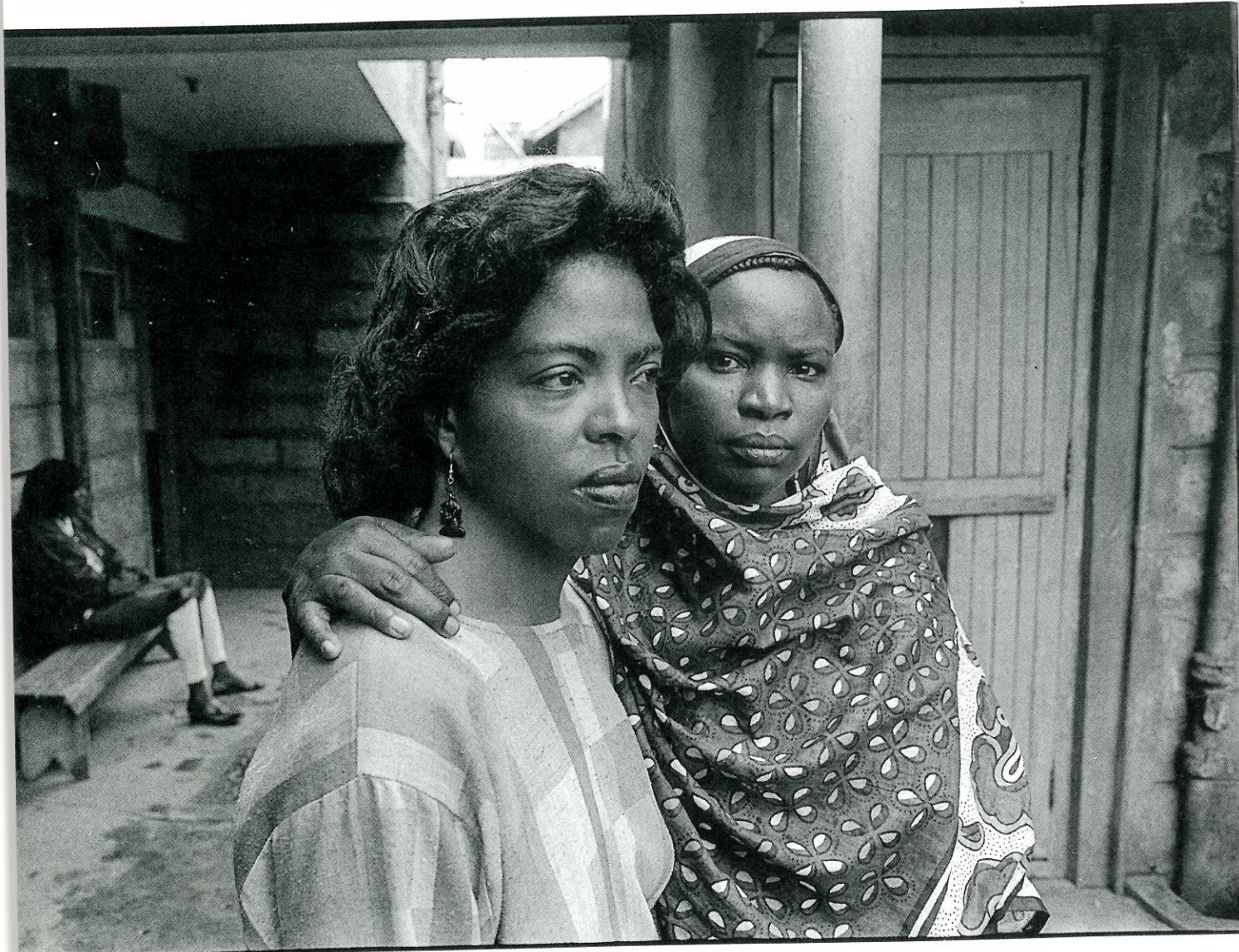


*Love is Labour*

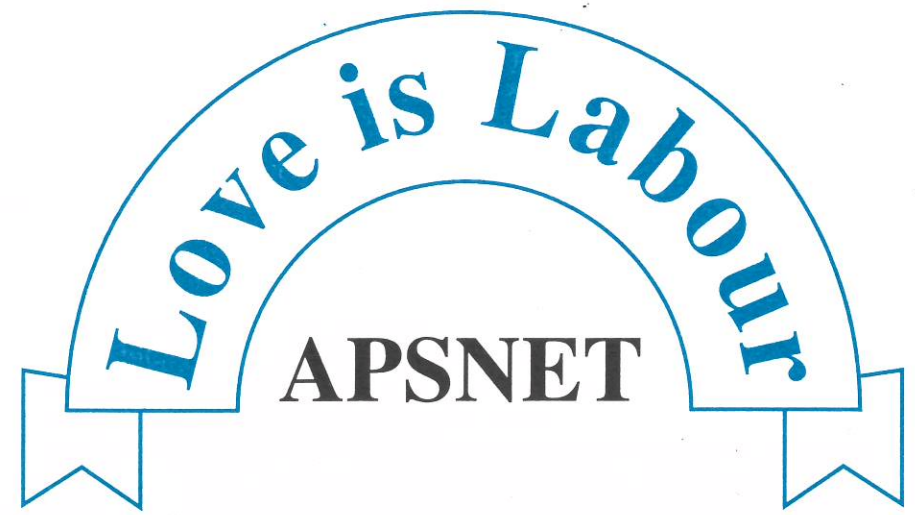
# APSNET

BULLETIN OF THE ASIA-PACIFIC  
NETWORK OF SEXWORKERS



*We are sailing in the same boat sister.*

NO. 1, August 1999



**BULLETIN OF THE ASIA-PACIFIC  
NETWORK OF SEXWORKERS**

**No. 1, August 1999**





towards a better future—children of the Sexworkers in a dance rehearsal in Calcutta

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## Publisher's Note

Friends, Sisters, and all concerned about the Asia-Pacific Network of Sex Workers! You must be exasperated by the delay on my part in bringing out this promised Bulletin. The delay was caused by our inability about getting editorial assistance.

Now the result is in front of you. We would have been happier, had the fare been more representative. But we could not collect materials from all the countries of our region. We are looking forward to more input from all of you in future.

Please accept my best regards.

**Sadhana Mukherji**

1st August 1999



*Knowing public opinion*

# Minutes of the Meeting Of The Asia Pacific Network of Sex Work Projects

Nov. 30th - 31st 1997, City Garden Hotel, Manila

## 1. Welcome :

Sue Metzenrath welcomed everyone to the meeting and suggested rules for the meeting including : everyone having the right to be heard, delegates to speak slowly in order to allow interpreters to translate, be aware of conflicts and acknowledge that there will be some issues which cannot be resolved and acknowledge member ownership of decisions.

## 2. Introduction

Delegates present introduced themselves and the work that they do and raised issues that need addressing.

Sadhana Mukherji from the Durbar Mahila Samanwaya Committee in Calcutta, India spoke about the committee being an organisation of sex workers which has access to approx 30,000 sex workers and has 33 branches. It is important to have a national network in India in order to lobby for law reform. Prevention is not just about needing education but needs networking at all levels.

Dr. Smarajit Jana spoke about the history of the Sonagachhi Project and the formation of the committee. The project started as a research project 5 years ago and Dr. Jana realised that education and prevention issues were intimately linked with the status of sex work and trained sex workers to be peer educators and has supported them and encouraged them to set up their own rights organisation, the Durbar Mahila Samanwaya Committee.

Akhi spoke about the Shakti Project in Bangladesh, which has been modelled on the Sonagachhi Project, its focus being on social and self organisation. She mentioned a number of problem areas for sex workers including madams collecting money from sex workers to pay the police and that madams do not encourage sex workers to use condoms. There are many social norms which are illegal for sex workers, for example that of not wearing shoes, that even though sex work is legal in Bangladesh, sex workers are stigmatised through isolation from society and the need to dress differently. Those working with sex workers are also stigmatised.

Brett from the Sydney Sexual Health Clinic, spoke about male sex workers, their invisibility and the fact that they don't access services. In Sydney, most male workers are independent, heterosexual men work in Kings Cross during the day. Also, some of these workers work as waiters from bars. Most male workers don't identify as workers because of stigma.

Alma from Buklod in Olangopo City Philippines, spoke about the decrease in number of sex workers as a result of the withdrawal of the American base (from 10,000 to 400-600). The workers are registered by the mayor and have to pay a registration fee, they

are also compulsorily tested. If workers have no registration papers they are arrested. Buklod runs a drop-in centre for bar workers, with a focus on women's rights linked to health and reproductive rights. Provides loan credit for women who want to start their own business.

Widji, Yayuk & Mufida from Hotline Surya in Indonesia spoke about the organisation having 236 peer educators and being able to access 700 sex workers a day. They have also trained the mamasans because they believe that they need to get madams on their side regarding safe sex practices.

Tini from Ikhlas, Malaysia spoke about the areas of support which her organisation is involved in, including HIV/AIDS, STDs and other health related information outreach covering brothels, private, street workers, back lanes & homes and providing free condoms and lubricants. They also run in-house sessions and retreats, which act as a holiday resort for many sex workers. Sex workers can bring their children to the retreat. People who have respect for sex workers are trained as peer educators. Ikhlas is in the process of setting up a legal workshop. Committee dinners are organised with pimps, sex workers, clients and IDUs, it is like a community dinner. The long term objective is to take over the project.

Bubu from SWEETLY, Japan spoke about the difficulty of identifying as a sex worker given the stigma attached to this. Japan has had anti-prostitution laws for the last fifty years. Majority of the sex workers don't offer penetration and therefore don't see themselves as sex workers. There are many part time sex workers who also don't identify as sex workers. As a result it is very difficult to do outreach as nobody identifies as sex workers' rights as a western idea. SWEETLY organises "PRO SEX" nights as fund raisers at a local nightclub, where safe sex performances take place generally once a month.

Alice from New Guinea spoke about the need for outside help in New Guinea. She is a peer educator in Port Moresby and does not get paid for her work. Sex workers work in bars, streets, parties, brothels and as escorts, and are very strongly linked to the mining and logging areas. Many of the sex workers are not well educated. For sex workers there are many problems with the police and the security men. Police ask for money from sex workers especially if there are no taxis around late at night to take them home. Security men get paid by sex workers to go inside the bars of hotels and motels and find clients for the sex workers.

Kirk Peterson from the PCV in Australia spoke about legal and illegal male workers. The legal workers generally work for themselves or in brothels, illegal workers work on the streets. The PCV provides education about safe sex, tell new workers how to do the work. Work with trainees and women as well. Many sex workers on the street are homeless and are on drugs.

Ku from Taiwan spoke about the different ordinances controlling prostitution in Taiwan. Sex workers are licensed by government and there is currently a proposal to withdraw this regulation.

This is a result of the current Taipei government becoming more conservatives as it wants

to cling to power. This change is being driven by feminist bureaucrats. The current campaign is for a two year amnesty to changes to the law. A sex worker has committed suicide during the campaign. She had no job, no income, so committed suicide.

Pat from Empower, Thailand spoke about the need for acceptance and the programs run by Empower, including English lessons. Porn spoke about Chiang Mai and the problems that sex workers have in encouraging clients to use condoms. Jules from PCV discussed some of the issues that female sex workers face in Melbourne in Australia, the difficulties in having a two tiered system some legal others illegal.

Beth Tinning from SASIN in Australia spoke about the services provided by her organisation including outreach to female, male and trainee workers. She mentioned the difficulty in working in Adelaide as people are getting arrested just about everyday.

Sue Metzenrath spoke about the national role of the Scarlet Alliance particularly in terms of policy development and skill sharing.

### 3. Issues for Discussion :

The following issues were deemed to be important as a direct result of the introductions:

- Fostering new groups in the region,
- Migrant workers,
- Human rights,
- Incorporating diversity,
- Communication issues, sharing resources,
- Support for Taiwanese sex workers,
- HIV Positive sex workers,
- Network workplan.

### 4. Support for Taiwanese sex workers :

The Taiwanese delegates Lina, Li-Jean and Ku asked that those present sign the petition which was then passed around for people to sign.

They will organise a press conference at the airport on arrival in Taipei.

It was requested that there be a letter from the group and that they may use the name of the network.

This was agreed to. The Taiwanese delegates are to draft the letter and bring it back to the meeting for endorsement.

There was a request for sex work policies from different countries to be sent to the Solidarity Front of Women Workers/Alliance of Legal Prostitutes in Taipei to aid in their campaign to prevent sex work being criminalised in currently legal areas.

K. Thirni was endorsed by the network to sign the petition on behalf of the network.

### 5. Discussion on Network Structure :

All those present agreed that the network needed to be formalised. After discussion on this issue it was decided that an interim steering committee would need to be set up to drive the network process through the next stage. It was agreed that this steering committee should have 11 members.

Roles for the steering committee were agreed to be:

- Co-ordination
- Communication,
- Preparing structure options for the larger network,
- Advocacy,
- Geneva-funding, information provision.

### 6. Aims for the Network :

The Aims of the Asia-Pacific Network of Sex Work Projects are:

- i) To provide practical information, skill and opportunities for information and skill sharing among sex worker organisations and sex worker project which provide services to female, male and transgenders who work in the sex industry.
- ii) To raise awareness and take action for health, welfare and basic needs of sex workers, regardless of their HIV status.
- iii) Advocate at regional and global level for policies and action which reinstate and further the human rights of sex workers including :
  - the right to health,
  - the right to a safe working environment, free from discrimination, abuse and violence,
  - the right to travel,
  - the right to organise,
  - equality before the law and other rights contained within international human rights documents,
- iv) Develop and maintain links between service providers, sex worker organisations and relevant regional and international institutions and agencies,
- v) Facilitate opportunities for the voices of sex workers to be heard and recognised in regional and international forums,
- vi) To actively promote the right of all sex workers to work in area any of their chosen occupation,
- vii) To identify and mobilise financial and other resources available to further the aims, objectives and activities of the network.

This draft is to be sent to members of the network not present here for comments and

endorsement.

#### 7. Interim Steering Committee :

Nominations were called for members to the interim steering committee. The following were nominated :

Akhi Begum (Bangladesh), Khartini Slamah (Malaysia), Alma Bulawan (Philippines), Bubu Momocco (Japan), Alice Michael (PNG), Empower (Thailand)—to be advised, Durbar Mahila Samanwaya Committee (India)—to be advised, Lina Kuan (Taiwan) Widji Tiarni (Hotline Surya) and Sue Metzenrath (Australia). As there were the same number of nominations as positions needed to be filled, the above were declared elected.

#### 8. Location for Secretariat :

Suggested locations for the secretariat were Calcutta (India), Bangkok (Thailand).

Khartini and Sue held discussions with Noi Apisuk of Empower to gauge Empower's ability to take on the secretariat. She felt that Empower is already very busy and involved with so many networks that Empower could not take this on, but if there was nobody else available to do this, then they would try to help.

Note → As this was the case there was unanimous support for the secretariat to be placed in Calcutta with the Durbar Mahila Samanwaya Committee.

#### 9. Chair and Co-Chair of Steering Committee :

There was unanimous support for the chair coming from the organisation which had taken on the role of secretariat, this was the Durbar Mahila Samanwaya Committee. There was unanimous support for the co-chair to be Akhi Begum from Bangladesh.

Action : It was decided that once the network has endorsed the aims and objectives. These should be sent out to the international donor organisations and other organisations who may want to join the network.

#### 10. Workplan for steering committee (six months):

Action	Time Frame	Comments/who will do
Establish secretariat	10th Nov. 1997	Durbar Mahila Samanwaya Committee.
Send out draft aims and objectives to members of network	End November ??	Secretariat
Directory of Asia Pacific Sex Worker Projects	16th Nov. 1997	Sue Metzenrath
Proposed draft and other information from the network needs to be translated into a number of	As needed ??	Thai-Pronpit Puckmai

#### languages

Design newsletter, logo network	Jan. 1998 ??	Jules Futol will put together and send to secretariat for distribution
Keep members informed about Geneva Conference including sources of funding	Use newsletter	Sue Metzenrath to send information to Jules for inclusion in newsletter
Follow up on situation in Taiwan	Nov. 10th	Sue Metzenrath will keep in touch and pass on info to secretariat who will then become the contact point
Follow up on regional sex worker conference in Taiwan		Secretariat
Delegating responsibilities to respective country members		Secretariat
Ongoing fund raising : Calcutta & Geneva		Sue Metzenrath & Durbar Mahila Samanwaya Committee
Draft model constitution	Dec. 1997	Beth Tinning to send draft to secretariat by Dec.

#### 11. Ideas for Agenda for February Meeting in Calcutta :

- Three day meeting, possibly around the 4th/5th February,
- Look at projects, activities that network can undertake.

#### 12. Suggestion that : " LANGUAGE IS NOT A BARRIER " be our motto.

#### 13. Brainstorm of issues related to HIV Positive Sex Workers:

These are to be included the network's policy on +ve sex workers.

- Testing, confidentiality,
- Collection of documents from HIV+ organisations.
- Advocacy,
- Collection of documents from the different countries, e.g., police,
- Laws against +ve sex workers working,
- Travel,
- Access to services and treatments.

Kirk Peterson will draft the policy on positive sex workers and send to secretariat by January 1998.

---

# The Rights of HIV + Sex Workers : A Policy Discussion Document

Prepared by Kirk Peterson, Scarlet Alliance and Prostitutes Collective of Victoria, Australia (Abridged)

## Introduction :

At the last meeting of the Asia-Pacific Network of Sex Work Projects, in Manila, 1997, the issue of sex workers who were or became HIV+ and their double stigmatisation was discussed. The Network members decided to work together to agree about a policy statement on the rights of HIV+ sex workers.

Kirk Peterson has drawn up a proposed policy statement, which aims to integrate both the policy statements of sex workers and of people living with HIV/AIDS. He has drawn on:

- the Aims of the Network
- the 1997 'Manila statement' - the statement of the 'Asia-Pacific Sex Workers Network',
- the World Charter of Prostitutes' Rights, Amsterdam, 1985, and
- the Declaration of the Rights of People Living with HIV/AIDS, produced by the National Association of People Living with HIV/AIDS, an Australian NGO to produce a proposal for the Network. It is included below, in order to begin discussion, within your organisation and between all members of the Network, on what we'd want to include in our Network's Statement on the Rights of HIV+ Sex Workers.

For Kirk's introductory comments and copies of the sources he used, please contact : Kirk Peterson, Scarlet Alliance, PO Box 76, Red Hill, AC 2603, Australia; fax : 02 6239 7871; e-mail:scarlet@dynamite.com.au

For comments (additions, changes, concerns, questions) on the Statement, please contact: Sadhana Mukerji, DMSC, 8/2 Bhabani Dutta Lane, Calcutta 700 073, India; fax : 0091 33 241 6283; email : ship@cal.vsnl.net.in.

## A Proposed Policy Statement on the Rights of HIV+SEX WORKERS For The Asia-Pacific Network of Sex Work Projects

The Asia-Pacific Network of Sex Work Projects formally adopts this policy statement on the rights of HIV + sex workers. In so doing the organisation and its members undertake to advocate for and work to:

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note } ENSURE that HIV status alone does not prevent a person from choosing and undertaking sex work as an occupation.

} ENSURE that testing for HIV is not a mandatory requirement of work.

} ENSURE an individual's right to anonymous and confidential HIV antibody testing, including the provision of professional pre- and post-test counselling, regardless of occupation.

ENSURE that quarantining, detention or segregation of people on the basis of HIV status is aggressively opposed.

ENSURE that an individual's right (of freedom) to travel within and between countries is guaranteed irrespective of occupation and/or HIV status.

ENSURE that all sex workers are entitled to safe and confidential access to safer sex products, health care and medication, irrespective of HIV status. This includes equitable access to AIDS therapies for all HIV +people.

ENSURE that an individual's right to privacy and confidentiality is championed and upheld, irrespective of occupation and/or HIV status.

ENSURE that education programmes and campaigns foster an environment of understanding, acceptance and support for all sex workers, and in particular HIV+ sex workers.

ENSURE that an individual's right to access information or services related to HIV, in the language (written, spoken or sign) of a person's choice, or through an interpreter, if necessary, is guaranteed irrespective of occupation or HIV status.

ENSURE that all sex workers are guaranteed equitable access to legal support services irrespective of their HIV status.

ENSURE that anti-discrimination and other protective legislation is broadened (where this is necessary) to include known or assumed HIV infection. This protection must specifically consider (and include) employment, housing and other services, and the provision of fair and equitable insurance.

ENSURE that the right of HIV positive people to have a full and satisfying sex life is recognised and championed.

ENSURE that the reproductive rights to HIV positive women including the right to bear children and the right to accurate information and supportive antenatal and gynecological care are protected.

} ENSURE that governments and law makers are lobbied (and urged) to decriminalise homosexuality and sex work. →



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ENSURE that political targetting of HIV+ sex workers is strongly condemned and should be eradicated whenever it occurs.

This policy statement on the Rights of HIV+ Sex Workers is ADOPTED by the Asia-Pacific Network of Sex Worker Projects, in \_\_\_\_\_ on \_\_\_\_\_.

*Please do contact the Co-Chair of the Network, Sadhana Mukherji, as mentioned above, for any comments or suggestions, changes, items to be added or that you'd like taken out, etc? These comments will be drawn into a second draft for the Network Statement.*

If you are satisfied with the proposed Statement as it is written above, please also contact Sadhana, to let her know that your organisation agrees to the adoption of the Statement.

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## Sex Workers' Struggle In Taiwan

*News From Sholan, TALP, And Jean Chou, Coswas*

In Taiwan sex work was legal. For the last 1 1/2 years, sex workers and supporters in Taipei and across Taiwan have been organising public protest against government driven changes that started with the sudden, seemingly undemocratic ending of licensed sex workers in Taipei, the capital, and which is now expanded to the *national criminalisation of sex work*. How could it come this far, some may ask?

### History :

In Taiwan, until very recently, sex work was legal. Sex workers in the capital city of taipei were granted licenses by the police department.

However, all this changed abruptly on 6 September, 1997, when the newly elected Mayor Chen, eager to be seen as cleaning the city of its sex industry operations, decided himself to abolish the licensing of sex workers and to end the licenses of 128 women—who were working legally as sex workers. Not only was this a heavy blow for the legalised sex work profession and for all the people who would in the future want or need to enter this trade, but also it showed no concern or support for the many women who were just deprived of their work and their livelihood.

After a public outcry and strong protest from the people affected, the City Council voted in October to grant the women a two-year grace period. However, the mayor ignored this Council decision and went ahead with his ban. He even asked the Council to rediscuss this issue. In December, the City Council demanded that the mayor implement their resolution, which he again simply ignored. As public outcry continued, some hurried proposals were drawn up for financial assistance to the sex workers, to ease the transition. The women rejected these offers, as they did not believe that the government would follow out the pledges. Also, more fundamentally, they demanded their right to work and carve out their living independently and not to have to rely on alms from the government.

The conflict between the government and the city council deepened monthly, as the elections approached. Sex work as work or the women's welfare seemed not the issues, but rather inter- and intra-party politics. The mayor Chen lost, and the newly elected Mayor Ma promised to grant the 2-year grace period once he took up office.

However, further 'blocks' arose (demands as to sanitation, rates to be charged by the women, etc.) where the parties haggled over bits and pieces with blatant disregard for the women affected, delayed the implementation further, until the mayor promised that on 25 January, 1999, the 2-year period would begin.

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Once again, just as it was to be put into effect, it was challenged (again concerning the rate of payment!).

Then, in the *National Legislature* an amendment to a public morality law, which previously had no mention of 'prostitution', was passed. This amendment explicitly states that prostitution is illegal under the new law governing morality.

And on the day before, the opposition-led City Council voted to postpone (once again) the 2-year grace proposal. The opposition now threatened to impeach the mayor if he tries to implement the proposal.

#### **What does this mean for sex workers in Taiwan?**

The Taiwan Association of Licensed Prostitutes (TALP) has campaigned hard to challenge the arbitrary actions of the mayor's office and to raise public awareness of the issues for Taipei sex workers. TALP has been very active in drawing public attention to the issue of Taipei's contradictory sex work policy, and this has produced a debate amongst the public, with all voices involved. The official announcement of the City Council's vote for a two-year continuation of sex work, to enable women to find alternative work, was a political success for the sex workers. It restored to sex workers the respect and the social fairness that they deserve.

This long campaign has developed and strengthened TALP as a union-like organisation, established by the women themselves, with the aim of striving for control of their lives.

But the new national legislation creates a great challenge.

*Please could the sisters from Taiwan help us finish this article for the bulletin by providing:*

*1. further information on the new national law and your analysis of its impact on your work and lives (the only info we have is the small bit in a newspaper article that you sent us!)*

*Date the amendment was passed / date the morality law was passed / date it goes into effect.*

*Correct name of the national legislature.*

*Was it a surprise to you? Did you know that that some amendment was being planned/proposed?*

*What exactly is the wording - have they criminalised sex work, or, like in India, just all the activities that allow it to happen (soliciting, living off the earnings, etc.)*

*Will the City Council resolution be put into effect?*

*2. information about what TALP and the soon-to-begin COSWAS are doing / plan to do, in response to this.*

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## **Prostitution and Migration : Issues and Approaches**

*Lin Chew*

*Summary of Network presentation, Calcutta, March 1998*

### **I. Migration Issues :**

Sex work often (almost always) involves migration—moving away from the family, the village or home town, and going to the city, even to another country. Some reasons for migration include :

- escape from sexual abuse and/or physical abuse,
- escape from oppressive family obligations,
- escape from a forced marriage,
- search for work,
- to be free.

Women who leave their home—who migrate—go against the traditional female role : submission to the exploitation of their services and labour, often enforced by violence. They are often punished for this (political) act by further marginalisation, and stigmatisation as “fallen” “prostitute” women without respect or rights or as “victims” without autonomy or rights.

While the number of women wishing to migrate has grown, opportunities for international migration, especially to Western countries, has decreased. Yet, despite this official effort to block migration, there has been a massive increase in the demand in Europe for private domestic service (care of children and older people), filled mostly by immigrant women without legal status.

The other profession open to migrant women is prostitution. According to the IOM, the majority of sex workers in many sections of the sex industry in the European Union are migrant women (75% of street prostitutes in Germany; 80% of street prostitutes in Milan, Italy; at least 50% of the prostitutes in Dutch cities). This is supported both by the strong demand for sexual services, especially with non-local women, and by an elaborate third-party network to “facilitate” migration.

These women are extremely vulnerable to abuse (both by traffickers and by police control and state punishment) because current alien policies and attitudes disregard the civil and political rights of migrant women working in the informal labour sector of domestic work and prostitution.

**We must demand that :**

- those labeled 'whores' [sex workers], whether by work or otherwise, must be included in the rights demanded for every woman, as for every citizen,
- asylum should be granted to persons persecuted as women, whether in submission or transgression of discriminatory gender roles,
- foreign women should be granted equal workers' benefits, rights and protection as the national residents, including the occupation of prostitution.

**II. Approaches/Strategies : A Model for Analysis of One's Own / Other's Positions and Strategies**

1. Approaches are based on one's perception/definition of the issue or problem, which in turn arises from the analytical framework applied. (Below 4 approaches are offered.)
2. Within each approach, 2 strategy "modes" can be employed, depending on one's point of view or (political) position on the issue. Below are outlined these two strategies.
3. The questions to then ask are :
  - a. What are the (possible) consequences of each strategy/action?
  - b. Whose interests are being served?

**Strategy Modes :**

**A. Repressive : aimed at**

- \* Suppressing "undesirable" or "dangerous" behaviour
- \* Controlling the situation
- \* Punishing the wrong-doer

**B. Empowering : aimed at**

- \* Enhancing, restoring rights of those affected
- \* Supporting, assisting
- \* Enabling, facilitating
- \* Increasing autonomy
- \* Self-determination / Self-representation

Following is an application of the above 3 steps to Approach # 1:

**Approach # 1 The problem is a moral one-proposition itself is the problem.**

**Repressive mode :**

- \* Suppress prostitution

- \* Deny any agency to women
- \* Criminalise all those involved - carry out raids on brothels
- \* Pass anti-prostitution ("anti-trafficking") laws
- \* Carry out rescue and rehabilitation programmes

**What are the Possible Consequences?**

- isolation, stigmatisation, marginalisation of women



Members of DMSC Gherao the office of the Bangladesh High Commission in Calcutta protesting against the eviction of SWs at Tanbazar on 5th August '99 Pic : Suvendu Chatterji

- greater dependence on third-party "protectors"
- greater risk of violence and abuse
- encourages corruption and abuse by law-enforcers

**Whose Interests Are Served?**

**Empowering Mode :**

- \* Understand and accept sex work as legitimate occupation
- \* Recognise the agency of women and girls
- \* Strengthen political and civil rights of those in sex work

- \* Increase range of choices by increasing access to resources, training, jobs
- \* Mobilise and organise for self-representation and participation at all levels-  
policy formation, working conditions, social environment, etc.

What are the Possible Consequences?

- + Growth of self-esteem
- + Increase of autonomy
- + Safer and better working conditions
- + Participation in community / society

Whose Interests Are served?

Similar analyses can be made for the further 3 approaches:

**Approach # 2 : The problem is the involvement of organised crime in prostitution.**

**Approach # 3 : The problem is (illegal) migration.**

**Approach # 4 : The problem is one of work opportunities : migrant workers flooding the labour market and aggravating the unemployment problems, creating social problems.**

For a copy of the complete presentation notes please contact Lin Chew

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## Sex Work And The Law : Law Reform Proposal For Sex Work In India

*Centre For Feminist Legal research (CFLR)*

### **Editorial Introduction :**

*Current Indian law on sex work is similar to that of a number of other countries : sex work is technically legal, but all activities required to carry it out (for example, seeking out work, living off the earnings, etc.) are criminal. The following is a synopsis of a law reform proposal by the Centre for Feminist Legal Research (CFLR), presented at the first National Conference of Sex Workers (India), organised by DMSC, Calcutta. This presentation highlights the problems caused by current legislation and offers proposals for legal reform that would address these concerns. The consistent message within these proposals is the important legal shift from 'morality' to the same rights to protection and redress as for all citizens.*

*Note : This law reform proposal addresses female sex workers. The dual legal threat faced by male sex workers (the criminalisation of homosexuality plus the 'sexual morality' laws) calls for further legal reforms.*

**Legal Regulation of Prostitution in India** (The terms prostitution and prostitute have been used by CFLR in their presentation.)

The legal regulation of prostitution in India is governed by **The Immoral Traffic Prevention Act, 1986 (ITPA)**, with some provisions from *The India Penal Code, 1860 (IPC)* re trafficking and slavery of women and children, and also state-level police, railway, beggary, health, and public order statutes.

The ITPA and other laws operate against prostitute women in many ways:

1. Targetting the women directly — no soliciting, no work near a public place, etc.
2. Targetting her family :
  - a child found with a prostitute is presumed to have been used for sex work and can be removed;
  - partners, parents, or adult children, dependent on her earnings, are liable to prosecution.
3. Perhaps the worst : Section 20 of ITPA says that any woman can be forced to prove that she is not a prostitute or risk being removed from the jurisdiction. There is no restriction as to how many times she can be moved on.

---

4. At the same time, the welfare or rehabilitation measures in ITPA treat her either as a victim or as a morally corrupt person, who must be removed to prevent negative impact on public morality — either removal to a ‘protective’ home or removal to a corrective institution, to be reformed.

These laws devalue and criminalise the prostitute and then deny her access to the legal remedies for all citizens against economic exploitation, rape, sexual abuse, coercion, debt bondage, misappropriation of earnings, lack of access to health facilities, etc. They deny her legal protection within work that, due to economic need etc., she may have chosen ‘voluntarily’ and with consent to do.

This La Reform Proposal also acknowledges that there are different dynamics at play which require thoughtful, ‘complex’ solutions:

- the nature of exploitation when a women enters into prostitution can not be equated with issues that concern her when she is already in the profession;
- there are also a separate set of concerns at the time of her exit from the profession.

Therefore, these three periods are addressed separately.

### **1. Entry into Prostitution**

\* We recommend repeal of ITPA dealing with trafficking and procuring, as the provisions are vague, based on a conservative sexual morality that regards all prostitution as immoral and women as either victims or criminals, and targets women, but rarely the traffickers, as ITPA provisions are so difficult to prove.

\* IPC is better equipped to deal with a wider variety of offences, although it still focusses on ‘moral good’ rather than the person. We would suggest the retention of criminal law to deal with situations of exploitation, where women are being trafficked, and propose:

- amendments to IPC, which focus the trafficking issue on the use of force, fraud, deception, criminal assault, etc., and removal of the morality or immorality of the purpose for which trafficking occurs;
- criminal law should only be applied where trafficking occurs without the consent of the woman; the woman herself can then take up this legal remedy;
- the sale and purchase of a person must remain within the criminal domain, no matter what the purpose;
- these above provisions should be brought in line with the current laws re prevention of slavery or indebted labour, to redirect the inquiry from moral issues to the issues of economic exploitation and coercion.

\* Amendments of rape and sexual assault laws are needed, as it is difficult for any woman, let alone a prostitute, to use these as legal remedies.

\* Women used as witnesses, and their families, must be protected (through witness protection programmes) during the trial and afterwards, as well as given access to safe houses and half-way homes.

### **2. During the Works :**

We recommend the repeal of the ITPA and its replacement with a 3-pronged law reform strategy:

#### **I. Decriminalisation**

\* complete decriminalisation of voluntary prostitution and the ‘related activities’, under the ITPA, by consenting adult;

\* regarding child prostitution, the issues are completely different, as, under age 16, the above distinction between consent and coercion does not exist. Therefore, a separate statute is needed, as well as the urgent inclusion of issues of sexual abuse of minors and young people in the IPC (as highlighted in an earlier CFLR proposal).

#### **II. Rights of Prostitutes and Women in the Sex Industry**

\* We recommend statutory recognition of the fact that women in sex work have the same rights as other citizens, as a way to redress the disadvantages of social marginalisation, including statutes on specific rights :

1. The right to work—no discrimination due to engagement in sex work, and compensation awarded if such discrimination occurs.
2. The right to safe work conditions. A corollary would be right to claim damages/ compensation from any person who causes her physical harm during the course of her work (in addition to any remedy under existing criminal law).
3. Women working in brothels should be entitled to all benefits under existing industrial laws, and to facilities and protections legally available to workers.
4. The right to health, including refusing services to clients who refuse safer sex and access to health insurance and government health facilities for herself and her family without discrimination.
5. The right to association - the right to form collectives, societies, trade unions and have them registered and recognised under the law.
6. The right to education for herself and her children, without discrimination, including schools not requiring the name of the father (which will benefit both prostitute and non-prostitute women).

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7. The right to freedom of movement and residence in the place of her choice, including movement within India as well as migration, same as all other citizens, and prohibition of legal or social ghettoisation.

8. The right of privacy, including no state surveillance, regimes of compulsory registration or licensing, or mandatory health check-ups or tests. Violation of this right would mean a woman could claim damages due to invasion of privacy.

### **III. Redressal Mechanisms :**

Some prostitute rights groups in India and abroad propose a specific labour regulation for the sex industry with rights of employer and employees. However, these remedies are often not used with success by the unorganised labour sector, so we recommend legal access to existing labour legislation, but that this should not be the only remedy available.

We recommend that complaints should be filed within already existing legal forums, under the proposed special status above, and also leave open the option to invoke already existing laws, such as labour laws and laws on sexual assault and rape.

#### **Corollary :**

Police frequently use the IPC, State Police Acts and other provisions, rather than the ITPA provisions, to harass prostitute women. We propose a specific provision within the new law reform that prohibits use of these statutes to arrest or otherwise harass women in prostitution.

Other laws that violate the rights of women in prostitution and must be repealed, including :

1. Section 155(4) of the Indian Evidence Act, 1872, where, in a case of rape, a woman's sexual history can be used to discredit her testimony (implying that if she is not chaste, she will lie, particularly concerning sex).

2. The definition of the 'neglected juvenile' in the Juvenile Justice Act, 1986, which includes a child of a prostitute, immediately assuming neglect perse because the mother is a prostitute.

3. Section 110B of the Bombay Police Act prohibits 'indecent behaviour' and is used much more against prostitute women than the ITPA. Such state Police Act provisions must be identified and repealed.

#### **3. Exit from Prostitution : Duty of the State to Provide Alternatives**

We propose that the existing rehabilitation policies, which permit placement of women, even without consent, in 'corrective' and 'protective' custody be dismantled completely, as they are constitutional violations. Also current provisions within the rehabilitation

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centres offer redundant vocational training, if any, with no follow-up support.

Therefore, we emphasise the duty of the State to provide economically viable alternatives for those who wish to leave the profession, including halfway homes and safe houses (on a voluntary basis), with a policy of openness and public accountability, not connected with the penal institutions. The State should legally be compelled to provide soft loans, infrastructural support and educational scholarships, as a constitutional duty to provide welfare for its citizens.

*For the complete law reform proposal, please contact :*

*Centre for Feminist Legal Research*

*B-12, Maharani Bagh*

*New Delhi - 110 065*

*India.*

## Occupational Health and Safety for the Sex Industry

Many people do not think of prostitution as work and so when one mentions that the various parts of the sex industry should be guided by occupational health and safety (OH&S) laws and that guidelines or codes of practice should be developed to cover this, they are left dumbfounded. But for those of us who work in the industry and who have experienced the difference between illegal non-regulated industries and decriminalised, regulated systems know how important it is to fight for these rights.

In Australia, the Scarlet Alliance which is the national sex workers rights organisation felt that this was a really important issue for us and if we were going to wait for legislators to deal with the issue we would be waiting forever, so we decided to develop model guidelines for occupational health and safety for the sex industry.

Australia, like India is a federation of states and it is the states that have power to regulate the sex industry and OH&S. Unlike India, we don't have national laws on sex work, which means that every state and territory has different laws, so that in some places the industry is decriminalised and regulated, whereas in others it is illegal.

In one territory, the ACT, the sex worker organisation has been successful in pushing for a code of practice on OH&S which was recently adopted and in another state (NSW) a number of local councils have developed guidelines. In the others it is hoped that the guidelines that Scarlet has developed will facilitate the decriminalisation of sex work laws if we can get the industry to itself adopt the guidelines as a self-regulatory practice.

So, what sorts of issues do we as sex workers feel is important to be covered by these guidelines?

Of course, safe sex is at top of the list and so we feel that if government are serious about safety in the industry, then they should fund sex worker organisations to provide resources and information on safe sex practices. This includes various materials, from videos to documents indifferent languages to outreach visits to sex workers (brothels, street, escort, private), to newsletters aimed at sex workers as well as clients. We feel that employers should also have an onus to provide this information to sex workers and clients and we have encouraged owners/madams/employer to adopt compulsory condom usage policies for the workplace.

Alongside this we have developed policies on condom slippage and breakage, which are procedures for sex workers to follow as an emergency if a condom breaks. Whilst we don't believe that sex workers should be compulsorily tested for STDs we suggest that as matter of personal responsibility sex workers have regular STD checks.

Some of the other issues, which are covered are checking clients for visible signs of STIs

(Sexually Transmitted Infections). Sex workers are shown (through graphic photographs) what to look for (e.g., herpes blisters, discharge, warts, syphilis canchre). In order to do this properly we suggest that brothels make available a very bright light.

We have developed cleansing procedures for tools for the trade e.g, sex toys, dildos, leather equipment such as whips, gags, etc). We believe employers should provide disinfection fluids (like hospital grade bleach).

Hygiene controls on bedding and laundering should include washing linen in water which is at least 70.5°C hot. In relation to showers, baths and toilets, they should be cleaned regularly with hospital grade bleach. Used condoms should be disposed of properly and in accordance with standards, which exist in the various states and territories.

We have also developed a set of exercises to strengthen various parts of the body to overcome occupational overuse problem.

In relation to drugs and alcohol we have developed a policy based on harm reduction principles. It should be developed in consultation with sex workers and provide principles on when it is considered appropriate to consume alcohol, acceptable standard of work performance, appropriate use of prescribed drugs and prohibition on being under the influence of illegal substances at work.

Brothel building should comply with fire and electrical safety standards and there should be procedures to follow in the case of fire.

We believe that female sex workers who are pregnant have special needs, which may include working shorter shifts, having longer breaks between clients and exemptions from performing certain duties such as heavy lifting. They should also be entitled to maternity leave just as other employees in other industries are.

All or some of the above may or may not be relevant to our colleagues in the Asia Pacific region, depending on how we work and the access that we have to the issues listed above. Of course all of the above are impossible to implement unless there is a commitment from legislators to acknowledge that what we do is "work", supportive employers and education and training on these issues for sex workers.

In Solidarity

*Sue Metzenrath*

Co-Convenor Scarlet Alliance (National forum for sex worker rights organisations, Australia) Member Asia Pacific Network of Sex Work Projects

30 March 1999

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## Workshop on Prostitution & Trafficking Understanding Hidden realities

Organised by

Asian Women Human Rights Council (AWHRC)

Venue : Kolhapur, Maharashtra, India

Date : 22-24 March 1999

### A Draft Statement Of Concerns

The control of women's sexuality takes place both within the institution of marriage as well as in the institution of prostitution. Within marriage, transgression of male defined norms is severely punished. For example adultery is criminalised in many countries.

Entitlement and access to women's human rights throughout South Asia are contingent upon their sexual behaviour and sexual conduct provisions such as Section 25 of the HMA (Hindu Marriage Act) in India, which makes women's right to maintenance dependent on their chastity. Access to rape laws contingent upon their previous sexual histories (sec. 115a Indian Penal Code); oppression against women and children ordinance (Special Act 1995), Zina Hudood Ordinance 1979 of Pakistan, etc.

All of these provisions deny or curtail women's access to rights guaranteed in their respective constitutions.

### Decriminalisation

This Statement addresses women who are in prostitution/sex workers/ women who sell sex. It emphasises the need to recognise and extend to these women the human rights to which all women are entitled such as the:

- Right to life, liberty and the pursuit of happiness;
- Right to equality;
- Right to mobility;
- Right to association;
- Freedom of speech;
- Right to work/ practice any trade or profession.

It emphasises the recognition and extension of special rights which are specific to the reality of women in prostitution such as:

- Recognition of their families as a legitimate unit, entitlement to state benefits, such as education, health care, and other social benefits;
- Repeal of all legislations which compromises and/or infringes on their general as well as specific human rights, such as the right to conduct their work, business and other activities related to the sale of sex, recognition of voluntary, consensual relationships with brothel keepers, and others related to the trade;
- Criminal law intervention should only occur when women experience violence, abuse, coercion, etc., in the same way that all other women are entitled to recourse and intervention of the criminal law.

### Trafficking And Prostitution

- De-link trafficking and prostitution;

In the case of trafficking, the fundamental concerns, which need to be centered are lack of consent and forms of coercion, abuse and deception. The purpose of the final destination for which trafficking occurs is irrelevant.

- Any initiative or Convention on Trafficking must be examined in relation to whether they comply with the human rights and fundamental rights stated and enshrined in our Constitutions.

If these Instruments/Documents contravene fundamental or constitutional rights they should be exposed and opposed.

- The right of women to mobility and migration within and across borders unhampered and unhindered, must be safeguarded, at all costs, even when it means women employ the services of agents through a consensual relationship to facilitate their travel.

**Note: This statement does not address the special needs and requirements of children. Prostitution of children is a criminal offence, and criminal laws must be enforced. The definition of child needs to be made country/community specific.**

### The Arthashastra Of Kautilya

#### On Prostitution In Ancient India

#### Introduction :

The *Arthashastra* is regarded to be the work of Chanakya [the son of Chanak] or Kautilya [a person of kutil-shrewd disposition], reportedly the teacher, advisor and prime minister of the famous ancient Indian emperor Chandragupta Maurya [c. 4th century B.C.]. The presently available text of the *Arthashastra* is a version transformed through various copies made during the period 300 B.C. to 150 A.D. It is a generalized manual for the instruction



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The *Arthashāstra*, as a discipline [shstra] deals with various aspects of Artha=Varta [agriculture, animal husbandry and trade]+ Dandaniti [the principles governing use of force by the state/king]. Many works of the classical Sanskrit literature, including scientific/descriptive texts owe a great debt to the *Arthashāstra*. These include the *Raghuvanmsa*, *Kumārsambhava* and *Shakuntalā* of Kalidasa [c. 100 B.C.]; the *Yajnavalkyasmṛiti* [c. 150 A.D.]; and the *Kāmasutra* of Vatsayana [c. 300 A.D.]. Being a treatise on statecraft and political management of the economy at the same time, the *Arthashāstra* deals with PROSTITUTION mainly as a source of income/ revenue, AS AN ECONOMIC ACTIVITY. Further, here the stress is on the then prevalent institution of statesector brothels, their organisation and management. To get a clear picture of prostitution in ancient India, the study of the relevant sections of the *Arthashāstra*, is required to be supplemented with the discourse on prostitution in the *Kāmasutra* and, the description of this age old profession in Sanskrit and Pali literature.

In the selections from the text of the *Arthashāstra* provided below each statement is followed by three numbers within (...,...), indicating the number of Book, Chapter, and Verse, in that order.

SOURCE: Kautilya. The *Arthashāstra*. 1992. Ed., Rearranged, Tr., and Intro. By L.N. Rangarajan. New Delhi: Penguin Books. Pp. 351-354.

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## Text

### The Chief Controller Of Entertainers

*(Courtesans, Brothels, Prostitutes and Other Entertainers)*

#### **Professions to be supervised :**

The regulations regarding courtesans and prostitutes also apply to actors, dancers, singers, musicians, story-tellers, bards, rope dancers [acrobats], jugglers, wandering minstrels, people who deal in women and women who follow a secret profession. (2,27,25).

The wives of actors and similar entertainers shall be taught languages and the science of signs and signals. They shall be employed, using the profession of their relatives [as a cover], to detect, delude or murder the wicked. (2,27,30).

#### **Training of prostitutes and courtesans:**

The state shall bear the expenditure on training courtesans, prostitutes and actresses in the following accomplishments: singing, playing musical instruments (including the veena, the flute, and the mridangam), conversing, reciting, dancing, acting, writing, painting, mind-reading, preparing perfumes and garlands, shampooing and making love. Their sons shall also be trained [at state expense] to be producers of plays and dances. (2,27,28 and 29).

#### **Protection of prostitutes:**

Proper procedure shall be used to take a virgin daughter of a prostitute, whether she is willing or not; coercive methods shall not be used.

No one shall abduct a prostitute, keep her confined against her will or spoil her beauty by wounding her.

A client shall not rob a prostitute of her jewellery, ornaments or belongings nor cheat her of the payment due to her. (2,27,13-14 and 23).

#### **Revenue:**

In the establishments, every prostitute shall report the persons entertained, the payments received and, the net income to the chief controller.

The chief controller shall keep an account of the payments and gifts received by each prostitute, her total income, expenditure and net income.

He shall ensure that the prostitutes do not incur excessive expenditure. (2,27,24 and 10).

Independent Prostitutes:

Women who live by their beauty (rupajiva) [and not in the state controlled establishments] shall pay a tax of one-sixth of their earnings.(2,27,27).

Foreign Entertainers:

Foreign Entertainers shall pay a licence fee of 5 panas per show.(2,27,26).

[One pana was a silver coin.]

Offences against a prostitute and the corresponding punishment:

Offence	Punishment
Making a courtesan's daughter lose her virginity without her mother's consent.	A fine of 54 panas. (roughly the yearly wage of a foot soldier in those days) + 16 times the fee for a visit to her mother. (4, 12, 26)
Cheating a prostitute or robbing her ornaments or belongings.	8 times the amount (2, 27, 23).
Using coercion to take a consenting virgin from a prostitute's family.	Lowest sanctioned punishment (48-96 Panas). (2, 27, 23).
Using coercion to take an unwilling virgin from a prostitute's family.	Highest sanctioned punishment (500-1000 panas). (2, 27, 13).
Raping a prostitute.	12 panas. (4, 13, 38).
Gang rape of a prostitute.	24 panas for each offender. (4, 13, 39)
Abducting, confining or disfiguring depending on the status of the victim.	1000-2000 panas. (2, 27, 14-15)
Killing of a courtesan already appointed as the head of an establishment.	3 times her release price, may go upto 72000 panas (2, 44, 24).
Killing a mother, or a daughter of a prostitute, or a prostitute living in an establishment.	Highest sanctioned punishment (2, 27, 17).

In all cases the punishment prescribed shall be imposed for the first offence; it shall be doubled for the second and trebled for the third. If the offence is committed a fourth time, any punishment may be awarded, as the king pleases.(2,27,18).

Conclusion: The state in India was less hypocritical and more realistic on the issue of prostitution around 300 B.C., than it is today. Prostitution was then recognised as a form of service sector labour. The prostitute was a legal person with some rights. This may be food for thought, for our modern conservatives.

## Book Review

*The Sex Sector: The economic and social bases of prostitution in Southeast Asia*; ed. by Lin Lean Lim, Geneva: ILO 1998. ISBN 92-2-109522-3. Price 35 Swiss Francs.

In 1985 the First World Whores' Congress, held at Amsterdam, demanded that prostitution be recognised as a standard business activity in the service sector. In 1998 the International Labour Office published the book under review, which studied prostitution in Southeast Asia as an economic activity. On 10<sup>th</sup> October 1998, this book has been awarded the International Nike Award - a prestigious publishing award - at the Frankfurt Book Fair. At the other end of the spectrum of response, the Norwegian Trade Union and the Women's Front of Norway have launched a campaign against this ILO study, in 1999.

What does this study contain? Why one kind of establishment hails it and another kind condemns?

These are the questions that aroused our interest.

In any sector of the modern world economy - be it industrial, agricultural, or educational, health, transport or the sexual services sector - we witness a tug-of-war between capital and labour, within the boundaries of some state, or inside a market involving more than one state. If there is no profit or if profit does not increase - capital is not invested or the investment does not increase. If there is no wage or if the wage is comparatively low, then labour does not come forward or the labour input does not grow. This home truth is valid for the market of sexual services too. In the volume under review, the history of evolution and the present condition of the market of sexual services in Indonesia, Malaysia, Philippines and Thailand has been studied to some extent; but regrettably there is hardly any analysis of the corresponding capital market. Here the market of the consumers of the sexual services has been mentioned only obliquely - not directly. What are the sources of these limitations?

We think there are two possible sources. First, the pressure of the bureaucracy and diplomatic constraints of the International Labour Office, which sponsored and organised this study. Second, the general shortcomings of Political Economy and Economic Sociology as disciplines - when applied to the study of sexual services.

The International Labour Office operates among all the member states of the UNO, and that is why, in their publications, the truth of life, remains submerged under the routines of inter-state bureaucracy and, the need to balance between the desirable and the protocols of international diplomacy.

The study of human sexual services in economics, sociology and anthropology is yet to

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attain adulthood. Reason: these disciplines have emerged and developed within the cultural environ of different civil societies of the world, permeated with multi-layered hypocrisy. For this culture, patriarchy is an article of "faith" for the last eight/ten thousand years. But it does not wish to recognise its complementary reality – the existence of a commercial sex sector. One cannot analyse that, which one does not wish to recognise.

The editor and the authors of the various chapters of the volume under review have worked within the bounds of both the constraints. But in spite of that it is a remarkable book. If only for the singular articulation of the fact that, even to-day the rulers and policy makers of different states of the world are unwilling to recognise the sexual services sector - as sector of the economy of their respective countries and of the world.

The volume contains a rich bibliography. It will be of help to all concerned persons.

Pradip Baksi

*Readers from Indonesia, Malaysia, Philippines and Thailand may send us their response to the respective country-specific chapters of this book—Editor.*

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## Five Theses

### On Prostitution and Social Transformation

*Pradip Baksi*

1. Study of socioeconomic formations is central to the task of social transformation.
2. Family is the cell or primary building block of all existing societies. Modern family contains within itself the traces of all historically evolved socioeconomic formations, namely, of the primitive communal, Asiatic, slavery based Greko-Roman, European feudal and, capitalist, formations.
3. Women's liberation is central to the task of continuous democratization of the family.
4. Prostitution is marriage and family demystified. The prostitute is the housewife out in the market of love and related services for sale.
5. Numerically speaking the prostitutes are a small section of the womankind. That is why both science and policy considers them to be of marginal significance. Yet, in view of the considerations 1–4 above, prostitution is not marginal, but is rather central both for the study of socioeconomic formations and, to the task of social transformation.

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## News

### Tan Bazar, District-Narayangunj, Bangladesh.

About 2000 sex workers are residing and working here for the last 111 years or more. *Now they are being forcibly evicted.* They are fighting back. Durbar Mahila Samanwaya Committee, an organisation of 40,000 sex workers of Calcutta, West Bengal, India is strongly supporting their cause and, appeals for support from all quarters for their distressed sisters of Tan Bazar. Contact : <cjenkins@bdmail.net>

#### Latest News :

50 women were injured on 30th July 1999, when a procession was fired at by some gunmen.

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#### Afganistan : Taliban's War on Women

The present government of Afganistan is waging a war upon women. Women must wear burqua, be always escorted by a male relative, are not allowed to work. There is almost no medical facilities available for women. Any violation of Taliban's anti-women orders may and often does lead to death by stoning. Scared women are suffering from acute depression. Suicide rate among women has increased significantly. Husbands and male relatives have the power of life and death over their female relatives, especially wives. An angry mob has just as much right. The so-called civilized societies and states of the world are turning a blind eye to this mass-murder of Afgan Women. Please extend all support to our Afgan sisters in these horrible times. Contact <GAATW@mozart.inet.co.th>

#### Amsterdam

The Dutch parliament has voted to legalise brothels. If the bill becomes law, from 1st January, 2000, an estimated 2000 brothels in Holland will be treated just like any other business. They will be required to register their workers, meet minimum safety standards and conditions. The labour government argued that an end to the ban on brothels will bring a myriad social benefits, making it difficult for criminals to use illicit sex business as cover, and minimize the evils of drugs crime, trafficking in women and other crimes.