

**The Bar Dancer and the Trafficked Migrant**

**Globalisation and Subaltern Existence**

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#### **Bar Dancers and Differing Perceptions**

An important feature of a rally organized by bar owners against police raids in Mumbai on 20<sup>th</sup> August 2004 was the emergence of the bar dancer. A large number of girls with their faces covered were at the forefront of the rally holding up placards with blown up pictures of semi clad Bollywood stars. It was a statement questioning the hypocritical morality of the state and civil society. This image became the motif for the media for the following year when the controversy around the bar dancer was raging. The media reported that there are around 75,000 bar dancers in the city of Mumbai and its suburbs and they have organized themselves into a union to resist police raids.

The mushrooming of an entire industry called the 'dance bars' had escaped the notice of the women's movement in the city. Every one in Mumbai was aware that there are some exclusive 'ladies bars'. But usually women, especially those unaccompanied by men, are stopped at the entrance. So many of us did not have any inside information regarding the bar dancers. Except within the for the closed doors of the doors during late hours of the night, they led an invisible life. But the 20<sup>th</sup> August rally changed all that.

Soon after the rally, Ms. Varsha Kale, the President of the Bar Girls Union approached us (the legal center of Majlis) to represent them through an 'Intervener Application' in the Writ Petition filed by the bar owners. During the discussion with the bar dancers, it emerged that while for the bar owners it was a question of business losses, for the bar girls it was an issue of human dignity and right to livelihood. When the bars are raided, it is the girls who are arrested, but the owners are let off. During the raids the police molest them, tear their clothes, and abuse them in filthy language. At times, the girls are retained in the police station for the whole night and subjected to further indignities. But in the litigation, their concerns were not reflected. It is essential that they be heard and they become part of the negotiations with the State regarding the code of conduct to be followed during the raids.

As far as the abuse of power by the police was concerned, we were clear. But what about the vulgar and obscene display of the female body for the pleasure of drunken male customers, which was promoted by the bar owners with the sole intention of jacking up their profits? It is here that there was a lack of clarity. I had been part of the women's movement that has protested against fashion parades and beauty contests and semi-nude depiction of women in Hindi films. But the younger lawyers within Majlis had a different perspective. They belonged to a later generation which had come to terms with fashion parades, female sexuality and erotica.

Finally after much discussion, we decided to take on the challenge and represent the bar girls' union in the litigation. In order to understand the issue we spoke to many bar dancers and also visited dance bars. Though I was uncomfortable in an environment of palpable erotica, I realized that there is a substantial difference between a bar and a brothel. An NGO, Prerana, which works on anti-trafficking issues, had filed an intervenor application, alleging the contrary – that bars are in fact brothels and that they are dens of prostitution where minors are trafficked. While the police had raided the bars on the ground of obscenity, the Prerana intervention added a new twist to the litigation because they submitted that regular police raids are essential for controlling trafficking and

for rescuing minors. The fact that the police had not abided by the strict guidelines in anti-trafficking laws and had molested the women did not seem to matter to them. At times, after the court proceedings, we ended up being extremely confrontational and emotionally charged, with Prerana representatives accusing us of legitimizing trafficking by bar owners and us retaliating by accusing them of acting at the behest of the police.

### **Out of the Closet - Into the Public Domain**

Sometime in March, 2005, when the arguments were going on in the High Court, the first announcement on the closure of dance bars was made by the Deputy Chief Minister Shri R.R. Patil. The announcement was followed by unprecedented media glare and we found ourselves in the centre of the controversy as lawyers representing the bar girls' union. The controversy had all the right ingredients - titillating sexuality, a hint of the underworld, and polarized positions among social activists. Ironically, the entire controversy and the media glare helped to bring the bar girl out of her closeted existence. It made the dance bars more transparent and accessible to women activists. Some women's groups came out openly in support of the dancers. But an equal or even greater number of NGOs and social activists issued statements supporting the ban. Among them were child-right's and anti-trafficking groups led by Prerana. The women members of the NCP came on the street brandishing the banner of depraved morality. Paid advertisements appeared in newspapers and signature campaigns were held at railway stations. 'Sweety and Savithri - who will you choose?' goaded the leaflets distributed door to door, along with the morning newspaper. The term Savithri, denoted the traditional *pativrata*, an ideal for Indian womanhood, while Sweety denoted the woman of easy virtue, the wrecker of middle class homes.

Suddenly the dancer from the city's sleazy bars and shadowy existence had spilled over into the public domain. Her photographs were splashed across the tabloids and television screens. She had become the topic of conversation at street corners and market places; in ladies compartments of local trains and at dinner tables in middle class homes. Every one had an opinion and a strong one at that. In her favour, or, more likely, against her. Saint or sinner ... worker or whore ... spinner of easy money and wrecker of homes or victim of patriarchal structures and market economy? The debate on sexual morality and debasement of metropolitan Mumbai seemed to be revolving around her existence (or non-existence). The anti-trafficking groups who had been working in the red light districts had not succeeded in making a dent in child trafficking in brothels that continue to thrive. But in this controversy, brothel prostitution and trafficking of minors had been relegated to the sidelines. The brothel prostitute was viewed with more compassion than the bar dancer, who may or may not resort to sex work.

The bar dancer was made out to be the cause of all social evils and depravity. Even the blame for the Telgi scam was laid at her door; the news story that Telgi spent Rs.9,300,000 on a bar dancer in one night was cited as an example of their pernicious influence. The criminal means through which Telgi amassed wealth faded into oblivion in the fury of the controversy.

### **Hypocritical Morality**

Was it her earning capacity, the legitimacy awarded to her profession, and the higher status she enjoyed in comparison to a sex worker that invited the fury from the middle class Maharashtrian moralists?

While the proposed ban adversely impacted the bar owners and bar dancers from the lower economic rungs, the state proposed an exemption to hotels which hold three or more “stars”, or clubs and gymkhanas. Those of us who opposed the ban raised some uncomfortable questions: “Could the State impose arbitrary and varying standards of vulgarity, indecency and obscenity for different sections of society or classes of people? If an ‘item number’ of a Hindi film can be screened in public theatres, then how can an imitation of the same be termed as ‘vulgar’? The bar dancers imitate what they see in Indian films, television serials, fashion shows and advertisements. All these industries use women’s bodies for commercial gain. There is sexual exploitation of women in these and many other industries. But no one has ever suggested that you close down an entire industry because there is sexual exploitation of women! Bars employ women as waitresses and the proposed ban would not affect this category. Waitresses mingle with the customers more than the dancers who are confined to the dance floor. If the anti-trafficking laws had not succeeded in preventing trafficking, how could the ban on bar dancing prevent trafficking? And if certain bars were functioning as brothels, why were the licenses issued to them not revoked?”

Since the efforts of the Deputy Chief Minister to get an Ordinance signed by the Governor failed, the government drafted a bill and presented it to the State Assembly. It was an amendment to the Bombay Police Act, 1951 by inserting certain additional sections. On July 21, 2005, the Bill was passed at the end of a ‘marathon debate’. Since the demand for the ban was shrouded with the mantle of sexual morality, it was passed unanimously. The debate was marathon not because there was opposition, but every legislature wanted to prove his moral credentials. No legislator would risk sticking his neck out to defend a lowly bar dancer and tarnish his own image. In the visitors gallery, we were far outnumbered by the pro-ban lobby, the ‘Dance Bar Virodhi Manch’, who had submitted 150,000 signatures to the Maharashtra state assembly insisting on the closure of dance bars.

It was a sad day for some of us, a paltry group of women activists, who had supported the bar dancers and opposed the ban. We were sad, not because we were outnumbered, not even because the Bill was passed unanimously, But because of the manner in which an important issue relating to women’s livelihood, which would render thousands of women destitute, was discussed. We were shocked at the derogatory comments that were passed on the floor of the House, by our elected representatives, who are under the constitutional mandate to protect the dignity of women! Not just the bar dancers but even those who spoke out in their defense became the butt of ridicule during the Assembly discussions. The comments by the legislatures while debating the bill protecting the dignity of women were frivolous at best and down right bawdy and vulgar at its degenerated worst.

One member stated: ‘we are not Taliban but somewhere we have to put a stop. The moral policing we do, it is a good thing, but it is not enough ... we need to do even more of this moral policing.’ Suddenly the term ‘moral policing’ had been turned into a hallowed phrase!

These comments were not from the ruling party members who had tabled the bill. They were from the opposition. Their traditional role is to criticize the bill, to puncture holes in it, to counter the argument, to present a counter viewpoint. But on that day, the House was united, across party lines and all were playing to the gallery with their moral one-upmanship. No one wanted to be left out. Not even the Shiv Sena whose party high commandis linked to a couple of dance bns in the city, supported the ban on ‘moral’ grounds. And the Marxists were one with the Shiv Sainiks. The speech by the CPI(M) member was more scathing, than the rest.

It was a moral victory to the Deputy Chief Minister (DCM), Shri R. R.Patil. In his first announcement in the last week of March, 2005, he had said that only bars outside Mumbai will be banned. A week later, came the next announcement. The state shall not discriminate! All bars,

including the ones in Mumbai, would be banned. What had transpired in the intervening period one does not know. But what was deemed as moral, legal and legitimate, suddenly a week later, came to be regarded as immoral, vulgar and obscene.

The 'morality' issue had won. The 'livelihood' issue had lost. It was indeed shocking that in this era of liberalization and globalization dominated by market forces, morality had superseded all other concerns, even of revenue for the cash-strapped state.

The demand for the ban was grounded on two premises which were contradictory to each other. The first - that the bar dancers are evil and immoral, they corrupt the youth and wreck middle class homes; they hanker after easy money and amass a fortune each night by goading innocent and gullible young men into sex and sleaze. The second - that bars in fact are brothels and bar owners are traffickers who sexually exploit the girls for commercial gains. This premise refused to grant an agency to the women dancers. Rather unfortunately, both these populist premises appealed to the parochial, middle class Maharashtrian sense of morality. What was even worse, the demand for a ban was framed within the language of 'women's liberation' and the economic disempowerment of this vulnerable class of women came to be projected as a plank which would liberate them from sexual bondage.

On August 14<sup>th</sup>, 2005, at the midnight hour, as the music blared in bars packed to capacity in and around the city of Mumbai, the disco lights were turned off and the dancers took their final bow and faded into oblivion. As the State celebrated the independence day, an estimated 75,000 girls, mainly from the lower economic strata, lost their means of livelihood.

Some left the city in search of options, others fell by the wayside. Some became homeless. Some let their ailing parents die. Some pulled their children out of school. Some were battered and bruised by drunken husbands as they could not bring in the money to make ends meet. Some put their pre-teen daughters out for sale in the flesh market. And some committed suicides ... just names in police diaries ... Meena Raju ... Bilquis Shahu ... Kajol ... In the intervening months there were more to follow. A few stuck on and begged for work as waitresses in the same bars.

The exit of the dancer brought the dance bar industry to a grinding halt. Devoid of glamour and fanfare, the profit margins plummeted and many bars closed down. Few others braved the storm and worked around the ban by transforming themselves into 'silent bars' or 'pick up points' - slang used for the sex trade industry. Left with few options, women accepted the paltry sums thrown at them by customers, to make ends meet. Groups working for prevention of HIV/AIDS rang a warning bell at the increasing number of girls turning up for STD check ups.

### **Constructing the Sexual Subject**

Soon thereafter, Petitions were filed in the Bombay High Court challenging the constitutionality of the Act by three different segments - the bar owners associations, the bargirls union and social organizations.

After months of legal battle, finally, the High Court struck down the ban as unconstitutional. The judgement was pronounced on 12<sup>th</sup> April, 2006 to a packed court room by a Division Bench comprising of Justices F.I. Rebello and Mrs. Roshan Dalvi and made national headlines. The ban was struck down on the following two grounds:

- the exemption (given to certain categories of hotels as well as clubs etc.) has no reasonable nexus to the aims and objects which the statute is supposed to achieve and

hence it is arbitrary and violative of Article 14 of the Constitution of India (the clause of equality and non-discrimination);

- it violates the fundamental freedom of the bar owners and the bar dancers to practice a occupation or profession and is violative of Article 19 (1)(g) of the Constitution.

The Court held that the dance bar ban violates fundamental freedom guaranteed under Article 19(1)(g) of the Constitution. This is a significant development and nearly half the pages of the extensive 257 page judgment deals with this concern. “*Are our fundamental rights so fickle that a citizen has to dance to the State’s tune?*”, was the caustic comment.<sup>1</sup>

Further the court held: “The State does not find it offensive to the morals or dignity of women and / or their presence in the place of public entertainment being derogatory, as long as they do not dance. The State’s case for prohibiting dance in dance bars is, that it is dancing which arouses the physical lust amongst the customers present. There is no arousing of lust when women serve the customers liquor or beer in the eating house, but that happens only when the women start dancing. .... The right to dance has been recognized by the Apex Court as part of the fundamental right of speech and expression. If that be so, it will be open to a citizen to commercially benefit from the exercise of the fundamental right. This could be by a bar owner having dance performance or by bar dancers themselves using their creative talent to carry on an occupation or profession. In other words, using their skills to make a living....”<sup>2</sup>

A glaring discrepancy in the arguments advanced by the State was in the realm of the agency of this sexual woman. At one level the State and the pro-ban lobby advanced an argument that the dancers are evil women, who come to the bars to earn ‘easy money’ and corrupt the morals of the society by luring and enticing young and gullible men. This argument granted an agency to women dancers. But after the ban, the government tried to justify the ban on the ground of trafficking and argued that these women lack an agency and need State intervention to free them from this world of sexual depravity in which they are trapped.

Refuting the argument of trafficking, the Court commented: “no material has been brought on record from those cases that the women working in the bars were forced or lured into working in the bars. The statement of Objects and Reasons does not so indicate this. ... To support the charge of trafficking in order to prohibit or restrict the exercise of a fundamental right, the State had to place reliable material which was available when the amending Act was enacted or even thereafter to justify it. A Constitutional Court in considering an act directly affecting the fundamental rights of citizens, has to look beyond narrow confines to ensure protection of those rights. In answer to the call attention Motion, an admission was made by the Home Minister and it is also stated in the Statement of Objects and Reasons that young girls were going to the dance bars because of the easy money they earned and that resulted also in immoral activities. There was no mention of trafficking.”<sup>3</sup>

Rather ironically the anti-ban lobby also framed its arguments within this accepted ‘victim’ mould. Single mothers, traditional dancers with no other options. Further, it was important for the anti-ban lobby to make a clear distinction between the dancer / entertainer and the street walker and base the arguments squarely upon the fundamental right to dancing. The sexual erotic inherent in dancing had to be carefully crafted and squarely located within ‘Indian traditions’ and the accepted norm of

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<sup>1</sup> Para 61 at page 163

<sup>2</sup> Para 68 at Page 183

<sup>3</sup> Para 86 at page 235

'Bollywood gyrations' and not slip beyond into sexual advances. The emphasis had to be for a right to livelihood only through dancing and not beyond.

During the entire campaign, the world of the bar dancer beyond these confines lay hidden from the feminist activists who campaigning their cause and was carefully guarded by the bar dancer. Only now and then would it spill over more as a defiant statement. So while we were exposed to one aspect of their lives which had all the problems – of parenting, poverty, pain and police harassment, we must admit that this was only a partial projection, an incomplete picture. We could not enter the other world in which they are constantly negotiating their sexuality, the dizzy heights they scale while they dance draped in gorgeous chiffons studded with sequences, oozing out female erotica and enticing their patrons to part with a generous tip.

### **The Trafficked Woman**

Prior to the ban, the state administration initiated some discussion about the possible rehabilitation of the bar dancers. However, when they realised the enormity of the proposition, they hastily modified their stand. According to the Deputy Chief Minister, Shri R. R. Patil it was neither feasible nor desirable to rehabilitate the dancers. Showing little or no consideration towards the 'cause and effect' of its policies and actions, the Maharashtra government absolved itself of its responsibility, citing statistics of the larger proportion of women who come to Mumbai from 'outside', as an excuse for its indifference.

Finally, by the time the ban was implemented, the rehabilitation proposal was abandoned all together. This was justified by the baseless allegation that the dancers were earning easy money and that they had amassed huge amounts of unaccounted wealth. This assertion was completely untrue for the overwhelming majority of the dancers. Based on this myth, the government contended that there was no need for any rehabilitation measure.

Faced with the almost negligible employment options and the destitution of their families, some dancers negotiated with the bar owners and a via media solution was reached to employ the former dancers as waitresses in ladies service bars. Given the fact that the majority were illiterate, this was the best option for them to 'rehabilitate' themselves at a lower rung within the familiar environment of the bars, where there is no stigma attached to the former bar girls.

Waitressing is a perfectly valid legal option as per all the exiting legislations including the latest Amendment to the Bombay Police Act. However, women employed as waitresses continued to face harassment. The Police continued to hound these women and harass them on various pretexts. They were abused and taunted to and from work and the Police continued to demand their haftas from the women, now earning negligible amounts, barely sufficient to meet their basic needs.

The state continued to hound women in other ways too. In fact, no avenues were left out in the witch-hunt that followed and it still continues to this day. The D.C.M. Shri. R. R. Patil, went to the extent of announcing to the press that the witch-hunt could be public now – a licence and an invitation. The news that one or two bar dancers (e.g. Taranum) have been discovered to have large amounts of unaccounted wealth was blown out of proportion to suggest that all bar girls have unaccounted wealth. Shri R. R. Patil went to the extent of making a public announcement that people could now go out and hound the bar dancers. Whoever was successful would be rewarded with 20% of the moolah. This was not a general announcement, but a specific one targeted at bar dancers.

In the midst of this increasing public vilification of bar girls, on 26<sup>th</sup> August 2005, around 85 bar dancers who were working as waitresses were arrested. While the bar owners, managers and male staff who were arrested were released on bail the very next day, the women driven to penury could not pay the huge amount of Rs.15,000 and were languishing in prison cells. We met these women along with social workers from Tata Institute of Social Work. Later intervened with the bar owners association and after months of negotiations finally the girls were released on bail.

It is during our prison visits that we came across yet another layer of bar dancers. These were recent migrants and were the poorest of the poor and hence they were still in custody as they lacked even the basic support structure in the city. They did not have any friends or relatives in Bombay. They also did not have any identification like ration card or voter cards and it was obvious that they were recent migrants. Most girls spoke Bengalis and some admitted to being Bangladeshis while others denied. In the study conducted by S.N.D.T. University along with women's groups where 500 girls were interviewed, there were a significant number of Bengali girls but all of them stated that they hail from Kolkata and most had Hindu names. (It is not uncommon for bar dancers to change their names when they come to the bars and the names they take on are usually of famous stars from Bollywood or television serials. When we asked them their names, they would respond, 'which name should I give - the family name or the bar name?'. We would be taken aback by this response. For these girls the usual markers like name and address also did not have much significance and these were not markers of their existence in the city. So their lives had been truly invisible prior to the bar girls controversy raging in the public domain.)

Through our interviews we were able to detect a certain migration pattern and also probe into issues of trafficking. The girls claimed that they came to Bombay through some networks and initially were brought to work as domestic maids but were later introduced to bars where they worked as waitresses or dancers. There was no coercion or force in getting the women to work at the bar.

Though the women did not come to Bombay intending to work at the bars, and they may not have been initially apprehensive about the work, however, now most say that this work is the best option for them in their present circumstances since they were earning far more than they would as domestic workers and they enjoyed a certain degree of economic freedom. During our interviews when asked whether they would go back to the bars after their release, initially they denied and stated vehemently that they would never work in a bar again. They stated that the work was indignified and humiliating. There was also the fear that they might get arrested. But on further probing they admitted that it was their best option and that if the ban was lifted then they would go back to working at the bar.

One could surmise that the women were 'duped' as they did not know that they were coming to Bombay to work in bars. They came to Bombay to seek better employment opportunities as domestic workers. But it is also possible that the so called 'friend' who brought them to Bombay did so with the intention of introducing them to the bars and one can surmise that there are certain chains through which women migrate to metro cities which can be termed as trafficking. However, while there may be some sort of cheating/deception on the part of the friend, there does not appear to be any organized trafficking links operating to bring these girls and lure them into sex work.

There was no compulsion, other than their own economic compulsion, that made them become bar dancers. The women arrive at some sort of arrangement with the friend who had got them the bar work. Most paid the friend a daily amount, generally Rs 100/- for food and lodgings. The women were not in any manner controlled by the bar owners. They lived separately, got daily payments, traveled to and from their rooms.



As regards the accommodation, the system of daily rent of Rs 100/- is the norm. We might not have come across it earlier as we generally deal with a slightly more prosperous stratum of bar dancers. These women were from a poorer strata than most the dancers we had interacted with so far. Initially, in our minds we linked this to prostitution. But later we realised that among this strata, it is common to have shared accommodations on daily rental basis with an average of about four to six girls sharing a room. If the girl changed her bar she would also change her accommodation. It was very simple. Thus, our initial suspicion that the daily room rent was an indication of prostitution was not true.

### **String Operation and the Backlash**

Just when we had surmounted the hurdle of getting these girls released on bail through negotiations with bar owners, there was yet another incident, this time far more lethal and its implications far more grave. In October, 2005, while the bar dancer issue still had a lot of news value, and the High Court case was still pending, this incident made news headlines and shattered the lives of many former bar dancers. A television channel splashed a sensational story of the rape of a former bar dancer in the satellite town of Nerul in Navi Mumbai. The case as it unfolded had all the ingredients of a cheap thriller – the string operations carried out by a reporter of a television channel and her ‘source’, then the filing of the case and the media hype that followed, the detention of the victim in police custody for two days, followed by the news of her retraction before a magistrate, the questioning by the police of the journalist which ended in a dramatic suicide bid by the alleged ‘source’, who named the police and the reporter in his suicide note. In the murky events, it had become extremely difficult to gauge who is the victim and who the culprit, as the situation kept changing each day, and finally the cop emerging as the gullible victim of this sordid story.

Entangled amidst the twists and turns of this high profile sexual thriller were two powerful players - the state and the media. Whose career was intended to be boosted up through the string operations and whose tarnished image had to be salvaged through the retraction are questions which have easy and straight-forward answers. The starkness of the plight of the former bar dancer, estranged from her husband, who has been the butt of the state’s moral purging, strikes you in the face and blinds you.

But what has not been so easily discernible is the vicious retaliation by the state on the entire local community of bar dancers in Nerul and surrounding areas. The day the retraction was reported, the papers also carried reports of the police crack down, in what was termed as “flushing out operations”. They arrested around 91 people, of whom 65 were former bar dancers - impoverished and illiterate, mostly Muslim, predominantly Bengali speaking. Damned as “illegal immigrants” they would be languishing in prison cells, until they are able to produce papers to prove their claim to Indian citizenship.

Meeting the family members of these ill-fated women was a harrowing experience. That was when we confronted the naked strength of the “state” in a peace time “operation”. Forlorn teenaged boys sobbed while asking for news about their detainee mothers. Elderly women came with infants in arms asking what they ought to be doing with these mother-less toddlers. Young girls reported that fearing the midnight knock, they are spending nights in deserted and dilapidated buildings, in the outskirts of the township. Others confided that they lock their houses from the outside and hurdle together in a corner the whole night, so that they are rendered invisible. Several girls, Bengali and non-Bengali, Hindu and Muslim, complained about daily police harassments and extortions. The raids were no longer carried out in the bars, now they are on the streets ... in the market place ... into their homes ... there were no safe spaces left.

The unspoken question in everyone's eyes was just one: what had gone wrong? Nothing much really. Just that a lowly bar dancer living on the edge of life, had been goaded on and under a false sense of security, had dared to pose a challenge to the might of the state. The incident of rape of a former bar dancer, which would have otherwise gone unnoticed was scaled to the peak by the media and it would have had grave implications to the state in the case pending before the High Court. So the entire community had to pay the price. This time the state machinery was wiser. The girls were not arrested under the newly amended Bombay Police Act but under the Foreigners' Act with no avenues open for bail or release. The only option ahead was deportation. The situation had become even worse due to certain extraneous political and legal incidents. One was the serial Bomb blasts that occurred in Delhi markets on 27 October, 2005. The newspapers reported that the terrorists had entered the country not from Pakistan but through porous borders between India and Bangladesh. The second was the Supreme Court decision regarding the Assam Foreign National Act where deportation could occur even without due process of law. The seal was secured firmly on the former bar dancers and they were guilty and could be held captive and later deported unless they could place before the court the necessary documents to prove their identity as Indian nationals. The requirements of proving nationality were far beyond this motley group of poverty stricken women who had come to Mumbai to seek bare survival.

As one undernourished teenager who admitted that she was a Bangladeshi metniioend to us poignantly, 'didi, I had not eaten for a week, there was no milk in my breast and my three month old child was starving. If we had not crossed the border, we would have all died. After into India, I have left my baby with my mother in a village in West Bengal and have come here six months ago so I can earn some money to keep myself, my mother and my child alive. You may do anything, but I can never return to my country. If I do I will die.' How does one respond to this desperate pleading for a mere survival, particularly when countered on the other side with grave questions like terrorism and national security?

It is not that there weren't such 'push back' operations in the past. But that was years ago, during the BJP-Shiv Sena rule. In those days, the "illegal migrant labour" was predominantly male. And the voices of the secular forces protesting against them were loud and clear, and high-pitched. Several citizens' reports had condemned the inhuman manner in which the deportations were carried out. The left-government in West Bengal had protested against the treatment of Bengali Muslims and raised a voice against the deportations.

But times had changed. Now it is the secular and Left-supported UPA government at the center. A Congress-NCP alliance in the state. Those who are arrested are not the male migrant labour but the morally debased former bar dancers. Hence the voices of protest are weak and feeble, just a motley group of women activists. And no one else really cared.

You might wonder how the entire incident ended. We talked to lawyers, human rights activists, members of national and West Bengal women's commissions groups in Bangladesh. We had the option 'exposing' the story to the media, filing a writ petition in the High Court and gaining even greater visibility and thus a name for ourselves and our organizations. But as we were thinking and planning the desperate voices of the women and girls kept haunting us, "Didi please leave us alone. Let us get deported rather than languishing in this prison cells. Let them take us to the border and we will find our way back." It is this plea that paralysed us into inaction and gradually as the High Court case regarding the ban progressed, we heeded their advice and retracted. In fact I can safely surmise that this was the first time I had retracted from a challenging situation. But I think our strength lay in not taking on the challenge but in quietly withdrawing accepting our own limitations and their vulnerability. It is then that I began to question the entire issue of visibility and invisibility. Were all the girls managing their lives better before the media glare came upon them? Did all of us,

do gooders, the good Samaritans, including the people who formed associations or the bar owners who brought them out of the closet for the 20<sup>th</sup> August rally did more disservice to them than help their cause. Their concern was only one that they should be allowed to live and earn in the city. And it is this very concern that eventually got jeopardized despite all the gains for every other segment that was involved.

For the media there were stories each day of erotic dance and the throwing of the money scenes which the audience loved. So no matter what the issue, more than half the screen would be filled with these erotic images which served to arouse the middle class Maharashtra moral sense. For the bar owners, their money making motive could be couched under the human rights concerns. For the dance bar union people there was the constant media publicity which made them leaders overnight. For women rights activists, it gave a new cause and newer insights and a feminist awakening regarding the bar girls and their concerns. At the end of the entire episode I wonder what exactly did the bar girl gain from this. And more importantly, where have they all vanished. How and where are they living and how are they making their ends meet. We do not know and frankly many of the segments do not even care. While the case is pending in the Supreme Court for years on end, we all have gone back to our other concerns. Perhaps this invisible existence is far better to suit their own ends than the high level of publicity all of us collectively gave them.

### Gender, Migration and Trafficking

I come now to the final section of the paper in which I will attempt to situate this entire experience within a theoretical framework of female migration and concerns of trafficking within the sex trade.

The combination of the moral cultural panics lack of data and a general confusion in conceptual approaches to migration and trafficking has led to not only questionable responses from states but also to harmful interventions by non-governmental organization (NGOs) human rights and social justice groups at both the national and international level.

The need is to critically examine the intersections of migration trafficking, labour, exploitation, security and terrorism, women's rights, sexuality and human rights. Any analysis of the complexities of the transnational female migrant must extend beyond the confining parameters of the current conceptual and operational work on cross-border movements. To this end, diverse conceptual frameworks that could be employed to understand and redress the vulnerabilities of the migrant woman in the causes, process and end conditions of her migration in order to evolve alternative approaches to migration and trafficking.

While both male and female migration is driven by economic reasons, female migration is impacted much more by value-driven policies that is those policies that contain gender-biased and other assumptions about the proper role of women. There is also a difference in the kind of work available to male and female migrants in destination countries. Males expect to work as labourers, whereas women find work in the entertainment industry or the domestic work sector. Women are in demand as well for professional work of specific kinds such as nursing.

We need to accept that migration does not take place only between the developed First world and the under-developed Third World and that there is greater cross-border migration within regions than from the Global South North. This is particularly true with respect to the Asian region. For example there is considerable migration from Bangladesh to India with numbers varying from 13 to 20 million.

The cross-border movement of the transnational migrant female subject is inadequately addressed in law and policy. This inadequacy owes in part to two confluences: the tendency to address women's cross border movements primarily within the framework of trafficking and the conflation of trafficking with prostitution. In order to make migration policies (both international and national) conducive to women's rights, we need to consider the nuances in the relationship between trafficking and migration and de-link trafficking from prostitution.

Innumerable conceptual clarity exercises in every region have made the consideration of these conceptual distinctions the focus of their objective. And yet either due to ideological baggage and positions of the various stakeholders or due to the vested interest of states, trafficking is often used as a façade to deter the entry of certain categories of migrants or to clean up establishments within the sex industry.

In view of these states or unstated agendas and positions, a human rights approach to trafficking cannot merely be confined to achieving conceptual clarity. It must develop specific and contextualised strategies and arguments to extricate the genuine concerns related to trafficking of persons from the unstated or moralistic concerns with migration, prostitution or national security.

Migration is not trafficking; irregular migration is not trafficking and even smuggling is not trafficking. And yet, there is an overwhelming tendency to address cross-border movements of women primarily through the framework of trafficking. Trafficking is the harm that may occur in the process migration. The singular attention on trafficking turns the attention away from the larger context of migration and distorts the broader picture of women's movement. It also enables governments to focus their attention on the protection of an increasingly limited few, who are deemed to be "trafficked victims". States and other stakeholders seem prepared to leave the sex industry and willing to press charges against their traffickers. In this way the trafficking framework is used in an exclusionary manner to deny assistance to all those trafficked persons who manage to escape a trafficking situation through their own means, and who do not comply with the conditions for securing assistance and support.

To some extent anti-trafficking NGOs need to accept responsibility for the propagation of this image of the trafficked person as a victim. When faced with the problem of trying to attract government attention to anti-trafficking initiatives, NGOs may have resorted to this simplistic image to garner support for their activities. It is not abundantly clear that this victim-image does not capture the complexities of women's own migratory experiences and agendas and that the image of the trafficked person needs to be conceptually reworked. For example, one conceptual move may be to shift away from the notion of a vulnerable subject to that the risk-taking subject.

It needs to be recognized that migrants and trafficked persons, including those in prostitution exercise agency and demonstrate decision-making abilities, which seek to maximize their own as well as the survival of their families. For example, many women negotiate the terms of their own movement and utilize technological network to plan their migration and keep in contact with those in their country of origin. Women's perceptions of themselves and of their 'exploiters' provide a further challenge to the traditional and stereotypical images of victim and perpetrator. For example while the dominant image of women in the sex industry is that of subjugated dominated objectified and abused persons who are preyed upon by conniving men, but studies of women in the sex tourism industry in various countries reveal that women view it as an arena of negotiations to improve their own economic situation.

In tandem with the propagation of female 'victim-hood,' the trafficking agenda has come to be increasingly influenced by a conservative sexual morality that has gripped some nation states. Women have been cast in terms of modesty, chastity and innocence. Women are also seen as the hallmark of

the cultural and social fabric of society such that challenges to 'traditional' gender constructions are seen as posing a dual threat- to women and to the security of society. The first threat forms the basis for a protectionist approach towards women. Within the protectionist agenda, no distinction is drawn between consensual and coerced movement resulting in the treatment of all movement of women as coerced and reinforcing assumptions of third world women as victims, infantile and incapable of decision-making.

The combination of sexual conservatism and the construction of a woman as the symbol of national and cultural authenticity are seen to lead to the stigmatism and ostracism of a migrant woman who is portrayed as an aberrant female.

If the dominant anti-trafficking approach has blurred the portrayal of the female migrant, then one way to counteract this is to view migration within the broader context of global reality of the transnational female migrant. Migration must take its rightful place within the context of globalisation. If the flow of capital and goods encounters no borders. Why should the human participants of globalisation be treated any differently? If a juridical person can be granted a transnational/multinational identity. Which enables the crossing of borders largely unimpeded why is it that a natural person is being denied her identity as a global citizen? These questions must be brought to the forefront of the debate and thoroughly examined.

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