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SEX WORK LAWS AND HUMAN RIGHTS: A COMPARATIVE ANALYSIS OF DECRIMINALIZATION, REGULATION, AND THE RIGHT TO DIGNITY AND INCLUSION

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Abstract

Sex work remains one of the most debated and misunderstood areas of law and human rights. Despite being a source of livelihood for many individuals, sex work continues to face social stigma, legal restrictions, and policy confusion. Around the world, countries follow different legal approaches some criminalize sex work entirely, while others either regulate or decriminalize it. Each model has a direct impact on the safety, health, and dignity of sex workers. This research paper aims to study how these legal frameworks affect the human rights and social inclusion of sex workers, particularly focusing on the Indian context. The study adopts a doctrinal and comparative approach, analysing the Indian legal position under the Immoral Traffic (Prevention) Act, 1956, along with international practices in the Netherlands and New Zealand. It further considers recent judicial developments in India that recognise sex work as a form of livelihood. The paper concludes that decriminalization supported by strong legal and social safeguards can help ensure equality, dignity, and protection for sex workers within a human rights framework.

Keywords: Sex Work, Human Rights, Decriminalization, Legalization, Public Health, Gender Justice, Social Inclusion.

1. Introduction

Sex work, which involves providing sexual services in exchange for money or other benefits, has existed in human societies for centuries. Despite its long history, sex work continues to be socially stigmatized and legally restricted in many parts of the world. In India, the legal framework surrounding sex work is particularly complex. While engaging in sex work itself is not directly illegal, several associated activities such as running a brothel, soliciting in public spaces, or exploiting trafficked persons are prohibited under the Immoral Traffic (Prevention)

Act, 1956 (ITPA) and relevant sections of the Indian Penal Code (IPC). This partial criminalization often leaves sex workers vulnerable to harassment, exploitation, and marginalization, rather than providing them with protection or legal recognition.

Globally, approaches to sex work vary widely. Some countries, such as the Netherlands and New Zealand, have decriminalized or legalized sex work, allowing sex workers to operate under certain regulations while ensuring their safety, access to healthcare, and labour rights. Other nations, including several in Africa and Asia, continue to criminalize sex work in its entirety, citing public morality or social norms. India follows a semi-criminalized model where sex work itself is tolerated but related activities are penalized. This contradictory legal position has created confusion, leaving sex workers with limited access to justice, healthcare, and social security, while still facing social stigma and economic marginalization.

Historically, sex work in India was not always viewed negatively. Courtesans, or “tawafs,” in medieval and early modern India, played important cultural roles in music, dance, and literature, and were respected within certain social spheres. However, colonial moral standards and post-independence legislation reshaped public and legal perceptions, framing sex work primarily as immoral and criminal. These historical biases continue to influence societal attitudes, contributing to discrimination, violence, and lack of recognition of sex work as legitimate labour.

Studying sex work from a human rights perspective is crucial to shifting the discussion from morality to dignity, equality, and protection. International human rights instruments, including the Universal Declaration of Human Rights (UDHR), Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and the International Covenant on Civil and Political Rights (ICCPR), protect the rights to work, freedom from discrimination, and life with dignity. In India, the Supreme Court has increasingly recognized the importance of protecting sex workers under constitutional provisions such as Articles 14, 19(1)(g), and 21, highlighting their right to livelihood and personal dignity.

This paper seeks to answer several research questions: How do different legal approaches criminalization, regulation, and decriminalization affect the human rights, safety, and health of sex workers? What is the current status of sex work under Indian law, and how does it compare with international human rights standards? Can decriminalization provide a practical and

rights-based framework to ensure protection, social inclusion, and better working conditions for sex workers? The main objective is to analyse the existing legal system, assess its impact on sex workers' rights, and suggest reforms to create a more just and inclusive framework.

The methodology adopted in this study is doctrinal and comparative, involving the analysis of Indian statutes, constitutional provisions, judicial pronouncements, and international legal instruments. Comparative perspectives are drawn from countries like the Netherlands and New Zealand, which have implemented decriminalization or regulatory frameworks, to assess their outcomes on the rights, safety, and dignity of sex workers.

The paper is structured as follows: it begins with an overview of the global and Indian legal frameworks governing sex work, followed by a comparative discussion on decriminalization versus regulation. Subsequent sections examine issues of violence, public health, and social inclusion within a human rights framework. The paper concludes with recommendations for policy and legal reforms aimed at protecting the rights and dignity of sex workers in India.

2. Legal Framework Governing Sex Work

2.1 Global Overview

In India, the legal position of sex work is complex and often described as a semi-criminalized model. While the act of selling sexual services itself is not illegal, many activities associated with sex work are prohibited under statutory laws, creating ambiguity and vulnerability for sex workers. The primary legislation governing sex work is the Immoral Traffic (Prevention) Act, 1956 (ITPA), which was enacted to prevent trafficking, exploitation, and immoral practices related to prostitution. The ITPA criminalizes activities such as running a brothel, soliciting in public places, living off the earnings of sex work, and trafficking of persons for sexual exploitation¹.

Under the ITPA, sex workers themselves are often indirectly affected because law enforcement authorities may target them for solicitation or other perceived violations. Sections of the Indian Penal Code (IPC), such as Sections 370 (human trafficking), 372 and 373 (selling and buying of minors for prostitution), also come into play, especially when dealing with cases involving

¹ Niumai, A. (2022). Current Trends in Human Trafficking, Modus Operandi, and Law in India. In *Immoral Traffic (Prevention) Act, 1956 (ITPA)* (pp. 37–54). https://doi.org/10.1007/978-981-19-8020-6_3

exploitation or forced sex work². Although these laws aim to protect victims of trafficking, in practice, they frequently result in the harassment of voluntary adult sex workers, reinforcing social stigma rather than providing protection.

The judiciary in India has gradually acknowledged the need to protect the rights of sex workers. In the case of *Budhadev Karmaskar v. State of West Bengal* (2011 and 2022), the Supreme Court recognized that sex workers have the right to live with dignity and must be protected from exploitation and violence³. The Court emphasized that while trafficking and forced prostitution must be punished, consensual sex work should not automatically be treated as criminal or immoral. Similarly, in *Gaurav Jain v. Union of India* (1997), the Court highlighted the need for rehabilitation and social protection of women engaged in sex work, underlining that they have a right to safety, health, and livelihood⁴.

Despite these judicial directions, implementation of protective measures remains limited, and sex workers continue to face social and legal challenges. Issues such as police harassment, lack of access to healthcare, and denial of basic social services remain widespread. The absence of clear legal recognition for sex work as a form of labour prevents sex workers from exercising rights such as minimum wages, social security benefits, and formal grievance mechanisms. This situation demonstrates a disconnect between legal provisions, judicial interpretations, and the lived realities of sex workers.

In, India's approach to sex work has been critiqued from a human rights perspective. International human rights instruments, including CEDAW and the Universal Declaration of Human Rights (UDHR), affirm the rights to work, freedom from discrimination, and protection from violence. While Indian law addresses trafficking and exploitation, it does not fully align with a rights-based approach that prioritizes the dignity, safety, and autonomy of adult sex workers. Recent developments, including Supreme Court guidelines on the protection and rehabilitation of sex workers, suggest a gradual shift towards a more inclusive framework, but

² *IPC Section 370 - Trafficking of persons*. (n.d.). A Lawyers Reference. <https://www.ohchr.org/sites/default/files/documents/issues/trafficking/cfis/gender-peace-security/subm-trafficking-gender-peace-aca-kiit-school-law.pdf>

³ Bhushan, J., State of West Bengal, PLR Chambers And Co., & Corporate Law Group. (2022). Human rights jurisprudence in India. In *S U P R E M E C O U R T O F I N D I A*. <https://legaleagleweb.com/pdf/Budha.pdf>

⁴ Gomiz, G. S. (2023, January 17). *Supreme Court of India, Gaurav Jain v. Union of India and others, 9 July 1997, [1997] 8 SCC 114 - India — ACRiSL*. ACRiSL. <https://www.acrisl.org/casenotes/m2l18m8skjplk8-83mk2-k5yza-dcafy-x5ztr-bjfxk-c9y55-5ryfp-dwdgr>

significant reforms are still required to ensure social justice, public health, and human rights compliance⁵.

Overall, the Indian legal framework reflects a tension between controlling exploitation and recognizing the autonomy of sex workers. While the ITPA and IPC provide mechanisms to address trafficking and forced prostitution, the absence of legal recognition for voluntary adult sex work, combined with societal stigma, leaves sex workers vulnerable to abuse, marginalization, and denial of fundamental rights. Comparing this with global models of decriminalization and legalization highlights the urgent need for a more rights-based and health-oriented legal approach in India.

2.2 Indian Legal Context

The legal framework for sex work in India is complicated and sometimes contradictory. Selling sexual services itself is not considered a crime under Indian law, but many related activities, such as running a brothel, soliciting in public, or profiting from someone else's sex work, are illegal. The Immoral Traffic (Prevention) Act, 1956 (ITPA) is the main law governing sex work. The Act was introduced to prevent trafficking and exploitation, focusing on punishing those who organize or profit from prostitution, rather than criminalizing sex workers themselves. However, in practice, many adult sex workers face harassment and arrest under the ITPA, which shows a gap between the law's intent and its real-world effect⁶.

Certain sections of the Indian Penal Code (IPC) also apply to issues around sex work. Section 370 addresses human trafficking, penalizing anyone who recruits or transports people for exploitation, including sexual exploitation. Sections 372 and 373 make it illegal to buy or sell minors for prostitution⁷. While these provisions aim to protect vulnerable individuals, adult sex workers can sometimes be affected if authorities fail to distinguish between forced and voluntary participation in sex work.

Indian courts have increasingly recognized the need to protect the dignity and rights of sex

⁵ Gomiz, G. S. (2023, January 17). *Supreme Court of India, Gaurav Jain v. Union of India and others, 9 July 1997, [1997] 8 SCC 114 - India — ACRiSL*. ACRiSL. <https://www.acrisl.org/casenotes/m2118m8skjplk8-83mk2-k5yza-dcafy-x5ztr-bjfxk-c9y55-5ryfp-dwdgr>

⁶ The People's Archive of Rural India. (n.d.-b). *The Immoral Traffic (Prevention) Act, 1956*. People's Archive of Rural India. <https://ruralindiaonline.org/en/library/resource/the-immoral-traffic-prevention-act-1956/>

⁷ *Human trafficking*. (n.d.). Ministry of External Affairs, Government of India. <https://www.mea.gov.in/human-trafficking.htm>

workers. In *Budhadev Karmaskar v. State of West Bengal* (2011 & 2022), the Supreme Court emphasized that sex workers should be treated with dignity and protected from violence and exploitation. The Court made it clear that trafficking and coercion must be punished, but voluntary adult sex work should not be criminalized or treated as immoral⁸. Similarly, in *Gaurav Jain v. Union of India* (1997), the Court highlighted the importance of rehabilitation and social inclusion for women engaged in sex work, emphasizing their right to safety, healthcare, and livelihood.

Institutional bodies like the National Human Rights Commission (NHRC) have also worked to ensure the protection of sex workers. The NHRC has advocated for access to social welfare, healthcare, and legal protections while discouraging harassment or discrimination. In 2022, the Supreme Court issued directives recognizing sex work as a legitimate profession for consenting adults, reinforcing their right to livelihood and dignity under the Constitution.

Despite these steps, challenges remain. Many sex workers still face social stigma, limited access to health services, and harassment by law enforcement. The current legal framework, while aiming to prevent exploitation, does not fully protect voluntary sex workers or guarantee their rights⁹. Comparing India's approach with international models of decriminalization or legalization shows that a rights-based and health-focused approach is needed to ensure the safety, dignity, and inclusion of sex workers in society.

3. Decriminalization vs. Legalization vs. Regulation

3.1 Conceptual Distinctions

The debate on how sex work should be addressed by law mainly revolves around two key concepts decriminalization and legalization or regulation. Though these terms may sound similar, they have very different meanings and consequences for the lives of sex workers.

Decriminalization means removing criminal punishment for consensual sex work between adults. Under this model, sex work is treated like any other occupation. The government does not interfere unless there is exploitation, trafficking, or coercion. Sex workers are free to work

⁸ Garg, R. (2023, September 30). *Budhadev Karmaskar vs. State of West Bengal (2011)* - iPleaders. iPleaders. <https://blog.ipleaders.in/budhadev-karmaskar-vs-state-of-west-bengal-2011/>

⁹ Amalu, N. S., & Adetu, M. O. (2019). The role of the National Human Rights Commission (NHRC) in post conflict situations in Nigeria. *AFRREV IJAH an International Journal of Arts and Humanities*, 8(1), 132–142. <https://doi.org/10.4314/ijah.v8i1.12>

independently or collectively, and they can seek protection under general labour and criminal laws¹⁰. The purpose of decriminalization is to ensure safety, equality, and dignity for sex workers by recognizing their right to choose their own profession without fear of arrest or police abuse. Countries like New Zealand and New South Wales (Australia) have adopted this model, where reports show that workers experience better working conditions, improved health outcomes, and greater respect from law enforcement agencies.

In contrast, legalization or regulation allows sex work but under strict state control. The government lays down rules for who can work, where they can work, and how they must operate. For example, in the Netherlands and Germany, sex work is legal only if it is carried out in licensed brothels or under registered systems. Although this approach provides some legal protection, it often benefits only those who can meet the official requirements. Many workers, especially migrants and poor women, remain outside the legal framework and continue to face stigma, police harassment, and unsafe conditions. Thus, while legalization provides formal recognition, it still keeps sex workers under tight government supervision rather than empowering them as independent individuals.

The feminist debate around these models adds another important layer of understanding. One group of feminists supports decriminalization, seeing it as a step toward women's empowerment. They argue that women have the right to control their bodies and to choose sex work as a form of labour. Decriminalization, in their view, helps challenge social stigma and gives women economic independence and agency. On the other hand, abolitionist feminists believe that sex work is inherently exploitative and rooted in patriarchy. They argue that no woman freely chooses this profession, and therefore the focus should be on rehabilitation and ending demand. This ongoing debate between the ideas of empowerment and exploitation shows how complex the issue of sex work is it cannot be understood only through legal reforms but must also consider social realities, gender inequality, and economic vulnerability.

The distinction between decriminalization and legalization is more than just a legal difference; it reflects a broader question of how society views sex workers as independent citizens with rights or as victims in need of rescue. The feminist divide further reminds us that the law must

¹⁰ Cunningham, S., & Shah, M. (2017). Decriminalizing indoor prostitution: implications for sexual violence and public health. *The Review of Economic Studies*, 85(3), 1683–1715. <https://doi.org/10.1093/restud/rdx065>

strike a balance between protecting women's rights and preventing exploitation, while ensuring dignity and equality for all those involved in sex work.

4. Violence and Exploitation of Sex Workers

Sex workers across the world, including India, face various forms of violence and exploitation that are often ignored by society and law enforcement. Their marginalization does not only come from physical abuse but also from social attitudes, institutional neglect, and discriminatory laws. Understanding these layers of violence is important to create a more humane and rights-based approach to sex work.

Structural Violence and Stigma

Sex workers are often victims of structural violence, which means harm caused by social systems that deny them equal rights and opportunities. This includes discrimination in accessing healthcare, education, housing, and social welfare. Society continues to judge sex workers as immoral, which makes them targets of social exclusion and public shame¹¹. This stigma pushes them to work in unsafe conditions, hidden from authorities and support systems. Many sex workers cannot even disclose their profession to their families due to fear of rejection. Such deep-rooted stigma keeps them at the margins of society and increases their dependence on exploitative intermediaries like brothel owners or pimps.

Police Harassment and Lack of Justice

In India, police harassment remains one of the biggest challenges faced by sex workers. Even though sex work by consenting adults is not directly illegal, the Immoral Traffic (Prevention) Act, 1956 criminalizes several related activities, such as running a brothel or soliciting clients. This gives wide powers to the police, which are often misused. Many sex workers are subjected to raids, verbal abuse, extortion, and even physical violence by police officials. They are rarely treated as victims when crimes are committed against them¹². Because of fear of arrest or

¹¹ Godwin, J., United Nations Development Programme, United Nations Population Fund Asia Pacific Regional Office, United Nations Programme on HIV/AIDS, Asia Pacific Network of Sex Workers, Shishuder Jonno Amra and Tree Foundation, Women's Network for Unity, China Sex Worker Organization Network Forum, Survival Advocacy Network, Durbar Mahila Samanwya Committee, Indonesian Social Changes Organization, Asia-Pacific Transgender Network, Population Services International Targeted Outreach Program, Blue Diamond Society, Jagriti Mahila Maha Sangh, Friends Frangipani, Empower, & SWING. (2012). *Sex work and the law in Asia and the Pacific*. United Nations Development Programme. <http://asia-pacific.undp.org/>

¹² Nussbaum, M. (1998). "Whether from reason or prejudice": taking money for bodily services. <https://www.semanticscholar.org/paper/%E2%80%9CWhether-From-Reason-Or-Prejudice%E2%80%9D%3A-Taking-Money-Nussbaum/efebd45c9b8ada3da4d84fd002f187d06dc4e866>

humiliation, most sex workers avoid reporting crimes like assault, rape, or theft. This absence of legal protection allows abusers to continue exploiting them without consequence. Such treatment reflects not only a failure of law enforcement but also a denial of their basic human rights.

Organized Crime and Trafficking Networks

Another area of concern is the link between sex work and organized crime or trafficking. Human trafficking is a serious issue where women and children, often from poor or marginalized backgrounds, are forced or deceived into prostitution. However, it is important to distinguish between voluntary sex work and trafficking. When both are treated as the same, voluntary sex workers end up facing punishment meant for traffickers¹³. This misunderstanding allows real traffickers to hide behind weak enforcement systems. Effective anti-trafficking laws should therefore target coercion and exploitation, not adult women who choose sex work as their profession. Strengthening social welfare and economic opportunities can also help prevent trafficking without harming the rights of voluntary workers¹⁴.

Impact of Criminalization on Reporting Violence

The criminalization of sex work directly affects the ability of workers to report violence or abuse. When the law itself treats their profession as a crime, sex workers fear approaching the police or courts. Reporting an offence might expose them to arrest, social shame, or loss of livelihood. This silence creates a safe space for violent clients, exploitative brothel owners, and corrupt officials. On the other hand, in countries like New Zealand where sex work has been decriminalized, workers have reported greater safety and confidence in seeking legal help. They can now file complaints against abusive clients without fear of being punished themselves¹⁵. This shows that decriminalization not only improves safety but also strengthens the rule of law by giving all citizens equal access to justice.

International Human Rights Framework

The protection of sex workers' rights also finds support in international human rights instruments. The Universal Declaration of Human Rights (UDHR) guarantees everyone the

¹³ Manfred, N., & Giuliana, M. (2018). United Nations Committee against Torture (CAT). *Max Planck Encyclopedia of International Procedural Law*. <https://doi.org/10.1093/law-mpeipro/e1324.013.1324>

¹⁴ <https://opil.ouplaw.com/display/10.1093/law-mpeipro/e1324.013.1324/law-mpeipro-e1324?prd=MPIL>. (n.d.)

¹⁵ Dewey, S., Zheng, T., & Orchard, T. (2015). *Sex workers and criminalization in North America and China: Ethical and Legal Issues in Exclusionary Regimes*. Springer.

right to life, liberty, and security. The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) urges states to remove discrimination in all areas, including employment and access to justice. The International Covenant on Civil and Political Rights (ICCPR) protects individuals from arbitrary detention and ensures equality before the law. Similarly, the Convention Against Torture (CAT) prohibits cruel or degrading treatment by authorities. These global frameworks emphasize that sex workers, like all human beings, deserve dignity, safety, and legal protection¹⁶. Since India is a signatory to these conventions, it carries an obligation to align its domestic laws with these international principles and ensure that sex workers are not denied their fundamental rights.

5. Public Health and Right to Work

The issue of public health is deeply connected with the legal status of sex work. Criminalization not only affects the safety and dignity of sex workers but also has serious public health consequences. The fear of arrest, stigma, and discrimination often prevents sex workers from seeking medical help or reporting health issues. A human right-based approach to sex work must therefore include the right to health, safe working conditions, and equal access to healthcare services¹⁷.

Link Between Criminalization and Spread of HIV/AIDS and STIs

Research across different countries has shown that criminalization of sex work contributes to the spread of HIV/AIDS and other sexually transmitted infections (STIs). When sex work is treated as a crime, workers are pushed underground and cannot openly access health services, condoms, or counselling. In India, many sex workers avoid visiting hospitals or clinics because of the fear of police raids or judgmental treatment by medical staff. Moreover, criminal laws make it difficult for NGOs to run health outreach programs, as such efforts are often viewed with suspicion. In contrast, in countries where sex work has been decriminalized, sex workers have better access to health facilities, are more likely to use protection, and participate in awareness programs¹⁸. Decriminalization thus helps in improving both individual and public health outcomes.

¹⁶ United Nations. (n.d.). *Universal Declaration of Human Rights* / *United Nations*. <https://www.un.org/en/about-us/universal-declaration-of-human-rights>

¹⁷ *The Palgrave Encyclopedia of Sexuality Education*. (2024). Springer Nature.

¹⁸ Lyons, C. E., Schwartz, S. R., Murray, S. M., Shannon, K., Diouf, D., Mothopeng, T., Kouanda, S., Simplice, A., Kouame, A., Mnisi, Z., Tamoufe, U., Phaswana-Mafuya, N., Cham, B., Drame, F. M., Djaló, M. A., & Baral, S. (2020). The role of sex work laws and stigmas in increasing HIV risks among sex workers. *Nature Communications*, 11(1). <https://doi.org/10.1038/s41467-020-14593-6>

WHO and UNAIDS Stance on Decriminalization

Both the World Health Organization (WHO) and UNAIDS have consistently supported decriminalization of sex work as a key strategy for improving health and reducing HIV transmission. According to their reports, punitive laws against sex work discourage testing, treatment, and cooperation between health agencies and sex worker communities. The WHO emphasizes that removing criminal penalties and promoting safe working environments enable sex workers to seek medical care without fear. UNAIDS also advocates for community-based health interventions that involve sex workers in decision-making and awareness campaigns¹⁹. Their global guidance suggests that protecting the health of sex workers is not only a medical necessity but also a matter of human rights and equality.

Right to Health and Safe Working Conditions under the Indian Constitution

In India, the right to health and safe working conditions finds constitutional support under Article 21 and Article 23 of the Constitution of India. Article 21 guarantees the right to life and personal liberty, which includes living with dignity, access to healthcare, and protection from exploitation. The Supreme Court of India has interpreted Article 21 broadly to include the right to a healthy and safe environment. Similarly, Article 23 prohibits forced labour and exploitation, which can also apply to situations where sex workers are abused, coerced, or denied fair working conditions. Recognizing sex work as a form of labour, rather than as a moral issue, is consistent with these constitutional values²⁰. Decriminalization would therefore not only protect sex workers' health but also ensure their constitutional right to livelihood and safety.

Access to Healthcare and Social Welfare Schemes

Despite being part of India's informal labour sector, most sex workers remain excluded from public healthcare and welfare schemes. Social stigma and lack of legal recognition prevent them from obtaining identity documents like Aadhaar or ration cards, which are necessary for accessing government programs. This leaves many without medical insurance, housing support, or social security benefits. Some state governments and NGOs have taken positive steps, such as community health centres and awareness drives, but these efforts are still limited in reach. Ensuring full access to public health facilities requires both legal reform and

¹⁹ Why sex work should be decriminalized. (2024, February 2). *Human Rights Watch*. <https://www.hrw.org/news/2019/08/07/why-sex-work-should-be-decriminalized>

²⁰ Sehgal, D. R. (2021b, November 25). *Right to Health - A part of Article 21? - iPleaders*. iPleaders. <https://blog.ipleaders.in/right-health-part-article-21/>

sensitization of healthcare workers to treat sex workers with dignity and respect²¹. Inclusion in welfare schemes, such as Ayushman Bharat or social pension programs, can also help improve their living conditions and overall well-being.

6. Social Inclusion and Human Rights Perspective

The question of social inclusion of sex workers is closely linked with their recognition as equal citizens who deserve dignity, protection, and basic human rights. For a long time, sex workers have been viewed only through a moral or criminal lens rather than as individuals earning their livelihood. This approach has pushed them to the margins of society, where they face constant discrimination, social rejection, and lack of access to essential services. Therefore, any discussion on sex work must be based on a human rights perspective, which focuses on equality, safety, and social justice.

Recognition of Sex Work as Labour: ILO and UN Views

International bodies like the International Labour Organization (ILO) and the United Nations (UN) have gradually acknowledged that sex work, when performed by consenting adults, should be recognized as a form of labour. The ILO emphasizes that all workers, regardless of the type of work they do, should have access to safe working conditions, fair treatment, and legal protection. Similarly, the UN agencies such as UNDP, UNAIDS, and UN Women have stated that criminalizing sex work only increases vulnerability to violence and health risks. They argue that the right approach is to view sex work through the lens of labour rights rather than morality. Recognizing sex work as legitimate employment ensures that workers are protected from abuse, exploitation, and unsafe working conditions²². It also opens doors for sex workers to demand better wages, healthcare, and social benefits.

Stigma and Exclusion from Society

Despite the progressive views of international organizations, sex workers in India continue to face deep-rooted stigma and social exclusion. They are often denied housing, refused medical care, and their children face discrimination in schools. Society often sees them as immoral,

²¹ Goldenberg, S. M., Thomas, R. M., Forbes, A., & Baral, S. (2021). Overview and Evidence-Based Recommendations to address health and human rights inequities faced by sex Workers. In *Springer eBooks* (pp. 1–11). https://doi.org/10.1007/978-3-030-64171-9_1

²²<https://www.etui.org/sites/default/files/2024-11/The%20sex%20worker%20rights%20movement%20and%20trade%20unionism%20in%20Europe-2-2024.pdf>. (n.d.).

which prevents them from participating fully in community life. This stigma not only isolates them but also makes them more vulnerable to violence and exploitation because they have no social support system to fall back on. The shame associated with sex work also discourages many from seeking legal help or reporting crimes²³. To build an inclusive society, there is a need to change public attitudes through awareness programs, education, and media sensitization. Only when society stops judging and starts understanding, will sex workers be able to live with dignity.

Role of NGOs and Community-Based Organizations

In India, many non-governmental and community-based organizations (CBOs) have been working at the grassroots level to improve the lives of sex workers. For example, the Durbar Mahila Saman Waya Committee (DMSC) in Kolkata is one of the largest collectives of sex workers that works towards securing their health, safety, and legal rights. The organization has played an important role in HIV prevention and promoting self-respect among workers. Similarly, SANGRAM, an NGO based in Sangli, Maharashtra, focuses on building leadership among sex workers and raising awareness about gender equality and reproductive rights. These organizations show how collective action can lead to real change²⁴. By organizing themselves, sex workers gain the confidence to speak up for their rights and challenge unfair treatment by authorities or society. The efforts of these groups also show that social change is possible when those affected are involved directly in shaping solutions.

Need for Policy Reform and Social Welfare Inclusion

To ensure social inclusion, India needs strong and inclusive policy reforms that protect the rights and welfare of sex workers. Government schemes on health, education, housing, and pensions should explicitly include them. Legal recognition of sex work as an occupation can help workers access identity cards, bank accounts, and social welfare benefits. Policymakers should also design rehabilitation and skill development programs for those who wish to leave sex work voluntarily, without imposing moral judgment on others. There should be proper training for police officers, healthcare workers, and social service providers to ensure respectful

²³ Supreme Court of India. (2022, May 26). *Recognizing sex work as work* [Press release]. https://cpgg.gim.ac.in/wp-content/uploads/2025/04/Concept-Note_GIM-Workshop_Recog-sex-work-as-work-in-Goa.pdf

²⁴ (Development Monitoring and Evaluation Office (DMEO), NITI Aayog, Government of India & KPMG Advisory Services Pvt. Ltd., 2021)

treatment of sex workers²⁵. Education for their children and access to healthcare services are equally important steps toward full inclusion.

9. Conclusion

From the discussion in this paper, it is clear that sex workers face a combination of legal, social, and economic challenges that affect their safety, health, and dignity. Laws that criminalize sex work, directly or indirectly, increase vulnerability to violence, exploitation, and discrimination. Even regulated or legalized systems provide protection only to a limited group of workers while leaving many informal or marginalized sex workers exposed. Evidence from countries like New Zealand and parts of Australia shows that decriminalization helps sex workers report crimes, access healthcare, and work in safer conditions, reducing both stigma and exploitation.

In India, the semi-criminalized framework under the Immoral Traffic (Prevention) Act, 1956, along with societal prejudice, leaves many sex workers without legal protection or social support. Yet, constitutional provisions such as Articles 21 and 23, and international instruments like CEDAW and UDHR, clearly support the rights of every individual to dignity, equality, and safety, including those in the sex work sector.

Therefore, protecting sex workers' human rights is both a legal and moral responsibility. Decriminalization, combined with social inclusion measures such as access to healthcare, education, and welfare schemes, is essential. Only by acknowledging sex work as legitimate labour and ensuring protection against exploitation can India uphold constitutional morality, promote social justice, and guarantee equality and dignity for this marginalized community.

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