



# Policing Morality in Channapatna

A PUCL-K Fact Finding Report

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# PUCL-K

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**A Report of PUCL-Karnataka, 2007**

## Introduction

The series of disturbing events in Channapatna (<http://www.channapatnacity.gov.in>) commenced with the arrest on 2 June 2007 of four women under the Immoral Traffic (Prevention) Act, 1956 and the consequent media exposure and trial of these women. When a public protest was held to condemn the police complicity in converting what should have been a routine judicial process into a sensational trial by media, the protest was wilfully disrupted with the protesters being beaten up in the very presence of the police by anti-social elements. These events constituted a disturbing pattern of state moralism and authoritarianism wherein all democratic means of expressing a political opinion were sought to be stifled. Being deeply concerned about this flagrant violation of the basic rights guaranteed in our Constitution to all citizens, the People's Union For Civil Liberties-Karnataka (PUCL-K) constituted a fact-finding team which comprised representatives from human rights groups, lawyers groups, Dalit groups, unorganized workers as well as health groups to enquire into the above mentioned incidents. The fact-

finding team consisted of Ramdas Rao, Salma and Geeta from the PUCL-K ([www.pucl.org](http://www.pucl.org)), Divya Veerabhadra from Lawyers' Collective ([www.lawyerscollective.org](http://www.lawyerscollective.org)), Yashoda from Karnataka Dalita Mahila Vedike (Karnataka Dalit Women's Forum), Arvind Narrain and Aarti Mundkur from Alternative Law Forum ([www.altlawforum.org](http://www.altlawforum.org)), Jayaram from Garment and Textile Workers Union, and Vinay from Janarogya Andholana Karnataka (People's Health Movement, Karnataka – <http://phmindia.org/states/karnataka/index.html>).

On 8 June 2007 the fact-finding team spoke to the women who were arrested under the Immoral Traffic Prevention Act 1956 (ITPA), the protesters in the dharna who were beaten up, the Dy. S. P Halesh Naik and the probationary Dy. S. P. Devraj, the SP Bangalore city, representatives of civil society organizations in Channapatna such as Spandana (a women's rights initiative) and Karnataka Rajya Raitha Sangha (KRRS – Karnataka State Farmers Association) in order to determine if and how the basic rights guaranteed to all citizens have been violated in the case of women in sexwork.

## Background and Context

Channapatna is a small town located sixty kilometres from Bangalore on the Bangalore-Mysore highway. It has traditionally been known for its wooden lacquered toys and products. In terms of its social history, Channapatna's farming communities have been vocal and active members of the Karnataka Rajya Raitha Sangha. It has also had an unfortunate history of communal skirmishes between Hindus and Muslims, which erupted in a major clash in 1990 in which over 18 people died.

Another social concern which has emerged within recent years in the Channapatna context is the spread of HIV. Due to its being on the highway route and having a

significant migrant and mobile population it has emerged as a significant node for the spread of HIV. As per statistics of the National Aids Control Organisation (NACO – <http://www.nacoonline.org>) in 2006 with a population of almost 55 million, Karnataka has one of India's worst AIDS epidemics with an estimated 500,000 people or approximately 1.7% of the adult population living with the disease. By comparison, India's national HIV prevalence is 0.9% of the adult population. Annual Sentinel Surveillance data indicates that Bangalore rural district under which Channapatna falls has an even higher HIV prevalence rate of 2.5% of the adult population.

Channapatna, which mirrors the situation in the rest of Karnataka which has a high prevalence of HIV has many of the conditions which result in the rapid spread of HIV i.e. poverty levels are high, a large number of people surviving on sexwork; literacy levels are low; and a long history of migrant labour with a number of people travelling daily to Bangalore City for work. The concern around the spread of HIV in Channapatna led to the establishment of a project to address HIV and AIDS issues focusing on women sexworkers and other vulnerable populations in 2004 by Suraksha, an NGO working with sexworkers, sexuality minorities and slum populations in Karnataka on health, livelihoods and human rights issues.

The work of Suraksha since 2004 in Channapatna has had two broad prongs. Firstly, there has been a focus on rights-based work to create an enabling environment for women in sexwork. This has involved encouraging processes of community mobilization, collectivization, intervening in

crisis situations as well as organizing public protests and rallies demanding that sexworkers rights be respected. Secondly, Suraksha has focused on service delivery, by enlisting the services of women in sexwork (known as Community Mobilizers/Peer Educators) in order to identify all sexworkers in the town, and promoting condom usage among them using various methods. Suraksha works in seven talukas in Bangalore Rural District and Channapatna taluka is considered one of the most successful of the taluk level HIV and AIDS interventions.

Suraksha's method of working has been fairly non-controversial with the general public having little knowledge of what exactly the organization does. In fact interviews with Ms. Sita from Spandana and Mr. Laxman and Mr. Puttanna from the KRRS revealed their complete lack of knowledge or awareness about the organization's activities. However Suraksha's activities came under the public scanner with the events, which unfolded on 2 June 2007.

## Events of 2nd June 2007

### *The police version:*

According to the police version, based on information received, the Probationary Dy. S. P., Devaraj, along with two women constables and two other officers, conducted a surprise raid on the house of Radhika in Mathikere village near Channapatna. This raid was conducted in the presence of two panchayat members from Mathikere Village. On entering the house they found both women and men engaging in 'immoral' activities. The arrested included four women and three men who were taken to the police station, and cases registered against them under Sections 3, 4, 5 and 7 of the ITPA. The arrested were Chikkatayamma, Chandramma, Chandrakala, Shantamma and three other men.

As per Mr. Devraj's version, the arrest was conducted with proper information and when they conducted the raid it was found that men and women had locked themselves in the rooms and there were packets of Nirodh (Government-provided free condoms) under the beds and pillows.

Subsequent to the arrest, the accused were taken to the Channapatna police station where curious onlookers had gathered and there were many people including media representatives within the police station. According to Mr. Devraj, there were both TV and press persons who without authorization took video shots of the arrested women from just outside the police station. They were then produced before the Magistrate who remanded them to judicial custody.

Following the raid the Probationary Dy. S. P. stated that some of the accused revealed that they worked at Suraksha and so the Probationary Dy. S. P. immediately went to the Suraksha office where without a search warrant he conducted a search of the premises. Finding nothing after a cursory examination of the records of Suraksha, which included confidential information of sexworkers including their area of residence, area of operation, health status, he left the premises.

*The version of the arrested women.*

We briefly reproduce the statements by the arrested women on the events of the 2nd June, 2007.

Chikkathayamma (Drop-In-Centre (DIC) Supervisor at Suraksha): I have been in charge of condom distribution and HIV training for 3 years at Suraksha. I am 40 years old. I contested the village panchayat elections and won as an independent, and was working as a gram panchayat member. I have lost the elections for village panchayat president once earlier. I would have been elected president this time.

Radhika and I were close friends. I went to her house to collect money for an official function of Suraksha. Radhika's neighbours haven't complained about us before; it must have been others in the town. During the raid, 2 men and 4 women were arrested, and produced before the magistrate at 11 p.m. During the raid, we women were shouted at by the police but they beat up the men. We were in judicial custody for 7 days. We were treated well in Central Jail. We haven't done sexwork in the house. Everyone knew about my work for Suraksha and praised me.

The newspapers have reported that we were found naked with men in the bedrooms. This is simply not true. All this publicity will destroy me, what's the use of living after this? I wanted to commit suicide, but when I found that Suraksha had staged a dharna for us, I decided not to. I was shattered and

grief-stricken in jail. I want to fight for justice since I haven't done anything wrong.

Chandrakala: I am 26 yrs old, and am a resident of Channapatna. Chandamma brought me to Suraksha to seek some medical help. On that day, we reached Radhika's house in the afternoon and were chatting for about 10 minutes before the police raid at 2.45 p.m. There was Preethi, (Radhika's daughter), 2 small children, Chandamma and Chikthayamma and her sister. Two men came and stood outside the house discussing some financial matter. Soon after they left, the police descended on us from all sides. They pounced on one of the men who had come in a car and was talking to Chandamma, and beat him up badly. The police took us to the police station; they didn't produce any warrant. They dragged the women out of the house. There were 2 women inspectors and a number of policemen.

In Channapatna, from the moment we stepped down from the jeep, they started shooting pictures. People were also let in, they all took pictures of us. We were seated on the bench, and the TV camera man took pictures.

I don't know if my aunt with whom I'm staying will let me back into her home, now that I've been subjected to public exposure. She might, though, for the sake of my 2 children. I'd like to take up work at Suraksha. I will seek Suraksha's help and face the world.

Shanthamma ( Community Mobilizer at Suraksha): I'm 31 years old, a resident of Channapatna and I live with my mother. My husband was a policeman who was discharged after 8 years of service due to his alcoholism. I have left him, and I have 4 children, 2 girls 19 and 17, one of whom is married, and a 14 year old son. The second girl works in a garment factory. At Suraksha, I provide information about HIV to sexworkers, and I bring poor people to the clinic for treatment. On that day I came to the office at 10.30 and left for the field to make

preparations for the official function. My sister, Chikthayamma, and I went to Radhika's house. We were four women and one man present and were chatting on the veranda when the police raided the house. The policemen surrounded the house from all sides. There were 2 policewomen and a number of policemen. They arrested us without informing us as to why we were taken to the police station. At the station, our photos were taken and the police refused to tell us why we were arrested. The police prepared the charge sheet and took us to the magistrate at 11 p.m. From there we were taken to Central Jail. We kept asking them why we were arrested but they didn't tell us anything. They didn't serve us any food or refreshments from the time of our arrest till we reached Bangalore at 2 a.m. We have been told by Suraksha about possible arrests in lodges when we go for condom distribution but this was a friend's house, not a brothel. There is no brothel in any village. I'm worried about going back to my house in the village and especially about what people there will say as I have grownup children. I'm ready to go back to work. I am determined to fight back.

Chandramma (Community Mobilizer at Suraksha, Channapatna): I live in Channapatna with my son who is 18 years

old, and works at a bar and has studied up to SSLC. I have lived in Channapatna for 15 years, ever since my husband left me. I went to Radhika's house in connection with our office function. I and Kala went at 2.45 p.m. Chikthayamma and Shantha were there. I told the police that they would have been justified in arresting me if I didn't have any clothes on. This arrest was engineered by someone who didn't want Chikthayamma to be elected panchayat president. In the police station all kinds of people were let in and allowed to take pictures and make fun of us, but the staff of Suraksha was kept out. We were not afraid when the police arrested us but we got afraid when we saw people taking our pictures. We were made to sign on FIRs, taken to a magistrate and we thought we'd be released after paying a fine, but we were brought to the jail. The magistrate was a woman. People of my village heard about my arrest and came to look at me, and told other people back in my village. My son has reassured me and asked me to fight back. I'm afraid my husband's family might deny property rights to my son after this case. This attack is the first of its kind in Karnataka. It is wrong to say that I was doing sexwork in Radhika's house. We have to fight for justice, we can't let them get away with this.

## **The aftermath of the arrests on 2nd June 2007**

6 Suraksha, as has been noted before, had not really been in the public eye in Channapatna. Further, even women in sexwork, the group with which Suraksha worked most closely, had not really been the targets of any serious police action. The police according to Suraksha staff used to be broadly supportive of Suraksha's work. The equilibrium which had been worked out in Channapatna was such that police action rarely meant the registration of a case under the ITPA.

Hence it was definitely a new development for the police to register a case under the

ITPA and that too when three of the four women accused were employees of Suraksha. The veracity of the case regarding whether the women were indeed guilty of running a brothel or living off the earnings of a prostitute should necessarily be decided in a court of law. However, what took the matter beyond the purview of the judiciary into the court of public opinion was the complicity of the police in allowing the media (both print and television) to capture the arrest of the accused and in effect pronounce them guilty before the judicial process could commence.

There was media coverage with headlines such as 'Suraksha caught in the net of prostitution' (Vijay Karnataka, 04.06.07) and 'Prostitution in the name of AIDS Prevention' (Prajavani, 04.06.07). Photos of the arrested women were splashed across some of the newspapers (Police Story, 24.06.07). In addition two TV channels, TV9 and E TV Kannada carried short clips of the arrest of the women in which their faces were fully shown. In effect, regardless of the final judicial decision, the women through the media coverage were stigmatized as sexworkers in the larger community.

Suraksha being seriously concerned about the implications for women sexworkers in Channapatna and their work of the fall out of the police action decided to organize a public protest the very next day. In the reasoning of the Suraksha's Executive Director, Elavarthi

Manohar, the decision to protest was based on the fact that women sexworkers have the history of organizing a successful public rally and public meeting in Dodballapur (Bangalore Rural District) already. He felt that a show of strength was necessary from Suraksha's end to stop police harassment of women sexworkers and Suraksha, to build up public opinion against the illegal police actions and to let the women in jail know that they still had the support of the organization. The issues Suraksha was concerned about were the complicity of the police in allowing the media to cover the arrest with no regard for confidentiality, the salacious media coverage as well as the illegal police intrusion into Suraksha office. Suraksha along with allied organizations decided to organize a protest on 3 June 2007 outside the Channapatna Police Station.

### **The Events of 3rd June 2007**

Staff and community members associated with Suraksha, Karnataka Sexworkers Union (independent Trade Union of sexworkers in Karnataka), Sangama (Organization defending the human rights of sexuality minorities), Samara (Community organization of sexworkers and sexuality minorities in Karnataka), Sadhane (Organisation of sexworkers and sexuality minorities living with HIV), LesBiT (Community initiative of lesbian/bisexual women and Female-to-Male transgender individuals) and Sanchaya Nele (Dalit feminist organization) went to Channapatna from Ramanagaram. The understanding among the protesters was that four women including three Suraksha employees were arrested by the police and that they were exposed to public ridicule in the media. This set the context for the dharna.

The group of around 100-140 people got down in the bus stand and went with placards and banners in an orderly fashion towards the Channapatna Police Station.

Right from the bus stand onwards the group was accosted by the police who kept asking the members of the group about why they were protesting. The police were told to ask Elavarthi Manohar, the Executive Director of Suraksha.

The placards the group carried had slogans such as 'My body, my right', 'Sexwork is not wrong', 'Stop violation of the rights of sexworkers', 'Sexworkers rights are human rights', 'Repeal ITPA', 'Channapatna Police are responsible for rise in HIV and AIDS', 'Sexwork is dignified labour - We give pleasure for money' etc.

When the group reached the police station, they stood outside the station on a service road with the placards and started shouting slogans. The group of 100-140 people were not obstructing traffic and were not causing inconvenience to the public. However, throughout the duration of the protest the police were attempting to dispell the protesters, telling them that they had no

permission to hold the protest. The protesters were told to go and talk to the police and to stop shouting slogans. After about 20 minutes of the protest Inspector Anand informed Geeta (General Secretary of Karnataka Sexworkers Union) that the police would not be able to protect them. And that if they did not stop, the public would come and start shouting slogans against them.

Suddenly around twelve noon, a group of men in plainclothes rushed towards the group from all directions and started

roughing them up and tearing away the banners and posters. The protesting assembly was broken up, and the protesters were chased all the way to the bus stand. The police for the most part stood by passively watching this roughing up and assault. In the course of this assault numerous people suffered grievous injuries. Four of the protesters had to be treated in Bowring Hospital, Bangalore and a medico-legal case was registered in those incidents. We reproduce below some of the testimonies of those who were assaulted.

## Testimonies of violence

Geeta (General Secretary of Karnataka Sexworkers Union): I was hit from the back and hit by a police lathi twice. A policeman also hit me with his hand. As I was running away, I was followed by the goondas and I was sexually abused by these men even as they continued to abuse and rough me up. As I ran, my hair and blouse was pulled and the goondas put their hands where they are not supposed to. They threatened to put acid and petrol on me. The police instead of giving us protection allowed this beating to happen. On reaching Bangalore I went to Bowring Hospital and got a medical report done.

S. Gayatri (Samara): The goondas suddenly started attacking us even as the dharna was going on and told us that they will throw acid on my face. They chased us all the way from the police station to the bus stand and kept roughing me up and aggressively asking me with what permission I had come here and threatening to beat me. They said that we were spoiling all areas and now we were trying to spoil Channapatna as well.

8 Rangeela (Field Supervisor, Suraksha): Once the goondas started attacking us the police played an active role in directing the goondas to beat us. The police would tell the goondas see they are going in that direction, go and beat them. The police did not do

anything to protect us. Even as we were running away, the goondas stopped the bus, pulled us out and beat us. I was sexually abused by the goondas who touched me in places where they should never have put their hands. This was highly insulting and humiliating.

Meena: The goondas were particularly incensed by the slogan of 'My Body, My Right'. They kept shouting at us saying, 'Who are you to shout my body my right?' They said, 'Go and do work in a factory you prostitute.' I was abused using even worse language and they threatened to remove my sari and beat me and then I would know what my body is and what my rights are.

Narayanamma (Suraksha DIC Supervisor): Our aim is to help women from our community who are in trouble. While we were shouting slogans I observed that the public was with me. I never anticipated this kind of attack as there never was such a response to a public program before. The rowdies went in to the police station and spoke to the police before coming out and attacking us. They abused us calling us prostitutes and beat us. I was beaten on my hands and my back. Even though there were many men in the rally it was the women who were specially targeted by the goondas. Even after we were chased back to the bus stand



and as we boarded the tempo to take us back to Bangalore we were chased by the goondas in another vehicle.

Kala (Community Mobilizer, Suraksha): I was hit on the head and fell down and lost consciousness. I was also beaten badly on the leg, hand and head. I can't walk properly even now. My nose is bleeding and I can't lift my hand. My leg is swollen. Due to the beating on the head I lost consciousness and only recovered consciousness in Bowring Hospital. The police instead of stopping the

goondas encouraged them to take us away from the vicinity of the police station and beat us.

Lalita (community member): The police who were in uniform beat me twice with a lathi. They abused me calling me a prostitute and asking why I wanted justice. When I got to the bus stand and climbed into a bus goondas came and beat me and made me get down from the bus. Both the bus conductor and driver did nothing to stop them.

## Response of the Police

In the interviews with Mr. Halesh Naik (Dy. S. P) and Mr. Devraj (Probationary Dy. S. P) both noted that the arrest of the women was based on proper information and that the arrest was as per law. Mr. Halesh Naik was not present at the time of the incident. Mr. Devraj was the key person present both at the arrest under the ITPA on 02.06.07 as well as the subsequent rally.

On being questioned about the TV reports and the pictures that were taken inside the station the officers denied the fact that they had given information to TV and press reporters so that they could cover the arrest and also denied that they had given permission to TV9 reporter to take pictures of the accused inside the police station. They said that TV9 channel have very good equipments that they can zoom in and shoot any pictures in any angle and the same had happened that day. Reporters had shot the pictures from outside the police station. The photography was unauthorized. Mr. Halesh Naik says that the police station is a very open structure and that any Tom, Dick and Harry could see what is going on inside the station and the same had happened on the day the incident occurred. They conceded that the media coverage should not have happened in the way that it did, but insisted that they were unable to prevent it as all the shooting happened from outside the Police Station.

On being questioned as to why the Suraksha office was entered and confidential documents examined without a search warrant, Mr. Devraj denied that a search had been conducted or any documents seized. He reiterated that he cursorily examined a few files lying on the floor and finding nothing, he left. He also noted that since the office was a public place there was no need for a search warrant. According to him the only purpose for going to the office was to search for two people who ran away just after the incident of 02.06.07 saying that they were workers of Suraksha.

On being questioned about why the goondas were not controlled and why an unarmed peaceful crowd was allowed by the police to be beaten up, the officers responded by pointing out to certain procedural irregularities on the part of the protest organizers. According to them Suraksha had not given a requisition letter with regard to the protest thereby, it was a lapse on their part. The police officials were not aware of the whole protest and thereby failed to give proper protection.

Mr. Devraj also noted that people in rural areas have a stigma and discrimination against sexwork and especially, brothels in residential areas. The rally was seen as supporting sexwork in rural areas which accounted for people getting agitated. What made things worse were the highly

provocative slogans and placards used by the agitators such as “Nanna Deha Nanna Hakku” (My body, my right) . This resulted in a section of the public taking matters into their own hands and assaulting the protesters. When this happened the police did their best to control the situation in the course of which some people might have been injured.

On being questioned as to how they were unable to control what was in effect an attack

on unarmed and non-violent protesters and maintain law and order which was their primary responsibility. On being asked why they failed to ensure that women were not protected from assault and serious hurt, Mr. Halesh Naik’s only response was to say that police aggressively act to control situations, sometimes there is inaction by the police and sometimes mistakes happen as police are also human beings.

## Response of TV9

The team could not meet Nagaraj, the reporter of TV9 but was able to speak to him over the phone. When we asked him about how did he get the information about the raid, Mr. Nagaraj said that day he had been to the town and he received a phone call from some villager who said that there is a raid going on in Shettarahalli. Thereby he thought it would be interesting to go and take some photographs. He said since he was too far from the place of the incident, he thought he would directly capture on film the arrested persons in the police station. When he was questioned as to who allowed him to go inside the station to film, he said police themselves gave permission to enter the station, along with his camera

equipment. When he was asked as to how he could telecast the faces in the news without blanking out the faces of the (women), the reporter agreed that it was a lapse on his side and it had happened accidentally and it was not intentional.

This was corroborated by Somashekhar, news editor of the Bangalore desk of TV9 , who admitted that though it is the established policy of their channel to blank out the faces of women and children who are accused in a criminal incident, the policy was violated in this instance because of the mistake of their copy editor, working under pressure of deadlines. Somashekhar said that the copy editor was reprimanded.

## Response of KHPT

The team also decided to meet those who were funding Suraksha’s HIV/AIDS efforts , i.e. the Karnataka Health Promotion Trust (KHPT).

Our team expressed its concern to officials of KHPT about the confidential information contained in the Sex Workers Register about sex workers and their clients, including their HIV status, maintained by NGOs like Suraksha, which work on HIV and AIDS . KHPT requires the agencies it funds to collect such information, but in the event of

this confidential information being disclosed to the public, vulnerable women, especially sex workers in rural areas, would be put to extreme risk. KHPT needs to be concerned about the human rights implications of such unauthorized disclosure.

Ms. Vandana Gurnani, director of KHPT, clarified that the Sex Workers Register is part of an individualized monitoring system (in aggregate and in individualized form) that is essentially designed “to reach the last woman” in an intervention campaign. Such

information reaches KHPT in coded form, and KHPT does not share this data with any individual or agency. Ms. Parinita Bhattacharjee added that this information is collected only with the consent of the sex worker. However, it was evident that this consent was not an informed one, with the

sex workers being unaware of the full repercussions of such information falling into wrong hands. Ms. Parinita conceded that in the aftermath of the Suraksha case, there is a need to standardize information collection systems to prevent recurrence of such potential misuse of sensitive information.

## Conclusions

After listening to the testimonies of those who were arrested on the 02.06.07 as well as those who were beaten on 03.06.07 as well as the version of the police, the media and KHPT officials with respect to the two incidents we have come to the following conclusions:

1. The police have not understood the letter and spirit of the ITPA. The act is meant to target trafficking and in particular brothel keepers and those who live off the earnings of prostitution of another person. In the facts of the present case as per the police case itself there is nothing to indicate that all the women arrested are either living off the earnings of the prostitution of another person or that they are running a brothel. There is also a misapprehension of the very understanding of prostitution under the ITPA. The ITPA after its 1986 amendment under Sec 2 (f) understands prostitution as, 'the sexual exploitation or abuse of persons for commercial purposes and the expression prostitute shall be construed accordingly.' The definition has been changed from Section 2(f) of the 1956 Act, which understood prostitution as, 'the act of a female offering her body for promiscuous sexual intercourse for hire, whether in money or kind and whether offered immediately or otherwise and the expression prostitute shall be construed accordingly.' The crux of the change in definition of prostitution is that it is meant to criminalize only those activities where there is sexual exploitation or abuse for commercial

purposes. If such a relationship is not present, regardless of the nature of public opinion or perception of morality, the police have no business conducting any arrest. This conclusion is further buttressed by a circular issued by the DGP Karnataka State which reiterates the point that Sec 3,4,5, and 6 are meant to be used against traffickers, pimps and other agents and facilitators of commercial sexual exploitation of women and children (**see Annexure I**). Very similar circulars have been issued by the DGP's of Tamil Nadu and Andhra Pradesh (**see Annexures II and III**). There is also an emerging academic opinion which supports the above conclusion. Jacob Punnose the Addl DG of Police, Kerala has noted, 'There are wide differences between moral precepts on one hand and social prejudice and enacted law on the other hand. Being a prostitute is not an offence as per law but being a prostitute is considered immoral...The law today permits the woman to sell privately and the man to buy it. It prohibits a third party from making money out of it.' (**see Annexure IV**).

2. To ensure safeguards, the ITPA under Sec 15 mandates that when persons are arrested under the ITPA, the Special Police Officer or Trafficking Police Officer may make a search without a warrant only in the presence of two respectable inhabitants of the locality one of whom shall be a woman. However in the case of the arrests made on 02.06.07, there was neither a Special

Officer making the arrest nor were there two respectable inhabitants one of them being a woman when the arrest was being made. The Mahazar is signed by two male members of the Panchayat but the arrested women categorically deny that there was anybody else apart from the police officers during the arrest. The fact that there were neither Special Police Officers nor were there two respectable inhabitants (one of them being a woman) makes the mode of arrest highly irregular.

3. Following the incident of 02.06.07, the action of the Probationary Dy. S. P in entering Suraksha office without a search warrant and examining Suraksha's records is illegal. The police are not entitled to enter private premises and conduct a search without a warrant. This remains a matter of serious concern as any violation of the confidentiality of clients of Suraksha can have very serious personal repercussions.
4. With respect to the attack on the protest on 03.06.07 from the testimonies the picture which emerges is clear police complicity in the attacks. It is clear that the police tried to get the protesters to stop the protest and when that did not work, the police were clearly complicit in attacking an unarmed peaceful group of protesters. The police allowed the attackers to go ahead and disrupt the protest, in some cases directly aiding the attackers by beating the protesters in others encouraging the goondas to beat the protesters and in all cases silently watching the goondas beat unarmed and peacefully demonstrating people. It is no excuse to say that the protesters had no permission and hence were entitled to no protection. It is also false to suggest that the slogans were so provocative that the mob was outraged and that they attacked. If such was indeed the case there would have been at the least an exchange of words before the attack commenced. Instead all the

evidence points towards a planned attack on the peaceful protesters using the excuse that the passers-by were provoked. The testimony of the protesters indicates that the passers-by continued to go about their work without gathering in any number to watch the protesters much less express any hostility towards the protesters. The attack was not by passers-by but rather by an organized group which had as its objective the disruption of the protest.

5. The basis of the series of events since 02.06.07 which culminated in the attack on a peaceful assembly on 03.06.07 is the belief of the police that they are guardians of a moral order. The police do not see law and morality as separate spheres with their duty being the enforcement of law, but rather as the protection of society's morals. Nowhere is this more in evidence than in the fact that they use an Act meant for the protection of women to target women themselves. It might be immoral to sell sex, but the law only considers it illegal for third parties to make money out of the selling of sex. However the police to the stamp of approval from the media go on to arrest women for what they themselves allege are immoral activities (read consensual acts of sex) in complete and wilful ignorance of whether these immoral activities are indeed illegal. The police not being content with trying to enforce a moral order using legal means have also been complicit in the perpetration of illegal acts to also enforce a moral order. While it might be a opinion of a section of society that sentiments such as 'My body, my right' should not be aired, the police complicity in violent acts which enforce such sentiments through street level action only undermine the Constitutional promise of the right to freedom of expression and the right to assemble peacefully and without arms.

## **Recommendations**

### ***To the state***

1. The Bangalore SP to take action on the complaint given by the Karnataka Sexworkers Union with a view to identify those responsible for the attack on 03.06.07 and take all necessary action (see Annexure V).
2. the Bangalore SP to conduct an inquiry to pin responsibility on those police officers responsible for the attack on 03.06.07.
3. Greater police education and awareness of the purpose of the ITPA and the necessary separation between law and morality.
4. Ensure that in conformity with both the ITPA and the DGP circular cases are not booked against women victims under Sec 3, 4, 5, 6 and 8 of the ITPA.
5. The Bangalore SP to ensure that henceforth all procedural safeguards as present in the ITPA and Cr. P. C are rigorously followed.
6. The Bangalore SP to ensure that police henceforth do not allow the media to report from within the police station and to ensure that the media is not allowed to substitute the judicial process of adjudication of guilt.

### ***To the media***

1. Both TV9 and E TV Kannada to take action against those responsible for irresponsible and salacious reporting wherein the media showing the faces of the accused exposed them to societal ridicule even before the judicial process could commence.
2. To ensure that all media reporting of cases under the ITPA is done by blanking out faces.
3. To provide a balanced reporting which also considers the viewpoints of women in sexwork.

### ***To NGOs/ Funding agencies***

1. To minimize the collection of extremely sensitive information which could put already vulnerable women at risk. What the Channapatna arrests reveal is the arbitrary power in the hands of the police and the extreme vulnerability of NGOs working with HIV and AIDS to police action. This means that these NGOs have an added responsibility to ensure that the rights of the most marginalized are not compromised in the fight against HIV and AIDS.
2. To put in place safety protocols so that sensitive information does not fall into the wrong hands.

## Annexure 1

22-11-2005

### CIRCULAR

Sub: Action under Immoral Traffic (Prevention) Act,  
1956.

Ref This office Circular No : SMS-612512004-05, dtd  
: 30-9-04

National Human Rights Commission, National Commission for Women, State Commission for Women and various NGOs have repeatedly been pointing out that Immoral Traffic (Prevention) Act, 1956 is not being implemented in its true spirit by the Police Department. The very name of the Act is "Immoral Traffic" conveys that the Act is intended to control/prevent the trafficking of human beings. Therefore, it is logical to conclude that police action should be primarily against the traffickers of human beings, exploiters, pimps, brothel keepers, those living on the earnings of sex workers, etc and not against the sex worker, women who are victims of the trafficking. Unfortunately, statistics reveal that hardly any action is being taken against the exploiters while a large number of cases have been booked against the "helpless" victims of trafficking.

In this connection a circular was issued by this office vide reference cited above, reiterating the above premise. But it seems that the harassment of the women sex workers continues unabated. It is therefore, felt necessary to reiterate the earlier instructions in the matter as under :

1. Section 4 of ITP Act states that any person, living on the earnings of the prostitution of any other person, is liable for the offence under this section- This section can be effectively used against brothel keepers, pimps and other similar agents. It may be noted that section 4(2) of the ITPA provides that the burden of proof that a particular person is not living on the earnings of the prostitution is on the accused.
2. Similarly, sections 5, 6 and 7 provide for stringent action against the traffickers and pimps and, under all these sections, the burden of proof of innocence is placed on the accused.
3. Booking of a woman sex worker under section 8 tantamount to revictimising the woman when she is already a victim of trafficking and sexual exploitation. It is, therefore instructed that henceforth no woman sex worker should be booked u/s 8 of ITP Act unless the woman in question is a "Madam" or a brothel keeper. Needless to say men who solicit on behalf of women and those who run a brothel or live on the earnings of these women sex workers including "madam" and pimps, should be vigorously pursued and prosecuted under appropriate sections of law. In future, any cases are booked against women sex workers for "soliciting" the explanation of the concerned officer should be called and if there is any lack of

## Annexure 1...ctd

bona fides, action should be taken.

4. A large number of complaints have been received from different places that sex workers are man handled, ill-treated, assaulted and abused in an inhuman manner by the police personnel. It is also alleged that the local police is in the habit of extracting money from these sex workers which itself amounts to extortion and living on their earnings. Needless to say that this pernicious practice, if true, should be stopped forthwith and strict disciplinary action should be taken against such officials.

Please acknowledge the receipt this circular.

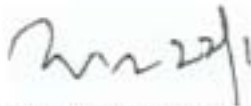
Sd/  
(B.S.Si,al)  
Director General and  
Inspector General of Police.

To,

The Commissioner of Police, Bangalore City/Mysore City/Hubli-Dharwad City All  
Range Inspectors General of Police,  
All Superintendents of Police, Incharge of Districts; Including KGF and Railways.

Copy to: The Director General of Police, COD, Training Spl Units and Economic  
Offences, Bangalore.

All ADGPs.

  
For Director General and  
Inspector General of Police

## Annexure 2

### MOST IMMEDIATE / PERSONAL ATTENTION

Rc.No.230501/Crime 3(1)/2004

Office of the  
Director General of Police.  
Chennai 600 004.  
Dated: 18.11.2004

### CIRCULAR MEMORANDUM

Sub: Police Trafficking of Women and Children - Certain instructions issued.

It has been brought to notice that repeated representations are being received by the Government from Human Right Activists and various Non-Government organization that the police personnel dealing with prostitution invariably focus on the prostitute victim rather than on the traffickers of women and the majority of the cases booked are against the victims / sex workers u/s 4 of the Immoral Traffic (Prevention) Act and not against the traffickers.

2) Section 4 of the ITP Act states that any person living on the earning of the prostitution of any other person is liable for the offence under this section and not the victim who is indulging in prosecution for her own living.

3) Likewise cases against women victims of sexual exploitation should not be booked under section 8 of ITP Act for soliciting and only pimps / organizers / traffickers should be booked.

4) The aim of the Anti Trafficking Cell / Anti Vice Squad / the police personnel who deal with the prostitution is to ensure that the people involved in trafficking are brought to book and not to harass the women unnecessarily.

5) It should be borne in mind that during any raids on a brothel house, if a minor girl is found to be the victim, a case should be booked under rape i.e 376 IPC against the male customers and traffickers, organizers and pimps.

6) Therefore all Commissioners of Police and District Superintendents of Police including Railway Police are instructed that the above position may be brought to the notice of all concerned and they may be suitably instructed. Our endeavour should always be to bring the traffickers and organizers to book.

7) Please acknowledge receipt of this memo.

Sd/-L.K.GOVIND  
Director General of Police

To  
All Commissioners of Police,  
All District Superintendents of Police  
The Superintendent of Police, Railways, Trichy and Chennai.  
Copy to: All Range Deputy Inspectors General of Police  
Copy to: All Zonal Inspectors General of Police.  
Copy to: The Commandant, T.S.P. V Battalion, Avadi

True copy/Forwarded/By order/

S. Sivan  
Personal Assistant (Admin) 22/10



### Annexure 3

Office of the  
Addl. Director Genl. of Police  
C.I.D., A.P., Hyderabad.  
Dt: 19-4-2003

C.No.21/DIG/WPC/CID/2003

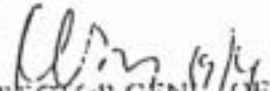
#### CIRCULAR MEMO.

Sub: Trafficking of women and children – Certain instructions – Reg.  
Ref: C.No.21/SP(WPC)/CID 3E, Dt: 21-9-2002 of Addl.  
DGP,CID,AP,Hyd.

\*\*\*

In the meeting of the State Co-ordination Committee on Trafficking of women and children held on 3-2-2003 in the chambers of Chief Secretary, it was pointed out that majority of the cases booked were against the victims / sex workers U/s. (4) of ITP Act and not against the traffickers. Sec. (4) of ITP Act states that any person living on the earning of the prostitution of any other person is liable for the offence under this section and not the victim who is indulging in prostitution for her own living. Thus the victim women cannot be booked under section (4) of the ITP Act. Like-wise it was already pointed out in the memo C.No.21/SP(WPC)/CID/2002, Dt. 21-9-2002 of Addl. DGP, CID, AP, Hyderabad, that cases against women victims of sexual exploitation should not be booked U/s.(8) of ITPA for soliciting and only Pimps / Organizers / Traffickers should be booked. In spite of the instructions issued, cases are being booked against victims U/s. 8 of ITP Act by some police officers. It should also be borne in mind that during any raids on a brothel house, if a minor girl is found a victim, a case should also be booked under rape i.e., 376 IPC against the male customers and traffickers, organizers and pimps.

Hence, all the Supdts. Of Police and Commissioners of Police are instructed not to book, repeat not to book, the victim women for soliciting. Our endeavour should always be to bring the traffickers and organizers to book. If, in future, any cases are booked against the women for soliciting, the explanation of the concerned officers be called for and action initiated against them. All Ss P and C.S.'s will acknowledge the receipt of this memo.

  
For ADDL. DIRECTOR GENL. OF POLICE  
C.I.D., A.P., HYDERABAD.

TO

All Supdts. Of Police, A.P.  
All Commissioners of Police, A.P. State  
Copy to Principal Secretary, Home Department, Govt. of A.P., Hyderabad for information.

## Immoral Trafficking - the Law & its Enforcement

Jacob Punnoose IPS, Addl DG of Police, Kerala

(Seminar on "Law, Morality and Human Rights" organised by the Department of Law, University of Kerala & FIRVA at the Senate Chamber, University of Kerala on 15-6-2004)

The word "Prostitution", in the law relating to immoral tracking, was earlier defined as "the act of a female offering her body for promiscuous sexual intercourse for hire". This definition is no longer the one given in the Prevention of Immoral Traffic Act. The word has now been given the meaning "the sexual exploitation and abuse of persons for commercial purposes".<sup>1</sup> What is significant now is that prostitution is not defined overtly in terms of sexual intercourse, but in terms of sexual exploitation and sexual abuse. The law itself specifically enjoins us to construe the meaning of the word of the prostitute - not in the conventional sense - but in the sense that is dictated by the new definition of prostitution. The Act clearly aims at penalising the business of exploiting human beings for prostitution.

Prostitution is a big business<sup>2</sup> all over the world. India is no exception. The annual turnover in India was estimated, a few years back, as Rs. 40,000 crores<sup>3</sup>. 23 lakh women in India are believed to work as prostitutes and at least 3 lakhs among them are believed to be children. The business thrives because of demand and the money, which supports the demand, which lures both the women and the traffickers. As in any market place, the law of demand and supply operates. The prospect of easy money keeps the traffickers active in finding new recruits<sup>4</sup> who fall prey due to a variety of circumstances.

<sup>1</sup> Sec 2 of PITA reads, inter alia, as follows.

(a) "brothel" includes any house, room, conveyance or place, or any portion of any house, room, conveyance or place, which is used for purposes of sexual exploitation or abuse for the gain of another person or for the mutual gain of two or more prostitutes;

(i) "prostitution" means the sexual exploitation or abuse of persons for commercial purposes, and the expression "prostitute" shall be construed accordingly;

<sup>2</sup> Admittedly statistics are only estimates. Nobody maintains audited accounts!

<sup>3</sup> 5000 crores is the annual salary bill for the entire government employees and teachers in Kerala. Approximately 500 crores was the total annual expenditure on Police in Kerala during 2003. This is just to emphasise the huge size of the business generated by immoral trafficking.

<sup>4</sup> 300,000 girls work as sex workers (UNICEF). 1000 red light districts exist all over India. The red light district in Bombay generates at least 4000 crores a year in revenue, with 100,000 prostitutes servicing men 365 days a year, averaging 6 or 7 customers a day, at minimum of Rs 100 each (Robert I. Friedman - *The Nation*, 8 April 1996). India is one of the favoured destinations of paedophile sex tourists from Europe and the United States (IE, 21 November 1997). India's child sex industry is the second largest in the world after the Philippines. (*The Nation*, 18 October 1996). Conservative estimates put the number of children in India suffering from commercial sex abuse at 300,000. (*The Week*, 4 August 1996). Over 1 million girls and women are forced into the sex industry within the country at any given time (US State Dept Report on India, Feb 2001). Every day, about 200 girls and women in India enter prostitution (*Times of India*, 4 Dec 1997) According to an ILO estimate, 15 percent of the country's estimated 2.3 million prostitutes are children. UNICEF says that in South East Asia 1 million children are subjected to sexual exploitation.

The United Nations has estimated that 1 million people are trafficked internationally each year.<sup>5</sup> Generally speaking, trafficking in human beings is an organised economic activity, displacing persons for their exploitation. It has become a global phenomenon. The traffickers sell the girls. The owner has complete control over the money earned. Because of moral stigma (which, in many instances borders on moral hypocrisy and double standards), women and girls who are trafficked are vulnerable not only when coerced by traffickers but also when facing authorities and the public. A girl may have been forced into prostitution. But in her individual capacity, the average member of the public treats her, not as a victim, but as a criminal who has offended both the law and morals – when, in fact, she may have violated neither except under duress.

Several factors have helped the explosion in numbers during recent years – increasing female poverty caused by war, civil disturbance, droughts, floods and famines; growing sex industries in rich countries and tourist destinations; increasing global travel; the influence of the Internet.

Numerous International Conventions against trafficking exist<sup>6</sup>. The philosophical and factual position with regard to these problems has been well understood by the international community. But even at the international level, practical translation of the international agreements into concrete action has not been very effective, even in advanced countries, as the statistics given earlier would amply testify.

In India, law has for long taken cognizance of the problems posed by prostitution<sup>7</sup>.

Historically the concerns initially were discipline and good health of the soldiers and preservation of public morals and public order. Art 21 of the Constitution of

<sup>5</sup> An estimated 500,000 women are trafficked into Western Europe from all over the world (The European Union's Report on Gender Equality 1996-2000). UNICEF says that in South East Asia more than 1 million children are subject to sexual exploitation, and that because of the AIDS epidemic, which the potential customer is scared of, the gangs that control the prostitution racket seek out increasingly young girls, who are less likely to suffer from AIDS. There are 50,000 women from the Dominican Republic overseas in the sex industry – the fourth highest number in the world after Thailand, Brazil. More than 2 million children are being sexually exploited in Latin America (Organisation of the American States) The US State Department estimates that each year at least 50,000 women and children are trafficked to the US alone from other countries. The economic value of international trafficking is estimated at 28000 Crores of Rupees.

<sup>6</sup> The *International instrument for the Suppression of the White Slave Traffic* was passed in 1904 followed by the *International Convention of 1910 for the Suppression of White Slave Traffic*, the *International Convention of 1921 for the Suppression of the Traffic in Women & Children* and the *International Convention of 1933 for the Suppression of Traffic in Women of Full Age*. In 1950, *Convention for the Suppression of Traffic in Persons and of Exploitation by Prostitution* was signed. The UN Declaration on the Rights of the Child emphasises the need to protect the child from sexual exploitation. Other international instruments like 1948 Universal Declaration of Human Rights, the 1949 *Convention for the Suppression of the Traffic in Persons*, the 1966 International Covenants on Human Rights (which incidentally forms the basis of Human Rights Enforcement as per law enacted in India) and the 1990 World Declaration on the Survival Protection and Development of Children also are applicable to the various issues relating to the problem.

<sup>7</sup> In 1668, the East India Company had issued regulations, which included a ban on the soldiers keeping women of ill repute, and the regulation of brothels. In 1869 the Contagious Diseases Act enabled the police to pick up any woman on suspicion of being a prostitute and to submit her to a medical examination. Stringent punishments were imposed on the women concerned. It was repealed in 1888. The East Bengal and Assam Disorderly Houses Act to abolish brothels was passed in 1907, followed by legislation in several other places.

India gives the right to life and personal liberty. "Right to life does not merely mean animal existence but includes a right to live with human dignity." Art 23 prohibits traffic in Human Beings and forced labour. Art 39 guarantees equal treatment of men and women. Art 42 ensures protection against exploitation. The Indian Penal Code awards imprisonment up to 10 years for kidnapping a woman to force her into illicit intercourse.

India enacted the Suppression of Immoral Traffic Act (SITA) in 1956. It was amended in 1986 and renamed Prevention of Immoral Traffic Act (PITA). It is very significant (and often not understood by many an educated person) that under this enactment, a woman cannot be punished simply because she prostitutes herself. Prostitution, per se, is not declared or defined as a crime under the PITA; it criminalizes solicitation for prostitution or prostitution activity (as defined in the ACT) in or near a public place<sup>3</sup>. Even in these sections, the word prostitution is to be understood in the manner defined in the act and not in its usual, conventional meaning. *(Please see the first paragraph and the first footnote.)*

Considering that several lakhs of women and children are trafficked inside India and outside, the volume of action in India as a whole is very small. In most of the states very few cases are taken. If we assume registration as a statistical indicator of the incidence, we draw an erroneous conclusion that in most states, the problem practically does not exist at all. *(There are states where in the whole state not even one case in a month is reported!)* It is seen that in many states with populations of several crores hardly any action has been taken. The total number of cases taken in India against immoral trafficking under PITA is given below, both as yearly totals and as state wise figures in recent years.

<sup>3</sup> PITA Sec. 7. **Prostitution in or in the vicinity of public place.** —(1) Any person who carries on prostitution and the person with whom such prostitution is carried on, in any premises:

(a) which are within the area or areas, notified under sub-section (3), or

(b) which are within a distance of two hundred meters of any place of public religious worship, educational institution, hotel, hospital, nursing home or such other public place of any kind as may be notified in this behalf by the Commissioner of Police or Magistrate in the manner prescribed,

shall be punishable with imprisonment for a term which may extend to three months.

(3) The State Government may, having regard to the kinds of persons frequenting any area or areas in the State, the nature and the density of population therein and other relevant considerations, by notification in the official Gazette, direct that the prostitution shall not be carried on in such area or areas as may be specified in the notification.

**Sec. 8. Seducing or soliciting for purpose of prostitution.** —Whoever, in any public place or within sight of, and in such manner as to be seen or heard from, any public place, whether from within any building or house or not:

(a) by words, gestures, willful exposure of her person (whether by sitting by a window or on the balcony of a building or house or in any other way), or otherwise tempts or endeavour to tempt, or attracts or endeavour to attract the attention of, any person for the purpose of prostitution; or

(b) solicits or molests any person, or loiters or acts in such manner as to cause obstruction or annoyance to persons residing nearby or passing by such public place or to offend against public decency, for the purpose of prostitution, 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 with both, and in the event of a second or subsequent conviction, with imprisonment for a term which may extend to one year, and also with fine which may extend to five hundred rupees:

## Annexure 4...ctd

Year	Cases
1992	12580
1993	12496
1994	10132
1995	8447
1996	7706
1997	8323
1998	8693
1999	9363
2000	9515
2001	8796

Compared to the size of the problem, the total volume of cases is so low that any inference on incidence based on the figures of registration is meaningless.<sup>9</sup> The business of trafficking involves several lakhs of people and millions of instances of criminal activity must be taking place. But the complaints from citizens against those who actually indulge in trafficking are minimal. Whatever action has been taken with regard to brothel keepers and traffickers has been either by police officers acting on their own or by some public-spirited persons coming forward to help the police

STATE	IMMORAL TRAFFIC(P) ACT		
	1999	2000	2001
ANDHRA PRADESH	737	482	1332
ARUNACHAL PRADESH	1	0	0
ASSAM	5	17	6
BIHAR	38	9	20
CHHATTISGARH		NR	12
GOA	28	28	28
GUJARAT	40	47	61
HARYANA	14	13	21
HIMACHAL PRADESH	0	1	1
JAMMU & KASHMIR	4	2	7
JHARKHAND		NR	3
KARNATAKA	1225	1308	1356
KERALA	62	92	132
MADHYA PRADESH	33	23	15
MAHARASHTRA	397	164	233
MANIPUR	0	0	4
MEGHALAYA	0	0	0
MIZORAM	0	2	2
NAGALAND	0	1	1
ORISSA	22	17	24
PUNJAB	14	20	32
RAJASTHAN	85	110	68
SIKKIM	0	0	0
TAMIL NADU	6462	6950	5232
TRIPURA	0	0	0
UTTAR PRADESH	24	30	26
UTTARANCHAL		NR	0
WEST BENGAL	39	49	31
<b>TOTAL (STATES)</b>	<b>9223</b>	<b>9367</b>	<b>8656</b>

<sup>9</sup> "REGISTRATION IS NOT A RELIABLE MEASURE OF INCIDENCE". If people do not come forward to complain, registration will be low while actual incidence may be high. Conversely if people complain, registration will be high and incidence may actually be lower because of increased threat of punishment. Usually registration (in rape, molestation, eve teasing, domestic violence etc.) depends on the willingness to complain. Many social evils, despite being illegal, enjoy widespread silent social tolerance. Enforcing agencies are seldom under direct social pressure to act. Victims may be afraid of the public/ police /courts/ publicity /criminal. When there is passive social tolerance and passive acquiescence by the victim, increased crime figures may mean increased police activity and not increased incidence.

For example, from experience we know that there is phenomenal incidence of demand for dowry. But for demanding dowry there is hardly any action. Crores of marriages take place every year. But all over India only 3489 cases were registered in 1998 for demand for dowry. Another example is eve teasing for which only about 8000 cases were registered all over India despite the evil being common. Nationally, in 1998, only 146 cases were registered for importation of women and only 192 cases for Indecent Representation of Women.

and the law enforcement machinery. Unfortunately the number of such public-spirited persons is very low. There is very little point in blaming the police unless citizens are willing come forth and complain about trafficking. This is more so in the case of action relating to immoral trafficking, given the nature of the activity, the unwillingness of disinterested citizenry to get involved and the great difficulty in getting complaints. Those who benefit from the transaction are hardly likely to give complaints. The very vulnerability of the victims neutralises their motivation to complain.

The details of arrests done under the act as compared to general crime are given below for the year 2001. In India, in general, women account for only five percent of the persons arrested for complicity in crimes. But strangely, for actions under the law specifically enacted to take action against those who exploit women, more than 80 percent of those arrested are women<sup>10</sup>.

CRIME HEAD	MALE	FEMALE	TOTAL	PERCENTAGE TO TOTAL	
				MALE	FEMALE
MURDER	71888	3434	75322	95.4	4.6
KIDNAPPING & ABDUCTION	29379	1506	30885	95.1	4.9
THEFT	157964	4250	162214	97.4	2.6
RIOTS	377540	20876	398366	94.8	5.2
CRIMINAL BREACH OF TRUST	15229	422	15651	97.3	2.7
HURT	458080	30506	488586	93.8	6.2
<b>TOTAL CRIMES UNDER IPC</b>	<b>2526932</b>	<b>144608</b>	<b>2671540</b>	<b>94.6</b>	<b>5.4</b>
<b>SPL LAWS</b>					
ARMS ACT	64645	127	64772	99.8	0.2
GAMBLING ACT	310451	735	311186	99.8	0.2
PROHIBITION ACT	420068	107407	527475	79.6	20.4
<b>IMMORAL TRAFFIC ACT</b>	<b>2560</b>	<b>10263</b>	<b>12823</b>	<b>20</b>	<b>80</b>
DOWRY PROHIBITION ACT	5695	1361	7056	80.7	19.3
CHILD MARRIAGE ACT	221	60	281	78.6	21.4
INDECENT REPRESENTN OF WOMEN	240	454	694	34.6	65.4
<b>TOTAL UNDER SPL LAWS</b>	<b>3957543</b>	<b>174188</b>	<b>4131731</b>	<b>95.8</b>	<b>4.2</b>

<sup>10</sup> An interesting feature which emerges from the national statistics is that the Act, which sought to prevent exploitation of women by commercial interests, seem to have been used mostly against women. When action is taken under the Act, the thrust does not seem to be against the racketeers. The male-female break up of persons arrested shows that large majority of arrestees are females.

PERSONS ARRESTED in 2000			
STATE/CITY	IMMORAL TRAFFIC ACT		
	MALE	FEMALE	TOTAL
ANDHRA PRADESH	348	813	1159
ASSAM	15	0	15
BIHAR	19	0	29
GOA	0	127	127
GUJARAT	69	172	240
HARYANA	27	19	46
HIMACHAL PRADESH	5	5	10
JAMMU & KASHMIR	1	0	1
KARNATAKA	394	2992	3788
KERALA	119	284	383
MADHYA PRADESH	111	7	118
MAHARASHTRA	118	572	690
MIZORAM	0	12	12
ORISSA	35	20	55
PUNJAB	53	63	113
RAJASTHAN	68	197	276
TAMIL NADU	255	5814	7069
UTTAR PRADESH	4	159	163
WEST BENGAL	48	153	217
DELHI	54	199	252
TOTAL (MTs)	33	89	132
TOTAL (ALL-INDIA)	1782	12088	13870
BANGALORE	105	941	1105
BHOPAL	11	8	19
CHENNAI	0	3658	3658
HYDERABAD	30	18	48
INDORE	0	10	10
JAIPIUR	28	23	51
KOCHI	5	12	17
KOLKATA	22	148	171
LUCKNOW	0	15	15
RAIPUR	0	156	156
MUMBAI	35	454	489
SURAT	55	145	203
VARANASI	3	57	60

The statewide statistics given here offer certain insights. In some states not a single male has been arrested, indicating action has been almost totally against women who were found soliciting. (See Goa and Mizoram. In Chennai, which incidentally accounts for nearly 30 percent of the total volume of action nationally taken under the ITA Act, not a single male is seen arrested while 3658 females were arrested). The performance of Kerala, at least with regard to proportion of men arrested under the Act is much better than the national average, though the volume of action is admittedly low. Nationally action tends to concentrate on soliciting in public places. Prevention of public nuisance caused by soliciting seems to be the principle, possibly spurred by public demand supporting firm police action to deal with the nuisance caused by such persons. The working of the Act has not been very effective against pimps and brothel-keepers, possibly because of the reluctance of the victims to give evidence.

Kerala registers very few cases under Immoral Trafficking Act. Very few cases are registered for kidnapping or Importation of women. The

number of cases registered in Kerala for action under the PITA for 1997, 1998, 1999 and 2000 were 41, 27, 62, and 92 respectively. To assume that these represent a true picture of the total incidence would be fallacious.<sup>11</sup> This only means that except perhaps in generally denouncing the actual criminals in general terms, very few come forward to actively complain about specific crimes. Even when some individuals come forward, the social/peer pressures on them is so great that they tire out because of the sheer magnitude of the problem. For the police also, the department is so understaffed that there is hardly adequate manpower to fully

<sup>11</sup> One must remember that Kerala registered only an average of 60 cases of eve teasing per year during a period of 6 years! Actually that many incidents would have happened in a single bus in the course of a single day in a busy city. Registration indicates either suo moto police action or willingness to complain.

serve even the needs of people who come complaining about violent crime and pressing for immediate action. There are also matters relating to unavoidable issues - (law and order issues or traffic bottlenecks or accidents or natural calamities or deaths from suicides) - which leave police little time to go, on their own, in relentless pursuit of those responsible for crimes which are in the nature of social evils taking place with the acquiescence of the victim and with profits in some form to all parties to the transaction.

From a policing and preventive point of view, conditions for a flourishing flesh trade exist in Kerala<sup>12</sup>. From several recent incidents, which led to registration of cases or considerable public outrage, one can easily infer that trafficking in Kerala is fairly widespread.<sup>13</sup>

Admittedly, there is room for increased police action within the existing framework; increased responsiveness, greater resources and better sensitisation of police are urgently required. But the daily priorities on manpower allocation in the police station are decided by unforeseen occurrences outside the control of the police. Constraints of time prevent consistent action in many socially important areas. Merely increased suo moto police action may not eradicate the problem. The obstacles are too great. Unless voluntary groups render active co-operation in the matter of giving information, motivating complainants and victims, conducting and witnessing raids and ensuring rehabilitation of victims, no great improvement can result. The good citizen is not one who remains a mute spectator. Not getting involved in preventing evil amounts to tacit approval of evil. Evil triumphs when The Good remain silent.

To prove trafficking, the most important witness is the victim. Often the victim is under the control of the criminal. Neither the State nor the System can effectively offer her alternative sources of livelihood or ensure rehabilitation. If left free and alone, she will again fall into the racket. She knows this too well. The co-operation of the victim with the prosecution is absolutely essential for success. No amount of honest determination from the police will be of any use unless the victims are

<sup>12</sup> The dowry system is universal and the amounts of dowries being demanded and taken are huge. This would make marriage long delayed for many young men (waiting for the BIG deal) and women (waiting for the AFFORDABLE match) and they can become prey to the sexual racketeers. The huge popularity of "adult" English movies and noon shows, the spread of obscene literature and pictures, the huge circulation enjoyed by sexually explicit magazines etc. is indicative of the attitude of the average Malayalee. Foreign money has created many who have surplus cash and a still larger group, which gets unearned cash as gifts. The dream of going abroad at any cost, the false dignity which makes one avoid earning a decent living by doing physical work even within one's own property, the jealous competition for goods considered as status symbols etc. have caused the weakening of value systems. Rapid urbanisation, easy transportation, high per capita consumption of alcohol, large floating population etc. makes selling of sex easier. Sexually explicit advertising has become vigorous in Kerala as Kerala is seen as India's biggest consumer market. Sex does not need deliberate promotion. Suggestive advertising reinforces it. The impact on young minds is to blur the distinction between reality and myth. Seeking and buying pleasure is projected as justified - and even promoted as desirable!

<sup>13</sup> What comes to public notice may be an individual case. It may not be proper to generalise on the basis of an individual case. But the experiences of the girls involved reveal the readiness with which people from different walks joined the chain of exploitative carnality, the ease with which premises were available for transportation and residence, the geographical spread of the operations etc. We are forced to realise that, below the pervasive hypocritical façade of morality, there does exist in Kerala an efficient infrastructure conducive to trafficking and sexual exploitation of women.



enabled to resist the lure of the trafficker and are enabled to escape his clutches. This is a task for the government and the society and not merely that of the police.

The problems relating to trafficking are closely connected to the social, moral and economic fabric of Kerala Society. Police are not lawfully empowered to enforce any moral code. Police are not the arbiters of morals and ethics. Legislatures define the law and the police in a democracy are to concern themselves continuously with the task of attempting to curb the unlawful, leaving the decision of punishment of the offender to the courts. The policeman - even a saintly, strong, righteous one - has no right to punish immorality among the general citizenry. True, the policeman as a person has a duty to adhere to morals and norms public decency and conduct in his personal life. He has also a duty to prevent public display of obscenity and indecency, if the enacted law provides for the same. But no society can allow police to enforce a moral code, without specific sanction under law.

The expression **immoral** trafficking itself recognises morality as a value. But there are wide differences between moral precepts on the one hand and social prejudice and enacted law on the other hand. Being a prostitute is not an offence as per law but being a prostitute is considered immoral. If prostitution is immoral both the woman who sells her body as well as the man who purchases pleasure is equally to be blamed. But social attitudes show much more tolerance towards the man. Visiting a brothel for pleasure is not a social disgrace for the man as long as he is not exposed directly. The law today permits the woman to sell privately and the man to buy. It prohibits a third party from making money out of it.

The common man does not understand the fine distinctions between illegality and immorality. The officer, who maintains an operational posture that paid sexual course by itself is not an offence, runs the risk of public ridicule and even allegations of complicity and corruption. This fact generally leads to widespread police action against prostitutes, particularly in public places to foster the impression among the public that firm police action is being taken. This also, simultaneously, opens the prospect of corruption because the man involved will do anything to escape the odium of being produced in court. And, technically as per law, the police officer will not be committing any illegality by releasing those caught because the man, any way, has not committed any defined offence. These inconsistencies among moral precepts, social standards and definition of offences make the enforcement of the act highly prone to unrealistic public expectation on the one hand and corruption on the other hand. In prostitution, the woman is a commodity or a victim. The seller is the trafficker; the purchaser is the man who uses the woman. The ease and profitability of trafficking will be considerably reduced if the purchaser is criminally accountable.<sup>14</sup>

To sum up, prevention of trafficking may not be getting sufficient attention from the police due to a variety of reasons. There is need for more police effort with more active cooperation of voluntary agencies and greater sensitisation of personnel. This may lead to increased registration but will reduce actual trafficking. Rehabilitation should get greater attention. The concept that the male participant who purchases sex from the trafficker or negotiates with the traffickers commits no offence needs a second look. Section 7 and 8 also requires to be reworded carefully to maintain desirable norms of public decency while ensuring that there is no room for unjust victimisation of the victims themselves.

<sup>14</sup> It is learnt that The National Expert Committee on Women Prisoners, headed by Justice V.R. Krishna Iyer, in May 1987 pleaded to penalise the client by amending the law in the interest of gender parity.

## Annexure 5

ಕರ್ನಾಟಕ ಲೈಂಗಿಕ ಕಾರ್ಮಿಕರ ಸಂಘ

(ನ್ಯೂ ಟ್ರೇಡ್ ಯೂನಿಯನ್ ಇನಿಷಿಯೇಟಿವ್‌ನ ಅಂಗ ಸಂಘಟನೆ)

**Karnataka Sexworkers Union**  
(Affiliated to New Trade Union Initiative)



No. 9, ABABIL, Patel Cheluvappa Street, JC Nagar [MR Palya], Bangalore - 560006, Mobile: 9448055465

To

**THE SUPERINTENDENT OF POLICE,**  
Bangalore District,  
Bangalore



Bangalore  
9<sup>th</sup> June, 2007

Sir,

**SUBJECT: COMPLAINT AGAINST POLICE OF CHENNAPATNA RURAL  
POLICE STATION AND GOONDAS**

We the undersigned are members of Karnataka Sexworkers Union. Karnataka Sexworkers Union strives to get sexwork recognized as dignified labor and defends the rights of sexworkers. The Union ensures protection from exploitation and demands fair working conditions. The Union is affiliated to New Trade Union Initiative, a national federation of independent trade unions in India.

On 2<sup>nd</sup> June, 2007 police of Channapatna Rural Police Station claimed that they raided a house in Mattikere, within the jurisdiction of their police station and arrested four women and three men. The raid was led by Deputy Superintendent of Police (Probation), Mr. Devaraj. TV9, a Kannada Television Channel telecasted video of all 4 women being brought into the Police Station by the Police and when they were inside the Police Station. ETV, another Kannada Television Channel telecasted video of some of the women when they were inside the Police Station. Both the channels have stated that these women are engaged in the business of prostitution. These TV programs are watched by millions of people in Karnataka and elsewhere. It is very clear that the Police have involved the media to defame these women. Police and media worked in tandem to proclaim these women guilty of offences related to prostitution before the court's decision becomes clear through this incident.

Same day Police including Mr. Devaraj entered the Channapatna office of Suraksha (an NGO working on HIV-AIDS and health issues among sexworkers and other vulnerable populations since February 2004) without a search warrant and without required permission, and looked through the confidential medical/personal records of the sexworkers. The records include many personal details of sexworkers including medical history, name, age, area of residence, area of operation and other personal details.

These acts of the police are highly objectionable as they are clearly human rights violations. Showing women on the television is a clear violation of women's right to privacy as this can cause them enormous harm in an environment of stigma, discrimination and intolerance towards sexworkers. These women live in rural areas and the media exposure is most likely to lead to public shame, social boycott, threats to their lives and social ostracisation. Most sexworkers are unskilled and they are from economically and socially marginalized sections. Often they are the sole

## Annexure 5...ctd

breadwinners of their families. As most sexworkers are hidden, such exposure also stigmatizes their families and makes their families vulnerable to violence, social stigma and discrimination.

Suraksha's HIV-AIDS interventions are a part of national HIV-AIDS control program spearheaded by National AIDS Control Organisation (NACO). Promoting condoms and safer sex practices, behavior change communications, peer education, psychosocial support, medical treatment, creating an enabling environment, empowerment of sexworkers and maintaining confidentiality are central to all HIV-AIDS interventions among sexworkers according to our national policies. Police actions have clearly violated our national health policies by breaking the confidentiality of sexworkers. Sexworkers in and around Channapatna are living under constant fear as the Police can take undue advantage of their confidential records. Many sexworkers have already gone underground fearing police harassment and arrest. Under these circumstances it will take a longtime before sexworkers can feel safe to access HIV-AIDS services including condoms, medical treatment including psychosocial support. In the meantime many sexworkers and their clients are at the risk of being infected with HIV. This will affect an estimated population of 20000 people every month and can create a huge public health crisis in and around Channapatana as more than 2% of people already infected with HIV in Bangalore Rural District. Illegal police actions have put breaks on life-saving work painstakingly built over a long period of time by a committed social organization. Police actions have violated right to health and right to life of sexworkers and their partners.

Being concerned, agitated and aggrieved by the police actions, we along with other social justice organizations including Samara, Sadhane, Sanchaya Nele, LesBiT, Sangama and Suraksha gathered in front of Channapatna Rural Police Station on 3<sup>rd</sup> June, 2007 and peacefully protested the human rights violations by the Police. It was a protest on the side of road without affecting the traffic movement.

During the peaceful protest some policemen along with some goondas (encouraged by police) assaulted us brutally with hands, sticks, iron rods and stones and other police personnel who were witness to this, did not even raise any objection to the assault but were encouraging the goondas. Many women were sexually harassed and filthily abused. Women were pulled out (by their hair) of buses and vans. Goondas threatened to through acid on protestors and burn the buses using petrol. All of us were severely beaten by the goondas and policemen. The Inspector of Police, Mr. Ananda snatched our digital camera and threw it on the road and destroyed the same. This act was a clear attempt to destroy evidence. Channapattana Police and goondas threatened to kill us if we come back to Channapattana. We are not in a position to lodge a complaint about this incident to Police in Channapatna as they are the perpetrators of violence against us and we do not have any trust in them. Under these circumstances we are making this complaint to your Hon'ble Authority.

We, the undersigned have been beaten by the goondas and policemen on that day. We came to Bangalore after the brutal assault and many of us got ourselves examined in Bowring Hospital and Medico Legal Cases were registered by the hospital authorities. Medical certificates issued by the hospital to five of us are herewith enclosed for your kind perusal.

On verification we have identified some of the goondas who assaulted us along with policemen both in plain clothes and in uniform. The policemen include Inspector of Police Mr. Ananda. Goondas who had assaulted with the assistance and instigation of police include:

1. Loki @ Lokesh of Thittamanahalli
2. Dhruva from Yelekeri
3. Madhu of Yelekeri
4. Muddukrishna of Yelekeri
5. Raja of Thittamanahalli
6. Kitti of Mangalwarpet
7. Dharma of Yelekeri
8. Manju of Fort area
9. Ravi of Mynayakanahalli
10. Chandra of Mynayakanahalli

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11. Loki of Mynayakanahalli and
12. Boregowda of Mynayakanahalli

Policemen and goondas were led by Inspector of Police Mr. Ananda in committing the offences. We do not know the names of the other policemen who assaulted us. We will be in a position to identify the policemen when the policemen of Chennapatna police station are shown to us.

The assault, attack and abuse by the goondas and police constitute offence punishable under sections 325, 504, 506, 143, 147, read with 149 of Indian Penal Code.

We sincerely request your kind self to immediately to direct registration of a crime against the accused policemen and goondas for the offences committed by them and also take all such other action against the policemen and goondas as may be necessary.

We respectfully submit that the acts of the police were certainly gross violation of human rights more particularly joining hands with antisocial elements and hence there is no requirement of sanction to prosecute the police officer Mr. Devaraj, Mr. Ananda, and other policemen of Channapatna Rural Police Station, for the offences committed by them. We request you to conduct investigation by an independent agency and not by Channapattana Police, who have committed offences against us.

We also demand that your Hon'ble Authority be kind enough to give protection to activists and other persons who are agitating for the human rights of sexworkers for which act of kindness we would be grateful.


Yours faithfully

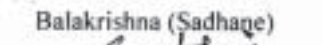
  
Sheetal, Hanumanth, Geetha, Kala, Narayanamma, Talitha and Rangeela  
For Karnataka Sexworkers Union

**Supported by:**

  
S. Gayathri (Samara)

  
E. Manohar (Sanchaya Nele)

  
Balakrishna (Sadhage)

  
C. Gayathri (LesBiT)

- Cc:
1. Governor of Karnataka,
  2. Chief Justice of High Court of Karnataka,
  3. Chief Minister of Karnataka,
  4. Minister for Home, Law, Justice and Human Rights-Karnataka,
  5. Minister for Labor-Karnataka,
  6. Minister for Health and Family Welfare-Karnataka,
  7. Minister for Women and Child Development-Karnataka,
  8. Minister for Social Welfare-Karnataka,
  9. Director General and Inspector General of Police - Karnataka,
  10. Chairperson, National Human Rights Commission,
  11. Chairperson, National Commission for Women,
  12. Chairperson, Karnataka State Commission for Women,
  13. Convener, Parliamentary Forum on HIV/AIDS,
  14. Prime Minister of India and Chairperson, National AIDS Council,
  15. Chairman, National AIDS Committee and Union Minister for Health & Family Welfare
  16. Additional Secretary and Director General, National AIDS Control Organisation,
  17. Chairman, National AIDS Control Board and Secretary (Health and Family Welfare),
  18. Project Director, Karnataka State AIDS Prevention Society,
  19. Project Director, Karnataka Health Promotion Trust,
  20. Country Coordinator, UNAIDS-India.

# [www.pucl.org](http://www.pucl.org)

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People's Union of Civil Liberties (PUCL) is a national human rights organization founded by Jayaprakash Narayan in the immediate aftermath of the emergency. PUCL-Karnataka has been active on a series of human rights issues right from the rights of slum dwellers, sex workers, dalits, sexuality minorities and religious minorities. PUCL-K is also an active part of various campaigns in Karnataka including the campaign against water privatization, slum dwellers rights etc.



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