

## FACTORS CONTRIBUTING TO ENGAGEMENT IN SEX WORK IN INDIA: A LEGAL AND STRUCTURAL ANALYSIS

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### ABSTRACT

Sex work in India is embedded in a richly layered and debatable context, which is informed by the coexistence of legal provisions, socio-economic conditions of vulnerability, and the overarching structural inequalities. While the policy context is not informed by a singular policy perspective, the legal provisions are embedded in a complex array of prohibition, regulation, and selective interventions that co-exist in tension with each other. This article aims to discuss the factors that lead to the involvement of individuals in sex work through the lens of the legal and structural context. This includes the involvement of poverty, gender dynamics, caste-based marginalization, migration patterns, the absence of access to education, and the impact of trafficking networks. Additionally, the article aims to discuss the legislative and adjudicatory interventions that attempt to regulate, protect, and at times marginalize the involved individuals. This paper is informed by the doctrinal and analytical research methodology, which relies on the legislative provisions, case law, and literature. This paper argues that the overarching structural inequalities, in conjunction with the inconsistent and fragmented legislative provisions, continue to perpetuate the conditions of vulnerability.

**Keywords:** Sex work, prostitution, India, Immoral Traffic Prevention Act, structural inequality, legal framework, trafficking, Access to justice; India, Human rights, commercial sexual exploitation, socio-economic vulnerability, gender inequality, caste discrimination, public policy.

### INTRODUCTION

Sex work is an exchange of sexual services for monetary compensation or any other form of compensation. It can be in various forms, such as brothel-based sex work, street sex work, and independent sex work. The term “sex work” is used in academic literature to emphasize the work involved in the exchange of sex for compensation, rather than viewing it from a criminal or immoral lens.<sup>1</sup>

The sex work industry in India is governed by a complex, unclear framework of laws, attitudes, and economic factors. Rather than having a clear, unified stance, the framework appears to be a combination of regulation, control, and protection of sex workers. Rather than having a unified stance on the issue, the legal framework appears to be fragmented in its approach, leading to ambiguity in the understanding of the laws. This leads to an environment of insecurity for those who are in the sex work industry.

However, it is also not possible to understand the involvement of people in sex work as an individual decision alone. It is also related to other factors to a large extent. Factors such as poverty, lack of job opportunities, gender inequality, caste discrimination, and migration also have significant importance in the involvement of people in sex work.<sup>2</sup>

<sup>1</sup> Martha C Nussbaum, “Whether from Reason or Prejudice: Taking Money for Bodily Services” (1999) 27 *Journal of Legal Studies* 693.

<sup>2</sup> Gail Omvedt, *Caste, Class and Women’s Liberation in India* (Zed Books 1982).

It has also been reflected in the legal and policy measures related to sex work, which have not shown consistency in their effectiveness in dealing with the issue of sex work. The judicial measures have also reflected the concerns related to dignity and rights of people in certain instances, but there are still challenges in their implementation.

Keeping this in view, the present chapter is focused on analysing the significant structural and legal aspects that influence sex work in India, which in turn affects entry into or continuation in the system.

## 2. RESEARCH OBJECTIVES

- i. To assess the legal aspects of sex work in India.
- ii. To identify the structural aspects that influence a person to resort to sex work.
- iii. To analyse the relationship between law and socio-economic factors.
- iv. To assess the judicial approach to the problems of sex workers.

## RESEARCH METHODOLOGY

The present study undertakes a doctrinal and analytical method of research, wherein the emphasis is placed on the in-depth examination of the provisions of law and the related academic discourse. The 'doctrinal method,' as stated earlier, involves the examination of the primary sources of law, which include statutory provisions such as the Immoral Traffic (Prevention) Act, 1956, constitutional provisions, and significant judicial decisions, in order to understand the scope and structure of the law related to sex work in India. Alongside this, the 'analytical method' is also undertaken to evaluate the effectiveness of the law in practice and its connection with social realities.

Alongside the primary sources of law, the present study also undertakes an examination of the secondary sources of law, which include scholarly books and journal articles, in order to place the examination of the law in the context of the related discourse and discussions in the area of gender, inequality, and marginalization. The present study is based on the qualitative method of research, wherein the emphasis is placed on the interpretation, synthesis, and critical evaluation of the available materials in order to arrive at an exhaustive understanding of the issue of sex work in India.

## FACTORS CONTRIBUTING TO ENGAGEMENT IN SEX WORK IN INDIA

The involvement in sex work in India is subject to various socio-economic, cultural, and structural determinants. In other words, it is not due to a single factor or individual choice. These determinants are often intertwined and may act in concert with each other. Various determinants of sex work in India include poverty, education and employment, gender inequality, social stigma, and migration. In addition, other determinants such as trafficking and coercion also add to these vulnerabilities. Thus, it is imperative to examine these determinants in order to assess how structural conditions and systemic inequalities are of critical importance in influencing sex work.

### i. Abduction and Trafficking

One of the important factors in the entry of individuals, especially young girls, into the business of sex work in India is abduction. In most cases, minors are either lured or taken away under false pretences. In most such cases, the victims are taken advantage of because of their innocence and gullibility. In most such cases of trafficking, the traffickers lure the victims with promises of jobs, marriages, and even opportunities in the entertainment industry. In most such cases, the victims are taken away from places such as religious shrines and cities, where they are more vulnerable and gullible.<sup>3</sup> In most such

<sup>3</sup> National Human Rights Commission. (2004). *Trafficking in women and children in India*. New Delhi: NHRC.

cases of trafficking in India, it has been seen that the racket is not in the hands of males alone but also females and even couples. This makes it all the more difficult to detect and recognize the traffickers. Once the victims are taken away under false pretences and are coerced into the business of sex work, they have no say in the matter.

## ii. Devadasi Tradition

The "Devadasi" system, as a socio-religious practice, has, over time, developed a significant association with sexual exploitation. In this practice, young girls, most of whom are from economically disadvantaged and socially marginalized sections of society, are dedicated to deities such as "Yellamma" and "Renuka" through a series of rituals. Although this practice may be justified from a religious point of view, there are signs of a gradual shift of these young girls into a state of commercial sexual exploitation, especially in regions of Karnataka and Maharashtra.

The persistence of the "Devadasi" system may be attributed to a combination of structural factors. The most important of these are economic factors, as families living in a state of extreme poverty may consider this practice a means of survival. However, there are also signs of a deep-seated caste and gender hierarchy that sustain this practice, restricting the free will of young girls and promoting their exploitation. In addition, there are signs of coercion and pressure from the community, making it difficult for individuals to resist this practice.

Moreover, the concept of the Devadasi system also points to the ways in which religious practices often come together with social and economic risks in ways that lead to long-term marginalisation. Ultimately, the Devadasi women end up moving to urban centres such as Kolhapur, Sangli, Satara, Miraj, and other metropolitan cities in and around the district of Belgaum, which are essentially sexual economies that are exploitative in nature.

Thus, the Devadasi system is not an isolated practice but is related to other practices of migration and urbanisation in the country, and it continues to be an essential aspect in understanding the ways in which the social and environmental factors lead to sex work in India.<sup>4</sup>

## iii. Sexual Offences and Social Exclusion

Sexual crimes such as rape and incest are another important structural element that contributes to the vulnerable position of women and girls and ultimately leads them to the sex industry. In the context of sexual crimes in India, it has been seen that rape and incest survivors are subjected to severe social boycott and ostracism. In most such cases, the rape survivor is not accepted in her own family and society. The criminal justice system is already slow in India, and the absence of rehabilitation programs for rape survivors is another aggravating factor in the marginalisation of rape survivors. In the end, the rape survivor finds herself in a position where she has no options to sustain herself. In such a scenario, the rape survivor is forced to enter the sex industry not because she wants to do so but because she has no other options.<sup>5</sup> The relationship between rape and sex industry has been established in several studies.

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<sup>4</sup> banik, P. and Pritam banik A law student with a mind for technology. A nerd who loves to learn. (2020) Devadasi: Prostitution under the disguise of religion, Strictly Legal. Available at: <https://strictlylegal.in/devadasi-prostitution-exploitation-under-disguise-of-religion/> (Last visited 01 MARCH, 2026)

<sup>5</sup> Pandey, S. (2018). *Trafficking of children for sex work in India: Prevalence, history, and vulnerability analysis*.

#### **iv. Children of Sex Workers and Intergenerational Vulnerability**

One of the most vulnerable groups within this structure are the children of the female sex workers, who are often exposed to a social environment that lacks support and is characterized by stigma, economic scarcity, and a general lack of institutional support. In the absence of proper rehabilitation facilities, educational opportunities, and a supportive social environment, these children are often forced to live in a situation that does not offer them proper scope for social mobility. As a result, they are often forced to live within the same exploitative environment, and this issue can be seen as a form of intergenerational vulnerability rather than a singular issue.

This vulnerability of the children of female sex workers within this structure has also been recognized by the judiciary. In the case of *Gaurav Jain v. Union of India*, the Supreme Court recognized that children of sex workers are often forced into exploitative environments as a result of the socio-economic environment and societal discrimination. The Court has emphasized that they must be treated as victims and not offenders and are therefore entitled to equality, dignity, education, and rehabilitation. It has directed the state to develop facilities to protect them and integrate them into the mainstream of society, thereby ending the vicious cycle of marginalization.

The judgment also points out that the problem is not individual but also has a very strong structural dimension, where the cumulative effect of poverty, social marginalization, and the absence of facilities leads to the continuation of the sex work profession.<sup>6</sup> Therefore, the conditions of the children of sex workers need to be taken into consideration to understand the factors leading to sex work in India.

#### **v. Social Stigma, Cultural Norms, and Marginalisation**

The role of social and cultural factors in influencing vulnerability to sex work in India is also evident through the lens of stigma. In traditional social structures, it is common for the identity and worth of women to be defined in terms of sexual purity, marriage, and family honor. In such contexts, it is common for women who are perceived to have “betrayed” these social norms of sexual purity, marriage, and family honor to suffer from extreme social stigma.

In such cases, these women are often subjected to social labeling and discrimination, in which they are perceived to have lost their “respectability” in society. In patriarchal social structures, in which women are already perceived to have low economic independence, the absence of their spouses due to abandonment, divorce, or widowhood can leave them with no social and economic security.<sup>7</sup> Widows and divorced women, for example, may be marginalized through cultural and informal social mechanisms that disapprove of remarriage and participation in social activities. This marginalization may force them into a situation where they have no alternative but to seek survival-based employment, such as sex work, not as a matter of choice but as a result of structural limitations and social exclusion.

Social stigma and cultural values, therefore, are significant structural factors that not only marginalize women but also dictate the choices that are available to them, leading them to seek sex work.

#### **vi. Poverty and Economic Vulnerability**

Poverty is also another key structural factor in sex work in India. A large percentage of India's population is living in poverty. They are suffering from conditions of economic deprivation. They are unable to fulfill their basic needs, such as food, shelter, healthcare, and education. This economic condition restricts their livelihood. In such an environment, people, especially women from marginalised groups, are forced to look for alternative means of income, which is sex work.

<sup>6</sup> *Gaurav Jain v. Union of India*, (1997) 8 SCC 114.

<sup>7</sup> Kempadoo, K., & Doezema, J. (1998). *Global sex workers: Rights, resistance, and redefinition*. New York: Routledge.

It is also important to note here that poverty is not an isolated factor in sex work in India. It is also linked with other social hierarchies. Poverty may not cause inequality between men and women. However, it can exacerbate existing power relations in patriarchal society. In such an environment, it is found that inequality in the distribution of resources is also affecting women and girls. They are suffering from inequality in education, property, and employment.<sup>8</sup> These are key areas in which inequality is affecting them. They are also suffering from inequality in other areas.

Thus, poverty is not simply an economic state but also a structural factor that not only perpetuates gender inequality but also limits options, thereby contributing considerably to sex work.

#### **vii. Lack of Education and Skill Deficit**

The absence of education constitutes a significant structural determinant of entry into sex work. Low literacy levels and limited access to formal education exclude women from stable and dignified employment opportunities. In India's highly stratified labour market, unskilled women are often confined to informal, low-paying, and insecure forms of work. Within such a context, sex work may emerge as a comparatively viable survival strategy due to its immediate economic returns.

Furthermore, the lack of vocational training and skill development programs restricts access to alternative livelihoods. This condition is particularly pronounced among rural populations and marginalized communities. The absence of education also reduces awareness, making women and girls more susceptible to deception, coercion, and trafficking.<sup>9</sup>

#### **viii. Gender Inequality and Patriarchal Structures**

Gender inequality, deeply embedded within patriarchal social structures, plays a central role in shaping women's vulnerability. Women often face systemic disadvantages in terms of wage disparity, lack of property rights, and limited participation in decision-making processes. Such structural inequalities reinforce economic dependence and restrict autonomy.<sup>10</sup>

Additionally, patriarchal control over female sexuality creates a paradox: while "respectable" women are subjected to strict moral regulation, marginalized women are often commodified and exploited. This duality normalizes the existence of prostitution as a social institution. Feminist scholarship emphasizes that prostitution must be understood within the broader framework of gendered power relations and structural subordination.

#### **ix. Domestic Violence and Family Breakdown**

Domestic violence and familial instability frequently act as catalysts for entry into sex work. Women subjected to abuse, abandonment, forced marriages, or marital breakdown often find themselves without financial or social support. In such circumstances, survival imperatives may compel them to engage in sex work.<sup>11</sup>

In many instances, women who flee abusive households become particularly vulnerable to trafficking networks. Moreover, intimate partners or family members themselves may coerce women into sex work, highlighting the role of the domestic sphere as a site of exploitation rather than protection.

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<sup>8</sup> National Commission for Women. (2004). *Socio-economic conditions of women in prostitution in India*. New Delhi: NCW.

<sup>9</sup> Amartya Sen, *Development as Freedom* (Oxford University Press, 1999).

<sup>10</sup> Naila Kabeer "Gender Equality and Women's Empowerment: A Critical Analysis," *Development and Change* (2005)

<sup>11</sup> World Health Organisation, *Global and Regional Estimates of Violence against Women* (2013).

## **x. Migration and Urbanisation**

Migration, particularly from rural to urban areas, is often driven by the search for better economic opportunities. However, in the absence of social support systems, migrant women are exposed to heightened vulnerability. They frequently lack access to secure housing, employment, and legal protection.<sup>12</sup>

Urban informal sectors are characterized by precarious employment conditions, making migrant women easy targets for traffickers and exploitative intermediaries. The lack of documentation and identity proof further limits their access to institutional support and legal remedies, thereby deepening their marginalization.

## **xi. Debt Bondage and Economic Coercion**

Debt bondage operates as a concealed yet pervasive mechanism of exploitation. Economically disadvantaged households often rely on informal credit systems with exorbitant interest rates. When repayment becomes unmanageable, women and girls may be coerced into sex work as a means of settling debts.

This system can assume intergenerational dimensions, trapping entire families in cycles of exploitation. Despite legal prohibitions, such practices persist as modern manifestations of bonded labour, particularly in marginalized socio-economic contexts.

## **xii. Substance Abuse and Addiction**

Substance abuse both contributes to and results from vulnerability in sex work. Addiction creates financial pressures, compelling individuals to seek immediate income sources, including sex work. Conversely, exploitative networks may deliberately introduce substances to maintain control over individuals.<sup>13</sup>

Addiction fosters dependency, making it difficult for women to exit exploitative environments. Thus, substance abuse functions simultaneously as a cause and consequence of systemic exploitation.

## **xiii. Lack of State Support and Welfare Mechanisms**

Inadequate implementation of state welfare schemes significantly contributes to vulnerability. Although policies aimed at rehabilitation and social protection exist, their execution remains inconsistent and often ineffective at the grassroots level.

Limited access to essential services such as housing, healthcare, education, and employment forces marginalized populations to adopt precarious survival strategies. Bureaucratic hurdles, lack of awareness, and social stigma further impede access to welfare programs.

## **xiv. Demand-Side Factors**

The persistence of sex work cannot be fully understood without examining demand-side dynamics. The existence of a sustained demand for commercial sexual services drives the expansion of prostitution and trafficking networks.

With globalization and technological advancements, demand has diversified and expanded through digital platforms and online services. Addressing demand is crucial for any comprehensive analysis, as supply is inherently linked to market demand.

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<sup>12</sup> Jan Breman, *Footloose Labour: Working in India's Informal Economy* (Cambridge University Press, 1996).

<sup>13</sup> Richard C Needle et al., studies on drug use and vulnerability among sex workers.

## CONCLUSION

This study has demonstrated that sex work in India must be understood as a structurally produced phenomenon rather than an individualised or purely moral issue. The convergence of poverty, gender inequality, limited educational access, and socio-cultural marginalisation creates a layered framework of vulnerability within which entry into sex work often occurs. These factors do not operate in isolation; instead, they intersect to produce compounded disadvantage, particularly for women situated at the margins of caste, class, and regional hierarchies.

The analysis further reveals that mechanisms such as trafficking, debt bondage, domestic violence, and migration are not merely incidental but constitute systemic pathways into sex work. Traditional practices such as the Devadasi system, alongside emerging forms of digital exploitation, illustrate the continuity and transformation of coercive structures across time. Importantly, the persistence of intergenerational vulnerability—especially among children of sex workers—highlights the cyclical nature of exclusion and the failure of existing social and institutional interventions to disrupt this continuum.

Judicial discourse in India reflects a gradual yet significant normative shift. Decisions such as *Vishal Jeet v. Union of India*, *Gaurav Jain v. Union of India*, and *Budhadev Karmaskar v. State of West Bengal* mark a transition from a morality-based framework to one grounded in constitutional rights, particularly dignity under Article 21. These rulings acknowledge the structural determinants of sex work and emphasize rehabilitation, social integration, and state responsibility. However, this progressive judicial approach remains constrained by the underlying statutory framework, particularly the Immoral Traffic (Prevention) Act, 1956, which continues to embody a regime of partial criminalisation. This legal ambiguity not only undermines the protective intent of judicial pronouncements but also perpetuates conditions of informality, invisibility, and vulnerability.

A critical gap identified in this study is the insufficient engagement with demand-side dynamics within both legal and policy frameworks. The continued focus on supply-side regulation neglects the role of market demand in sustaining systems of exploitation. Similarly, the rapid expansion of digital platforms has outpaced regulatory mechanisms, giving rise to new and less visible forms of trafficking and coercion. These developments expose the limitations of existing legal paradigms and call for a reconfiguration of both doctrinal and policy approaches.

Moreover, the analysis underscores the inadequacy of state-led welfare and rehabilitation mechanisms. Structural barriers, including stigma, bureaucratic inaccessibility, and lack of targeted implementation, significantly reduce the efficacy of these measures. Health vulnerabilities, particularly in relation to HIV/AIDS and access to healthcare, further illustrate the intersection of social exclusion and institutional neglect.

In conclusion, the regulation of sex work in India requires a paradigmatic shift from criminalisation and moral regulation to a framework rooted in substantive equality, social justice, and human rights. Such a framework must integrate legal reform with broader socio-economic interventions, including education, livelihood generation, healthcare access, and gender-sensitive policy design. Without addressing the structural conditions that produce and sustain vulnerability, any attempt at reform will remain fragmented and insufficient.

This study thus contributes to existing scholarship by foregrounding the intersectional and structural dimensions of sex work, while also identifying critical gaps in legal discourse—particularly in relation to demand-side accountability and digital exploitation. It is only through a holistic, rights-based, and empirically informed approach that the entrenched cycles of marginalisation and exploitation can be meaningfully disrupted.

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