

PROSTITUTES AND THEIR CHILDREN



REPORT OF A NATIONAL WORKSHOP

Conducted by :

CENTRAL SOCIAL WELFARE BOARD

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REPORT OF
THE NATIONAL WORKSHOP ON
PROSTITUTES AND THEIR CHILDREN
MAY 16-21, 1990

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MAY 28-29, 1990**

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FOREWORD

The Central Social Welfare Board had organised a National Workshop on Prostitutes and their Children some years ago. The report of this workshop is a valuable baseline document since there is almost no material available in a consolidated form covering the different aspects that are critical for welfare and rehabilitation of prostitutes and their children. The main themes highlighted in this volume deal with the social, legal, medical, emotional, preventive and rehabilitative aspects of welfare services for this neglected group.

Prostitution has existed since time immemorial. The very fact that we have red light areas in our towns and cities, proves that society has tacitly accepted and even set a seal of approval on the system of prostitution. Social tolerance of prostitution has led to the systematic exploitation of young women and commercialisation of the flesh trade by anti-social elements. These dens of vice also provide a safe haven for criminals and thereby foster a host of criminal activities.

The laws pertaining to immoral trafficking need revision. The present laws contain scores of loopholes and they serve to penalize the victims more than the wrong-doers.

The medical aspects of prostitution pose a grave threat to the health of community and the nation. Prostitutes are chronically infected by a number of STDs and pelvic infections they are prone to TB and respiratory ailments due to the poorly ventilated houses in which they live. The looming scourge of AIDS has become a terrible threat which is spreading like wildfire outwards from the centres of organised prostitution.

The preventive aspects of this social phenomenon require careful planning and provision of alternative professions to these unfortunate women.

This publication should prove to be valuable to several target groups. The papers contained herein are written by subject experts and form a solid knowledge base for further research.

I wish to acknowledge the editorial assistance provided by Dr. S.N. Malviya, Smt. Poonam Sharma and Shri Manjit Singh in the publication of this report.

VIDYABEN SHAH
CHAIRPERSON

ACKNOWLEDGEMENTS

The Central Social Welfare Board acknowledges the valuable contribution of the members of the core-group, social workers, academicians and policy makers, whose wholehearted participation made the national workshop on "Prostitutes and their Children" a success.

We are grateful to Ms. Meera Seth, Secretary and Ms. Uma Pillai, Joint Secretary, Department of Women & Child Development, Ministry of Welfare, Govt. of India for their continuous involvement, unfailing encouragement and indispensable advice and support.

We would, particularly, like to place on record our gratitude to Ms. Jyotsna Chatterji, Director, Joint Women's Programme, who not only helped in structuring the modalities of the Workshop but was also actively involved in the workshop right from the planning stage to the conclusion.

We express sincere gratitude to Ms. Lotika Sarkar, Centre for Women's Studies, Dr. Amla Rao, Voluntary Health Association of India, Dr. Hira Singh, National Institute of Social Defence, Sh. Abhijit Das Gupta, Development Dialogue, Calcutta, Dr. Susheela Kaushik and Dr. Deepa Das, Department of Women's Development Studies, University of Delhi for their highly educative, thought-provoking and informative contribution during the Workshop. These luminaries chaired different sessions, led the discussion during the Workshop and their enriching contribution culminated into the action oriented recommendations of the Workshop.

We are indebted to each one of the participants for responding to our invitation despite their busy schedule. The Board is most grateful to those authors, who though unrepresented in the Workshop made a substantial contribution to generate a continuous dialogue and debate on this subject.

We would like to thank the Officers and Members of the staff of the Central Social Welfare Board who demonstrated indomitable team spirit in making the Workshop a success in a short span of time.

EXECUTIVE DIRECTOR

INTRODUCTION

Prostitution represents the exploitation of women in its lowest form. Very few women indulge in this profession by choice. In a majority of cases young girls are lured, induced, seduced or forced into prostitution by a combination of social, economic and personal pressures. The definition of prostitution in the Immoral Traffic (Prevention) Act, 1956, accepts the fact that the prostitute is the subject of exploitation and abuse.

However, moral values and social prejudices have paid scant attention to the plight of the prostitute and she has always been looked down upon as an object of contempt. Once a woman is labelled as a prostitute she is no longer seen as a complete human being with her own needs, desires, hopes, individuality, problems and limitations. The children of prostitutes are the main victims of the institution as they are discriminated against, socially isolated and deprived of a normal life for no fault of theirs.

The problem of the prostitutes and their children have evoked special interest in recent times in the context of the growing concern for the exploited and marginalised sections of society. World opinion was first focussed on this issue in the United Nations International convention held in New York in 1950 which gave a call for suppression of trafficking in persons for exploitation for Immoral purposes.

The General Assembly of the United Nations adopted the Declaration of the Rights of a Child in 1959. Principal No. (9) of the said declaration reads as follows:

"The child shall be protected against all forms of neglect cruelty and exploitation. He shall not be the subject of traffic in any form".

The General Assembly further gave a call for survival, development and protection of the Child against abuse, atrocity and exploitation by adopting the Convention on the Rights of the Child during 1989.

The year 1990 assumes greater significance as the SAARC Year of the Girl Child. The action plan proposed to be taken by the Govt. of India during this year includes among other things "Prevention of girls being inducted as Devdasis, etc. or in brothels"

It is in this context that the Central Social Welfare Board organised a two-day Workshop on Prostitutes and their children in May 1990. The workshop aimed at providing a forum to experts from different fields and representatives of social action groups to discuss the various dimensions of the prevailing situation and in the process to evolve concrete programmes for the prostitutes and their children.

PARTICIPANTS

The participants in the workshop included Chairpersons of the State Social Welfare Advisory Boards, eminent social workers, social activists, field workers, journalists, social scientists, experts from the medical and legal profession, academicians, social welfare administrators and a few women from the profession itself. There were in all 97 participants from different parts of the country.

THEMES FOR DISCUSSION

The Workshop was divided into six sessions designed to cover the various interwoven issues. There was no formal presentation of resource papers, which were circulated to the participants in advance. The persons initiating the discussions for each session summarised the subject matter of the resource papers which was followed by detailed discussions amongst the participants. The themes for the session were:

- i) Genesis of Prostitution - Causes and magnitude;
- ii) Consequences - Social, Physical and Psychological;
- iii) Legislation;
- iv) Preventive/Remedial Measures;
- v) Rehabilitative Measures for the prostitutes and
- vi) Rehabilitative Measures for the children of prostitutes.

INAUGURAL SESSION

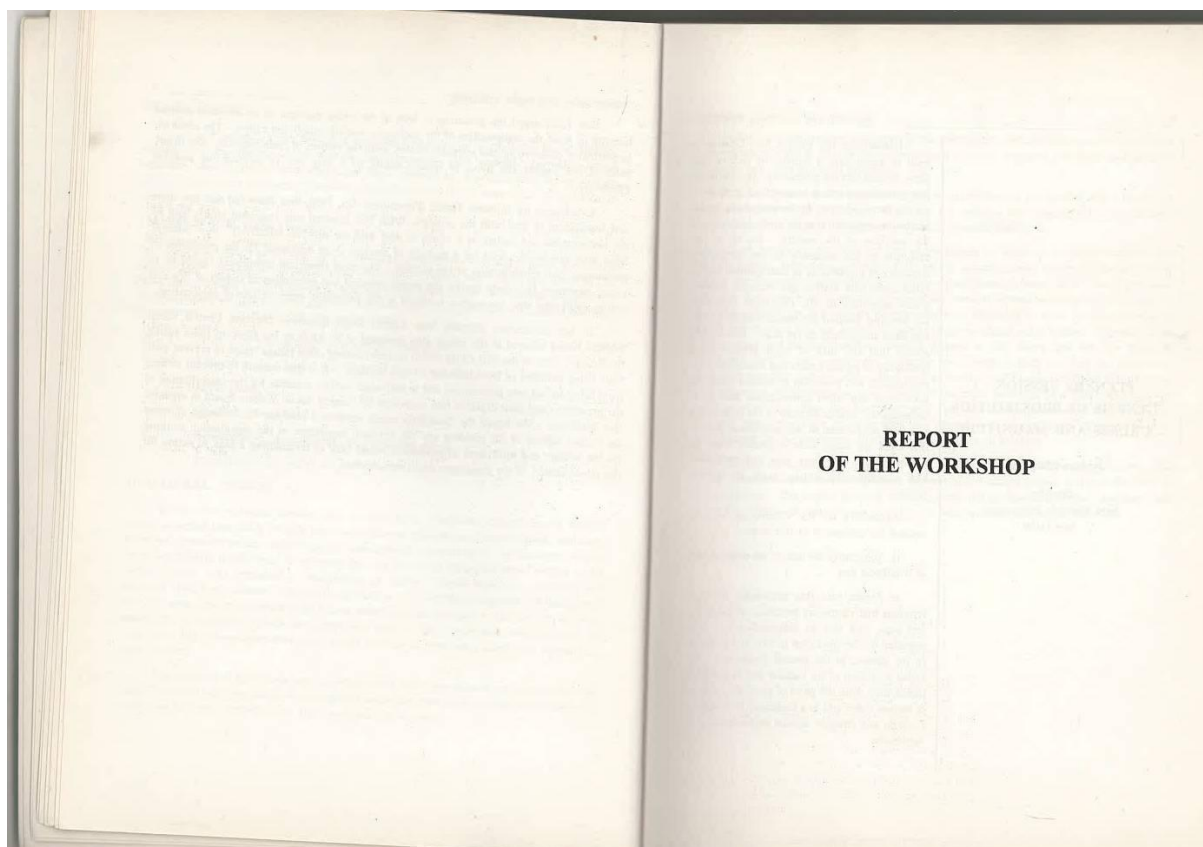
In her brief welcome address Smt. Amarjit Kaur, Chairman, Central Social Welfare Board conceded that while we talk about atrocities on women not enough thought had been given to victims of sexual exploitation by both activists and planners. In fact these women were viewed with indifference, if not contempt, and they form the marginalised section of the society. Smt. Kaur attributed a combination of factors - social, economic, religious and personal - that force women to take up the profession. She felt that irrespective of the reasons why a woman took to prostitution the stigma attached to the profession left her with no other option but to continue. Given the opportunity some of the women may want to leave the profession, but unfortunately they were unable to do so as there were hardly any alternatives open to them.

The children of prostitutes were deprived of the basic opportunities necessary for their overall physical and psychological development and more often than not they were driven into taking up the same profession or other anti-social activities.

Smt. Kaur urged the gathering to look at the entire problem in an unbiased manner keeping in mind the complexities of the profession and its underlying causes. The children, in particular, deserved special attention as they were the victims of circumstances. She firmly believed that raising the status of women would go a long way in tackling the problem effectively.

Referring to the Immoral Traffic (Prevention) Act, 1956, Smt. Kaur felt that law alone was insufficient to deal with the problem. What was required was concerted efforts both by the Government and society as a whole to deal with the problem effectively. Smt. Amarjit Kaur also stressed the need for a package of services to be developed for the prevention of prostitution and rehabilitation of the victims. The most important component should be to create awareness in society against the social, physical and psychological impact of this evil and to emphasise that the women involved in the profession were victims of exploitation.

In her introductory remarks Smt. Kushal Singh Executive Director, Central Social Welfare Board referred to the action plan proposed to be taken by the Govt. of India during the SAARC Year of the Girl Child which includes among other things "steps to prevent girls from being inducted as Devadasis etc. or into brothels". It is this concern to prevent women from being forced into prostitution and to formulate welfare schemes for the rehabilitation of the prostitutes and their children that motivated the Central Social Welfare Board to organise this Workshop. She hoped the Workshop would serve as a platform for exchange of views on various aspects of the problem and the practical experience of the organisation working for the welfare and upliftment of prostitutes would help in formulating a plan of action for the rehabilitation of the prostitutes and their children.



REPORT OF THE WORKSHOP

**PLENARY SESSION : I
GENESIS OF PROSTITUTION
CAUSES AND MAGNITUDE**

Jyotsna Chatterjee

*Director
Joint Women's Programme
New Delhi*

Introducing the subject Ms. Chatterjee dealt in detail with a number of factors that drove women into the profession. She disclosed that prostitution was a much-hated profession yet the increasing rate of women taking to the profession suggested that the profession enjoyed the sanction of the society. She drew the attention of the audience to the increasing incidence of prostitution in metropolitan cities, urban areas and market and business centres which according to Ms. Chatterjee indicated the growing demand for female bodies on the one hand and poverty on the other. She further added that the lure of high profits from trafficking in human bodies had encouraged the exploitation and seduction of women from the poor rural and tribal communities and other economically weaker sections of the population who had never been in this profession before. She cited the large scale organised trade in women where they were sold and purchased like a commodity putting aside all human values.

According to Ms. Chatterjee women entered the profession in two ways.

- i) Voluntarily, for lack of any other means of livelihood and
- ii) Forced into this profession through religious and customary practices, kidnapping and rape, and sale by intermediaries. She appealed to the Workshop to view the problem in the context of the overall situation of the status of women in our country and to consider prostitution from the point of view of violation of human rights and as a hindrance to women's freedom and struggle against exploitation and oppression.

In the lively discussions that followed the participants observed that most of the victims were driven into the profession by a combination of social, religious, economic and personal pressures and were not in it by choice.

The participants cited religious sanction to prostitution as yet another major reason for the proliferation of the profession. Reference was made to the religious practices prevalent in the form of dedication of girls as Devadasis, Basavis, Joginis etc.

The participants also observed that overemphasis on women's premarital chastity and marital fidelity, unforgiving attitude of the society towards sexual lapses on the part of the female and the double standards of sex morality which demand women to be chaste and make men free from any kind of stigma all contribute towards women entering the sex trade. It was also pointed out that victims of rape who were discarded by their families, victims of deceit and cheating, the low status and unkind treatment meted out to widows, degraded status of separated and divorced women, treating women as sex objects and the low status of unmarried girls in the society also indirectly contributed to their entering the profession. Reference was also made to other causes such as poverty, and illiteracy coupled with rampant unemployment which lead the rural masses to the cities in search of a living where at the point of starvation, their daughters and wives are forced into prostitution for the sake of survival, and to the plight of young girls who leave their homes in search of employment or are attracted by the glamorous film world and land up in brothels.

Finally the participants expressed their concern for the children of prostitutes, who owing to social stigma and the apathetic attitude of the society remain in the backwaters of the profession. The female children usually inherit the profession from their mothers and the male children become pimps, touts etc. or take up other anti-social activities.

**PLENARY SESSION II
CONSEQUENCES :
SOCIAL PHYSICAL AND
PSYCHOLOGICAL**

Dr. Amla Rama Rao

*Chairman,
Voluntary Health Association of India
New Delhi.*

Analysing the consequences Dr. Amla Rao said that no woman wilfully takes to prostitution but once she takes to it she was exposed to various hazards. Before entering the trade, they were only deprived of food, clothing and shelter and once in it, the situation becomes much worse because they had to work and live under the worst possible conditions and surroundings, losing all respect in the community. Mentally shattered and physically battered these women live a stunted and shrunken life. Talking on the health status of the prostitutes she said that about 60-80% of them suffer from more than one disease. Besides STD's, AIDS and other infectious diseases these women also suffer from chronic pelvic infection, back ache etc. and yet they keep entertaining their customers for survival. Dr. Rao further narrated the pitiable conditions in which they live-over-crowded localities and ill-ventilated rooms; lack of time and acute poverty do not allow them to cook fresh and nutritious food for themselves and their children; they sleep during the day and work all night; they live under constant threat of being raided by the police who could not only take away their money but their children too. Such a fear ridden life results into many psychological problems.

During the course of the discussion the participants felt that the society as a whole views prostitutes as the transmitters of STD and many other communicable diseases like TB etc. It has to be realised that the prostitutes themselves are exposed to these diseases from clients. For some strange reasons AIDS was linked only to prostitutes. The participants felt that though the prostitutes had been identified as one of the carriers of AIDS virus, the fact was that it had cut across all the barriers and infection can be

spread through different sources. They expressed concern on the rapid increase in the number of HIV positive cases in the country. According to one of the delegates there were only 3% HIV positive cases among those who were tested for AIDS infection in Delhi but by 1989 it rose to 12% - a significant portion of the infected turned out to be prostitutes. The situation in Bombay was much worse disclosed a participant. Substantiating his statement the participant quoted the findings of a health study conducted in Bombay on 1200 prostitutes, 80% of them had some kind of ailments, of the 80% fifty percent had STD and no less than 10% AIDS. It was felt that till recently the institution of prostitution did not pose any direct threat to the fabric of society and was therefore ignored by the masses. The situation had undergone considerable change now owing to the growing health hazards particularly the dreaded AIDS infection and other adverse consequences.

It was felt that life of a prostitute was subject to constant fear-of the police, of the pimps, of the brothel managers etc. As such the prostitute was often reduced to a pathological case suffering from psychological disorders and personality disorganisations.

The main victims of the institution of prostitution, the participants felt, were their children. Born with the stigma of being 'illegitimate' majority of these children are isolated from the mainstream and deprived of a normal life. They are shunned by society for no fault of theirs.

There was a general consensus among the participants that prostitution affects the society as a whole. It was a source of exploitation of women for fulfilment of commercial ends giving rise to an alarming situation, wherein many innocent girls were forced to adopt a lifestyle against their will. Many of the dens of prostitution also nurture other forms of criminal activities by providing hideouts to criminals.

Smt. Lotika Sarkar Consultant, Centre for Women Development Studies, New Delhi in a moving oration said that legislation on prostitution had traversed from abolition to suppression to prevention. She felt that this itself was a definite advance as far as legislation is concerned.

However the law still does not exhibit any concern for the plight of women. She pinpointed three distinct provisions of the Immoral Traffic (Prevention) Act, 1956, the underlying philosophy of which, she thought, was highly intriguing. The first provision was section 8, where soliciting was defined and it has been laid down that any one who is guilty of soliciting in a public place "shall be punishable on first conviction with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or both". The last para of section 8 says that "Provided that where an offence under this section is committed by a man he shall be punishable with imprisonment for a period of not less than 7 days but which may extend to three months". That means if soliciting is done by a man he shall be punishable with imprisonment for a period of seven days, whereas if it was a woman the punishment is not less than six months which Smt. Sarkar felt was highly discriminatory and unjust.

Section 4 of the PITA says that "any person over the age of eighteen years who knowingly lives wholly or in part of the earning of prostitution of a "girl or woman" shall be punishable with imprisonment for a term which may extend to two years or fine upto one thousand rupees. Ms Lotika Sarkar pointed out that there were a number of women who took

PLENARY SESSION -III

LEGISLATION :

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to this profession due to unemployment and lack of any other means of livelihood. Often they had to look after their aged parents or ailing brothers or sisters etc. This section does nothing to help the women who are compelled to take to this profession for genuine economic reasons penalising dependants and helpless relatives for living on the earnings of the prostitutes is no solution to the problems.

Section 20 laid down that any magistrate on receiving information that a person residing in his jurisdiction was a prostitute, could issue a notice to such a person requiring her to appear before the magistrate and show cause why she should not be required to remove herself from the place and be prohibited from reentering it. Mrs. Sarkar wondered what idea the law makers had in mind when they enacted this section. By throwing a woman out of her house, what was it that we are expecting from this action. Just punish her, because she is a prostitute? What will she do and where will she go? How can we expect her to live?

The presentation by Ms. Sarkar was followed by a lively discussion. One of the speakers said that the basic purpose of the law was to deal with prostitution in its commercialised form as an organised means of living. The Act did not make prostitution per se an offence. It accepted the profession as a way of life, allowed it to be run as a profession but did not allow human flesh to be sold in shops as a commodity.

Referring to the Juvenile Justice Act, 1986 it was felt that just because children lived with prostitutes, there was hardly any justification for taking them away from their mothers. It did not, however, mean that the place where they lived was congenial for their development. However if alternative arrangement for the children are to be made this should be done only with the consent and co-operation of the mothers.

One of the delegates felt that the law victimised the prostitutes rather than punish the perpetrators of the system. In fact, 80% of the earnings of the prostitutes was taken away by other parties including those who were supposed to enforce the law. The speaker drew a parallel between prostitution and prohibition and said that whenever the Government tried to regulate or control it, it backfired. The prostitutes always lived in constant fear of the police and of being booked for soliciting etc.

Another delegate wondered why women could not be allowed to solicit when prostitution was a reality and was not banned by law, there was a general feeling in favour of deletion of the section relating to soliciting as in practice this section led to a great deal of harassment of the prostitutes without in any way reducing the main problem.

Referring to section(4) of PITA it was felt that this section was mainly meant to punish brothel owners, pimps etc. But unfortunately it did not do so. In cities where prostitution was carried on in an organised manner there was hardly any prostitute functioning on her own. The brothel owners who controlled the life of the prostitutes did not take any money

from the customers directly, but it was the prostitute who took the money and paid half to the brothel owner, as room rent etc. One of the participants suggested that legalisation of prostitution was the only solution. However the majority of the participants and women from the profession itself objected to the very idea of legalisation of prostitution through licencing as it was felt that it would create more avenues for exploitation of the prostitutes.

It was further disclosed that according to the law, if anyone was prosecuted for rape and it was proved that the victim was of loose character, the person could be acquitted which meant anyone could rape a prostitute and go scot free. The participants emphasised that this aspect of law needs to be reviewed.

Introducing the subject Smt. Kaushik said that while contemplating measures for the prevention of prostitution, it must be kept in mind that the type of measures recommended for a certain category of the target group may not be successful for other categories. Referring to the active participation of a few of the women from the profession, in the workshop Smt. Kaushik said that this in itself was a positive trendsetter. She was also happy that a few of them had openly expressed their desire to come out of the profession. Smt. Kaushik urged the policy makers to keep in mind the optimistic features while formulating preventive as well as rehabilitative measures. She also suggested that the community should empower the prostitutes to come out of the profession by grouping them together, and giving them collective power. It was necessary to fulfil the aspiration of the younger ones who desired to move away into a healthier environment. This group of women needed help and counselling and timely assistance. Those who refused to come out of the profession had to be persuaded by a gradual process. It was here that the media could play a vital role in projecting the positive image of women.

To tackle this complex problem the participants suggested a comprehensive and co-ordinated strategy which should be two pronged; one to give a thrust on the overall development of women in general and the other was identification of vulnerable areas and initiating poverty alleviation programmes in these areas through integrated and co-ordinated implementation of existing govt. schemes.

It was also felt that setting up of an agency that could take care of women in crisis, deserted and rape victims etc. was of great importance.

PLENARY SESSION-IV PREVENTION OF PROSTITUTION

Smt Susheela Kaushik

*Head, Department of Women's Studies
and Development Centre
University of Delhi.*

One of the most vulnerable groups easily exposed to prostitution was girls brought in as domestic servants and girls who had run away from home. Measures to create awareness of their vulnerable condition could help in preventing them from entering the profession. It was suggested that crisis centres run by voluntary organisations should be opened at the entry points such as Rly. stations and Bus Stands to provide assistance to such women.

One of the participants suggested that a special police cell be formed in every district where the problem of Devadasis or similar practices exist to see that young girls are not inducted into the age old systems. The officers posted in the cell should be given special training.

The establishment of Inter State Coordination Cells with facilities for monitoring and following up the cases of missing/kidnapped girls was strongly recommended. It was also suggested that the registration of domestic servants should be made compulsory.

The importance of education to the children of prostitutes was emphasised so that they would not drift into their mother's profession. Participants suggested that the children of prostitutes should be admitted to Boarding Schools which are open to normal children. It was also suggested that stringent measures should be taken against kidnappers of girls and persons involved in fake marriages.

To check the rural woman from being inducted into prostitution the following interventions were proposed; income generating activities should be started in vulnerable areas. Such activities should be designed to be carried out collectively in order to allow these marginalised women to stand up against the coercive role of the family and kin.

Representatives of the A.P. Government gave details of the scheme run by the State Government. Training complexes had been started by the Govt. of AP where non matriculate girls are trained in vocations like bakery, tailoring, handloom weaving etc. and the matriculates in trades like typing and shorthand, TV and Radio mechanism, ANM training, etc. The training complex also provides creche facilities. The Govt. of A.P. have set up a separate women's Cooperative Finance Corporation which caters to the poor and needy women by giving 20% of the marginal money to each individual and arranges the rest 80% through commercial banks.

Yet another suggestion was the opening of a combined home offering shelter to old women (ex-prostitutes) and children and short stay facilities for women under distress. Long term measures should be directed at preventing child marriage and raising the level of awareness amongst women about their constitutional rights and the legal resources available to them through functional literacy programmes.

It was also suggested that assistance of grassroot level functionaries like Anganwadi Workers, ANMs and local leaders like Sarpanches etc. should be taken in vulnerable areas for creating awareness of and exercising vigil against middle men who seek to trap women in the trade.

Shri Dasgupta referred to the prostitutes as women and emphasised the need for concrete programmes to ameliorate their lot. He asserted that considering the magnitude of the problem any programme of intervention had to be a programme of the State with the assistance of the Governmental agencies at the implementation level. He considered the task of rehabilitation a more difficult proposition than prevention as once in this profession the behaviour pattern of these women undergoes certain unpleasant changes and they gradually lose faith in human values. According to Sh. Dasgupta developmental care rather than custodial care should form the hall mark of any rehabilitation programme, where opportunities were provided to the beneficiaries to grow both physically and mentally. The approach should be one of empowerment rather than reform oriented. He felt that rather than thinking of new programmes, it would be worthwhile to extend some of the existing welfare programmes for women, children and people below poverty line.

The scheme for rehabilitation of the Devadasis proposed by the Karnataka Govt. was also discussed. The scheme has four components. First, training in skill development offered courses in different vocations like handloom weaving, agarbathi making, tailoring etc., to able bodied Devadasis in the age group of 18-25 years and this was subsequently linked up with marketing centres after the formation of Industrial Co-operative Units in various trades. The second component, imparting of social and moral education was necessary for the moral and social upliftment of Devadasis alongwith their economic rehabilitation. The other components were for the Health care of Devadasis with emphasis on research and co-

PLENARY SESSION : V REHABILITATION OF PROSTITUTES

Abhijit Dasgupta

*Development Dialogue
Calcutta*

ordination and provision for Seminars/Workshops to disseminate experience. Participants felt that the scheme was comprehensive but in order to be effective an integrated scheme for the various states where the Devdasi system existed should be formulated. Some participants also raised doubts about entrusting the moral and social education to a religious organisation as proposed in the scheme.

The target group should be broadly classified into three groups those who wanted to continue in the profession, they needed supportive services like health care and safeguards against exploitation. Welfare measures must also be initiated for them so that they do not perpetuate the system.

It was felt that provision of ration cards and health care centres in red light areas manned by lady doctors could minimise their problems to a great extent. The second group consists of those who want to come out of the profession, who require an entirely different process of rehabilitation. The children of prostitutes were categorised as the third group.

One of the suggestion was to provide rehabilitation services outside their hometown so that the prostitutes were not identified and stigmatised. Reference was made to the Karnataka Government's steps to get a few Devadasis married by paying a sum of Rs. 3000/- to the couples Rs. 1000/- at the time of marriage and Rs. 2000/- on production of a certificate after a certain period stating that the marriage had been successful. There is also a State Home for Devadasis at Athani and a Certified School at Soundatti where training is imparted to Devadasis to rehabilitate them. This would help them to start life afresh. Majority of the delegates emphasised the need for training and employment. Suggestions were also made to employ the inmates of Remand homes etc. in Small Scale Units and with private employers. Through such exposures these women could be sensitised to the fact that there are other ways to earn money and lead a decent life.

Participants felt that along with economic rehabilitation it is necessary to take measures for the psychological and social rehabilitation of the victims as well. In order to obtain positive results in this direction it is essential to provide a sympathetic environment to them. Keeping this in view the participants suggested that immediate steps should be taken to improve the functioning of the Remand Homes/Nari Niketans. These Homes should not be run like prisons but should seek to provide social, physical and psychological rehabilitation of inmates. The need for providing professional counselling services in these homes was emphasised.

At the outset, Dr. Deepa Das narrated the uncongenial environment in which these children were born and brought up. She highlighted the plight of the children who not only suffer problems related to their health care and lack of basic necessities for their healthy growth and development but also suffer from certain social handicaps. By the mere fact of their being born to a prostitute, access to equal opportunities and social justice were denied to them besides being exposed to every kind of anti social activity. Due to the influence to which they are subjected at an early age, this segment of children constitute the potential source of strength to those interested in the propagation of the trade. These children are both disadvantaged and vulnerable-girls to prostitution and boys to pimping and other kinds of anti-social activities.

PLENARY SESSION VI REHABILITATION OF CHILDREN OF PROSTITUTES

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Dr. Deepa Das expressed her concern on the alarming increase in the number of such children. On the issue of discrimination Dr. Das pointed out that the female child was particularly discriminated against as her sole purpose of 'being' seems to be limited to her economic value. The male child on the other hand received preferential treatment in matters of education, property, and choice with regard to joining the trade or taking other avenues of employment.

It was high time that society took cognizance of the vulnerability of these children and measures are taken to safeguard them against the influences of the trade and opportunity is provided to enable them to lead a life of dignity.

Reference was also made to some of the work already done by the Govt. and the NGOs

like the institutional services provided to 75 children by Shrimant Dagadee Seth Halwai Ganapathi Trust, Pune through its three units based on the cottage system with assistance from the Ministry of Welfare. Other NGOs running some programmes for these children are Prerana of Bombay which has been organising services for institutional care of children and also provides creche facilities in the redlight areas of Bombay, the R.K. Mission Lok Shiksha Parishad of Calcutta is running support services in the Red Light areas itself and also is running an ICDS Project.

Dr. Das made a reference to the programmes of the Govt. such as the Karnataka SSWAB's efforts in adopting 20 villages in Athani Tq. with the objective of covering 600 Devadasi children. The Govt. of Karnataka through the District Rural Development Society, Belgaum has prepared a project profile which includes programmes for skill development, construction of workshops, houses under NREP, creches, health care, residential schools for Devadasis under 18 years, balwadis and educational classes.

The Govt. of M.P. has two schemes for the young girls and also the adolescents. For the young girls they have the Ashram type of Schools and for the latter they are running tailoring and embroidery centres. These programmes are in operation since 1984-85.

The Delhi Administration has also taken positive steps by admitting children from the red light areas in homes extending all facilities that are open to other children.

In the discussions that followed the necessity of evolving strategies and programmes of intervention to be undertaken to improve the overall status of these children and bringing them into the mainstream of development was highlighted. In this direction the participants suggested to bring this category of children within the purview of existing welfare schemes and programmes, like the ICDS etc.

In order to improve the lot of these children it was suggested that development cum care centres should be opened in the red light areas with a view to provide a conducive environment to the children for their proper physical, emotional and intellectual development. The participants also suggested that adoption and foster parenthood of these children should be encouraged. Other measures suggested were setting up of night care centres, provision of facilities for recreation and extension of Health care and Supplementary Nutrition Programmes to the red light areas.

There was general consensus that women headed households should be given legal recognition so that the children are not denied admission in schools for want of their father's name. Another suggestion was to provide institutional care to these children on the lines of SOS children's villages as an alternative to the family environment.

Keeping the above factors in mind the participants felt that an Action Plan for Prevention, Protection and Rehabilitation for the Prostitutes and their Children needs to be prepared. Four distinct categories were identified for whom programmes need to be formulated.

1. Women who are forced into the profession - Preventive measures are required to be taken up to prevent the procuring of girls/women;
2. Women who are in the profession willingly or unwillingly and are desirous of coming out would require social economic and legal support for the purpose. Rehabilitative measures need to be taken up for this section;
3. Women who have taken up this profession for various reasons and are not willing to leave it - Protective measures need to be initiated for such women;
4. Children of prostitutes who are the victims of circumstances and who due to lack of alternatives are drawn into the profession preventive, protective and rehabilitative measures need to be taken up for them.

OBSERVATIONS AND RECOMMENDATIONS

The discussion and deliberations during the two day workshop highlighted the following issues :

Preventive Measures :

(i) Legislation :

- ✓ 1. The thrust of the law relating to prostitutes should be against those persons who are inducing/forcing women into prostitution and not against the prostitute herself. There is a need to introduce a more humane element in the law so as to prevent further aggravation of the plight of a prostitute. Preventive measures assuring protection to the women should be the focus of law.
- ✓ 2. The definition of prostitution in the Immoral Traffic (Prevention) Act, 1956, accepts the fact that the prostitute is the subject of exploitation and abuse. Yet, if the same definition is substituted in other sections, the whole Act becomes contradictory and conflicting. The existing legislation needs to be reviewed to ensure that the provisions of the Act are in consonance with the recognition of the prostitute as a victim of exploitation.
3. Section 4 of the Immoral Traffic (Prevention) Act, 1956 makes it illegal for anyone over the age of 18 years to live on the earnings of a prostitute. The law thus takes for granted that anybody who is supported by a prostitute deserves to be punished. However, there are several women who take up the profession for economic reasons. It is totally irrational and particularly harsh on the prostitute that she cannot support her child after 18 or ailing relatives and aged parents. The law needs to be reviewed to make a distinction between living "on" and living "off" the earnings of a prostitute. While legal safeguards need to be provided to prevent extortion of money from the prostitute, her right to incur expenditure voluntarily has to be recognised.
4. Under section 8 a lady found to be soliciting for the purpose of prostitution is liable for punishment to the extent of six months. However where an offence under this Section is committed by a man the punishment for the man is "not less than 7 days but which may not exceed 3 months". The purpose behind this gender differentiation is difficult to comprehend and needs to be reviewed.
5. The definition of soliciting under Section 8 is too wide and vague and as such its interpretation is left to the subjective assessment of the law enforcing authorities.

In practical experience it has been seen that the maximum harassment by the police is reported under this section. It was felt that this section does not serve any useful purpose and should be deleted.

6. Under section 20, a Magistrate is empowered to remove a prostitute from any area. The philosophy behind this provision is incomprehensible for when a woman is thrown out of her house to an unknown place how is she expected to look after herself? Besides, removal of a prostitute from a locality does not solve any problem and only aggravates her plight. This provision is both inhuman and unjust and should be reviewed.
- ✓ 7. The implementation of the Immoral Traffic (Prevention) Act, 1956, also needs to be examined. In a male controlled institution like prostitution the actual implementation of the law is normally against the prostitute herself. Action against the perpetrators i.e. the procurers, customers, pimps, managers, etc. is taken very rarely.
- ✓ 8. As per a Court judgement the gravity of an offence in a rape case has been assessed with reference to the "loose moral" character of the victim and the punishment of the accused was accordingly reduced. A natural corollary to this judgement would be that rape committed against a prostitute would not constitute an offence. The legal provision relating to rape needs to be reviewed in this regard.

(ii) General Preventive Measures :

1. Research studies should be commissioned by the Government to identify the communities and the areas/pockets which are vulnerable to procurement. Special attention needs to be given to the tribal areas and areas where the practice of Devdasis, Jogins etc. is prevalent.
2. Family Counselling Centres financed by the Government and supported by the NGOs should be set up in these vulnerable areas to provide counselling and referral services to susceptible women and their families.
3. Since economic deprivation is a major factor driving women into prostitution concerted poverty alleviation programmes and job avenues should be provided in the vulnerable pockets through rural development schemes like IRDP, NREP, etc.

4. A mass awareness generation campaign through every form of media should be initiated to de-emphasise the acceptance of the socio-religious practices which give moral sanctity to the sexual exploitation of young girls in the form of Devdasis, Basavis, Joginis etc.
5. Schemes for imparting Vocational Training and Skill development linked with income generating projects and marketing outlets should be implemented through voluntary organisations in the vulnerable areas. Such projects should be based on the local needs and requirement. It was felt that no special scheme needs to be formulated for the purpose as the existing schemes with some amount of flexibility for local requirements could be implemented. However, separate funds under the existing schemes for Vocational Training and Socio-economic Projects should be earmarked for these vulnerable areas.
6. Pilot projects providing a package of services through Voluntary Organisations should be taken up on an experimental basis in two or three identified vulnerable areas. The projects should include Awareness Generation, Counselling Services, Vocational Training, Socio-Economic Projects linked with marketing facilities. The projects would aim at providing different inputs to counter the various socio-economic causes driving women into prostitution. The impact of the projects may be evaluated for further replication.
7. Missing persons squads should be set up by the Police in the procurement areas to investigate the cases of missing/kidnapped girls from the villages.
8. ✓ Public consciousness should be raised against the projection of women as a commodity and an object of pleasure through pornographic material, advertisement etc.
9. ✓ Stigmatisation of the victims of rape/kidnapping should be visibly condemned and immediate institutional protection and counselling services should be provided to such women.
10. Shelter homes should be opened in the vulnerable areas and near the Railway Stations of big towns to provide immediate assistance to women who have been kidnapped, have run away from home or have been thrown out by their families.
11. Grassroot functionaries like Village Health Workers, Anganwadi Workers and public representatives like Sarpanches etc. should be sensitised to the problem

and their co-operation should be obtained for dealing with the susceptible and vulnerable girls in their areas and for exercising vigilance against procurers.

PROTECTIVE MEASURES

1. Counselling centres should be set up in the redlight areas to provide professional counselling to the prostitutes who face psychological imbalances due to frequent assault on their body and mind, physical and verbal abuse and continuous sense of fear. The Counselling centres should also provide legal and referral assistance to such women who wish to leave the profession.
2. Personal inhibition and the indifferent, discriminatory and contemptuous behaviour of the functionaries in the Government Hospitals often prevent the prostitutes from getting suitable medical aid on time. Special dispensaries should be set up in the red light areas to provide timely medical help, care and treatment. Regular medical checkup for STD, AIDS, etc. should also be provided through these dispensaries.
3. Saving Schemes should be introduced in the redlight areas to provide security for old-age as retired prostitutes are very often responsible for the recycling process of prostitution.
4. More women police officers should be posted in the redlight areas to protect these women from harassment from clients, pimps, brothel keepers and from the police.
5. Awareness Camps should be organised in the redlight areas to impart information on health aspects, legal rights and the various schemes and facilities which the prostitutes can avail of, for example, bank loans for self-enterprise, housing loans, etc.
6. Legal provisions for preventing the exploitation of prostitutes by middlemen need to be considered.
7. Welfare schemes like Vocational Training, Adult Education classes etc. should be implemented in the redlight areas.
8. Separate homes should be provided for patients suffering from AIDS.

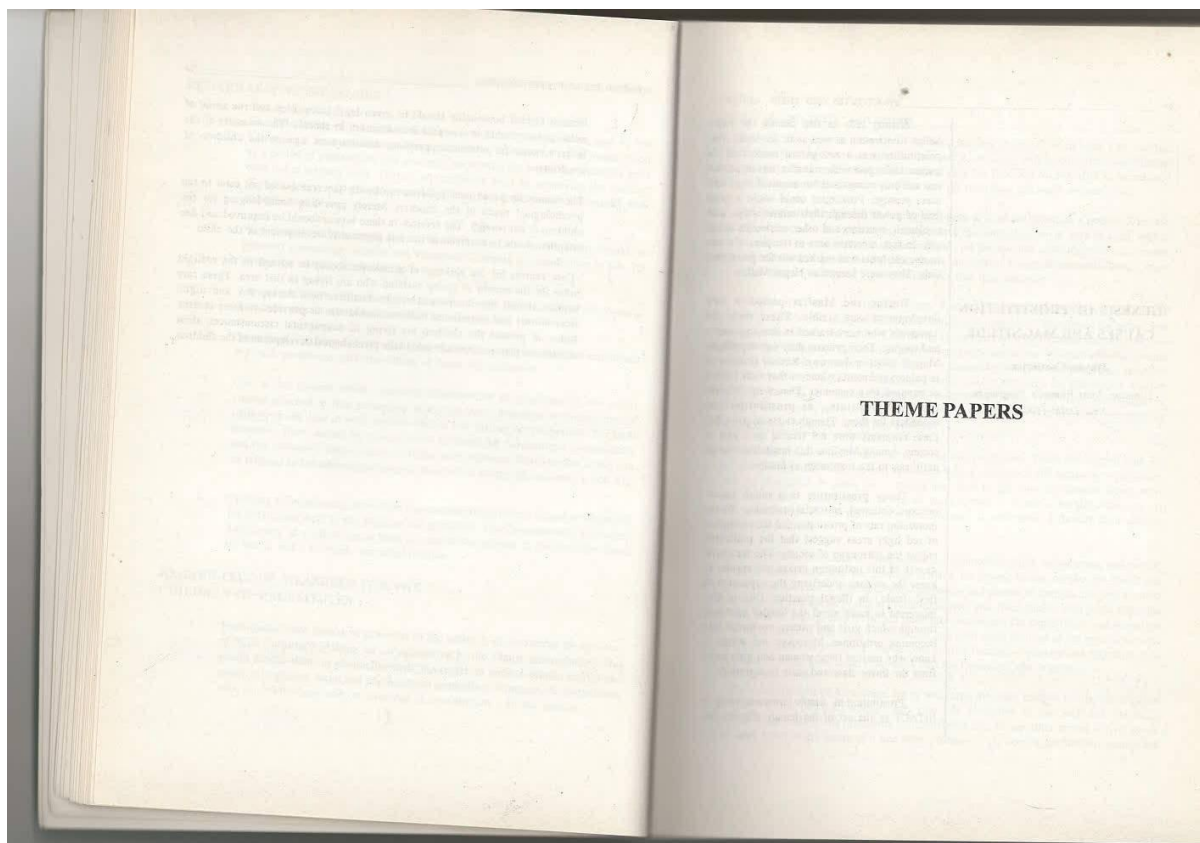
REHABILITATIVE MEASURES :

1. The functioning of the remand homes to which the prostitutes are sent by the Courts is far from satisfactory. The period of stay in these homes is looked upon as a period of punishment and generally on leaving the home the prostitute goes back to her original trade. There is an immediate need for improving the working of these homes and training and sensitising the functionaries associated with these homes.
2. Women sent to the remand homes, Nari Niketans, etc. by the Court should be provided counselling services and Vocational Training to enable them to take up alternative income generating activities.
3. Voluntary Organisations should be associated with the running of the remand homes to provide better services and facilities.
4. Vocational Training Courses and Socio-Economic projects should be sanctioned for such prostitutes who are willing to leave the profession.
5. One of the reasons which prevents rehabilitation of prostitutes is the social stigma attached to that profession. It is, therefore, important to ensure loss of identity in the case of such persons who do not wish to be recognised. For such purposes, there should be co-ordination between the Government Departments and the Voluntary Organisations working in the different States so that a lady can be referred to homes/organisations in other States where she can start a new life.
6. Training of functionaries in various Government Departments should be organised for sensitising them to the plight of the prostitute. The Governmental machinery and society as a whole has to show a sympathetic attitude to the problems faced by her in order to enable her rehabilitation.

REHABILITATIVE MEASURES FOR THE CHILDREN OF PROSTITUTES :

1. Institutional care should be provided to the children of prostitutes on the lines of SOS Children's Villages as an alternative to the family environment. This would enable them to channelise their potentials as normal human beings and would also provide social and psychological counselling. However, the institutional care of children can only be provided in consultation with the mother.

2. Women headed households should be given legal recognition and the name of either parent should be accepted for admission in schools. The necessity of the father's name for admission purposes discriminates against the children of prostitutes.
3. The homes for prostitutes' children run by the Government do not cater to the psychological needs of the children. Merely providing board-lodging for the children is not enough. The services in these homes should be improved and due attention needs to be given to the full personality development of the child.
4. Care centres for the children of prostitutes should be opened in the redlight areas for the benefit of young children who are living in that area. These care centres should provide normal creche facilities both during day and night. Recreational and educational facilities should also be provided in these centres. Since, at present the children are living in uncongenial circumstances, these centres can play an important role in the psychological development of the children.



GENESIS OF PROSTITUTION CAUSES AND MAGNITUDE

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History tells us that during the Indus Valley Civilization as well as in the Vedic Age, prostitution was a recognised institution. In ancient India, post vedic and after, this institution was not only recognised but acquired more and more prestige. Prostitutes could wield a great deal of power through their relationships with noblemen, courtiers and other aristocrats in the city. In fact, a certain area in the plan of a city in ancient India was marked out for prostitutes only. They were known as Nagar Vadhus.

During the Muslim period a new development was visible. These were the 'tawaiyafs' who were trained in dancing, music and singing. Their primary duty was to perform 'Mujrah' either in their own 'Kothas' (houses) or in palaces and courts wherever they were invited or engaged by a customer. They were different from the prostitutes, as prostitution was secondary for them. Though rich and powerful, these tawaiyafs were not treated as a part of society. Among Muslims this institution was an antithesis to the institution of family.

Today prostitution is a much hated, outcaste, outlawed, antisocial profession. Yet the increasing rate of prostitutes and the expansion of red light areas suggest that the profession enjoys the patronage of society. The mercurial growth of this institution makes one curious to know the reasons underlying the expansion of flesh trade, an illegal practice. One is also interested to know about the 'modus operandi' through which girls and women are forced into becoming prostitutes. Moreover, one wants to know why most of these women and girls come from the lower class and caste backgrounds.

Prostitution in simple terms according to SITACT is 'the act of the female offering her

body for promiscuous sexual intercourse for hire, whether in money or in kind, and whether offered immediately or otherwise, and the expression prostitute will be construed accordingly' (The suppression of Immoral Traffic in women and girls Act 1956 Act No.104 of 1956, amended in 1981). There is an improvement in ITPA and the term does not mean women alone.

But prostitution involves both women and men. It is an act by which a male or a female person offers his or her body for sexual intercourse in payment either in cash or kind, with a woman or a man who is not his wife or her husband. Yet the law only seeks to punish the woman and therefore indirectly promotes the exploitation and sale of women by men who hold a more powerful position in society by virtue of the fact that they are male.

The growing male dominance, class dictates, industrialisation have led to the commercialisation of the old profession and traditional institution, sanctioned by social and religious customs for certain castes. Trafficking in women has today become transformed into a highly profitable industry. Our Joint Women's Programme studies on various traditional groups have proved that a large number of prostitutes are descendants of old traditional and religious groups - like the Devadasis in North Karnataka and South Maharashtra, the Basaves in Andhra Pradesh, the Vasukas in Varanasi, the temple dancers in Orissa. Also there are villages of prostitution like Mopper pally in Karnataka, where the Nayakasami system exists, Mandsaur in Madhya Pradesh, Gajipur in Uttar Pradesh etc.

There are however many new entrants into this profession. These are women who are victims of social oppression and poverty due to the lack of continuous and adequate employment, families are compelled to allow their women and girls to get into prostitution. Some male members, sell their daughters and wives for want of money. Wives of bonded labourers are forced to prostitute to free the family from indebtedness. In some areas girls earn their dowries through this profession.

The increasing incidence of prostitution in metropolitan cities, urban areas, and market and business centres indicates the growing demand for female bodies on the one hand, and poverty on the other. The increasing commercialisation and growth of tourism and urbanization has resulted in the emergence of a host of intermediaries and allied traders who profit from this traffic. The lure of high profits from this trade has encouraged the exploitation and seduction of women from the poor and tribal communities and even other sections of the population who have never practised this profession but become victims because of poverty and migration into urban centres. Several girls come from cults like the Devadasis and Basawees.

While poverty and backwardness are by and large the main reasons for the continuance and increase of this practice, women enter into this profession in two ways (1) Voluntary prostitution women adopt this profession voluntarily for lack of any other means of livelihood. In most cases families are aware of it and often promote it. (2) Forced prostitution-women are

forced into this profession through religious and customary practices, kidnapping and rape, and sale of their bodies by intermediaries.

In the Indian context women are not considered equal to men and therefore sexual exploitation of women and girls is not something 'wrong.' Women are not human beings by their own right. They are man's property to be treated like animals, tools or furniture to be sold and abused. Putting aside human values when 'human flesh' is sold and purchased it becomes a commodity and therefore subject to the laws of economics. According to the demand women are procured, transformed and then supplied to the wholesale markets. From the marketing centres they are distributed all over the country, to the shops, from where customers can get them.

Our field work on prostitutes and our study on Trafficking of women and Children for Prostitution by Sr. Rita Rozario, reveals that most of the girls come from the tribal belts of Bihar, Madhya Pradesh, Rajasthan, Karnataka, Tamil Nadu, Andhra Pradesh, South Nepal and drought prone, flood affected backward areas of Uttar Pradesh and other states. These girls have been sold by their families to pimps who in their turn sell them at the market centres. Some pimps visit remote and drought prone areas in search of pretty girls. They establish good relationships with the rural people, even become good tenants for a period of time. Sometimes they also propose marriage. This gives them a chance to talk about the world outside and thus lure young girls into accompanying them back to the cities. Once trapped the girls can not go back as their families and society will not accept them. Women pimps act as religious persons going on pilgrimage in need of young girls to accompany them. Some of these pimps act under the protection of the local politician, head man and the police who thus stake a claim on the money received from the sale of the girls. During our study of the Devadasi practice in Karnataka we were able to identify local people and the police who were involved in the sale of girls in Bombay.

Sometimes men sell their wives because they have come interested in other women or are addicted to alcohol or drug and thus find this a good way of getting rid of an unwanted property. Village girls are kidnapped from the places where they are working or from crowded village festivals and shuns and then sold by the pimps at the marketing centres.

Another form of forced prostitution is from prostitute villages. Here girls who refuse to continue in the profession are forced into it by means of torture and molestation. They are even raped and ostracised so that they have no other way out but to accept their fate.

Whole sale markets (Mandis) are to be found in big cities, Calcutta, Agra, Bombay, Hyderabad are among the big 'mandis' or whole sale markets in the flesh trade. From there the prostitutes are distributed to the small cities all over the country.

Our study has proved that girls are kept in small hotels till it is time to take them to the 'market cities'.

The pimps who initially collect the girls are not the real owners of this trafficking network. They are merely the suppliers who are employed for this purpose. The real owners of this business are rich antisocial elements, politicians, business men, and in some places even the policemen. The pimps get only a small percentage of the total profit that is made by the owners of the brothels.

The Statesman dated 5-3-1984 mentioned there are two ways in which flesh trade operates. In the first, widely adopted by persons engaged in interstate trafficking, women change hands like any other commodity. The only difference is that the transaction takes place in utmost secrecy and 'goods' are put in transit as soon as possible for distance markets.

The second method is that a woman seeks divorce on the grounds of cruelty, drunkenness or immorality by signing on stamped paper (which she cannot read) executed by a notary. This is followed by a new marriage, again contracted by signing on a stamped paper. Thus the woman goes from one person to another very legally. She is illiterate, totally in the clutches of the pimps and traders and puts her thumb impression where ever she is told. The father, brother or husband is inevitably a party to this kind of trade. A poor father may find the sale of a daughter an easy way to feed the family. A greedy husband may sell his wife, marry again and then sell the new wife also.

The Statesman dated 19.1.89 reported that the railway police had rescued five women by smashing an inter state gang involved in the sale of women for the past four years. These girls aged 12 years to 25 years were from West Bengal. The chief of the gang Subash a resident of Bihar confessed that they sell these women at price between Rs. 1,000/- to brothels. In the past four years his gang had sold 200 girls, from Kashmir in the North to Tamil Nadu in the South and from West Bengal in the East to Maharashtra in the West. Organised large scale trade in women exists and flourishes. Our approach to the question has been neither legalistic nor moralistic. These above cannot solve any problem, least of all the problem of sexual slavery. There are several underlying factors apart from poverty which we need to keep in mind:-

Caste-class and ethnic oppression - Almost all cases of trafficking or forced prostitution reveal the fact that girls from certain sections and communities can be more easily enslaved than others. These are generally the outcastes and the tribes. This has come to our notice time and again. Therefore it results from the general oppression of the weakest sections for the people.

Female Slavery - Various values, attitudes and institutions and society which have been generally responsible for the low status of women, are also responsible for the distorted attitudes towards family and man woman relationships. All kinds of atrocities against women, forced prostitution, the evil of dowry, result from this.

Unequal distribution of power between men and women in society - The male dominance

in the various functions which make up the socio-economic and political life of the society relegates women to an almost sub-human existence, without participation in the decision making process. In such a situation women's education alone cannot change anything.

Prostitution should be viewed in the context of the over all situation of the status of women in India and elsewhere. Old cultural and religious practices, superstitions, illiteracy and patriarchy are generally responsible for the exploitation of women in every way, i.e. financially, psychologically and sexually. Prostitution thus is a symptom and not a malady. Thus the solution to the problem cannot be sought in isolation. Neither education of the women nor the eradication of poverty alone can actually change this situation. Besides, in India, most women and children come from that section of society, which is known as the scheduled caste and scheduled tribe. This vulnerable section of society being backward is exposed to brutality, abuse, mutilation, sexual exploitation and sale.

Migration, urbanisation and homelessness have led to the growth of prostitution. As industry has increased, communities which were free from prostitution, are also drawn into it. With the growth of tourism and abundant use of mass media and pornographic literature (which reflect the prevailing attitude towards women), more and more girls are being forced into this practice. Every city has cabarets, massage parlours, etc. to attract college girls, looking for more money, who thus get trapped into this system.

We need to expose and then destroy the mechanism through which women and children are trapped into prostitution. We need to remember that the majority of girls are forced into prostitution by unscrupulous people, poor parents and guardians, who do not mind selling their girl children, and other social pressures. Several of these women have been victims of rape, family violence, desertion, widowhood, etc. When framing suitable changes in the existing legislation, we need to remember that women alone cannot be blamed for this evil. It is society and its attitude towards women, the clients who demand prostitutes, the procurers who kidnap, sell and buy girls, and the pimps who act as go between, who are to be blamed. Also the keepers of the law who fail to do their duty and the politicians who are either a party to such deals or silent, indifferent spectators.

Our action, therefore, needs to be not only in the realm of rescue and rehabilitative services, but also in preventive measures. It needs to consider prostitution from the point of view of violation of human rights, a hindrance to women's freedom, equality and struggle against exploitation and oppression.

This conference will, therefore, provide a platform for sharing of information, framing of concrete proposals and recommendations to be sent to governments and policy makers and voluntary organisations involved in work related to prostitution. It will enable us to evolve strategies that can be used at various levels to eradicate exploitation of women and children

(girls as well as boys).

For us in the JOINT WOMEN'S PROGRAMME, it is our primary duty to:-

- (1) Promote the self image of women;
- (2) Conscientise men about the role and status of women and the need to look at women as feeling human persons themselves;
- (3) Act as watch dogs in every area where we are working in order to spot, check and help the police in arresting those involved in trafficking.
- (4) Provide preventive measures;
- (5) Provide rehabilitation to women who wish to leave the profession;
- (6) Prevent children of prostitutes from being trapped into this vile profession;
- (7) Provide legal education and aid;
- (8) Organise health programmes and health education.

Draft perspective plan has not considered prostitution as trafficking nor made any recommendation with regard to a national ban on dedication into prostitution, despite JWP's having made the recommendations.

I would like to draw your attention to our studies on:-

- 1) Trafficking of Women and Children for Sexual Exploitation
- 2) Devadasi problem in Karnataka
- 3) Caste factor in prostitution
- 4) Baxavi Cult
- 5) The Joginis
- 6) Children of the Devadasis

and several others that have helped in planning for prevention, control and rehabilitation of women and children forced into prostitution, for we believe that prostitutes are victims and not criminals.

**CAUSES OF CONTINUATION OF
DEVADASI SYSTEM: STRATEGIES OF
ERADICATION AND REHABILITATION.**

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Religion is a most complex phenomenon which pervades a vast range of human activity in society. It emerged with the belief in a power superior to human being which directs his destiny and controls nature. Its practical dimension is expressed through a number of ways in culture of the society. Its perceptive & doctrinal aspects include moral and social theology, philosophy of religion and dogmas.

In spite of all these merits of religion one cannot overlook number of aberrations, crimes, superstitions and exploitations in the name of religion. In India there exists a religious practice, a cult popularly referred to as devadasi system, under which a girl is dedicated to or married to an idol, deity or object of worship or to temple. This cult is prevalent even today throughout India with some regional variances. In fact the institution of dedication of women to temples of deities was a pan Indian phenomenon in the past. But nowhere they are referred to by local people as Devadasis. The term devadasi is a Sanskrit term denoting 'Deva' God and 'Dasi' maid servant which literally means female servant of deity. To describe these women in Goa they use the terms 'Bhavanis' 'kudikar' on the West-Coast, 'Bhogam-Vandhi' or 'Jogini' in Andhra Pradesh; 'Thevaridiya' in Tamil Nadu; 'Murali' 'Jogateen' and 'Aradhini' in Maharashtra; and 'Jogati' or 'Basavi' in Karnataka. But in Karnataka old devadasis are called as 'Jogati' and young devadasis as 'Basavi'. The term 'Basavi' refers to feminine form of 'Basava' a bull that roams the village at will without any restriction. Hence 'Basavi' alludes to the foot-loose position of the woman.

The evolution of the devadasi cult can be traced to a period earlier than the Aryan's entry in India. This cult appears to be a relic of Dravidian matriarchal Society, in which the genealogy of a child was traced only to the mother. Similarly the children of devadasis who do not have social father and are not aware of the identity of the biological father, enter 'Basavi' or mother's name in the slot meant for father's name in the school application forms.

After Aryan invasion of the south, sanskritized culture and the Brahmanic ethos also diffused into all aspects of Dravidian culture and religion. As a result, Basavi or Jogati system a Dravidian religious custom of dedication to a deity such as Yellamma, originally a Dravidian Goddess, was superimposed by an Aryan system of Devadasi. The devadasi system was prevalent in Somnath and Jagannath Temple at Puri and other north Indian temples where the impact of the Aryans was predominant.

Initially the dedicated women were appointed in the temple to clean the sanctum-sanctorum for maintenance of lamps, in cleaning, putting oil, lighting the lamp, offering food (naivedya) to the main deity, assisting priests at the time of worship, dance and sing in praise of the deity, and look after cleanliness of the temple complex. These women were said to be expert artists in music and dance. Bharatnatyam, a classical dance form flourished because of devadasis of Tamil Nadu. As society underwent changes so also patrons of devadasis changed and their service also shifted. At a later stage devadasis were asked to serve the king as in the case of God, since the king was considered to be God on earth. In fact kings sponsored this cult. Temple dancers along with their traditional ritual functions started rendering their services to royal palaces and assisting kings in the art of politics. They were used in espionage activities against enemy kings and court dancers. Kings started building temples and appointed devadasis to serve God in the temples and royal palaces. This development had a far-reaching impact on popularisation of the cult. Other lesser kings, chieftan and feudal lords also emulated their superiors and started patronising the cult. In rural areas feudal lords who possessed substantial land, exercised authority over other socially and economically weaker sections of society. They were defacto owners of men and material of the region. The cult served as an instrument through which they could gain accessibility to desirable low-caste and poor women. The field experience supports that this cult is prevalent only among scheduled caste women who are subjugated and suppressed by upper caste members since time immemorial. Against these wrongs to Indian womanhood there emerged several movements in different parts of our country. But in the then Madras province reformatory and revival movements were the two vociferous movements among all of them. There was a general disapproval by Western educated Indian elites who wanted to do away with the system. In 1890 'anti-nauch' and 'anti-dedication' movements emerged. Such movements pressed the concerned Governments to ban this practice providing religious sanctity to prostitution. At last many legislations were passed, among these:

1. The Bombay Devadasi Act, 1934.

2. The Devadasi (Prevention of Dedication) Madras Act, 1947;
3. The Karnataka Devadasi (Prohibition of Dedication) Act, 1982 are note worthy.

In spite of passing these progressive legislations, liberal rehabilitation assistance, anti-dedication movements, and due to other change agents like education and modernization, this cult is still prevailing in many parts of the country, more particularly in drought prone, poverty stricken border areas of Maharashtra and Karnataka States. Devadasi system is becoming more popular and dedication of girls to deities are made every year. Hence the present study was conducted to find out what are the determinants of persistence and continuity of devadasi cult. How this cult persists and undergoes modifications when it is subjected to various change agents including legislation against it? Without knowing the factors responsible for continuation of the cult we may not be successful in arresting the continued existence of the cult. Only rehabilitative and legislative efforts would yield no fruits. To generate satisfactory answers to these issues an attempt is made in this study by exploring determinants in socio-cultural milieu of devadasis.

It is a case study of 85 devadasis of Yellampura village. Relevant data was generated by field work, through observations, formal and informal interviews with devadasis. Secondary data was also collected from various sources. On the basis of the present study we can present some conclusion.

In Yellampura village almost everybody worships Yellama deity. Dominant castes like Lingayats acknowledge Yellama as their family deity. But at the time of survey it was found that not a single upper caste women was dedicated to the deity. However, knowledgeable elderly persons revealed that there were a few devadasis among other castes like Talawar, Gurev and Kurubar castes. But at present no devadasi is found among these castes. As ritual status of such women came down and functional relation with temple almost terminated, members belonging to other caste abandoned the practice but lower castes like ex-untouchables including Holers, Madars and samagars continued the practice. Among Samagar caste there is only one devadasi who is about 70 years old. Since then no new initiation has taken place in the caste. The whole devadasi population is concentrated among Holers and Madars only.

Except the initiation ceremony a majority of devadasis do not have any specific functional relation with the deity or temple. Only two devadasis render regular services like sweeping the temple complex, being present on morning worship and singing glory of Yellamma and going for joga every Tuesday and Friday. Other devadasis who live in the village proper visit the temple once a week and render services just symbolically in the temple. Once or twice in a year they go for joga visiting only 5 houses. But they also strictly follow restrictions like observing fast on events like any death in their community taking food in presence of lamp, and so on. Other devadasis who live in urban brothels expressed their inability to follow all such

restrictions as their profession hardly permits them. But such members visit temples on special occasions like newmoonday, annual festivals and offer costly gifts to temples. They usually present costly saris, silver ornaments, big brass bells, colourful umbrellas, and even electric tube lights, coloured electric bulbs in strings, microphone sets, tape-recorders etc.. On such occasions they also feed the local devadasis.

A few years back open mass initiation ceremonies were held in Saunadatti Yellamma temple every new monday and during a month long annual festival. Due to extensive reporting by journalists this place became notorious for dedication ceremonies and nude worship. This led to an influx of curious non-devotees in large numbers. Some voluntary organisations pressurised the Government to curb the practice. The Police Department recently started posting anti-dedication squads to check such events. It is alleged that in spite of all these developments initiation ceremonies are being conducted secretly in houses of priests. Even priests themselves suggest devotees should arrange initiation ceremonies at other small Yellamma temples to avoid complications and risks. Hence recently a mushrooming of Yellamma temples has been seen in every village in the region. Moreover, conducting an initiation ceremony at local Yellamma temple costs less.

Recently rituals of initiation ceremonies have become considerably simpler and brief. Open mass initiation ceremonies have stopped and processions of newly dedicated devadasi are also abandoned. Nowadays all rituals of dedication require hardly an hour or two.

Upper caste rich men who are above 45 years of age consider deflowering a devadasi and maintaining permanent liaison with her as a matter of prestige. But recently patrons are reluctant to disclose their affair with devadasis. Still deflowering ceremonies are conducted by them and there is much competition among rich men to gain such opportunities. But they wish to carry on the whole affair secretly.

Recently devadasis have become more commercial; a majority of them wish to try their luck in urban brothels. Even devadasis in villages started inviting other clients on monetary consideration. Hence, a majority of patrons prefer to just deflower a devadasi soon after her puberty. At the maximum the relation continues further for a few months only. They contact her at her house secretly, preferably late at night. They don't accept water or food at her house since she is untouchable, but they chew betel leaves and supari (arecanuts) with her.

The emergence of a new trend is noticed pertaining to deflowering of a devadasi who is destined for urban brothels through agents or Gharwalis. For the purpose of deflowering, a client is fixed by the concerned agent or Gharwali. The girl before commencing prostitution, is deflowered by that client who pays a huge amount as 'Bhakshish' (tips) to the Gharwali or agent. A Gharwali of Yellampura village who operates at Kamtipur 14th Lane, Bombay, revealed

that such a client also bears all expenditure including the amount spent at the time of dedication ceremony also. She also revealed that there is a lot of demand for virgin girls in Bombay. Some sheths (merchants) extend advance money to Gharwalis for such arrangements. To attract clients and ensure frequent visits of regular clients, the Gharwali has to manage the introduction of new faces and 'fresh girls' in her den. This trade compulsion forces her to establish contacts with those areas where the cult is being practiced. They advance money through agents to those families where a beautiful girl is dedicated and not yet reached puberty. At a later stage they succeed in their plot in booking the parents of concerned girl and lure them to send their daughter with the Gharwalis. Usually retired prostitutes who settle in their native place assist both Gharwali and parents of a girl. They receive commission for that service.

The villagers consider devadasis who practise prostitution at urban areas as ritually inferior and profane than devadasis settled in the village proper, they rever a devadasi who develops 'Jat' or matted hair as most auspicious. Only devadasis who live in village proper are invited to assist them during special worship of Yellamma deity at their residence and offer them gifts.

A majority of devadasis under study preferred to migrate to urban areas to earn money by commercial prostitution at brothels than remaining in the village since the traditional form of their service does not provide them even subsistence. However a few devadasis expressed their willingness to settle in the village itself in case a single patron comes forward to provide bare necessities to their families.

At the conclusion of the present study the following findings may be listed as the summary of the foregoing discussion on the subject.

GENERAL FINDINGS

1. The evolution of devadasi cult can be traced to a period earlier than the entry of Aryans in India. This cult appears to be the relic of Dravidian matriarchal society. It exists today throughout India with regional variations. In the past devadasis were exploited by the dominant group of the period.
2. All 85 devadasis of the village under study were dedicated to Yellamma deity only. Dedication ceremonies were conducted at Saundatti, Kokatnur and local Yellamma temples.
3. All dedication were involuntary, i.e., no girl willingly offered herself to the deity. In fact, parents or guardians of the concerned girl took decision to dedicate her as a devadasi.

4. All dedication ceremonies were conducted when the concerned girl was at a tender age (pre-puberty).
5. The practice is prevalent among only three low caste communities i.e., Holer, Madar and Samagars. People belonging to these castes are also backward in every aspect (educationally, politically and economically).
6. Priests of the Yellamma temples are Lingayats an upper caste, economically, politically, numerically dominant group of the village.
7. The functional relation of devadasis of the village with the local Yellamma temple deity is very insignificant and only symbolic.

SPECIFIC FINDINGS

The following is the brief list of determinants of persistence and continuity of the cult. They do not operate independently but they exercise their influence cumulatively in continuing the system in spite of many change agents of modern society.

1. The oppressive patriarchal ideology of Hinduism.
2. Ethological susceptibility among members of low castes.
3. Superstitious religious beliefs: wrath and curse of Yellamma deity, sacred prostitution, religious vows, development of Jata, etc.,
4. Economic factors : acute poverty, landlessness, total dependence on dominant group, pauperisation due to famines etc.
5. Educational backwardness: illiteracy, general ignorance, and alienation of elites among scheduled castes.
6. Influence of agents of brothels, procurers, and local devadasis and gharwalis migrated to urban brothels, Lure of easy money and affluence derived from prostitution in urban centres.
7. Influence of old devadasis (Jogatis) who have the germs of the evil system. They influence innocent parents of girls by oracles and soothsaying. Childless devadasis adopt female children and dedicate them to the deity to have somebody to look after them in their old age.

8. Vested interests of upper caste and classes to gain accessibility to desirable women of lower castes to appease their extra marital sexual needs. Upper caste, rich people of the village encourage untouchables to practice the system.
9. Lack of awareness of the Karnataka Devadasi (Prohibition of Dedication) Act 1982 among the cult hit population.
10. Populistic rehabilitation policy of the Government of Karnataka. Fund grabbing attitude of voluntary organisations dealing with rehabilitation of devadasis.
11. Half-hearted enforcement of the Karnataka Devadasi (Prohibition of Dedication) Act 1982 by police authorities.
12. Lack of active cooperation of exploited devadasis to launch a militant social movement against all oppressions.

Following is the list of recommendation towards curbing the social evil of devadasi system. These recommendations are presented under two headings: i.e., Preventive-cum-Curative measures and diagnostic measures.

A. PREVENTIVE-CUM - CURATIVE MEASURES

1. The members belonging to low castes from which women are initiated as devadasis should be educated through a deliberate propaganda by using mass media, about the humiliating conditions of devadasis and prostitutes; AIDS and other venereal diseases from which they are likely to suffer and the way cruel anti-social elements may exploit them.
2. Frequent anti-dedication campaigns and rallies should be arranged in the area where the practice is popular. In such activities religious heads like Mathadhipati, Swamy, and priests should participate and declare that devadasi system has no religious sanction.
3. The Karnataka Devadasi (Prohibition of Dedication) Act 1982 should be made known to all the people in general and community leaders, various people's representatives at village, mandal and district level, and government officials at all levels, priests of the temple, law enforcing officials and other social workers of such areas where the practice is prevailing.
4. Legal action within the purview of the Karnataka Devadasi (Prohibition of Dedication) Act 1982 and Suppression of Immoral Traffic in women Act 1955 should be strictly enforced

against priests, women procurers and brothel agents, old devadasis, retired prostitutes living in village and Gharwalis who directly or indirectly support the system with vested interests. These elements are the important determinants of continuity of this evil practice.

5. In case of devadasis of younger age-group who were actually caught during the initiation ceremony or while engaged in prostitution should be dealt with sympathetically. They should be persuaded to get into state-homes, correctional centres or in rehabilitation centres.
6. The temple priests, and village level government officials like village accountant should be made responsible for all new initiations of girls as devadasis. They have to report immediately such events to the police.
7. It is necessary that rehabilitation and correctional centres be located in rural areas where the practice is prevalent with a high rate. These institutions should be voluntary organisation and managed by trained social workers. The Government should provide the necessary financial assistance. These centres should be periodically inspected by the Government.
8. Devadasi rehabilitation centres should further be transformed into small scale industrial units. For this purpose, financial aid from central agencies may be made available. This facilitates the economic viability of rehabilitation centres and development of individual skills of resident devadasis. This will certainly help them to earn a livelihood through respectable and gainful employment.
9. The children of devadasis are more prone to the devadasi system. Hence, they should be kept away from such environment from an early age. They should be provided education in residential schools.
10. The lengthy procedure of sanctioning incentives to marriages of devadasis may be simplified. But before solemnisation of marriage a thorough investigation should be conducted by a competent officer of the Social Welfare Department. After marriage periodical followup should be conducted. As far as possible, such marriages should be conducted with the assistance of local voluntary organisations. Members of these organisations may be made responsible in case of failure of such marriages.
11. Further the restriction that the suitor of devadasi should have a permanent source of income of not less than Rs. 500/- per month may be relaxed if he is a sincere, hard working, reliable person as revealed after proper investigation.

12. A special officer with the exclusive duty to enforce the Karnataka Devadasi (Prohibition of Dedication) Act, 1982 and to co-ordinate rehabilitative programmes by various voluntary organisations should be appointed with adequate staff and other infrastructure.

13. Since, very recently a positive case of AIDS (Acquired Immune Deficiency Syndrome) among devadasis of Belgaum district has been detected accidentally, it has become absolutely necessary to check up more rigorously such incidences. It is possible that there may be a few more undetected cases of AIDS among devadasis who have migrated to urban brothels from this area. Hence a thorough medical test of all devadasis of the district is to be conducted with assistance of medical experts specialized in the field. The victims of this deadly disease should be detected and segregated to avoid its further spread.

B. DIAGNOSTIC MEASURES

1. A study of public opinion concerning the devadasi system should be conducted both at micro and macro level.

2. Values and attitudes held by male members of the society who are responsible for continuation and exploitative customs related with women in general and scheduled caste women in particular should be studied.

3. An in depth analytical study may be conducted on the basis of the problem of exploitation of the weaker sections of the community, more specifically, scheduled caste women from legal, political and economic angles at different levels to provide a more comprehensive, realistic picture of the status of women.

4. Voluntary organisations which are active in correction and rehabilitation of devadasis, should have an exclusive research cell, consisting of trained research assistants and social workers, for conducting follow up studies of those who have been rehabilitated.

5. Both art forms - music and dance of devadasis are worth preserving as our heritage in art and folk music and folklore. Proper efforts should be made in this direction by experts in the field.

6. There is a long felt need to conduct a systematic survey covering the whole state of Karnataka to ascertain the exact population of devadasis in Karnataka. This will provide a database for future rehabilitation programmes.

Prostitution as a commercialised vice has existed in the world from time immemorial, though its institution has never been recognised by society as such. Prostitution has existed in some form or other as long as society has attempted to regulate and control sexual relationship through the institution of marriage and the family.

Even in most ancient times Greek and Roman history records the activity of prostitutes both overt and covert as well as the pseudo-religious practices which involved forms of prostitution. In India also the picture is not much different.

Prostitution brings in its trail not only the personal disorganisation of the person concerned, but it also affects the organisation of family life and the community at large.

The institution of marriage and its appendant code of morality evolved into social practice. When marriage becomes the rule, sex outside the matrimonial bonds came to be looked upon as sinful, immoral, illegal and socially unacceptable.

Definition

Prostitution has been defined by social scientists as "The practice of habitual or intermittent sexual union, more or less promiscuous, for mercenary inducement". It is characterised by three elements:

HISTORY OF PROSTITUTION

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men. The experience in India, as in other countries, has shown that prostitution is a problem which has to be tackled through the wider approach of social action. Raising the status of women in general and educating the community in particular, would have a definite bearing on the prevention of prostitution. The creation of a gender-equal society where women receive their fair share of human dignity would go a long way in eradicating this social problem.

PROFILE OF A PROSTITUTE OF TIRUPATTUR

- She is about 25 years of age, a Hindu belonging to Scheduled Caste.
- She is illiterate because she has never been to school.
- She is married to an agricultural labourer whose monthly income is about Rs. 150/- per month.
- Her husband is aware of what she is doing and in spite of this, her relationship with him continues.
- She took to prostitution because of economic hardship and is in this profession for more than one year.
- She gets about six customers a day considers her income of approximately Rs. 30/- to be quite good.
- Therefore she prefers to continue in this profession because in her estimation it offers her financial security.
- Since she has not used any contraceptives she has had to abort the unwanted pregnancies. She has contracted S.T.D.
- She wishes that one day she will have prosperity and a good home.

INDIAN HEALTH ORGANISATION

DEVADASI SYSTEM :

LINK BETWEEN RELIGIOUS

CULT AND SEXUAL EXPLOITATION

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On February 9th 1990 the auspicious day of Full Moon of 'Magha' in and around the Shrine of Yellamma temple in Belgaum Dist. an estimated 2000 girls were dedicated to Goddess 'Yellamma- Renuka'. This was going on openly in broad day-light despite the legal ban and the efforts taken by the State of Karnataka to prevent the dedications. This was the finding of the team of Indian Health Organisation, which has been championing the Devadasi-prevention campaign for last 8 years. As the local authorities at the temple & the police refused to accept IHO findings and also declined to take any steps in IHO complaints IHO had arranged a 'trap' by sending its two volunteers as a brothel owner and a girl to be dedicated to goddess in the 'Yellamma' temple at the time of rush hours on 9th February, 1990. And to the surprise of IHO team, the dedication ceremony was carried on in the temple itself by two priests. When this incidence was declared in public and complaint to that effect was lodged with the police the priests were arrested. The 'mock' ceremony thus established the 'dedication' ceremonies happening in the temple beyond doubt.

INTRODUCTION

DEVA is a generic term to represent the deities of heavenly paradise & DASI- is a woman who is in a willing servitude.

Thus etymologically a Devadasi is a servant of God. This simple word Devadasi is a label; which condemns nearly 5 to 10 thousand girls every year into a life of sexual servitude (concubinage) and subsequently into prostitution.

In Karnataka state there is a temple, the shrine of a goddess called YELLAMMA alias Renuka, where hundreds of girls are dedicated every year on a full-moon day in January/February. These dedicated girls form 15% of total women in prostitution in India. In the border districts of Maharashtra and Karnataka states their percentage in prostitution is nearing 80%. The striking fact is that all of them had entered prostitution in an extremely organised form to the extent that at a later stage the girls to be brought to prostitution would first be made devadasi and this would then legitimise her entry into prostitution with the support of the 'religion'.

The I.H.O. teams have been going regularly to Saudatti Dist. Belgaum on the Full Moon days of Magha for last 8 years and some visits are paid in between the annual fairs. These include the health camps for Devadasis, intensive surveys recording of all the observations, shooting the events on video meeting the concerned people and organisations & arranging public meetings to prevent the system. Our efforts in this field has created a lot of awareness in the country. Questions were raised in the State Legislative assemblies of both the affected states and the Parliament Workshop was organised at Kolhapur in March 1989 to discuss the Devadasi system and it's prevention which was attended by representatives of nearly 35 organisations from Maharashtra and Karnataka states. Issue was also raised at the United Nation Women's Decade Conference held at Nairobi, Kenya in 1985.

ANALYSIS OF THE PROBLEM

1. GENERAL

A) Mythological Explanations

Goddess Renuka the wife of sage Jamdagni was a chaste woman and one day when she went to river to bring water for ablution, she saw a couple bathing and for the first time she had sensuous feelings for another male. At this the clay pot burst and Jamdagni who was in 'Samadhi' realised the adulterous feelings in his wife's mind. In his anger he had asked their son Parshuram to 'behead' Renuka. Parshuram unhesitatingly obeyed his father. Pleased with him Jamdagni asked his son to demand any boon. Parshuram promptly asked that his mother be revived.

Around that time a Harijan woman 'Yellamma' happened to walk past, she was beheaded and her head was replaced on Renuka's corpse and she arose as "Renuka-Yellamma". This is probably why Yellamma is a goddess largely worshipped by Harijans and most devadasis are Harijans too.

B) Feudal Land Owning Systems

It has to be acknowledged that myth and traditions often are the superstructures of the 'will' of the feudal class and has also extended to sexual exploitation, the central instrument in this modality of sexual control has been violence of its threat. It is our speculation that the Devadasi system is a historical transform of violence. We feel that in order to diffuse the possible threat from the oppressed classes in revolt, the land lords conspired with the priestly class who with their ideologic hold over the peasants and their cultivated craftiness invented a system which acquired religious sanction. Thus a system of concubinage evolved safeguarding the interests and needs of the landlords at the same time ensuring that the reactionary potential of the peasants was amputated with the knife of religious fervour and faith. With the high emphasis on industrialisation and urbanisation the original system of concubinage has been appended to organised urban prostitution.

2. SOCIO-ECONOMIC

Social backwardness seems to be the most closely linked factor to both devadasis and prostitutes. Over 95% of the girls dedicated are from Harijan communities like mahar, Mang. Dowari, Chamhar etc. Low-income status of the families dedicating the girls is another factor. After the dedications and puberty the girls are sold at private auctions to a master who initially pays a sum of money to the family (between Rs. 500 to 5000). The family often also receives on-going financial gains through 'the girl's' earning in prostitution. In addition money required for up bringing, marriage and future care is also saved.

The relatively low educational status has added to the complexity of the situation thereby maintaining the superstitions. An approach concerned with specific educational projects, related to health myths & misconceptions, evolution of clear ideas etc. would thus also be a most appropriate, logical & effective solution to this age old problem.

The absence of leadership in the community, has also slowed down the process of working towards the solution. In absence of a leader they have failed to organise themselves and prevent further exploitation. There has not been any intense persistent effort from "within" to act against the exploitation and therefore the internal as well as external supports have failed.

3. SUPERSTITIONS

Superstitions of different kinds act as divine signals demanding dedication and seem to be the most striking "operating factor" in this system. The superstitions are usually linked to health i.e. presence of matting of hair, white patch, eczema, leprosy, mental retardation and any

other illness. Some dedicate girls as a prayer for a variety of personal gains i.e. begetting a son, to ward of personal disaster etc., sacrificing a whole human life to achieve some temporary gain, thus seems to be their belief.

Most of the times a particular lady goes in a trance and points out at a girl, or shouts a name of a girl, or demands a specific girl; which is perceived as a call from Goddess Yellamma and subsequently that girl is dedicated and married to the Goddess.

4. LACK OF MEDICAL FACILITIES

The absence of an effective health care system has also played a major role in maintaining the system. Because of this people expectantly turn to supernatural forces for healing and cure. This has further created some myths and misconceptions leading to looking for a remedy in the process of dedication to Goddess etc.

In addition to this there is no structure for providing health education and correct medical knowledge that would eliminate the myths and misconceptions. The problem is further complicated by the wrong guidance by local people i.e. matting of hair further complicated by putting of oil and turmeric powder into it.

5. FAMILY TRADITIONS

The word tradition conveys to us the phenomenon of continuity. From the initiation of the system centuries ago, generations after generations have blindly followed the system despite the striking changes in the environmental conditions. The commonness of it, in almost all backward communities, has worked as a major influencing factor in the maintenance of the tradition. At the family level, the concept of duty towards dedication, seems to be operating strongly. Dedicating the eldest daughter or atleast one daughter per family seems to be a common occurrence.

6. URBAN PROSTITUTION

Technically speaking any operating system functions continuously only if it is rewarded frequently. In the devdasi system, the earnings through prostitution seems to be the most important and infact the only rewarding factor. The specificity of the situation plus the religious sanction attached to it, makes the entry of a dedicated girl into prostitution quite justifiable and thus providing an excellent opportunity for organised prostitution. The two important factors that maintain the flow of dedicated girls from rural areas to urban redlight areas are; anonymity provided by a foreign territory (urban area away from native places) and better earnings.

7. PUBERTY AND AUCTION

As the girls are dedicated to the Goddess during their childhood, they are taken back home after the ritual. A sale auction is arranged, when the girl attains puberty. The highest bidder present at auction gets the first chance to touch the girl and he becomes her first master. This ceremony is named as touching ceremony.

SOME DEMOGRAPHIC MARKERS

1. Total number of Devadasis interviewed over a period of 7 years - 780.
2. Age group : 48% women belong to 20 to 30 group. 14 % below 20 age. Age group at dedication : 88% girls dedicated before 10 years age (Range 2 years to 25 years).
3. Estimated dedications each year - above 10,000 about 5000 on full moon day coinciding Jan/Feb. and rest all around year on full moons.
4. Percentage of Devadasis in Prostitutes -Bombay - 15 %
Delhi, Nagpur, Hyderabad - 10%
Pune - 50 %
Urban areas in bordering districts of Maharashtra and Karnataka States- 70 - 80 %
5. Education : more than 95 % - Nil
6. Knowledge about Sexually Transmitted Diseases & Family planning : None.
7. Knowledge about AIDS - Little, because of reduction in clientele
8. Income : Average Rs. 300 (U.S.\$ 20) per month (share of the girl).

The income of these women is shared by the brothel owners, financiers, pimps and the police, the women getting only 20% of their income.

1. Average 10-12 girls stay in one room of 10'x10' size.

* Most of them eat from filthy cafeterias / vendors.

* Necessary commodities in these areas are sold at double costs.

* Most of the young girls are forced to consume alcohol and drugs.

* Most of the medical practitioners in red-light areas are quacks.

Positions for a future of Change

Devadasi system is a blot on humanity. It must be abolished completely within the shortest possible span of time. No religion or religious sentiments should be permitted to exploit humanity. The persons involved in such heinous crimes should be publicly humiliated, legally tried and thus discouraged from perpetuating the system. We at the Indian Health Organisation, have following recommendations :

1. **Education of Children :** Top priority should be given to the education of the children of Devadasis and the families following this system. Government should extend the facility of free education to these children as is given to the children of Backward class communities. IHO is planning to start a residential school for their children.

2. **Child Sponsorship :** Child sponsorship through programmes like "child to child" schemes should be arranged for the children from the age of 1 month.

3. **Education Awareness :** Education based on scientific knowledge, clearing the myths and misconceptions amongst the Devadasis and the families following this system, should be carried on in the devadasi affected areas.

The new development of a type that elder devadasis now seem to criticize the system and prefer to discontinue it, would have a specific impact on the traditional behaviour. An infrastructure that would give these elder devadasis leadership in propagating the message of discontinuance would be an important regulating factor if used effectively.

4. **Health Care :** Proper health care can reduce the medical sufferings, which are the indications for dedication. Thus exploitation can be reduced greatly by countering the religious superstitions and blind hope. AIDS threat can be used effectively to prevent the dedications.

5. **Legislation and Implementation of Laws :** Necessary legislation should be passed to check the pernicious system and the law should be strictly implemented. Person or persons involved in the dedication ceremonies should be compounded with the charge of abetment of "Rape"

6. **Resocialisation :** Society should accept those girls who wish to give up the system as well prostitution. They should be given vocational training aiming at their economic independence. Private and public concerns should provide them employment on priority.

Our Philosophy, our religion and 'Vedas' praise women and their valuable contribution. But when you reach the weaker section of women, you witness a practice of exploitation in the name of a religion or culture. It has gone to the extent of making women a commodity for sale or sexual gratification, for the 'power' group.

At least a prostitute has a better life, compared to the conditions in which the women who are cursed by the evil practice like basavi, jogini, gana, and 'venkatasenis'. I seek the attention of all the humanists, social activists and social justice concerned organisation so we can share the women's agony and strengthen our efforts in extending a more effective helping hand enabling them to liberate themselves from the 'evil curse'.

During the year 1984-85, with the co-operation and support of the Joint Women's Programme, New Delhi, we began to study the problems of 'basavis' living in Adoni, Kurnool district, Andhra Pradesh. In our study, we identified 200 Basavi women in Adoni town itself. Among them 53 women were in the age group 19-22. Around 47 women were in the age group 23-30. Our study team also identified 3 girls who were under age. We also realised from this study that all these 200 women belong to a scheduled caste. Through our intensified and one year in depth study, we came out with a study report called "The agony and the thinking" in Telugu and the Joint Women's Programme, New Delhi published the English version called 'Basavi Cult'.

Whilst our study team was engaged in

WOMAN AND CHILDREN'S

EXPLOITATIONS

UNDER CULTURAL PRACTICES

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Last year on 8th March, the International Women's Day Delhi Police attacked two women among other men demonstrators in front of All India Radio, Parliament Street, New Delhi, who were demonstrating against Union Carbide (the culprit of Bhopal gas tragedy). The inquiry commission instituted against the police, exonerated the police and blamed women for attacking police. None of us who were witness to it were called. Instead of protecting the citizens, the police have turned predators.

This year 7 days after the International Women's day on 15th March at 8 p.m. 112 "youngsters" were arrested in a dramatic raid from G.B. Road on orders of DCP Amod Kanth. The Juvenile Justice Board was angry and embarrassed by the controversial raid and it had reasons to be. 85 percent of the people who were arrested were above the age of 20. A male under 16 and a female under 18 years constitute a juvenile. Most of them were men and women and not boys and girls. The remaining who were juveniles were looked after well and were enrolled in schools.

Working in the area of oppression of women for long, we from Society for Promotion and Reorganisation of Self Help (SPARSH) thought we must visit the prostitutes and inquire about the incident and its aftermath. While we spoke to one of the former office bearers of their union at length, we also met a group of around 53 brothel incharges. Our observations follow from our meeting the we had with them.

We are opposed to prostitution but we do not hold anything against the prostitutes.

OPEN BODY CLOSED OPTIONS

Indu Prakash Singh and Renuka

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It is not a commentary on their character. Who says they are of low character? Not we, law and the men who frequent or visit prostitutes think so. No wonder, the Immoral Traffic (Prevention) Act, 1956, amended in 1986, makes a prostitute an offender through Sections 7 and 8. It is through section 5 that penalties have been outlined for pimps and rightly so but nowhere are the people who frequent and visit the prostitutes made as offenders. If pimps and procurers are abettors, the men who frequent and visit prostitutes are *perpetrators*-party to prostitution. Why should law leave the perpetrators amongst whom are police officials, politicians, businessmen, criminals, "respectable" men from elite sections and the laity? Could it be because these perpetrators, basically patriarchy, are the ones, who are creators of morality in our society - palbearers of 'culture' and 'civilization'. The very creators and preachers of morality have become the violators. They have double standards, as double faces (one public - the moral one, other private - the immoral one) and double lives (one with wife, the other with prostitutes, call girls, extra - marital affair etc.)

The Sewer Theory

They, the perpetrators, are the ones who favour continuation of prostitution rather than abolition of it. They defend it through *sewer theory* as argued by St. Augustine, "Rid society of prostitutes, and licentiousness will run riot throughout... prostitutes in a city are like a sewer in a palace. If you are rid of the sewer, the whole palace becomes filthy and foul".

The functional utility of prostitutes is underscored and the dysfunctional result of prostitution is ignored by the propounders of this theory. What they get in return from their *social scavenging is nothing but stigma, isolation, ridicule and a body open to all ages, ranks, castes, classes fixed in the demarcated areas, to be surrounded and thrown out, as it pleases with the help of section 20 of the Immoral Traffic (Prevention) Act.*

The Roots of Prostitution

It then becomes very clear that prostitutes are created. They have not come about all by themselves. If prostitution is a practice as old as civilisation then it follows that the makers of civilisation constructed the structure of prostitution. Why else was it then consecrated through practices like Devadasis (courtesans of god) and joginis which prevail till today? What a foundation for civilization - made on and through but not for women. On the one hand Goddesses were made consorts of Gods, on the other women (though of lower castes) were married to deities or some symbols. And these temple women once dedicated to Gods had only one mission in life, to be sexually available to all who come.

Devadasis and joginis constitute the reservoir which can be tapped in event of excess demand for prostitutes, which always is. From the precincts of temple to red light areas of

cities is a traumatic, tragic and agonising story of sexual exploitation. *Religious sanction to prostitution is one of the major reasons for its origin and existence.* For, it bestows a religious merit on its practitioners. *The Matsya Purana* which described the duties of devadasis at some length also prescribes that they were to serve all their clients equally - the brahmana of the temple, the king, and even a sudra. This vrata, 'when performed never leads the prostitute to sin' and further, 'she who follows this ordinance strictly goes to the region of Madhava and is honoured by the devas and in the end obtains a place in Vishnu - Lok', says the Purana. But beneath this religious veneer lay the economic interest. The foreign traveller Alberuni in the 11th century says that the kings deliberately encouraged this custom as the income derived from this trade went to the state treasury for maintenance of the army. In the 16th century Abdul Razak noted the same with regard to the Vijayanagar empire in Karnataka. The religious diktat and approval cannot in any way conceal the oppressiveness and expediency of this custom. Whatever the 'merits' followed its practice they were never looked upon as ideals to be emulated.

Idealisation and Stigmatisation: The death of Woman

A woman's fate in our society is entwined with sacrifices. While on the one end of continuum we have the woman who follows her Pativrata dharma like Sita, is loyal to the husband, and besides is 'pure' and 'chaste'. Such women are extolled to such great heights that in emulating the 'ideal' they cease to exist in their real lives. They restrain from debating, questioning their plight. Thus we hear of sati, brides fortitude in the face of dowry harassment - coolly tolerating it till she is done to death, Sita unquestioning her banishment except in the end when she refuses to go with Ram, women patiently taking all the beatings, affairs, and addictions of their husbands etc. On the other end of the continuum, we have women who are the opposite of 'ideal', the stigmatised women. Instead of leading a monogamous life they are the ones who are made to lead promiscuous life. Prostitutes figure here. Their sacrifices range from turning one's back on a 'respectable' life, catering to the lust of a man, to remaining eternally in the ghetto of prostitution without a way out, all for that 'respectable' sewer theory. *If idealisation is one end of the continuum its other end is stigmatisation.* Idealisation and stigmatisation then are the two sides of the same coin. In both the cases life eludes women.

The Causes of Prostitution

In a way it is the idealisation of chaste, loyal and monogamous woman which gives rise to its opposite. Any woman who fails to emulate the 'ideal' she is deemed to get stigmatised. This is one of the major causes of prostitution. Let us not forget it is mainly *situational compulsion* which engenders prostitutes. Of the many situational compulsions, two stand out: (a) *social reprobates* and (b) *economic paupers* - who take to prostitution because of poverty and this is quite common.

In the former, we have those women who have been socially disowned, like the widows, destitute and abandoned women, Muslim divorcees, victims of deceit and cheating who were promised with marriage or were married and the person on whom she reposed faith sells her to a pimp or a madam (incharge of a brothel). Also amongst social reprobates we have women who have been discarded by the families, parents, husbands after becoming a victim of rape. Only recently in Bombay, a father refused to take back his daughter after she was raped. Not that he was poor rather he was very rich. He did not want to take his daughter back because his honour and prestige would suffer. Since she lost her chastity, which was being guarded by her parents and got stigmatised she was declared 'open to all' thus she was left to go anywhere except her house. And this happens in most of the rape cases. With no where to go they land up in brothels, for no fault of theirs. Less said the better about the custodial rape, rape committed by one's father, brother, uncles and other relatives and sexual abuse of children.

Nymphomania: A Myth

Surprisingly people still maintain that women who are in prostitution, are there because they are nymphomaniacs. We do not think that it is a valid position in the circumstances that we have outlined. We are not ruling out this possibility but its probability is next to impossible. Prostitution is a serious and complex problem which cannot be explained simplistically as is done by many people. No body joins it just for the fun of it. For there is no fun in it. *Allowing every person to mutilate and violate your body, so many times in a day, round the year, year and year till one gets old is not a frivolous matter.* It is humiliating agonising, one is torn physically and mentally to such an extent that joining and knitting the threads and shreds of women's life anew is not only difficult but traumatically long and arduous.

After having been in prostitution for sometime if one stops feeling bad about it, or adjusts to it, no longer grumbles about it, it no way means that the person likes it or is interested in it or is nymphomaniac. It merely shows that compulsion to live and for that to eke out a living, neutralises all resistance and opposition to it which one puts forth when one initially was pushed into it. *And even if one starts liking it, it is not volitional, it remains compulsive.* For how long can you go on to do a thing which you do not like. Prostitutes have to go a long way before they call it a day. Situational compulsion and circumstances create at times an acceptance and liking but nonetheless it remains compulsive. As is the case with housewives. They do this work as they had no other options or were not allowed to work out because of various reasons, could be husband's distaste, birth of children etc. But if they start liking their housewife status it is not volitional. It is compulsive. Similarly to impute motives to prostitutes taking to prostitution, nymphomania being a dominant motive, is like seeing with closed eyes. We cannot and should not write about present with no reference to past. Also we should not decontextualise a phenomenon. Once we do this we are merely confining to the superficial and not concentrating on the basics and foundations.

We for the present purposes are concentrating on prostitutes and not call girls. Suffice it to say that call girl is a modern phenomenon which has elements of volition and at times compulsion too. It is not as much because of poverty as much as it is to maintain a level of affluence, meeting consumerist demands and parental pressures. It is scattered and not organised at one place as is the case with prostitution which operates through brothels. We do not mean to give less significance to the call girl phenomenon, it too is a grave problem, and widespread at the moment. It is only due to the urgency of time and space that we concentrate on prostitution.

The Prostitutes of Delhi

In the G.B. Road of Delhi where most of the brothels are situated, there are around 900 prostitutes. Earlier, before 1988 it was as much as 1,500. SHO Ram Krishan of Kamla Market Police Station told us that he has brought down the figures to 900. All new prostitutes are tracked down and sent to protective homes.

There broadly speaking two classes of prostitutes: (a) *Singing and dancing ones* and (b) *those involved just in flesh trade*. While the former too go in for prostitution, they are the ones who normally go for cabarets in hotels and serve as call girls too. They also cater to the clientele of M.P.'s and perform in social get-togethers of high police officials too. Their brothels are relatively cleaner though unhygienic, as compared to the latter. The condition prevailing in the latter case is very dirty and thoroughly unhygienic. They are also too crowded. The former is situated to the left of G.B. Road and the latter to the right, while entering from Dr. Zakir Hussain College side.

Children their education and innocent intimacy

On meeting one of the prostitutes from the former class in her brothel, who also was an ex-office bearer of the union, we were informed that most of the prostitutes children are enrolled in schools not only in Delhi but outside as well. Many of them are in hostels outside Delhi. They all are giving proper and good education to their children both girls and boys. We ourselves met some of them and they sounded excellent. In fact one of their children has become a doctor and does medical practice, is married and living outside G.B. Road. Some prostitutes though poor we were told were getting their daughters married so that they don't lead the life which their mothers have been forced to live. Some children have finished graduation and post-graduation. But most of these children find problems in getting jobs. Can't we help them on this front? Is anyone amongst us prepared to come forward and offer them jobs in our industries, business organisations etc.?

When the SHO asked them whether or not the police raid on their brothels for arresting juveniles was in their benefit, they all in one voice condemned it, they said they did not understand why the governments should usurp their right of caring for children? 'As such no one is there to look after us and taking them away it would mean they are snatching our hope for security'. They were very agitated over it. They said no one can snatch away their children from them and they will oppose it tooth and nail. After all in their commercialised and commoditised existence the only touch which is innocent, full of love and care, which they feel is their most prized treasure is their children. And should we allow the government to do so? They felt hurt that their children should be treated as an orphan when their mother is alive. Can we snatch motherhood from a prostitute? And after mothering, can and should the government intervene and take these children away from their mothers? Can we snatch the right of rearing of children from the parents just because they are criminals, prostitutes etc.? They say, 'why did not the government snatch away the children from drug addicts, drug traffickers, criminals etc. Government would not, and they cannot because they are too powerful to allow the government to do this'. They further said since 'we do not have anyone and we have no power, as one likes one can do anything to us'.

The Delhi Police Raid

The police raid in fact was not just adventurous, ill-conceived but arbitrary too. In fact one of the prostitutes was very disturbed over the police action. She said that, 'nobody in the school of our children knew that they were our children. We had gone about maintaining so much of secrecy but this one action of police has done a great damage to our children. Those days when the police raid took place they had their exams. And because of the raid they could not give their exams. Who is going to compensate the loss of a year in their education we paid so much fees, education is so expensive now a days, and we earn with great difficulty'.

We volunteered to take the names of their children and the school in order to meet the respective principals and ask them to take their exams now, so that a year of theirs is not wasted. Moreover she was also agitated over their faces being shown on T.V. They feared the video coverage of their demonstration would show them much to the detriment of their child's future. She told 'my son felt greatly humiliated when his college friends told him that they saw his mother on T.V. Why should we be treated like this?

On a suggestion from us that if an institutional support is given to them where they will be taught skills and they are allowed to keep their children with them, will they opt for it and quit prostitution. They answered in the negative. In fact they were too greatly upset by the police raid, to show any interest in our proposal. They said they also came from respectable families. 'We too have had good background', one of them said. She went to the extent of saying 'you have got powers to throw us anywhere, please throw us at any corner of the city you like

but do not take our children away from us. Can the government feed in the same manner as we do to our children? We give them lots of things to eat, can they give? Country is already facing so many problems let them first tackle it. Why on earth are they bothered about our well being?

Societal Ostracisation: relentless fear

Women who have come into prostitution after they have had no options have lost all the courage to come out of it. They find a security in it. But above all they fear to come out of it and face the society. They are very much concerned about society's adverse reaction against them. They know for sure that our society will not accept them hence they are resigned to their present state.

They don't want to come out of prostitution not because they like it, but because they have a tremendous fear of societal ostracisation. But what made us optimistic about the solution of this problem was, that one woman, who walked to us and said she is ready to stay in a protective home if her son is given a job after his education. She to us symbolises the suppressed voice of the prostitutes, who would give up this debasing work once they have economic security and societal acceptance.

The Vicious Cycle

The beautiful face of a seven years girl child hovers in our mind constantly. While we spoke to her mother, her maternal grandmother too was sitting. Her mother was telling that she will educate all her three children, two sons and this youngest daughter. She will let them do whatever they feel like.

Soon after she confided that her daughter likes singing a lot and hates studies. While accepting her mother's claim for her children's education, we feel that she (the girl) too might join prostitution when she grows up. After all her grandmother put her mother into prostitution. Would not this mother put her daughter too in prostitution. This is how this *vicious cycle* has been operating. For after all she has to survive when she gets old, it is through her daughter's earnings that she hopes to live. Should we allow this young girl to be pushed into prostitution in the year 1990, which is the SAARC year of the girl-child. Should we allow prostitution or should we abolish it?

Legalising Prostitution ?

There are many people and voluntary organisations who subscribe to the view that prostitution should be legalised in order to stop harassment of prostitutes by the police. We denounce such a view, for prostitution is a trade which is most demeaning, dehumanising and devastating.

Trading in and through one's body sets in a process of alienation from oneself, from one's being, from one's becoming, in short, from one's life. Alienation from oneself is such a debilitating, and depersonalising experience that it wrecks a person physically and psychologically. The resistance put forth by the prostitutes is not only merely ameliorating their condition but changing the very contours of their life stems from this alienation of theirs from themselves.

Steps for Solution

We advocate the abolition of prostitution, knowing fully well that it is an uphill task, but not impossible. *This problem has to be attacked socially, legally, economically and institutionally.* Dilating on the last firstly, sub-section 3 of Section 21, of the Act makes a provision for granting of a licence to establish and maintain a protective home for prostitutes to a person or an organisation. With the help of this section voluntary organisations can come together to establish a protective home for the prostitutes and their children. Herein they can teach certain skills and give them technical training. Can start an income-generation programme to make them earn some money. They can be paid some stipend during the training period. Voluntary organisations have to come forward as prostitutes have lost or have no faith in governmental institutions. Moreover, voluntary organisations have more credibility, aptitude, commitment and verve to work in such areas.

Secondly, the problem of prostitution has to be attacked on economic front too. Poverty alleviation and eradication programme should be followed and pursued in all earnestness. *As poverty is a major cause of prostitution its eradication becomes a necessity.* Besides, job security to the children of prostitutes should be provided. Thirdly, legal support to tackle the problem of prostitution is no less needed. It should be banned as was the custom of devadasi banned in 1921. Mere banning is not effective in its abolition, it should be implemented expeditiously and earnestly. Even the perpetrators (those who frequent and visit, i.e. the customers or clients) should be penalised by the Act. There is no reason to save them from the grip of this Act as they also are a party to prostitution. Besides, amendments should be made in Succession Act and the matrimonial property concept introduced so that the rights of women are not abridged.

Finally what was mentioned first but dealt with the last of all, the problem of prostitution needs to be tackled socially as well. Attitudinal changes are called for as social acceptance of prostitutes is most desired. Social climate has to be created wherein prostitutes can breathe the fresh air of friendship, sharing and cooperation with others. Marriages of their children will encourage them to be at home with the neighbours and society at large. *The stigma attached to it must go.* Society has to rise to condemn the rapists and not the rape-victims. The victims of rape should be accepted, for it is not their fault. It is like an accident, which can happen to any woman. What have the tiny toddlers of 2 years done that they are raped by all ages. Today

one's intimates even are turning aggressors and rapists. There should be severe punishment in such cases as well as in custodial rape cases. Moreover healthy social interaction between girls and boys, women and men has to be taught to people, young and old.

The nation cannot afford to close its eyes to this problem. Even if the nation can the people cannot and should not. It is our duty to extricate prostitutes from the marsh of prostitution. We have to just assist them, help themselves they will in overcoming this problem.

Unknowingly Radha stepped onto the threshold of youth. Appreciation and attractions got wings. Visions and thoughts outstepped the boundaries of the surrounding traditions. She desired a loving heart and she got one.

The young man in the opposite house looked handsome, well mannered, well informed and kind. She gave her heart to him. Together they ran away as caste barriers would not help them. Radha was taken to his friend's house, blind in love, she followed him without question.

Within a month she was sold to a brothel. As she had not experienced deceit and cheating earlier, it took quite a long time for her to know that she was cheated and she was caught in a cobweb. Neither could she get back to her parents nor could she bear the agony. Her life entered the endless darkened nights. Always men and money were at her feet. She was never in want of material things. But her conscience was rebelling. She was helpless. She was unable to get out into the world of freedom. In the lodging house where she visits, every night one young man observed her and understood her restlessness "I do not want this life please save me" she prayed to that young man.

Ajavva is just 6 years. It is the day of her wedding. She was decorated as a bride and she was made to sit in the arena of marriage ritual. But by her side there was no bridegroom. Ajavva was dedicated to goddess Yellamma. Parents and village elders

PROSTITUTES & THEIR CHILDREN

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Thus it is obvious that these women and their children are facing lot of medical disadvantages. All this is reflected in their mental and physical health. It is absolutely necessary that the government takes some steps to help them, not only socially but also medically. Until we are able to have some solution to this social malady, we must not fail to provide, at least, medical assistance to this segment of our 'own' society. Let us not forget that they are our own people. Health education may definitely help them.

Finally, I am of the opinion that as responsible citizens, it is our collective responsibility to provide all type of help to this socially deprived class of our citizens. In this process, if any law is required, then that should be enacted and any impediment may be promptly withdrawn/nullified. Social Welfare Board can do a significant amount of work in this direction. A specialized advisory body, comprising of experts with the knowledge of the various aspects of this problem, may definitely be of immense help in this direction.

Today in the Vigilance Home at Madras, there are about 25 prostitutes who have been identified as HIV-positive. Many of them have completed their periods of sentence under the Immoral Traffic (Prevention) Act 1956, some as long as three years. But they continue to be held on the grounds that they are infected with the HIV virus, though none of them have shown any symptoms of the disease itself.

This throws open several vital questions. It is true that while prostitutes constitute a 'high-risk group along with professional blood donors, intravenous drug users and homosexuals as far as HIV/AIDS is concerned. It is also true that while prostitutes refers mainly to women, the other three categories are primarily male. In the event, measures to contain the spread of HIV should be made uniformly, if covering all 'high risk' categories of people, to avoid discrimination of women alone. Besides, the term 'high-risk' group itself has been questioned and been modified to the more comprehensive high risk behaviour categories. The simplest imagination will concede that this does not belong to prostitutes alone. To start with, the male clients are very much a part of this category. As things stand however women alone are being held responsible for the spread of the virus. This view has been given sanction as much in official circles as in the media and has unfortunately, been responsible for distorting the truth about the virus and its spread.

Given this misconception, it is only a step away to legally sanction what is now illegal. Detention after the expiry of a sentence period is nowhere allowed under the Indian

PROSTITUTION AND AIDS

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Penal Code, no matter what the circumstances. The only way to legally hold people back after they have served their sentence periods is to take the case up again in a court of law. Therefore to hold prostitutes back, even if they are carriers of the HIV virus, is illegal. What I would like to discuss in this forum, is whether it is necessary at all?

On the face of it, the answer seems an unequivocal yes. Here are some women known to be infected with a virus that leads to a fatal weakening of the body's immune systems. They are also in a position to be able to spread the virus through sexual contact, which, as has been proved, is one of the major ways of spread. Morals, laws and sentiment apart, the question really is 'how can one contain the spread of HIV?' Does detention of prostitutes known to be carriers of the virus help?

Take a look at some statistics. It is estimated that in Madras city alone, there is a probable prostitute population of between 20,000 to 25,000. About 15% - 20% of this figure is a floating population of women seasonally thus employed while holding down respectable jobs in nearby towns. Another 10% - 15% of the women operate on their own and don't belong to any organised system or owe affiliation to any particular brothel or pimps. This makes it difficult to at all trace close to 40% of the prostitutes. Prostitution due to its very nature, and more so, due to its illegality is an underground profession, with multiple links to the criminal world. This makes it virtually impossible to identify and arrest either the prostitutes or more importantly the suppliers and traffickers in this trade. Though the Immoral Traffic (Prevention) Act 1956 is specifically directed against those seeking traffic and commerce of females it is inevitably the women themselves who are victimised. For every 100 prostitutes arrested and convicted, only two or three pimps or brothel owners are held. Even where prostitutes are concerned, there are only a maximum of 250 or so women held at the Madras Vigilance Home at any given time. About one present of the 99% who are free to operate, a fair number of prostitute may already be infected with the virus. More importantly there is already a large population of male clients who must be infected by now and who are unknowingly spreading the infection to other prostitutes as well as their own families.

According to reliable sources, there is at least one case of seropositivity that shows up at the Madras General Hospital everyday. And in many cases, these are men. They could have been infected either through a prostitute, through an infected needle or an infected blood product. And in every case, they are certain to spread the infection further. Do we then detain them all? Because leaving even a handful free is to spread it all over again to tens of thousands. After all, it started with only a handful of prostitutes and their clients, foreign or otherwise. That source is no longer important. It is enough to realise that detention in any scale and at any level is not an answer.

A CRITICAL ANALYSIS OF EXISTING LAW RELATING TO DELINQUENCY

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The concept of juvenile delinquency is distinguished from adult criminality not merely in terms of age and specific categories of children dealt with through the law. The perception of the problem varies in space and time in keeping with changes in the socio-cultural and economic milieu of a country. In fact, a priority concern towards the welfare of children as a vital asset for human resource development brings within the meaning of juvenile delinquency even such behavioural patterns as would not be termed as deviant when manifested by adults. It is widely observed that juvenile delinquency is, more often than not, the culmination of certain maladjusting experiences that the child had to pass through. In most of the cases, social deviance among children is found to have been preceded by various phases of abandonment, destitution, neglect, truancy, vagrancy, abuse or exploitation. This aspect, however, does not establish that poverty *per se* is a cause of the problem. Children of the poor do not necessarily commit crime nor those of the rich are always law-abiding. But the fact remains that poverty does deprive a chunk of child population of an equitable sharing of socio-cultural and economic opportunities for growth and development. These children are rendered vulnerable to social maladjustment and their eventual induction into criminogenic culture. It, therefore, becomes imperative that the system to prevent and control delinquency caters to the entire range of problems that children are confronted with. Obviously, such a strategy has to be built within the framework of social justice for all children, which not only promotes and safeguards their general well-being, but also protects the rights they are entitled to by law, authority and custom.

The Indian society is characterised by wide variations in socio-cultural and economic conditions. The social structure is woven around the family, the community and the culture. These institutions have traditionally been providing a protective umbrella and security to children in situations of distress, calamity or crisis. But there is, now, a definite change discernible in the pattern of family and community life, especially in the wake of socio-economic transition that the country has been undergoing. The process of change has accelerated with ideological and technological developments of the modern age. While the joint family system is yielding in favour of the nuclear family, an individual's life is being influenced more by economic interests than familial ties. Indeed, an unprecedented pace of industrialisation and consequential urbanisation has been a major factor in the transformation of the social milieu that the children are growing in. The accent on economic growth has led to various far-reaching changes in population structure, social mobility and communication. A large number of people are migrating from rural areas to urban centres, mainly in search of gainful vocations and betterment of living standards. Most of these poor migrants, have to struggle for sheer survival, in a situation of social marginality. This trend is often associated with a total disruption of their family and community ties, in which women and children are the worst victim.

In a traditional society like that of ours, where much of the problem is still largely pulled back of the informal social control mechanism, it is difficult to make an accurate assessment of the incidence and magnitude of juvenile delinquency. Most of the research studies have analysed the problem primarily as an urban phenomenon; its rural dimension remains generally unknown. However, a closer look at the delinquency patterns over the years brings to the fore some interesting features. While most of these children are victims of situational compulsions, there appears to exist a similarity in motivation, rationality and gravity of acts between delinquents from upper strata and the marginal age-group of 16 to 21 years and their adult counterparts. In the higher age groups, the rate of juvenile delinquency appears to keep pace with that of adult criminality, with most of these children emulating adult role models. Sometimes as members of the heterogeneous gangs, even indulging in crime involving violence, sex and moral turpitude. With rapid changes in socio-economic life, accompanied by a growing affluence, in unprecedented stress on materialistic culture, and a rapid increase in social mobility and the resultant weakening of the traditional means of social control, such forms of juvenile delinquency are bound to assume a serious trend in the years to come. This in turn, is likely to further centralise the authority for the management of socially deviant children in the hands of the state.

The role of the state in this sphere emanates from the Constitutional and legal provisions, as spelt out in various political, administrative and executive decisions. In this connection, the enactment of the Juvenile Justice Act, 1986 has paved the way for the development of an enlightened system for the prevention and control of juvenile delinquency, within the

overall framework of social welfare. The Act envisages a comprehensive scheme for the care, protection, treatment, development and rehabilitation of neglected or delinquent juveniles and for the adjudication of certain matters relating to, and disposition of, delinquent juveniles. The main objectives of the Act are :

- i) to lay down a uniform legal framework for juvenile justice in the country so as to ensure that no child under any circumstance is lodged in jail or police lock-up. This is being ensured by establishing Juvenile Welfare Boards and Juvenile Courts;
- ii) to provide for a specialised approach towards the prevention and treatment of juvenile delinquency in its full range, in keeping with the developmental needs of the child found in any situation of social maladjustment;
- iii) to spell out the machinery and infrastructure required for the care, protection, treatment, development and rehabilitation of various categories of children coming within the purview of the juvenile justice system. This is proposed to be achieved by establishing observation homes, juvenile homes for neglected juveniles and special homes for delinquent juveniles;
- (iv) to establish norms and standards for the administration of juvenile justice in terms of investigation and prosecution, adjudication and disposition, and care, treatment and rehabilitation;
- (v) to develop appropriate linkages and coordination between the formal system of juvenile justice and voluntary agencies engaged in the welfare of neglected or socially maladjusted children and to specifically define the areas of their responsibilities and roles;
- (vi) to constitute special offences in relation to juveniles and provide for punishments therefor; and
- (vii) to bring the operation of the juvenile justice system in the country in conformity with the United Nations Standard Minimum Rules for the Administration of Juvenile Justice.

With its enforcement on 2 October 1987, the Juvenile Justice Act, 1986, has replaced the earlier mechanisms for dealing with children in conflict with law under the Children Acts in various States and Union Territories. The Act propounds a new concept of juvenile justice within the true meaning of social justice as enshrined in the Constitution of India. It symbolises a response to the changing socio-cultural and economic conditions that affect juveniles in terms of their basic human rights to live and mature as wholesome individuals. Besides a thorough restructuring of the juvenile correctional system, the Act contemplates a vigorous use of the

inherent potentials of the family and the community to deal with the problem of erring juveniles within the mainstream of social life. The enunciated approach is based on an individualised recovery, reduction and rehabilitation of socially maladjusted juveniles as an essential means of their reintegration into the society. The new system undoubtedly places an onerous responsibility on the State to mobilise all possible resources of the family, the community and social organisations in tackling the problem of juvenile social maladjustment in its full range and on the basis of its growth continue.

The progressive features of the Juvenile Justice Act, 1986, as compared to the provisions of the erstwhile Children Acts, are summarised below:

- i) The definition of 'neglected juvenile' has been construed more precisely so as to ensure that only juveniles who are likely to be abused, exploited and inducted into criminogenic life and are in need of legal support to be weaned away from such situations are processed through the law.
- ii) A neglected child may be brought before the competent authority not only by a police officer but also by any other person or organisation authorised for the purpose. This provision should enable social workers and voluntary welfare organisations to increasingly accept the responsibility of the referral of neglected juveniles to appropriate care.
- iii) Apart from prohibiting the confinement of the juvenile in a police lock-up or jail, his contact with the police has been reduced to the minimum. During the pendency of the case before the competent authority a provision has been made for the placement of the juvenile with any person or voluntary institution as considered fit.
- iv) It is now specifically provided that an inquiry regarding a juvenile under this Act shall be held expeditiously and shall ordinarily be completed within a period of three months from the date of its commencement, unless, for special reasons to be recorded in writing, the competent authority otherwise directs.
- v) The Act provides for a differential approach in the processing of the neglected juvenile vis-a-vis the delinquent. While neglected children would be produced before the Juvenile Welfare Board, the delinquents are to be dealt with by the Juvenile Court. No person will be appointed as a member of the Board or a magistrate in the Juvenile Court unless he or she has special knowledge of child psychology and child welfare.
- vi) The Juvenile Welfare Board and the Juvenile Court have been empowered for the

transferability of cases brought before them on the basis of the necessary screening. An important feature relates to the classification and separation of delinquent juveniles on the basis of their age and nature of offences committed by them.

- vii) Among the various circumstances to be taken into consideration in making an order under the Act, the state of physical and mental health of the juvenile and his welfare interests have to be ascertained as an additional requirement.
- viii) The Act lays down a wide range of dispositional alternatives open to the competent authority, with preference to family/community-based placement. The neglected juvenile will be sent to a juvenile home only if his care with a parent, guardian or fit person/institution is not found conducive. For juvenile delinquent also, institutional care will be resorted to as the last measure, only if his restoration to parent, release after advice/admonition, placement on probation, care under fit person/fit institution or discharge on fine is not considered appropriate.
- ix) Even when the juvenile is sent to a juvenile home or a special home, there is a definite provision for his conditional discharge or transfer to a fit person or a fit institution. This approach would provide for a considerable amount of flexibility in the treatment of the juvenile in keeping with his behavioural development and responsiveness to therapeutic services.
- x) Observation homes are contemplated for the temporary reception of juveniles during the pendency of an enquiry when their placement with parents, guardians, or places of safety has not been feasible. Any institution other than an observation home established or maintained by the government may be recognised as an observation home. Every observation home is required not only to provide for the juvenile, facilities for accommodation, maintenance, medical examination and treatment but also for useful occupation.
- xi) for neglected juveniles in need of institutional treatment, juvenile homes are required to be established or maintained by the government or voluntary institutions to be certified as such. Such juveniles homes not only provide for the juvenile, facilities for accommodation, maintenance, education, vocational training and rehabilitation but would also ensure the development of his character and abilities as well as necessary training for protecting himself against moral danger or exploitation.
- xii) Similarly, for delinquent juveniles, special homes are required to be set up or voluntary institutions certified as such. Special homes have to offer suitable

facilities for accommodation, maintenance, education, vocational training and rehabilitation as well as for the development of their character and ability and reformatory training, so as to ensure an all-rounded growth and development of their individual personality.

- xiii) The Act contains a comprehensive provision regarding the establishment or recognition of aftercare organisations for taking care of juveniles discharged from juvenile homes or special homes and for the purpose of enabling them to lead an honest, industrious and useful life. Specific rules are to be formulated for the relevant scheme as also for the nature and standards of organisations.
- xiv) Offences in respect of juveniles have been redefined in keeping with the newly-emerging problems faced by them, with more stringent penalties than laid hitherto. For instance, employment of juveniles for begging is liable to be punished by imprisonment for a term which may extend to three years alongwith fine as also for giving intoxicating liquor or narcotic drugs or psychotropic substances to juveniles or for the exploitation of juvenile employees.
- xv) More significantly, a new provision has been made to the effect that where an act or omission constitutes an offence punishable under this Act, and also under any other Central and State Act, then, notwithstanding anything contained in any law for the time being in force, the offender found guilty of such offence shall be liable to punishment only under such Act as provides for punishment which is greater in degree.
- xvi) Consequent upon the enactment of the Narcotic Drugs and Psychotropic Substances Act, 1985, providing, *inter alia*, for the establishment and notification of treatment centres of drug addicts, a provision has been made for the transfer of juveniles addicted to drugs to such treatment centres, as is the case of juveniles of unsound mind and those suffering from leprosy.
- xvii) A new provision has been incorporated for the creation of a fund to be exclusively utilised for the welfare and rehabilitation of juveniles dealt with under this Act. Such a fund may be raised from voluntary donations, contributions or subscriptions made by individuals or organisations. This surely opens up a definite avenue of generating public support and participation in building up an effective system of juvenile justice.
- xviii) The Act requires the State Governments to constitute advisory boards to advise on matters relating to the establishment and maintenance of homes, mobilisation

of resources, provision of facilities for education, training and rehabilitation of neglected and delinquent juveniles and coordination among various official and non-official agencies concerned. At the institutional level, non-official visitors are required to be appointed for each home. These provisions seek to enlist an enlightened public opinion and to make an optimum use of various sectors of socio-economic welfare in the development of the juvenile justice system.

Experience has abundantly shown that community-based programmes for the prevention and control of juvenile delinquency are much more advantageous than institutional care under the framework of law. Non institutional modes and modalities of corrective action are certainly more profitable, both economically and socially, in ensuring an optimum use of the scarce resources available in the country. These are less expensive in terms of per capita expenditure as against the cost of institutionalisation. The children thus handled are considerably saved from the stigma of incarceration and their possible contamination by the hardened ones. When treated in the community, they are not only spared of the adverse effects of institutional confinement but are also more likely to grow and develop as wholesome individuals. A child treated through community-based correction is certainly at a much greater stake for social conformity than the one subjected to penal detention and labelled as a delinquent. It is, therefore, being increasingly realised that both in the interest of the society and that of the child are served best when he is dealt with without being alienated from his natural environment of parental love and emotional support. In this regard, while emphasising the role of the family, the school and the neighbourhood, a purposeful blending of the formal system with the collective initiatives of the people themselves is being articulated at various national forums.

What is most needed is the development of an integrated approach towards the prevention and treatment of juvenile delinquency, on the basis of a comprehensive planning as part of the process of social development, with full policy options ranging from the management of a maladjusted juvenile within the family to the institutional treatment of the hardened and the habitual, being readily available. In this respect, while institutional programme may have to be appropriately rationalised to concentrate on children and youngsters who could not be treated within the community, non institutional alternatives also need to be placed on a sound footing so as to establish their credentials to function, if not more, atleast as efficiently as institutional treatment. There is no denying the fact that as long as social justice does not reach all children in need of care and protection, and conditions in the community do not improve to ensure for every one an equal opportunity to fulfil his talent, institutional care may have to serve as the main recourse. Such a situation would inevitably call for a purposeful linkage of institutional devices with community-based approaches, of professional services with voluntary welfare efforts, and of state interventions with the self-help endeavours of the public at large.

Undoubtedly, the Juvenile Justice Act, 1986, represents a blue-print for a qualitative improvement in child care services, in conformity with the principles, of a fair equitable and just treatment of neglected or delinquent juveniles. The new law implies a thorough restructuring of the traditional system and the creation of additional infrastructure in consonance with certain minimum standards. The enforcement of the Act has already set a drive in motion for a vigorous use of all possible human and material resources both in the public and voluntary sectors. Accordingly, apart from earmarking sufficient funds for juvenile services under the Central and State Plans, appropriate linkages are being established between the formal system and the community based welfare agencies. With a view to bridling the gap between the cherished principles and actual practices, the Government of India is implementing a comprehensive scheme for the prevention and control of juvenile social mal-adjustment. The scheme aims at extending the coverage of the juvenile justice system in all the districts not only by upgrading the level of existing services but also by purposefully drawing upon the welfare resources in other sectors of socio-economic development. In providing for a differential approach towards neglected vis-a-vis delinquent juveniles, the scheme intends to enhance the role of the family, the school and the public at large. It, however, needs to be remembered that no formal system by itself can undo the aberrations of the larger social system; it can only contribute towards that end.

India is a signatory to the International Convention dealing with immoral traffic in women and girls, 1950. It is believed that the British had a law relating to prostitution because of their concern for the health of their soldiers. The interests of the British were prompted by the public health and law and order aspects of the problem.

It appears that the remedial measures of suppression and regulation, through licensing for instance, which ensued were motivated by the urgent need to safeguard public health against venereal diseases. If those measures resulted in any good to the prostitute it was only incidental. The problem was investigated and interpreted mainly in terms of the morbidity of the prostitute's life and the malignant effect of prostitution in society. Importantly, while the prostitute became the central figure in explaining the problem, the protection was envisaged for her customers against the evils of prostitution, no doubt in the larger interest of society. In effect, the prostitution was looked upon more as a cause than as an effect of the uncongenial conditions in society.

It appears that the Government of India in its report to the League of Nations in 1933 described its general policy towards prostitution and like questions as one of abolition. It is not immediately evident how this was translated into action, unless by abolition it was meant that the overt recognition accorded to prostitution by regulation and licensing was no longer the policy.

The States have, through the years, had legislations dealing with prostitution, and they have generally covered common ground.

CRITICAL ANALYSIS OF EXISTING LAWS RELATING TO PROSTITUTES

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Some of the features characterising these legislations are the following:

I Under these Acts-

- i) prostitution is itself no crime.
- ii) the Acts criminalise and call within the law particular activities connected with this practice.
- iii) the client/customer of the prostitute is not brought within the purview of the law.

II The prostitute is herself only punishable for

- a) Soliciting or
- b) Carrying on prostitution in a prohibited locality or premise.

III The activities that are rendered punishable are-

- i) soliciting in a public street or place.
- ii) common prostitution in prohibited places. (e.g. within a specified distance of an educational institution or place of religious worship)
- iii) living on the earning of the prostitution of another.
- iv) procuring
- v) importing
- vi) unlawful detention for prostitution.
- vii) Keeping, managing or assisting in the keeping or managing of a brothel.
- viii) permitting use of premises as a brothel, or letting premises for a brothel.
- ix) some acts also provided for discontinuance of use of premises as brothel or for common prostitution.
- x) for the removal of prostitutes, by executive fiat, from specified areas.
- xi) while some State Acts provided for rescuing minor girls from brothels or from moral danger,

some States took care of this problem in their Children Acts.

In 1956 the Central Legislation was passed repealing all State Laws on the subject. This followed ratification of the 1950 Convention. This Act, like its predecessors,

- i) does not criminalise prostitution per se, but only "commercialised vice".
- ii) the focus is on the "larger interests of society" rather than on the prostitute herself.

The post independence social welfare state, one would have expected would entertain a revised vision of the problem yet, there is no evidence of any change in approach.

At this stage, we may consider the conflict between morality and criminality that is evidenced in laws relating to prostitution. While it has been termed promiscuous practice, it has also been acknowledged as a "necessary evil". The law cannot, and must not, seek to criminalise all that a society finds immoral. It is in the determination of what should be illegal, and what should remain in the field of morality, that distinction reveals itself.

The SITA (or ITPA) has five subjects, and one class of person conspicuous by his absence.

1. The prostitute
 - a) as a person in the profession
 - b) as a victim
2. The procurer/seducer in custody
3. The brothel keeper/manager or his/her assistant.
4. Any person who allows, or lets, premises be used for purposes of prostitution.
5. Any person who lives on the earnings of a prostitute.

The missing subject is the customer who uses the services of a prostitute. The only logic that could explain this is the preservation of the marriage/family, so much in evidence in the 64th report of the Law Commission.

As for the prostitute herself, in her practice of the profession, she is punished by the law where

- a) She solicits or seduces in a manner/place which would make her a public nuisance. Prostitutes, therefore, must not be seen though they may exist.
- b) Also, prostitutes are a social evil and, like liquor, are to be kept at a certain distance from public places (to be notified by the State Government in the Gazette).

As a victim, the law speaks of punishing procurers, seducers in custody, brothel keepers who may introduce and keep the prostitute in the profession. Also, any minor persons found in a brothel may be rescued and sent to protective institutions.

While not making prostitution illegal, yet the ITPA

1. makes the letting of premises or allowing it for use as a brothel illegal and punishable.
2. provides for closure of brothels and eviction of offenders from the premises.
3. provides for removal of a prostitute from any place in the "interests of the general public".

Again it is punishable for a person above the age of 18 years to live on the earnings of a prostitute.

While the provisions which deal with brothels are a response for "commercialised vice", the repugnance of the law to the 'vice' of prostitution is unmistakable where it gives authority to a Magistrate to require a prostitute to remove herself from an area upon "information received".

A prostitute could well be exploited by any person who may live on her earnings, and it is salutary that the law finds punishable such exploitation. Yet, the exclusion of the proviso which made an exception of a daughter or son of a prostitute, does leave one wondering if at least a part of the reason is not that it is tainted money. The economic hardships driving a number of women into prostitution; it seems particularly hard on the prostitute that she may not support her own child, or an ailing relative. The law's morality understands no exceptions.

The position therefore can be roughly stated thus:

Prostitution is immoral, but not illegal per se. However, commercial or open prostitution should be punished as a deterrent. The dictates of the "interests of the general public" may be allowed to determine where the prostitute practices her profession. Any person whose house she occupies, or who allows her to use certain premises to carry on prostitution would be punishable under certain circumstances. They would therefore be not only under a moral duty but a legal obligation not to allow her to carry on her profession there. Again the moral obligation of not living on the prostitute's income is extended beyond possible exploiters to the son and daughter too where they are above 18 years of age. All this directly relates to the element of suppression in the Act.

As for protection, the Act extends to minors, and persons unwillingly in the profession.

It is axiomatic by now that the implementation of the law is tardy, and the reputation that the police has gained needs little literature. This is not surprising when one considers the attitudes of the law makers and enforcers to prostitution. To quote from the 64th Report of the Law Commission,

"Prostitution is, beyond doubt, a social evil. It has been an obnoxious feature of every society. Despite the attempts made from time to time to check it, the evil of prostitution persists. The Act is one such attempt to check the evil.

Prostitution is also thought of as a threat to the marriage-family institutions".

And then, quoting Charles Winick,

"... Laws, it is stated, are often not enforced adequately because the police have too many other things to do. Judges also know that jail will not rehabilitate a prostitute. Nevertheless, laws exist to emphasise the prostitution is not a socially acceptable form of behaviour".

And then:

"Prostitution has, therefore, been tolerated as a necessary evil. Even if the law stops it, then, in some other insidious or subtle form it is bound to reappear in society, and that may have greater potentiality of destroying the peace in family life and also in society....

Hence, instead of banning it totally, the law in every country has tried to regulate it so that it may be kept within its legitimate bounds without unduly encroaching upon the institution of marriage and the family".

With this as a justification for a law on the subject, ITPA acquires the colour of being a cosmetic, moralising piece of legislative work.

The Act is therefore concerned "not with prostitution itself, but with the manner in which the activities of prostitutes and of those associated with them which offend against public order and decency, expose the ordinary citizens to what is offensive and injurious, or involves an exploitation of others."

The emphasis therefore has really been on suppressing the fact of prostitution from the public eye, and stigmatising the prostitute.

From SITA to ITPA

The Amendment to SITA in 1987 included a change in the title of the Act. It is thereafter to be called the Immoral Traffic (Prevention) Act. The change in nomenclature from "suppression" to "prevention", is hard to explain. According to one commentary the change in the name of the Act was effected "in view of the widening of the scope of the Act to cover all persons, whether male or female, who are exploited sexually for commercial purposes". Apart from a provision which empowers licensing authorities to suspend the licenses of hotels where children or minors are detected to be used for purposes of prostitution, there appears to be little else in the amendment which warrants the adjectival change.

The laws relating to Devadasis and special communities

Particular reference may be made to

- (1) UP Nayak Girls Protection Act 7 of 1929
- (2) UP Minor Girls Protection Act 8 of 1929
- (3) Bombay Devadasi Prevention Act 10 of 1934
- (4) Madras Devadasi (Prevention of Dedication) Act 31 of 1947

These laws dealt with special, identifiable categories of women among whom prostitution was a common practice, either traditionally or in a religious context. A description of these laws is as follows:

The two UP Acts are specially designed for the protection of minor girls from being led into prostitution.

Among the Nayaks, there is a custom under which minor girls are trained for prostitution. Act 7 of 1929 authorised the District Magistrate to call for particulars from persons having the guardianship or control of Nayak girls under 18 and to restrict or regulate their movements to protect them from being trained to the profession of prostitution and to remove them from immoral surroundings.

If he is of the opinion that there is danger of a minor girl of the Naik class being sold, let for hire trained, or otherwise disposed of in order that she may be employed for prostitution or for any other unlawful or, immoral purpose he may detain her in a settlement under the guardianship of a person of the same faith, willing and fit to have charge of a girl for such period as he may prescribe.

When action is taken by a DM in respect of any girl no order may be passed in respect of that girl under the Guardians and Wards Act 1890, and any order already made thereunder is superseded.

The DM may sanction the marriage of the girl with a person of the same faith.

The manager of the settlement is responsible for the custody, support, health, and education of girls so detained in his care.

UP Minor Girls Protection Act, 8 of 1929

The Practice of devoting minor girls to prostitution also obtains among certain other classes.

To check this and to put a stop to immoral traffic in females the State Government may declare any community in which such practice prevails as a restricted class, and extend the provisions of the Naik Girls Protection Act to such class.

This Act also provides that procuring any woman or girl with or without her consent in order that she may become a prostitute or be made an inmate of a brothel or the house of a prostitute and persuading any woman or girl to leave her usual place of abode is an offence punishable with 6 months or fine or both.

Bombay Devadasi Prevention Act 10 of 1934

The preamble states that, however ancient and pure in origin, the system of dedication now leads women to a life of prostitution and it is necessary to end such a practice. This Act declares illegal any ceremony or Act, intended to dedicate a woman as a devadasi with or without her consent, and provides that no marriage shall be invalid and no issue of a marriage shall be illegitimate by reason only that the woman is a devadasi. Any person taking part in any such ceremony is liable to imprisonment for one year or fine or both. The woman herself is exempt from any penalty.

Madras Devadasi (Prevention of Dedication) Act 31 of 1947

The preamble recites that the practice of dedicating women as devadasis to Hindu deities, idols, objects of worship, temples and other religious institution which prevails in certain parts of Madras has led many of the women so dedicated to a life of prostitution, and that it is therefore necessary to put an end to the practice.

The several ceremonies which according to the customs of the several communities are supposed to effect dedication of a woman whether with or without her consent, are declared void.

No woman who is dedicated shall be deemed to be incapable of entering into a marriage notwithstanding any custom to the contrary. All ceremonies of whatever nature (taking part in a melam dancing or music) which, according to custom, have the effect of such dedications are declared unlawful.

Any person of or above 16 years taking part in such ceremony including the woman dedicated is liable to imprisonment for 6 months or fine of Rs.500/- or both.

These devadasi Acts are therefore aimed at preventing dedication by criminalising it, legalising marriage of those dedicated, legitimising any children of such marriage and, while the Bombay Act exempts the woman, the Madras Act criminalised the woman's participation too. That is they declare as void the very dedication, and make the whole procedure illegal.

In the two UP Acts which are intended to prevent women from traditional communities from entering into prostitution, the law attempts to restrict such identified communities so that the practice may be broken.

To judge the efficacy of such laws, one may recall 1962 study in the Kamathipura area in Bombay which showed that while it appeared that less girls were dedicated the years immediately preceding the study, it was important that most of the devadasis who constituted a proportion of the respondents had been dedicated *after* the above Act came into force.

From "Abolition" through "suppression" to "prevention" has seen a legislative journey in law and societal reaction. It is hard to find in its midst concern for the plight of prostitutes, or even for the reduction of its incidence. The law reflects a bias aimed at keeping out of the public eye and public mind the unsavoury aspects of prostitution. Yet it is commonly acknowledged that women in prostitution are subjects of exploitation.

It is a pity that while the study referred to above established that poverty was a major contributing cause for entering into prostitution, though it was not usually a single cause but found in combination with other causes.

The Law Commission on no cogent evidence found that repressive measures against prostitution was hampered by, inter alia, the existence of a type of woman who is drawn to prostitution by her psychoneurotic make up not therefore being the subject of sympathy and assistance, but the object of stigmatisation.

However it may be, it should be obvious to the concerned observer, that where prostitution is involuntary (occasioned by abduction, deceitful means, kidnapping etc.) or because of ignorance; or due to circumstances which drive them away from their homes leading them into prostitution, it is PROTECTION that is the desideratum. ITPA attempts to deal with the problem after person has already been inducted into the profession. It is *preventive* measures assuring protection to the woman which should be the focus of the law and action. The 1962 study reveals, for instance, that being widowed, it becoming known that she has had illicit relations, becoming pregnant, being thrown out of her husband's house, being abducted are some of the prominent reasons why the women entered the profession. When the woman is in a bind, as it were the "vice agents" step in and entice the woman or forcibly take her and sell her into prostitution. Any intention of preventing such incidence would need:

1. that susceptible girls/women in the rural areas from where the "vice agents" recruit girls are watched over by a trained social worker, may be assisted by a committee of village women who could reach the troubled girl before the vice agent. This could be given a statutory status.
2. that protective homes, training homes, shelters are accessible in areas which are the major recruiting grounds. This too could be identified and given a statutory status.
3. that education, and vocational training to make women self-reliant should be made compulsory.
4. active vigilance work by police and rescue agencies, especially at places like railway stations, could save many a victim. If the law were to be serious about preventing trafficking, a system of accountability should be built into the law whereby errant policy and related agencies may be held responsible, and accountable, for trafficking incidence.
5. the effective implementation of the Child marriage Restraint Act Dowry Prohibition Act the ITPA so far as it relates to trafficking and exploitation, and the devadasi and related laws would have to be ensured.
6. rehabilitation of prostitutes is a difficult proposition because it "means readaptation to normal life". The stigma, the radical change of life style, the earning potential, among other reasons, accounts for this. This is fact calls for a more *intensive preventive programme*.
7. "weaning centres" should be established in areas where prostitution is concentrated.

8. the Juvenile Justice Act 1986 provides for the care of "neglected juveniles" and includes in its definition the children of prostitutes and juveniles likely to be affected by the practice of prostitution by persons with whom the child is associated, or by the place which the child frequents or resides in. Children of prostitutes can therefore be given State support and be made the subject of State concern. This is an extant provision and it is only recently that it has been activated.

9. there have been some suggestions that there should be licensing of brothels. It has been said that such licensing could help in reducing trafficking because every new entrant to the area would have to be registered.

However it seems that the licensing system did exist some time in the late 19th and early 20th centuries. In Bombay city, these measures were briefly tried in the 1880's, but were discontinued when they were found a complete failure. The licensing system was completely abolished in India in 1929, and it was never fully enforced at any time except in a few big cities, as it involved considerable expenditure to Government.

It is suggested therefore that such a legislative recognition should be approached with caution, and after studying the working and reasons for failure of these provisions, and its implication now.

The law has served thus far to emphasise that prostitution is not a socially acceptable form of behaviour that is, it performs a declaratory function; to make cosmetic attempts at preventing sexual exploitation of women (and more recently, by an enlarged definition, of men) without any serious endeavour to ensure implementation, these provisions mean little; to suppress the fact of prostitution from the public in the general interests of society at large.

Upon a reading of the laws, one is left with the feeling that the law is related more to the sense of morality of the law maker and less to the factum of exploitation. The field situation is not reflected in the legislation. The prostitute has been seen as the propagator of vice and not as a victim. Even so, there is little effort in the law to prevent further incidence of prostitution or to protect those who are likely to fall prey to it. It is a case of allowing a thing to happen, and then condemning it.

The law has been modelled to suppress, not prostitution itself, but only general knowledge of, and exposure to, prostitution. If the law is

1. to reduce the incidence of prostitution

2. to protect the unwilling victim
3. to rehabilitate

the focus of the law should shift to protection and prevention.

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Presumption of Innocence

'Innocent till proven guilty'. Without the protection given by this principle, the power ratio between the person accused of crime and the state overwhelmingly disfavours the individual on trial. The accused unable to match the resources and the power of the state can struggle to stand up to the state gaining strength from the processes of presumption of innocence.

The state works through systems and systems are manned by people. Each one of the persons associated with the trial—the complainants, the witnesses, the prosecuting agencies, the judge and the lawyers brings to the event and processes privately held biases and known and unknown social attitudes. Using the armour of the processes of presumption of innocence, the accused stands for himself or herself. As the prosecuting agencies induct their subjectivity subtly or explicitly in the trial, the parameters of presumption of innocence help the accused to deflect the biased assumptions against him or her.

The commonest and best known expression of the principle of presumption of innocence is the use of word 'alleged' while describing the charge and presumptions, as also the prosecution case against the accused.

This vital principle of justice, which permits a David to level slingshots against a Goliath, is most objectionably ignored by the drafters of the Juvenile Justice Act 1986 (JJA). The following analysis of JJA shows that the legal experts, the bureaucrats in the Welfare

CRITICAL ANALYSIS OF LAWS RELATING TO DELINQUENCY

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Ministry and their permanently favoured consultants have no space in their scheme of things for the child's rights to justice and dignity.

Special Characteristics of Juvenile Justice Laws

It is possible that the drafters of JJA are unaware of the existence of self value in a child. From their writings, interviews, discussions and the laws and systems promoted by them, it is quite clear that they are neither cognitive nor analytical of the special characteristics of the Juvenile Justice laws.

Which is that while the criminal laws for the adults *describe crime* and punishment, and arrange the offences under groupheads (misdemeanor, offences against person, offences against property, etc). historically, the justice laws for children have *categorised the children themselves* as, 'neglected', 'uncontrollable', and 'delinquent'.

Thus when an adult commits a particular crime, s/he on conviction, may be known as perpetrator of that particular crime, e.g. forgers, thief, cheat etc. If the offence is once-in-a-lifetime kind, such as murder of a spouse who has betrayed the person who eventually killed, though all the ingredients of the crime are present and the case was proved beyond doubt, rarely does the person get branded as a killer. For the circumstances of the crime and the character of the person who resorted to killing dominates the act of killing. Also, when an adult disrespects a minor law such as traffic regulation, no one seriously categorises him/her a violator of laws.

In the case of a child however, a single act without the context circumstances and personhood specialities (say theft of a piece iron scrap to buy food for himself and siblings, throwing stones against an abuser), a special situation (getting lost or running away from a cruel step-parent), a biased judgement (performing art being described as beggary) parental failure (children in brothels or children being accused of being 'uncontrollable' by parents who are not good at parenting themselves) and the child is pushed into a category (neglected, delinquent, uncontrollable) tainting his/her whole person,

True that the children's situation and behaviour has to be seen differently and the law's basic concern should be how to protect, guide and aid development of the child, but that is no reason at all to damn the principle of presumption of innocence and isolation of the offence or event from the gamut of happenings, the child's characteristics and compulsions of the circumstances.

Omissions disregarding the principles of justice and the rights of children occur frequently in the justice systems for juveniles. The reason being that in the opinion of the

frequently in the justice systems for juveniles. The reason being that in the opinion of the lawgivers a study of jurisprudence and application of principles of justice is irrelevant to begin with, and in the last analysis, the child's status is so subordinate as to be devoid of rights vis-a-vis the adult authority. Those who have been reading my criticisms of the juvenile justice system may recall several illustrations given by me to prove my propositions. In this article I restrict myself to the law itself and as you will see my proposition is unchallengeable.

Consider e.g. the definition of competent authority (S3(D) JJA). The child to be dealt with the competent is described in bare words as 'neglected' and 'delinquent'. Thus even before the evidence is collected and evaluated, why even before the child is produced before the appropriate authority, there is an assumption about the correctness of the judgement of the police or the social worker taking the child in custody that the child is 'neglected' and 'delinquent'. Perhaps the lawdrafter forgot to use the expression such as apparently or alleged, you may argue; just a question of clumsy drafting others may say. But a law is presumed to be exacting, clear not only in the choice of words, phrases, syntax and sequences of sentences even commas and other lowly punctuations.

The attitudinal delinquency of the lawgivers persists throughout the JJA. Though the Constitution of India guarantees every Indian equal protection of laws (Article 14), all children in India may not be tried by the same systems of juvenile courts which by definition is a specialist court assisted by specialists: S 7 (2) of the JJA permits the state governments NOT to set up till the end of the world. Where Juvenile Courts (JC) are not constituted, the power to try juveniles is conferred on a series of either or courts such as District Magistrates(DM), the subdivisional magistrates (SDM), Metropolitan Magistrate and Judicial Magistrate First Class. In other words non-specialist courts.

The choice of DMs and SDMs as optional JCs is blatantly unconstitutional as these officers are essential administrators given limited magisterial powers, and are key officers in the Executive Branch of the government. The appointment of the DMs and SDMs injures the principle of separation of powers and bloodily violates the children's right to fair trial if the DM or SDM trying the child was also the authority who as executive magistrate had ordered the arrest of the child.

The most atrocious provision of the JJA is S 21(1) (a.) which authorises a JC to fine a working child over the age of 14 years. A child labours in the destructive labour market to fill the belly and quite often to support adult guardians and younger siblings. The JUSTICE system confiscates even the subsistence wage from the working child in the name of law that proclaims in the preamble that its aims are correction, rehabilitation and development of the child*.

Even more oppressive and deprivational is S 21 (1)(d)(i) under which a juvenile adju-

dedicated delinquent is committed to a closed institution for never less than three years. In case of juveniles who are just two years away from the age ceiling of childhood (16 years in the case of boys and 18 for girls), the child can be confined to a closed institution until she ceases to be a child PLUS two years. Thus if a nine year old girl is found to be delinquent, she can be deprived of her liberty, removed from natural, normal family and social environment for at least NINE (9) YEARS plus two years more if the JC so orders.

Decisions to confine a child during all his/her childhood, adolescence and teen years may be taken even by the non-specialist courts of DMs and MMJs and what have you.

In the case of adults every hour of the lost liberty is taken seriously. All major legal systems have devised a series of protections to prevent misuse of powers to deprive the liberty of an individual. The JJA has done its best to deprive the children of the protections given by all the civilised legal systems.

The child is methodically isolated by JJA as she/he faces a criminal charge, the JJA empowers JC to, one, send the child's parents, guardians and lawyers out of the courtroom (s 28(2)); two, do without the report of the probation officer about the background of the child, his/her environment, and the events that brought him/her into conflict with the law;

The innovation of introducing the probation officer 'report' as a major influence in the justice process had fundamentally differentiated the justice systems of adults and children. The idea was to introduce soft data in the deliberations and give weightage to compulsions of the circumstances. It put faith in the essential innocence of the child and looked for forces that misled the child and guides and possibilities that could restore to the child the right to childhood and development. In their wisdom, the JJA drafters snatched away even this right to justice and future. What more can one say in opposition to this despotic, destructive law?

PROSTITUTION, HUMAN RIGHTS, LAW AND VOLUNTARY ACTION

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Prostitution is as old as it is disturbing. Further, it has become incompatible with contemporary socio-political thinking. With this in view, this paper examines its linkage with urbanisation, its incongruence with human rights and the role of legal measures and voluntary action to tackle it. While prostitution is not an offshoot of urbanisation, its several disquieting forms flourish mainly in the urban areas. Many of them reportedly have a thriving market complete with managers, intermediaries, buyers and sellers (including call-girls). This is also borne out by the police record. Trade in flesh clearly with all that the UN Declaration of Human Rights stands for. Concepts like human dignity and equality, health and happiness and sanctity of marriage and family, lose substance in the face of the problem. Based on abolitionist approach, legal provisions against prostitution in India leave much to be desired. That is why their enforcement has been more episodic than consistent or effective. In containing the problem, the scope for voluntary action is wide. This is also stipulated in the law. However, it is yet to come about in a substantive way. In view of contemporary social ideals, we need to initiate effective social and legal strategies concurrently.

Introduction

In one form or another, prostitution has been almost a constant unsettling feature in society. Few societies in time and space have been totally free from the problem. Time and again, it has worked up the collective conscience, and campaigns have been launched to subdue it. However, seldom have all these well-meaning measures been able to make any appreciable dent into the problem. This could be attributed to several biological, psychologi-

cal, economic and socio-cultural factors. Nonetheless, the problem of prostitution, in a cynical way, has come to be regarded as a 'necessary evil'.

To a large extent, prostitution could be explained in terms of certain basic bio-psychological and socio-cultural terms. Homo sapiens are bisexual and capable of finding sex stimulation in asexual situation. On the other hand, the institution of marriage hinged the gratification of sexual needs upon wedlock. While some persons had the idea that they could sell sex, others thought that they could buy it.

It follows that prostitution is a two-way phenomenon. It involves prostitutes as much as it does their patrons. Several studies show that owing to excessive status-striving, or emotional dissatisfaction within the family, many women take to trade in flesh (Mukerji, 1979, Singh and Singh 1980). A still larger proportion, reportedly, is of those who are driven to it because of adverse economic circumstances. After having been in the trade or in a red-light area, a majority of these women develop a stoical attitude towards life and the future. On the other hand, a large number of males, being treated for VD presumably contacted in the red-light areas, have been studied (Gokhale, et al., 1972). It is reported that most of them were not very well organised in their life style. Most of them were from lower socio-economic strata.

There are writers who categorise women in this 'oldest' profession into two broad groups: voluntary and involuntary prostitutes (see, for example, Kapur, 1981). Raghuramaiah (1981) has classified them into four groups: hereditary, religious and traditional victims of social circumstances, and pathological cases. A detailed classification of prostitutes in Bombay has been provided by Punekar and Rao (1962). Indeed, there are several types of prostitutes; Religious (devadasis); tribal (Nayaks and Jonsar-Bowars); familial-ancestral; nautch-girls; brothel-girls; call-girls; and part-time or free-lance prostitutes. This gives rise to another issue; is prostitution largely an urban problem?

At this juncture attention may be diverted to the nexus between prostitution and economic deprivation. Considerable amount of research exists which brings out that a vast majority of 'fallen women' have been driven to red-light areas by adverse economic circumstances. Most tribal and ancestral, as also several first generation brothel girls, exemplify the point. Similarly, most of the patrons who frequent brothels reportedly come from the lower socio-economic strata. It is not only economic deprivation which gives use to the flesh trade. An equally extensive amount of research exists delineating the life and style of high-class call-girls and their high-class patrons coming from middle-upper and upper income groups. Moreover, if prostitution is viewed as a consequence of economic deprivation, how do we explain this problem in affluent countries? Apparently, the problem of prostitution has directly little to do with either affluence or deprivation.

This notwithstanding, bartering in sex appears to be incompatible with modern socio-political thinking. It does not fit into the notions of freedom, liberty, justice, equality and all that

which goes with democracy as is borne out by the fact that in most democratic countries policies and programmes have been evolved to combat the problem. Have these policies and programmes been able to produce the desired results?

It can hardly be gainsaid that prostitution mocks at established social norms and institutions. It reduces human emotions to baser animal drives, and degrades human love and affection into some sort of saleable commodity (see Khan and Krishna, 1984). It denotes a lowering of human values and thereby of human dignity. Above all, prostitution has several pernicious repercussions for the individual, family and community. It is, therefore, hardly surprising that sex, on a mercenary basis, has aroused much popular indignation. Several well-meaning citizens and organisations have launched action or even movements to tackle the problem. Have these measures made an impact on the problem?

While on this theme, a mention may be made of the concept of human rights. As is generally accepted, the concept, or to be specific, the Declaration of Human Rights, epitomises modern social thinking. However, it is primarily concerned with the larger political, economic and social rights of people in diverse cultures and political systems. It would be, therefore, of more than a passing interest to examine as to what extent the concept has a bearing on policies and programmes directed against prostitution.

Present paper

Keeping the foregoing issue in view, in the Indian social context, the present paper aims to look into (a) prostitution as an urban problem, (b) its incongruence with the concept of human rights, (c) legal measures adopted to curb it, and (d) the role of voluntary action in containing it. It may be clarified that, in the paper prostitution is taken to mean indiscriminate bartering of sex with relative emotional indifference. Further, arguments throughout the paper are based on the assumption that the problem cannot be totally eliminated, it can only be brought within manageable limits.

Prostitution as an Urban Problem

A large body of literature exists to show that prostitution is, more or less, a concomitant of human civilisation. In time and space, most societies have been afflicted by the problem. As such, it would be logically untenable to view it as an offshoot of urbanisation. Furthermore, several studies highlight promiscuity and bartering of sex among tribals in different parts of the country. Likewise, there are available accounts of women in several castes who have traditionally taken to prostitution as a customary occupation. Nevertheless, prostitution stands out predominantly as an urban problem.

It is mostly in urban areas that commercialized and organized forms of the trade in flesh have flourished and caused concern to citizens and law enforcement agencies. So is the case

with the red-light areas. Over the years, urban neighbourhoods like Foras Road, Sona Gachhi, and G.B. Road have come to be identified with the flesh trade. Legal sanctions notwithstanding, these and similar pockets in different urban centres continue to provide for the needs of the sex-hungry. Previously, there used to be brothels and 'houses' but following the action by law enforcement agencies, they have changed into 'dancing joints' and 'massage houses'. Young and attractive girls, mostly from the rural and tribal areas, are procured or kidnapped and kept in these houses. They are trained in the art before being offered in the market. Some of them are coerced, even mentally and physically tortured. Not only are these establishments managed by 'madams' and 'bhaiyas', but also these are overseen by the local musclemen. Besides, there operates a chain of pimps and touts. Consequently, the woman selling her body is not the sole beneficiary. Her earnings are shared by several others including sometimes by unscrupulous law enforcement officers. Reportedly, Delhi alone has more than 6000 professional prostitutes. Such an organisation or system is inconceivable in a rural setting.

A mention may be made of those who patronise commercialised sex. As referred to earlier, several migrant workers in metropolitan cities like Bombay regularly visit the red-light areas. They may have something less than satisfaction, or worse still, they may contract VD or AIDS, but visit prostitutes they must as they have low alternatives. Such a regular clientele would be unthinkable in villages.

Next, a reference may be made to part-time or free-lance prostitutes as also to call-girls. As is well known, quite a few college students, working women and even housewives, find no harm in making a little extra money by trading sex favours. This practice is resorted to in order to supplement the family income, and to enjoy the thrills of a life of luxury. According to one speculation, there are about 6000 such parttime prostitutes in Delhi. The institution of call-girl has come to be associated with modern urban life (see also Kapur, 1981). These glamour girls or high-class prostitutes cater to the needs of the affluent. Furthermore, they have come to occupy a significant place in modern corporate and multinational business. In other words, their services are utilized as a part of hospitality to business associates. Cultured and educated, these girls live in expensive apartments and colonies and carry on their business through luxury hotels. They may operate independently, or through taxidrivers and room-service staff of hotels and guest-houses. Doubtless, the call-girls represent a purely urban phenomenon. According to the estimate, in Delhi itself there are more than 1,500 call-girls.

At this stage, attention may be paid to the number of cases registered by the police in different metropolitan cities, under the suppression of Immoral Traffic Act (see Table 1). It is found that during 1975-80, the number of cases registered by the police in Bombay has ranged between 277 to 1,079, in Calcutta between 47 to 76, in Delhi between 58 to 141 and in Madras between 959 to 1,998. These figures merely shed light on the existence of the problem

in different metropolitan areas. Beyond this, it would be hazardous to conclude that the magnitude of the problem is lowest in Calcutta or for that matter, highest in Madras. The possibility of variation in problem identification as well as in law enforcement is more than imminent. Nevertheless, all accounts converge on the fact that prostitution, particularly in organised forms, is a feature of urban areas. This hardly augurs well in view of the steadily growing rate of urbanisation in the country.

Prostitution and Human Rights

As outlined earlier, the practice of prostitution sharply contrasts with the concept of human rights. These are the rights which human beings enjoyed as their inherent rights before the political systems crystallized. The concept springs from the collective desire for 'a decent civilized life in which the inherent dignity of each human being will receive respect and protection'. Stated differently, human rights are basic to human nature and without them human beings would hardly be able to live like human beings (see Khan, 1979). As would be readily seen, prostitution runs counter to all those ideals which the concept of human rights stand for.

There are several reasons to consider the concept of human rights, and all that which goes with it, as socially worthwhile. The Magna Carta of 1250, the Bill of Rights of 1689, the American Declaration of Independence in 1776, and similar documents have gone into the evolution of these social and political ideals. As a matter of fact the Constitution of the Republic of India contains, in one form or another, all that is implied in the concept. As such, if the trade in flesh militates with the concept of human rights, it ought to be a matter of concern.

Before proceeding further, a little historical perspective would not be out of place. During World War II, human dignity and rights were blatantly trampled which caused much concern throughout the world. Soon after coming into existence, the United Nations paid attention to the protection and promotion of human rights, reaffirming its faith in man and his worth and dignity. As such, one of its earliest tasks, in 1948, was the adoption of the Universal Declaration of Human Rights. Subsequently, in 1966 the Declaration was given an operational shape in the form of two covenants: (i) International Covenant on Economic, Social and Cultural Rights, and (ii) International Covenant on Civil and Political Rights. There is also an optional Protocol to the latter Covenant. All these instruments came into force in 1976. Nonetheless it is the Universal Declaration of Human Rights which deserves to be examined in relation to the problem of prostitution.

It may be reiterated that the Declaration primarily deals with social and political rights. However, there is much in its 30 articles which has a bearing on a social problem like prosti-

tution. For example, its preamble underlines the inherent dignity and equality of human beings which is taken to be the foundation of freedom justice and peace in the world. These ideals are contained in the last part of the Article. All human beings are born free and equal in dignity and right". It follows that promiscuity and emotional indifference which accompany barter in sex reduce the seller, by the very nature of the situation, to a sub-human level. This clearly conflicts with the ideal of equality in human relations. Nor does it bring any dignity to the family or to the dependents of prostitutes (Article 23, Clause 3).

As brought out earlier in quite a large number of cases young girls are kidnapped or procured by the brothel keepers. In the beginning, a close surveillance is kept on them or, if need be, they are held in captivity. This scenario may be examined in relation to Article 4: "No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms. Notwithstanding this, the sale and purchase of girls for immoral purposes is reported to be quite common. Further, new entrants are oriented and initiated into the profession often through coercive inhuman and obnoxious means. The Declaration is explicit in this regard: "No one shall be subjected to torture or to inhuman or degrading treatment or punishment" (Article 5).

Next we may focus on Article 25 (i), it lays down: "Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family". May be call-girls come near to this ideal, yet the condition of those inhabiting red-light areas is hardly encouraging. Even in those countries which have a system of licensing and periodical medical check-up, the state of health and well being of common prostitutes leaves much to be desired. In India, the condition is reportedly much worse.

The Declaration pays due attention to relations, between the sexes as also to the underlying social purposes: Article 16 (1) proclaims, "Men and Women of full age, without any limitation have right to marry and to found a family". In prostitution, we have, instead, mechanical sex, with little or no social purpose, reducing human emotions, in a way, to animal drives. Likewise, the Declaration is unequivocal about the gratification of sex needs through the social institution of marriage. "Marriage", Article 16(2) lays down, "shall be entered into only with the free and full consent of the intending spouses". In contrast, we have in prostitution consent between sex partners where the roles of the two are mixed up. What is more, the Declaration regards the family and rightly so, as "the natural and fundamental group unit of society" which is "entitled to protection by society and the state" (Article 16, Clause 3). On the institution of family prostitution, through indiscriminate bartering of sex, makes serious inroads. Instances are not rare in which ladies of easy virtue have ruined the family life of their patrons. Taken together, trade in flesh clearly militates against human rights.

Prostitution and Legal Measures

Indeed, legislation has a key role in controlling and curbing trade in flesh, provided that it is based on sound assumptions and realistic objectives and is enforced by motivated functionaries. In this direction, many countries have adopted a prohibitionist approach and have, at least in principle, declared an all-out attack on the problem, totally prohibiting prostitution and the related conduct. The example of most communist countries and those in Middle-East may be cited in this regard. On the other hand, others have resorted to the abolitionist approach. They have initiated limited action through licenses and regulations, intending to abolish prostitution only in organised forms. Countries like India and the United Kingdom fall in this category.

India is signatory to the International Convention on the Suppression of Immoral Traffic in Women and Children (1921). Certain amendments were made, in 1924, in the Indian Penal Code making kidnapping of a girl under 18 years, for immoral purposes, an offence. Ever since, many states have enacted anti-prostitution laws. The main among these are: The UP Minor Girls Protection Act (1929), the UP Nayak Girls Protection Act (1929), the Bombay Devadasi Prevention Act (1934), and the Madras Devadasi (Prevention of Dedication) Act (1947). This apart, many states have made provisions in their police laws to curb soliciting, pimping, brothel-keeping, and living on the earnings of prostitutes.

After signing yet another international convention in 1950, India had to further strengthen the legal framework. A central legislation, the Suppression of Immoral Traffic (in Women and Girls) Act was brought on the statute book in 1956. The main objective of the SIT Act is to suppress prostitution in public places and organised forms. In other words, it does not attack the problem of prostitution per se, it only intends to prevent or abolish its 'organised' and 'commercialised' forms. It is not possible to erase manifest forms without paying attention to the underlying causes and hidden aspect. Apart from this, the law regards prostitution solely as a female phenomenon: "Prostitution means an act of female offering her body for promiscuous sexual intercourse for hire whether in money, or in kind. This kind of 'male approach' to the problem and 'gender justice' have often resulted in patrons going scotfree and hapless prostitutes being turned in by the hundreds. It may be noted that the SIT Act extends throughout the country. But the question is one of enforcement.

Before going into the issue of enforcement, a brief outline of the provisions in the SIT Act may be provided. The law comes down heavily on those persons who carry on the 'wicked trade' in an organised manner. Engaged in recruitment or procurement (Section 5), they may be exploiting women and girls presumably from regions characterized by economic deprivation or

tolerant social norms. They may be running 'house of pleasure' or brothels (Section 3). These shady places may also be used to detain and to hold captive new entrants (Sections 6 and 18). Having coerced girls into the nefarious trade, they may be living on their earnings (Section 4).

The SIT Act, however, goes beyond its stipulated objectives of curbing traffic in women and girls. Perhaps, motivated by puritanical ideals, it prohibits soliciting in public places (Section 8), and prostitution in any premises within a distance of 200 metres of any public place (Section 7). The intention of keeping public place from being defiled by the doings of prostitutes is understandable. What is however not so understandable is the technicality whether these provisions are in line with the objective, 'suppression of traffic'. Besides, few places in a populated zone of a city would be there which may not be within the radius of 200 metres of a public place of some sort. This stands in sharp contrast with the fact that the Act does not recognise the existence of 'red-light' areas. Consequently, common prostitutes, even in the areas known for such activities, are liable to attract the law enforcement agencies. This is exactly what often happens. Not only are Red-light areas frequent target of 'raids' but also traps are laid for those who may be discreetly carrying on their profession in not so-very-public places. Does this amount to abolition or to prohibition?

The SIT Act provides specialized functionaries: In section 15, a clear mention has been made of women police officers and special police officers who may effect a raid, search or arrest in the presence of local social workers. Keeping this in view, attention may be paid to the number of cases registered by the police and of persons arrested under the SIT Act. During the period 1975-80, in the country, the highest number of cases registered and persons arrested by police were in 1976, perhaps the peak year of the Emergency. On an average, every year the police have registered 4,789 cases and arrested 15,925 persons for different offences under the SIT Act. A brief reference has already been made to the number of cases registered by the police in four urban areas, namely, Bombay, Calcutta, Delhi and Madras. The number of persons arrested under the law follows more or less a similar pattern (see Table 1). These figures hardly denote the nature and extent of the trade in flesh in the four urban centres; at best, they point to the quality of law enforcement. Apparently, the enforcement of the SIT Act in Bombay and Madras is more vigorous than in Calcutta and Delhi.

The SIT Act also provides for specialized agencies like Rescue Homes, State Homes, Reception Centres, Corrective Institution and Protection Homes (Section 21). Several states, mostly under the Directorate of Social Welfare, have organised these institutions with different nomenclature like Nari Niketan, Stree Sadan and Abhaya Nilayam (numbering in the whole of the country, around 120). All things considered, legal provisions taken together have hardly been able to achieve what they are supposed to achieve. This leads to a search for viable alternatives.

Table 1

NUMBER OF CASES/ARRESTS UNDER SIT ACT DURING 1975-81

	India	Bombay	Calcutta	Delhi	Madras
1975					
Cases	14,708	277	76	141	1,607
Arrests	16,066	318	125	408	1,607
1976					
Cases	16,150	1,079	40	120	1,998
Arrests	17,590	1,219	76	153	2,006
1977					
Cases	13,924	1,002	53	59	1,674
Arrests	15,233	1,046	92	53	1,698
1978					
Cases	15,448	789	52	58	1,609
Arrests	15,920	935	76	123	1,632
1979					
Cases	14,195	952	44	64	959
Arrests	14,727	1,138	52	127	959
1980					
Cases	14,308	863	49	115	1,174
Arrests	16,016	1,206	53	167	1,174
1981					
Cases	15,658	890	48	86	1,362
Arrests	17,220	1,365	61	141	1,362

Source: Crime in India, New Delhi: BPR & D

Prostitution and voluntary Action

In combating a hoary and pernicious social malaise like prostitution, voluntary action by

citizens and non-governmental organisations is essential. Apart from well meaning citizens, there are many NGOs which have been, for quite some time, active in the field of women's welfare. The Mahila Samaj and YMCA can be mentioned in this regard. Also, several others are functioning which, directly or indirectly, concern themselves with the problem of exploitation of women. These include the Association for Social Health of India, Nari Raksha Samiti, Saheli and several others in different parts of the country. Nonetheless, all these organisations have a somewhat limited scope and coverage. As such, the discussion which follows is mostly futuristic indicating lines along which voluntary action needs to move, if the problem of trading in sex is to be tackled effectively.

Much significant work can be done by way of prevention. As is well known, the status of women in the country, like anywhere else, needs to be elevated and brought on par with that of the other sex. That women can sell sex favours and men can buy them may have something to do with the unequal social status of the womenfolk in society. The preference for a male offspring, the practice of dowry and dower, the multiplicity of role expectations from the bride in the husband's household, and the subdued participation of women in the affairs of the community, are among the numerous indicators of the status of women. The Committee on the Status of Women in India (Govt. of India, 1974) highlights these very aspects. To mitigate disparities between the sexes, legal measures by themselves can accomplish precious little. To change the ways of thought and social values, governing the status and role of sexes, what we need is concerted voluntary action.

While the family is the basic building block of society, it has faced in recent decades, much erosion. Processes like industrialisation, commercialisation and modernisation have thrown the family organisation somewhat off-balance. Among other things, this has loosened the hold of the family on individuals, their norms and values, and conduct and behaviour. The system of free-lance prostitutes and perhaps of call-girls exemplifies this contention. With different objectives in view, the Universal Declaration of Human Rights as well as Committee on the Status of Women give much emphasis on the need for strengthening the family. It goes without saying that voluntary action can contribute significantly in this area.

Next, attention may be turned to the curative and the rehabilitative aspects of voluntary action in respect of sex trade. As argued earlier, the problem of prostitution exists both in open and clandestine forms. Apart from women in brothels there may be a significant number of women interspersed in neighbourhoods and residential areas. Through coordinated voluntary action, they may be identified, persuaded and provided with viable social and economic alternatives which would deflect them from, the path of vice. The possibility of extending this kind of passive intervention, even to brothels, is not all that impracticable.

The SIT Act requires the presence of respectable inhabitants during raid and arrest (Section 15). Perhaps the purpose behind this provision is twofold: the suspect women may not

be unduly harassed; and well-meaning citizens may realise that they can do something about dysfunctional aspects in society. On both the counts, voluntary action can be much more meaningful and substantive than has been hitherto possible. Vice dens, camouflaged 'pleasure haunts and call-girls with respectable fronts, may be identified and reported to vice-squads or authorities. Similarly, a little more discriminating interest may be taken during the raids and arrests, so that innocent or unconcerned women are saved from harassment.

Section 10 of the SIT Act provides that, in deserving cases a woman or a girl may be released by a court after admonition on probation of good conduct. This opens a vast field for voluntary action. Much can be done by way of shielding them from those adverse environmental conditions which pushed them over to the vice, by way of providing them counselling and guidance in order to restore in them self-reliance and self-confidence, and by way of helping them to get socially and economically reintegrated into society.

Similarly, there is seen much scope for voluntary action during and after the institutionalization of fallen women. It may be noted that a large number of SIT-institutions in the country are run by voluntary organisations. This notwithstanding, voluntary action can lend more than a helping hand even in government run institutions. While in this institution, the inmates need good counselling, guidance and services to develop skills. After their discharge, they need all that which has been mentioned earlier in relation to those released after court admonition. On the whole, voluntary action has a definite and major role in the institutional treatment of these unfortunate women.

Conclusion

Undisputably, prostitution undermines the very social order on which it thrives. The diverse range of measures taken against it in the past did manage to diffuse or conceal it but seldom have they been able to cure it. This calls for a periodical stocktaking of the problem as also a reappraisal of the approaches and strategies adopted to combat it.

Although dependable data are not to hand on the extent of the problem in rural and urban areas, the available information clearly underscores the preponderance of the problem in the urban areas. Not only is the number of prostitutes in urban areas large but several newer types have also surfaced (free-lancers and call-girls). Furthermore, the flesh trade in the urban areas has become highly organised. Why is it that urban areas are so increasingly afflicted with the problem? Perhaps, urban centres offer the kind of anonymity which cannot be easily found in the villages. Secondly, the relative prosperity in towns and cities has had in this no small hand. Lastly, the process of urbanisation has brought in its wake a weakening of social mores and

the means of social control. All these considerations make it imperative that the vice scene in the country has to be closely watched.

Prostitutes and their organisations may play upon expressions like liberty justice and freedom of occupation in arguing for their avocation. But a dispassionate analysis, encompassing the problem both in form and spirit, would readily show that barter in sex contravenes all that the concept of human rights stands for. Further, the Declaration of Human Rights urges national governments to protect human dignity and the institution of family. This makes anti-vice strategies more than a formal necessity.

The way in which legal measures have been devised and implemented to abolish the flesh trade leaves much to be desired. The SIT Act does not do gender justice. It regards prostitution a female fraility and comes down heavily on unfortunate women and turns a blind eye towards their patrons. Possibly, it also suffers from a 'class bias'. The law and the enforcement agencies are found to be very active (if only sporadically) in posh hotels and expensive guest-houses. Perhaps, it is time that we reset our legal objectives and redraft the law so as to make it more realistic and effective.

Much significance has been attached, here, to voluntary action in dealing with the sex trade. It may be restated that voluntary action is there not to supplant the legal measures, but to supplement them. Notwithstanding this, its contribution in combating the problem thus far has been somewhat nominal. On the other hand there are umpteen ways, both short term and long term, in which citizens and voluntary organisations can lend a helping hand in curbing the problem.

In so far as prostitution is a human and social problem, it requires to be neutralised by a combination of legal and social interventive strategies. But intervene we must, to save posterity from a chain of overwhelming personal and social problems.

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REHABILITATION OF PROSTITUTES

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Mahatma Gandhi in great anguish had to say 'If I were born a woman - I would rise in rebellion against any pretension on the part of man that woman is born to be his plaything. A nation that does not honour its women cannot survive.'

Women have been seen through the centuries as a temptress, an object of pleasure for man, an object of lust for some, a slave, an illiterate not deserving education, an inferior being to be treated on the same plane as the lowliest of the low or on the other hand women have been eulogised with adjectives like kind, tender, gentle, modest, discreet, meek, pure, constant.

WHY PROSTITUTION

There could be several reasons why women take to prostitution. Some of these could be economic, social, religious, mental, physical, circumstantial and such like. Therefore evidently, social backwardness, low income status, low educational status, absence of leadership in the community etc. are factors due to which prostitution has continued unchecked. Tackling these causes could help to achieve some success in handling the complex issue of prostitution.

Ironical as it may seem, the very woman who plays the role of mother, sister, and wife and is often placed on a pedestal, is also the very woman who is exploited by man to satisfy his carnal desires-worshipped as a 'devi' by day and exploited as a 'dassi' by night.

REHABILITATION : Rehabilitation of prostitutes could be achieved, broadly at two levels social as well as economic.

1. SOCIAL REHABILITATION

At social level the onus is on society to bring about a change in its attitude towards such women. Instead of looking upon them with contempt and scorn, we should be more kindly disposed towards these women because largely, no woman takes to this trade willingly. We must encourage the establishment of :

- more counselling centres.
- sex education programmes from school level itself.
- widow re-marriage.
- realistic and effective legislation and its honest implementation.
- a. though it is true that implementation and lack of swift action on the part of all concerned, including the people themselves, is responsible for the present state of affairs a large number of lacunas, particularly in the practical aspects of law, which if removed, would help achieve the laudable objectives set out by law. (Example-Registration of marriages has not still been made compulsory.)
- b. there is an urgent need to reorient the police, especially at the lower cadres of their duty and responsibility in relation to women. True, the training given to them has naturally to be tough but it need not necessarily make them look down upon women involved in trouble or women law breakers as instruments at their mercy to be exploited. Similarly, the judiciary which up holds the long cherished values of the society must be able to interpret law in relation to social realities in which such crimes against women occur.
- social acceptance of such women.
- initiate a programme of health, hygiene and education at the developmental level.
- strongly condemn and punish errant actions of our sons, brothers, uncles and fathers who indulge in disorderly sexual behaviour instead of turning the blind eye and encouraging double standards of morality.
- prejudices, myths and superstitions which perpetuate prostitution should be countered

through proper education and enlightenment. Voluntary organisations can play an important role in this direction.

2. ECONOMIC REHABILITATION

- employment opportunities must be increased.
 - these women must be given vocational training suited to their capabilities and educational level.
 - employers should openly encourage absorbing such women in jobs in factories, offices and industries.
 - we must highlight stories of successful rehabilitation of prostitute women to serve as inspiration and information to others.
 - public and private sector should offer placements to these women on a priority basis.
 - the economic independence and self-reliance of such women should be our aim.
- In this year of the girl child shall we all resolve to prevent the perpetuation of prostitution, so that no young and innocent girl falls prey to the unkind intentions of manipulative and scheming men.
- young girl vendors at traffic intersections should be removed and rehabilitated, by providing them with suitable and decent shelter, food, education and training toward self-reliance.
 - Children of prostitutes should be removed from the unhygienic and unhealthy atmosphere of brothels.
 - orphaned and unwanted girls should be provided state protection and place in adoptive homes.
 - the evils of dowry and bride price should be legally banned.
 - abettment to prostitution should be punished severely.

Having spoken to many women in this profession and having worked in this field, I have come to the conclusion that no woman willingly takes to prostitution; it is the circumstances and conditions of poverty, illiteracy coupled with society's rejection that keeps

them going in this profession. Needless to say that if we bring about an economic transformation with education, the ratio of prostitutes would be much less. If these psychological, financial pressures from society are removed it would go a long way in the rehabilitation of prostitutes.

A sixteen year old girl made a phone call to the Guild of Service from the St. Stephen hospital, Delhi urgently requesting the attention of our Counsellor. Upon visiting the hospital we find a young girl, aged 16 years, from Bangalore who has just delivered a still born baby and is on her death bed. The doctor can not keep the girl longer as the Madam of the brothel at G.B. road visits the hospital everyday and insists on taking away the girl. The doctor begs us to somehow or other rescue the girl and take her away from the hospital. We bring the girl to our vocational training institute, nurse her back to health, give her vocational training.

As the girl is illiterate, she can only be trained for domestic work while adult education is imparted to her. After her house keeper's training, she is given to a very good home to work as a cook at Rs. 600/- (Rupees six hundred) per month with board and lodging. While she is working there, she is recognised by the Dhobi, who comes to that house with the weekly wash. This recognition frightens the girl who has to give up the job and come back to the Institution. After this incident, we decide to train her in tailoring. When she completed one year course of tailoring, we get her married to a tailor. We are truthful about the girl's history with the tailor. Now she is a proud mother of a child leading a happy married life.

I have given this example to show the trauma, the difficulties and the fear of society that a prostitute faces even while she has supportive services of an organisation.

A network of supportive services for women is highly necessary so that women are not compelled to adjust to the existing system and survive to fight for justice.



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