

Addressing Legal Contradictions and Rights Gaps in the Governance of Sex Work in Bangladesh

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Executive Summary

Sex work in Bangladesh exists within a fragmented and quasi-legal regulatory framework. Although prostitution is not expressly prohibited by law, it is “prevented” by the Constitution, while sex workers remain subject to a range of criminal, administrative, and policing measures that significantly affect their ability to exercise constitutional rights and access legal protection.

The current framework is characterised by a contradiction between constitutional provisions that protect equality, freedom of occupation, and protection from arbitrary arrest, and legal and administrative mechanisms that continue to regulate female sex workers through discretionary enforcement. Judicial decisions have recognised sex work as a lawful occupation in limited contexts, yet this recognition has not been accompanied by coherent legislative reform or institutional alignment.

As a result, women sex workers occupy an uncertain legal position. They are neither fully recognised as workers nor fully criminalised, but instead governed through a combination of tolerance, restriction, and periodic enforcement. This ambiguity contributes to vulnerability, limits access to justice and healthcare, and creates opportunities for arbitrary detention, harassment, and abuse by different actors.

This brief outlines the principal legal contradictions affecting sex workers in Bangladesh, examines the practical consequences of the current system, and proposes recommendations for lawmakers, courts, law enforcement agencies, and human rights institutions.

1. Key Findings

1.1 Constitutional Rights and Preventive State Objectives Coexist Uneasily

The Constitution contains competing principles relevant to sex work. Article 18(2) directs the state to take measures to prevent prostitution, while Article 40 guarantees citizens the right to engage in any lawful occupation. At the same time, constitutional guarantees relating to equality before law, freedom of movement, and protection against arbitrary arrest remain applicable to sex workers.

This constitutional structure produces a situation in which sex work is neither clearly recognised nor clearly prohibited. Rights-based protections and abolitionist state objectives coexist, creating uncertainty in interpretation and implementation.

1.2 Regulation Operates Through Indirect Criminalisation

Bangladeshi law does not directly criminalise sex work as an occupation. Instead, regulation occurs through offences associated with prostitution, including solicitation, brothel management, public nuisance provisions, trafficking-related offences, and other regulatory mechanisms.

This creates a system of indirect criminalisation in which sex workers may not be prosecuted for prostitution itself, but remain vulnerable to enforcement actions through surrounding legal provisions. This affects not only street-based workers but also home-based, hotel-based, and online sex workers, whose work remains subject to regulatory ambiguity and limited legal protection.

1.3 Enforcement Relies Heavily on Discretionary Powers

In practice, sex workers experience law primarily through policing and administrative intervention rather than through formal legal protections.

Provisions permitting arrest on suspicion, public nuisance offences, and vagrancy-related powers have historically been used against sex workers, particularly those working in public spaces.

Human rights reports and existing scholarship suggest that these mechanisms contribute to arbitrary detention, harassment, extortion, and displacement.

The result is a significant gap between legal rights on paper and the realities experienced by sex workers.

1.4 Judicial Recognition Has Not Produced Comprehensive Protection

Court decisions recognising prostitution as a lawful occupation have provided limited legal recognition. However, this recognition remains dependent on judicial interpretation rather than comprehensive statutory reform.

Administrative requirements, including affidavit-based recognition systems and regulatory barriers affecting brothel operations, continue to restrict access to meaningful legal protection. Consequently, sex workers remain positioned between formal recognition and practical exclusion.

2. Impacts of the Current Framework

2.1 Increased Legal Uncertainty

The coexistence of constitutional protections, criminal offences, judicial recognition, and discretionary enforcement creates uncertainty regarding the legal status of sex work and the rights available to those engaged in it.

2.2 Exposure to Arbitrary Enforcement

Broad enforcement powers increase the likelihood of inconsistent and arbitrary treatment. Higher-ranking law enforcement officials are less interested in enforcing existing laws, whereas officers on the ground are overly eager to enforce them. Street-based and mobile sex workers are particularly vulnerable to arrest, detention, displacement, and harassment.

2.3 Reduced Access to Justice

Fear of police intervention and social stigma may discourage sex workers from reporting violence, exploitation, trafficking, or other abuses. This weakens their access, as citizens, women, and professionals, to legal remedies and accountability mechanisms.

2.4 Social and Economic Exclusion

The absence of clear legal recognition contributes to exclusion from labour protections, social services, healthcare access, and institutional support mechanisms. Therefore, sex workers are excluded from safe working conditions and denied access to reproductive, sexual and basic healthcare, housing and financial systems, leaving them exposed to violence and gross human rights violations.

2.5 Institutional Fragmentation

Different state institutions operate according to different legal and policy logics. Courts may recognise certain rights, while law enforcement and administrative authorities continue to regulate through restrictive practices. This fragmentation undermines the practical implementation of constitutional protections.

3. Policy Recommendations

3.1 For Parliament and Lawmakers

1. Clarify the legal status of consensual adult sex work through legislative reform.
2. Distinguish clearly between human trafficking, sexual exploitation, and consensual adult sex work to prevent conflation of fundamentally different issues.
3. Review provisions commonly used to regulate sex workers indirectly, including public nuisance and related offences, to ensure consistency with constitutional rights protections.

4. Ensure that future legal reforms are informed by consultation with sex workers, sex workers' networks, international human rights bodies, women's rights organisations, human rights organisations, legal experts, and public health stakeholders.

3.2 For the Judiciary

1. Strengthen the practical enforcement of constitutional protections relating to equality, liberty, due process, and freedom of occupation.
2. Develop jurisprudence that provides clearer guidance regarding the rights and legal status of sex workers.
3. Continue to scrutinise the use of discretionary enforcement powers where they may result in arbitrary detention or discriminatory treatment.

3.3 For Law Enforcement Agencies

1. Reduce reliance on discretionary enforcement practices that contribute to arbitrary outcomes, while promoting professionalism and reducing bias.
2. Ensure that arrests and detentions comply strictly with legal requirements and constitutional safeguards.
3. Introduce specialised human rights training concerning sex workers' rights, trafficking, gender-based violence, and vulnerable populations.
4. Establish effective oversight and complaint mechanisms to address allegations of abuse, extortion, or unlawful detention.
5. Collaborate with different rights-based organisations in need of resources for training and other logistic arrangements.

3.4 For Human Rights and Oversight Institutions

1. Advocate for drawing the NHRC's attention to the issue.
2. Monitor the impact of policing and administrative practices on sex workers.
3. Document and investigate allegations of rights violations.

4. Facilitate access to legal assistance and complaints procedures through stronger partnerships with legal professionals.
5. Share intellectual, operational, and financial resources in the network of organisations with similar strategic goals.
6. Engage academic institutions in generating evidence-based research to inform policy and support advocacy efforts.
7. Promote evidence-based policy discussions that distinguish consensual sex work from trafficking and exploitation.

4. Conclusion

The central challenge facing Bangladesh is not simply whether sex work should be criminalised or decriminalised. Rather, it is the persistence of a fragmented governance framework in which constitutional rights, criminal laws, judicial recognition, and administrative practices operate according to different and sometimes contradictory logics. This challenge has been intensified by current socio-political changes, which have raised concerns among the research participants, including sex workers, women's rights organisations, academics, feminist practitioners and legal professionals, and added a separate layer of conservative forces that further complicates the issue.

This quasi-legal system creates uncertainty, enables discretionary enforcement, and limits the practical realisation of constitutional protections. Addressing these challenges requires greater legal coherence, stronger institutional accountability, and a clearer commitment to protecting the rights and dignity of those affected by existing regulatory practices.

Any future reform should therefore focus not only on the formal legal status of sex work, but also on the broader institutional structures through which sex work is governed in practice.

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