

## CHALLENGING THE CURRENT CONVENTION: ADVOCATING SEX WORKERS RIGHTS AS HUMAN RIGHTS

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### ABSTRACT

Despite being one of the oldest professions, sex work is also one among the most stigmatized. Sex workers have been criminalized, policed, and marginalized for centuries by legal and social systems, making them invisible in the discourse surrounding human rights. By redefining sex work as labour and sex worker's rights as fundamental human rights, the study questions established norms. The study identifies the main obstacles preventing sex workers from exercising their rights and dignity through a qualitative and descriptive analysis of national laws, international conventions, scholarly works, and reports from non-governmental organizations. It draws attention to how marginalization is exacerbated by the intersections of caste, gender, class, and immigration status. Lastly, it makes policy recommendations for decriminalization, legal reform, and acknowledging sex workers as workers and citizens with rights. Conclusively, through this study an attempt has been made to bring a sense of parity in context of treating sex workers socially, with all due respect and dignity.

**KEYWORDS:** Sex work, Human rights, Decriminalization, Gender justice, Labor rights, Stigma, Policy reform.

### I. INTRODUCTION:

Sex work—the commercial exchange of sexual services for money or goods—is a reality of every society, cutting across all cultures and historical epochs. However, despite its persistence and public visibility, sex work is highly stigmatized. Sex workers work in unsafe environments where they are exposed to violence by clients, police, and others and systemic discrimination that excludes them from access to healthcare, housing, and legal protection. It is estimated that 42 million people worldwide are engaged in sex work, most of whom are women, and a significant number belong to marginalized groups<sup>578</sup>.

Sex work has existed for as long as people kept records. You had temple workers in ancient Mesopotamia and India doing it. Fast forward to

modern cities with their red-light districts today.

The major issue is though this line of work still gets treated like a taboo in most places even now, countries like India keep it in this weird grey zone legally speaking. Not exactly illegal on paper but loaded with random laws that make life hard for workers anyway. Human rights should cover everyone by the definition right? The 1948 Universal Declaration says all people have equal worth and rights no exceptions. But sex workers get left out of that deal constantly. Their basic rights get ignored such as safety, health and fair treatment under law Individuals often mix up voluntary adult work with trafficking too much adding to which there also endless moral judgment floating around which hampers the manner of perceiving ideas and works<sup>579</sup>. Lately, big groups

<sup>578</sup>Laura María Agustín, *SEX AT THE MARGINS: MIGRATION, LABOUR MARKETS AND THE RESCUE INDUSTRY* 3–10 (Zed Books 2007).

<sup>579</sup>Prabha Kotiswaran, *DANGEROUS SEX, INVISIBLE LABOR: SEX WORK AND THE LAW IN INDIA* 15–18 (Princeton Univ. Press 2011).

are pushing back though names like Amnesty International and UNAIDS speak up more these days. Places such as New Zealand tried decriminalizing parts of the trade actually saw better health stats and safer conditions for workers. India has not budged much sticking with old punitive laws that put people at risk instead.

This study makes the case that recognizing sex worker's rights as human rights is not just morally right but practically correct too. Observing the international agreements country laws and real-world examples shows how current policies backfire on public health and fairness goals time after time thing is we need systems that actually match up with basic human dignity principles instead of fighting against them nonstop laws are not keeping pace with reality here plain and simple sometimes we have to compromise on the rules to protect people better.

## II. STATEMENT OF PROBLEM:

The main issue this research tackles is the systemic denial of human rights to sex workers caused by criminalization, stigma, and exclusion from labour protections. Despite their economic and social contributions, sex workers are often seen as criminals, deviants, or victims instead of as workers and citizens with rights<sup>580</sup>. In India, the Immoral Traffic (Prevention) Act (ITPA) makes activities around sex work illegal, including brothel-keeping, soliciting, and living off the earnings of sex work.

This law technically allows the sale of sex between consenting adults, which creates a confusing situation. Sex workers can sell sexual services but cannot legally advertise, organize, or hire security staff. This partial criminalization leads to extortion, police harassment, and unsafe working conditions.

The effects of this legal and social framework are serious:

- a) **Violence and Harassment:** Sex workers face high rates of physical and sexual violence from clients, police, and third parties. Criminalization discourages them from reporting abuse out of fear of arrest or discrimination.
- b) **Public Health Risks:** Criminalized environments limit access to health services, including HIV prevention and treatment, making public health issues worse.
- c) **Economic Insecurity:** Without legal recognition, sex workers cannot access labour rights, social security, or financial services, which deepens poverty.
- d) **Stigmatization:** Sex workers encounter discrimination in housing, education, and child custody cases, which prevents them from living with dignity.

## III. RESEARCH QUESTIONS:

- a) In pursuing the problem outlined above, the following questions will be posed:
- b) How do various international and national legal frameworks consider sex workers with reference to human rights?
- c) What structural, social, and legal barriers prevent the recognition of sex workers' rights as human rights?
- d) How could reforms, together with the implementation of the best practices, bring the rights of sex workers in line with the universality of human rights principles?
- e) These questions will explore the intersections of law, policy, and lived experience and provide a roadmap to evidence-based recommendations.

## IV. SIGNIFICANCE OF RESEARCH:

There exists a multitude of reasons as to why this research is significant. Foremost among them is the fact that it challenges stereotypes and prejudices and reframes sex work from a moral or criminal matter to a human rights and labour matter. Second, it humanizes sex workers by emphasizing the realities of their lives, their agency and vulnerability, and their resilience since they are treated as caricatures or

<sup>580</sup> AMNESTY INTERNATIONAL, *POLICY ON STATE OBLIGATIONS TO RESPECT, PROTECT AND FULFIL THE HUMAN RIGHTS OF SEX WORKERS* 4-7 (2016).

statistics most of the time. This then adds to the current academic and policy debates by linking a legal perspective with the evidence available from public health and human rights principles in developing a coherent case for reform. In its practical implications, the study audits the best practices from jurisdictions that have decriminalized sex work, presenting concrete recommendations to policymakers, activists, and international organizations working towards gender justice, violence reduction, and public health improvement; thereby furthering the credibility of the human rights discourse with an insistence on its universal applicability.

#### V. SCOPE AND LIMITATION OF RESEARCH:

To this end, the research concerns adult consensual sex work, differentiating it from trafficking and child sexual exploitation. While accepting that there is exists a potential possibility for coercion and exploitation to take place in one or more contexts of sex work, the study treats trafficking as a phenomenon in its own right that requires different interventions<sup>581</sup>. This particular distinction is important to avoid historically pitched punishing policies that equated voluntary adult sex work with forced labour<sup>582</sup>. The scope is global, with a country-level emphasis on India, with the latter being subjected to some comparative legal analytical work vis-à-vis countries exemplifying polar opposite models of sex work legislation, namely New Zealand (decriminalization), Sweden (the Nordic model that criminalizes only the buyers), and Germany (legalization). This comparative evaluation highlights the consequences of the array of policy choices.

Constraints and Limitations include:

- a) Secondary Data: Given ethical and practical concerns, the study relies on existing literature, NGO reports, and legal documents rather than conducting primary interviews with sex workers.

<sup>581</sup>NATIONAL AIDS CONTROL ORGANIZATION, *ANNUAL REPORT 2022–23: HIV PREVENTION AND SEX WORKER PROGRAMS IN INDIA* 15 (2023); UNITED NATIONS OFFICE ON DRUGS AND CRIME, *GLOBAL REPORT ON TRAFFICKING IN PERSONS* 8–12 (2020).

<sup>582</sup>U.N. OFFICE ON DRUGS & CRIME, *GLOBAL REPORT ON TRAFFICKING IN PERSONS* 8–12 (2020).

- b) Rapidly Changing Law and Policy: As legal and policy regimes on sex work continue to shift, findings are time-bound until 2024.

- c) Diversity of Experiences: Sex work

#### VI. OBJECTIVES OF RESEARCH:

- a) Analysing the treatment of sex workers in international and national human rights frameworks.
- b) Identifying structural, social, and legal barriers that disdain recognition of sex workers' rights.
- c) Evaluating, observing and examining the best practices coming from jurisdictions that adopt different legal treatments for sex work.
- d) Recommending policy reforms to align sex work with labour and human rights protections.
- e) With effective consideration of these objectives, it aims to move beyond diagnosis toward prescription, proposing concrete directions for reform.

#### VII. RESEARCH METHODOLOGY:

This research follows a qualitative methodology, majorly centric to descriptive-analytical methodology, appropriate for investigations of legal and policy frameworks in terms of social ramifications. In this methodology, the steps include:

**Doctrinal Analysis:** Studying international treaties (UDHR, ICCPR, CEDAW), national laws (India's ITPA, New Zealand's Prostitution Reform Act), and court judgements.

**Comparative Analysis:** Ascertaining effects of criminalization, legalization, and decriminalization across jurisdictions.

**Literature Review:** Synthesizing findings from academic articles, NGO reports (such as from Amnesty International and NSWP), and international guidelines (such as from UNAIDS and the Global Commission on HIV and the Law).

**Intersectional Analysis:** Looking into the effects of gender, caste, class, and migration status on the compounded vulnerabilities of sex workers.

By adapting such a mixed method approach allows one to get a comprehensive understanding of the matter, involving legal, social, and health dimensions.

#### VIII. LITERATURE REVIEW:

The body of literature on sex work is vast, spanning multiple disciplines including law, sociology, gender studies, criminology, and public health. It reflects deep ideological divides over whether sex work constitutes legitimate labour or an inherently exploitative practice. This chapter critically examines the major strands of scholarship and policy, including abolitionist, neo-abolitionist, and rights-based paradigms. It also reviews empirical evidence from different legal models of criminalization, legalization, and decriminalization to understand their impact on sex workers' rights and well-being. Finally, it situates these debates within international human rights discourse, highlighting gaps and emerging trends<sup>583</sup>. Conclusively, it also elucidates the perspectives followed throughout the works, in context of viewing sex work as a legitimate labour.

#### IX. HISTORICAL PERSPECTIVES ON SEX WORK:

Sex work has always existed in the annals of humanity, but its regulation has waxed and waned through legal and moral codes. In some ancient civilizations, prostitution was organized or institutionalized to some degree, as with sacred prostitution in Mesopotamian temples and devadasi in parts of India<sup>584</sup>. Brothels were licensed in medieval Europe by municipalities but stigmatized as "necessary evils." Colonialism introduced a new spectrum of legal and moral frameworks; during the 19th century, British colonial administrators instituted the Contagious Diseases Acts in India, ordering medical inspections of prostitutes all in the name of public health. It thus opened a new

chapter on the scrutiny by the State of sex workers' bodies rather than their protection as rights.

True Venetian laws of keeping prostitution under restrictions had been carried forth in 20th century as an aftermath of Victorian morality with social purity movements and in some cases merged prostitution with immorality and trafficking. Today, this legacy consists of laws that criminalize or regulate sex work as a vice or public nuisance instead of as labour. The analysis provided above in its simplest form explains that from the era of traditional societies to the modern field of criminalization; the perception and understanding of consensual sex work is very subjective in nature.

#### X. ABOLITIONIST PARADIGM:

The abolitionist paradigm, historically rooted in 19th-century social reform movements, views prostitution as inherently exploitative and incompatible with women's dignity. Early feminists such as Josephine Butler campaigned against state-regulated prostitution, seeing it as state-sanctioned exploitation of women. In the late 20th century, radical feminist scholars like Kathleen Barry extended this analysis, arguing that all prostitution constitutes violence against women, regardless of consent. According to this view, prostitution perpetuates patriarchal control and commodification of women's bodies.

The abolitionist paradigm underpins international instruments such as the 1949 UN Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others<sup>585</sup>. This convention obliges states to punish those who exploit prostitution but does not criminalize the prostitute herself. More recently, the "Nordic model," pioneered by Sweden in 1999, criminalizes buyers of sex but not sellers, with the stated aim of reducing demand and promoting gender equality. Proponents claim this model deters trafficking and reduces prostitution.

<sup>583</sup> PRABHA KOTISWARAN, *DANGEROUS SEX, INVISIBLE LABOR: SEX WORK AND THE LAW IN INDIA* 1–24 (PRINCETON UNIV. PRESS 2011) (INTRODUCING INTERDISCIPLINARY SCHOLARSHIP ACROSS LAW, SOCIOLOGY, AND RELATED FIELDS).

<sup>584</sup> PRABHA KOTISWARAN, *DANGEROUS SEX, INVISIBLE LABOR: SEX WORK AND THE LAW IN INDIA* 30–50 (PRINCETON UNIV. PRESS 2011) (DISCUSSING HISTORICAL REGULATION AND COLONIAL LEGAL FRAMEWORKS).

<sup>585</sup> RONALD WEITZER, LEGALIZING PROSTITUTION: FROM ILLICIT VICE TO LAWFUL BUSINESS, 40 *CONTEMP. SOC.* 494, 497–502 (2011).

However, critics noted that abolitionist and Nordic approaches, while framed as protecting women, often increase stigma, drive sex work underground, and heighten risks of violence. Research in Sweden, Norway, and France shows that criminalizing buyers reduces sex workers' bargaining power and makes them more dependent on third parties for security, undermining their autonomy and thereby, reducing prostitution.

#### XI. THE RIGHT BASED PARADIGM:

The rights-based approach acknowledges sex work as labour and thus calls for its decriminalization and regulation through labour and human rights frameworks. This approach began to gain momentum during the late 20th century with the advent of some sex worker-led organizations and the growth of public health research on HIV/AIDS. Some parties, including Ronald Weitzer stand by the notion that criminalization worsens harm, and rights-based policies improve safety, health, and agency.

Sex worker movements across the world, such as the Durbar Mahila Samanwaya Committee (DMSC) in India, the English Collective of Prostitutes in the UK, and the New Zealand Prostitutes' Collective, also helped reshape the understanding of sex work as labour. These groups stress the agency of sex workers and demand a "nothing about us without us" policy.<sup>586</sup>

The Amnesty International policy is viewed as another turning point in 2016: Following consultations, the organization came out in favour of full decriminalization of consensual adult sex work as an essential step in the respect, protection, and fulfilment of the human rights of sex workers<sup>587</sup>. Similar positions had also been taken by the Global Commission on HIV and the Law (2012) and UNAIDS which

<sup>586</sup>DURBAR MAHILA SAMANWAYA COMM., *ABOUT US*, DURBAR MAHILA SAMANWAYA COMM., [HTTPS://DURBAR.ORG/ABOUT-US/](https://durbar.org/about-us/) (LAST VISITED SEPT. 3, 2025).

<sup>587</sup>AMNESTY INTERNATIONAL, *POLICY ON STATE OBLIGATIONS TO RESPECT, PROTECT AND FULFIL THE HUMAN RIGHTS OF SEX WORKERS* 4-7 (2016); CHRIS BEYRER ET AL., *AN ACTION AGENDA FOR HIV AND SEX WORK*, 385 LANCET 287, 287-301 (2014).

recommended decriminalization as essential to reducing HIV vulnerability.

#### XII. LEGAL MODELS AND THEIR IMPACTS:

The literature suggests three main legal frameworks under which sex work is regulated:

##### (a) Criminalization

This model criminalizes the selling and/or buying of sexual services and related activities (brothel-keeping, solicitation). This includes much of the U.S. (except parts of Nevada), Africa, and Asia. Evidence has in common and points to criminalization:

- (i) Increasing threats of violence and exploitation.
- (ii) Hindering access to health services and HIV prevention.
- (iii) Encouraging corruption and police abuse.
- (iv) Driving sex work further down underground, shriveling supervision and endangering safety.

##### (b) Legalization

In this model, sex work is legal but heavily regulated—fees on licensing, zoning restrictions, or stringent health inspections (e.g., Germany, the Netherlands). Legalization sometimes encourages fairly good working conditions for some, but creates a two-tier system in which only licensed workers really enjoy protection and de facto criminalization for all others. It is argued by critics that such a system can reproduce existing inequalities and exclude migrant or marginalized workers unable to comply with the stringent regulations.

##### (c) Decriminalization:

An adult consensual sex work is eliminated from penal laws that govern it under general labour and business laws. This to an extent establishes a progressive, positive and yet neutral approach in understanding the profession of sex work and the rights of the sex workers without penalizing them. Comparative studies

suggest decriminalization is the model most consistent with human rights principles and public health goals.

### 1. INTERNATIONAL HUMAN RIGHTS INSTRUMENTS:

Although there is no international binding law expressly acknowledging sex work as legitimate labour, several international human rights statutes do provide the safeguarding of direct relevance to sex workers. The Universal Declaration of Human Rights (UDHR, 1948) upholds rights to dignity, work, health, and freedom from discrimination; meanwhile, the International Covenant on Civil and Political Rights (ICCPR, 1966) guarantees liberty, security, privacy, and freedom of expression and rights continually violated under criminalization laws of sex work. The International Covenant on Economic, Social and Cultural Rights (ICESCR, 1966) recognizes the right to work under just and favourable conditions and the right to the highest attainable standard of health, thereby being pertinent to the lived experiences of sex workers<sup>588</sup>. Along the same line, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW, 1979) binds states to eliminate discrimination against women, yet ambiguously calls for the suppression of “exploitation of prostitution,” ushering in conflicting interpretations wherein either side may find voices supporting or undermining the rights of sex workers.

### 2. VULNERABILITY AND INTERSECTIONALITY:

The vulnerabilities of sex workers are intersectional, according to recent research. The experiences of sex workers are influenced by the intersections of gender, caste, class, race, immigration status, and sexual orientation. Due to historical marginalization and a lack of economic opportunities, Dalit and tribal women in India, for example, are disproportionately

involved in sex work<sup>589</sup>. Due to their frequent lack of legal status and exclusion from labour laws, migrant workers are more vulnerable to exploitation. Higher rates of violence, criminalization under anti-LGBTQ laws, and increased stigma are all faced by transgender sex workers. Using an intersectional perspective is crucial when creating policies that address the larger structural injustices that force people into precarious labour as well as sex work in general.

### 3. HIV/AIDS AND PUBLIC HEALTH:

Some of the most compelling arguments for decriminalization can be found in the literature on public health. Despite being disproportionately impacted by HIV, sex workers are discouraged from seeking prevention and treatment services due to stigma and criminalization. Decriminalization could prevent up to 33–46% of new HIV infections among sex workers over a ten-year period, according to a global modelling study by Shannon (2015)<sup>590</sup>. Decriminalization has been approved by UNAIDS and the WHO as a crucial element of successful HIV responses. Programs run by sex workers themselves, like Sonagachi in Kolkata, have combined community empowerment, condom promotion, and peer education to reduce HIV prevalence with impressive results. These achievements show that rights-based strategies are not only morally right but also successful.

### 4. CRITIQUES AND GAPS IN THE LITERATURE:

Despite its growing popularity, the rights-based paradigm is not without its detractors. Decriminalization, according to some feminist academics, might normalize or grow the sex industry, which could lead to more exploitation. Others point out that the structural injustices (poverty, gender discrimination) that push many people into sex work cannot be

<sup>588</sup> UNIVERSAL DECLARATION OF HUMAN RIGHTS, G.A. RES. 217 (III) A, U.N. DOC. A/RES/217(III) (DEC. 10, 1948); INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS, DEC. 16, 1966, 999 U.N.T.S. 171; INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, DEC. 16, 1966, 993 U.N.T.S. 3; CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN, DEC. 18, 1979, 1249 U.N.T.S. 13.

<sup>589</sup> PRABHA KOTISWARAN, *DANGEROUS SEX, INVISIBLE LABOR: SEX WORK AND THE LAW IN INDIA* 30–50 (PRINCETON UNIV. PRESS 2011) (DISCUSSING HISTORICAL REGULATION AND COLONIAL LEGAL FRAMEWORKS).

<sup>590</sup> KATE SHANNON ET AL., AN ACTION AGENDA FOR HIV AND SEX WORK, 385 *LANCET* 287, 287–301 (2014) (GLOBAL MODELLING STUDY SHOWING A 33–46% REDUCTION IN HIV INCIDENCE IF SEX WORK IS DECRIMINALIZED).

addressed by labour laws alone. Longitudinal studies on the long-term consequences of decriminalization that go beyond public health indicators are also scarce. The absence of reliable data on migrant workers, people working in the informal or online sectors, and male and transgender sex workers is another gap. The majority of the literature concentrates on female street sex workers, which might not adequately represent the industry's diversity<sup>591</sup>. Last but not least, national governments have broad latitude to uphold harsh legislation because international human rights organizations have not yet taken a united position clearly acknowledging sex work as labour.

### 5. AN OVERVIEW OF LITERATURE:

The literature shows a distinct pattern: sex workers' safety, health, and agency are improved by rights-based and decriminalized approaches, whereas criminalization hurts them. Although not yet complete, the perspective on sex work is changing from one of morality or criminality to one of labour and human rights. Although they offer a starting point, international human rights instruments must specifically acknowledge sex work as legal labour. Policies that address the exacerbated vulnerabilities of marginalized groups must be informed by intersectionality. This review emphasizes the main contention of the study, which is that it is both morally and practically necessary to oppose the current convention and support the human rights of sex workers.

### X SCHEME OF STUDY:

#### 1. OVERVIEW OF THE SCHEME OF STUDY:

The ultimate goal of the chapter is to critically examine the legal, social, health, and economic aspects of sex work as a human rights issue by combining data from local and international contexts. Drawing from the previously reviewed literature, this section presents a rights-based framework that prioritizes the agency, dignity,

and labour rights of sex workers while challenging the prevalent conventions that criminalize or marginalize them. Legal frameworks, social stigma and discrimination, public health and human security, economic contributions and structural inequalities, and policy and reform pathways are the five main sections of this chapter. The argument for acknowledging sex work as labour and incorporating it into the standard labour and human rights protections is strengthened by each section.

#### 2. GLOBAL DIVERSITY OF LEGAL MODELS:

Sex work is subject to a wide range of legal regimes around the world, ranging from complete criminalization to decriminalization, legalization, and partial criminalization. This diversity reflects differing views on women's autonomy, labour rights, and state obligations in addition to different moral codes. Globally, criminalization is still the most common strategy, particularly in North America, South Asia, and Africa. Sex workers, their customers, or other parties like brothel owners are all punished under this model. According to research, criminalization pushes sex work underground, damages the relationship between sex workers and law enforcement, and fosters an atmosphere that is conducive to trafficking, extortion and violence.

Decriminalization, on the other hand, eliminates the criminal penalties for consensual adult sex work and regulates it in accordance with current labour, health, and safety laws. This has been the case in New Zealand since 2003<sup>592</sup>. According to studies, this model makes it easier for sex workers to turn away clients, report abuses, and seek medical attention without worrying about getting arrested. Legalization is more conflicted, even though it is frequently viewed as progressive. Although sex work is legal in Germany and the Netherlands, there are stringent laws and licensing requirements.

<sup>591</sup> PRABHA KOTISWARAN, *DANGEROUS SEX, INVISIBLE LABOR: SEX WORK AND THE LAW IN INDIA* 200–220 (PRINCETON UNIV. PRESS 2011) (DISCUSSING REGULATORY GAPS AFFECTING MARGINALIZED WORKERS BEYOND STREET-BASED SEX WORK)

<sup>592</sup> KATE SHANNON ET AL., GLOBAL EPIDEMIOLOGY OF HIV AMONG FEMALE SEX WORKERS: INFLUENCE OF STRUCTURAL DETERMINANTS, 385 *LANCET* 55, 65–66 (2014) (ESTIMATING REDUCTIONS IN HIV INFECTIONS UNDER DECRIMINALIZATION).

There is now a two-tiered system of "legal" and "illegal" sex work, which has improved conditions for some but excluded many marginalized workers particularly migrants who are unable to meet financial or bureaucratic requirements.

### 3. INDIAN LEGAL CONTEXT:

The regulations pertaining to sex work in India are complicated and disjointed. Although prostitution is not illegal in and of itself, the Immoral Traffic (Prevention) Act (ITPA) of 1956 makes the majority of related activities illegal<sup>593</sup>. The law forbids trafficking, living off the proceeds of prostitution, running a brothel, and soliciting in public. Because of this, even though sex work is legal in theory, practically all of its related activities are not, making sex workers susceptible to police extortion, harassment, and eviction.

This strategy is more in line with an abolitionist and moralistic tradition than a rights-based one. Although the Supreme Court of India acknowledged the need to safeguard the rehabilitation and dignity of sex workers in *Budhadev Karmaskar v. State of West Bengal* (2011)<sup>594</sup>, significant decriminalization or labour protections have not been put into place. The Supreme Court ordered state authorities to safeguard the rights of sexual employers in 2022, declaring that sex workers should have equal legal protection and that police should not meddle in consensual adult sex work. Although this is a noteworthy development, there is no legislative support for it.

### 4. INTERNATIONAL DUTIES AND OBLIGATIONS REGARDING HUMAN RIGHTS:

States are required by agreements like the ICCPR, ICESCR, and CEDAW to guarantee people's access to justice, health care, and employment, as well as to protect them from discrimination. One could argue that criminalizing consensual adult sex work goes against these commitments. Decriminalization has been specifically suggested by the UN

Special Rapporteur on the Right to Health as being essential to sex workers' realization of their right to health.

The legal analysis thus shows that punitive regulation and criminalization are incompatible with international human rights law. In addition to being morally right, states are required by law to recognize sex work as labour and provide labour protections as part of their human rights obligations.

### 5. SOCIAL STIGMA AND DISCRIMINATION:

#### (i) Stigma as a Social Determinant of Vulnerability:

Sex workers experience widespread stigma which impacts their access to services, family life, and social standing in addition to the legal penalties. Stereotypes that depict sex workers as criminals, sick, or immoral serve to further stigmatize them. Justice, housing, healthcare, and education are all hampered by this social exclusion. Violence is also justified by stigma. Research from Brazil, Kenya, and India demonstrates that arbitrary detention, extortion, and police brutality are commonplace and frequently excused by moral assessments of sex work<sup>595</sup>. Persistent stigma can make it difficult for sex workers to obtain mainstream jobs or credit, even in situations where the practice has been decriminalized.

Caste, class, and gender all contribute to the stigma associated with sex work. In India, sex work disproportionately involves marginalized women from Adivasi, Dalit, and poor backgrounds. Many people view engaging in the sex trade as a limited economic decision influenced by systemic injustices rather than a free choice. Because of their gender identity, their line of work, and their social marginalization, transgender and non-binary sex workers experience double or triple stigma. According to research, they are more likely to be the target of violence, housing denials, and anti-LGBTQ legislation. Thus, intersectionality

<sup>593</sup>IMMORAL TRAFFIC (PREVENTION) ACT, NO. 104 OF 1956 (INDIA).

<sup>594</sup>BUDHADEV KARMASKAR V. STATE OF W.B., (2011) 11 S.C.C. 538 (INDIA)

<sup>595</sup> KATE SHANNON ET AL., GLOBAL EPIDEMIOLOGY OF HIV AMONG FEMALE SEX WORKERS: INFLUENCE OF STRUCTURAL DETERMINANTS, 385 LANCET 55, 63–64 (2014).

shows that the vulnerabilities of sex workers are shaped by overlapping axes of oppression rather than being a single factor. Therefore, any rights-based policy not just legal reforms must address more extensive social and economic disparities.

## 6. VIOLENCE AS HEALTH ISSUE:

In addition to being a violation of human rights, violence against sex workers including intimate partner assault, client violence, and police harassment is also a public health emergency. HIV, mental health conditions, and issues related to reproductive health are all made more likely by violence. It has been demonstrated that decriminalization lowers violence by allowing sex workers to collaborate, negotiate safer working conditions, and obtain police protection. Sex workers in New Zealand say they have better ties with the police and are better equipped to turn away customers.

## 7. STRUCTURAL INEQUALITIES AND ECONOMIC INEQUALITIES:

### (i) Sexual Work as Employment:

One type of economic activity that supports household income, local livelihoods, and national economies is sex work. However, it is still not covered by social security, labour laws, or economic planning. Workers would be able to access retirement benefits, collective bargaining, and occupational health and safety measures if sex work were recognized as labour<sup>596</sup>. Sex workers frequently provide for whole families, pay for their children's education, and boost local economies through their purchases. They are nevertheless not given the same respect or safeguards as other employees.

### (ii) Structural drivers of Entry:

People are also driven into sex work by systemic injustices such as discrimination, poverty, gender-based violence, and illiteracy. Therefore, social policies that increase economic opportunities, education, and social security must be combined with labour protections in a

rights-based approach. Decriminalization can eliminate obstacles to alternative livelihoods and empowerment, but it cannot eliminate the structural drivers on its own<sup>597</sup>.

### (iii) Challenging Social Norms:

Without initiatives to combat stigma and discrimination, legal reform on its own is insufficient. Violence can be decreased and attitudes can be changed by public education campaigns, including the opinions of sex workers in policymaking, and providing training to law enforcement and medical personnel<sup>598</sup>.

## XII FINDINGS OF THE RESEARCH:

The insights derived from the literature review and the in-depth analysis provided in the body of the study are summarized in this chapter. Instead of simply restating previous sections, it condenses them into succinct, fact-based conclusions that directly address the goals and inquiries of the study. These results show how human rights principles are incompatible with the legal, social, and policy frameworks surrounding sex work today, and why a rights-based approach is both required and practical.

### (i) The constant criminalization harms sex workers:

Criminalizing sex work, whether by punishing employees, clients, or third parties, has detrimental effects, as the overwhelming body of evidence demonstrates. It pushes the industry underground, makes it harder for employees to bargain for safer working conditions, and makes them more susceptible to extortion, violence, and health hazards<sup>599</sup>. Partial or complete criminalization damages the relationship between sex workers and law enforcement, undermining public health efforts and violating fundamental human rights, according to studies from Sweden, France, and

<sup>597</sup> KATE SHANNON ET AL., *GLOBAL EPIDEMIOLOGY OF HIV AMONG FEMALE SEX WORKERS: INFLUENCE OF STRUCTURAL DETERMINANTS*, 385 LANCET 55, 63–64 (2014).

<sup>598</sup> RONALD WEITZER, *LEGALIZING PROSTITUTION: FROM ILLICIT VICE TO LAWFUL BUSINESS*, 40 CONTEMP. SOC. 494, 497–502 (2011).

<sup>599</sup> AMNESTY INTERNATIONAL, *THE HUMAN COST OF "CRUSHING THE MARKET": CRIMINALIZATION OF SEX WORK IN NORWAY* (2016), <https://www.amnesty.org/en/documents/EUR36/4034/2016/EN/> (LAST VISITED SEPT. 17, 2025).

<sup>596</sup> PRABHA KOTISWARAN, *DANGEROUS SEX, INVISIBLE LABOR: SEX WORK AND THE LAW IN INDIA* 1–24 (PRINCETON UNIV. PRESS 2011).

the United States. Decriminalization Enhances Agency, Safety, and Health. Decriminalization and rights-based interventions enhance sex workers' capacity to turn away clients, obtain justice, and safeguard their health, according to comparative data from New Zealand, portions of Australia, and community-led initiatives like Sonagachi in India. Decriminalization has been demonstrated to improve transparency and oversight rather than to increase trafficking or underage prostitution.

(ii) Sex Work is Work: An Economic and Social Contribution:

Since sex work is not protected by labour laws, workers are denied benefits like social security, workplace safety regulations, and collective bargaining rights. By recognizing sex work as labour, workers would be able to access the same protections as those in the formal and informal sectors.

(iii) The Potential for vulnerability Is Increased by Stigma and Interdependence:

The stigma and discrimination that molds the lives of sex workers cannot be eliminated by legal reform alone. Sex workers are excluded from housing, education, and healthcare due to stigma, which is fuelled by gender norms, moral judgments, and stereotypes. These harms are exacerbated by intersectionality: sex workers who are Dalit, Adivasi, migrant, transgender, or LGBTQ+ are more likely to experience violence and face more discrimination<sup>600</sup>. These multi-layered vulnerabilities must be considered in any rights-based policy.

(iv) Evidence from public health strongly favours rights-based approaches.

Some of the most convincing evidence for decriminalization comes from public health research, particularly on HIV/AIDS. Decriminalizing sex work could stop up to one-third of new HIV infections among sex workers, according to modelling studies. Peer-led,

rights-based interventions routinely improve health outcomes more effectively than punitive ones.

(v) There exists a potential possibility to combat trafficking without criminalizing sex workers:

Research indicates that criminalizing consensual adult sex work can and should be kept apart from anti-trafficking initiatives. The rights of sex workers and anti-trafficking initiatives are compromised when the two are confused. A more efficient and moral strategy is provided by targeted anti-trafficking legislation that targets coercion and exploitation in conjunction with the decriminalization of consensual sex work<sup>601</sup>.

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<sup>600</sup> HUMAN RIGHTS WATCH, INDIA: PROTECT RIGHTS OF SEX WORKERS (AUG. 26, 2022), <https://www.hrw.org/news/2022/08/26/india-protect-rights-sex-workers> (LAST VISITED SEPT. 14, 2025).

<sup>601</sup> PRABHA KOTISWARAN, DANGEROUS SEX, INVISIBLE LABOR: SEX WORK AND THE LAW IN INDIA 245–67 (PRINCETON UNIV. PRESS 2011).

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