

Human Rights of Sex Workers

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ABSTRACT

From historical times, references to sex work are deeply rooted in India's socio-cultural narrative, reflected through mythological entities such as apsaras (celestial dancers) like Menaka and Renuka, the Devadasi tradition originating in the 6th century, and Vishkanyas (poison maidens), first documented in Chanakya's Arthashastra. Despite this historical presence, contemporary perceptions remain overwhelmingly negative, viewing sex work as immoral and derogatory rather than as an occupational choice or source of livelihood. This dissonance challenges our position as an informed, progressive society committed to safeguarding personal liberty and human rights under Article 21 of the Indian Constitution.

Human rights, inherently universal and inviolable, are frequently compromised for sex workers in India. Regardless of their occupation, sex workers retain fundamental rights against torture, inhumane treatment, and deserve recognition before the law. Nevertheless, their actual conditions remain dire, exacerbated by structural deficiencies within India's legal system, particularly the implementation failures of the Immoral Trafficking (Prevention) Act of 1956. This legislation, meant to curb trafficking and gradually abolish prostitution, has been largely ineffective, leaving sex workers vulnerable to violence, discrimination from law enforcement and government authorities, insufficient healthcare, psychological trauma, and exploitation of minors.

This research presents an integrated analysis of sex work in India, assessing historical, social, cultural, health-related (including HIV/AIDS), and economic dimensions. It critically evaluates existing legislations and anti-trafficking measures, notably the controversial "rescue and restore" model, assessing their efficacy and implications. Furthermore, the study scrutinizes economic empowerment initiatives, income disparities within sex work, and the broader economic repercussions of anti-trafficking efforts. Ultimately, the paper proposes actionable recommendations leveraging existing legislation and human rights frameworks, advocating for a compassionate, rights-based approach to better safeguard sex workers' welfare and dignity.

Keywords: Sex work, human rights, India, Immoral Trafficking (Prevention) Act, Devadasi, Vishkanyas, economic empowerment, HIV/AIDS, rescue and restore, structural discrimination.

INTRODUCTION

Prostitution is a practice or business in which people participate in sexual conduct in exchange for money, and a prostitute is someone who works in this field. Prostitution has several forms, and its legal position varies from country to country and even from region to region within a country, ranging from upheld or unenforced crime, to unregulated, to a guided vocation. It's the same way as business or any other form of sexual entertainment. Around the world, the position of prostitution and the law is changing, resulting in various findings. Some people see prostitution as a form of cruelty or barbarism directed at women and children that contributes to the emerging crime of human trafficking and others' point of view is totally different from this. Prostitution is the world's second-oldest occupation, behind agriculture and sex workers have been at the periphery of society for ages., and it has long been practised in India. Its existence is documented in historical documents. The discussions and attempts to reconnect sex workers to mainstream society are a need.

Discrimination against sex workers in India should be treated as seriously as discrimination against any other marginalized groups based on class, caste, gender, or religion. The topic remains unsolved as to whether sex workers have any rights at all or are simply considered sexual objects. Despite the fact that India is a member of different international accords on human rights, including women's rights, and that the Indian Constitution guarantees people's rights against discrimination, it has failed to sufficiently defend the rights of sex workers. So, in this paper, we will discuss the reasons behind the denial of their human rights, some obscure details regarding the rights of sex workers in India, and whether or not their rights are upheld by the Indian judicial system.

In this paper, we consider the many factors that create and reinforce sex worker marginalization and social exclusion. We set out and explain the issues that must be addressed in order to improve sex workers' status and health. The range of regulatory mechanisms used to govern sex work, enforcement practices, lack of clarity in the language used to describe this, and the claims of sex workers are discussed, as well as the limited steps that have been taken towards seeing the sex worker as a person possessed of at least some rights.

DATA

The United Nations (UN) estimates the number of trafficking victims at more than 30 million, with the largest number originating in Asia, and an estimated 1,50,000 annually in south Asia alone (ILO 2006). The Indian government's Ministry of Women and Child Development (MWED) estimates the number of persons trafficked for CSE in India to be around 2.8 million and about three million prostitutes in the country.

When the Maharashtra government declared a ban on women dancing in bars, the Forum against Oppression of Women, along with the Research Centre for Women's Studies SNDT University conducted a study that interviewed around 500 bar dancers. Another study was conducted after the ban took effect. The findings of these studies showed that a large percentage of women came from communities which are historically marginalised and poor, and are "sex-work" communities, like the Bedia and Rajnat castes from Rajasthan. The women had very low levels of education and did not possess employable skills. Of those interviewed 42% were illiterate and another 40% had studied only till class 5 and 8. About 23% of the women interviewed had held other jobs, before becoming bar dancers. Some of these findings resonated with those of a pan-Indian study of sex workers.

A working paper published in February 2013 by the Institute of Development Studies (IDS), Pune shows that about 65% of the 3,000 respondents came from poor families, 26% of the respondents belong to the Dalit communities, 50% had no schooling and about 20% had studied up to class 4 and 7. About 50% (1,488/3,000) of the respondents had worked before entering sex work. Out of these, 93.75% (1,395/1,488) had entered sex work after their entry into the labour market, and 6.25% (93/1,488) had entered sex work simultaneously along with their entry into the labour market. About 21% (315/1,488) continued with their other work, along with doing sex work.

According to the most recent census, India has roughly 2-3 million sex workers between the age group 15-35 because of the emphasis on physical appearance and endurance capacity to entertain multiple customers. Globally, the number of sex workers is 40-42 million, of which 80 percent are females and range in age between 13-25. While a large number of them were kidnapped and thrown into the quagmire, the majority of them took up this occupation freely, but under duress, due to poverty and other pressing circumstances. Prostitution is not limited to women only; male prostitutes are also there.

These ladies are from impoverished families and/or lower socioeconomic groups, which means they have no official education or experience in anything other than being extremely poor and surviving. These women use or sell their bodies to feed their families and themselves, as well as to provide a living. The studies reveal that in their working lives, a significant number of women currently working in sex work move quite fluidly between other occupations and sex work. A substantial proportion of women who are currently in sex work, almost half of the women surveyed, had experience in other occupations prior to embarking on sex work. Even those who came to sex work relatively early in their working lives experienced other forms of paid work prior to sex work.

HISTORICAL BACKGROUND

Prostitution is one of the oldest professions of the world practised since the birth of organised society. It is practised in almost all the countries and every type of society. In India, the Vedas, the earliest of the known Indian literature, abound in references to prostitution as an organised and established institution. In Indian mythology there are many references of high-class prostitution in the form of celestial demigods acting as prostitutes. They are referred to as Menaka, Rambha, Urvashi, and Thilothamma. Archaeological findings of the Indus Valley also show traces of existence of prostitution. The

bronze figure of the dancing girl from Mohenjodaro represents a sacred prostitute carrying out her duties within the precincts of the temple of some mother goddess and this cult was quite well established in the Indus Valley Civilization.

These practices date back to the dawn of civilization. Around the 6th century, the practice of 'dedicating' females to Hindu gods grew popular, eventually leading to ritualised prostitution. Devadasi literally meant God's (Dev) female servant (Dasi), where young pre-pubertal girls were married off, given away in matrimony to God or the temple's local religious god, according to ancient Indian custom. The girl was frequently married before she reached puberty, and she was forced to work as a prostitute for upper-caste community members. This practice is prohibited in India under the Devadasi Security Act of 1934.

It is common knowledge that trafficking takes place not only for the purposes of sex work but also for begging, domestic work, construction work, brick kiln work, fish-processing, camel-riding and marriage to name a few. Trafficking has to be looked at as an issue separate from sex work or prostitution as well as migration. Sex workers' organisations have argued against trafficking and see it not only as a human rights violation, but also as a threat to their own work and credibility. Often the debate is couched in terms of anti-trafficking lobbying/campaigns. The debate needs to be framed differently. Equating trafficking with sex work does a great disservice to both sex workers and to the anti-trafficking campaigns, and only ends up infantilising women.

THE DEVADASI SYSTEM

Devadasis form only a small portion of all sex workers found in India today. The system appears to have originated with a great temple-building boom in South India in the 9th and 10th centuries A.D., and variants are found in many parts of East and South India. There is little evidence of similar institutions in North India.

In their traditional form, the several variants of the devadasi system entailed the dedication of girls before puberty, some even before being born, to a deity. In different states and regions, the deity differed-being alternately known as Yellamma, Hanuman, Renuka Devi, or Hulganga Devi-but the underlying intention was the same. Upon the attainment of puberty, a dedication ceremony was held involving a "marriage" to the deity, the funds for the marriage being provided by the girl's family or a sponsor. This required the approval of a temple priest, but almost never of the individual herself. Once dedicated, the girl took up the functions of singing and dancing on various holy occasions or other work related to temple functioning.

The importance of this function can be gauged from the extensive space devoted to dance teaching and singing in historical documents related to devadasis. Presumably, over time their functions came to involve meeting the needs of "earthly gods" such as kings, powerful chieftains, and wealthy individuals. Thus, in its later versions, the dedication ceremony was followed by a "deflowering ceremony" in which the sponsor had the first right of sexual access to the girl.

The devadasis enjoyed access to a fairly elaborate social and economic support system linked to the temple. Available historical records document substantial gifts of land, food grains, and housing to devadasis. They also appear to have enjoyed a regular income in kind from the revenues of the temples with which they were associated. Girl children of devadasis enjoyed rights to land owned by their mothers and, if dedicated to the temple, enjoyed the economic and social rights that their mothers had. Male children appear to have had only rights to some form of financial support from their mothers.

There is some evidence that in earlier days devadasis enjoyed a significantly higher social status than their counterparts in the sex industry today. They participated in the management of temple affairs, they had access to royal households, and they were often the object of worship by temple pilgrims. Indeed, even as late as the 19th century, devadasis and their children were better educated than the women belonging to "respectable" classes.

Beginning in the 19th century or perhaps even earlier, however, the social and economic position of devadasis began to decline for two main reasons. The first reason was that temples were systematically destroyed under Mughal rule; the

second reason was that the nationalist movement unleashed new definitions of social morality. An additional factor was that the middle-class elite of Madras, like their counterparts in the North, began to try to resurrect traditions of classical music and dance by making them more broad-based. The devadasis' culture became identified with the obscene and the erotic, and they were condemned for their interpretation of dance along erotic lines. Such was the fervour that there were protests against admitting children of devadasis to schools that were otherwise open to everyone. As a consequence, devadasis began to lose their dominant position as repositories of a dancing and singing tradition. This process was accompanied by a series of efforts to bring about legislation to end the system altogether. In 1885, devadasis were brought to national and international attention when they were discussed in Great Britain's House of Commons. The Hindu Religious and Charitable Endowment Act of 1927 in the province of Mysore made the practice of dedicating girls to temples punishable; this was followed by similar legislation in Bombay in 1934, Madras in 1947, and, more recently, Andhra Pradesh in 1987. The Madras Devadasi Act of 1947 was particularly severe, as it prohibited women from dancing in temples or religious occasions. Some of this legislation also provided for rehabilitation of devadasis and allowed them to marry.

Thus, these legislative measures did little to address a key policy concern: reducing the number of women in "immoral" activities. If anything, the Devadasi system became a convenient religious cloak to avoid the social stigma attached with commercial sex work. Brothel owners and traffickers increasingly became part of deflowering ceremonies for young women, and a number of case studies suggest that this change only promoted further sexual and economic exploitation.

In essence, the abolition of the devadasi system led to the further exploitation and stigmatization of the very women the new legislation hoped to protect. The social and economic rights that these women had previously enjoyed, coupled with the respect that they had held within the society at large, were lost under the new legislation.

ASPECTS TO LOOK INTO

1. Sex Work is Work

Sex work is defined as provision of sexual services in cash or kind within a commercial context. Sex Workers from the SWASA network (Sex Workers and Allies South Asia) across the region challenge the articulation that sex work is selling sex or selling bodies. Instead, they provide services directly to clients as independent workers or through third parties. Pushed to the margins as 'immoral' workers, people in sex work are denied safe working conditions and are forced to function in an environment where exploitative practices flourish.

2. Decriminalising Sex Work

Decriminalizing sex work would boost sex workers' legal protection and make it simpler for them to obtain justice and healthcare, according to activists, sex workers, and organizers. Destigmatizing sex work might start by decriminalizing it and treating it like any other type of employment. The protection, equality, and dignity of sex workers will all be maximized by legal acknowledgment of the industry.

3. Sex Work is not Trafficking

It's really important to understand this. The notion that all women in sex work are victims of exploitation and slavery overlooks the fact that some continue to do sex work of their own volition. It further silences their voices and pushes them to the margins.

4. Violence against Sex Workers

The negative perception of sex work and the prejudice that sex workers encounter frequently lead to violence against sex workers, such as physical assaults and harassment from customers, families, the community, and government agencies. In addition to being frequently imprisoned and rehabilitated by force, sex workers also frequently lack legal protection. Measures to address trafficking in persons often overlook the need to protect the basic human rights of sex workers.

5. Access to Justice

The stigma surrounding this industry leads to sex workers often being denied access to justice. This leaves them vulnerable to abuse and exploitative practices. As we know, that even though sex work in India is not illegal, according to ITPA,

supporting activities are punishable offences. Sex workers have therefore consistently been advocating for the full decriminalisation of sex work to prevent them from incarceration.

6. Access to Healthcare

Many sex workers face challenges in gaining access to essential health services, including for treatment for HIV/AIDS and sexually transmitted infections (STIs). A safe and healthy workplace is the right of every sex worker. When sex workers are denied access to health services, including life-saving commodities such as condoms, lubes, they are denied their workers' rights.

7. Workers' Rights

Sex workers are denied the ability to form unions and organize when their rights as workers are violated. It prevents them from requesting recognition as unofficial workers, gaining access to government-provided compensation packages for unofficial workers, negotiating for pensions for senior sex workers, and pursuing other rights including calling for safe working conditions, opposing violence, and opposing exploitative practices.

8. The CEDAW GR 8

Although General Recommendation (GR) 38 of the Convention on the Elimination of All Forms of Discrimination against Women, or CEDAW, is clear about human trafficking for all other forms of work for women, it targets 'prostitution' and refuses to accept provision of sexual services as a form of labour. Because sex work is a means of livelihood for many women, especially marginalized women, CEDAW GR 38's narrow definition of sex work denies them their rights.

9. Recognising Sex Workers as Informal Workers

The National Human Rights Commission (NHRC) has urged countries to issue temporary documents to sex workers so they can receive health and social benefits. On October 7 2020, NHRC's advisory 'Human rights of women in the context of Covid-19', recognised sex workers as informal workers. This was later changed following a backlash from abolitionist activists, suggesting that sex workers such as informal workers be given "humanitarian considerations" during the Covid-19 pandemic.

LEGAL ASPECT

The preamble of 1949 The Constitution of India promises to the citizens of India Justice, Liberty, Equality and the Dignity of the individual. The Indian Penal Code of 1860 also addresses prostitution, but only in the context of children. However, it tries to stop things like kidnapping in general, kidnapping for the purpose of seduction and seducing someone into sex, importing a foreign girl for sex, and so on.

Furthermore, human trafficking, beggars, and other forms of forced labour are prohibited by Article 23(1) of the Constitution. Any violation of this rule, according to Article 23(2), is a crime punishable according to the law. The rights are made more concrete in Article 12 through 32 of the Constitution.

The Constitution also lists a set of desirable objectives for the state. Although not legally enforceable, these objectives include the right to an adequate means of livelihood for all citizens, a clean environment, protection of citizens including children against abuse.

ITPA

The criminalisation perspective views sex work as a social evil that should be subjected to penal measures. Some laws framed around this approach are silent about the legality of prostitution itself. For instance, *The Suppression of Immoral Traffic in Women and Girls Act* (1956), amended in 1986 as *The Immoral Traffic Prevention Act* (ITPA), which criminalises only the outward manifestations of sex work such as soliciting, brothel keeping, living off the money obtained through

prostitution, soliciting or luring a person into prostitution, trafficking of children and women for the purpose of prostitution, and others while at the same time refraining from specifically targeting the sex worker.

Although prostitution is not explicitly illegal in India, it is considered unethical by the courts. Running a sex racket, for example, is illegal, but private prostitution or getting compensation in exchange for sex without previous solicitation may not be. ITPA defines "prostitution" as the commercial exploitation or abuse of a female for monetary gain, and a "prostitute" as the individual who benefits from it. So, while prostitution *per se* is legal, a multitude of activities surrounding it like public solicitation, brothels, kerb-crawling, minor sexual commerce, trafficking, pimping and pandering, are illegal. Despite the existence of "Red Light" districts in cities, laws governing sex workers are somewhat vague. They are not safeguarded by labour laws or trade unions but can seek rescue and rehabilitation by national organisations. Male prostitution is also unrecognised/disallowed under Indian law.

Decriminalisation is based on the view that sex work may be a personal choice and a private matter between consenting adults. Distinguishing between trafficking and sex work, this approach seeks to decriminalise voluntary sex work and all related activities; forced sex work on the other hand is considered a separate issue for which existing laws related to trafficking are sought to be strengthened.

Legalisation is similar to decriminalisation in seeking to address prostitution/sex work outside the purview of criminal law. Unlike decriminalisation, however, it does not distinguish between trafficked sex workers and those who have entered sex work through constrained choice. Legalisation advocates support measures to regulate sex work such as licensing, zoning (segregating sex workers into a separate place), mandatory check-ups and recognition of sex work as a lawful activity.

JUDICIAL ASPECT

Judges have a critical role in determining how broad a piece of legislation should be. This is a crucial job since it has the capacity to close any gaps in the legislation that may exist. We'll go through a few of the most well-known ones below to get a better understanding of sex worker's rights and limits.

In the case of Budhadev vs. the state of West Bengal, the appellant was found guilty, and the court also stated that the prostitutes were human beings who were entitled to live a dignified life under Article 21. It also ordered the government to develop sex worker rehabilitation plan that include vocational training so that they can earn a living other than selling their bodies. It was also suggested that instead of looking down on prostitutes as inferior humans, people should sympathise with their plight because most women choose this business out of necessity rather than choice.

In the case of Kaushalya v. State of Uttar Pradesh, a number of prostitutes had to be evacuated from their homes in order to maintain the city of Kanpur's decorum. The Allahabad High Court of Judicature argued that Section 20 of the Act violated the respondents' basic rights under Article 14 and sub-clauses (d) and (e) of Article 19(1) of the Constitution. The Act was found to be constitutionally valid since the distinction between a prostitute and a person producing a nuisance was discernible. The Act is also in line with the goal of the act, which is to maintain order and decorum in society.

In the recent case of Kajal and others V. State of Maharashtra (2020) the Bombay high court held that prostitution is not a crime under the Immoral Traffic (Prevention) Act of 1956, and that an adult woman has the right to choose her profession and cannot be detained without her consent or will. The court set free 3 sex workers from correctional institutes.

EFFECT OF COVID 19 ON SEX WORKERS

The health and financial conditions of female sex workers have worsened post-pandemic. Thousands of Indian female sex workers have been negatively affected by the economic freeze and have received no government support in exchange for their lost earnings, not even as part of schemes. Nationwide, sex workers have no other option but to often continue unsafe sex, with no bargaining scope, placing their health and lives at risk to support themselves and their families.

For instance, the Pradhan Mantri Gareeb Kalyan Yojana announced in 2020 is doing no good to the sex workers in a famous brothel of Muzzafarpur. Under the scheme 200 million poor women were to get INR 500 each for three months but to avail this, a Jan Dhan account was a mandate. This is especially difficult since several sex workers do not even have any official documents at all.

During the pandemic, states identified many categories of marginalized groups such as the transgender community, people with disabilities, workers, and migrants for immediate relief. However, sex workers were left out of all relief packages. States historically make assistance contingent on giving up sex work. For instance, the scheme of the Karnataka Government in 2018 under assistance for “exploited” women requires them to provide an undertaking that they will not return to sex work.

Sex workers routinely represent the difficulties they face while accessing identification documents such as Election Commission cards, Aadhar, Caste certificates, ration cards, etc. Many are single women with children and unable to produce proof of residence for long periods of time or show ancestral documents required for obtaining caste certificates. They were denied ration relief packages provided by State governments.

Let us look into some personal anecdotes:

AMISHA

Amisha (name changed to hide identity), has been in sex work for eight years now. The 33-year-old says she has faced an almost total loss of her savings and income since the government imposed the first nationwide lockdown in response to the COVID-19 pandemic, in March, last year. A resident of Chaturbhuj Sthan, an age-old brothel in Bihar’s Muzaffarpur district, Amisha says that it is only in the past three months that her clients have resumed coming back. However, only a few of them, resulting in 70-80% fall in her usual income.

Predictably, she had to struggle to pay her rent and get necessary medicines for her 14-year-old son.

KIRTI

27-year-old Kirti (name changed), a resident of Mangolpuri, New Delhi has also been struggling to make ends meet, alike.

“We got no help from the government. At least, I did not. Only because of some members of the National Network of Sex Workers (NNSW) and their help with the groceries, we could survive this deadly year.”

According to NNSW, the total number of female sex workers in the country would be around 1.2 million.

“Here in Delhi, we started getting some clients post August 2020, when the national lockdown was eased off. But they (clients) would be very unhygienic and even refuse to use protections. Plus, they offered money as less as 200. We had no option but to agree to take health risks otherwise. Hunger makes you go beyond borders,” Kirti, who usually refuses clients below INR 2000 tells The Leaflet.

Sex work has always been a risk to the health and finances of the workers involved. And the COVID-19 pandemic has exacerbated the issues like violence, harassment, and abuse in sex work. Additionally, these women continue to experience outright violence, discrimination, and harassment at the hands of the police.

ROMA SINGH

Roma Singh (name changed) is a sex worker based in Ranchi. She lives in a village nearby but travels to the state capital for work. She says, “Post pandemic the local police would threaten to lock us up if we were seen roaming on the streets or anywhere outside, for that matter. He indirectly asked me to provide him free service if I wanted to work in peace and I had no other option.” Roma further added that when she tried to speak about it at the local police station, she was abused there.

Migrant sex workers have to put their health and safety at risk because they are excluded from accessing social and health services, and may not be able to stay at home, physically distance, or stop work in order to survive. Migrant sex workers face exclusion and oppression in more ways than one: including xenophobia, racism, language barriers and precarious immigration status as well as the risk of deportation. As one of the most marginalized communities, sex workers continue to be left behind.

VIOLATION OF RIGHTS OF SEX WORKERS (HEALTH)

Sex workers face crippling stigma and prejudice, which makes it difficult for them to defend their health and well-being. Because they have been stigmatised and discriminated against in the past, they prefer not to identify their work when seeking care at government or private hospitals. Female sex workers are humiliated and criticised, and their confidentiality is breached. They are not properly evaluated, forced to endure HIV tests, overcharged for treatments at private hospitals, denied medical services, delivery care, and their confidentiality is violated. Doctors also discriminated against sex workers and demanded sexual favours before they were given medical treatment, according to sex workers. In medical facilities, the precarious position of sex workers is worsened.

WHY SEX WORKERS WERE BROUGHT UNDER THE TARGET GROUP TO DISSEMINATE INFORMATION REGARDING THE CAUSE OF HIV/ AIDS WIDELY?

The inclusion of sex workers as a target group is appropriate because in India a large section of the population is being infected through sex workers and more so, through men who have sexual relations with them. But just by providing them information about HIV/AIDS is likely to contribute little towards preventing the infection among them or their clients.

Sex workers are actually the most helpless and vulnerable victims of the fatal disease. Empirical studies during the last few years have shown convincingly that a minimum amount of education about HIV/AIDS imparted to sex workers by NGOs carrying out HIV/AIDS intervention projects among them is required to make them strongly motivated to use condoms as a means of preventing infections. But their clients are reluctant to use condoms despite sex workers' insistence to do so. They don't perceive the risk of death from HIV/AIDS as worthy of sacrificing a bit for sexual pleasure. Many sex workers are too poor and powerless to turn down the clients reluctant to use condoms.

Yet few HIV/AIDS intervention projects among the sex workers in India have achieved reasonable success in increasing the use of condoms among them. The Kolkata based STD/HIV intervention Project (SHIP) commonly known as the Sonagachi Project, has been acknowledged by the government of India's National AIDS Control Organisation (NACO) and few international organisations to have achieved unique success in this respect. The current HIV prevalence among the sex workers in Sonagachi red light area of Kolkata is about 8% compared to over 60% in Mumbai red light area and around 30% in the red-light area of a few larger cities. Even the consistent use of condoms among sex workers in Sonagachi increased gradually from 1.5% to more than 60%.

This shows that a positive campaign approach and to educate the risk involved in a positive direction leads to positive and bigger impact among the sex workers and the society as a whole.

VIOLENCE BY POLICE

The most horrid form of resistance or violence comes from the police themselves. Sex work is a profession, and people's livelihoods are dependent on it. Even after the Supreme Court has clearly mentioned that sex workers should be treated with respect and the police should not interfere in consensual sex work, instances of violation by the police are not unusual. The police often misuse their power by harassing them or demanding unnecessary monetary compensation from clients, which affects the workers directly. Instances of police violence are not only limited to client harassment.

Sex workers are often abused by police, who illegally arrest and torture them. Their rights are often abused when they are detained, breaching the National Human Rights Commission's standards on detention and incarceration. In instances where sex workers visit the police after being assaulted or mistreated by private parties, the police often deny their right to recourse, refusing to file First Information Reports or investigate the acts of violence. They often raid the brothels and houses of the workers mercilessly. According to a World Health Organization (WHO) survey (2016), 70% of sex workers in India were assaulted by the police, and more than 80% were jailed without proof.

BOLLYWOOD

Bollywood has never apologised for promoting clichés on screen, even if it has been roundly criticized by patronizing critics. When it comes to painting its characters on a 70mm canvas, Bollywood, the Hindi film business, has very limited options because of its unwavering devotion with black and white, leaving little to no room for grey areas in between.

Over the years, the portrayal of a courtesan, sex worker, or call girl in commercial films hasn't changed much, with most moguls showing scant regard for anything remotely realistic. "Further from the truth, closer to the coffers" has been their guiding principle. As for creating a make-believe fantasy, Bollywood is nonpareil.

Occasionally, a few intrepid filmmakers such as Guru Dutt and Shyam Benegal have sought to deviate from Hindi cinema's rulebook, by showing the oldest profession with a different sensibility, but a majority of their ilk still thinks altering the original template that has enthralled patrons of masala flicks for ages is sacrilegious.

From Pakeezah to Gangubai Kathiawadi, if one thing hasn't changed much, it is the romanticization of sex workers in Bollywood. In fact, with every new film, their portrayal has more been played with. Sex workers in Bollywood are either shown as the face of women's power — the one who controls her life herself and choose to live on her own terms or a complete damsel in distress — who has a heart of pure gold and needs a man for her rescue!

Of course, there have been a few films that reflected a darker side of the lives in brothels and did try to portray sex workers as who they are. Still, it wouldn't be wrong to say that somewhere, in the mise-en-scene, their story got twisted and lost! With the representation of women as a whole, the depiction of sex workers in Hindi cinema is also very limited and dichotomous in nature. Women in sex work are shown as either the ones who are greedy for money, have no self-respect, the vamps, or the ones who are, though, in the business but are chaste at heart. These are fallen women yet not fallen.

Sanjay Leela Bhansali's directorial release follows the true story of Gangubai Kathiawadi, a woman sold into the red-light district of Kamathipura at 16, later becoming the owner of a brothel. The real Kathiawadi was as resilient woman and activist, but as evidenced in her renowned speech at Azad Maidan, her fight was not one born out of girlboss-hood or a desire to engage in selfless feminist praxis. It was one of a victim, and a desperation to live at the hands of male violence. Owning a brothel is often the only alternate career option available to women who are forced to join the trade, subsequently furthering the cycle of intergenerational sex work. Although it is said Kathiawadi honoured the consent of her workers—under a system of capitalism and patriarchy the parameters surrounding consent are murky.

In present Kamathipura, sex workers are struggling for food and shelter amidst COVID-19 restrictions. When the alternative is being unable to pay rent or feed your children, the choice to perform sex work is no choice at all, though the neoliberal portrayal of sex work by the film fraternity paints a far more distorted picture. If Bhansali's next is to engage in an honest and progressive portrayal of women, it should take care to avoid romanticising the sacrifices of one of India's most vulnerable communities, while taking a stance against misogynistic stereotyping inflicted on sex workers.

OTHER EXAMPLES OF BOLLYWOOD'S PORTRAYAL OF SEX WORKERS

The damsel in distress

When not limited to item numbers, sex workers are often shown as the 'abla naari' who undoubtedly wants to get rid of her condition but needs a man to rescue her.

In movies like Laga Chunari Mein Daag, the protagonist is shown not being able to get rid of her old life despite gaining financial independence and acceptance from her family until the hero of the film accepts her and pulls her out of her misery.

The domestication of sex workers

In another film, Chori Chori Chupke Chupke, the protagonist is shown as a good-hearted sex worker who is paid a big amount to be a surrogate mother to an elite couple. Halfway through the movie, she undergoes some makeup, wardrobe changes and falls in love with the hero. Now her whole life revolves around a man and her child — just like a typical portrayal of an Indian woman. Chori Chori Chupke Chupke was neither the first nor the last film to do so.

The selfless and sacrificial one

Another category of sex workers that's often depicted in movies — the one who seduces all but loves one only to leave him in the climax for the morally accepted heroine. There has been a number of movies, like Ishaqzaade, that have done the same with the side characters. These characters are hailed by the audience for the transformation of their heart.

The inferiorization of sex workers

As mentioned earlier, these characters are shown in movies like Pakeezah and Devdas, where being a sex worker is a curse and the woman is nothing but a walking corpse. She is subjected to insults, considered impure and doesn't deserve respect, basic rights to her lives or the tag of a woman as chalked by the society.

But she does get acceptance sometimes — in some movies — when the hero decides to accept her and give her his name and status.

The common picture

What do you imagine while picturing a sex worker? A woman wearing a short dress or a bright saree, probably with a dark lipstick or chewing paan and with heavy kohl in eyes — standing somewhere in the alleys of the red-light area. While most of the films aim at drawing viewers' attention from their item numbers, others go with the traditional way — the way of domestication, inferiorization or validation.

Sex workers in Bollywood are either completely glorified or are shown as humans with no identity of their own. It is interesting to note that in most of the Hindi films on prostitution, the women as prostitutes are shown as a leftover of the men. Either they are betrayed or misled, or widowed. It seems women are pushed into prostitution because of men, and then, only men can rescue them from this darkness.

People say that movies reflect the time we live in, but this is definitely not what the community of sex workers live in. The post-pandemic world has changed a lot for sex workers, and the pandemic hit them as much as any other vulnerable community we can think of. Brothels themselves are also far from the lavish affairs boasted in item songs. In 2020, the Delhi Commission for Women noted that 'inhumane conditions' including a shortage of food and personal hygiene permeated the red-light district of GB road- one of India's largest.

In a country of devoted cinephiles, fiction cannot be separated from material reality. It's high time that filmmakers start considering every bit before depicting a sex worker in their movies — ensuring that what they portray could help these marginalized communities in any possible way. As women in sex work continue to bear the brunt of social and economic changes induced by the pandemic, it is now more than ever crucial for mass media to foster social responsibility towards these marginalised communities.

THE DURBAR MAHILA SAMANWAYA COMMITTEE (DMSC)

The Durbar Mahila Samanwaya Committee is a collective of 65,000 sex workers in West Bengal established in 1995 and is managed by sex workers, their children, and government officials as its board members, and has not just female sex workers as its members but also male and transgender sex workers.

On 15 February 1992, public health scientist Dr Smarajit Jana of All India Institute of Hygiene and Public Health, Kolkata, visited the red-light area of Sonagachi for an HIV intervention research study where a peer education team was formed from amongst the sex workers and provided training. Shortly after, studies revealed larger issues amongst sex workers, such as sex worker's rights, education of their children, access to financial services, and handling of harassment by police and local thugs, along with promoting the use of condoms.

Since its inception, today with an estimated 11,000 sex workers, Durbar has been working as an advocacy group for sex workers, and over the years, it has worked towards sensitizing the general public about the rights of women and sex workers, anti-human trafficking and HIV/AIDS prevention often initiating debate and discussion in public media and press, besides advocating the abolition of 'The Immoral Traffic (Prevention) Act, 1956' (PITA), and legalization of sex work and prostitution.

Many sex workers now have voter identity cards, health insurance, and even bank accounts. In 1995, its consumer cooperative society and micro-credit program, 'Usha', ensured that the Government of West Bengal altered the state's cooperative law to register it as a sex workers cooperative, instead of a 'housewives cooperative' under the prevalent state laws.

The DMSC hosted India's first national convention of sex workers on 14 November 1997 in Kolkata, titled 'Sex Work is Real Work: We Demand Workers Rights'. DMSC runs 17 non-formal schools for children of sex workers, and two hostels. Its cultural wing, 'Komol Gandhar', teaches dance, drama, mime, and music to children, who are invited regularly for paid shows.

HIV/AIDS project

Durbar runs 51 free clinics for sex workers across West Bengal, with support from organizations such as the Ford Foundation and the National AIDS Control Organisation (NACO), who also help Durbar in its other initiatives.

The Durbar has run the STD/HIV Intervention Programme (commonly known as the Sonagachi Project) since 1999 (which was initiated by the All India Institute of Hygiene and Public Health in 1992). DMSC has since replicated the Sonagachi model in other red-light areas in West Bengal. It has also been implemented among street-based sex workers and their clients, covering a population of over 20,000 sex workers and migrant laborers in 49 sex work sites in West Bengal.

The approach of Durbar's program is based on the 3 Rs - Respect, Reliance, and Recognition. Respect towards sex workers, Reliance on the knowledge and wisdom of the community of sex workers, and, Recognition of sex work as an occupation, for protecting their occupational and human rights.

International Sex Workers' Rights Day (3rd March)

In 2001, over 25,000 sex workers gathered in India for a festival, despite efforts from prohibitionist groups who tried to prevent it taking place by pressuring the government to revoke their permit. The event was organised by DMSC. Sex worker groups across the world have subsequently celebrated 3 March as International Sex Workers' Rights Day.

THE NATIONAL NETWORK OF SEX WORKERS (NNSW)

The National Network of Sex Workers (NNSW) born out of the first National Conference of Sex Workers in India, in November 1997, attended by over 4000 sex workers from all over the country, is a national network of sex worker-led organizations and allies committed to promoting the Rights of Sex Workers in India.

NNSW consists of 12 CBOs/ State Networks/ State Federations/ Collectives and 8 NGOs across seven states. With a strength of 50,000 members, it is the only national network that brings together female, transgender, and male sex workers with NGOs and sex work(er) rights activists. In 1998, the member organizations began to operate as four regional centers of the country to organize and facilitate the activities of NNSW. Since then, NNSW has been working on the rights of sex workers at the national and international levels.

NNSW envisions a world wherein sex work is recognized as work; a world that is just and has no laws that criminalize sex work; where adult men, women, and transgender people in sex work have the right to earn and live providing sexual services without fear, abuse, stigma and discrimination.

It aims at addressing myths, misconceptions, stigma, and discrimination that marginalize sex workers and create conditions for violence against them, that is legitimized by the family, medical establishment, religion, educational system, media, law, and sections of civil society, advocate at the local, regional, national, and international levels for policies and actions in favor of sex worker's rights and establish mechanisms to help members fight violence and oppression against sex workers.

Similarly, **Sampada Grameen Mahila Sanstha** (SANGRAM) is a rights-based, collective action NGO that promotes insider community participation as an intrinsic measure towards providing non-intrusive healthcare paradigms. It has also designed empowerment programs like the formation of Self-Help Groups, where members can collectively negotiate loans with financial institutions to fund skills development programs.

Veshya Anyay Mukti Parisahad (VAMP), a sex workers' collective in Maharashtra was formed in 1996.

The Karnataka Sex Workers Union (KSWU) was formed in 2006.

Bharatiya Bar Girls' Union, Mumbai was formed in 2003.

Devadasis too have organised under the **Mahila Abhivrudhi Matthu Samrakshana Samsthe** (MASS), with a 5,000-strong membership in Belgaum, Karnataka.

These organisations and many more have been working at different levels. Some are trade unions and some are collectives. They have initiated health programmes and intervened politically at several levels.

RECOMMENDATIONS AND CONCLUSION

Our understanding of sex work and workers are highly influenced by the media we consume, the content we read, etc., where we are conditioned to look at them through a tainted lens. We tend to assume that they have a certain way of living, dressing, talking, and behaving, different from women belonging to the mainstream society which is controlled by politically powerful groups. We fail to look at them as equal individuals with dreams and aspirations similar to ours, therefore alienating them from mainstream society and treating them as the "other".

On the International Day To End Violence Against Sex Workers, Feminism In India (FII) along with the National Network of Sex Workers India (NNSW India) talked about the violence that all sex workers face: the violence of not being heard. Sex workers in India are in the forefront of the fight for human rights, fighting against stigma attached to the profession and pushing for its complete decriminalization. Despite this, their voices are frequently disregarded and underutilized. It is now especially important to talk about the rights of sex workers, as the COVID-19 pandemic across the globe has profoundly affected the sex workers' community. Far from being a "non-essential" activity, sex work is their bread and butter. Tens of thousands of sex workers' livelihoods, as well as the physical and mental health of those who depend on them, have thus been put at risk by the pandemic. It is more crucial than ever to give them a voice and to listen to them.

It was only at the Seventh National Conference of the Autonomous Women's Movement in 2006 that a session on sex work was held. The sex workers' movement has put forward the need for a dialogue on the issue of alternatives for Dalit women. In India, organising of sex workers began only in the mid 1990s. Initially it was mainly in the context of HIV/AIDS work. The DMSC formed has a trade union arm called Binodini Shramik Union (BSU), which has sought recognition under the Trade Unions Act, 1926. Both look at sex workers as a part of "entertainment workers".

As noted above, enhanced levels of protection of human rights form an important element in strategies to promote the well-being of individuals with regard to health, education, and other areas. Almost all segments of the Indian population can legitimately complain about the failure of the state to protect their rights, although some, such as sex workers, appear to be particularly badly off in this regard.

Indeed, the sex industry in India is often characterized by a variety of features-the use of child-labor, low levels of education among sex workers and hostile society and police force-with obvious consequences for the health and well-being of sex workers. Protecting their rights is a difficult challenge.

In conclusion, though India has had periods of economic growth, modernisation, scientific and technological advancements, and macro-level peace initiatives since independence, its institutional structures have not comprehensively addressed micro-level development and the concerns of its most disadvantaged segments. Therefore, India's sex workers, though constituting an integral part of its informal sector economy, are rendered voiceless under patriarchal power structures. Now it is high time to legalise prostitution in India.

Finally, based on the analysis, it may be concluded that there is no need for any specific treatment for a problem like prostitution, such as criminalising, decriminalising, or sanctioning it. It's difficult to deny that legalising prostitution has both negative and beneficial consequences, based on previous research. As a result, simply legalising prostitution will not be enough to tackle the problem; instead, an unified rule governing its administration in our country is required. Prostitution regulation will aid in the protection of sex workers and their children from exploitation. Not only will it preserve the health of sex workers and society as a whole, but it will also protect the rights of sex workers.

For example, during the first national sex workers' conference held in India in 1997, some sections of the Indian media labelled participants' demand for workers' rights as subversive jargon or social subversion; one journalist wrote that giving in to these demands would provide "... a legitimacy. ... [the sex worker] does not deserve." In such circumstances, sex workers are likely to be driven underground, away from support services provided by mainstream groups, because of a legal and social view that punishes rather than supports them.

By enhancing self-awareness, promoting the right to liberty and security of person, and providing sex workers with a voice, activist approaches more effectively address many of the challenges faced by women in sex work, including economic and sexual exploitation, health risks, and violations of their right to a life of dignity.

One outcome of increased awareness and action about human rights has been that sex workers are demanding better behaviour (and lowered violence) from law enforcement agencies, brothel owners, and criminal elements as a matter of right. Greater awareness about health has increased the use of condoms among sex workers. Sex worker groups, together with NGOs such as SANGRAM, have also begun to articulate demands for better access to public health facilities that, in principle, ought to be equally accessible to all Indian citizens, but are not in fact. Sex workers are also likely to demand education as they recognize the role of information as a tool for enhancing their rights, and indeed they have already done so in Sonagachi. This will have obvious positive consequences for the efficacy of STD/HIV interventions and other health programs as well.

Finally, a forceful recognition of human rights by the community of sex workers may hold a solution to the problem of child sex workers, whose rights are protected under the Indian Constitution. The setting up of a self-regulatory board at Sonagachi consisting of sex workers, members of the National Human Rights Commission, the National Commission of Women, and the Bar Council of India is a key step in this direction.

NGOs are likely to play a key role in initiating and supporting incipient sex worker collectives, as suggested by the experience of both DMSC and SANGRAM. They are particularly effective as builders of bridges between mainstream society and women in sex work. Moreover, to the extent that their approach is non-judgmental, they are better able to access sex worker groups and provide them with information and other technical support. At the same time, they enjoy credibility in mainstream social institutions such as the police, the judiciary, academia, and political classes.

It is important to keep in mind that in an Indian setting, evidence suggests that legislation alone is unlikely to help secure the human rights of sex workers. Rather, a change in society's perceptions towards women in sex work is necessary for any remedy to be effective.

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