



Rights and Vulnerabilities of Female Sex Workers: A Global and Indian Perspective

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ABSTRACT

Female sex workers (FSWs) are among the most marginalized globally and in India, facing legal discrimination, economic hardship, violence, and stigma. This review examines structural factors influencing their vulnerabilities, including the impact of criminalization, health risks like HIV, and limited access to justice and services. Drawing on global and Indian literature, it highlights how laws like India's ITA worsen marginalization. Economic and gender inequalities further heighten risks. However, community-led initiatives and decriminalization models show promise in improving outcomes. The paper advocates for legal reform, healthcare access, economic empowerment, and FSWs' inclusion in policy-making.

Keywords

Female Sex Workers, Criminalization, Gender-Based Violence, Human Rights, HIV and Health Risks

Introduction

Female sex workers (FSWs) occupy one of the most marginalized and stigmatized positions in both global and Indian societies. Their marginalization is rooted in intersecting structural forces-including legal repression, economic deprivation, gender-based discrimination, and social exclusion-which significantly compromise their rights, health, and personal safety. Globally, FSWs face disproportionate levels of violence, criminalization, and poor access to health and legal services, with the World Health Organization (2005) recognizing violence against sex workers as a major public health issue that contributes to the spread of HIV and other sexually transmitted infections (STIs). In the Indian context, these challenges are further intensified by complex legal ambiguities. While the act of sex work itself is not illegal in India, the Immoral Traffic (Prevention) Act (ITPA), 1956, criminalizes associated activities such as brothel-keeping, solicitation, and living off the earnings of a sex worker (Kotiswaran, 2011). This partial criminalization fosters an environment of fear and insecurity, where FSWs are vulnerable to police harassment, extortion, and arbitrary detention (Human Rights Watch, 2002). It also discourages them from accessing healthcare or reporting violence, due to the constant threat of legal repercussions (UNAIDS 2012).

Economically, most FSWs come from marginalized caste groups and lower-income strata, driven into sex work by poverty, lack of educational opportunities, and the absence of viable livelihood alternatives (Swendeman et al., 2009; NACO, 2015). This economic compulsion-combined with social stigma and exclusion-renders them more susceptible to client coercion, including pressure to engage in unprotected sex for higher pay, thereby elevating their risk of HIV infection (Panchanadeswaran et al., 2008; Beattie et al., 2010). Social attitudes further entrench FSWs' marginalization. Public discourse in India often conflates sex work with immorality or trafficking, erasing the agency of adult women who engage in consensual sex work for survival or livelihood (Kotiswaran, 2011). These narratives deny FSWs basic human rights, including the right to dignity, bodily autonomy, and freedom from violence and discrimination. Against this backdrop, this review synthesizes both global and Indian literature to explore the multi-layered vulnerabilities experienced by FSWs. It aims to unpack the structural determinants that perpetuate marginalization while highlighting the need for policy reforms and rights-based approaches to support the health, safety, and empowerment of sex workers.

Objectives

1. To examine the structural determinants contributing to the vulnerability of FSWs.
2. To assess the prevalence and impact of violence against FSWs, including state-sanctioned and interpersonal violence.
3. To evaluate the health risks associated with sex work, particularly concerning HIV and other sexually transmitted infections (STIs).

4. To analyse legal and policy interventions aimed at protecting the rights of FSWs.
5. To propose recommendations for enhancing the rights and safety of FSWs through legal reform, economic empowerment, and healthcare access.

Methodology

This review employs a qualitative synthesis approach, analysing peer-reviewed articles, government reports, and non-governmental organization (NGO) publications. Studies were selected based on their relevance to the rights and vulnerabilities of FSWs, with a focus on research conducted in India and other global contexts. Data were extracted and categorized thematically to identify common patterns and divergent findings.

Results and Discussion

Structural Determinants of Vulnerability

- **Criminalization and Legal Frameworks**
- The criminalization of sex work and its related activities is a central factor contributing to the marginalization and vulnerability of female sex workers (FSWs). While the act of engaging in sex work is not explicitly illegal in India, a range of laws criminalize associated practices such as solicitation in public places, brothel-keeping, living off the earnings of a sex worker, and pimping. These provisions are primarily governed by the Immoral Traffic (Prevention) Act (ITPA), 1956, which is the main legal framework addressing sex work in India. Although the law ostensibly aims to prevent trafficking, in practice, it often conflates voluntary sex work with coercion and exploitation, leading to the criminalization and harassment of consenting adult sex workers (Kotiswaran, 2011).
- This legal ambiguity results in a paradoxical situation: while sex work is technically legal, nearly every activity that enables or supports it is criminalized. As a result, FSWs are pushed into clandestine work environments where their ability to organize, access healthcare, and seek legal redress is severely limited (UNAIDS, 2012). The criminalization also contributes to stigma and discrimination, discouraging FSWs from accessing vital services such as sexually transmitted infection (STI) testing, HIV prevention programs, and legal assistance (Human Rights Watch, 2002). Law enforcement officers often use the vague provisions of the ITPA to arbitrarily arrest, extort, or abuse sex workers, undermining their basic human rights and reinforcing cycles of poverty and exploitation.
- Research also suggests that criminalization increases the risks of violence and exploitation. A study by the World Health Organization (WHO, 2005) found that in environments where sex work is criminalized, FSWs are less likely to report abuse to authorities, increasing their vulnerability to physical and sexual violence. Moreover, legal precarity inhibits the formation of collectives and advocacy networks, which are essential for empowering sex workers and advocating for their rights (Jana et al., 2004).
- In contrast, regions and countries that have adopted decriminalization or legal regulation models, such as New Zealand, have demonstrated improved health and safety outcomes for sex workers, including increased access to legal protections and healthcare services (Abel, Fitzgerald & Brunton, 2007). These comparisons underline the need to critically evaluate and reform India's legal approach to sex work in ways that prioritize the rights, agency, and well-being of FSWs.

- **Economic Inequality and Poverty:**

Economic vulnerability remains one of the most significant structural determinants driving women into sex work in India. In states such as Karnataka and Andhra Pradesh, entrenched poverty, limited access to formal education, and the scarcity of viable employment opportunities leave many women with few alternatives for income generation (Swendeman et al., 2009; NACO, 2015). Sex work, in these contexts, often becomes a survival strategy rather than a voluntary career choice. The intersection of poverty and gender inequality further exacerbates this dynamic, as women from lower socioeconomic strata—often from marginalized castes and communities—are disproportionately represented in the sex work industry (UNAIDS, 2012). Moreover, female sex workers (FSWs) frequently face economic exploitation. Studies have found that clients may offer significantly higher payments for sex without condoms, placing FSWs in a difficult position where financial necessity can override health concerns (Panchanadeswaran et al., 2008). This economic coercion contributes to heightened vulnerability to HIV and other sexually transmitted infections (STIs), underscoring the urgent need for both economic empowerment programs and robust health interventions (Beattie et al., 2010).

Violence and Human Rights Violations

Police Brutality and State Violence

Female sex workers (FSWs) in India often face systemic violence and harassment from law enforcement agencies. Surveys have indicated that approximately 70% of sex workers have been beaten by police, and over 80% have been arrested without due evidence, highlighting the extent of state-sanctioned abuse against this population (Human Rights Watch, 2002). These actions violate fundamental human rights, including the right to security, freedom from arbitrary arrest, and protection from torture or degrading treatment as enshrined in both Indian constitutional law and international

human rights conventions (UNAIDS, 2012; Kotiswaran, 2011). Rather than offering protection, police frequently exploit and abuse FSWs, using their legal precocity under laws like the Immoral Traffic (Prevention) Act (ITPA) to justify raids, extortion, and physical violence (Jana et al., 2004).

Gender-Based Violence

FSWs are also at heightened risk of gender-based violence (GBV), including rape, physical assault, and intimate partner violence, due to intersecting factors such as poverty, stigma, and lack of legal protection. In Karnataka, one study found that 26% of FSWs reported being beaten or raped in the previous year (Beattie et al., 2010). Women who had experienced recent violence were found to be significantly less likely to use condoms with clients, increasing their risk of HIV and other sexually transmitted infections (Panchanadeswaran et al., 2008). Gender-based violence not only violates bodily autonomy and human dignity but also creates a hostile environment in which FSWs cannot safely access healthcare, justice, or support services.

Health Risks and Access to Services

HIV and Sexually Transmitted Infections (STIs)

Female sex workers (FSWs) are at significantly higher risk of acquiring HIV and other sexually transmitted infections (STIs) due to a combination of structural, behavioural, and social vulnerabilities. Factors such as exposure to violence, mobility for sex work, and inconsistent condom use are strongly linked to higher HIV prevalence among FSWs (Panchanadeswaran et al., 2008; Beattie et al., 2010). In Andhra Pradesh, studies have shown that FSWs who had experienced physical or sexual violence were more likely to be HIV-positive compared to those who had not, indicating a clear connection between violence and elevated health risks (Deering et al., 2014). Additionally, mobility—moving between towns or states for sex work—further increases the risk, as it often reduces FSWs' access to stable healthcare services, increases client anonymity, and disrupts community-based prevention efforts (Swendeman et al., 2009).

Barriers to Healthcare Access

Despite their heightened need for medical attention, FSWs face numerous obstacles in accessing healthcare services. Legal ambiguity surrounding sex work, coupled with fear of arrest, stigma, and discrimination from healthcare providers, deters many from seeking preventive care or treatment for HIV and STIs (UNAIDS, 2012; Kotiswaran, 2011). Institutional neglect, judgmental attitudes, and inadequate training among healthcare workers often result in FSWs being denied dignified care or being subjected to verbal abuse. A lack of awareness about available services, and limited access to identification documents or insurance coverage, also pose challenges (NACO, 2015). Efforts in Karnataka, such as those implemented through the Avahan India AIDS Initiative, have demonstrated some success in reducing these barriers by promoting non-discriminatory healthcare policies, engaging peer educators, and establishing community-based clinics designed specifically for sex workers (Beattie et al., 2010; Swendeman et al., 2009). These interventions highlight the importance of community-led approaches in creating safe and inclusive healthcare environments for marginalized populations.

Legal and Policy Interventions

Decriminalization vs. Legalization

The on-going debate between decriminalization and legalization of sex work is critical to shaping the rights, safety, and well-being of female sex workers (FSWs). Decriminalization involves the removal of all criminal penalties for consensual adult sex work, while legalization typically imposes a regulatory framework under which sex work is permitted but strictly controlled. Leading global organizations, including Amnesty International (2016) and UNAIDS (2012), advocate for decriminalization, arguing that it provides a human rights-based approach that enhances FSWs' access to health services, legal protections, and safe working conditions. Research shows that decriminalization is associated with reduced violence, improved health outcomes, and greater empowerment for sex workers (Platt et al., 2018). In contrast, legalization often leads to the creation of a two-tiered system, where only those who meet specific regulatory criteria are protected, while others—especially those working informally or failing to register—remain criminalized and vulnerable (Kotiswaran, 2011). Decriminalization removes punitive laws and allows for the collective organization of sex workers, improving their ability to advocate for rights, demand fair treatment, and report abuse without fear of arrest or discrimination.

Policy Initiatives in India

India has not yet adopted a formal decriminalization or legalization model, but state-level interventions, particularly in Karnataka, have demonstrated promising outcomes. The Karnataka Health Promotion Trust (KHPT) has led efforts under the Avahan India AIDS Initiative to reduce violence against FSWs and enhance access to social entitlements, including housing, identity documents, and health insurance (KHPT, 2017; Beattie et al., 2010). These initiatives have focused on community mobilization, policy advocacy, and capacity-building for healthcare workers and law enforcement, promoting a rights-based, inclusive model of public health intervention. Programs implemented by KHPT have shown that empowering FSW collectives, ensuring access to grievance redressal mechanisms, and working with government agencies to issue ration cards, voter IDs, and other documents significantly improves the social security and livelihood stability of sex workers (Swendeman et al., 2009). These models could inform future national policies aiming to support the rights and health of FSWs.

Conclusion

The rights and vulnerabilities of female sex workers (FSWs) are shaped by structural factors such as legal frameworks, economic conditions, and societal attitudes. Criminalization and stigma create unsafe environments, limiting access to legal protection and healthcare. Economic insecurity drives many women into sex work, heightening exploitation and health risks. Addressing these issues requires legal reform to decriminalize sex work, economic empowerment through job alternatives, and improved healthcare access. Decriminalization would enable safer working conditions and the ability to seek justice without fear of arrest. Economic empowerment programs can reduce dependency on sex work, while non-discriminatory healthcare ensures better health outcomes. Upholding FSWs' rights promotes social equity, fostering a just society for all women.

Suggestions

1. **Legal Reform:** Advocate for the decriminalization of sex work to protect FSWs from legal persecution and enhance their access to services.
2. **Comprehensive Healthcare:** Ensure that FSWs have access to non-discriminatory healthcare services, including HIV/STI prevention and treatment.
3. **Economic Empowerment:** Implement programs that provide economic alternatives to sex work, such as vocational training and financial literacy.
4. **Community Engagement:** Involve FSWs in the design and implementation of policies and programs affecting their lives to ensure their needs and rights are addressed.

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