
POLICING SEX WORK IN INDIA: CONSTITUTIONAL CHALLENGES TO RAIDS, SURVEILLANCE, AND ARBITRARY ARRESTS UNDER THE IMMORAL TRAFFIC (PREVENTION) ACT, 1956

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Introduction

Policing Sex Work in India sits at the intersection of criminal law, morality, public order, and constitutional rights. While sex work itself is not illegal in India, the *way it is policed* often results in criminalisation, harassment, and rights violations.¹ Policing practices, shaped as much by social stigma as by statutory provisions, frequently blur the line between regulation and punishment, turning legality into a fragile and uncertain protection.² Be that as it may, sex work has never been a uniform or static idea. Across human history, different societies have understood and treated it in markedly different ways. In some cultures, sex work became entangled with notions of shame, sin, and moral impurity, marking those engaged in it as social outcasts. In others, particularly within certain indigenous and ancient traditions, sexual labour carried spiritual, ritualistic, or communal meanings that went far beyond mere commercial exchange.³ These interpretations remind us that prostitution has not always been viewed solely through a lens of moral condemnation.⁴

In the modern world, however, these layered and culturally diverse understandings have largely given way to a more rigid moral consensus. Prostitution is illegal in many jurisdictions and, even where it is not formally criminalised, it is almost universally stigmatised.⁵ This stigma does not remain confined to law books or policy debates; it seeps into everyday interactions, shaping how sex workers are seen, spoken to, and treated. As a result, sex work today is less about historical complexity and more about social exclusion, where legality and morality often

¹ *State of Uttar Pradesh v. Kaushailiya*, AIR 1964 SC 416; *Immoral Traffic (Prevention) Act, 1956 (India)*.

² *Prabha Kotiswaran, Dangerous Sex, Invisible Labour: Sex Work and the Law in India* (Princeton Univ. Press 2011).

³ *Ronald Weitzer, Sociology of Sex Work*, 35 *Ann. Rev. Social.* 213 (2009).

⁴ *Gerda Lerner, The Creation of Patriarchy* (Oxford Univ. Press 1986).

⁵ *Kamala Kempadoo, Trafficking and Prostitution Reconsidered* (Routledge, 2005).

converge to erase nuance and human experience.⁶ But colonial law, such as the Contagious Diseases Acts, and post-colonial law, such as the Immoral Traffic (Prevention) Act, 1956 (ITPA), calibrated the process away from cultural acceptance and towards legal and social exclusion.⁷ Even while sex work is not illegal, criminalising related activities under ITPA violates the constitutional rights of sex workers, notably under Article 21.⁸ The study differentiates between consensual adult sex work and trafficking, the two misunderstood concepts entangled in Indian policy, highlighting the damage such legal inaccuracy causes.⁹ Sex work in India is legally recognised, and sex workers are not outside the protection of the Constitution. As citizens, they are entitled to the whole meaning of Article 21, the right to life, not merely as physical survival, but as a life lived with dignity, autonomy, and self-worth.¹⁰ This includes the freedom to engage in activities that express one's identity and human self, without fear of humiliation, violence, or arbitrary interference by the State.¹¹

Yet, this legal recognition sits uneasily alongside lived reality. Despite sex work being lawful, the profession remains deeply controversial and socially fraught. The harsh realities of human trafficking, entrenched poverty, and systemic inequality often shape the very spaces where sex workers seek livelihood. Instead of addressing these structural harms, society frequently responds with moral judgment and suspicion.¹² Protective legislation, intended to safeguard vulnerable individuals, is repeatedly misused in ways that end up policing, controlling, and further marginalising sex workers rather than empowering them. This marginalisation is not evenly distributed. A significant number of sex workers come from historically oppressed Dalit and Adivasi communities, where caste, class, and gender intersect to limit choice and opportunity.¹³ For them, stigma is layered and rooted not only in their profession but also in social hierarchies that have long denied them dignity. As a result, the promise of Article 21 often remains aspirational. At the same time, everyday experiences are marked by exclusion, surveillance, and a constant struggle to assert their humanity within a legal framework that

⁶ Usha Ramanathan, "The Trouble with Sex Work," 44 *Economic and Political Weekly* 53 (2009).

⁷ Philippa Levine, *Prostitution, Race and Politics: Policing Venereal Disease in the British Empire* (Routledge, 2003).

⁸ *Immoral Traffic (Prevention) Act, 1956*, §§ 3–8; *Budhadev Karmaskar v. State of West Bengal*, (2011) 10 SCC 283.

⁹ Joint United Nations Programme on HIV/AIDS (UNAIDS), *Guidance Note on HIV and Sex Work* (2012).

¹⁰ Constitution of India, art. 21; *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248.

¹¹ *Supreme Court of India, Order dated 19 May 2022, W.P. (Crl.) No. 135 of 2010*.

¹² *National Network of Sex Workers (NNSW), Living Under Constant Surveillance: Policing of Sex Work in India* (2019).

¹³ Sukhadeo Thorat & Katherine S. Newman, *Blocked by Caste* (Oxford Univ. Press 2010).

recognises their rights in theory, but too often fails them in practice.¹⁴ This paper argues that current policing practices function as a de facto criminalisation of sex work, in violation of constitutional guarantees of dignity and autonomy.

Conceptual & Historical Background

Historical Understanding of Sex Work: The contemporary challenges surrounding sex work did not emerge in isolation; they are rooted in historical processes that have shaped how society and the State perceive and regulate sexual labour. The history of sex work in India is multifaceted and deeply embedded within the cultural, religious, and political fabric of the subcontinent. Across different periods, prostitution occupied varied social positions, sometimes integrated into courtly, spiritual, or community structures, and at other times pushed to the margins through moral and legal censure. Its presence was neither uniform nor static. Instead, it shifted significantly with changes in governance, social organisation, and prevailing moral sensibilities. These historical transformations continue to inform modern legal frameworks and social attitudes, making it impossible to address the present realities of sex work without engaging with its complex past.

Colonial and Post-Colonial Legal Legacy: In ancient India, prostitution was not simply tolerated but, in specific social and cultural settings, accorded respect and legitimacy. Women such as *ganikas* and *devadasis* in the early Vedic and classical periods occupied recognised religious, artistic, and social roles. *Ganikas* were highly trained and educated courtesans, skilled in music, dance, poetry, and conversation, and were often associated with royal courts or temples. *Devadasis*, dedicated to temple service, performed ritual dances and were woven into religious life, though over time, many were subjected to sexual exploitation under the guise of devotion. Similarly, during the classical and medieval periods, *nartakis* and *tawaifs* emerged as accomplished performers and cultural icons.¹⁵ Celebrated for their artistry and refinement, they entertained elites in spaces such as *kothas*. They enjoyed a degree of social status that stood in sharp contrast to the stigma that would later come to define prostitution.

¹⁴ Anuj Bhuiwalia, "The Normalisation of the Exceptional: The Supreme Court on Prostitution," 6 *NUJS Law Review* 1 (2013).

¹⁵ Radhika Singha, *A Despotism of Law: Crime and Justice in Early Colonial India* (Oxford Univ. Press 1998); Prabha Kotiswaran, *Dangerous Sex, Invisible Labour: Sex Work and the Law in India* (Princeton Univ. Press 2011).

This relative cultural accommodation began to erode under British colonial rule, which fundamentally reshaped how sex work was understood and regulated. The nineteenth-century Contagious Diseases Acts, introduced to control venereal diseases among British soldiers, subjected Indian women suspected of prostitution to invasive and coercive medical examinations. While the colonial state publicly condemned prostitution as immoral, it simultaneously organised and regulated red-light districts in cities such as Calcutta, Bombay, and Madras. In doing so, sex work became increasingly commodified and racialised, with women from lower castes and tribal communities disproportionately drawn into the trade due to poverty and social exclusion.¹⁶ Although Indian social reformers criticised prostitution, their opposition was often framed in moralistic and patriarchal terms, offering little space for the voices or agency of sex workers themselves.¹⁷

After independence in 1947, India inherited much of this colonial moral framework. While prostitution itself was not criminalised, the enactment of the Immoral Traffic (Prevention) Act, 1956 marked a decisive shift towards erasure rather than regulation. By criminalising activities surrounding sex work, such as brothel-keeping, solicitation, and living off the earnings of prostitution, the law effectively pushed sex workers to the margins. Voluntary adult sex work became increasingly conflated with trafficking, blurring crucial distinctions and justifying punitive interventions in the name of rescue.¹⁸

This post-independence approach dismantled traditional systems such as the *tawaif* culture and forced the industry underground. In urban areas, red-light districts became sites of heightened surveillance and stigma, while in rural contexts, sex work retreated into invisibility. Descendants of courtesans were relegated to precarious, second-tier entertainment roles, stripped of the cultural recognition once associated with their lineage. The State's rescue-oriented framework further deprived sex workers of agency, focusing on moral reform rather than addressing the structural realities of poverty, caste hierarchy, and gender inequality that shape entry into sex work.

Today, sex workers continue to face stigma, exclusion from healthcare and social welfare, and persistent harassment by law enforcement. This long and layered history, beginning with

¹⁶ Philippa Levine, *Prostitution, Race and Politics: Policing Venereal Disease in the British Empire* (Routledge, 2003).

¹⁷ Mrinalini Sinha, *Colonial Masculinity: The "Manly Englishman" and the "Effeminate Bengali"* (Manchester Univ. Press 1995).

¹⁸ Immoral Traffic (Prevention) Act, 1956, §§ 3–8; *State of Uttar Pradesh v. Kaushailiya*, AIR 1964 SC 416

cultural integration and respect, passing through colonial domination, and culminating in post-independence exclusion, continues to shape how sex workers are perceived and treated. Understanding this historical trajectory reveals that the marginalisation of sex workers is not inevitable but produced through legal and social choices. It also underscores the urgent need for reforms that move beyond moral condemnation and instead adopt a rights-based approach, grounded in dignity, autonomy, and sensitivity to the social and cultural contexts in which sex work exists.¹⁹

Legal Framework Governing Sex Work in India

Under Indian law, consensual sex work between adults is not criminalised; however, the legal framework governing it creates a paradox where legality exists primarily in theory. India follows an abolitionist approach that penalises almost all activities surrounding sex work, such as brothel-keeping, solicitation, living off the earnings of prostitution, and operating near public places, thereby indirectly criminalising the profession itself. While the Indian Penal Code addresses exploitation, trafficking, and offences involving minors, its provisions are frequently misapplied to consensual adult sex work, reinforcing the conflation between voluntary labour and coercion. The Immoral Traffic (Prevention) Act, 1956, the principal statute regulating sex work, further entrenches this ambiguity by disproportionately targeting sex workers rather than exploitative intermediaries. Together, these laws subject sex workers to constant surveillance, harassment, and the threat of arrest, raising serious constitutional concerns under Articles 14, 19(1)(g), and 21. Although judicial pronouncements have recognised sex workers' right to dignity and equal protection of law, the absence of meaningful legislative reform ensures that sex work in India remains legally permissible yet practically precarious.

The Immoral Traffic (Prevention) Act, 1956 (ITPA), while ostensibly enacted to prevent trafficking and sexual exploitation, operates in practice as the principal mechanism through which sex work is policed and indirectly criminalised in India. Sections 3 to 8 of the Act criminalise brothel-keeping, allowing premises to be used as a brothel, living on the earnings of prostitution, soliciting in public places, and carrying on sex work in the vicinity of public spaces. Although sex work itself is not declared illegal, these provisions target the essential conditions necessary for its exercise, making lawful participation virtually impossible. The

¹⁹*Budhadev Karmaskar v. State of West Bengal*, (2011) 10 SCC 283; Supreme Court of India, Order dated 19 May 2022, W.P. (Crl.) No. 135 of 2010.

broad, vaguely worded offences confer extensive discretion on the police, enabling raids, arrests, evictions, and detentions on minimal suspicion, often without clear standards for consent or harm. This wide latitude in enforcement has resulted in frequent misuse, with sex workers rather than traffickers or exploitative intermediaries bearing the brunt of criminal action. Structurally, the Act is flawed in its failure to distinguish between consensual adult sex work and coercion or trafficking, its reliance on moral regulation rather than rights-based protection, and its emphasis on rescue and rehabilitation over agency and choice. As a result, the ITPA reinforces stigma, legitimises intrusive policing, and perpetuates constitutional violations under the guise of protection, revealing a framework that is ill-equipped to address exploitation while actively marginalising those it claims to safeguard.

Policing Practices and Lived Realities

Raids, Rescue and Detention: Raids conducted under the Immoral Traffic (Prevention) Act, 1956, are frequently justified as measures of “rescue” and rehabilitation, yet in practice they often operate as coercive interventions that disregard the consent and autonomy of adult sex workers. During such raids, police and allied authorities routinely detain consenting adults without a meaningful inquiry into whether they wish to be “rescued,” treating the mere presence in a sex work setting as evidence of victimhood. This approach collapses the critical distinction between consensual sex work and trafficking, resulting in the compulsory placement of sex workers in protective or corrective homes against their will.

Forced rehabilitation not only deprives individuals of their liberty but also undermines their dignity by denying them the right to choose their livelihood and living arrangements.²⁰ Compounding this harm is the frequent separation of sex workers from their families, including the removal of children and disruption of caregiving relationships, often without due process or consideration of the best interests of those affected. Such practices transform rescue into detention, reproducing trauma under the guise of protection and revealing a system that prioritises moral control over constitutional guarantees of autonomy, dignity, and family life.

Harassment and Arbitrary Enforcement: Sex workers in India frequently face harassment and arbitrary enforcement under the Immoral Traffic (Prevention) Act, 1956 and related provisions, even though their work is not illegal. Laws against solicitation are often applied

²⁰ S. Meena & R. Kumar, “Forced Rehabilitation and the Constitutional Rights of Sex Workers in India,” *Indian Journal of Human Rights* 12(1), 2020, pp. 45–67

vaguely and expansively, criminalising routine engagement with clients and effectively restricting the ability of sex workers to earn a livelihood. Police discretion under these statutes is broad, creating opportunities for selective enforcement, extortion, and abuse. Sex workers are regularly subjected to intimidation, coerced bribes, or other forms of exploitation by law enforcement. At the same time, personal property, including earnings, mobile phones, and documents, is often confiscated during raids. Such practices not only violate the dignity and autonomy of sex workers but also institutionalise stigma and inequality, disproportionately affecting women from marginalised communities, including Dalits, Adivasis, and transgender persons. By conflating voluntary sex work with criminality, the system of arbitrary enforcement perpetuates vulnerability, undermines trust in the legal system, and highlights the urgent need for reform that prioritises rights, protection, and due process over punitive control.

Conflation of Sex Workers and trafficking: The persistent conflation of consensual adult sex work with human trafficking in Indian law and policy has created significant challenges for both sex workers and anti-trafficking efforts. Policies under the Immoral Traffic (Prevention) Act, 1956, and associated policing practices often treat all sex work as inherently exploitative, assuming that anyone engaged in the profession is a victim in need of “rescue”. This approach undermines the agency of sex workers, disregarding the fact that many choose sex work voluntarily as a means of livelihood. At the same time, it creates **policy failures** by diverting resources and attention away from cases of genuine trafficking, exploitation, and abuse. Law enforcement interventions often target consensual sex workers while traffickers, intermediaries, and clients remain largely unregulated, allowing exploitation to continue unchecked. By conflating voluntary sex work with trafficking, the legal and administrative system not only fails to protect vulnerable individuals effectively but also reinforces social stigma, perpetuates marginalisation, and obscures structural issues such as poverty, caste discrimination, and gender inequality that are central to the problem of trafficking.

Constitutional challenges to surveillance under the Immoral Traffic Act

Surveillance under the Immoral Traffic (Prevention) Act, 1956, is not experienced by sex workers as a neutral tool of law enforcement; it is lived as a constant intrusion into their everyday lives. Routine police monitoring of red-light areas, informal watch lists, shadowing, and the use of decoys create an environment in which sex workers are always being watched, even when no crime has been committed. This form of surveillance treats them not as citizens

entitled to constitutional protection, but as perpetual suspects whose mere presence in public space is viewed with suspicion. Such practices strike at the heart of Article 21 of the Constitution, which protects not only physical liberty but the right to live with dignity, autonomy, and privacy.

After the Supreme Court recognised privacy as a fundamental right in *Justice K.S. Puttaswamy v. Union of India*, any State surveillance must be lawful, necessary, and proportionate. Yet surveillance under the ITPA rarely meets these standards. It is often continuous, unregulated, and untethered to any specific allegation of trafficking or exploitation. Instead of focusing on traffickers or coercive networks, policing practices disproportionately track consensual adult sex workers, monitoring their movements, conversations, and associations. This erodes their ability to exercise fundamental freedoms, such as choosing where to live, whom to meet, or how to earn a livelihood, without fear of interference.

The impact of such surveillance goes beyond legal doctrine. Being constantly watched fosters fear, anxiety, and self-censorship. It exposes sex workers to harassment, extortion, and threats, and reinforces social stigma by marking them as inherently deviant or dangerous. In constitutional terms, this transforms surveillance from a regulatory measure into a mechanism of control, one that undermines equality under Article 14 and hollowly promises dignity under Article 21. When the State normalises suspicion as a way of governing certain lives, it fails not only sex workers, but the constitutional commitment to dignity, privacy, and equal citizenship itself.

Arbitrary Arrest under the Immoral Traffic Act

Arbitrary arrests under the Immoral Traffic (Prevention) Act, 1956, reflect one of the most visible ways in which the gap between legal recognition and lived reality is felt by sex workers in India. Although sex work itself is not illegal, broad and ambiguously worded provisions relating to solicitation, brothel-keeping, or living off the earnings of sex work allow the police to arrest sex workers with minimal justification. In practice, these arrests are often based on mere presence in a public space, anonymous complaints, or moral suspicion rather than concrete evidence of any offence. This reduces legal safeguards to formalities and turns the power of arrest into a tool of control rather than justice. From a constitutional perspective, such arrests raise serious concerns under Articles 14 and 21. Article 21 requires that any deprivation of personal liberty follow a just, fair, and reasonable procedure, yet arrests under the ITPA

frequently occur without due process, warrants, or meaningful opportunity to challenge police action. Women are detained during raids conducted in the name of “rescue,” only to be produced before magistrates as accused or sent to protective homes without their consent. This blurs the line between victim and offender, denying sex workers both agency and the presumption of innocence.

The human cost of arbitrary arrests is profound. Detention often leads to loss of income, separation from children and families, social ostracisation, and exposure to further violence within custodial spaces. For many sex workers, especially those from Dalit, Adivasi, and other marginalised communities, arrest becomes a recurring experience rather than an exception, reinforcing cycles of vulnerability and dependence.

In effect, the threat of arrest hangs permanently over their lives, making legality fragile and conditional. When arrest powers are exercised without restraint or accountability, the State violates not only individual liberty but also the constitutional promise that dignity and equality are not privileges to be earned, but rights guaranteed to all.²¹

Need for Reform: Rethinking Policing

Distinguishing Consent and Coercion: Most of the existing literature on prostitution tends to assume, sometimes entirely, that sex workers cannot truly consent to their work. This perspective is understandable: economic pressures, social marginalisation, and structural inequalities clearly shape the choices of those in the sex industry, just as they influence workers in other forms of labour. From a traditional liberal standpoint, consent requires autonomy, and where coercion exists, valid consent is deemed impossible.²² However, this view risks oversimplifying the realities of sex work. Power dynamics both constrain and create opportunities for consent, shaping the ways in which sex workers exercise choice and agency.²³ Looking at recent case law on the rape of sex workers, we see a shift: where once sex workers were denied recognition of non-consent, courts have begun to acknowledge that their refusal can carry legal weight. This demonstrates that the capacity to consent or to withhold consent

²¹ Constitution of India, Arts. 14, 21; *Budhadev Karmaskar v. State of West Bengal*, *supra*.

²² Martha C. Nussbaum, *Women and Human Development: The Capabilities Approach* (Cambridge University Press, 2000), pp. 70–75.

²³ Julie Bindel, *The Pimping of Prostitution: Abolition, Rights and Justice* (Palgrave Macmillan, 2016), pp. 48–60.

can be legally recognised and supported, even within a context historically dominated by coercion.

The lesson here is hopeful: just as the law has gradually constructed a framework in which the non-consent of sex workers is taken seriously, so too can conditions be created that strengthen their ability to freely choose their work.²⁴ By addressing structural barriers, protecting rights, and promoting autonomy, it is possible to expand the space in which sex workers can exercise genuine, positive consent not merely as a theoretical concept, but as a lived reality.

Decriminalising an ancillary offence: Decriminalising the activities surrounding sex work, such as soliciting clients, maintaining premises, or living off earnings from sex work, does not mean making sex itself illegal; rather, it removes criminal penalties for the practical ways in which sex work is organised and conducted. This approach, increasingly championed by human rights organisations and sex worker collectives, is framed as a harm-reduction strategy: it aims to make the profession safer, protect the rights of workers, and create a clearer distinction between consensual adult sex work and coercion or trafficking.²⁵ By decriminalising these ancillary offences, sex workers can operate in more visible and safer environments, reducing the constant threat of violence from clients, third parties, or even police.²⁶ It also opens the door for better access to healthcare, allowing workers to seek medical services, including sexual and reproductive health care, without fear of harassment or arrest.²⁷ A shift in policing priorities is central to this approach: rather than targeting sex workers, law enforcement can focus on protecting them from exploitation, violence, and coercion.²⁸

Legal recognition of sex work as legitimate labour has profound implications. Decriminalisation allows workers to exercise basic rights, such as refusing clients, working together for safety, and reporting crimes without risking self-incrimination. Importantly, it helps law enforcement and policymakers distinguish clearly between voluntary adult sex work and human trafficking, so that resources can be directed toward preventing genuine exploitation

²⁴ Prabha Kotiswaran, "Consent and Coercion in Sex Work: Legal Recognition and Social Reality," 28 *Oxford Journal of Legal Studies* 45 (2008).

²⁵ Global Network of Sex Work Projects (NSWP), *Decriminalisation of Sex Work: A Human Rights Imperative* (2020).

²⁶ Molly Smith & Laura Agustín, *Sex Work and Safety: Lessons from Decriminalisation Models*, 32 *Journal of Human Rights Practice* 101 (2020).

²⁷ World Health Organisation, *Sex Work and HIV: Technical Brief* (2012).

²⁸ Amnesty International, *Policy on State Obligations to Respect, Protect and Fulfil the Human Rights of Sex Workers* (2016).

rather than penalising those who choose sex work as a livelihood. In short, decriminalising ancillary activities is not merely a legal reform; it is a practical step toward dignity, safety, and agency for sex workers, acknowledging their work as legitimate and their rights as fundamental.

Police sensitisation: Police sensitisation is a crucial step toward ensuring that sex workers are treated as rights-bearing citizens rather than targets of harassment or moral policing. In practice, this involves training law enforcement personnel to understand the distinction between consensual adult sex work and human trafficking, the legal protections available to sex workers, and the social and economic vulnerabilities that shape their choices. Sensitised police officers are better able to respond to violence, exploitation, or abuse against sex workers without resorting to arbitrary arrests, raids, or coercive “rescues.” Effective sensitisation also challenges ingrained stigma and biases, helping officers view sex work through a human rights lens rather than a purely moral or criminal lens. When police are trained to respect sex workers’ autonomy, consent, and dignity, they can shift their role from punitive enforcement to protective oversight ensuring safety, facilitating access to healthcare and social services, and promoting legal accountability for clients or exploitative intermediaries.

Several pilot programmes in India and internationally have demonstrated that sensitisation reduces police harassment, improves reporting of crimes, and fosters cooperation between sex workers and law enforcement. Beyond formal training, it also involves creating clear standard operating procedures, accountability mechanisms, and dialogue platforms where sex workers can voice concerns and provide feedback on policing practices. Ultimately, police sensitisation is not just about improving enforcement; it is about recognising sex workers’ humanity, protecting their constitutional rights, and enabling them to work safely without fear of state intrusion.²⁹

Community-led interventions: Community-led interventions in India’s sex work sector represent a decisive shift away from top-down, punitive approaches toward models rooted in participation, trust, and lived experience. At the heart of these initiatives are sex worker collectives such as **Ashodaya Samithi in Mysore** and the **Durbar Mahila Samanwaya Committee (DMSC) in Kolkata**, which place sex workers themselves at the centre of

²⁹ Molly Smith & Laura Agustín, *Sex Work and Safety: Lessons from Decriminalisation Models*, 32 *Journal of Human Rights Practice* 101 (2020).

decision-making.³⁰ Rather than being treated as passive recipients of welfare or “rescue,” sex workers act as organisers, educators, and advocates, shaping responses that reflect their real needs and realities.³¹ These collectives have demonstrated that empowerment and public health are deeply connected. Through peer-led education and outreach, they have played a major role in HIV and STI prevention by promoting safer sex practices, ensuring regular health check-ups, and building trust between sex workers and healthcare providers. Because the initiatives are community-owned, sex workers are far more willing to access medical services without fear of stigma or police harassment, leading to measurable improvements in health outcomes and continuity of care.³²

Community-led models also challenge the assumption that anti-trafficking must be imposed from above. Groups like DMSC have developed systems of **self-regulation**, where sex workers collectively monitor workplaces, identify cases of coercion or forced entry, and cooperate with authorities to prevent trafficking without criminalising consensual adult sex work.³³ This approach respects agency while remaining vigilant against exploitation, proving that protection and autonomy are not mutually exclusive. Beyond health and trafficking, these interventions provide **legal aid, crisis response, and economic support**. Partnerships with pro bono lawyers help sex workers challenge arbitrary arrests, police violence, and unlawful detention, while crisis teams respond to instances of abuse or eviction. Some collectives also facilitate savings schemes, skill-building, and alternative livelihood options, reducing economic vulnerability without forcing exit from sex work.³⁴

Perhaps most importantly, community-led interventions create **safe spaces**, both physical and social, where sex workers can speak openly, organise collectively, and reclaim dignity. By addressing violence, stigma, and exclusion through peer solidarity and advocacy, these initiatives have expanded sex workers’ access to rights and services while reshaping how the State and society engage with sex work. In doing so, they demonstrate that sustainable change is most effective when it grows from within the community, rather than being imposed upon

³⁰ Jana, S., Basu, I., Rotheram-Borus, M. J., & Newman, P. A., “The Sonagachi Project: A Sustainable Community Intervention Program,” *AIDS Education and Prevention*, 16(5), 2004.

³¹ Durbar Mahila Samanwaya Committee (DMSC), *Sex Workers’ Movement in India: An Overview* (Kolkata, 2013).

³² Ashodaya Samithi, *Community-Led Structural Interventions and HIV Prevention in Mysore* (2015).

³³ Sangram & VAMP, *Community-Led Anti-Trafficking: Evidence from India* (2012).

³⁴ DMSC, *Usha Cooperative: Economic Empowerment of Sex Workers* (2010).

it.³⁵

Conclusion

The policing of sex work in India reveals a persistent tension between constitutional promise and lived reality. While sex work is not per se illegal, the legal framework governing it, particularly the Immoral Traffic (Prevention) Act, 1956, continues to operate through surveillance, raids, arbitrary arrests, and moralised enforcement that effectively criminalise sex workers' lives. These practices blur the distinction between consensual adult sex work and trafficking, erode due process, and undermine the constitutional guarantees of equality, dignity, privacy, and personal liberty under Articles 14 and 21. In practice, legality remains fragile, conditional, and unevenly accessible, especially for sex workers from historically marginalised Dalit, Adivasi, and transgender communities.

This study has shown that constitutional harms do not arise merely from the text of the law, but from its enforcement. Police discretion under ITPA, coupled with stigma and moral panic, enables harassment, extortion, forced "rescues," and detention in the name of protection. Surveillance and arrest powers are exercised without proportionality or procedural safeguards, transforming regulatory oversight into a mechanism of social control. Such practices hollow out the constitutional commitment to dignity, turning sex workers into perpetual suspects rather than rights-bearing citizens.

At the same time, the analysis challenges the dominant assumption that sex workers are incapable of consent or agency. Recent jurisprudence recognising the right of sex workers to refuse consent and seek legal redress for sexual violence demonstrates that consensual capacity is not absent, but constructed and supported through law. This recognition must extend beyond sexual offences to encompass labour, livelihood, and autonomy, allowing sex workers to exercise meaningful choice free from fear of criminalisation.

The paper also highlights that reform is not merely theoretical. Community-led interventions such as those led by Ashodaya Samithi and the Durbar Mahila Samanwaya Committee demonstrate that when sex workers are placed at the centre of policymaking, outcomes improve across health, safety, and anti-trafficking efforts.

³⁵ UNAIDS, *Guidance Note on HIV and Sex Work* (2012).

These models show that decriminalising ancillary offences, sensitising police, and supporting bottom-up, rights-based approaches can reduce violence, improve access to justice and healthcare, and strengthen the State's ability to address genuine exploitation.

Ultimately, a constitutional approach to sex work demands a shift from moral regulation to rights-based governance. Decriminalisation of ancillary offences, clear separation of consensual sex work from trafficking, police accountability, and community participation are not concessions, but constitutional necessities. If Article 21 is to mean a life lived with dignity and not mere survival, sex workers must be recognised not as objects of rescue or control, but as autonomous citizens entitled to equality, liberty, and respect. The future of sex work regulation in India must therefore lie not in deeper policing, but in constitutional fidelity, social empathy, and structural justice. Until sex workers are recognised not as objects of rescue or regulation but as autonomous citizens, the promise of constitutional dignity will remain unfulfilled.