



RESEARCH FILE

AGENDA

Lack of Legal Protection and Discrimination faced by Sex Workers in India

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WHO IS A SEX WORKER?

- Sex workers are adults who receive money or goods in exchange for consensual sexual services or erotic performances, either regularly or occasionally.
- India's Supreme Court recently observed that "sex work is a profession" like any other, and sex workers should not be harassed by the police. "Sex workers are entitled to equal protection of the law.
- The court ruling is a landmark in the sense, that it upholds the dignity of sex workers. It will enable sex workers to avail themselves of the same benefits and facilities as any other citizen.
- It should be noted that sex work or prostitution is not illegal in India, however, trafficking for sexual exploitation is an offence under Indian law. Sex work as an organised trade which involves pimping, soliciting, exploitation, and renting out of a property for sex work are all punishable as per the Indian Penal Code (IPC) and the Immoral Trafficking Prevention Act (ITPA).

IS SEX WORK LEGAL IN INDIA?

The ambiguity of the legal status of sex work in India gives ultimate power to the often corrupt police officers who abuse this power to harass sex workers. While, male prostitution is unrecognised in India, the laws surrounding female prostitution too are vague.

The most relevant and main laws dealing with this is the immoral trafficking prevention act of 1986 the link for which can be found [here](#). It seeks to prevent the trafficking of persons in India but additionally, it also makes illegal public forms of sex work such as running a brothel, public solicitation, etc.

The Immoral Traffic (Prevention) Act also stated that any individual making an earning from prostitution is to be punished under section 4. Furthermore, the Act states that to lawfully participate in prostitution, sex workers have to maintain a distance of at least 200 meters from any public place. This refers to an isolated area away from the eyes of the public. This clearly stigmatizes sex work by suggesting that sex work should be done in a secluded place away from society as it does not belong in a normal society. Although this act is supposedly to protect sex workers, the enforcement of this act seems to be doing the contrary. The act goes so far as to

even allow for the eviction of sex workers from their homes in the interest of public interest. The ambiguous wording of these laws allow for the abuse of power by law enforcement officials. The term “public solicitation” especially is quite vague meaning that some police officers accuse sex workers of prostitution then proceed to demand their services for free. Voluntary sex work in India but as mentioned above numerous activities associated with it are illegal. When the law itself stigmatizes and allows for the mistreatment of sex workers, it becomes evident that achieving legal rights for sex workers is necessary.

Section 372 and 373 of the Indian penal code 1860 mentions prostitution but only prohibits child prostitution. For the most part, The IPC lacks laws related to prostitution. The laws in India are discriminatory in nature as well as they mention different punishments for males and females for the same offence under the current laws in India.

However, the courts have been important in establishing the rights of sex workers. Article 21 of the Indian Constitution states that No person shall be deprived of his life or personal liberty except according to procedure established by law and this law extends to sex workers as well and was highlighted in the case of Budhadev Karmaskar vs State of West Bengal. In this case the accused, Budhadev Karmaskar was accountable for murdering a sex worker in Kolkata in the year 1999. It is a landmark judgment which was an important milestone in securing the rights of sex workers in India. It shows how social workers are mistreated in India and brought to light to the public about their plight and how they too have the right to live with dignity.

Moreover, the Supreme court ruling in 2022 in which the court stated that that sex workers should be treated with decency and dignity, and the police should not interfere or take any criminal action when an adult engages in consensual sex work was important in preventing the mistreatment of sex workers. Limits were set on police regarding sex workers. The effects of the stigma around sex workers and its effects on their children are recognized and emphasized that they deserve basic human rights. The supreme court created a panel into this matter in 2011 to make recommendations but no law has been made thus far. Additionally, the supreme court’s directives are only valid until a law on the subject is made. It is truly a sad representation of our society that we have to reaffirm that everyone, including sex workers have basic human rights in the first place and although we have made progress, there is still a long way to go.

WHAT IS THE CURRENT STATUS IN INDIA IN TERMS OF SEX RIGHTS? (SAFETY AND SECURITY)

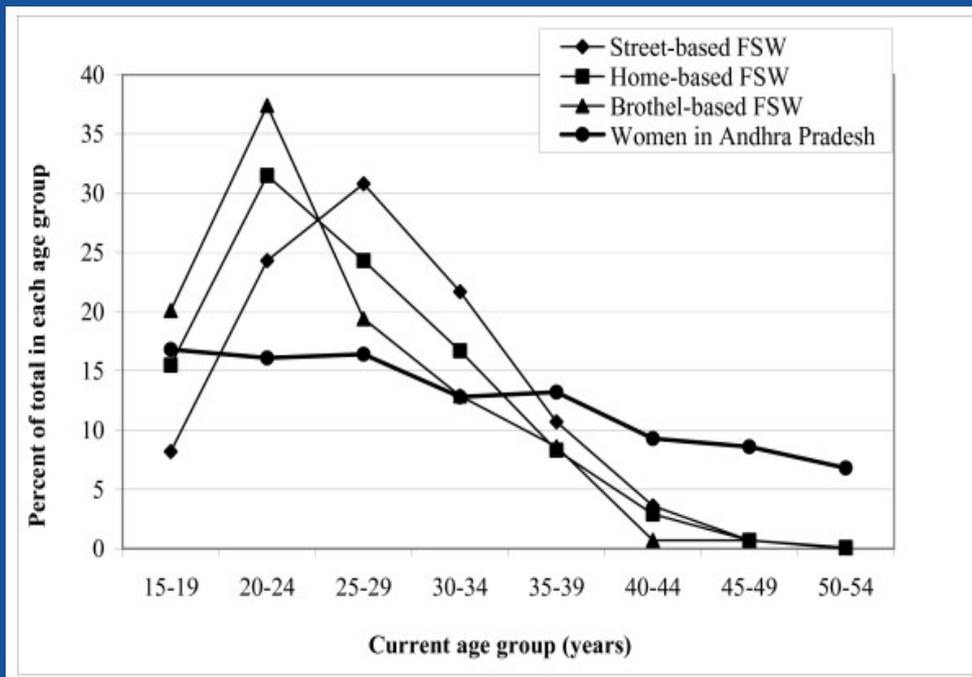
Apart from the vague and discriminatory laws surrounding sex workers, they are not safeguarded by labor laws or trade unions. Since, it is within the informal sector in India outside which means they are unprotected by labor laws and face other obstacles as well such as working in precarious conditions and do not have social security. One sex worker in an article published by the LSE on The Invisible Voices of India's Informal Sector Sex Workers states that "The government is reluctant to give us labour rights. We want Self-Regulatory Boards in order to stop the entry of minor girls into the trade. New entrants will have to be scrutinised by us before they start work."

Outside of the economic sphere, due to the stigmatisation around their profession it is especially difficult for them to seek help or access even basic human rights such as safety, education, healthcare, etc. Due to the nature of their profession they are at higher risk of violence but when the police, those who are supposed to protect the people of the country are often the perpetrators of this violence, how then can a sex worker secure her rights. In fact, to show the gravity of the situation a research study by the World Health Organization (WHO) reported that 70% of sex workers in India were beaten by the police and more than 80% were arrested without evidence. The society in India considered sex work to be morally corrupt and focus on addressing their 'deviant' behaviour and as a result, adult women who enter the field willingly are not recognised. Welfare schemes intended to treat and help sex workers, result in uprooting them from their profession because they believe that no one can go into the profession willingly. The raid and rescue missions conducted make sex workers feel as if they have been arrested and are not effective.

Even after being rescued there are reports of sex workers being subject to intrusive bodily examinations they, oftentimes without consent. They present these women as helpless victims and sex workers as victims duped by traffickers and devoid of any consent.

It is unfortunate that this discrimination extends to the children of sex workers who are fully innocent. They often report discrimination and ostracisation and the drop out rates among these children are concerningly high. The stigmatisation of this profession also means that sex workers do not have access to even proper healthcare facilities. Due to the fact that they have experienced discrimination in hospitals, they are unlikely to seek healthcare resulting in low standards of health. Sometimes they are also tested for HIV without their consent. Police, government officials, and criminals often mistreat these women and when they are at higher risk of health problems have lower accessibility of healthcare. They are labelled as carriers of HIV making it even more difficult for them to access health care when in fact they could play an essential role in preventing the spread of HIV by educating their male clients. It is clear that sex workers face discrimination in various spheres of life and it becomes essential to ensure that they are given their basic human rights like any other individual.

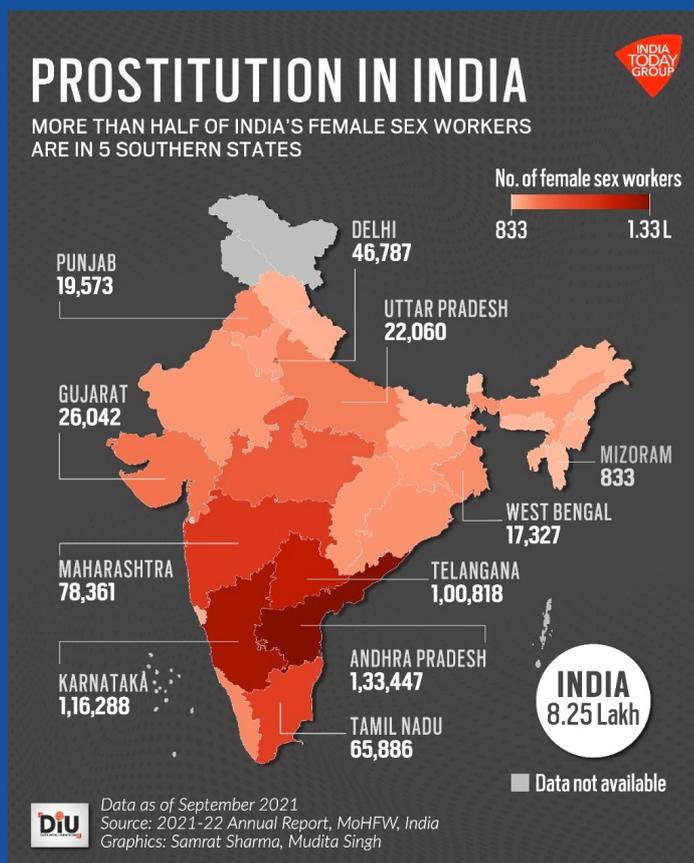
AGE PROFILE OF SEX WORKERS



This graph is taken from a study known as “Demography and sex work characteristics of females sex workers in India” conducted by BMC international health and Human rights. This graph represents the different age profiles broken down by the number of registered Sex workers. With the highest number of sex workers in brothels coming from 20-24

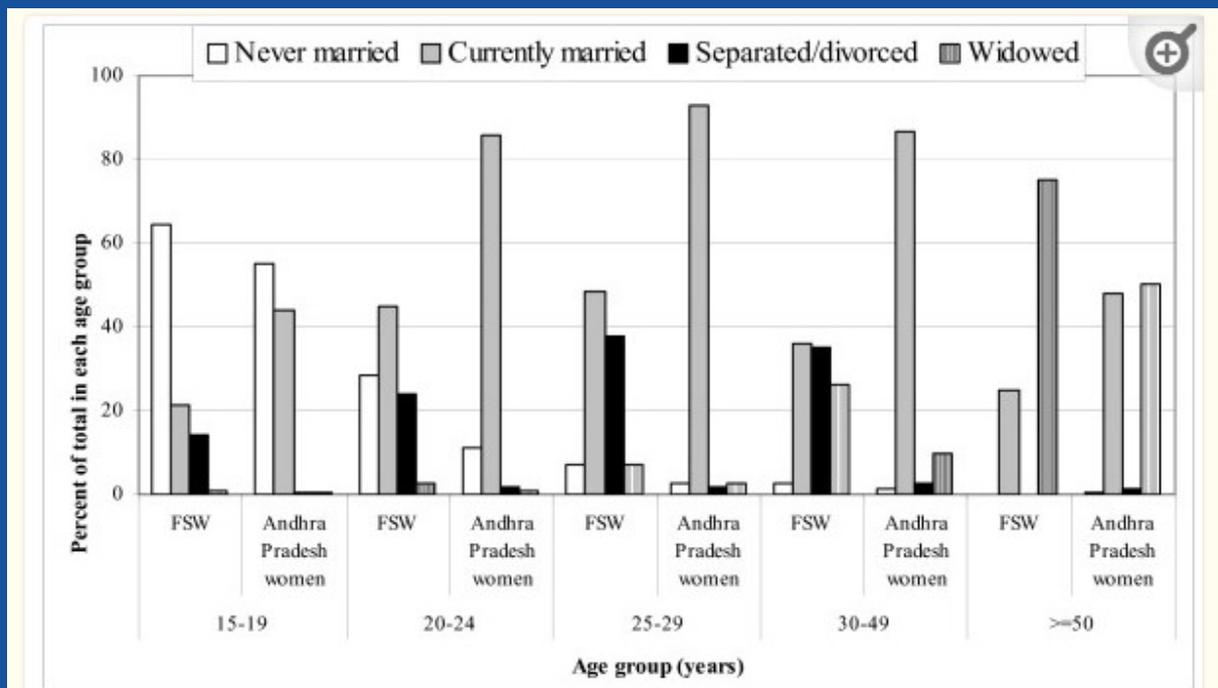
years old, and the highest street-based sex workers coming from the age group 25 - 29 years old. The highest home-based sex workers come from the age group 20-24 years old. Finally the most sex workers from Andhra Pradesh come from the age group 15-19 years old, going through a large transition at a young age.

PREVALENCE OF SEX WORKERS IN INDIA



This Diagram is taken from a study conducted by the Indian Ministry of Health and Family Welfare. States such as Jammu and Kashmir do not present any data about its prevalence of Sex workers. Nevertheless, aside from these states where data is not available there are nearly eight lakhs, and twenty-five thousand registered sex workers in India, with the majority being from the south. The state that currently has the highest in India is Andhra Pradesh with one lakh, thirty-three thousand, four hundred and forty-seven registered

SEX WORKER MARITAL STATUS IN ANDHRA PRADESH



This graph is taken from a study known as “Demography and sex work characteristics of females sex workers in India” conducted by BMC international health and Human rights. Delving deeper into Andhra Pradesh, this is a graph representing data collected from registered sex workers in the state of Andhra Pradesh. The graph measures the number of Sex workers that were never married or are currently married or separated/ divorced or even widowed. The sectors are further divided into categories by age profiles to understand situations that sex workers at different ages face with marital status while being a sex worker. Most sex work in India is clandestine due to unfavorable legal environment and discrimination against female sex workers (FSWs). This data reports information on who these women are and when they get involved with sex work that could assist in increasing the reach of HIV prevention activities for them.

STIGMA AGAINST SEX WORKERS

Sex workers must deal with stigma surrounding their work daily. They are portrayed as disgusting and undesirable in society, with sex work stigma possibly having originated from beliefs regarding ‘appropriate sexuality’. Stigma related to sex work impacts sex workers’ interactions with all kinds of people such as doctors, police officers, family, friends and so on. Researchers believe that sex workers are targeted because they are blamed for transmission of STDs such as HIV/AIDS etc.

The sex industry is comprised of many marginalized groups- women, minorities, immigrants, and the LGBTQ+ community. Although sex work stigma may mainly revolve around the idea of impropriety, the profession has also become associated with other stigmas because many of the people who work in the industry are stigmatized for other reasons- such as gender, race, or sexual orientation- as well. These communities experience even higher levels of policing and criminalization.

Taking into consideration the media treatment of cases such as Mayang Prasyeto's murder, we need not look further to see that sex workers' lives are deemed less valuable.

Anti-discrimination protection for sex workers remains inconsistent and inadequate. On top of that, in Queensland, legislation was amended to permit discrimination against sex workers.

Stigma is worsened by policy frameworks that criminalize sex work, such as requiring sex workers to have mandatory medical testing. Stigma puts sex workers at risk, creating opportunities for violence. Knowledge of sex work can be used as blackmail or to prove they are unfit for parenting.

IMPACT OF STIGMA

Stigma against their line of work impacts all aspects of a sex worker's life. Stigma adversely affects a sex worker's mental health and emotional state. It is a heavy and exhausting weight to bear. Not only does it affect mental health, but also indirectly impacts a worker's physical health. In many cases, stigmatization may prevent sex workers from obtaining adequate health care services, due to which they may resort to unsafe methods- such as unsanitary clinics or forgoing treatment.

Sex workers are often discriminated against when trying to lease apartments, during job hunting, during divorce proceedings implicating custodial care, and when accessing certain services.

Sex workers constantly must deal with discrimination, being denied access to goods and services and employment opportunities just because of the line of work they're in. Many sex workers have reported having their Airbnb or PayPal accounts suspended. Other services such as Visa/ MasterCard, JP Morgan Chase have also been shutting down accounts connected to sex workers for "unethical" behavior.

Stigma has led to a perception of sex workers as uneducated and poor people, leading to disrespect and discrimination of these individuals.

CRIMES AGAINST SEX WORKERS

The volatility of the profession and the lives of the workers subject the community to violence and exploitation. Some of the many gruesome examples of ill-treatment of sex workers include police violence and harassment of sex workers, trafficking - resulting in abuse, detention, and destruction of homes - and social discrimination. They often face brutality in the form of sexual assault, extortion, and abuse from clients as well as public authorities. Sex workers who have been abused or assaulted have reported being denied access to health care services at government funded hospitals. While prostitution isn't criminalized (as of December 2022) in India, the prohibition against "public solicitation" is particularly ambiguous, making it convenient for police officers to accuse workers of solicitation and demand bribes or free sexual intercourse. The Pan India sex worker survey showed that 37% women had been physically abused by the police, 51% women faced verbal abuse from law enforcement officers and 22% women said that they were forced to pay bribes to the police. Criminalization of sex workers increases sexually transmitted infections among female sex workers significantly.

QUALITY OF LIFE AFTER DEPARTING FROM SEX WORK

The lives of sex workers after their departure from prostitution entail the consequences of societal stigmatization, marginalization and threat of many kinds. Since sex work has a significant rate of potential physical and sexual abuse, police scrutiny and even addiction to substance, several individuals that forced to enter the field in the first place, tend to leave sex work in the hope to find a new identity. This decision is made at the risk of unemployment and losing access to basic healthcare. Coerced to leave because of sobriety, an arrest, violence or exhaustion, workers are often looking to leave their job to be supported by a Prostitute Serving Organization (PSO); however, it may not always be voluntary.

The opportunities that workers have to rebuild their lives are limited, since the most difficult aspect after leaving prostitution work is finding a suitable job that requires the skills the woman already has and one that would accept her despite her previous work.

Women in their 30s and 40s are often abandoned by brothel owners as demand for their work falls sharply, causing them to turn to trafficking themselves, or end up on streets, forced to beg for every penny and morsel of food. Even after they have left this work, many experience severe mental health issues such as depression, PTSD, physical difficulties like sexually transmitted infections and even indulge in substance abuse to cope with the cruelties common in prostitution. Life is still difficult and stressful and the possibility of the women going back to prostitution is still high in the search for familiarity and comfort.

CASE STUDY 1 - INDIA: MY LIFE IN THE 'RED LIGHTS' OF SONAGACHI

Article Link : <https://www.unodc.org/southasia/en/frontpage/2010/March/red-lights-of-sonagachi.html>

Munni is a commercial sex worker from Sonagachi, the largest red-light district in Kolkata, India. The stigma of sex workers has been stuck with Munni all her life. Stigma is socially isolating. The heartbreaking journey that not only her but several other women have gone through is beyond words. Years later the title of a prostitute has carried on with her.

Munni's life had changed drastically the day she had believed a man who promised her a lavish life in exchange for her obedience but ended up leaving Munni at one of the dirtiest brothels, and that was the last time she ever saw him. Munni was trafficked at a very young age. She does not have much of a memory of her childhood. All she remembers is that she is from Bangladesh and came here when she was ten years old. Somehow where Munni is right now feels like home to her and perhaps it is because she does not have any family and the only person she considers family is Ma' (the lady pimp). She used to look after Munni but years later Munni realized the purpose of doing so was for business. The brothel was owned by a woman who they called 'aunty'. The first three days in the brothel felt carefree for Munni but everything changed on the third day. The aunty made all the girls stand in front of the men for them to pick their choice. Munni was too little to comprehend why anything was occurring and believed that the choice was for a new home. It took her a while to become aware of what was happening and she attempted to flee but was caught and locked for a week in a dark room while being beaten with a thick wooden stick. Munni knew she had to find a way out of the brothel and so one night when the aunty was asleep she tried escaping. She saw a police officer and told him everything that had happened to her but got raped by not only one but three police officers for being truthful. Munni ended up finding a new brothel in Sonagachi. The brothel works as a business where a specific number of girls are allotted to a specific number of rooms. Each girl had a rate such as Rs. 1000 to 1500 an hour. 50 percent of the money earned from each customer goes to the aunty. The customer has to separately pay 25 percent extra to her as a service charge. A variety of men come on a daily basis. Many of the customers use drugs and make the girls take the harmful substances against their will. The drugs made Munni fall ill quite a few times.

Although Munni sees improvement in today's world, the title of a prostitute has not left her. Society will always label her as a prostitute which is why she has decided to stay in Sonagachi. Nevertheless, as time goes by, she is glad to see initiatives taken up by NGOs in Sonagachi. The NGOs regularly organize shows, gatherings, and events on HIV and AIDS and sex workers' rights. The sex workers were also taught to insist the customers wear condoms which is essential to be safe from the killer disease (HIV and AIDS). They also set up a testing camp for HIV and AIDS.

Furthermore, the stigma from Sex-work has also led to mental health problems. She still carries the trauma and anxiety of being sexually assaulted by men. Munni has had many dreams which she hopes to achieve. She is also determined to make sure that her daughter will never be born into a brothel and follow her own dreams and passion.

CASE STUDY 2: THE STORY OF KAMATHIPURA

Article Link : <https://www.pbs.org/frontlineworld/stories/india304/thestory.html>

Kamathipura in Mumbai is one of the largest red-light districts. It is home to more than 60,000 sex workers. If you go to Kamathipura finding sex workers to talk to isn't a challenge. Therefore Aronson, a correspondent for FRONTLINE/World, traveled to Kamathipura to investigate what has quickly become the center of the AIDS epidemic in India.

The first sex-worker Aronson approached, explained the business that goes on in the brothels. When questioned about the fundamental problems with the trade, the women say that men frequently pay more or express their love to the women after a few visits if they want to have sex without a condom. The women in the group laugh a bit about the men's proclamations of love, but there's a tragic fact behind their laughter: more than half of the sex workers here are HIV positive. Aronson has also gained an understanding of how pimps and brothels earn millions by running this business. It is extremely saddening to learn that most of the girls are either kidnapped from other countries, trafficked to India, or sold by their own families into the industry. Although soliciting for sex is illegal in India, the problem includes the police as well. Aronson has been informed by prostitutes that when they are caught, they are required to have sex or pay bribes to be released. She was able to talk to a group of girls as well who have been rescued from prostitution. They had been sold to the pimps by their father and uncles. In Fact, many of the women were unaware of the risks posed by HIV.

To get a better understanding on the AIDs rates in Mumbai, Aronson visited one of Mumbai's largest public hospitals where they do not turn away AIDs patients. Health experts estimate that one-fifth of all AIDS cases in India are married women who have been infected by their husbands.

Recently there have been slight changes and improvements in the AIDS rate in Kolkata due to the active roles of NGOs. Aronson started inquiring about a NGO project called ASHA where sex workers go into the brothels as peer educators to talk to the women about safe sex.

The lowest AIDS rate in the country is in Kolkata's red-light district. This is due to the efforts of people like Putul Singh, who was sold into prostitution by her husband eight years ago at the age of 20. She currently devotes all her time to the Sonagachi Project, the nation's premier AIDS prevention organization. Putul helps Aronson understand the various strategies the Sonagachi project uses to combat AIDS and provides basic health care. The Sonagachi Project works with men as well as women to explain the necessity of condoms.

NGOs have been acting in Kolkata as well. It turns out that the Sonagachi Project and the sex workers' union are working together to change things. In Kolkata, the prevalence of condom use has increased from three percent to 90 percent. The AIDS rate in Kolkata is one-fifth that in Mumbai. But even in Kolkata, a monumental challenge remains reaching the thousands of young girls sold into the sex trade.

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