



## PROSTITUTION IN INDIAN SOCIETY

Dr. PAYAL CHAMATKAR

Assistant Professor (Social Work)

Department of Sociology

RTM Nagpur University

payalchamatkar@gmail.com

### ABSTRACT

Prostitution in India has historically existed within a complex social framework shaped by religion, economy, culture, and power relations. Unlike contemporary moralistic or criminal interpretations, ancient Indian traditions recognized courtesans as socially and economically integrated figures, as reflected in classical texts such as the *Arthashastra* (Rangarajan, 1992, pp. 256–270). Colonial rule, however, imposed Victorian moral norms that redefined prostitution as immoral and deviant—a legacy that continues in present legal regimes, notably the Immoral Traffic (Prevention) Act, 1956 (Kotiswaran, 2011, pp. 91–115). This paper critically examines prostitution through historical, socio-cultural, and legal lenses, highlighting the divergence between indigenous regulatory systems and contemporary punitive frameworks, and advocates a rights-based, welfare-oriented approach grounded in constitutional values of dignity, equality, and social justice.

**Keywords:** prostitution, IKS, courtesans, devadasi, ITPA, sex work, colonial morality

### Introduction

Prostitution has existed in Indian society since ancient times as a socially recognized and, at times, state-regulated activity embedded within cultural, religious, and economic systems. The Indian Knowledge System (IKS), grounded in the *puruṣārtha* framework, regarded *kāma* as a legitimate human pursuit rather than a moral failing. Historical sources indicate that courtesans were skilled cultural professionals, with texts such as the *Arthashastra* detailing their regulation through taxation, contracts, and state protection. Religious narratives, including that of Amrapali, and the institution of *devadāsīs* further reflect social recognition rather than stigma. This indigenous regulatory understanding was disrupted during colonial rule, when Victorian morality recast prostitution as immoral and deviant through laws like the Contagious Diseases Act. Post-independence legislation, particularly the Immoral Traffic (Prevention) Act, continues this legacy by criminalizing the conditions of sex work. Re-examining prostitution through the IKS lens is therefore essential for developing rights-based and culturally grounded policies in contemporary India.

### Review of Literature

An extensive body of scholarship demonstrates that prostitution in India has undergone a complex historical evolution and has never functioned as a static or uniform institution. Its social meaning, economic role, and legal status have shifted across time in response to cultural, religious, political, and economic contexts. Analyses of classical texts, temple records, ethnographic studies, colonial archives, feminist scholarship, and legal critiques reveal a clear distinction between indigenous Indian Knowledge System (IKS) perspectives and colonial or postcolonial reinterpretations. Early Indian sources indicate that prostitution was not merely tolerated but socially integrated, culturally valued, and institutionally regulated.

Classical literature such as the *Kama Sutra* portrays courtesans (*ganikā*, *veśyā*, *nagarvadhu*) as refined cultural professionals skilled in music, poetry, conversation, and etiquette, rather than as marginalized or immoral figures (Doniger & Kakar, 2002, pp. 101–118). This representation situates sex work within *kāma*, a legitimate human pursuit under the *puruṣārtha* framework. Administrative texts further reinforce this integration: Kautilya's *Arthashastra* outlines detailed mechanisms for the regulation of prostitution, including taxation, contracts, property rights, penalties, and state protection, indicating that sex work functioned as a recognized urban profession within a bureaucratic system (Rangarajan, 1992, pp. 256–270). Courtesans also performed roles in public entertainment, intelligence gathering, and diplomacy, reflecting state regulation rather than criminalization.

Historical and anthropological studies also emphasize the institutional role of *devadāsīs*, whose identities extended beyond commercial sex work. Temple inscriptions from the Chola–Vijayanagara period highlight *devadāsīs* as ritual specialists, landholders, and cultural custodians with access to property, salaries, and social recognition (Orr, 2000, pp. 89–112). These findings challenge modern assumptions that the *devadāsī* system was inherently exploitative. Buddhist literature further

complicates stigma-driven narratives through the figure of Amrapali, the renowned courtesan of Vesālī. Textual accounts depict her as a respected *nagarvadhu* whose social standing and spiritual agency challenge contemporary moral hierarchies (Strong, 1983, pp. 92–96). Her renunciation and ordination, recorded in the *Therī Apadāna*, illustrate Buddhism's non-absolutist moral framework, which rejects judgments based on profession, birth, or gender (Shaw, 2006; Singh, 2005).

Ethnographic research reinforces these interpretations by demonstrating how pre-colonial Indian frameworks located sexual labour within sacred, cultural, and civic domains. Ramberg's (2014) study of *devadāsīs* in Karnataka shows how colonial and postcolonial classifications of these women as "prostituted" reflect narrow biomedical and moralistic perspectives that obscure indigenous religious meanings and lived realities (pp. 52–71).

A decisive rupture occurred during British colonial rule, when prostitution was reframed through Victorian moralism and medicalized control. Laws such as the Contagious Diseases Act (1868) introduced invasive surveillance, compulsory medical examinations, and detention, redefining sex workers as diseased, deviant, and morally corrupt (Joffe & Pringle, 2016, pp. 487–498). These colonial narratives displaced indigenous regulatory systems and laid the foundation for modern punitive legal frameworks. Post-independence India inherited this structure through the Immoral Traffic (Prevention) Act (ITPA), which criminalizes brothels, solicitation, income-sharing, and collective living arrangements, thereby exacerbating vulnerability and enabling police abuse (Kotiswaran, 2011, pp. 91–115; Patel, 2017, pp. 201–220).

Contemporary feminist legal scholarship critiques this abolitionist framework and emphasizes the need for a rights-based approach. Judicial developments increasingly recognize sex workers' constitutional dignity under Article 21, including the rights to livelihood, bodily autonomy, and freedom from degrading treatment (Jain, 2019, pp. 44–47). This shift aligns with international human rights frameworks that advocate decriminalization, stigma reduction, and labour protections, underscoring the continued relevance of IKS-based regulatory principles in contemporary debates.

### **Kāma, Dharma, and Mokṣa: IKS Perspectives on Sexual Labour**

Classical Indian thought conceptualized sexual labour within the *puruṣārtha* framework, where *kāma* was recognized as a legitimate human pursuit rather than a moral transgression. The *Kama Sutra* presents courtesans (*veśyā*, *ganikā*) as skilled cultural professionals proficient in arts, poetry, dialogue, and erotic knowledge, situating sex work within an accepted social and ethical order (Doniger & Kakar, 2002, p. 112). The principle of *dharma* further supports a contextual, non-absolutist ethical approach, emphasizing intention, social responsibility, and harm reduction rather than rigid moral prohibition. Buddhist and Jain traditions similarly regard prostitution as part of social reality, where ethical judgment depends on compassion and intent rather than occupation (Sinha, 2012, pp. 304–308). Amrapali's portrayal in Buddhist literature exemplifies this perspective by depicting courtesans as respected and intellectually capable civic actors. At the philosophical level, Advaita Vedānta views all social roles as part of *māyā*, with *mokṣa* transcending occupational identities altogether, thereby rejecting inherent stigma and affirming moral equanimity.

### **Objectives and Methodology**

The study aims to critically examine prostitution in India through the lens of the Indian Knowledge System (IKS), comparing indigenous regulatory traditions with colonial and contemporary legal frameworks to assess their implications for dignity, rights, and social justice. Specifically, it analyses prostitution in ancient India using classical and Buddhist texts, evaluates the impact of colonial morality and modern laws, contrasts IKS-based regulation with punitive legal approaches, and proposes rights-based policy directions grounded in constitutional principles.

Methodologically, the study adopts a qualitative, historical, and socio-legal design based exclusively on secondary sources, including classical Indian texts, colonial legislation, post-independence laws such as the Immoral Traffic (Prevention) Act, and contemporary interdisciplinary scholarship. The analysis is guided by an IKS interpretive framework, comparative historical analysis, and a rights-based constitutional perspective under Articles 14, 19, and 21, employing thematic content analysis without the use of primary data.

### **Historical Overview within the Indian Knowledge System (IKS)**

The evolution of prostitution in India reflects a deeply embedded cultural, economic, and administrative practice shaped by the Indian Knowledge System (IKS). Early Sanskrit and



Dharmashastric texts recognized women engaged in sexual services as part of social and economic life rather than as moral deviants, reflecting a contextual and non-absolutist understanding of *dharma* (Singh, 2005). Sexual labour was incorporated into ritual, economic, and civic structures without stigma or criminalization.

During the Mauryan–Gupta period, prostitution became a formally regulated urban institution. Kautilya's *Arthashastra* detailed systems of taxation, contracts, compensation, and state protection, positioning courtesans as legitimate professionals contributing to governance, diplomacy, and revenue generation (Rangarajan, 1992). Civic institutions such as the *nagarvadhu* and temple-based *devadāsīs* further illustrate a continuum of cultural artistry, ritual service, and sexual labour, where women enjoyed property rights, patronage, and social recognition (Orr, 2000; Shah, 2002). These arrangements reflect IKS's pluralistic and non-judgmental approach to sexuality and livelihood.

This indigenous regulatory framework was fundamentally disrupted under British colonial rule. Victorian moral ideology and biomedical anxieties reframed prostitution as immoral and diseased, leading to coercive control through laws such as the Contagious Diseases Acts, which introduced surveillance, forced medical examinations, and detention (Sen, 1998). Post-independence India retained this colonial moral logic through the Immoral Traffic (Prevention) Act (ITPA), which, while not criminalizing consensual sex work, criminalizes its conditions—brothels, solicitation, income-sharing, and collective living—thereby intensifying stigma, police violence, and economic insecurity (Patel, 2017).

A comparison between IKS and contemporary legal frameworks reveals a clear shift from regulation and welfare to moralization and punishment. While IKS emphasized management, protection, and accountability, modern law prioritizes criminalization and surveillance, rendering safe working conditions impossible (Kotiswaran, 2011). This framework also remains caste-blind, ignoring structural vulnerabilities that shape entry into sex work (Ali & Roy, 2011). Despite constitutional guarantees of equality and dignity under Articles 14, 19, and 21, sex workers continue to face exclusion, violence, and denial of welfare, undermining constitutional morality (Jain, 2019). Consequently, contemporary legal regimes remain misaligned with both India's indigenous regulatory traditions and constitutional principles.

#### **Critique: IKS vs. Modern Frameworks**

A comparison between the Indian Knowledge System (IKS) and contemporary legal frameworks reveals a fundamental shift in the governance of prostitution from regulation to criminalization. Classical texts such as the *Arthashastra* treated prostitution as a legitimate urban occupation subject to registration, taxation, contracts, welfare provisions, and state protection, reflecting a labour-oriented and dignity-centred approach (Rangarajan, 1992, pp. 256–270). In contrast, modern Indian law, shaped by colonial moral ideology, operates through moralization and stigma rather than regulation.

Although consensual adult sex work is not illegal, the Immoral Traffic (Prevention) Act criminalizes the conditions necessary for safety—brothels, solicitation, income-sharing, and third-party support—thereby transforming legal activity into illegal livelihood (Kotiswaran, 2011, pp. 91–96). This punitive framework replaces rights-based protection with coercive surveillance and “rescue,” framing sex work as deviance rather than labour. Contemporary policing practices further reproduce colonial control mechanisms rooted in the Contagious Diseases Acts, including raids, surveillance, and forced detention (Joffe & Pringle, 2016, p. 493).

Modern legal frameworks also obscure caste-based vulnerabilities that historically structured entry into sexual labour. While IKS acknowledged caste pathways, current legislation claims neutrality while ignoring structural inequalities, resulting in disproportionate violence and exclusion (Ali & Roy, 2011, p. 239). Despite constitutional guarantees under Articles 14, 19, and 21, sex workers continue to face stigma, police brutality, and denial of welfare, undermining constitutional dignity (Jain, 2019, p. 45). Although the Supreme Court affirmed sex workers' right to live with dignity in *Budhadev Karmaskar v. State of West Bengal* (2022), punitive laws continue to legitimize stigma in practice.

Overall, contemporary prostitution governance in India remains misaligned with indigenous regulatory traditions, constitutional principles, and rights-based international standards. Reorienting policy toward an IKS-informed, regulatory, and dignity-centred framework is therefore both constitutionally necessary and historically grounded.



### Recommendations

Decriminalize consensual adult sex work while enhancing laws against trafficking and coercion (Dave, 2008). Acknowledge sex work as legitimate labor, ensuring occupational rights, social security, and protections in the workplace (Sahni et al., 2008). Establish a regulatory framework inspired by IKS models that include licensing, inspection, and state protection (Rangarajan, 1992). Support sex worker collectives, which help to reduce violence, improve health outcomes, and strengthen collective bargaining (Nag, 2002).

Revise social work practices to transition from rescue-oriented methods to those focused on dignity, harm reduction, and empowerment (Rao, 2016). Incorporate IKS-based education that fosters indigenous, non-stigmatizing perspectives on sexuality and livelihood (Sinha, 2012). Collectively, these initiatives advocate for a constitutional, rights-based, and culturally relevant policy framework.

### Conclusion

The Indian Knowledge System (IKS) regarded prostitution as a regulated, skilled, and socially acknowledged profession, integrated into urban economic life and governed through training, contracts, taxation, and state protection. This regulatory and dignity-focused approach was supplanted during colonial times by Victorian moral ideologies that redefined sex work as deviant and dangerous. Post-independence legislation, such as the Immoral Traffic (Prevention) Act, perpetuates this colonial legacy by criminalizing the working conditions of sex workers while stripping them of dignity and rights. This inconsistency undermines constitutional assurances of equality, livelihood, and personal freedom.

Thus, meaningful reform necessitates a significant departure from colonial moralism towards a rights-based, regulatory, and dignity-centered framework that is deeply rooted in India's indigenous traditions. Such reform is not only constitutionally imperative but also historically aligned with India's civilizational values.

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