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**Website: [www.the lawway with lawyers.com](http://www.the lawway with lawyers.com)**

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**Email: [thelawwaywithlawyers@gmail.com](mailto:thelawwaywithlawyers@gmail.com)**

**Authored By : [Snehil Isha](#)**

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# **Unheard Voices: Prostitution and Marginalization in India**

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## Abstract

Prostitution has existed for centuries in India yet remains one of the most stigmatized and marginalized professions. Despite being a reality for thousands of women, men, and transgender individuals, the legal and social frameworks surrounding sex work often deny them basic human rights. This research explores the nexus of prostitution and marginalization in India through a socio-legal lens. The study delves into the historical context of prostitution, its regulation under colonial and post-colonial laws, and the systemic discrimination faced by sex workers. It examines how the Immoral Traffic (Prevention) Act, 1956 (ITPA), along with other provisions of the Indian Penal Code (IPC), have often criminalized aspects of sex work without addressing its root socio-economic causes.

The paper also engages with key judicial pronouncements such as *Budhadev Karmaskar v. State of West Bengal* (2011), where the Supreme Court recognized sex workers' right to dignity under Article 21 of the Constitution, and *Gaurav Jain v. Union of India* (1997), which highlighted the need for rehabilitation of the children of sex workers. Additionally, it explores the emerging international discourse on decriminalization, referencing the Palermo Protocol and recommendations by bodies such as CEDAW.

By analyzing existing laws, policy initiatives, and the lived experiences of sex workers, this research identifies the gaps in the current legal framework and highlights the consequences of systemic marginalization. The paper concludes by proposing reforms such as partial decriminalization, improved rehabilitation mechanisms, and social sensitization as means to protect the rights and dignity of sex workers.

Ultimately, this research aims to amplify the unheard voices of sex workers in India, ensuring that discussions around prostitution move beyond morality and criminality to focus on human rights and social justice.<sup>2</sup>

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<sup>1</sup> *Budhadev Karmaskar v. State of West Bengal* (2011)

<sup>2</sup> *Gaurav Jain v. Union of India* (1997)

## Introduction

### 1.1 Background

Prostitution, often referred to as the “world’s oldest profession,” has a long and complex history in India. Historically, sex work was not always treated as a taboo. Ancient texts such as the Arthashastra and references to ganikas (courtesans) illustrate how sex workers once occupied a recognized position in society. However, colonial moral codes introduced during the British Raj reshaped public perception, framing prostitution as a moral and social evil that required legal suppression. This laid the foundation for the stigmatization and marginalization of sex workers, a reality that persists even today.

In contemporary India, prostitution is not per se illegal, but most activities associated with it—soliciting in public places, running brothels, pimping, or living off the earnings of sex work—are criminalized under the Immoral Traffic (Prevention) Act, 1956 (ITPA). This legal paradox places sex workers in a precarious position where their occupation is neither fully prohibited nor fully protected. Consequently, they face systemic marginalization not just from law enforcement agencies but also from society at large.

### 1.2 Marginalization and Its Impact

Marginalization manifests in multiple forms—social, economic, and legal. Sex workers are often denied access to healthcare, education, and alternative sources of livelihood. They are also subject to extortion and abuse by police, who exploit the ambiguities in the law. The lack of social acceptance isolates sex workers, leaving them vulnerable to violence and exploitation. Marginalization also extends to the children of sex workers, who are frequently denied education and other opportunities, perpetuating a cycle of poverty and exclusion.

The stigma attached to sex work often makes it difficult for workers to seek justice. Many fear arrest or social ostracism if they report crimes committed against them. As the Supreme Court observed in *State of Maharashtra v. Madhukar Narayan Mardikar* (1991)<sup>3</sup>, “even a prostitute is entitled to privacy and dignity,” yet this principle is routinely ignored in practice.

### 1.3 Legal Landscape in India

The legal framework governing prostitution in India is largely shaped by the ITPA, which was enacted with the stated purpose of preventing trafficking for the purpose of sexual exploitation. Sections 3 to 7 of the Act criminalize a range of activities related to sex work, including operating brothels and soliciting clients in public. While the Act purports to target traffickers and exploiters, in practice it has led to the harassment and criminalization of sex workers themselves.

Judicial interpretation, however, has evolved over time. In *Budhadev Karmaskar v. State of West Bengal* (2011), the Supreme Court explicitly acknowledged the need to protect the

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<sup>3</sup> *State of Maharashtra v. Madhukar Narayan Mardikar*, (1991) 1 SCC 57

rights of sex workers and directed the government to frame schemes for their rehabilitation. Similarly, in *Gaurav Jain v. Union of India* (1997), the Court emphasized the need to uplift the children of sex workers and integrate them into mainstream society.

Despite these progressive rulings, the ground reality remains bleak. Police raids on brothels often result in the arrest and detention of sex workers rather than their traffickers. The National Human Rights Commission (NHRC)<sup>4</sup> has repeatedly noted that sex workers are treated as criminals rather than victims or rights-holders, undermining the principle of equality before the law enshrined in Article 14 of the Constitution.

### 1.4 International Perspectives

Globally, the legal treatment of prostitution varies widely. Countries such as New Zealand and parts of Australia have moved toward decriminalization, recognizing sex work as legitimate labor. Others, like Sweden, have adopted the “Nordic model,” which criminalizes the purchase of sex but not its sale. International conventions such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Palermo Protocol also call for measures to combat trafficking while protecting the rights of sex workers.

India, as a signatory to these international instruments, is obligated to ensure that its laws do not violate the fundamental rights of sex workers. However, the existing legal framework falls short of these standards, perpetuating a cycle of vulnerability and exploitation.

### 1.5 Objectives of the Study

This study seeks to:

1. Analyze the historical and socio-legal context of prostitution in India.
2. Examine the systemic marginalization of sex workers and its impact on their lives.
3. Critically evaluate existing laws and judicial interpretations.
4. Compare international models of prostitution law reform and assess their relevance to India.
5. Propose legal and policy reforms aimed at protecting the rights and dignity of sex workers.

### 1.6 Methodology

The research adopts a qualitative approach, drawing upon:

- Analysis of statutory provisions such as the ITPA<sup>5</sup> and relevant IPC sections.
- Examination of key judicial pronouncements from the Supreme Court and High Courts.
- Review of secondary sources including books, journal articles, and NGO reports.
- Comparative analysis of international legal frameworks.

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<sup>4</sup> The Human Rights Council is an inter-governmental body created by the United Nations General Assembly resolution on 15 March 2006.

<sup>5</sup> Immoral Traffic (Prevention) Act, 1956

## Background and Context

### 2.1 Historical Perspective

The history of prostitution in India is deeply rooted in social, cultural, and economic traditions. Unlike the stigma that marks sex work in contemporary society, historical records show that prostitution, or courtesanship, was once a respected profession in certain contexts. Ancient Indian texts such as the *Arthashastra* by Kautilya (3rd century BCE) detail regulations for *ganikas* (courtesans) and their economic contributions to society. Similarly, the *Kamasutra* recognized courtesans as educated women who held considerable influence in royal courts.

Temple prostitution, or the *devadasi* system, is another significant historical practice. Women were dedicated to temple deities and often engaged in sexual relationships with patrons or priests. Though initially associated with religious merit and cultural prestige, the *devadasi* tradition eventually became a mechanism for sexual exploitation, particularly after the decline of temple patronage.

The advent of British colonial rule dramatically reshaped attitudes toward prostitution. Victorian moral codes clashed with indigenous traditions, leading to a shift in how sex work was perceived and regulated. The British introduced the Contagious Diseases Acts (1864–1869), which subjected sex workers to mandatory medical examinations for venereal diseases. These laws were not only discriminatory but also invasive, reinforcing the marginalization of sex workers. Colonial authorities viewed prostitution primarily as a public health and moral problem, a perspective that heavily influenced post-independence legal frameworks.

### 2.2 Post-Colonial Legal Framework

After independence, the Government of India inherited a legal system infused with colonial morality. In 1956, Parliament enacted the Immoral Traffic (Prevention) Act (ITPA) to address trafficking and sexual exploitation. The ITPA criminalizes various activities related to prostitution, such as brothel-keeping (Section 3), living off the earnings of prostitution (Section 4), procuring or inducing persons for sex work (Section 5), and soliciting in public places (Section 8).

Although the Act's stated purpose was to combat trafficking, its provisions have often penalized voluntary sex workers. The ambiguity around the legality of prostitution itself—technically not illegal, but surrounded by criminalized activities—creates a paradox that leaves sex workers vulnerable to police harassment and extortion.

The judiciary has, at times, attempted to mitigate these issues. In *Gaurav Jain v. Union of India* (1997), the Supreme Court underscored the need for rehabilitation programs for sex workers and their children. Later, in *Budhadev Karmaskar v. State of West Bengal* (2011), the Court recognized that sex workers are entitled to live with dignity under Article 21 of

the Constitution<sup>6</sup>. These judgments, however, have not been fully translated into legislative reforms, and the stigma associated with sex work continues unabated.

### 2.3 Socio-Economic Drivers of Prostitution

Poverty remains the most significant factor pushing individuals into sex work. Many sex workers enter the trade because of a lack of viable employment opportunities, particularly in rural areas. Trafficking networks exploit this economic vulnerability, luring women and children with false promises of jobs or marriage.

Caste dynamics also play a role. Historically marginalized communities such as Dalits and other backward classes are disproportionately represented in sex work. This intersection of caste and gender discrimination exacerbates the marginalization of sex workers, making it harder for them to access education, healthcare, and legal recourse.

The lack of formal education further limits opportunities for alternative employment. Many sex workers report being coerced into the trade at a young age, often as minors, leaving them with few skills or qualifications. Once in the profession, social stigma makes it nearly impossible to transition into mainstream jobs.

Economic necessity also leads some women to view sex work as a rational choice, particularly when it provides a higher income than low-wage labor. However, this "choice" is often shaped by structural inequalities, including gender-based violence, wage disparities, and lack of social security.

### 2.4 Public Health Concerns

Prostitution is closely linked to public health issues, particularly the spread of sexually transmitted infections (STIs) including HIV/AIDS. Sex workers are often denied access to healthcare services due to stigma and fear of discrimination. Inadequate sexual health education and lack of access to condoms exacerbate these risks.

Several NGO-led initiatives, such as the Sonagachi Project in Kolkata, have demonstrated that community-based interventions can significantly reduce STI rates among sex workers. By promoting condom use, providing health services, and empowering sex workers through collective bargaining, these programs challenge the notion that prostitution is inherently a public health threat.

The judiciary has also acknowledged the health needs of sex workers. In *Budhadev Karmaskar* (2011), the Supreme Court directed the government to frame schemes for the rehabilitation and healthcare of sex workers. Nevertheless, the lack of implementation mechanisms has limited the impact of such directives.

### 2.5 Comparative International Perspectives

The legal treatment of prostitution varies globally, offering valuable lessons for India. Countries like New Zealand have adopted full decriminalization, recognizing sex work as legitimate labor and providing sex workers with the same rights as other workers. This approach has been credited with reducing violence against sex workers and improving health outcomes.

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<sup>6</sup> No person shall be deprived of his life or personal liberty except according to procedure established by law.

On the other hand, the "Nordic model," pioneered by Sweden, criminalizes the purchase of sexual services while decriminalizing their sale. Proponents argue that this reduces demand and combats trafficking, though critics contend it drives the trade underground, increasing risks for sex workers.

India's current model, which criminalizes activities around prostitution without fully banning it, creates a grey area that often harms those it purports to protect. Aligning with international human rights standards would require a fundamental rethink of the existing framework, balancing the goals of preventing exploitation and protecting the rights of sex workers.



## Issues and Challenges

Prostitution in India is deeply entwined with a web of socio-economic vulnerabilities, legal inconsistencies, and systemic prejudices. Although the Immoral Traffic (Prevention) Act (ITPA), 1956, and allied laws were enacted to prevent exploitation, in practice they often exacerbate the marginalization of sex workers. This section analyzes the major issues and challenges under five broad themes.

### 3.1 Ambiguity in Legal Status

One of the most pressing challenges is the unclear legal status of prostitution. While sex work itself is **not illegal**, most activities surrounding it such as soliciting, running a brothel, or living off earnings of sex work are criminalized under Sections 3 to 9 of the ITPA. This paradox creates a constant threat of police harassment and arrest.

- **Case Law Reference:** In *Budhadev Karmaskar v. State of West Bengal* (2011), the Supreme Court noted that sex workers are entitled to dignity and constitutional protections. However, in the absence of decriminalization, they remain vulnerable to arbitrary enforcement of the law.
- **Impact:** This ambiguity pushes the trade underground, preventing sex workers from accessing health, legal, and social services without fear of being criminalized.

### 3.2 Human Trafficking and Exploitation

Trafficking for sexual exploitation is a persistent issue. Many individuals, particularly minors, are lured or coerced into sex work through false promises of employment or marriage.

- **Gaps in Implementation:** Though the ITPA and the Indian Penal Code (IPC Sections 370-373) penalize trafficking, inadequate investigation, corruption, and poor victim support lead to low conviction rates.
- **Case Law Reference:** In *Gaurav Jain v. Union of India* (1997), the Supreme Court emphasized the need for rehabilitation of sex workers and their children, but ground-level implementation remains weak.
- **Challenge:** Distinguishing between consensual adult sex work and trafficking is often neglected, resulting in the arrest of voluntary workers during anti-trafficking raids.

### 3.3 Stigma and Social Exclusion

Sex workers in India face intense social stigma, which denies them access to basic rights and opportunities.

- They are often denied housing and face eviction when identified as sex workers.
- Their children are frequently excluded from schools or bullied due to their mother's profession.

- Healthcare access is limited because many sex workers fear disclosure and discrimination from service providers.

**Case Law Reference:** In *State of Maharashtra v. Madhukar Narayan Mardikar* (1991), the Court ruled that even a prostitute has a right to privacy and dignity. Despite this, the judgment has not translated into meaningful social change.

### 3.4 Police Harassment and Violence

The police are often perceived as enforcers of morality rather than protectors of rights when dealing with sex workers.

- **Arbitrary Arrests:** Law enforcement uses provisions such as Section 8 (soliciting in public) to detain workers, often without cause.
- **Extortion and Abuse:** Reports from NGOs like the National Network of Sex Workers (NNSW) document instances of custodial violence, sexual assault, and bribes demanded by police officials.

**Judicial Note:** In *Budhadev Karmaskar* (2011), the Supreme Court criticized police violence against sex workers and ordered the government to develop protective schemes. Yet, implementation remains sporadic.

### 3.5 Lack of Comprehensive Rehabilitation

Current rehabilitation measures for sex workers are largely ineffective and punitive in nature.

- Many rescue operations conducted under ITPA result in workers being placed in state-run homes with restricted mobility, violating their personal liberty.
- Financial and vocational training programs are inadequate and fail to address systemic barriers like social stigma.

**NGO Evidence<sup>7</sup>:** Projects such as the Sonagachi Project in Kolkata show that community-led models focusing on empowerment, not rescue, yield better outcomes.

### 3.6 Public Health Barriers

The criminalized environment makes it difficult to implement effective public health interventions.

- Fear of raids discourages sex workers from carrying condoms, which are often used as evidence of prostitution.
- Lack of targeted sexual health education and accessible testing facilities heightens the vulnerability to HIV/AIDS and other sexually transmitted infections.

**Global Comparison:** In countries like New Zealand, where sex work is decriminalized, public health indicators for sex workers are significantly better.

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<sup>7</sup> Nih.gov

### 3.7 Intersectionality of Caste and Gender

Marginalized caste communities, especially Dalit women, are overrepresented in the sex trade. This reflects the intersectionality of caste oppression, poverty, and gender discrimination.

- **Cultural Practices:** Systems like the devadasi practice (banned yet prevalent in some regions) continue to push lower-caste women into sexual exploitation.
- **Discrimination:** Lower-caste sex workers face dual stigma both as sex workers and as members of oppressed communities reducing their access to justice.

### 3.8 Policy and Institutional Gaps

There is little coordination among government agencies dealing with sex work-related issues.

- Lack of comprehensive policy addressing both trafficking and rights of consensual adult sex workers.
- Minimal consultation with sex worker collectives in law and policy formulation.
- Weak monitoring of government and NGO-run rehabilitation homes, leading to misuse of funds and human rights abuses.

#### **Summary:**

The issues confronting sex workers in India are not merely legal but also structural. Ambiguities in the law, compounded by social prejudice and ineffective rehabilitation, create an environment where sex workers remain invisible and voiceless. Addressing these challenges requires nuanced understanding and a rights-based approach rather than punitive interventions.

## Legal and Policy Development

The legal and policy framework governing prostitution in India has evolved through colonial influences, post-independence statutes, and judicial pronouncements. However, it remains fragmented and often inconsistent, oscillating between a moralistic approach and limited recognition of sex workers' rights.

### 4.1 Colonial Legacy and Early Legislation

The roots of India's current prostitution laws can be traced to British colonial rule, which viewed sex work as both a public health concern and a moral vice.

- **Contagious Diseases Acts (1864–1869):** These Acts mandated compulsory medical examinations for sex workers to control venereal diseases in cantonment areas. While ostensibly about public health, the laws stigmatized and violated the autonomy of sex workers.
- **Indian Penal Code, 1860 (IPC):** Sections 372 and 373 criminalized the sale and purchase of minors for prostitution. This early criminalization laid the foundation for future restrictive legislation.

### 4.2 The Immoral Traffic (Prevention) Act (ITPA), 1956

The ITPA (originally the Suppression of Immoral Traffic in Women and Girls Act, 1956) remains the central legislation regulating prostitution. It was enacted to fulfill India's obligations under the **UN Convention for the Suppression of the Traffic in Persons (1949)**.

Key provisions include:

1. **Section 3:** Punishes running, managing, or assisting in a brothel.
2. **Section 4:** Penalizes living off the earnings of sex work.
3. **Section 5:** Criminalizes procuring or inducing persons for prostitution.
4. **Section 6:** Penalizes detaining a person in premises for prostitution.
5. **Section 7:** Prohibits prostitution in or near public places.
6. **Section 8:** Criminalizes soliciting in public places.

### Criticism:

- While the Act targets trafficking and exploitation, in practice, its provisions often penalize voluntary adult sex workers.
- Brothel raids conducted under ITPA frequently lead to arrests and detentions of sex workers rather than traffickers.

### 4.3 Significant Amendments

- **1978 & 1986 Amendments:** Expanded the scope of the Act and changed its name to ITPA.

- **2006 Draft Amendments:** Proposed deleting Section 8 (soliciting) and introducing penalties for clients. However, the proposal faced backlash from sex worker collectives and was not passed in full.

#### 4.4 Related Provisions in Other Laws

- **Indian Penal Code (IPC):** Sections 370–373 criminalize human trafficking, while Section 377 (now partially struck down in *Navtej Singh Johar v. Union of India*, 2018) historically penalized “unnatural offences,” impacting LGBTQ+ sex workers.
- **Juvenile Justice (Care and Protection of Children) Act, 2015:** Provides for rescue and rehabilitation of children involved in prostitution.
- **Bonded Labour System (Abolition) Act, 1976:** Relevant where sex workers are held in debt bondage.

#### 4.5 Landmark Judicial Pronouncements

1. **Gaurav Jain v. Union of India (1997)** – The Supreme Court directed the government to devise schemes for the rehabilitation of sex workers and their children, recognizing their right to equality and dignity.
2. **State of Maharashtra v. Madhukar Narayan Mardikar (1991)** – Held that even a woman engaged in sex work is entitled to privacy and dignity under Article 21 of the Constitution.
3. **Budhadev Karmaskar v. State of West Bengal (2011)** – The Supreme Court declared that sex workers have the right to live with dignity and directed the Union Government to create rehabilitation schemes and protective measures.
4. **Prajan Foundation v. Union of India (2018)**<sup>8</sup> – The Delhi High Court emphasized that sex workers cannot be treated as criminals during anti-trafficking operations.
5. **Vishal Jeet v. Union of India (1990)**<sup>9</sup> – Urged the government to eradicate child prostitution and provide suitable rehabilitation.

#### 4.6 International Commitments

India is a signatory to several international instruments that influence its domestic laws:

- **CEDAW (Convention on the Elimination of All Forms of Discrimination Against Women), 1979:** Obligates the state to eliminate discrimination and protect women from exploitation.
- **Palermo Protocol (2000):** Requires measures to prevent trafficking and protect victims’ rights.

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<sup>8</sup> *Prajan Foundation v. Union of India* 2018

<sup>9</sup> *Vishal Jeet v. Union of India* case AIR 1990 SC 1412

While India has ratified these treaties, domestic implementation remains inconsistent with their spirit.

#### 4.7 Recent Policy Initiatives

- **National AIDS Control Organisation (NACO):** Implements HIV/AIDS prevention programs for sex workers, focusing on condom distribution, awareness campaigns, and health clinics.
- **Proposed Anti-Trafficking Bill (2018):** Sought to consolidate laws relating to trafficking but was criticized for being overly punitive and conflating trafficking with consensual sex work.

#### 4.8 Emerging Trends in Judicial Thinking

Courts have increasingly moved toward a rights-based approach:

- The Supreme Court, in its 2022 directions in *Budhadev Karmaskar* (continuation), recognized sex workers as entitled to equal protection under the law and directed police to refrain from harassing them.
- Judicial bodies have called for clearer legislative distinctions between consensual adult sex work and trafficking.

#### Summary:

While India has made incremental progress through judicial activism and policy measures, its legal framework remains rooted in outdated moralistic notions. The focus continues to be on “rescue and rehabilitation” rather than empowerment and rights. Without comprehensive reform, sex workers will remain vulnerable to exploitation by both traffickers and the state.

## What is Needed?

The issues surrounding prostitution in India cannot be resolved through punitive measures alone. There is a need for a holistic, rights-based approach that recognizes sex work as a complex socio-economic reality. This section outlines key reforms required in law, policy, and societal attitudes to ensure justice and dignity for sex workers.

### 5.1 Decriminalization and Legal Clarity

- **Clarify the Legal Status of Sex Work:** The current ambiguity in the Immoral Traffic (Prevention) Act (ITPA) criminalizes activities around sex work, pushing it underground. A clear legal distinction must be made between **consensual adult sex work** and **trafficking or child exploitation**.
- **Repeal or Amend Punitive Provisions:** Sections 3, 6, 7, and 8 of the ITPA should be reviewed to prevent misuse against voluntary sex workers.
- **Learning from International Models:** New Zealand's decriminalization approach (Prostitution Reform Act, 2003) provides an effective example where sex workers have legal protections and access to basic rights.

### 5.2 Strengthen Anti-Trafficking Measures

- **Focused Law Enforcement:** Police efforts should prioritize dismantling trafficking networks rather than arresting adult sex workers.
- **Victim-Centered Approach:** Trafficked individuals should not be treated as offenders. They must receive support services, legal aid, and access to compensation.
- **Stronger Inter-State Coordination:** Trafficking often involves multiple states; improved coordination between state police and central agencies is critical.

### 5.3 Rights-Based Rehabilitation and Support

- **Community-Led Models:** Rehabilitation must be voluntary and led by sex workers themselves. Forced detention in state-run homes often violates constitutional rights under Article 21.
- **Economic Empowerment:** Skill development programs, microfinance access, and alternative livelihood options must be accessible for those who wish to exit sex work.
- **Healthcare Access:** Integrate sex workers into national health insurance schemes and strengthen existing NACO-led HIV/AIDS programs with expanded outreach.

### 5.4 Address Stigma and Social Discrimination

- **Education and Sensitization Campaigns:** Nationwide campaigns are needed to challenge stereotypes about sex workers.
- **Police and Judicial Training:** Law enforcement officials must be sensitized on the rights of sex workers to prevent harassment and abuse.

- **Inclusive Policies for Children:** The children of sex workers should be guaranteed access to education without discrimination. *Gaurav Jain v. Union of India* (1997) emphasized this but implementation remains weak.

#### 5.5 Policy Integration and Institutional Mechanisms

- **National Commission:** Establish a dedicated commission for sex workers' rights to monitor implementation of laws and recommend reforms.
- **Consultation with Collectives:** Groups like the National Network of Sex Workers (NNSW) should be included in policymaking processes to ensure laws reflect ground realities.
- **Monitoring and Accountability:** Independent monitoring bodies should oversee rehabilitation homes and anti-trafficking operations to prevent rights violations.

#### 5.6 Constitutional and Human Rights Protections

- **Enforce Judicial Directions:** The Supreme Court's rulings in *Budhadev Karmaskar* (2011 & 2022) recognizing sex workers' dignity must be enforced uniformly.
- **Article 14 and 21 Protections:** Sex workers are entitled to equality before the law and the right to life with dignity. These constitutional guarantees must guide all legal and administrative action.

#### 5.7 International Cooperation and Alignment

- **Adopt Best Practices:** Align domestic laws with international human rights frameworks, such as CEDAW and the Palermo Protocol.
- **Cross-Border Collaboration:** Strengthen cooperation with neighboring countries to combat trafficking while safeguarding voluntary sex workers' rights.

#### Summary:

Reforms must go beyond moral policing and focus on **empowerment, protection of rights, and structural support systems**. Decriminalization, robust anti-trafficking measures, community-led rehabilitation, and social sensitization together can create an environment where sex workers are not driven into invisibility but can exercise their rights as equal citizens.



## Conclusion

Prostitution in India continues to exist in the shadows, not because it is rare or isolated, but because our laws and social attitudes force it underground. The current framework—rooted in colonial morality and half-hearted legal reforms—has failed to protect the very people it claims to help. It has criminalized sex workers in the name of “rescue,” ignored their voices, and perpetuated cycles of poverty, stigma, and violence.

It is time to confront an uncomfortable truth: morality-based laws have done more harm than good. Criminalizing the surroundings of sex work has neither eliminated trafficking nor improved public safety. Instead, it has made sex workers invisible and vulnerable to abuse by police, traffickers, and even the State.

The Supreme Court’s repeated assertions—*Budhadev Karmaskar v. State of West Bengal* (2011, 2022) being the most significant—that sex workers are entitled to dignity and constitutional protections must now be implemented with urgency. This requires political will and the courage to recognize sex work as work. Decriminalization is not about promoting prostitution; it is about giving adults the ability to make choices without fear of violence or arrest, and about freeing the system to focus on real exploitation—trafficking, coercion, and abuse.

Our country must also acknowledge the intersectional nature of this issue. Dalit women, transgender persons, and other marginalized groups form a significant proportion of the sex worker population. Ignoring this reality means turning a blind eye to centuries of caste and gender oppression that funnel the most vulnerable into this profession.

India stands at a crossroads. We can continue with half-measures, performative “rescues,” and policies that satisfy a misplaced moral conscience, or we can choose dignity, rights, and inclusion. We must listen to sex workers themselves, involve their collectives in policymaking, and treat them not as criminals or victims-in-perpetuity but as equal citizens.

The path forward is clear: amend or repeal punitive provisions of the ITPA, build robust anti-trafficking measures, provide voluntary and community-led rehabilitation, and dismantle the social stigma that makes life unbearable for sex workers and their children. Anything less will keep the cycle of marginalization intact.

This is not just a legal issue; it is a constitutional imperative. If India is serious about being a society that values equality and human rights, it must stop silencing the unheard voices of sex workers and start building a system that finally sees them.

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