She also mentioned that physical violence, crimes, murder, mortality rate and suicide have been found high among women in prostitution. She further said a mechanism is needed to address the problem of violence, abuse, exploitation and their lack of access to justice.

Referring to the immoral trafficking act of India she said that until laws are formulated on the ground of morality and immorality it continues to be discriminatory towards women, so it is necessary to change this very approach of formulating laws. She said laws and policies safeguard the rights of their citizens and are ineffectual if not implemented correctly. She said first it is necessary to change our norms and values, our own behaviours and attitude. She concluded with an emphasis on the need to adopt a human rights approach while drafting any law and said that laws should be comprehensive encompassing all aspects like prevention, protection and prosecution.

After the paper presentation, nine prominent individuals from different backgrounds were requested to provide valuable inputs based on the presentation as well as their experience of working with women and girls.



## 1.1.2 Commentators

- Dr. Chandra Bhadra, Professor of Gender Studies, TU, thanked Saathi and ActionAid International Nepal (AAIN) for organising this program on the issue that has produced divided thoughts and opinions among different groups working for women rights. She shared that in the 1990s when discussion on women rights to property was initiated, there were people of different views and some thought it was a good fight while others expressed the futility of the proposition adding that discussion is a medium to approach sensitive issues and come to a consensus.
- Ms. Padma Mathema, National Rapporteur on Human Trafficking, recalling the information presented on the legal status of prostitution in different countries, pointed out that in 109 countries prostitution is illegal, in 11 countries prostitution is restricted, 77 countries have limited laws and 5 countries have no law regarding prostitution.

She said trafficking in person of women and children has elements of exploitation and ends up in sex slavery. She said she is aware of voices in support for legalisation gaining momentum but most of the people who speak in support of legalisation are not aware of the issue in depth. Those who are in support for legalisation carelessly say that people should be allowed to prostitute their body, without understanding the implication.

She talked about the incidents when incessant raids on Thamel massage parlors made headlines, the deputy prime minister then proposed for the declaration of a red light area in Nepal. Stating that she is also aware that some decision makers support legalising prostitution, she added that it is time to think whether women choose prostitution as an option or whether they are forced into it.

Reflecting on the findings of a survey entitled “Study on the status of girls and women in the Entertainment Sector” conducted by ILO (International Labour Organization), ONRT (Office of the National Rapporteur of Trafficking in Women and Children in Nepal) and NHRC (National Human Rights Commission) in five urban centres in Nepal, she said if the women/girls in these establishments were provided with an alternative they would quit their job. When asked the reason for their involvement in this sector, their response was- to look after their family, to educate their children but no one said they were working to fulfil their personal needs. Therefore, it is very important to understand the context that compels women and girls to choose this work she added.

She concluded her remarks by emphasising on the need to carry out research instead of blindly coming to a decision. Everyone should be aware of the laws they are promoting and moreover, the laws should be made in the best interest of those in this profession.

- Advocate. Sabin Shrestha, Executive Director FWLD, first congratulated the guest of Honour Ms. Anuradha Koirala and said all Nepalese were very proud of her achievement. He said the four paper presentations brought out different perspectives on regulation, legalisation, decriminalisation backed with a human rights based approach to these issues. Supporting the views expressed by Hon. Ms. Sapana Pradhan Malla he said that a distinction between force and choice should be clearly outlined. He said factors like lure, deception, violence and pressure form the basis for forced prostitution and they should be punished. In Nepal’s legal provision, prostitution is illegal but now Nepal’s law on prostitution is slowly heading towards decriminalisation.

He shared a case which he handled around 1998, where a photograph of three women was flashed in Saptahik newspaper, calling them prostitutes. Upon seeing the news, one of the women’s father committed suicide. Shrestha said that section 2 of Public Crime and Punishment Act forbids the display of pornography in public places. This act was brought into practice to protect women/girls from harassment in public places but this act has yet to be implemented seriously. Law enforcement

agencies are misusing this act and based on this act they conduct raids into hotels and restaurants. The women/girls caught in the raid are publicly taken to police station and cases are filed against them for engaging in sexual activities in public places thus criminalising them. So before any one stance on the different perspectives presented, a reality check is needed. The legal mechanisms if implemented properly yields desired results otherwise it just becomes a bogus law.

He further said that when they fought for compensation for custodial torture which includes mental and physical torture, the court denied acknowledging mental torture. The argument then put forth was publishing photographs in public newspapers stating the occupation of the person violated their rights therefore they were liable for mental torture as well, thereby needed to be compensated, but was denied by the court. In this regard it is important to understand the way prostitution is perceived by law enforcing agencies and the media.

He went on to cite another recent incident where a CA member was caught red handed with sex workers. This news made headlines but the CA member got off scot free while the women were prosecuted. The CDO (Chief District Officer) fined the women but since they did not have the required amount the brothel owner came to their rescue and paid the amount. He said this is just one case but there are many women/girls who undergo the same fate and are compelled into sexual slavery. Therefore, this points to the fact that there is violence against women whether it is prostitution by choice or force.

He further shared about a survey on sexuality conducted by FWLD in 2009, where both male and female sex workers were respondents. Male sex workers said they had both male and female clients. The findings of the survey pointed out that female sex workers who entertained male clients were subjected to violence and exploitation while male sex workers who provided services similar to females enjoyed their profession. The study shows that there is violence against women/girls whenever a male client is involved.

Repeating examples from the Netherlands and Australia, he claimed that legalisation was adopted in these countries to protect the rights of the women but it established the fact that women were bought and sold and were more vulnerable to exploitation. Therefore, the legalisation model should be completely ignored. The Swedish Model which criminalises the perpetrators and protects the sex workers is very successful. In fact, Nepal's anti-trafficking law is very close to the Swedish model but in Nepal's context, though some essence of the Swedish model is reflected in the anti trafficking law, the outcome has not been very effective.

He concluded by saying that some kind of regulation should be in place but this regulation should not aid in legalising the status of prostitution in the country. Through a little regulation, the industry should ultimately be abolished. Shrestha also said that the state should identify causal factors such as poverty, gender discrimination, illiteracy and work towards addressing them to minimise this problem.

- Mr. Ananda Tamang, Director CREHPA, analysed the different papers presented and said that Ms. Singh's paper points to the direction that regulating prostitution has more advantages than disadvantages. The advantage is that the rights of women and girls in prostitution can be secured and will be protected from different forms of violence. He said he is in favour of these two features of regulation. Mr. Tamang said that Sulakshana's paper examines the pros and cons of legalisation and provides the experience of other nations that have legalised prostitution. He further said Nepal is one of the 11 countries where prostitution is restricted and analysis of the pros and cons in such a restricted situation would have really added value to the paper.

He went on to say that Ms. Malla's paper strongly argued against legalisation as it can increase the demand for sex and will in no way benefit those in this trade. It may further lead to men/clients

demanding sex without the use of condom therefore there is no guarantee that HIV/AIDS can be prevented through regulation or decriminalisation. The important suggestion made in the paper is the need to have the voices of women/girls engaged in this profession for they are the ones who are the victims of this industry. Therefore, it is imperative to have them in the forum and hear their perspectives on the way forward.

He expressed his concerns on all the papers saying that a strong voice for any one of the perspective was not put forward, further adding that from Mr. Sabin he was made aware that Nepal's legal direction concerning prostitution is heading for decriminalisation. He said it's high time we start discussion on whether to legalise prostitution or to advocate for making sex work illegal. He said we need to think of what more can be done to order to create an enabling work environment for women/girls in this profession in order for them to be able to defend their rights, protect them from being exploited and trafficked. He further added we need to be aware of the underground nexus that is operational and promoting trafficking and we have to prevent the girls and women from falling into this trap.

Mr. Tamang claimed that women are exploited in Nepal under various guises and the entrepreneurs who run the entertainment industry (massage parlours, cabin/dance restaurants) create business thereby encouraging the sex industry. In such a situation we need to think of ways to bring these establishments under certain terms and conditions and regulate the activities there.

He concluded by saying that the Swedish model punishes the perpetrator or the one who buys sex, so in regard to this what mechanisms should Nepal adopt to follow this model? In the present context, Nepal does not have a congenial environment to either legalise or decriminalise this trade given the current political and economic crisis where the state is incapable of addressing this problem/issue.

- DIG Parvati Thapa pointed out the importance of a national survey since concrete data is unavailable on the types of prostitution flourishing in Nepal. She said that it is important to identify places where such activities are taking place and furnish a report and supporting evidence. She also said that it is important to hear voices/ideas/perceptions of those engaged in the sex trade quoting “Khukuro ko choot achanolai matra thaha huncha” meaning pain is best articulated by the ones who have suffered. However much we try to capture their pain and their exploitation, we still cannot explain the suffering or experience the same trauma from outside; therefore, we need a report that shares their stories in their words. Only after the evidence and facts are in place, can we think of approaching the different perspectives presented and seriously discuss on formulating laws supporting legalisation/regulation/decriminalisation or abolitionism.

She shared an experience that while travelling to foreign countries with male colleagues, they are very conscious about respecting each others' space; they behave well and are very polite. But the same colleagues in Nepal would ignore basic mannerisms, which reflect on the way our society has given ample freedom for men to do as they please. She also implied that law enforcement in foreign countries is stringent and make it compulsory for individuals to respect and follow laws.

She further went on to say that human rights protection conditions of European countries cannot be compared to Nepal, therefore, the issue has to be understood from a global perspective but laws should be drafted endorsing commonalities and feasibility thereby localising the issue at hand.

She shared her grievances about police always having to deal with accusations and complaints from clients but she brought to light that though police is a part of the legal mechanism, they are only responsible for handling or investigating cases after the incident is registered. The police proceed on the case based on the investigation and the case is further dealt with by lawyers. Government lawyers are responsible for passing a verdict, therefore, the lawyers are equally responsible but they

are never blamed. She cited a recent happening where two women were caught in a beauty parlour during a raid and were accused of promoting illegal sexual activities in public places. The police took action based on the information but whether to take the case forward to trial in court is the decision of lawyers and therefore, the police cannot do anything alone.

- Ms. Ayesha Barthson, Reporter/Former BBC Correspondent, thanked everyone and said she was going to present her perspective in regard to the three countries she has lived in, coming from Africa where prostitution is illegal in most countries, living in Denmark where prostitution is legal and now living in Nepal where people are trying to understand the problem and localise the issue.

She quoted Louise Brown, a well known academic from Birmingham University, who has written extensively about prostitution in Asia, “The Asian sex trade is always assumed to cater predominantly to foreigners. Sex slaves turn that belief on its head to show that while western sex tourists have played a vital part in the growth of the industry, the primary customers of Asian indentured sex workers and of its child prostitutes are overwhelmingly Asian men.”

According to her observation of Nepali society, she feels there is profound reluctance in the region to research and discuss matters relating to sex as it creates acute embarrassment. Debates on prostitution in most Asian countries are usually muted; in such a context, initiating open dialogue on prostitution is commendable. Without proper diagnosis of the problem it cannot be treated or solved therefore, first and foremost, it is important to understand what those women and girls engaged in this trade, in fact, feel about this profession and listen to their stories and give them a voice to fight for their own rights. We cannot assume that all women/girls involved in this trade are in it out of force or compulsion, thereby, the choice agenda should not be ruled out.

Referring to the third gender issue, she said that Nepal has taken a giant leap forward in recognising and accepting the third gender but the third gender lining the streets of Thamel at night to earn a living through prostitution cannot be ignored. Nepali society is still hesitant to talk about the third gender denying to understand the basic factors that pushes the third gender or women/girls into prostitution. The main agenda of Nepali women is to secure their men from bad women and live under the guise of a happy family, forgetting that women prostitute to appease men’s desires or needs and in doing so it can be their husband or their son visiting the prostitutes. So she feels women should take an interest in understanding the social problems and not live in pretence.

She further said that people here are scared of language and shy away from talking about sex or sexual pleasures. We cannot deny that we are all driven by desire and to talk openly is not a crime. But Nepali men and women alike are hesitant to accept that they fantasise about good sex in their mind but do not speak about it.

She concluded her remarks by saying that Nepali women need to be more vocal about their needs, be it sexual or material. The distinction between good women and bad women that keeps them from discussing such issues should be regarded as an impediment to their own progress and liberation.

- Dr. Gopal Krishna Siwakoti, President INHURED International, talked about the complexity and controversial nature of the issue and said it was difficult to communicate what he had to say within the allocated time saying if the views were not expressed properly then there were chances of them being more controversial. He said that though there are different views presented it is difficult to reach a conclusion on which perspective is best for Nepal and to add more substance to this issue, he provided examples from different countries to offer more conceptual clarity. He provided an example of unsafe migration, where a dozen female doctors went to Germany from Poland in search of work. When they reached the border they were not given legal documents to cross over. The doctors were deceived into believing that they would easily get a job in Germany. When

stopped at the border, the person responsible for getting them offered to take them to a hotel. Since the hotel operated as a brothel, the doctors were entrapped for nearly a year there. Everyday the women would peep through the window and throw messages to passerby indicating that they were working as bonded sex labourers. The message once happened to fall into the hands of a social worker who then informed the police. The police raided the place and rescued the doctors. The doctors were aware and knowledgeable but despite this, due to circumstance, they were forced to work as sex slaves.

Saying that a lot of examples from the Netherlands has come up during the presentations, he added that when he was in Amsterdam he found two types of women working as prostitutes. Dutch women who were into this profession wore Rolex watches, drove Mercedes Benz and were very fashionable. These women worked in the brothels for certain hours and were organised and also happy. The other type, he mentioned, were women who had been trafficked from Romania. These women were made to work for unlimited hours; paid a limited salary and their passports were confiscated. They were unable to report cases of violence and abuse against them to the police since they were illegal immigrants.

He further quoted another example from Mumbai where he chanced to meet a Nepali woman who had been trafficked when she was just 11 years. He said the woman was around 45 when he met her and she was working in an organisation called Asha, providing psycho-social counselling to those engaged in the sex trade; after 5pm she worked as a prostitute to earn an extra income. When inquired if she was happy, she said that she had to educate her children and whatever she went through was all behind her now and at present she felt empowered to be working as a counsellor.

He went on to give a recent example from Rajbiraj (Nepal), where a story of an unnamed girl of Pahari origin was murdered. The news was published in “Naya Patrika” and the story said that the dead girl was working in a dance restaurant. He said that the main reason for providing the examples was to emphasise that if a person over 18 years decides to get involved in this occupation with informed consent and feels empowered then it is the matter of choice and we should not try to intervene and change things for them. But if the work involved children below 18 or was clandestine and criminal and was operated for unjustified profiteering then it should not be tolerated. Under such situation the question of their human rights could be aptly raised and we should not only interrogate such developments but also take proactive measures to intervene and protect their rights.

He also said that in the debate of whether to regulate, legalise or decriminalise, it is best if a middle path is adopted. In order to do so, a culture of respecting human rights and values should be fostered and while talking about human rights, discussion should be promoted to secure the rights of those in this profession out of compulsion and force. He further reiterated Ms. Malla’s stance on “Nothing about us without us” saying the women/girls involved in this profession should be consulted and made to participate in discussion/debates while formulating any laws and policies allowing room for ensuring the context of informed choice. He said it is not good to be judgmental and look at these issues from either criminalisation/legalisation or a moralistic viewpoint. It is advisable to make a move towards decriminalisation, then regulation and ultimately abolitionism.

He concluded his remarks by saying that the demand side should be accounted for then maybe progress towards a solution could be identified. He further added while making any decision, he requested the audience to reflect on the story of the anonymous girl from Rajbiraj and how laws like regulation, decriminalisation or regulation could have helped her case and if discussions started with an example from this case, everyone could probably reach a common understanding- a consensus.



- Dr. Poonam Thapa, Management and Evaluation consultant: Sexual Expert and Life Coach thanked Saathi for asking her to be a part of this dialogue and said that she came here as a sexual health expert and life coach. She said, “I am also here because of the new openness as promised in your title and speak about what I hope will be a different perspective which means I would like to talk more about real sex in real time.”

She talked about a similarity with a case back in 1986 when she chose to visit brothels in Bombay to conduct research. She came back and met with girls/women who had been trafficked. She said she would like to make a distinction between what is forced, under-age work and trafficking. She said for those who are forced or trafficked there is no doubt a need for protection and prevention and for support. She congratulated Ms. Koirala for providing all the three P's: Protection, Prevention and Prosecution and said she has been duly honoured.

She further said after working in the development business for 35 years, she is still trying to fathom human nature and learn from it and hopefully contribute towards it. Her area of focus has mainly been reproductive and sexual health from a gender perspective. By gender perspective she meant not just women's perspective. She said in her 35 year journey she had opportunities to visit many countries and four years back she decided to leave the development field in a formal manner and affirmed that it was a matter of choice.

While in London she decided to explore the sexual underbelly of London with a sex worker activist and that journey took her to Sweden, New Zealand, Turkey, Tajikistan, Poland and she said she got an opportunity to learn a lot from the activist and also be trained in sexual therapy and sexual healing.

She then reflected on her first meeting with the activist where she was asked, “How many words can you think of when you think of woman who decides to have sex outside the prescribed institute of marriage?” She said at first she was confused then she uttered around 10 to 12 words, and the lady added a couple more. The lady asked her to say the same for men and she came up with just 4 words, the worst being gigolo and Casanova, while for women it was far worse. She went on to say that the lady said “If this is the language –isn't it amazing what patriarchy can do to a woman who chooses something different from the prescribed and maybe sometimes earns a buck. This is where the heart of darkness is- the root of all social discrimination and sexual discrimination.” Further referring to Ms. Barthson's comments on how even the members of one's family can call girls/women a 'whore' in anger- thereon she asked the audience to reflect on this particular statement saying it is within us and we need to reflect upon this.

She further said we often dabble with ideals and ideals are wonderful things to have and when it comes to sex and sex work the ideal is that “no woman should ever have to sell sex and no man should ever have to buy it.” She said, “The myth is that all women who sell sex are poor, exploited by men and all men who buy sex and partake in it are sort of evil men and the reality is that sex happens and it happens for a variety of reasons- it may happen in the home and it may happen outside and it happens in all forms so there is the option-to be or not to be- and if you take the choice of not to be-women have that choice-but if you decide to be then it is different and it is a question of choice.”

She stated that she absolutely and wholeheartedly supported the right based agenda that there should be no abuse, no violence, no force anywhere and we should be against it. But if it was a matter of choice then women's rights could not be talked about alone without talking about her sexual emancipation, her liberation, her sexual choice for that could not be separated from the right based agenda. She stressed on the need to conduct more studies/research on this issue, more studies using sex workers as a proponent of what they would wish/want.

Further saying that there is a historical perspective and there are cultural changes, she questioned the audience, “How can we sit here and not consider the dominant culture in Kathmandu which is Bollywood- and if it is okay for Bollywood, why is it not okay for someone else?”

Talking about sexual politics in relation to the market economy, she said if there is no social legislation that protects women, if there is no education, if there is nothing of that sort that supports women’s choices and in such a scenario where there is very little regulation, there are laws but not implemented, who is to blame but the economy flourishing through the sex trade.

She further shared about her recent evaluation of cabin restaurants, bars and brothels in Thamel. During her visits to some of these establishments, she found that not all who worked there were exploited. She said there is a terminology called the Half Hooker economy for this kind of sex work in the cabin/dance restaurants and is different from real sex work. She said, “This kind of half hooker economy now pervades Thamel. As I said, they are not sexual objects but are undoing many of the games women have made of the past century. They are sexual subjects who choose to sell sex for extremely good pay and by doing this- make both themselves and the men they are serving objects of their respective needs.”

She concluded on the note, “If you don’t take a moral stance, it is quite an empowering endeavour” and said she hopes to write about whatever she is hearing someday.

- Ms. Salina Joshi, Consultant, in her comments said whenever there is a discussion on women in sex work, the violence they face is discussed in relation to decriminalisation, legalisation, regulation and criminalisation. From the discussion that followed and understanding the general context of the country, the alternative of legalisation and criminalisation should not even be considered.

She reflected on a study conducted by FWLD on “Sex work and police harassment” in which she was involved. They had conducted a series of consultations and in one of the consultations; she shared a remark made by one of the women present there. The woman said that she was able to meet hers and her family’s needs with the money she earned from prostitution. She was able to cover the costs of medical expenses of one of her family who was terminally ill. She said to some extent she was able to address the problems posed by poverty through the income from her work. But on the other hand, she had to bear the pain and disgrace of being a part of prostitution. Whenever she went out with her clients she felt that along with her body she was also selling her soul. All the other women in the meeting were nodding when this remark was made.

Ms. Joshi said that when discussions on legalisation options were being reviewed, she remembered the woman’s remark about the pain, violence and disgrace she had to face working as a prostitute. She asked the audience if violence could be officiated through legalisation.

Talking about legalisation in context with the international examples put forth, she stated that legislation has given rise to trafficking and placed women and children at further risk of being trafficked. She gave the example of the Netherlands where 90% of the sex workers were immigrants and most of them were trafficked. Another point she made was that legalisation gave more power to brothel owners and pimps and these examples, she said, came earlier in the discussion, therefore while talking about legalisation, a caution should be taken.

She further talked about criminalisation saying that a lot of incidents of criminalisation are taking place right in front of us all. The nation should understand the realities of women/girls in this profession and their reasons for embracing this profession. The women in this profession are already victimised and the state should not take a moralistic stance and revictimise them further through legal sanctions. Lately, there have been series of news on police raids into restaurants and the arrest of women/girls, which further pushes the women/girls into an even more vulnerable situation and also encourages debt bondage in most of the cases.

She talked about the Swedish model and restated the point made by Ms. Sapana Pradhan Malla saying that punishing clients would definitely lead to a decline on the demand side but it would also lead to women losing out on their livelihood which might further push them in the danger zone.

She concluded her remarks stating that even if Swedish model is considered to be the best option, there should be economic packages and alternate opportunities that the government should provide. She said there is no divided view on criminalisation of the perpetrators but the legalisation option definitely needs more clarity and understanding in the Nepali context. She said there is a need to draft a framework which clarifies all the issues discussed and at the same time looks into the socio economic and political factors that push women into prostitution. So the first step would be to draw up a framework then analyse it and come up with a way forward.

Following the remarks and comments from the distinguished guests the floor was opened for further discussion.

### **1.1.3 Comments from the Floor**

- Bijaya Dhakal, member of the Jagriti Mahila Mahasangh, expressed her views saying that the majority of women who are into prostitution are there out of compulsion. There might be a few who choose this profession for personal satisfaction but apart from them, others are mostly there due to various socio-economic factors.

She said while examples from Indian brothels are talked about, there is no need to venture that far because the condition at home is far worse than those places. She provided an example of a brothel run in the dark alleys of Kathmandu where women are provided a small, dingy and dirty room to satisfy the needs of her clients. The situation is further exacerbated with children present in the same room while the mother is entertaining her clients, intervening at times, wondering what is happening to the mother.

She went on to say that we are living within a patriarchal structure where men seek sexual satisfaction from different women and this behaviour is looked upon as an enhancement to their masculinity whereas the women returning sexual favours in exchange for money are deemed prostitutes and ostracised by society. She further said that even within this profession there is a distinction between those who entertain rich clients, who are often referred to as escorts and those from the lower economic strata of society, who are just prostitutes with a lot of stigma and disgrace attached.

Talking about the violence they face, she said, at times women are not even paid for their services but instead the clients at times beat them up and run away with their money and belongings because the money negotiated for the act is paid only after the service is provided.

She further said when women engaged in prostitution try to get out of their profession and start a small business on their own, people look down upon them with suspicion and many times report illicit activity to the police against them and the police too, without any evidence or proof arrest them. This suggests how difficult it is for a woman to start a respectable life once caught in this vicious circle because there are people always trying to degrade, disgrace and discourage her.

Referring to a warning saying “Prostitution is Prohibited” that the government has put up around the Ratna Park area, she said instead of segregating prostitutes, they should come up with alternatives and measures that would guarantee their livelihood and protect their rights.

- Tulsa Lata Amatya, president of Community Action Centre (CAC) -Nepal raised serious concerns about regular raids carried out by the police, where they arrest entertainment sector workers and put them in the lock up. The bail money amounts to around Rs. 60,000 and if this money is not

paid, they have to serve 24 days in the lock up. Even after that, they have to pay Rs. 15,000 to get out. For women who earn Rs. 500 to Rs. 1500 per client, the amount levied by the state is herculean and further pushes them into debt bondage. She further stated that during the 24 days in prison, their children are left unattended but no attention is paid on this aspect. The women in prostitution are criminalised but what about the clients? In Nepal's case the victimised is always the prostitutes while there are no provisions to punish the clients.

She talked about a meeting organised by sex workers where all the stakeholders including police and the army were invited. She shared a story of a woman who identified herself as a sex worker and in the meeting accused the police of erratic raids and the problems they faced at their hands. After a week, the police raided her work place, cornered her, threatened to arrest her and said they would call the media and publicly identify her as a prostitute. The woman argued on what grounds they would identify her as prostitute in public unless they were able to bring forward the client too. The client happened to be known to the army so they left her after a long dispute. Then, the woman left her profession and went back to Nuwakot, her home. After that, the woman was murdered by her husband and in-laws and her body was cremated early in the morning. The evidence of her murder was wiped out but there were attempts to bring her case to justice which failed. Ms. Amatya said that this is the fate of women who come out openly and identify themselves as sex workers.

She concluded her remarks with a suggestion to form a committee involving all concerned stakeholders and look for effective measures to rehabilitate them. She further urged the CA members to discuss this issue amongst them and make it a high priority issue in their agenda.

- DSP Kiran Bajracharya in response to the frequent raids conducted by the police said that though the way in which the raids are carried out might be wrong, the act itself cannot be condoned because the police are considered social reformers and are responsible for protecting the social fabric of society. If the police are informed about unlawful activity in a certain place it is their duty to respond and act accordingly. She further said prostitution should not be given legal status and if the state decides to provide legality to this trade, it might mushroom uncontrollably, posing serious problems later on.
- Niru Shrestha a member of Biswas Nepal, requested the audience not to mistake the entire entertainment sector employees as sex workers. Women in the entertainment business are working to earn a living and not all of them are prostitutes, therefore, it would be appreciated if people did not carelessly categorise all of them as sex workers. She also mentioned that women have taken up different professions to earn a living. A woman involved in an organised sector feels proud of her profession while a woman who prostitutes her body to make ends meet is debased and dishonoured. This distinction in the work is amplified by the century old patriarchal practice of differentiating and identifying what is and is not good for women. This thought always pushes prostitutes into the shadow and even their empowerment is soiled with the general culture operative in society, of sidelining prostitutes as bad women.
- Bishwo Khadka from Maiti Nepal said this issue is very sensitive, relevant and contemporary and needs discussion and analysis. The issue was looked into from various angles: human rights, women's rights and self respect and women's choice. He disagreed to the approach of the middle path put forth by Dr. Gopal Siwakoti and said if we are unable to come with a consensus on which direction to proceed on this issue, in his opinion, the nexus which operates this business will capitalise on this and women/girls will continue to be exploited and abused.

In his opinion, prostitution is synonymous to trafficking as prostitution has all the elements- lure, compulsion, exploitation and abuse all that are associated with trafficking. In this regard, should trafficking be legalised?

He further went on to say women will never benefit from the legalisation of prostitution. There are ample examples presented from countries where legalisation is recognised but the implications are that the pimps and brothels owners maximised the benefits while the state of the sex workers continued to remain deplorable. He said we need to be aware of whether Nepali women have the ability to make a conscious decision to choose this profession. He concluded his remarks emphasising the need to give continuity to this debate adding that debates like these are instrumental in securing and protecting the rights of women.

- Ms. Anuradha Koirala thanked Saathi for raising this issue in a timely manner. She said she listened to all the perspectives presented and affirmed that the majority of the participants agreed that legalisation was not the option. She said Nepal does not have a conducive environment where women can publicly claim to be prostitutes so under such circumstances, talk of legalisation is ridiculous. She said even the socio-cultural and religious context do not allow for legalisation of prostitution here.

She said that one should understand and internalise the problem before approaching and working on it. In this regard, we need to come up with strategies on how to sensitise relevant stakeholders on this issue. Instead of playing the blame game and pointing at someone else, we should all take ownership of the issue and approach this problem with coordination and collaboration.

She talked about a program organised by Maiti Nepal a few years back where police, CDO, government officials and owners of the restaurant business were called to talk on how the entertainment sector got permission to operate. No one took the responsibility, so in such a situation whom are we to question? In such a situation where businesses are run without approval from concerned bodies, where are we supposed to intervene to find solution for the problem?

She said some people are trying to promote Nepal as a sex destination. A prominent publication like ‘The Economist’ had an article on Nepal titled ‘From trek to Sex: Is a new sort of thrill-seeker heading for Nepal?’ so from this also, we should understand how Nepal is perceived. Further adding to that portrayal can be damaging and the government should discourage this.

She said instead of discussing on different perspectives on prostitution we should only focus on whether prostitution should be accepted/ promoted or not. She shared about one discussion she had with a colleague who was in support of legalisation and prostitution in respect to the choice and rights of women concerned. Ms. Koirala asked her what she meant by ‘women should be allowed to choose prostitution as a career’ and said that what if tomorrow our daughter was to say ‘I am tired of my studies and I want to earn a living through prostitution’, her colleague replied saying ‘But prostitution is not for our daughters’ and Ms. Koirala replied if it was not for our daughters then why should it be for someone else. Are we just drafting laws for others? Aren’t we also promoting effective laws to safeguard ourselves too?

She affirmed that most of the people present in the room are against legalisation and in Nepal legalisation should never be promoted as an apt model. She talked about two cases of women from Illam and Lamjung, sharing the story of women from Lamjung who were languishing at Maiti Nepal shelter with broken teeth, steel in both her legs and one of her hands and her voice lost. She suffered such brutality when she refused to prostitute herself and was thrown down from the fourth floor of a building. She asked if compensation alone was enough for that damage and should we not fight against such crimes?

She further said that people should be allowed to go for foreign employment but only in countries where it’s safe for women. Women who go for foreign employment to unsafe destinations end up being physically and sexually abused. The government should be vigilant and responsible for safeguarding the rights of workers.



She concluded by saying that in a situation where Nepali women are trafficked, sexually exploited at home and abroad and forced into prostitution, we should rule out legalisation and raise our voice against prostitution and trafficking as a crime against humanity. She said instead we should make the population aware of gender equality and try to come up with an alternative for women/girls in this profession. She said this discussion which Saathi has started should be given continuity and we should create an environment for the women/girls in this profession to be able to become a part of this further discussion.

### **1.1.4 Concluding Remarks**

Ms. Bandana Rana thanked everyone for being a part of this New Openness: a social dialogue on prostitution initiated by Saathi. She shared that when Saathi decided to hold this interaction, people were surprised that Saathi was trying to promote legalisation; people called in and said that they would not come for the program since Saathi was speaking in support for legalisation but would definitely want to hear the feedback from the program. She informed them that Saathi was only trying to gather different voices on this issue without taking any stand. She added that this program did not intend to put any organization within the bracket of pro legalisation, decriminalization or regulation. The main objective is to understand the different legal measures, its pros and cons, the debates taking place globally and also seek mechanism that would best ensure the rights and security of those women and girls.

### **1.2 Recommendations**

- Orientation should be provided to the women and girls in this profession in regard to the different legal measures on prostitution as Legalisation, Regulation, Decriminalisation and Abolitionism.
- The pros and cons of the different legal measures adopted in various countries should be studied, debated and consensus should be made on the best practises from each model that best suits the Nepali context.
- Document case studies and voices of girls/women in this profession.
- Conduct a national level survey to understand the perception of different groups of people on prostitution and their opinions on adopting different measures to address this issue.
- Conduct interaction with concerned stakeholders namely government officials, police, media, I/NGOs and civil society.
- Understand the push and pull factors that lead women and girls into prostitution and come up with relevant mechanism to address those problems.
- Alternative to rehabilitate those in this trade needs to be explored before coming to any conclusion on the legal measures.

# *ANNEXES*

*Annex I:*

## THE REGULATION OF PROSTITUTION IN NEPAL: UNDERSTANDING CONTEXTUAL NEEDS AND IMPACTS OF PROSTITUTION IN NEPAL: BRIEF BACKGROUND

*Ms. Pinky Singh Rana*

The regulation or legalisation of prostitution has remained an ambiguous topic in the context of Nepal. Voices for and against regulating prostitution has time and again arisen from different quarters such as NGOs and other concerned stakeholders, only to be quietly overlooked due to uncertainty on measures to be adopted for dealing with the issue. Apprehensions that erroneous steps may further exacerbate exploitation of women and children have prevented many from debating and clarifying doubts which abound. On the other hand there also prevails a desire to ensure that human rights of all men, women and children are adequately ensured, no matter which profession or background one belongs to. Nevertheless, it is essential to state at the outset of this paper that discussion on regulation of prostitution has remained a Pandora's box in Nepal. For many of us there is lack of proper understanding on what impacts such regulations would entail. This has also resulted in uncertainty about the stance to be taken, i.e., to regulate or not to regulate.

Poverty, illiteracy, patriarchal norms and values, insurgency and increasing materialistic values have been fundamental factors pushing girls and women into trafficking and prostitution. Prostitution in Nepal is regarded as a criminal offense nevertheless, despite criminalisation the means and medium of selling sex remain unabated. Decades of efforts from various stakeholders have worked towards preventing and restricting trafficking for sex purposes to a certain degree but a large number continue to slip through the cracks. Within the national context prostitution is taking place through diverse means, with massage parlors, dance restaurants and street prostitution more commonly prevalent. Notwithstanding efforts of law enforcement agencies to crack down on these, both trafficking and prostitution have become organised crimes with benefits being accrued by a wide array of stakeholders. Conflict of interest prevents the practical banning of these places as many in high profile or having contacts with high profile personnel are within the nexus.

Nepali patriarchal values influence us to view prostitution through male eyes. Prostitution is viewed as serving male needs which the latter cannot control. The blame of prostitution is also always laid on the woman, child or transgender selling sex. But do the clients, generally men, remain blame free? Yes. Oftentimes those selling sex are imprisoned, while clients by and large are off the hook. The social status of those involved in prostitution is considered shameful and demeaning, even as those buying sex are regarded as enhancing their masculinity. The trend of girls and women working in these places to lie to parents and families about their place of work confirms the stigma they encounter. Patriarchal values further warrant that power relations always place those selling sex in a subordinate position – they are controlled by either pimps, employers, the clients or even all of them. They possess little decision making power. Once entrapped in this vicious circle coming out unharmed physically, psychologically or socially is impossible.

Furthermore, the exact number of those involved into prostitution in Nepal remains unknown. There is a dearth of national data and estimates on the number involved in prostitution, the means through which prostitution occurs and the impact of prostitution on the individual, family, society and nation as a whole. But the mushrooming of dance bars and massage parlors in larger towns and cities bears evidence that prostitution will not be on a decline in the near future. Rather it is a rising problem that demands tackling through consensus among stakeholders, including those involved in prostitution. Understanding interventions in other parts of the world and contextualizing the lessons learnt to address our needs can be an appropriate step ahead.

## **Regulation of Prostitution: The Netherlands Experience**

The call for regulating prostitution in Nepal primarily arises from the need to protect sex workers' exploitation from employers, pimps and clients. It is also to ensure that sex workers avail the right to decide their choice of life and employment provides those involved in the industry a voice, and the regulation works as a preventive measure to trafficking. Amidst ambiguity on regulating prostitution in Nepal the current paper examines the impacts of such regulation through experiences of other countries. The paper reviewed experiences of Netherlands and others such as the State of Victoria, Australia and Sweden.

Prostitution was never a criminal offence in the Netherlands. Prostitution was defined as a legal profession in January 1988 and in October 2000 even the general bans on brothels and pimping were removed to enable government to exercise more control over them and adopt counter measures. The need for such regulation was felt necessary to eradicate abuses such as human trafficking prevalent in the prostitution sector. With the aim of setting up a countrywide, all-inclusive system of licenses and registrations in the prostitution sector, the regulations aimed to:

- Register all self-employed prostitutes, and ensure the licensing of all commercial operation of prostitution services.
- Prevent clients from accessing sexual services from victims of human trafficking or from prostitutes residing illegally in the Netherlands
- Implement regulations to enable clients to know the difference between legal and illegal prostitution.
- Make the act of using services from unlicensed operators or non-registered self-employed prostitutes an offence.

Over the years the regulations have been identified as benefitting those involved in prostitution in the following manner:

- Prostitution is recognised as a legitimate occupation, giving them similar rights and obligations as other professionals, such as tax and social insurance contributions. There is currently also a trade union of prostitutes.
- Local authorities can publish by-laws to ensure the safety, hygiene and working conditions in brothels.
- Brothels cannot compel them to consume alcoholic drinks, engage in unsafe sex or certain sexual acts.
- Brothels are compelled to allow health services or interest groups unrestricted access to their premises.

However, an investigation by the Ministry of Social Affairs to investigate the impacts of legalising prostitution revealed unexpected results<sup>1</sup> :

- Although legal prostitutes are free to work as self-employed business people, however, most work for sex companies where the owner (usually male) calls the shots. They have often signed crippling contracts requiring them to work 16 hours a day, to obey clothing requirements, never to turn down customers, etc.
- The number of brothels decreased dramatically, but the illegal sector is growing in the form of saunas and massage parlours. Conditions have not improved for those in the illegal sex circuit, where sex slavery is rife.

Other data and investigations reveal that:

- Over the last decade, as pimping became legalized and then brothels decriminalised in the Netherlands in 2000, the sex industry expanded 25 percent<sup>2</sup>.

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<sup>1</sup> Strijbosch, M. (2006) *Legalised Prostitution: A Dying Trade*.

<sup>2</sup> Raymond, J.G. (2003) *10 Reasons for Not Legalizing Prostitution*. Coalition Against Trafficking in Women (CATW)

- There is increasing number of stories about human trafficking and forced prostitution in Red Light Areas<sup>3</sup>.
- Women in prostitution point out that legalisation or decriminalisation of the sex industry cannot erase the stigma of prostitution but, instead, makes women more vulnerable to abuse because they must register and lose anonymity. Thus, the majority of women in prostitution still choose to operate illegally and underground<sup>4</sup>.
- Job Cohen, Mayor of Amsterdam and the city council believe their district is no longer a tourist destination to be proud of<sup>5</sup>.
- Authorities fear the business is out of control. Officials have noticed an increase in violence centred on this irregular industry, and have blamed this increase on the illegal immigration of individuals into Amsterdam to participate in the sex industry.
- Currently, human trafficking in the Netherlands is on the rise. According to figures obtained from the National Centre against Human Trafficking, the report shows a substantial increase in the number of victims from Hungary and China. There were 809 registered victims of human trafficking in 2008, 763 were women and at least 60 percent of them were forced to work in the sex industry<sup>6</sup>.
- The Netherlands is listed by the UNODC as a top destination for victims of human trafficking. Countries that are major sources of trafficked persons include Thailand, China, Nigeria, Albania, Bulgaria, Belarus, Moldova, Ukraine, Sierra Leone and Romania.
- The Australian experiences also indicate similar impacts which have occurred over the years.
- As in Netherlands legalisation of prostitution has led to the growth of the illegal sector. Since the onset of legalisation in Victoria, brothels have tripled in number and expanded in size; the vast majorities possess no licenses but advertise and operate with impunity<sup>7</sup>.
- Contrary to expectations, the sex industry has grown vastly during the legalised period in the State of Victoria, Australia. Even other forms of sexual exploitation, such as tabletop dancing, bondage and discipline centres, peep shows, phone sex and pornography have started becoming more profitable than before.
- Women have increasingly become a commodity. Prostitution is considered as part of the tourism and casino business. Casino chips and wheel of fortune bonuses can be redeemed at local brothels.
- The link between legalisation of prostitution and trafficking in Australia was recognised in The U.S. State Department's 1999 Country Report on Human Rights Practices, released by the Bureau of Democracy, Human Rights and Labor. The report highlighted the link between prostitution and trafficking in Australia, indicating increasing trafficking of East Asian women in the State of Victoria due to legalisation of prostitution in the 1980s.
- Children are not free of the impact either. Unlike other states where prostitution is not legalised Victoria indicates that child prostitution has increased unexpectedly. In a 1998 study undertaken by End Child Prostitution and Trafficking (ECPAT) who conducted research for the Australian National Inquiry on Child Prostitution, there was increased evidence of organized commercial exploitation of children.
- The growth of the sex industry is also impacting marital lives. Women are forced to accept, ignore or leave their partners due to their male partners' sexual activities.

<sup>3</sup> Raymond, J.G. (2003) 10 Reasons for Not Legalizing Prostitution. Coalition Against Trafficking in Women (CATW)

<sup>4</sup> Raymond, J.G. (2003) 10 Reasons for Not Legalizing Prostitution. Coalition Against Trafficking in Women (CATW)

<sup>5</sup> Raymond, J.G. (2003) 10 Reasons for Not Legalizing Prostitution. Coalition Against Trafficking in Women (CATW)

<sup>6</sup> Raymond, J.G. (2003) 10 Reasons for Not Legalizing Prostitution. Coalition Against Trafficking in Women (CATW)

<sup>7</sup> Raymond, J.G. (2003) 10 Reasons for Not Legalizing Prostitution. Coalition Against Trafficking in Women (CATW)



## **Prostitution in Nepal: To Regulate or Not To Regulate**

Bearing in mind the impacts of regulating prostitution in these developed countries, Nepal must take into account its own national scenario. Nepal is ranked 116<sup>th</sup> in the world (out of 177 countries) and fourth in South Asia (out of five countries) on the Gender related Development Index<sup>8</sup>. One of the poorest nations in the world with a high rate of trafficking, recent insurgency and current political instability, illiteracy, patriarchal values which subordinate women and the mental, physical and sexual abuse which women face raises concern on the effectiveness of prostitution regulation. Additionally, the gap in Nepal's ability to implement laws and policies are evident in every sector in the country. However, this paper would like to open the debate on regulating prostitution in the country by looking into the advantages and disadvantages.

One of the primary advantages of regulating prostitution is that it may become a means of eliminating trafficking which has plagued the country for decades. Stringent measures could control internal and external trafficking for prostitution which continues unabated. Organised crimes could be prevented. But experiences of developed countries which follow stringent legal enforcement have seen an unanticipated growth in human trafficking, particularly in the illegal sector. In a country like Nepal where implementation of laws and policies remains a major gap such regulation could bring forth massive and uncontrollable increase in the trafficking and prostitution ratio.

A core feature of regulating prostitution whether through permission of brothels or registration of those involved in prostitution, would give those involved in the sex industry a right to choose. The regulation would give self-respect to those involved in prostitution. Those practicing prostitution would be able to choose their right to employment and demand necessary benefits from employers, gather together to voice opinions and demand support from state mechanisms. Since those involved in prostitution generally come from socially and economically weak backgrounds such regulation would open new opportunities of support. Their basic right to employment would be protected. But again experiences of The Netherlands and Australia indicate it is utopic to expect such regulation will protect their rights. In a country such as Nepal exploitation and abuse will prevail even within these state regulated systems. The regulation would only be dignifying the sex industry, while women would be further exploited and discriminated.

Another argument is that regulating prostitution could effectively prevent STIs and HIV/AIDS. Government mechanisms to regularly monitor those involved in legal prostitution could prevent unsafe sex and thus promote women's health. HIV/AIDS and STIs could be effectively reduced. But irrespective of different monitoring mechanisms to protect them, ultimately, experiences within and outside the country indicate persons unable to protect herself when inside a room, nor will the regulations come to her support during such instances.

In a society such as Nepal where strong patriarchal values persist, regulating sex can be another form of women's empowerment, giving voice to even those most exploited. However, the repercussions could be undoing decades of effort of the women's movements'. Women would continue to be commodified, now with the permission of the state, and their abuse, violation and exploitation through legal and illegal means unaccounted. Women empowerment interventions would receive a major blow. Power relations would be seriously damaged and go against women.

Another positively anticipated impact of regulating prostitution is the elimination of child prostitution. By regulating the legal age of involvement in prostitution children could be effectively prevented from being exploited. But this has been proven wrong as evidence from Victoria, Australia reveals increasing child prostitution. For Nepal, where women and child trafficking has remained a bane to society, it would create insurmountable negative social impacts.

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<sup>8</sup> UNDP, 2004.

An overall look at impacts of such a regulation indicates negative impacts on women and children. Advantages seem to outweigh disadvantages for those in prostitution. Moreover, the impacts on the family and society cannot be overlooked. A country with deep-rooted social and cultural values could suddenly become an open platform for national and international organised criminals to promote sex trafficking and human trafficking. Nepal possesses neither the funds nor the technical capacity to address such problems. Moral values which form a socially protective shield for the family and society would become unravelled. Children would grow up to view women as 'easily available', and thus have less respect. Clients or 'predators' may continue to grow stronger, while those in prostitution more 'under control and dominated' and exploited. A developing nation will not be able to sustainably provide for this population either financially or through psycho-social support; their children may continue to face similar exploitation and stigmatisation.

## Conclusion

As stated earlier this paper's aim is to highlight different aspects of regulating prostitution in Nepal. I have mentioned some of the pros and cons, but the decision lies with how society views the overall issue. Over the last few years Nepal has taken strides in ensuring the rights of the marginalised, the discriminated and the poor. Those involved in prostitution in general all come from this category. Prior to making any major decisions this paper categorically cautions the need to conduct national level research on the status of prostitution in Nepal. This could also be a medium to gather different stakeholders' views on regulation and what they envisage within it.

Furthermore, it is also suggested that rather than focusing on regulating prostitution alone, the alternative of criminalising clients who seek services could be an effective measure to eliminate trafficking and prostitution. In 1999 after years of research and study the Swedish government passed a Legislation which a) criminalises the buying of sex, and b) decriminalises the selling of sex. The rationale behind this legislation was that "...gender equality will remain unattainable so long as men buy, sell and exploit women and children by prostituting them"<sup>9</sup>. Interestingly the legislation was passed when 50% of the Swedish parliamentarians were women. They were able to view the issue through the gender lens, while other nations continued to maintain gender bias against prostitution. Additionally, the Swedish prostitution legislation also provided for comprehensive social service funds aimed at helping any prostitute who wants to get out, and additional funds to educate the public. Thus while women are viewed as victims, the male clients were seen as perpetrators and criminalised. Public and law enforcers' education, and support to the victims also took place simultaneously to disallow any form of historical bias. Today, unlike the legalisation of prostitution in Netherlands and Australia where studies reveal negative impacts the Swedish version enjoys support of 80% of its people. Sweden has also been able to address organised crime which continuously plagues other nations which have legalised prostitution.

In conclusion it must be reaffirmed that concerted efforts to address violence against women and children through prostitution and trafficking needs innovative measures. The need to tackle this organised sector of crime also demands joint efforts. Our common and consistent efforts at ending all forms of gender discrimination will undoubtedly work to prevent many victims from exploitation, while at the same ensuring that criminals receive the justice they deserve.

<sup>9</sup> Marie De Santis, Women's Justice Center

*Annex II:***LEGALISING PROSTITUTION- IS IT A SOLUTION?***Ms. Sulakshana Rana*

“Prostitution is the act or practice of providing sexual services to another person in return for payment. People who execute such activities are called prostitutes. Prostitution is one of the branches of the sex industry. The legal status of prostitution varies from country to country, from being a punishable crime to a regulated profession.”<sup>10</sup>

History has witnessed changes in perception and attitudes towards prostitution. Once prostitutes were held as a celebrated necessity but with time, became a social evil. Prostitution in one form or the other has existed in all cultures and societies of the past. At the beginning of the 19<sup>th</sup> century prostitutes experienced empathy while they suffered utter rejection towards the end.

This attitude has persisted to date even though everyone knows that prostitution is very much a part of every society and cannot be eradicated. When the idea of prostitution became intolerable and a threat to the social fabric, almost all countries attempted to solve the problem by trying to abolish the profession by making it illegal.

Though prostitution was sanctioned as an illegal act by the state, prostitution along with human trafficking grew uncontrollably and developed into a nexus controlled by local and international mafia.

Prostitution is a multibillion dollar business that employs millions of women worldwide. It contributes to the phenomenon of human trafficking. It is said that human trafficking is the largest trade after drugs and arms trafficking. Trafficking cannot be negated from prostitution since one complements the other and are very closely linked. When the state adopted different measures to tackle problems on prostitution, a new outlook surfaced among women towards their own position in life which made them view prostitution not in male terms but as victims of a male society.

Research conducted by Dr. William Sanger on prostitution is highly esteemed due to its accuracy and depth. In his research, he tries to examine the identity of the average prostitute and to understand their reason for opting for that lifestyle. Dr. Sanger found that “The majority of prostitutes were in their late teens or early twenties; they were usually illiterate, poor and from broken families.”<sup>11</sup> Poverty, societal disgrace, and lack of education were also a few of the causes of girls turning to prostitution; they had limited options available to them.

Dr Sanger asked several prostitutes why they had turned to their way of life and they gave a number of different reasons. “Some women had either been expelled from their homes or deserted by their parents and found prostitution the only way to support themselves. Other girls were forced into prostitution in order for their families to survive. Similarly, girls who had worked as domestic servants were served into prostitution because they had been seduced by their masters and then abandoned. On the other hand, a number of women would turn to prostitution simply as an escape from typical professions. Many of the girls expected to remain prostitutes only until something better became available. Immigrant women who had arrived to the country without money or were bought into the country forcibly had only prostitution open to them.”<sup>12</sup>

The reasons given in the above quoted text still hold true. Throughout the centuries approaches towards prostitution have changed and in recent time though prostitution has become rampant, we still look at it with detached squalor.

<sup>10</sup> [en.wikipedia.org/wiki/Prostitution](http://en.wikipedia.org/wiki/Prostitution)

<sup>11</sup> Prostitution Then and Now: <http://www.cwrl.utexas.edu>

<sup>12</sup> Prostitution Then and Now: <http://www.cwrl.utexas.edu>

Dialogues on prostitution have become a complex debate among feminists, human right activists and the government worldwide. There are different views on prostitution propagated by various scholars, feminist/activists and governments and they have proposed different approaches to this issue.

### **Different Approaches to Prostitution:**

- Prohibition
- Legalisation /Regulation (Netherlands, Germany, Austria, Switzerland, Greece, Turkey, Hungary and Latvia in Europe and some states of Australia and counties in Nevada, USA).
- Decriminalisation (New Zealand)
- Abolitionism (Sweden, Norway and Iceland)

**Prohibition:** Under prohibition all activities involving (soliciting, procuring, pimping and keeping brothels) are criminalised. All those engaged in these activities are criminalised. When the state adopts this approach, prostitution is prohibited in law but tolerated in practice. The law for pimps, clients and prostitutes are the same. It seems gender neutral but in reality, women are arrested more. This law does not exempt children from punishment if caught in prostitution and are therefore treated as criminals.

**Legalisation:** Once prostitution is legal it is redefined as sex work. Many societies that allow prostitution do so by giving state control over the lives and business of those who work as prostitutes. Legalisation often includes special taxes for prostitutes, restricting prostitutes to working in brothels or in certain zones, license registration of prostitutes and government records of individual prostitutes and health checkups.

**Abolitionism:** Abolitionism defines prostitution as violence against women and views it as inherently exploitative. The abolitionist decriminalises prostitutes but criminalises pimps and clients. In this law there is a distinction between victims and the perpetrators.

### **Reasoning for Legalising Prostitution**

- Anti-prostitution laws don't work, they further push prostitution underground.
- Anti-prostitution laws further victimises the prostitutes
- Anti-prostitution laws project prostitutes as criminals hence devaluating them as non-persons, thus any act of violence against them go unreported because they are tolerated, ignored and even encouraged
- The right of women to prostitute her body needs to be respected as a natural choice
- Legalisation of prostitution would benefit the state through taxation
- Legalisation of prostitution gives them access to health benefits thus helps in controlling the spread of sexually transmitted disease and HIV/AIDS
- Legalisation of prostitution would prevent prostitutes from being alienated from society

### **Facts on legalisation**

Legalisation of prostitution converts brothels, sex clubs, massage parlours and other sites of prostitution into legitimate venues where commercial sex act flourishes without restraint. Legalising requires legitimising prostitution but this alone does not dignify prostituted women who will continue to face social stigma and alienation.

Some men think that prostitution is sexual liberation whereas in reality it is sexual slavery, the long term effect of which is the destruction of women's sexuality.

It is believed that legalising prostitution protects the women in prostitution but evidence suggests that legalisation does not protect women from the violence, abuse and psychological and physical injury. A pan-European study found that "levels of violence were high in both indoor and outdoor settings and where brothels are regulated. In the Netherlands where prostitution has been legal since 2000 the

government is rethinking its approach as it is seeing more and more signals that abuse of women is continuing.”<sup>13</sup>

Some people think that legalising prostitution will protect children from being sexually exploited and brothels will not entertain trafficked women or minors but legalising prostitution means there are more locations for women and children to be sold for sex. A study shows that “There has been inadequate protection for children against prostitution in New Zealand since decriminalisation of prostitution in 2003. According to the New Zealand decriminalised prostitution law the police have no right of entry into brothels and have no right to ask for age identification papers of those in prostitution-thus investigation of suspected youth prostitution is extremely difficult, according to police officials, who ask that the law be revised.”<sup>14</sup> Another report states that “prostitution of children increased in the state of Victoria compared to other Australian states where prostitution has not been legalized.”<sup>15</sup>

No matter how advanced and developed a society is, shame and stigmatisation of women is always associated with prostitution. In reference to this, “In Germany, the service union *ver.di* offered union membership to Germany’s sex workers. They would have been entitled to health care, legal aid, 30 paid holiday days a year, a five day work week and Christmas holidays and holiday bonuses. Out of an estimated 400,000 (four hundred thousand) sex workers only 100 joined the union.”<sup>16</sup>

Some feel that legalising prostitution would control the sex industry but on the contrary the countries where prostitution has been legalized experienced the increase in the sex industry. An example, “Over the last decade, as pimping was legalized, and brothels decriminalised in the year 2000, the sex industry increased by 25% in the Netherlands. Similar increases have been documented in Australia, since prostitution was legalized.”<sup>17</sup> With legalisation of prostitution, it becomes acceptable for men to buy women for sex. It may also send a message to the new generation that prostitution is harmless and women can be treated as sexual commodities.

People try to look into matters of prostitution and trafficking separately without recognising the cause and effect relation. Trafficking takes place in order to fill the vacuum created by the demand of the growing legal/illegal sex industry. Legalisation of prostitution provides leverage to the pimps thus covering the harms of trafficking. Legalisation provides leeway for dirty money to become clean, illegal acts to become legal and pimps to become legitimate business men and it supports men in buying women for prostitution. To support this argument a report states “Since 1999, there have been reports that at least 80% of women in Dutch legal prostitution had been trafficked. In 2009 the Dutch government has closed approximately 2/3 of the legal brothels in Amsterdam because of its inability to control traffickers and other organised crime. By the mid 1990s, 75% of women in legal German prostitution were from other countries, a majority trafficked from Eastern Europe.”<sup>18</sup>

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<sup>13</sup> Myths and Facts Legal and Illegal Prostitution

<sup>14</sup> The Impact of Sex Industry in the European Union: Janice G Raymond

<sup>15</sup> Raymond, J.G. (2003) 10 Reasons for Not Legalising Prostitution. Coalition Against Trafficking in Women (CATW)

<sup>16</sup> Prostitution Fact or Fiction: [http://www.endviolenceagainstwomen.org.uk/data/files/prostitution\\_fact\\_sheet.pdf](http://www.endviolenceagainstwomen.org.uk/data/files/prostitution_fact_sheet.pdf)

<sup>17</sup> The Netherlands: Trade and Tolerance lead to Trafficking: [http://www.sharedhope.org/Portals/0/Documents/demand\\_netherlands.pdf](http://www.sharedhope.org/Portals/0/Documents/demand_netherlands.pdf)

<sup>18</sup> The Impact of Sex Industry in the European Union: Janice G Raymond



## Arguments For and Against Legalisation

Pros (For)	Cons (Against)
<p>Prostitution is claimed to be one of the world's oldest professions and everyone accepts that it cannot be totally wiped out. In this regard legalisation would provide grounds to legitimise the profession and make prostitution a safer business.</p>	<p>Governments are responsible for upholding the moral and social fabric of the society. They are also in charge of reinstating the physical health of their citizens. Legalisation of prostitution would dampen societal values and it should never be promoted or regarded as a legitimate career for girls/women.</p>
<p>Prostitution is the act of providing sexual favours in exchange for money; therefore it is an issue of an individual's freedom. There is no legal law that penalises men and women who chose to be promiscuous; thereby why should exchange of money for sexual intercourse be an illegal act.</p>	<p>The distinction between freedom and choice should be rationalised since in most cases, prostitutes do not have a genuine choice. Most of them are thrown into prostitution at an early age where they are not able to make reasoned decisions. Many are in prostitution due to economic poverty, an unhappy family background or previous sexual abuse. Sometimes women are forced into prostitution resulting from circumstance beyond their control such as substance abuse or the necessity to provide for a family.</p>
<p>Liberal feminists believe that personal rights should prevail over concerns for the social good. They view that prostitution reflects the independence and dominance of modern women. Women in prostitution have avenues for financial gain if they are removed from the dangers of abuse from male clients and pimps. Economic empowerment is always liberating and many who campaign for the rights of prostitutes note that their working hours are relatively short, the work well remunerated and the services they offer are ones many women offer without charge.</p>	<p>Radical feminists argue that prostitution is mere objectification of women and the use of their bodies to gratify the sexual desires of men dehumanises them. The lack of respect for women further misbalances the fight for gender equality that women movements have been fighting for.</p>
<p>Some people are of the view that the industry of prostitution helps to maintain the marriage institution. Prostitution caters to man's sexual fantasies and is a purely physical transaction where no emotional attachment is required; therefore it is a give and take commercial exchange.</p>	<p>Marriage is sanctified by the law of the state as well as by religion, therefore sexual intercourse outside of marriage or love relationships is to show disrespect to the purity of the act and to the other partner in the relationship. Sex is fully consummated only if an emotional attachment is involved.</p>

There are some who advocate that legalising prostitution will help to minimise crimes related to sexual offence.

Women in prostitution are very vulnerable to physical assault, violence, rape and even murder. There is no evidence that the man who visit prostitutes has not committed violence or sexual offence outside.

Another argument that supports legalisation points that it would improve the sexual health of the prostitutes and that would also benefit the clients. Regular health checkups and compulsory use of condoms can aid in the decrease of sexually transmitted diseases and HIV/AIDS. Furthermore the promotion of the use of compulsory and free contraceptives will also help in the prevention of unwanted pregnancies.

Legalising prostitution would mean patronising women as mere sex objects and enticing men to greater access for sexual services. Moreover regular health checkups will not help control sexually transmittable disease, because between health checkups the women could catch and transmit the disease. Excessive use of contraceptives might have severe consequences on women's reproductive health.

In legalised prostitution the women are inspected, not the men.

Pimps have control over the lives of prostitutes; they subject prostitutes to physical abuse and threats of violence and retain a portion of their income. The women in prostitution are also lured into drug addiction by pimps. The legalisation aspects point out that if the link between pimps and prostitutes is broken then they would be free from abuses and make independent decisions.

The sex industry will never be free from the nexus of pimps; they won't just suddenly cease to exist. Moreover, prostitutes will always be dependent on them for identifying potential clients.

Legalisation points out that when something becomes legal and registered, they can be held accountable to review by critiques.

Mere legalisation does not ensure accountability nor does it bring about an instant revolution of ideas/perceptions that would generate change. Studies in the State of Victoria, Australia, where prostitution is legal, show increased evidence of organised commercial sexual exploitation.

Another strong debate for legalisation of prostitution points that legalisation would bring economic benefit to the government. Imposition of income tax on the fee charged by the prostitutes could generate revenues for the government.

Prostitutes/Pimps do not suddenly become law abiding tax payers because prostitution is legalized and taxed.

The government would by no means be able to know of the actual income of the prostitute. Moreover economic benefit cannot take precedence over social harms that result from legalisation.

There are a few countries that are regarded as destinations for sex tourism. Legalisation would disperse the sex tourist destination from high concentrated areas to larger number of countries that have legalised prostitution. Therefore it will reduce the problem of sex tourism for some of the countries.

On the contrary the legalisation of prostitution brings with it a number of problems, one of the biggest being the problem of human trafficking. There is a link between human trafficking and prostitution and we cannot look at them as separate issues. Sex trafficking happens where and when there is a demand for prostitution and impunity for its customers. Trafficking is a result of men's demand for sexual access to women and girls in prostitution. In countries where prostitution is legal, there is a demand for women to sell sex thereby attracting traffickers to exploit women for financial gains. "Legalisation also results in the growth of a parallel illegal sex industry as has been extensively documented in Australia"

### **Durbar Mahila Samanwaya Committee- A Sex Workers Forum in India**

India initiated debate on legalisation vs. decriminalisation a long time back but is still struggling with this dilemma and has yet to come up with a solution that secures the rights of those in the sex trade.

For the first time in India, prostitutes in Shonagachi, a red light district in Kolkata, formed a union, DMSC (Durbar Mahila Samanwaya Committee) which has come forward to represent prostitutes and dignify sex work. They argue that women empowerment is important thus they should be respected and their choice of occupation acknowledged.

A DMSC brochure, for example, states: "Like other entertainment workers of the world, we use our brain, ideas, emotion and sex organs, in short, our entire body and our mind to make people happy. As entertainment workers we seek governmental recognition and fulfilment of our just professional demands."<sup>19</sup> The DMSC has been able to bring recognition and to some extent autonomy to sex workers but how effective this model will be is still questionable.

### **Towards an Abolitionist Approach: Swedish Model 1999**

Out of the many models tried and tested in many countries, the Swedish model has stood out as one of the most successful. The 1999 Swedish law describes "prostitution as a human rights violation against women. Sweden's legislation officially recognises that it is unacceptable for men to purchase women for sexual exploitation, whether masked as sexual pleasure or "sex work." Equally important, its law acknowledges that a country cannot resolve its human trafficking problem without addressing the demand for prostitution. The law does not target the persons in prostitution. The Ministry of Labour in cooperation with the Ministry of Justice and the Ministry of Health and Social Affairs, Swedish Government offices on Issues related to violence against women-1999 Swedish Law on Prostitution:<sup>20</sup> The Swedish law criminalises men buying sex, pimps (seen to be perpetrators) but not the prostitutes.

Findings of the evaluation of the laws for the first ten years were very positive. "Street prostitution has been cut in half, there is no evidence that the reduction in street prostitution has led to an increase in

<sup>19</sup> Legalising Prostitution: A Solution: N Kristof, The New York Times

<sup>20</sup> The Ministry of Labour in cooperation with the Ministry of Justice and the Ministry of Health and Social Affairs, Swedish Government offices on Issues related to violence against women-1999 Swedish Law on Prostitution: <http://www.prostitutionresearch.com/swedish.html>

prostitution elsewhere, whether indoors or on the internet; the bill provides increased services for women to exit prostitution; fewer men state they purchase sexual services; and the ban has had a chilling effect on traffickers who finds Sweden an unattractive market to sell women and children for sex. Sweden appears to be the only country in Europe where prostitution and sex trafficking has not increased.”<sup>21</sup>

While debating on different perspectives we should conceptualise the issue of prostitution and the implications of any model we might consider to adopt in the Nepali context. And it’s always good to keep in mind that “a truly progressive law promotes women’s equality, not women’s prostitution.”

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<sup>21</sup> The Swedish Approach to trafficking, prostitution and the sex industry: Trafficking, prostitution and the sex Industry, the Nordic model: Janice Raymond

Annex III:

## DECRIMINALISATION OF PROSTITUTION IN NEPAL: THE END TO DIGNIFIED NEPALI WOMANHOOD?

Arzu Rana Deuba, PhD  
CA Member, Nepali Congress

### Dignity of Nepali Womanhood

Nepal's social development indicators have improved in the last 15 years. The status of women *vis a vis* health, education, life expectancy, economic empowerment, mobility, political empowerment has shown a steady progress since the 1990s. Nepal has moved up in the list of least developed countries. Women have distinguished themselves in a number of arenas both in Nepal and abroad. The typical image of a Nepali woman is that of a hard-working, honest, friendly and dignified individual who is the very backbone of Nepali families, communities, and the nation. The joint experience of Nepalis and foreigners who have worked to empower the women of Nepal are in agreement that they are intelligent, quick to grasp new ideas, upwardly mobile, have great capacity for progress and change. There is no doubt a lot to be desired to improve the lot of women's lives in Nepal but decriminalising prostitution and giving Nepali women the tag of a "country of whores" is not the way to achieve progress. Let our dignity remain intact. It is already sad enough that Nepal is identified as one of the key countries from where girls are trafficked.

### Bigamy or Misplaced Activism?

There is no doubt glamour and romanticism in radical ideas, but I would like truthful responses from those promoting the idea in this room to the question: Will prostitution be the choice of your means of livelihood? Will it be that of your daughter, sister, daughter-in-law or grand-daughter? If your answer is "yes" then I will acknowledge your place to speak on behalf of decriminalisation of prostitution if not I will request you not to be bigamists. I speak of your grand-daughters as a law once made will have inter-generational impacts which I hope you have considered seriously while making the suggestion to decriminalise prostitution.

The stigmatization of traditional groups such as 'badi' and 'deuki' is a fact which clearly shows that even traditionally and socially sanctioned sex work is not accepted. Let us consider the negative psychological and social impacts on children of those labelled as off-spring/descendants of sex workers. How will decriminalisation or legalisation stop the discrimination process in the Nepali context?

Should women activists be advocating for decriminalising prostitution or promoting empowerment of women in the true sense by access to equal rights in all aspects. Should we not advocate for the same rights for others as for us and our near and dear ones. Is this misplaced activism or bigamy? Should activists not work to stop the demand market rather than increase the supply for prostitution?

### What is Logic for decriminalisation?

The presenters before me spoke of decriminalisation of prostitution logical way to stop the exploitation of women commercial sex workers by pimps, customers and police, some of the logic pertained to it as a panacea to stop the spread of STIs and HIV/AIDS and for the lessening exploitation and affording more protection of those engaged in the sex trade. The right for a dignified and healthy life is guaranteed for every citizen in the Interim Constitution of Nepal, 2006, our efforts would be put to better use if all of us in this room worked together to offer alternative means of dignified livelihood to women forced to do sex work.

In the context of Nepal, I am yet to come across an empowered and economically well-off woman whose profession of choice is prostitution and is ready to openly declare herself a prostitute or commercial work entrepreneur to be more politically correct. Most of the women in this exploitative work are poor, have



had little or no access to education or dignified means of earning a living. For the most part of human history, the world's oldest profession has been peopled by women who have been compelled to live on the fringes of society, women who have had no choice for other means of earning an living.

As a psychologist, I would also like to state that establishing repeated sexual relations with numerous partners is not normal human behaviour and comes at a psychological cost to the individual. This type of behaviour is only documented under 3 circumstances in the literature of human behaviour: as a sexual perversion, as rape and as an economic compulsion. I am still to be persuaded by any logic to have a government give legal space to a behaviour which will reinforce the exploitation and enslavement of women and girls in Nepal as well as reduce their self-esteem, self-respect and social status.

I will state my arguments against decriminalisation with an analysis of Nepali culture, the status of women as well as economic variables. I would also like to present facts from other nations which have decriminalised.

### **Variables Defining Nepali Society**

The culture of Nepal is defined by two key parameters patriarchy and casteism. Both these parameters discriminate against women. Patriarchy not only dictates that women should be defined by their relationship to a man and remain under their control, it also dictates that women are even "owned by men". The objectification and commoditization of women as well as the sanction of gender based violence have their roots in deeply embedded patriarchy. Casteism is another societal dimension which dictates even more discriminatory behaviour towards women in our society. Both these dimensions set a stage for the exploitation of women. By decriminalising a "everytime" violation of human rights in the form of commercial sex work (CSW) we will only be strenghtening the stance of men towards sex as a commodity while exploiting women and dehumanising their dire circumstances even further.

Women all over the world rarely choose CSW as their preferred profession of choice. If this was the case there would be no crime called trafficking and women would openly and proudly practise prostitution as a profession. Prostitution is yet another part of the commercial sex industry, which systematically subordinates women. Commercial sex industry has been proliferating in Nepal under the front of dance restuarants, massage parlours, and lounge bars in the recent past. If any of the participants here have found women who have been empowered socially or in economic terms by their involvement in the commercial sex industry and can produce evidence – maybe we could even start considering it as a means of dignified way to life for Nepali women. If not – maybe we should start rethinking our basic premise.

As a proponent of feminist values that otherwise favor the economic liberty of women and amongst the limited range of options constrained by economics, education, abuse, the decision to sell one's body cannot be deemed a choice of women. Even if a woman makes a conscious decision to enter prostitution, this does not redeem the trade from being the worst form of gender-based exploitation.

Global literature reveals that the "choice" argument is also undercut by the fact that the average prostitute starts working at the age of fourteen and suffers sexual abuse, drug dependency, violence at the hands of customers, and emotional control by pimps. From this point of view, women are victims of commercial sex work. In Nepal, the profile of commercial sex workers is usually girls and women from impoverished and dysfunctional families. decriminalisation would make girls and women from this group even more vulnerable to exploitation.

I would like to request you to also consider the fact that the legalisation of casino gambling has caused a dramatic increase in the number of people gambling and the amount of money wagered, the legalisation of prostitution would give the commercial sex industry the opportunity to legitimately expand.

## **The Experience of Other Nations**

Going through evidence from other nations, it is interesting to note that only a handful of nations (less than 10 – one state of the US (Nevada), New Zealand, one state of Australia (Victoria), the Netherlands, Mexico, Canada) out of the 185 plus nations have taken measures to decriminalise or legalize prostitution. Let us examine the evidence based on the experience of these nations.

Key common issues which have arisen refer to the lack of improvement in work conditions of commercial sex workers despite decriminalisation and the “expansion of business”. The stigmatization of CSWs and of prostitution did not decrease in any of nations. Evidence also points towards a sharp rise in child prostitution (ECPAT, New Zealand 2005). A number of countries report issues related to the social problems arising from the location of commercial sex work in neighbourhoods and near school areas.

Reports (Raymond, J. 2007 on website of Combat Trafficking) based on research in Netherlands, Germany and Australia which have legalized or decriminalised prostitution that shows legalisation has failed to protect the women in prostitution, control the enormous expansion of the sex industry, decrease child prostitution and trafficking from other countries, and prevent HIV/AIDS -- all arguments used for legalisation. The site states that legalising prostitution has not only meant decriminalising the women in prostitution, but also the pimps, brothels and buyers.

Raymond (2007) further states that in countries such as the Netherlands when legalisation took effect, pimps overnight became sex businessmen and organized crime controlled the sex industry which was the main the closure of 30 percent of the window brothels by the Mayor of Amsterdam in 2006.

Germany’s legalized prostitution system has become a magnet for sexual exploiters, so much so that Germany has become the destination of choice in Europe for traffickers. Legalisation in the State of Victoria in Australia has encouraged 3 times more illegal than legal brothels. Even the Australian Adult Entertainment Industry acknowledged that the illegal sex industry is out of control there. At the same time, many legal brothel owners have been involved in setting up and profiting from illegal brothels. “Customers” want more “exotic,” younger, cheaper women and those who can be induced not to use condoms. It must be stated that Victoria has the highest rates of child prostitution of all the states and territories in Australia.

The question remains that how can any individual or country supporting gender equality seek to fortify the legal segregation of a class of women who can be bought and sold? It can be said that prostitution is inevitable, and that a zero tolerance approach is unrealistic, but let us consider for a while the fact that it is no more unrealistic to work for an end to sex slavery than it was and is to work for an end to race slavery.

There is no evidence that legalisation of prostitution makes things better for women in prostitution. It certainly makes things better for governments who legalize prostitution and of course, for the sex industry, both of whom enjoy increased revenues. Instead of abandoning women to state-sanctioned brothels, laws should address the demand. Men who use women in prostitution have long been invisible. There is a legal alternative to state sponsorship of the prostitution industry. Rather than giving legal protection to pimps and traffickers, Nepal could address the demand to stop prostitution by penalizing the men who buy women for the sex of prostitution as in Sweden.

Let us also consider the fact that countries who have almost ten times better economic indicators and much better social development indicators ( for example - Germany per capita USD 44362.8; Nepal per capita 465.4 – 2008 – UN Stats website) than Nepal face such complex problems and negative fall-out after legalising prostitution; in a country in which 40 per cent of the population is still impoverished and the society defined by patriarchy and casteism the impact of decriminalizing prostitution would be disastrous.

Annex IV:

ARTICLES ON THE ENTERTAINMENT SECTOR

**From Trek to Sex**

**Is a new sort of thrill-seeker heading for Nepal?**

<http://www.economist.com/node/10566777>

"I CAN only dance when I'm drunk," confides Srijana, a 20-year-old employee of the Pussy Cat Bar and Shower, a tavern in Thamel, Kathmandu's main tourist hangout. A few slurps from a customer's glass later and she mounts a small stage. There, to whoops from a few tipsy locals, she sheds most of her clothes and gyrates to a Hindi pop tune. Dangling above her is the Damoclean sword included in the bar's name: a silver shower nozzle, positioned to spray flesh-revealing water on a dancer below.

Such gimmicks are common in Thamel's bars, where competition for lascivious males is fierce. Until a few years ago Nepal had no obvious sex industry. There are now an estimated 200 massage parlours and 35 "dance bars", such as the Pussy Cat, in Thamel alone—with over 1,000 girls and women working in them. Many sell sex. In the Pussy Cat, another dancer admits to turning tricks, for 1,800 rupees (\$28).

That is a tidy sum in Nepal, South Asia's poorest country. It is much more than Nepali women are paid in India's flesh-pots—to which over 5,000 are trafficked each year, according to the UN. But the dancers in Thamel are chasing a richer sort of Indian: tourists. And their government seems to be encouraging them. In an advertisement for "Wild Stag Weekends", the Nepal Tourism Board offers this advice: "Don't forget to have a drink at one of the local dance bars, where beautiful Nepali belles will dance circles around your pals."

In a country with a rich tradition of dance, where paying for sex is illegal, this might be harmless innuendo. But not everybody thinks so. During the recently-ended civil war, Nepal's Himalayan tourism industry collapsed. Some activists think that sex tourism is replacing it. According to John Frederick, an expert on South Asia's sex trade, "Ten years ago the sex industry was underground in Nepal. Now it's like Bangkok, it's like Phnom Penh."

The war, which put much of rural Nepal under the control of Maoist insurgents, has increased the supply of sex workers. Srijana is from the poor and still violent district of Siraha in southern Nepal. She was widowed there two years ago, and left an infant son to come to the capital. Yet she is remarkably cheerful perhaps because she is drunk, and the shower is not working.

**Bar Girls of Kathmandu**

**Sudeshna Sarkar**  
**October 2, 2005**

When Mumbai, India's film and business capital, shut down all its 'dance bars', there was much debate on the merits and demerits of the decision. In Nepal, another Asian location infamous for its dance bars, women's rights activists are fighting for the rights of the dancers.

"Eventually, we would like that (the shutting down of these bars) to happen here (in Kathmandu) too, but first we need a massive degree of awareness, networking and coordination," says Arpana Shrestha, a Project Officer with Maiti Nepal, a prominent NGO. Maiti works to spread awareness among 'bar girls' - women employed in the small and medium-sized bars and restaurants in Nepal, many of which have the unsavory reputation of having sex on the menu as well.

Broadly speaking, there are three kinds of small and medium restaurants in Kathmandu: the actual restaurants, cabin restaurants and dance bars.

The cabin restaurants are the most dangerous for women employees, says Shrestha. When a customer

walks into a dimly-lit hall partitioned into tiny cubicles and calls for a waitress, the worst form of sexual exploitation is on the cards. The cabin restaurants are often raided by police, who take away customers and waitresses in various degrees of undress.

"It is the cabin restaurants that teenagers wanting their first sexual experiences turn to," says Shrestha. "It is also the place where inexperienced teens and minor girls go looking for jobs."

Besides poverty and unemployment, since 1996, Nepal has been racked by an armed conflict between Maoist insurgents and the government. Over 12,000 people have died, and tens of thousands have been displaced, heading towards Kathmandu. "The girls coming from the rural districts are not educated and have no job skills," says Shrestha. "The cabin restaurant is the only place that will employ them. And so they go there."

After an inexperienced girl has done a stint in a cabin restaurant and become wise to the ways of the world, she moves on to the dance bars. From a waitress, she graduates to a dancer, who, in between dance numbers, has to come and sit at the client's table for a consideration. There could be proposals for more. While some bars let her do what she wants, some pressure her to oblige.

Sonam Rai came to Kathmandu nearly 10 years ago from the Terai plains in the south. Nineteen at that time, she was an orphan living with her uncle. "He made my life miserable," she says with an angry toss of her head. "I worked in his field all day long and at night, I had to sleep in the cowshed." A friend of hers got her a couple of jobs as a domestic help. But Rai quit because of sexual harassment by her employers and began working as a waitress in a dance bar. But here, she was at the beck and call of the dancers who insulted her. "So I decided to become a dancer. It's true I have to wear skimpy clothes, but at least I am not bossed around anymore."

Dipa Tamang, 26, is a dancer with the Galaxy Dance and Shower Bar in the busy Sundhara area of Kathmandu, a downmarket commercial road near the bus stations. Although an accomplished dancer, Tamang will not find work with a dance troupe because her face was badly scarred in an accident. With a four-year-old child to care for, deserted by her husband, and educated only up to Class 7, the dim light of the dance bar and the garish makeup she uses to hide her scars are her only haven.

According to Yogendra Chaulagain, secretary of Nepal Restaurant Entrepreneurs' Association (NREA), there are around 30,000 women working in the capital's restaurants. Most of them are from the rural areas and have no education or skills. Domestic violence, desertion by husband, feckless boyfriends who leave them pregnant, the insurgency and grinding poverty force them into economic and sexual exploitation.

Chaulagain says NREA did a rough survey about three months ago and estimates that more than 75 per cent of the women working in cabin restaurants in the valley are between 18-25. Shrestha, however, has entirely different figures. She estimates that over 50 per cent of these women are actually minors - some as young as 10. What makes the situation so nightmarish - and the figures impossible to corroborate - is that there is no certified data. Many of the fly-by-night restaurants are not even registered.

"In fact, according to the law, cabin and dance restaurants are not allowed. But with small restaurants mushrooming, the competition is so cut-throat that the owners have to devise something extra to keep the clients coming. So they think of dance bars and shower bars. They even advertise that on signboards. But the government has not taken any serious note of this," says Shrestha.

A shower bar includes a round bathtub-like structure, where dancers flit in and out while the showers spray water on scantily clad bodies. "We do have hot water in winter," says Tamang. "But at times we catch a cold. We have to learn to step in and step out immediately."

The employment conditions vary from bar to bar. The salaries range from NRs2,000 to 6,000 per

month (1US\$-70.9 Nepali Rupees), but the real money is in the tips a girl can get. There is no weekly off or annual leave. "We stay open only from 6 pm to 10 pm," says the management of X Bar, one of the upmarket dance bars in the city, thronged by young men on bikes. "It's a part-time job, and so, there is no weekly off. But if a dancer falls ill, we pay for the treatment."

A June 2005 survey on the migration of women in Nepal carried out by Save the Children, USA found a high level of insecurity among the dancers. The report - titled 'The Movement of Women' - says, "A Gurung woman from Ramechhap (a district east of Kathmandu) worried that as she was getting older, she might get fired, since the bar preferred young dancers. Work at a dance bar is never permanent employment and a number of women said contracts and job appointment letters would help them, presumably through legitimacy."

Shyam Sundar Shrestha, joint secretary at the Ministry of Women, Children and Social Welfare, admits dance and cabin restaurants are a serious concern. "The government is taking it seriously," he says. "We have formed a task force comprising members from the Chief District Officer's office and NGOs to do a survey and come up with recommendations. Unfortunately, we don't have the means right now to rehabilitate the dance bar girls but we are working with NGOs like Maiti, which have rehabilitation centers."

In 2003, a 15-member team coordinated by Maiti Nepal came up with several recommendations. All small and medium restaurants must register with the government, cabins must be abolished and girls shouldn't be forced to drink with the customers.

Although the government has not been able to implement any of these recommendations, Arpana Shrestha is still hopeful. "We are working on a code of conduct for such restaurant owners. Once it is ready, we will go to the government again," she says. "At present, we are visiting the restaurants, identifying a leader among the girls and giving her an orientation about trafficking. So far, we have covered 450 dance cabins."

Shutting down the restaurants is not the answer, she says. "We have to provide these *bainis* (sisters) with life skills so that they have an option. Otherwise, we will probably push them into a worse fate."

#### **CABIN IN THE SKY\***

\*(This article was published in The Mirror, Publication of UNWO, 2008)

**Ms. Sulakshana Rana**

"I feel filthy when I am made to sit with four men and they treat me as though I am their plaything", says Sharmila Rai, an eighteen-year-old employee of a cabin restaurant in Kathmandu. When the conflict was at its peak Sharmila had to leave Sindhupalchowk in order to free herself from the harassment she and her family faced from both sides in the armed conflict. She, along with her younger sister, left with their belongings and some money and came to Kathmandu. The town was expensive and she soon was forced to look for work to take care of the two of them. Desperate for money she got herself a job in the cabin restaurant. The journey from there on she says is a nightmare.

Kathmandu has few job opportunities and finding a reasonably satisfying employment is extremely difficult for a semi-literate, unskilled person. There are not many opportunities for them especially for females. Therefore, establishments like dance and cabin restaurants provide incentives for the young, desperate, vulnerable and poor girls/women who seek to earn an honest living.

In Kathmandu valley there are two types of restaurants, the actual/normal restaurants where people go to have a nice time with friends and family, and there are other establishments like the cabin and dance restaurants that are like "Men's Clubs", whose sole purpose is to provide various entertainments for their male clients.



The dance bars in Kathmandu are the exact replicas of those found in Thailand. Girls, semi-nude, gyrating as they are sprayed with cold showers, dancing inanely to cheap Hindi music while the uproar of the crowd, gapes at them and blows money in their direction. They are better paid than the waitresses who sit with the clients watching the on-stage dancers. But at what price...

Cabin restaurants are small, dingy, smelly, and dimly lit. The hall is partitioned into little cubicles, providing private spaces for the clientele. In these small cubicles, one girl (ostensibly a waitress) is made to serve the guests while enticing and entertaining them. It is in these cubicles that the girls experience their first exploitation at work. They have nowhere to go and no one to whom they can complain.

It is there that the destinies of the girls are shaped. Some are not able to cope with such a demeaning situation, and try to quit the job, but desperation makes them give into the client's demands. So most of them do their best to adjust to the wandering hands and the sexual advances of the predatory men. Slowly, they are lured into prostitution for a little bit of extra money. Their earnings range from a basic salary of two to three thousand rupees per month, plus tips.

The rise of such establishments, namely the "Entertainment sector of Nepal", could be the result of chaotic changes that have swept the country in recent years. Apart from that, poverty, illiteracy, conflict, and domestic violence are some of the other main reasons that force females to work in such places.

Another probable reason, the patriarchal structure of Nepali society as well as the rapid urbanisation has led to the disintegration of the conventional and collective social controls and has promoted the growth of the sex workers' industry. In the metropolitan area, the availability and access to any form of sexual satisfaction has led to the objectification of women. Men want to be sexually fulfilled, when and where they wish. Women are no more than a commodity. The continuing migration of people to the cities has also created a huge demand for cabin and dance restaurant employees.

The patriarchal structure restricts women in their search for a decent job that can meet their economic needs. In the end, they are forced to give in. They only have sex work in their limited horizon, and it is better paying than any other job open to unskilled and uneducated female job seekers. Thus, society controls the sexual freedom of women and divides them into two categories: good and bad. The "bad" ones are engaged in sex work and help maintain the unequal gender roles. This divide is getting more and more pronounced.

In Nepal many situations lead a woman to come to Kathmandu and they end up in places where they are exploited, pushed to the brink of accepting prostitution as a way of life. Most of the girls/women are not willingly taking part in this degrading situation and are neither vocal about the nature of their work. How could they be? The popularity of cabin establishments underlines the structure of our world that caters to men who have the time and the resources to take advantage of the flesh trade. The women who work there have to bear the brunt of society's disdain and disapproval of their actions. They suffer the consequences of the social stigma that is their chief salary.

Sex work is illegal in Nepal but everyone turns a blind eye to it. There is a distinct possibility that Kathmandu becomes transformed into a place where sex tourism is one of the main attractions. Although prostitution is prevalent in Nepal, the government chooses to ignore the magnitude of the problem. And no one in the civil society nor the health department seem to care. This is a serious offence of human rights. In two thousand and four, the Supreme Court issued a directive making sexual harassment in the workplace illegal, but no law has formally been drafted. And even if it becomes law how will it be enforced in the general indifference to the fate of women.

The Nepal Tourism Board, in their travel advisory for our country, advertises "Wild Stag Weekends." It reads, "Don't forget to have a drink at one of the local dance bars, where beautiful Nepali belles will dance circles around your friends."

What kind of a message are we sending to the visitors who wish to come to Nepal? Wasn't Nepal a trekking destination for most of the tourists? Or has Nepal already made a smooth transition from a nature filled adventure destination to promoting sex tourism? - Reference: "Bar Girls from Kathmandu" Sudeshna Sarkar

**Desperation, Few Regulations Allow for Sex Businesses in Kathmandu**

<http://www.globalpressinstitute.org/global-news/gonzalez/desperation-few-regulations-allow-sex-businesses-kathmandu?>

KATHMANDU, NEPAL -- Shanti Rokka, 21, came to Kathmandu from Jhapa, an eastern district of Nepal, with the dream of earning enough money to provide a better life for her family. But Rokka quickly realized that Kathmandu had little to offer her. After struggling for more than a year to find a job and earn a decent wage, she finally found work at a cabin restaurant.

It is six in the evening. Restaurants in the alleys of Baneshwor, a central area of Kathmandu, are getting ready to welcome another colorful evening. In an alley just off the main road is Samman Restaurant and Bar, a cabin restaurant. In cabin restaurants, the hall is partitioned into tiny cubicles so that the waitresses can sit with customers and perform sexual favors for the customers in relative privacy.

Inside the restaurant, several waitresses stand before a counter applying make-up, powder, lipstick and cream to their faces. Rokka wears less make-up than the others. She is sitting at a corner table with melancholy expression, her face cupped in her hands. Tonight she is dressed in a red kurta. She is wearing red lipstick, red nail polish and she has a red tika on her forehead.

As the restaurant opens and patrons begin to filter in the sounds of laughter and flirting emanate from the cabins where the curtains are already drawn. From the outside, the restaurant looks simple with dark doors and windows. But the interior is decorated with colorful bulbs, posters of Hollywood and Bollywood celebrities, and artificial flowers. Near the entrance door is a cash counter where a woman sits. She is busy receiving telephone calls and instructing the waitresses to lure the customers to order the most expensive drinks and large amounts of food.

At seven in the evening, the restaurant is crowded and the waitresses near the counter look more desperate to attract clients. There are about 12 male customers in the restaurants tonight, each trying to coax the best-looking waitresses into their cabins. Among them, six patrons have already occupied three of the cabins, while the rest are sitting outside talking to a group of waitresses.

Rokka has been working in the restaurant for one year now. She begins her job everyday at 9 a.m. Through out the day she serves customers with food and beverages, and at the orders of her employer, she also provides patrons with sexual gratification. When she sits in the cabin partition with a patron her job is to encourage him to order drinks and food while allowing him to grope her. Rokka said customers grab, kiss, fondle and molest her. She said many even ask for masturbation and oral sex. For these services the waitresses are tipped by customers, but there is no standard gratuity and no guarantee a customer will tip. "Some customers give one hundred [rupees] while some generous ones even give us 500 rupees, about \$7," Rokka said.

Rokka hates her work but is resigned to her fate. She believes she has no choice but to suffer in silence. "I have become like a toy to the customers because I didn't have money to buy food. Who would do such work willingly?" Rokka asked.

While the Nepali law does not allow cabin and dance restaurants to operate sex businesses, officials said that many restaurants register under the Cottage Industry Act as a restaurant then, after registration, begin offering sex to clients.

According to the Nepal Restaurant Entrepreneur's Association, there are 700 cabin restaurants registered in Kathmandu, and officials estimate that there are likely several hundred more that are unregistered. The NREA said that cabin restaurants employ more than 30,000 women in Kathmandu.

The problem of sexual harassment in cabin restaurants is heightened because there is no practical enforcement to curb the sex trade in Kathmandu. Prostitution is not legal in Nepal, but there aren't any specific laws prohibiting it either. Meera Dhungana of The Forum for Women, Law and Development, a local nongovernmental organization, said, "Occasionally the police do raid some of the restaurants and arrest the customers, owners and waitresses for running sex businesses. However they are released after a few hours without any charge or fine."

According to a survey conducted in 2004 by SAATHI, a local NGO working to reduce violence against women, women tend to work in cabin restaurants mostly due to illiteracy, poverty, domestic violence and unemployment. Sulakshana Rana, the program coordinator for SAATHI said "Many girls who came to Kathmandu from rural villages have no education and job skills and a cabin restaurant is the only place that will employ them. So they are forced to go there."

According to SAATHI, 15 percent of the women who work in cabin restaurants are between the ages of 12 to 14 and 40 percent are between the ages of 15 to 22.

"The women working [in these restaurants] don't have anywhere else to go. They cannot articulate the sexual abuses they face due to lack of awareness and poverty," said Rana.

Rokka, like many of the girls who end up working in cabin restaurants, came from a poor family in the eastern part of Nepal. She grew up in a small home, roofed with straw. Her parents and 17-year-old sister work as daily wage laborers there. When her mother became ill two years ago, she said it was difficult for the family to provide her with the medication and proper care that she needed. So Rokka left her village and came to Kathmandu hoping to find work. After 45 days of searching for a job Rokka said she found employment in a carpet factory. She earned 1,100 rupees, about \$16, per month which was not sufficient to sustain herself in the city and still send money back to her family. "My parents expected money from me [but] it was difficult even to manage two meals a day," she said.

After struggling to get by on her salary at the carpet factory for a year, she said she learned about cabin restaurants through a friend. "I had to do any kind of work to survive," Rokka said.

Rokka said she came to the restaurant to be a waitress, but was quickly initiated into the world of prostitution. "Clients force us to drink alcohol. We have to do whatever they say or else they don't pay the money. If they call us at night, we also have to go [home] with them," she said.

At the Samman Cabin Restaurant Rokka earns 5,000 rupees, about \$72, every month of which she is now able to send about 2,000 rupees, \$29, to her mother.

But even with her higher salary, Rokka still struggles to make ends meet. She said when she runs into financial trouble, she often spends the night with her clients from the restaurant. Payment for sex outside the restaurant is not fixed, though Rokka said she normally charges between 1,000 to 2,500 rupees, \$14 to \$36, per night.

"I have to go wherever the client wants even without thinking what kind of person he is. There are some people who do not pay after they have sex with us and to add to it, they use abusive language in the morning to shoo us away," she said.

Rokka said she wants to quit her job in the restaurant. She wants to start a job where she will be respected. The social pressures of sex work in Nepal force Rokka to change her rented house every two to four months in fear of being ousted if a landlord finds out her profession.

Rokka's mother is still unaware of her daughter's profession and the source of the supplemental income she receives every month. Rokka said her mother pressures her to find an eligible man to marry, but she is not interested in marriage. "What is the use of getting married? My husband will leave me as soon as he knows about my profession."

Experts in the human rights sector here say that despite the popularity of cabin restaurants in Kathmandu among men, the women who work in the restaurants have to bear the disgrace and discrimination silently. "We have nowhere to go to complain," Rokka confirmed.

While many people and organizations in Nepal are raising their voices in opposition to cabin restaurants and the sex industry, many say the answer to the problem may not be as simple as just closing down the restaurants. A professor from the central sociology department at Tribhuvan University in Kathmandu, Dr. Fanendra Paudel, said the country needs more regulations for the restaurants and an effort to inform the women working in the sex trade as to what their rights are. "The government should frame clear legal provisions to regulate and control this profession," he said.

Yagya Prasad Adhikary, the departmental head of the National Human Rights Commission, NHRC, agreed. He considers the incidents of sexual abuse in the cabin restaurants as serious human rights abuses. "The government should immediately issue a law against sexual harassment in the workplace and punish people that commit such abuses," he said.

Two nongovernmental organizations here, FWLD and Pro Public, have taken more concrete action to make such laws a reality. In 2002, they filed a writ at the Supreme Court petitioning the court to frame a law that would reduce all kinds of sexual abuses against the women in the workplace. The Supreme Court issued a directive to make sexual harassment in the workplace illegal in 2004, but the law has not been formally drafted or enacted yet.

Mahendra Prasad Shrestha, a spokesperson for the Ministry of Women and Social Welfare, said, "The process of law making is in the final stage. Its draft is already submitted to the parliament and it will be issued within a month."

But even if the laws are enacted, enforcement will likely remain minimal. The owner of Samman Cabin Restaurant, who asked that her name not be used for fear of legal action, denies that the women who work for her are being sexually exploited. She said she does not force any of the waitresses to perform sexual behaviors.

"We have not forced any of the workers. But their job demands them to make their customers happy," she said. She did admit that she knows customers often take the waitresses outside the restaurants to have sex for money. "Some [waitresses] behave well and some don't," she said.

Meera Dhungana of FWLD said she is hopeful that the parliament will pass the long awaited sexual harassment bill to protect women like Rokka from being sexually exploited at their workplaces. The new law would obligate the employer to ensure the safety of their female employees from all kinds of sexual exploitation. Moreover, the bill has the provision to provide compensation to the victims. "After the implementation of the bill, the cabin restaurant owners cannot get away with exploiting their workers sexually," Dhungana said.

**Nepal: Cabin waitresses subjected to sexual exploitation**

IRIN News,  
<http://www.unhcr.org/refworld/topic,4565c2251a,4565c25f23f,485f50291e,0.html>

KATHMANDU, 20 June 2008 (IRIN) - "I constantly wish I could be run over by a car and killed," said Rekha Biswakarma, a traumatised waitress, who works at a cabin bar in the capital, Kathmandu.

She was raped by a client and threatened by her employer to keep quiet or lose her job. Her colleagues told the 20-year-old to forget the incident, warning that she would never be able to afford the court costs and had no evidence to prove the crime. But forgetting such an ordeal has proven impossible. Biswakarma has tried to commit suicide several times but stopped herself for the sake of her five-year-old daughter.

Two years ago, she and her husband arrived in the capital to escape their impoverished lives in Makwanpur District where they constantly suffered food shortages for lack of income. They depended on her husband's work for a local farm and barely made US\$1 a day. Her situation deteriorated in Kathmandu after her husband left her and disappeared. She had some friends working in the cabin restaurants and they offered to find her a job as a waitress but did not tell her what the job really entailed; she only found out when she was sexually abused and raped in her first week.

### **Dangerous jobs**

Cabin bars, established during the mid-1990s in the capital as part of the entertainment sector, have since become venues for forced prostitution, according to local NGOs. Each bar has separate and private cabins where the waitress has to "entertain" the clients to encourage them to spend lavishly on alcohol and food. The waitresses, aged between 15 and 25, are mostly migrant workers from the villages in nearby poor districts such as Lalitpur, Dhading, Nuwakot, Sindupalchowk, Kavre and Dolakha. Most of them are barely literate, divorced, internally displaced persons and/or victims of domestic violence, according to a local NGO, Saathi, which runs a project creating a safe environment for the cabin-bar waitresses.

"They should shut down all these bars or all the girls will keep on getting sexually exploited openly and without any control," said Biswakarma.

She is one of thousands of waitresses in the capital who suffer severe forms of sexual exploitation, including molestation, rape and violence, at the hands of both clients and bar owners.

According to the Nepal Restaurant Entrepreneurs Association, there are more than 20,000 waitresses working in 800 cabin restaurants and bars in Kathmandu. "Their stories have always remained under-reported in the media and their situation remains grossly neglected by the government," said Uma Limbu, an activist from Saathi. One of the reasons why the waitresses do not get enough police and legal protection is because they are often portrayed as commercial sex workers in the local tabloids, she explained.

Limbu, who has worked on protecting the cabin waitresses for eight years, says she has met scores of women like Biswakarma who have been raped or sexually abused. Most continue with their jobs because they have no alternative.

### **Re-training programmes**

"A lot of my friends became sex workers after they were raped, abused and forced to have sex with clients because they felt there was nobody to protect them and it was better to agree and make a better income," said Sabita Chettri, a former cabin waitress.

Chettri was rescued by Saathi and provided with temporary shelter and training as a masseuse; she now works at Himalayan Healers, an eminent spa centre, which is also helping to provide jobs to sexually exploited waitresses.

Saathi has been helping 200 waitresses through its Gainful Employment Programme, which started in 2007, and trains them in security work, clinical care assistance, care-giving, massage, painting, driving, and tailoring and as beauticians. Private companies have also joined up with Saathi to provide them



with jobs after their training. Recently, the NGO helped to rescue 55 waitresses, 32 of whom were younger than 16. "The crimes against these women are so horrendous inside the cabins that we are often in tears when these victims tell us their stories," said Sulakshana Rana, Program Coordinator of Saathi. "Most are extremely vulnerable as they lack protection and are very poor and have to survive on the sympathy of the clients, who are ruthless and dangerous," Rana explained.

**"We're not whores": Cabin restaurant waitresses are determined to work with dignity**

FROM ISSUE #218 (15 OCT 2004 - 21 OCT 2004)

**NARESH NEWAR**

Sharmila Chhetri was forced to choose between survival and self-esteem. After the Maoists killed her husband two years ago, Sharmila fled from Dhading with her son and her meager savings to Kathmandu, where she had no friends or relatives. The only way to survive was to find work in a place that did not ask for any documents or identification. She has supported herself and her son, now aged five, by working as a waitress in a cabin restaurant in Gaushala, but she has to endure constant harassment.

"The saddest part is when my son sees the clients grabbing me. He always asks what they are doing," says Sharmila, who is desperate to find another job but knows it will be impossible to quit now. "I am used to the harassment. They treat us like whores, but how can you change them?"

Cabin restaurants have a reputation for being prostitution fronts, and some women's rights groups have begun campaigning against the harassment and exploitation of women. Save the Children (UK) and Saathi, a women's rights group, conducted the first-ever investigation inside cabin restaurants four years ago, which revealed that female migrants from nearby districts as young as 14 had to serve the clients as 'pleasure waitresses'. They had to sit with the clients in the dingy partitioned rooms of the restaurants and do "almost everything" to make the clients pay huge bills. If they failed to do so, they faced the wrath of their employers.

Following the investigation, Saathi and Save the Children began efforts to create a safe working environment inside restaurants. With help of Uma Limbu, a women's rights activist, they invited waitresses for a meeting. The girls were skeptical at first, concerned that the activists were just using them. But when the girls met and shared their stories, they decided to form their own group to address the rights of the rest of the waitresses.

Most girls have been in police custody many times, arrested for sex work although they claim to have only been sitting close to clients. "There is no sex work inside the restaurants. There is no proof of our wrongdoing," explains Rita Subba, who works in a cabin restaurant in Baneswor. While the raids have been a nuisance, the police have helped to some extent by ordering owners to remove curtains and reduce the height of the partition walls inside the restaurants, making cabins less private.

"But the clients don't care. Only the worst sorts of men come here," says Gita Thapa in Naya Baneswor. A group of young men beat her severely when she refused to let them touch her. Her employer just watched as they slapped and punched her, then broke some beer bottles and left without paying. "Employers try to protect the girls, but we can't fight the clients," says restaurant owner Ramesh Giri.

"My employer is nice and the clients treat me well. I think it is all up to employer," says Sarita Thapa, who comes from a middle class family in Narayanghat. She left home after finishing school, and has been working for a year at a cabin restaurant in Maitighar.

Saathi's Pramada Shah says there is false notion that all waitresses are sex workers, which is why the clients go to the cabin restaurants. "We have to change such social perception," she told us. "The solution is not to raid restaurants or intimidate the owners, but to seek their cooperation. Closing down

the restaurants only puts the girls into difficulty. The waitresses still need their jobs," explains Shah. The group's chairperson, who calls herself Sobha Lama to protect herself from stigma and harassment from neighbours and relatives, says: "We are not ashamed of our work. We work hard to make a living just as any other respectable Nepali citizen."

Uma Limbu says: "It was a big challenge to win the girls' trust. I really appreciate their patience. They understand that things won't change overnight, but constantly hope for the best."

**NEPAL: Cabin Restaurants Promote Sexual Exploitation**

IRIN News

<http://www.irinnews.org/report.aspx?reportid=28052>

Kathmandu, 1 February 2005 (IRIN) - Radha fled from her village in Rautahat, 200 km south of Kathmandu, to escape forced military recruitment by Maoist rebels. Carrying her small suitcase and less than US \$20, she arrived in the capital, Kathmandu, hoping for security and even perhaps a decent job.

After a desperate hunt for work, she found a job at a 'cabin' restaurant. Little did she know that when she was offered the job as a waitress, her work would consist of entertaining male clients in semi-private wooden cubicles.

As she had already received an advance on her salary, Radha had no choice but to follow her manager's directives to please her customers and make them order as much food and drink as possible by keeping them content.

"I was trapped. I had to endure everything and slowly I got used to the sexual abuse," said 17-year old Radha, who is just one of thousands of Nepali girls who have migrated to the cities. They are fleeing from villages caught up in the nine year conflict between Maoist insurgents fighting for a communist state and government security forces.

But the capital has little to offer illiterate girls and women like Radha. Most of them end up working as cheap labourers in carpet factories, brick kilns, stone quarries and small motels, where they are paid a pittance and often work under extremely exploitative conditions. According to International Labor Organization (ILO), many of them also suffer sexual abuse while at work.

Such abuse is effectively institutionalized in cabin restaurants. An investigation conducted by Saathi, a local NGO working to reduce violence against women, revealed that girls ranging between 14 and 18 years old are particularly at risk. "They endure sexual abuse at the hands of the clients. They don't have anywhere else to go and cannot report abuse to the police as they are already viewed as sex workers by society," explained Pramada Shah, president of Saathi.

Today there are more than 100 cabin restaurants around the city where more than 50,000 women are estimated to be working as waitresses. A large number of girls and women are classed as Internally Displaced Persons (IDPs) because of the conflict with the Maoists.

The fighting has shattered Nepal's fragile economy, forcing millions of men to seek work in neighbouring India. "With so many men migrating to India for survival, the female members are often pushed into dangerous situations, even to the extent of getting sexually abused, to earn for their families," explained Biswo Khadka from Maiti Nepal, a local NGO working to end human trafficking and sexual exploitation.

He says the answer to the problem may not be as simple as just closing down the restaurants. "This will only lead to a humanitarian crisis for the girls as they will end up in the street after they are unable

to pay the rent and buy food. Most of them have young children to feed,” explained Sita Ghimire, a local staff member of Save the Children (Norway).

The issue of the exploitation of waitresses who from poor families living in poverty-stricken villages has been investigated by the National Human Rights Commission (NHRC) which conducted a study on the issue with financial aid from ILO.

The NHRC has already taken the problem up with law enforcement authorities. Although the police have taken action by raiding some cabin restaurants this has only resulted in further victimization of the waitresses, say activists.

“We are the ones who get arrested and have to bear the verbal abuse of the police. They detain us and we have to pay a fine for our release,” Reema Thapa, a 20-year-old waitress told IRIN. She has already been arrested twice for just sitting with a client in the cubicle of such a restaurant.

Reema fled from her village in Ramechhap, 150 km east of Kathmandu, after her husband was killed by the rebels. With no relatives or friends in the capital, she was forced to work in a cabin restaurant to support her five-year-old son and herself. “The worst part is when my son sees the clients grabbing me. He always asks me why they are doing that?” explained Reema, with tears streaming down her face.

Reema has been desperately looking for another job, but since she is not educated, all she can find is work at a carpet factory where the employment is equally exploitative. “Now I am quite used to the harassment, but how can you convince these clients that we are not whores?”

“The situation for the waitresses in the cabin restaurants is highly vulnerable. The employers who promote such sexual exploitation at the hands of the clients never get arrested,” said Uma Limbu, a social worker trying to educate the waitresses about the very real risk of contracting HIV/AIDS.

But the girls and women forced to work in the clubs have now got together to form a self-help group. With funding support from Save the Children (Norway), the organization has already formed a network of more than 50 waitresses in Kathmandu.

“We are preparing ourselves to confront our employers so that they will not exploit us anymore,” said Babita Gurung, a group member. The network regularly invites lawyers, police officers, gender activists and social workers to give them information about the constitution and existing laws and how to take legal action against offenders.

“Only the worst sorts of people come to such restaurants,” said Rita Lama, a waitress who got severely beaten up in January when she refused to let a client touch her. Her employer just watched quietly as the enraged man she was with, punched her in the face and broke beer glasses.

### **Nepal’s ‘Cabin Restaurants’\***

Trafficking and sexploitation at the roof of the world

\*The article was published in Ms. Magazine Fall 2010

<http://www.msmagazine.com>

**CHELSEA JONES**

At 25, Bhawana Rai Worked in one of Nepal’s notorious cabin restaurants male hubs for food and sex ushering men through a maze of enclosed booths. Her job: to queue into the one-person booth, serve food and earn tips through extra favors. She says she considered herself a “rude waitress” because she slapped customers who grabbed her.

“There are no rights for [me], only duty,” she shrugs, sitting in a circle of women at Saathi, a drop-in center offering counseling and HIV information to women working in Nepal’s sex industry.

Kathmandu, the country's capital, is home to roughly 450 registered cabin restaurants, with several hundred more underground. As with dance bars (strip clubs), these exploitative taverns employ women as waitresses. Since the new chief of police, Ramesh Kharel, was appointed in April, the restaurants and dance bars have been raided frequently. Kharel is also threatening to impose a midnight curfew for the bars.

"These plans never materialize, and thank God," says Sulakshana Rana, program coordinator at Saathi, explaining that for the more than 60,000 women thus employed, fewer hours means less money.

Rana knows that the government does not have backup plans of employment for these women, that even a temporary curfew may prompt owners to lower women's salaries, and they'll be more vulnerable to raids. Prostitution is illegal in Nepal, and although waitresses like Rai are not prostitutes, they are assumed to be so and are arrested during raids.

Rai, who left her family's farm for Kathmandu seven years ago, has found a way out of the cabin restaurants. She took Non-Formal Education (NFE) classes to learn such skills as writing her name, and secured a job as a sales clerk. But most underage, illiterate, rural transplants have few options, and women in dance bars and cabin restaurants are easy trafficking targets. Rana knows some women resigned to following traffickers across the border, and at least one who found money acting in smut videos.

Compared to Rai, 23-year-old Pinky Lama is somber and patient, belying her perky, heavily made-up image as a dance-bar waitress. Some dance bars have "shower dances" in which women strip to their underwear under artificial rain. Lama doesn't have to strip; she, too, is not a prostitute. Rather, she fits a familiar waitress profile girls with hungry families who come to Kathmandu for a better life. She's also afraid of being arrested.

"Police arrest and beat us," she says. She has seen intoxicated dancers hauled away to sit on policemen's laps after raids; they aren't allowed to dress before they're arrested. Then they sleep naked in bug-infested, jaillike rooms until the bar owner pays 2,000 rupees (approximately \$27) bail.

The owners still make a profit from 1,000 to as much as 30,000 rupees each day more than Lama earns in a month, including tips. Some owners do not pay any salary, nor do they let their workers quit, which women's rights activists compare to slavery.

Still, Rana insists that these women can leave the industry with proper training. They need skills and empowerment, rather than being treated as criminals, in order to combat an industry as old as the ancient ruins of Kathmandu.

Annex V:

The Legal Status of Prostitution by Country

Prostitution is engaging in sexual activity with another person in exchange for compensation, such as money or other valuable goods.

- Number of countries prostitution is **Illegal**: 109
- Number of countries prostitution is **restricted**: 11
- Number of countries prostitution is **Legal**: 77
- Number of countries with **No laws** for prostitution: 5

The legal status of prostitution varies from country to country, from being legal and considered a profession to being punishable by death. In some jurisdictions prostitution is illegal. In other places prostitution itself (exchanging sex for money) is legal, but most surrounding activities such as soliciting in a public place, operating a brothel and other forms of pimping are illegal, often making it very difficult to engage in prostitution without breaking any law. In a few jurisdictions prostitution is legal and regulated.

For more information, please follow the dataset table below.

Country name	Prostitution	Note
Afghanistan	Illegal	Married women who had sex outside marriage were stoned to death. Although prostitution is illegal in Afghanistan. Many considered 'temporary marriages' a form of prostitution. Temporary marriages lasted from one day to a few months, in exchange for a dowry.
Albania	Illegal	The law prohibits prostitution; however, it remained a problem
Algeria	Illegal	
Andorra	Illegal	
Angola	Illegal	Prostitution is illegal, but the prohibition was not consistently enforced. Many women engaged in prostitution due to poverty
Antigua & Barbuda	Illegal	There were a number of brothels that catered primarily to the local population
Argentina	Legal	Prostitution by individuals over the age of 18 is legal, but the promotion, facilitation, or exploitation of persons into prostitution is illegal.
Armenia	Legal	Prostitution and sex tourism are legal, but operating a brothel is prohibited and engaging in other forms of pimping are punishable by one to 10 years imprisonment
Australia		
Australian Capital Territory	Legal	However, soliciting or loitering in a public place for the purpose of prostitution remains an offence.



Northern Territory	Legal	
New South Wales	Decriminalised	In 1988 changes were made to laws in New South Wales which prohibit street prostitution in residential zones, but allow it on commercial streets.
Queensland	Legal	
South Australia	restricted	Prostitution is not illegal, but the soliciting, procuring, keeping a brothel, receiving money paid in a brothel in respect of prostitution or living on the earnings of prostitution are illegal, which makes it illegal in effect. The definition of a brothel is wide enough to include women working who work alone.
Tasmania	Legal	
Victoria	Legal	Brothels are permitted in the central area of the City of Melbourne. In all other areas, a brothel must not be within 100 metres of a dwelling or 200 metres of a church, hospital, school, kindergarten, children's services centre or any other facility frequented by children.
Western Australia	Legal	
Austria	Legal	Laws regulating prostitution require prostitutes to register, undergo periodic health examinations, and pay taxes
Azerbaijan	Illegal	
Bahamas, The	Illegal	
Bahrain	Illegal	
Bangladesh	restricted	Female prostitution was legal. Male prostitution was illegal
Barbados	Illegal	but it remained a problem, fueled by poverty and tourism
Belarus	Illegal	it is an administrative—rather than a criminal—offense
Belgium	Legal	
Belize	Legal	The law does not explicitly address adult prostitution, and the government did not use law enforcement resources to combat prostitution
Benin	Legal	those who facilitate prostitution and individuals who profit financially from prostitution, including traffickers and brothel owners, face penalties including imprisonment
Bhutan	Illegal	Prostitution took place on a limited scale and mostly in border regions
Bolivia	Legal	legal for individuals age 18 and older
Bosnia & Herzegovina	Illegal	prostitution and solicitation are misdemeanors punishable by a fine only
Botswana	Illegal	but was widespread. Enforcement was sporadic and complicated by vague laws that made it easier to charge violators with offenses such as unruly conduct or loitering than for prostitution
Brazil	Legal	There are no regulations for adult prostitution, but exploiting it through associated activities, such as operating

			a brothel, is illegal
Brunei	Illegal		
Bulgaria	No laws		is not specifically addressed in the law
Burkina Faso	Legal		
Burundi	Illegal		There were private brothels in urban areas, and women engaged in prostitution independently in high-traffic and tourist areas around Lake Tanganyika. While police did not aggressively attempt to curb prostitution, there was no reliable evidence that they participated in or profited from the sex trade
Cambodia	Illegal		The constitution prohibits prostitution; however, there is no specific legislation against working in prostitution
Cameroon	Illegal		it was tolerated and practiced predominantly in urban areas and places frequented by tourists
Canada	Legal		But the law prohibits pimping; operating, being found in, or working in a brothel; and communicating in a public place for the purpose of engaging in prostitution. Prostitution exists throughout the country, particularly in major urban centers.
Cape Verde	Legal		
Central African Republic	Legal		The new penal code does not specifically prohibit prostitution, but it does criminalize procuring. Procurers can receive prison sentences
Chad	Illegal		it was prevalent in larger urban areas and in the south
Chile	Legal		
China	Illegal		
Colombia	Legal		The law prohibits organizing or facilitating sexual tourism and provides penalties of three to eight years' imprisonment
Comoros	Illegal		Was not openly practiced except at a few hotels frequented by foreigners. Arrests for prostitution were rare
Congo, Republic of the	Illegal		but was common, and the government did not effectively enforce this prohibition
Congo, Democratic Republic of the	restricted		The constitution prohibits forced prostitution and bans prostitution of children under age 18
Costa Rica	Legal		The penal code prohibits individuals from promoting or facilitating the prostitution of persons of either sex, regardless of the persons age
Côte d'Ivoire	Legal		but associated activities such as soliciting, pandering or running brothels are illegal
Croatia	Illegal		widespread and generally punishable by fines
Cuba	Legal		legal for persons over age 17
Cyprus	Legal		It is illegal to live off the profits of prostitution, however, and police routinely arrested pimps under this section of the law

Czech Republic	Legal	
Denmark	Legal	procuring, coercion into prostitution, solicitation of prostitution from a minor, and trafficking are illegal
Djibouti	Illegal	
Dominica	Illegal	but authorities rarely enforced laws against it
Dominican Republic	Legal	There are some prohibitions against sex with minors, and it is illegal for a third party to derive financial gain from prostitution. However, the government usually did not enforce prostitution laws. Sex tourism existed throughout the country
Ecuador	Legal	legal for persons over the age of 18 as long as the prostitution businesses are registered with the government and follow health regulations
Egypt	Illegal	
El Salvador	Legal	the law prohibits inducing, facilitating, promoting, giving incentives to a person to work as a prostitute, or paying anyone under the age of 18 for sexual services
Equatorial Guinea	Illegal	
Eritrea	Illegal	
Estonia	Legal	
Ethiopia	Legal	legal for persons over age 18 and was commonly practiced around the country; however, the law prohibits pimping and benefiting from the prostitution of others
Fiji	Illegal	but it occurred, particularly in cities
Finland	Legal	but pimping, pandering, selling, and purchasing sexual services in public is illegal. Prostitution was generally limited to private apartments and nightclubs in larger cities
France	Legal	the law prohibits procuring, aiding, assisting, maintaining, publicly soliciting, or profiting from the prostitution of another
French Guiana	Illegal	
Gabon	Illegal	it was not a widespread problem
Gambia, The	Illegal	however, it was a major problem, particularly in tourist areas
Georgia	Illegal	
Germany	Legal	although communities have the authority to exclude it from specified areas, such as residential neighborhoods
Ghana	Illegal	
Greece	Legal	legal at the age of 18. Persons engaged in prostitution must register at the local prefecture and carry a medical card that is updated every two weeks
Grenada	Illegal	

Guatemala	Legal	procuring and inducing a person into prostitution are crimes that can result in fines or imprisonment, with heavier penalties if minors are involved
Guinea	Illegal	
Guinea-Bissau	No laws	
Guyana	Illegal	
Haiti	Illegal	but it remained a widespread practice, particularly among women and girls. Police generally ignored prostitution
Honduras	Legal	legal for adults over the age of 18 and relatively widespread, the law prohibits promoting or facilitating prostitution
Hong Kong	Legal	but there are laws against activities such as public solicitation, causing or procuring another to be a prostitute, living on the prostitution of others, or keeping a vice establishment
Hungary	Legal	but persons engaged in prostitution could only work legally in certain locations away from schools and churches
Iceland	restricted	however, in April the parliament passed legislation criminalizing the buying of sexual services. The law also prohibits advertising for prostitution and prohibits a third party, or pimp, from profiting from prostitution or procurement of sexual services. It is also illegal for a person to rent facilities for prostitution
India	restricted	most activities, such as selling, procuring, and exploiting any person for commercial sex or profiting from the prostitution of another individual, are illegal
Indonesia	No laws	Prostitution is not specifically addressed in the law. However, many officials interpreted "crimes against decency/morality" to apply to prostitution. Prostitution was widespread and largely tolerated, despite its contradiction with popular societal and religious norms.
Iran	Illegal	but it took place under the legal cover of <i>sigheh</i> (temporary marriage)
Iraq	Illegal	
Ireland	Legal	It was also illegal to keep or to manage a brothel. Reports of, and arrests for, these crimes were rare
Israel	Legal	widespread but not highly visible
Italy	Legal	
Jamaica	Illegal	it was widespread, particularly in tourist areas
Japan	restricted	Prostitution is illegal(only coitus act) but narrowly defined. Many sexual acts(non-coitus act) for pay that would be considered prostitution in other countries are legal.
Jordan	Illegal	but police and citizens reported its occurrence in certain restaurants and nightclubs throughout the country
Kazakhstan	Legal	although forced prostitution, prostitution connected to organized crime
Kenya	Illegal	but was widespread. While operating a brothel is illegal, soliciting prostitution is not a crime. Police arrested women engaged in prostitution. High rates of prostitution existed in tourist areas such as Nairobi and coastal tourist areas

Kiribati	Legal	However, procuring sex and managing brothels are illegal. The lack of a law against prostitution hindered the ability of the police to restrict these activities
Korea, North	Illegal	
Korea, South	Illegal	
Kuwait	Illegal	
Kyrgyzstan	Legal	although the operation of brothels, pimping, and recruiting persons into prostitution are illegal, with penalties of up to five years imprisonment
Laos	Illegal	However, in practice anti prostitution laws generally were not enforced, and in some cases officials reportedly were involved in the trade
Latvia	Legal	Requires monthly health check.
Lebanon	Legal	requires brothels be licensed, including regular testing for disease
Lesotho	No laws	It was known to occur in urban areas, but its pervasiveness was unclear.
Liberia	Illegal	it was widespread
Libya	Illegal	but there were reports that it existed in major cities
Liechtenstein	Illegal	however, police tolerated it in the country's few nightclubs as long as it did not cause public offense
Lithuania	Illegal	but remained a problem.
Luxembourg	Legal	
Macao	Legal	Nevertheless, the SAR had a large sex trade, including brothels, most of which were believed to be controlled by Chinese organized crime groups, and many of those exploited by the trade were women
Macedonia [FYROM]	Illegal	However, authorities did not always enforce the law.
Madagascar	Legal	Prostitution was pervasive and particularly visible in areas frequented by tourists
Malawi	Legal	prevalent around hotels and bars in urban and tourist areas
Malaysia	restricted	public solicitation for prostitution is illegal
Maldives	Illegal	but occurred on a small scale
Mali	Legal	Was common in cities.
Malta	Illegal	
Marshall Islands	Illegal	but reportedly occurred at low levels on the Majuro and Kwajalein atolls
Mauritania	Illegal	
Mauritius	Illegal	however, it was prevalent.
Mexico	Legal	While pimping and prostitution of minors under age 18 are illegal



Micronesia, Federated States of	Illegal	illegal and was uncommon, although the police alleged that a small number of prostitutes were available to fishermen temporarily docked in Pohnpei
Moldova	Illegal	Prostitution is punishable by a fine or administrative arrest. Pimping is a crime with penalties ranging from two to seven years in prison. Advertising prostitution in the media is punished with a fine.
Monaco	Illegal	overt prostitution is uncommon, although it exists in a well-hidden form
Mongolia	Illegal	Women's activists claimed that in Ulaanbaatar there were hundreds of brothels posing as saunas, massage parlors, and hotels. Some were occasionally raided by police. Nevertheless, the overall infrequency of raids allowed brothels to operate de facto
Montenegro	Illegal	Prostitution and offering sexual services are crimes, but using the services of a prostituted person is not a criminal offense. Prostitution existed but was not widespread
Morocco	Illegal	Closely linked to tourism and urban migration, it was a growing but not yet pervasive problem. Authorities did not effectively enforce the law
Mozambique	No laws	although it is governed by several laws against indecency and immoral behavior and restricted to certain areas
Burma	Illegal	punishable by up to five years in prison.
Namibia	Legal	There were continued reports that police officers threatened to arrest prostitutes who did not agree to give them free sex.
Nauru	Illegal	
Nepal	restricted	Forced prostitution is illegal, but there are no laws banning prostitution by choice
Netherlands	Legal	legal for persons age 18 or older who engage in the practice voluntarily. In Aruba prostitution was not a criminal offense but soliciting in public places was prohibited.
Netherlands Antilles	Legal	legal for persons age 18 or older who engage in the practice voluntarily.
New Zealand	Decriminalised	According to Prostitution Reform Act 2003 No 28, Public Act, prostitution has been decriminalized. The purpose of this Act is to decriminalise prostitution (while not endorsing or morally sanctioning prostitution or its use) and to create a framework. It is legal for citizens over 18 years old.
Nicaragua	Legal	which is legal for persons 14 years of age and older, was common, although the law prohibits its promotion
Niger	Illegal	Prostitution is illegal but remained prevalent in big cities and near major mining and military sites.
Nigeria	Illegal	Prostitution remained pervasive, particularly in urban areas. Statutes at both the federal and state levels criminalize prostitution. All states that adopted Sharia had criminalized prostitution but enforced such prohibitions with varying success. The police frequently used the anti prostitution statutes as tools for harassment, arresting prostitutes and holding them until they paid bribes but rarely prosecuting the cases in court.

Norway	restricted	It is illegal for citizens to purchase, but not to sell, sexual services. The prohibition applies to citizens regardless of where in the world the purchase takes place.
Oman	Illegal	Observers reported, however, despite strict cultural norms and immigration controls, women from Eastern Europe, South Asia, North Africa, and China engaged in prostitution.
Pakistan	Illegal	Police generally ignored the activity if they received bribes. Police raided brothels during the year but many continued to operate underground, particularly in larger cities.
Palau	Illegal	
Panama	Legal	prostitutes required to register and carry identification cards; however, the majority of prostitutes were not registered.
Papua New Guinea	Illegal	however, the laws were not enforced, and the practice was widespread.
Paraguay	Legal	Prostitution is legal for persons over the age of 18, but exploitation and trafficking of women, particularly underage prostitutes, remained serious problems.
Peru	Legal	legal for women over 18 years of age if they register with municipal authorities and carry a health certificate.
Philippines	Illegal	Prostitution is illegal but was a widespread problem.
Poland	Legal	but pimping, forced prostitution, and prostitution of minors are prohibited.
Portugal	Legal	
Qatar	Illegal	
Romania	Illegal	The law does not provide punishment for clients of prostitutes unless the prostitute was a minor and the client admitted knowing that fact before the act.
Russia	Illegal	The organization and operation of a prostitution business is a crime, while selling sexual services is a lesser administrative offense.
Rwanda	Illegal	
Saint Lucia	Illegal	but laws against it were rarely enforced. Some underground strip clubs were fronts for prostitution and reportedly were owned and/or protected by corrupt police officers.
Saint Vincent and the Grenadines	Illegal	
Samoa	Illegal	it existed but was not widespread.
San Marino	Illegal	
Sao Tome & Principe	Illegal	
Saudi Arabia	Illegal	

Senegal	Legal	Although soliciting customers is illegal, prostitution is legal if individuals are at least 21 years of age, register with the police, carry a valid sanitary card, and test negative for sexually transmitted infections.
Serbia	Illegal	although being a client of a prostitute is not a criminal offense.
Seychelles	Illegal	
Sierra Leone	Legal	However, prostitutes occasionally were arrested and charged with loitering or vagrancy.
Singapore	Legal	Legal red-light districts, mandatory health checks, and must be 18 years or older.
Slovakia	Legal	Prostitution is legal, but related activities, such as operating brothels, knowingly spreading sexually transmitted diseases, or trafficking in women for the purpose of sexual exploitation, are prohibited. There were no reliable data on the extent of prostitution.
Slovenia	Illegal	Prostitution is decriminalized but can be considered as a misdemeanor if its performance violates the Regulation on Public Order.
Solomon Islands	Illegal	but the statutes were not enforced.
Somalia	Illegal	
South Africa	Illegal	Prostitution is illegal but was widespread and practiced openly.
Spain	Legal	but forcing others into prostitution and organizing prostitution rings are crimes; it is illegal to profit from the prostitution of another person
Sri Lanka	Illegal	
Sudan	Illegal	Prostitution is illegal but widespread throughout the country.
Suriname	Illegal	
Swaziland	Illegal	Enforcement of laws against prostitution was inconsistent, particularly near industrial sites and military bases.
Sweden	restricted	Selling sexual services is legal, but the purchase of sexual services and procurement are illegal. In recent years, the government has sought to curb prostitution by focusing on the demand rather than the supply and by arresting clients rather than prostitutes.
Switzerland	Legal	however, street prostitution is illegal except in specially designated areas in the major cities.
Syria	Illegal	but it was not strictly enforced
Tajikistan	Illegal	although in practice prostitutes who were arrested were assessed a nominal fine and released
Tanzania	Illegal	however, prostitution remained common. Prostituted women were occasionally arrested
Thailand	Illegal	although it was practiced openly throughout the country. Local officials with commercial interests in prostitution often protected the practice.
Timor-Leste	Legal	
Tonga	Legal	but activities such as soliciting in a public place, procuring, operating a brothel, and trading in women are criminal offenses.
Trinidad and Tobago	Illegal	

Tunisia	Illegal	However, there were government-sanctioned brothels in which the workers reportedly had regular medical exams. There were no penalties for visiting these brothels.
Turkey	Legal	Women need to be registered and acquire an ID card stating the dates of their health checks. It is mandatory for registered prostitutes to undergo regular health checks for sexually transmitted diseases.
Turkmenistan	Illegal	but remained a problem throughout the country. Authorities actively monitored prostitution and attempted to counter it.
Tuvalu	Illegal	
Uganda	Illegal	Prostitution is illegal but common.
Ukraine	Illegal	Prostitution is not a criminal offense, although it can be punished as an administrative offense with a fine up to 255 hryvnia (approximately \$32). However, pimping and the organization and operation of a prostitution business is a crime that carries a term of three to 15 years imprisonment.
United Arab Emirates	Illegal	however, it has become an increasing problem in recent years, particularly in Dubai. Although prostitution was widely acknowledged to exist, the government did not publicly address the issue. During the year the media reported several arrests for prostitution, trafficking, and operating a brothel.
United Kingdom	Legal	Prostitution is technically legal in the United Kingdom, but several associated activities are outlawed that make it difficult to work legally. It is illegal to solicit or advertise or own a brothel. It is also illegal for prospective clients to 'kerb-crawl'.
United States	Illegal	except for 11 rural counties in Nevada, where registration and health checks are required
Uruguay	Legal	legal for persons over the age of 18 and was practiced openly in major cities and tourist resorts. Prostitutes would be obligated to obtain an identification card from a registry which would be established within the National Police. They would also be required to submit to periodic medical examinations and to work only within designated commercial establishments and zones
Uzbekistan	Illegal	however, it remained a problem. Police enforced the laws against prostitution unevenly; some police officers harassed and threatened prostitutes with prosecution to extort money.
Vanuatu	Illegal	
Venezuela	Legal	
Vietnam	Illegal	
Yemen	Illegal	but it was a problem, particularly in Aden and Sana'a. Many prostitutes were third-country nationals who had traveled to the country looking for employment as domestic workers. There were reports that underage citizen girls worked as prostitutes in major cities.
Zambia	Legal	Although prostitution is not illegal, the penal code criminalizes certain conduct associated with prostitution.
Zimbabwe	Illegal	Police often tolerated prostitution at nightclubs, truck stops, and bars in urban areas. Clients were rarely arrested.









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