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Beyond Prostitutional Platitudes

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I

In 1981, we all came to know about buying and selling of Kamla; the interpid correspondents of the *Indian Express* bought her for rupees 2,300 for (as the Bombay High Court was to later remind us coldly) "half the price one pays for a buffalo in Punjab." (AIR 1985 Bombay 229 at 230.) Before the Supreme Court could effectively hear the petition filed by Arun Shourie, and argued by Soli Sorabjee, Kamla disappeared from the protective home in Delhi. Neither the editor nor the readers of the *Indian Express* have pursued the matter even with a shadow of zeal with which Bofors has been later pursued!

No doubt, a film was made; Vijay Tendulkar adopted the story in form of a play, also published as a book. The book was widely read; and the play was staged in about 32 cities in 7 languages 150 times. (The *Indian Express* sued for violation of copyright in the Bombay High Court and lost).

Despite all these attempts to raise elite public consciousness, the flesh trade thrives vigorously. It seems to be nobody's problem now. In retrospect, one may say that all Kamla accomplished for the Indian intelligentsia was to help them perfect their "progressive" credentials.

In March-April 1988, the *roopjivinis* of Surat waged a forty-day struggle for their civic rights, and particularly against their oppression by the police. They won modest gains. But this struggle found no mention even in the back pages of national dailies.

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India, of course, is a vast country. But the distance between Surat and Bombay is small and the distance between Surat and Delhi does often get abridged. Recently, activists, feminists and progressive minds protested vigorously at the launching of criminal prosecution against a Gujarati learned journal *Arthart* for allegedly hurting the feelings of the followers of the Swaminarayan sect. The protest was massive; the perfectly justified. At the same time, the right to freedom of expression here emerges as a central national issue as compared with the basic rights to dignity of four hundred *roopjivinis* at Surat.

These two situations invite soul-searching among progressive intellectuals and activists. For what is at stake is the integrity of activism concerning the rights of women subjected to barbaric exploitation. There is no militancy of action here as was evoked, at last, by the murder at Deorala; what we see here is a conspiracy of activist silence. If in this situation, neither the victim group nor the State take us seriously, the problem is not with the class and patriarchal character of the State power *merely*. The problem is with the arthritic soul of Indian middle class activism.

Critiques of state power as class hegemonic and patriarchal are crucially important in renovating social consciousness and organization for action. A decade ago these words rarely appeared in activist discourse; now they furnish the stock-in-trade idiom. But if the idiom is new, the reality is historical. To deal with that intransigent reality, we do need to move away from the prostitutional platitudes. We do need to move beyond the kickback words: "exploitation", "Patriarchy", "immoral traffic" and "rehabilitation." These are kickback words because the women about whom we wax eloquent remain precisely where they are while activist careers are built upon their living corpses.

II

If legal literacy, informal education and social activism, all put together, are to achieve anything for the here-and-now victims of trafficking in women and prostitution, we need more than well-intentioned, important and impressive, critiques of state and law. We need a more precise historical understanding of the situation and based upon it we need to decide the location of our struggles for change.

The Eighth Plan is in the offing. Thanks to the overall militancy of women and civil rights action groups, the Seventh Plan did include a

special chapter on socio-economic programmes for women, in addition to the usual compendious chapter on social welfare. But when you look carefully at Chapters 13 and 14 of the Second Volume of this Plan, you see that the expression "trafficking in women" occurs once or twice among a host of other similar problems. It does not seem to have occurred to many people, including those responsible for planning, ten years after Kamla, that a market in which women can be sold and bought as chattels, not once but several times over, for a price much lower than a price of buffalo makes complete nonsense of all talk concerning women's status, dignity and progress through planned effort.

Within the system as it exists and operates, and in the time now available, all concerned people must seek to redress the cruel indifference of the planning process to this disgraceful market in women. One level at which struggle should be waged is to provide adequate resources for law enforcement to liquidate such markets in a time-bound programme; another is a high plan outlay for recovery and "rehabilitation" of the victims of such trade. Surely, Departments of Adult, Continuing and Extension Education and of Women's Studies, in collaboration with activist women and civil rights groups, should campaign for adequate plan provision in this regard. Such a campaign will have to be based on a sure scientific grasp of, among other things, the social geography of the markets, the socio-political organization of "trade", the nature and types of political trade-offs at micro-levels between district administrators, police, dominant classes and political parties. The campaign should also provide for reforms in the instruments of policy; the state of the existing law, and processes of its enforcement, innovation in district administration and police services and effective forms of public participation, for example.

III

The other important arena for struggle is that of protective homes or Nari Niketans. The Agra Protective Home Litigation in the Supreme Court enters eighth year even as I write. The writ filed by Professor Lotika Sarkar and myself; with the dedicated assistance of lamented Dr. R.S. Sondhi, is now extensively reported in law reports [e.g. (1983) 2 Supreme Court Cases 308]. If our experience is a reliable guide, the protective homes under the Prevention of Immoral Traffic Act are run in scandalous and scandalizing violation of the

rules framed under the Act by the various States and in complete disregard of the constitutional rights of life and liberty of Indian citizens placed in the state's "protective" custody. The proceedings in the case revealed, for example:

- medical treatment for people suffering from sexually transmitted diseases and psychic disorders was not provided as per the law;
- physical facilities were confiscatory of right to dignity and health (the Home had only one toilet for 100 inmates and it took tenacious argumentation before the Supreme Court for it to, ultimately, order provision of additional facilities);
- the facilities provided in the rules for vocational training and recreation simply did not exist;
- the provision for 'discharge' of an inmate was unknown, virtually, to the Administrator of the Home (soon upon the filing of the writ, she 'discharged' about forty inmates who were simply asked to leave the Home whereas the rules provide notification to parents or guardians and sending of the inmate under police escort; these women had to be recovered under the orders of the Supreme Court;
- despite various directions given by the Supreme Court, it was constrained as late as July 1986 that state had not constituted a Board of Visitors to the Home as per Rule 40, and,
- overall, the conditions of maladministration of the Home were so persistent that the Court was constrained to burden the District Judge with the duty of supplying monthly reports to it concerning the implementation of its directives; this still being done.

Not merely this, after five years of hard work, just when the conditions at the Home were improved, the state government derequisitioned the house which it was neither necessary nor justified for it to do. The landlord had not succeeded in getting the premises back as the Allahabad High Court had rejected his plea. Despite this, and in the midst of proceedings pending before the Supreme Court, the state not merely returned the building in Central Agra to the landlord but hired from him a warehouse at the outskirts of the city to house the inmates! The Supreme Court recorded its "anguish" at this development (*Upendra Baxi v. Uttar Pradesh* AIR 1987 SC 191 at 195) but refused to order a CBI enquiry into the transaction which we

asked. We had every reason to press for it because in the early phase of the proceedings the state had maintained before the Court that we, as petitioners, had a personal and pecuniary interest in filing the writ and that we were acting in collusion with the landlord who stood to benefit if the house was vacated as a result of the proceedings!

We have urged the State to ensure substantial modifications in its Rules, on the lines of Model Rules provided a decade ago by the Union Government. But it is more than a matter of changing rules; what is involved in the daily invigilation of how they are implemented. The fact that such invigilation is taking place in Agra Home is itself extraordinary. But no court, even the Supreme Court, can or could undertake such an arduous enterprise for all protective homes in the country. Nor has the executive taken the message of the Agra Home case seriously; even in Uttar Pradesh, the state of other homes leaves much to be desired; and in the rest of India, the Agra Home case is not treated as generative of any innovative jurisprudence of Nari Niketans.

The tasks are, frankly, Herculean, especially involving the twelfth labour of cleaning the Augean stables! I can say from our experience that the state regards the implementation of its welfare rules as an imposition in the running of the homes; the governments in India seem to believe that the "butcher's meat should not be weighed in diamond scales. "The women, caught in the web of exploitative trafficking, seem to appear as the Butcher's meat." They have no rights because they "deserve" none. They constitute a liability the costs of which have to be contained. If the women can be recycled, one way or the other, and much the same way as "waste" is being recycled as an innovative measure, administration ought to do so. Otherwise, they should be left to a destiny of state protective homes, where both 'home' and 'protective' turn out to be humiliatingly cruel euphemisms which mock the values of the Indian Constitution day and night.

Isn't it time, forty years after independence, that we take these issues seriously as entailing unconscionable violation of human rights or the right of women to be and remain human? And if we are to address ourselves to this, is it enough to keep condemning patriarchal and class character of Indian state power? Once again, a whole agenda of concern and commitment presents itself with a historic intensity for the activists.

Public involvement, or even interest, in the administration of home would, I believe, greatly assist the conscientious elements in the welfare bureaucracy; such elements are few but they exist everywhere. There is no reason why at local levels, where every major city has a protective home, activists groups should not maintain a friendly vigil over the state of administration under the rules. There is no reason why such a vigil should not be maintained on the members of the board of visitors and if such boards are not constituted under the rules why there should not be insistent public demand for their establishment.

At the national level, of course, there is need to introduce in the planning process a much higher priority of resource allocation for the protective homes. More importantly, the idea that "rehabilitation" means containment and recycling of waste needs to be vigorously fought. Restoration to dignity and fulness of life for a human person subjected to prostitution is a complex task, not to be achieved by manipulation of the notion of "rehabilitation", a term which practically means, to repeat, "waste" disposal where live and suffering persons constitute the "waste".

IV

The sad plight of the victims of flesh trade makes a demand on all of us to stand and to be counted. Sedentary activism, which furnishes only progressive critiques of state and law, does not by itself contribute much to transformation. Active engagement with here-and now victims is what is called for. The first step towards such creative engagement would be to go beyond prostitutional platitudes to concrete programmes of action constraining the state and society towards implementing the present policy and the law. The next step will be the abolition from our diction of the corrupting kickback words and struggle for articulation of new approaches against exploitation of these groups of women. In all this, let us be guided by the insight: "if it is not given to any generation to complete the tasks of justice neither shall it desist from these."