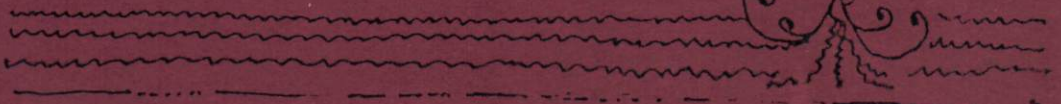
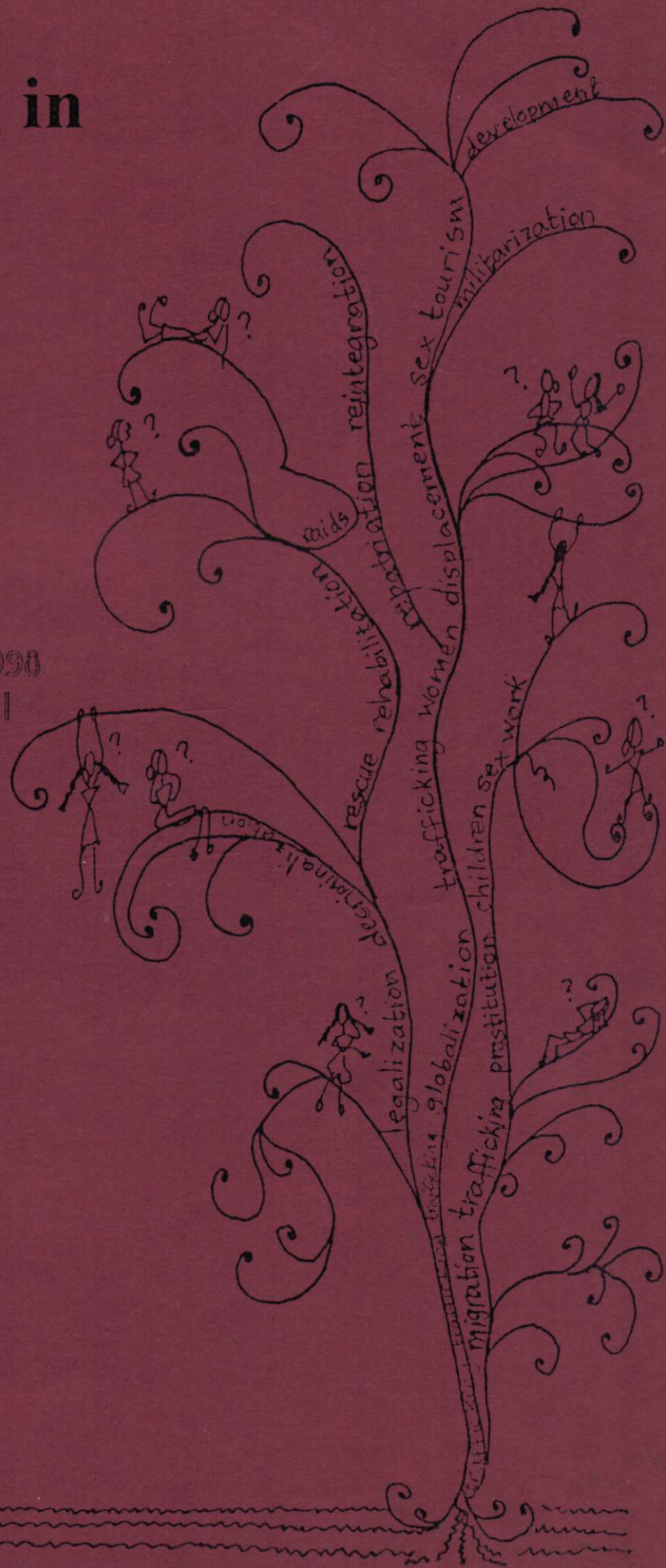


# Trafficking in South Asia

## A Conceptual Clarity Workshop

29<sup>TH</sup> JULY - 1<sup>ST</sup> AUGUST 1998  
ANANDGRAM, NEW DELHI

report by  
Manjima Bhattacharjya



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## INTRODUCTION

### HOLDING HANDS ACROSS BORDERS

"We belong to the region rather than to our countries..."

The people of South Asia, particularly the Subcontinent, share a common past, interconnected histories and overlapping cultures. The history of our regions are woven together; our structure, our oppressions, our victories, our civilizations have all been experientially welded together. Our borders itself are a recent phenomenon, an unfortunate accident, constructed through colonialism and forced upon us. Many of us are born in what is now another country, we associate ourselves with that country, we speak a common language, eat the same food, dress in the same way. As a result, it becomes difficult to isolate developments in one country without considering the effects in the others. If there are riots in Lahore, relatives in Delhi feel anxious; a flood in Bangladesh shakes a large part of West Bengal.

Today these constructed borders are being cemented further and the artificial walls between us made higher. In an atmosphere where there is so much defensiveness literally—an expression of anger and concern by the women living in the region is vital, and heartening. Where nuclear weapons are rearing their heads and political spaces are becoming charged with tensions, allegations and unnecessary threat—women are searching for spaces which conjoin, instead of separate. We are searching for a 'no-man's land' which allows for an involved and integrated search for solutions to common problems, the renewal of a bond which recognizes a shared past, a shared present and most importantly a shared future.

#### Context of the workshop

The issue of trafficking of women and children has to be investigated within the construct of these borders and the emergence of SAARC as a regional convergence of the South Asian states. In the last three years, women's groups in the South Asian region have been very concerned about the phenomenal increase in the trafficking of women and children, and have been lobbying with their respective governments to include this as an important issue on the agenda for SAARC deliberation. In 1996 women's groups from the region met the Home Ministers of the SAARC nations in Delhi demanding the inclusion of the issue in the next SAARC Summit in Male. Lobbying continued in Male and they demanded that a SAARC Convention on Trafficking be drafted to address the issue at a coordinated and wider consolidated level.

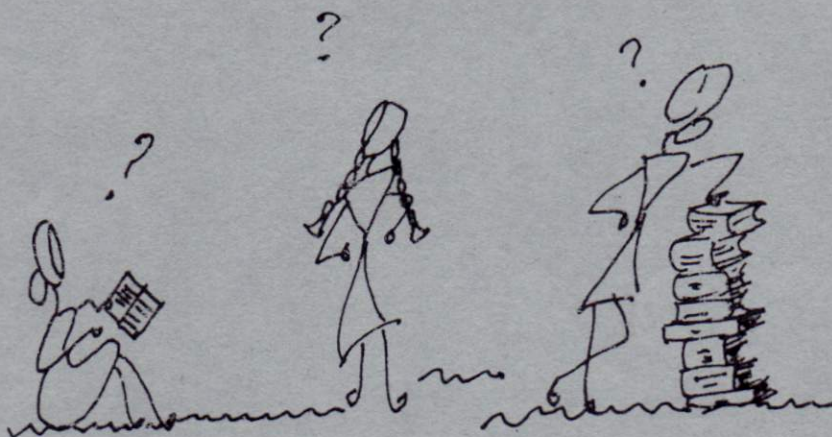
It was seen as important that the Convention recognizes the roles and responsibilities of the receiving and sending countries and makes adequate economic, social and legal provisions to protect the rights of the trafficked women and shifts the focus to the

traffickers. Subsequent to Male a Convention has been drafted, but no consensus has been arrived at by SAARC countries. This Convention was recently critiqued by women's groups and suggestions put forth. It was realized that many new debates and issues have come to the fore which need to be understood by us and by the State.  
{Appendix I for details}

### The workshop

In pursuit of a clear/er understanding of concepts and strategies to take the initiatives further, 30 women {and one man} from South Asian countries met in Anandgram, New Delhi to grapple with the issue of trafficking of women and children in South Asia, and other critical issues around it. The participants were drawn from women's groups (and one journalist) from Bangladesh, Nepal, Sri Lanka and India who had been working on the issue in the past many years{Appendix II}. The key resource persons who facilitated the sessions were Jyoti Sanghera from GAATW Canada and Abha Bhaiya from Jagori, New Delhi. The environment, though vibrant and hopeful, was threaded with sadness, because women who had been invited from Pakistan were not able to come because of the political tension arising out of the nuclear blasts at Pokharan. Visas are as it is difficult to obtain for travel between India and Pakistan; at a time like this the possibility of a visa was nil. Right at the outset it was observed with sadness how political ploys play a crucial role in restricting women's mobility.

SECTION I .  
CONCEPTS



## SECTION I - CONCEPTS

The issue of trafficking has been conceptually clouded by the use of many words and phrases, many specific, complex terminologies, which need to be demystified and clearly explained. Words like legalization, decriminalization, rehabilitation encapsulate complex concepts which need to be pinned down and subject to thorough scrutiny - in terms of what they mean, what they imply and what effect they will have in women's lives. Beyond the terms, the *distinction* between terms like trafficking and prostitution, trafficking and migration also need clarification.

### The Agenda

Distinctions between—

- trafficking and prostitution
- trafficking and migration
- trafficking in women and trafficking in children

Conceptual clarity of --

- legalization
- decriminalization
- victims/ agents
- rehabilitation/rescue/repatriation/reintegration
  - “sex work”
- outsider/insider support
- regional networking
- effective implementation
- intrusive media representation
  - double standards
  - freedom of mobility
- civil society and leadership
  - militarization
  - globalization

# MAKING DISTINCTIONS

## Trafficking and prostitution

**Trafficking** means all acts involving recruitment and/or transportation, moving, selling and buying of women and children within and/or across borders through coercion and/or deception, for sexual services and/or work, for the purpose of profit.

**Prostitution** is the institution in which {normally} women provide sexual services for economic remuneration. 'Prostitutes' are the women who provide these sexual services.

Trafficking and prostitution are increasingly being used interchangeably. This falsely, and dangerously equates the two. Although closely inter-linked, the two must be distinguished as below:

- Prostitution is **one** of the sites into which women and children are trafficked. Trafficking is also done for **other** ultimate purposes, not only to sell women and/or children to brothels. It has a much wider scope, and can take a woman/ child into bonded labour, begging, camel jockeying, organ trade etc. Different countries however have different experiences—while participants from Nepal felt that most trafficking was done for prostitution, participants from Bangladesh saw trafficking for camel jockeying as much of a problem.
- Trafficking is the coercive and exploitative *process or mechanism* of which prostitution is one of the possible sites to which this process takes the trafficked.
- The element of **choice** is important to the difference between the two. Trafficking by definition refers to movement through physical force, duping, deception and other fraudulent means. Prostitution on the other hand as a source of livelihood may have been a conscious choice of many of the sex workers, or even if it was *not* a choice to begin with, it is now- that is, many women choose to continue with it. Note- this did raise some problems because the participants were divided on the notion that women choose prostitution out of choice. However conceptually, according to definition, the element of force or deception plays an important role in trafficking.

What happens by equating trafficking and prostitution?

- With globalization and liberalization, and rapidly changing markets and governments, new forms of trafficking and new sites to which women are being trafficked are evolving. These will not be taken into consideration if trafficking is reduced to just

prostitution. There is a need for a more inclusive, more open definition of trafficking to accommodate these new forms.

- Trafficking gets reduced to only one of its outcomes, glossing over all the other complex forms of trafficking.
- One ends up criminalizing prostitution. Trafficking {force} is a criminal activity but prostitution is not a criminal act.
- By equating the two, one moves away from the focus on *exploitation* or *profit* by *coercion* and/or *deception* as being the prime motive for trafficking.
- By limiting trafficking to prostitution, trafficking as a critique of development models gets diluted. It gets thrown into the moral arena, and crucial linkages with economic policies, national income, labour markets, tourism, political connections and profits all get subsumed.

The questions we need to ask are - who is making profits from the 'trade', who is selling, and who is buying what. Exploitation and profits are the operative words in the case of trafficking. For example, looking at the Philippines, the women are sent/ trafficked believing that they will be maid servants, and many of them are. However what they have not accounted for is the exploitation and the loss of choice and of independence they soon encounter. The fact that they have been trafficked, mostly illegally, makes them vulnerable to all kinds of exploitation. They face sexual exploitation and violence at the hands of 'employers' who take away their passports/ documents even if they have legally made the movement. Therefore their position is legally precarious, and they cannot even go to the law for support or help.

### Trafficking and migration

Both trafficking and migration refer to movement, be it across borders or from rural to urban areas. Therefore the physical sites of trafficking and migration are the same or can be the same. The difference lies in the element of choice. When trafficking occurs, migration is obviously taking place also. But when migration is taking place it is not necessary that it is a case of trafficking. Migration is seen to be a voluntary movement from one place to another for reasons of employment, better opportunities, life styles etc. , while trafficking is a more complex phenomenon.

To understand the difference between the two, the focus needs to be shifted from that on movement to a focus on exploitation and profits by someone/ people other than the person undergoing the movement. Many times, employment agencies who procure women do so on the pretext of employing them in other places as domestic servants, factory workers etc. They are 'trafficked' as domestic servants, but do not end up working as domestic servants, or even work in a factory for a few months before being moved to a brothel. **A journey which begins as migration may very often end up as trafficking.**

To complicate matters further, there is the issue of legal and illegal migration. When trafficking takes place, migration has taken place, this is true. This migration may be legal



or illegal. In cases of trafficking via illegal migration, the danger is that the State will recognize the illegal migration as a crime *before* recognizing trafficking as a crime. As a result, the trafficked person gets criminalized and not the trafficker. This is due to every State's fixation with migration policies, and the fact that they have visible, tangible, tried and tested laws and procedures to deal with illegal migration, whereas trafficking is a relatively new phenomenon they are not inclined to handle.

Moreover the distinction between legal and illegal migration itself is difficult! False documents, or passports etc. are not difficult to procure, and many a time a person may have a valid passport but the traffickers may have confiscated it, as a result of which the person appears to have illegally migrated. Traffickers know the technicalities and there is no problem in working these out, as a result it may be 'legal' migration but it is still trafficking! The problem of distinguishing becomes even more difficult in a region like South Asia, where borders are porous—and in many cases are not even physically tangible or 'real', such as Nepal. Similar and sometimes identical, ways of living, dressing, talking make it difficult to distinguish an 'alien' from a 'native'. The notion of citizenship is also alien to many people. How do we establish the citizenship of a young woman in a sari, speaking Bengali... to which side of the border does she belong?

It is very dangerous to equate trafficking and migration, or link them too closely. If this is done it may seem that a way of stopping trafficking would be to stop migration! In a world where women need to migrate to find livelihood, and there is a demand for women's labour, where women **HAVE** to look for work beyond their borders to support their families and themselves, such linkages may only serve to restrict women's mobility. In fact, in some countries this is precisely what is happening, the State is moving in this direction by restricting women's movement across borders.

### **Women and Children**

Over centuries 'women and children' as a category have been lumped together, based on rhetoric and the conception of women and children as weaker and in need of protection/control by male members of a family/ society. The automatic association of women with marriage, family and ultimately motherhood also help in maintaining this category. We become unwilling to see them separately because the construction of woman is synonymous with, and incomplete without, the construction of motherhood. So while children without women is still permissible as a category, women without children is inconceivable.

However it must be recognized that the life situation of women and children and the measures needed to deal with the different kinds of oppression and exploitation they face are very different. Therefore when we talk about trafficking of women and children in South Asia there is a need to separate the two and make out different cases, and different redressal mechanisms, or even laws to deal with their specific situations.

The way trafficking impacts a woman's life is different from the way it impacts a child's. The needs of a woman which cause her to migrate and search for a job outside her area of domicile is different from the forces which push a child into the 'market'. The ways and means used by traffickers also differs depending on whether they are procuring women or children. The ultimate site of 'work' they are trafficked into also differs; children are more likely to be in demand for camel jockeying, or begging, or to 'cater' to pedophiles.

However with the increasing demand for younger and younger 'virgins' {due to the AIDS scare, and to myths that sex with virgins cure sexually transmitted diseases or improves male 'potency'} these sites have tended to collapse together, with women and even very young children {girls} being trafficked for the purpose of prostitution and sex tourism.

The issue of free movement is crucial in case of women, because women have the right to independent and free movement which is not the case for children. Some women may be leaving their homes because of violence, discrimination, oppression, trauma etc. and the avenue for them to leave this must not be closed, in trying to handle trafficking. However it is extremely difficult to determine in the case of children from violent homes as to what should be done.

When talking about creating a trafficking law/ Convention, do we want to make a distinction between women and children? The participants were not sure how such a distinction could be practically made and it was decided to handle this later on in the workshop when the distinction between the trafficking of women and the trafficking of children was understood better.

### Legalization

There has been much discussion over the issue of 'legalization' of prostitution, in the media and by NGOs and women's groups, so much so that it has become evident that there is a debate raging, and women's groups are divided on the issue. What does legalization mean? What will be its legal and social repercussions? What possibilities does it offer for a change in the system, if any?

To begin with, is prostitution legal or not.

If prostitution is illegal, why do we have 'red light areas', which are well known brothel zones. On the other hand, if it is legal, why do we see items daily in the newspapers of raids and rescues/ arrests of prostitutes.

Different countries have different laws around prostitution, but all the laws are parallel in the sense that prostitution is not illegal. It is neither declared legal nor illegal. Bangladesh however has a system by which prostitutes are required to have an affidavit, declaring that they are over eighteen years of age and are willingly practising the profession. India has declared red light areas, but no other official record of prostitutes or prostitution. There is some tacit understanding that certain areas are 'red light areas'. However, even though it may not be directly illegal, certain aspects of it are illegal, for instance soliciting in non red

light areas, in public are seen to be criminal offences under the PITA<sup>1</sup>. Therefore what appears to be crucial to the law is the site of the act, not the act of prostitution itself.

The red light areas, like Sonagachhi in Calcutta and Kamathipura in Mumbai, themselves have an interesting history behind them. They are a legacy of the British government in India and other places in South Asia. Special areas were demarcated by the British in 1845 to keep those prostitutes who 'catered' to the sexual 'needs' of British soldiers under one administrative area, apparently to safeguard the health of British soldiers who had contracted certain STDs from these women, or so the British believed. This helped to 'keep an eye on them'. The 1868 Contagious Diseases Act also helped further ghetto-ize these demarcated areas. While the British went, the 'red light areas' remained.<sup>2</sup>

What would legalization mean?

There was a certain amount of vagueness in answering this question, but certain key features did emerge.

Those supporting legalization felt that, theoretically speaking, it would mean-

- Identifying all those who were prostitutes, and giving them some sort of a license. If these women are given a license, this means that the State {and therefore society? } has legitimized, or recognized their existence and their work as indeed 'work'.
- Further it is expected that this license will give them access to many rights and State services and allow them just redressal for any violation of these rights. They will be 'sex workers' and in a better position to demand health care, periodic check ups, education for their children etc.
- The area they work in would be seen as their 'work-place' and would have to come under the Factory and Establishment Act. Conditions at the workplace would have to be upto certain standards, and 'employers' (pimps, madams) would have to provide certain services, such as creches, medicare etc.
- Police harassment would be less likely now that prostitutes are less vulnerable to State machinery. It may give them more negotiating and bargaining power with madams and pimps or extortionist policemen who take away their earnings. It may provide them with a safety net.

BUT it was pointed out that practically it is almost impossible to identify all sex workers in a region... many women will not admit to being prostitutes. Moreover once identification begins, inquiries begin into the origin and background of each sex worker will also begin. There will be hundreds of women found from other countries, eg. from Bangladesh and Nepal in India, women from Bangladesh in Pakistan etc. This may set into motion a flurry of massive repatriation, and uprooting of women who may have settled in the area, created a home, a new life... is such uprooting desirable?

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<sup>1</sup> Prevention of Immoral Trafficking Act (1986) earlier SITA

<sup>2</sup> For historical details, read Sumanta Bannerjee's article 'The Beshya and The Babu' in EPW Nov 6 '93

Those against legalization feel that legalizing prostitution would mean -

- legalizing all acts related to prostitution, like pimping, brothel keeping, even trafficking. It would give legitimacy to sexual exploitation of women and criminal acts within the profession.
- It would also give undue power and control to the State; how much autonomy would actually be given to the sex workers? The mere existence of a license does not in any way ensure rights. It is only a bureaucratic process and it is unlikely that it will give sex workers any safe spaces or dignity and social acceptance as 'sex workers'.
- Besides, by licensing women, are we not propagating commodification of women?

There were also views expressed that legalization would make 'sex work' a 'career' of sorts, and would encourage the oppressive institution of prostitution. Such an argument was strongly contested; legalization will neither open the floodgates for women to enter prostitution nor will it stop those who are doing so. It aims only to improve the conditions of women within the profession.

The question is what do the prostitutes themselves want. If the issue is that of their basic human rights, will they get these by legalization, or will legalization give the State further access to their bodies?

We do not know in reality what legalization will bring; we can only speculate and be aware of its pitfalls, and try to find alternative/ complementary processes by which prostitutes get access to their legitimate rights without the dangers that accompany legalization.

### **Decriminalization**

Decriminalization is different from legalization, and has been seen by many as a more viable alternative to it. Prostitution as a profession and prostitutes are usually criminalized by existing laws and legal enforcement machinery instead of the pimp, the procurer or even the trafficker. There is, therefore, a need to decriminalize the profession.

Decriminalization seems to be a safer and more necessary option than legalization, in enabling prostitute women to claim their rights. On the other hand, there are many activities related to prostitution which need to be criminalized, like violence and exploitative practices in the profession.

A double pronged approach was suggested. Certain acts should be criminalized, like keeping minors in the brothel, bad working conditions, non payment, violence, the use of threat and coercion by brothel keepers and pimps, harassment by police etc. Other acts should be decriminalized - like soliciting and the criteria for soliciting. PITA should be totally repealed. Existing laws should be modified to be more sensitive to the women and should empower them and enable them to have their rights instead of criminalizing them.

Trafficking should be made a non bailable offence, was another suggestion. However it was noted that this could have far reaching implications, because more often than not, it is

the woman who gets caught by the police and can be clubbed with the traffickers...if this happens she will suffer further because she will be tried falsely in a non bailable offence.

The other major suggestion was that of a Self Regulatory Board with 80% of its members being the prostitutes of the locality themselves, who will decide what is best for their community, and handle the questions of rights and redressal of violation of rights. However certain fears were expressed with regard to this also. This may mean power to madams, and not the collective sharing of power, for the community is not homogenous, power structures exist even within the profession, and this may empower some voices and not others. Yet this by far was seen as the most democratic 'solution'.

### **Rescue- Rehabilitation- Repatriation- Reintegration**

Newspapers carry items every other day about this many women being rescued by the police in raids, or a sex racket busted. What do these mean? If prostitution is not illegal, why are there 'raids'? What exactly are 'raids'? How are they different from a rescue operation, and are we in principal agreed to the process of 'rescue' through 'raids'? When a rescue does take place, who is rescued, by whom, how, and what happens to those who are 'rescued'? Members of the group who had been involved in such 'rescues' clarified some of the questions raised.

Raids can be carried out by the police for any purpose, not necessarily to 'bust sex rackets', to seize illicit drugs, money or minors forced into prostitution. The purpose of raids in a brothel is supposed to be the search for minors who may have been forced into the trade. However it is also a license to the police to harass women in the brothels. It is used as an instrument of extortion from brothel owners...if they do not pay up a certain sum regularly, their brothel can be subject to raids any time, and many a time prostitutes are forced to provide free sexual services to police under threat of arrest.

It is 'minors' who are 'rescued', by the police (sometimes accompanied by NGOs). The process is often violent, aggressive and 'male-dominated'. The minors are then either sent to State run remand homes or an NGO shelter. Most are unable to go back home because of a whole series of obvious problems, and after greasing a few palms, they are released and taken back to the brothel they were picked up from and go back to the profession.

Further questions arise with this knowledge.

- Do we believe in 'rescue'? And if we do, is this the *kind* of rescue we are looking for? To begin with, there is the problem of terminology. Rescue, rehabilitation, repatriation are all problematic terms, because of their inherently hierarchical implication, where the rescuer—be it the police, the State or even NGOs -- is playing the role of the patriarchal protector of society's morality and/or a woman's body. At the same time, there is a tension here, because we are all aware that children do indeed need some kind of protection if they have been forced into a brothel. Getting girls/ women out

when they want to leave is an option which should exist, and is an important aspect of the issue of choice.

- Who decides who has agency, or the ability to make a choice? This brings us back to the distinction between women and children. Can we say that a 'child' of seventeen has no ability to make choices but a 'woman' of eighteen does?
- The other issue is that why 'rescue' only minors then -- what about the women above eighteen who want to leave the profession, shouldn't they be rescued too? Raids do not solve their problem or give them the option of leaving if they so choose.
- What about the 'rescue' of the women and children pushed into sites *other* than prostitution? In these cases, police at least have a concrete physical space where the operations can be undertaken, but what about minors taken for camel jockeying? There are no red light areas to raid in such cases. This way, focusing on rescues and raids as 'solutions' to the issue at hand leaves other forms of trafficking unattended.

The group was unable to decide on a firm stand on 'rescues'. While it was understood that it can be necessary, and is a way - albeit a problematic way- of addressing the procuring of minors for forced prostitution, it has its limitations and unacceptability, largely due to the attitude and corruption and violent behaviour of the police. In practice however we have no choice but to let the police do the raids, there are no alternatives. Within these compulsions we are therefore asking that the rescues/ raids be conducted in another way. We are not asking for authority from the Government to carry out such operations ourselves; NGOs at the most can assist, they cannot become policemen and do the State's job.

**Rehabilitation** is a highly patronizing notion with moral overtones and in most cases means the relegation of the woman to a State remand home in miserable conditions, teaching them to sew or cook and clean, and such. It does not go beyond this. Is this what the women want? Connecting this with the issue of legalization, it was pointed out that legalization of the profession would make rehabilitation impossible, because it would then be on record that the woman had been a prostitute. As a result 'rehabilitation' would be unable to change the attitude of people around the woman.

**Reintegration** is the better alternative to rehabilitation—it implies a far less judgmental and more embracing healing process. Most importantly it incorporates the notion of social acceptance and the reclaiming of dignity for the women. But many of the group had serious doubts about the ability of societies to leave judgement behind when it came to prostitutes, and their re-integration into society.

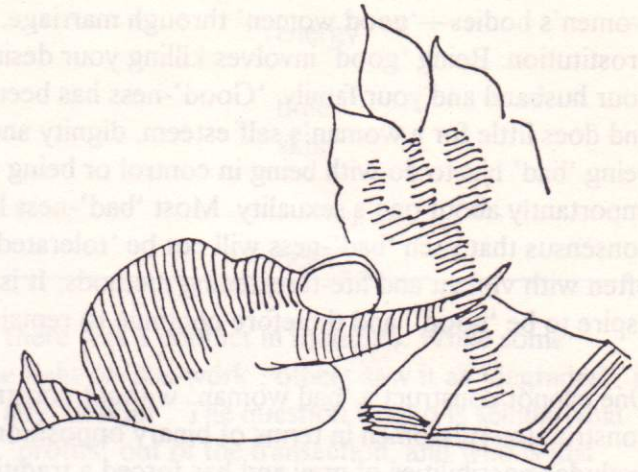
**Repatriation** is officially a thorny issue. We were in agreement that minors have no choice, they have to be taken back to their place of origin, but an adult woman has the right to choose to stay in the country if she so wishes. If the woman is not consulted about whether she would like to stay in this country (but break out of the current oppressive

conditions she is in) or return to her place of origin, it only amounts to deportation under the garb of repatriation. The woman's choice is not even considered because the focus has always been to protect the interest of the State - over and above the interest of women. The issue becomes a migration problem, and a consensus among all the countries of South Asia becomes difficult because hypersensitive issues of national security/interest/honour are involved.

## The Madonna and the Whore - Constructions

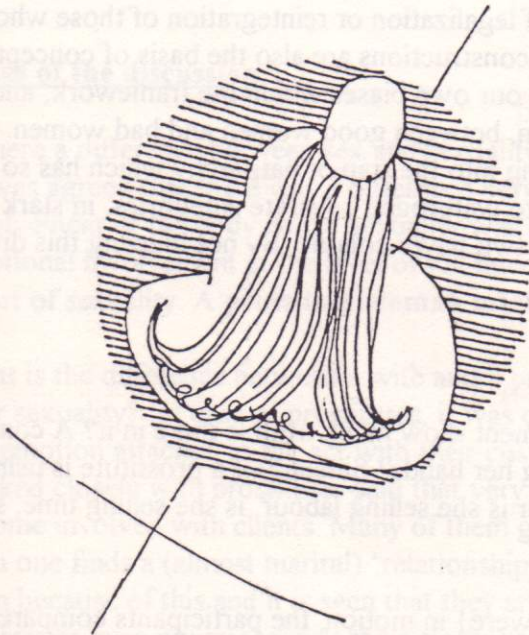
### 'Good women' are---

- covered
- smiling
- patient
- hardworking
- sincere
- committed to family
- efficient
- obedient/ subservient
- stays in discipline
- faithful
- don't laugh loudly
- religious
- listen to all
- sexually passive
- self sacrificing
- play out multiple roles without protest



### 'Bad women' are—

- freely interactive with men
  - aggressive
  - jealous
  - lazy
- smoke and drink
- have short hair
- do as they please
  - quarrelsome
  - proud
  - talkative
  - arrogant
  - break rules
  - cunning
  - cruel
- express desires
  - rebellious
  - militant
  - uncovered
- sexually promiscuous
- refuses to be a mother
  - laughs too loudly
  - dances in public
- don't do housework
- have extra marital relationships





The construction of the 'good' woman and the 'bad' woman are all-pervading, strong and dangerous stereotypes which have been cemented and legitimized over time and through socio-cultural, religious and legal processes in order to allow men to control women's behaviour, particularly their sexuality. Through these constructions they can gain access to women's bodies—'good women' through marriage, and 'bad women' through prostitution. Being 'good' involves killing your desires, being passive and sacrificial for your husband and your family. 'Good'-ness has been created by patriarchy to suit men, and does little for a woman's self esteem, dignity and happiness. It is not by chance that being 'bad' has to do with being in control or being aware of one's rights, and most importantly about one's sexuality. Most 'bad'-ness has sexual connotations, and there is a consensus that such 'bad'-ness will not be 'tolerated' and outcasted from 'civil society' often with violent and life-threatening methods. It is fear of this that forces women to aspire to be 'good', and therefore continue to remain under the control of men.

One cannot construct a 'bad woman' without constructing a 'good woman'. This basic construction of women in terms of binary oppositions, either the Madonna or the whore, excludes possibilities of grey and has forced a tradition of 'good'-ness and 'bad'-ness. Solidarity amongst women also gets split because good women and bad women are pitted against one another. An automatic {and again created} outcome of this is the ghettoization and the stigmatization of prostitutes.

Although such an analysis may seem removed from the direct concerns of trafficking, it is crucial to understand why, especially in South Asia, in our work we come up against such high walls when bringing up the issue of legalization or reintegration of those who have been trafficked into prostitution. These constructions are also the basis of concepts of 'rehabilitation'. We also need to explore our own biases within the framework, and question the divide between us and them, between good women and bad women. By maintaining this divide we are only falling into the trap of patriarchy which has so cleverly put 'good women' and 'bad women' into watertight, separate categories, in stark opposition with one another so that the two never collude. By not blurring this divide our solidarity is split.

### **What are prostitutes selling?**

The first instinct is to say, their body.

But this is a sensationalist kind of statement -how much truth is there in it? A construction worker uses her hands, but is she selling her hands? Similarly if a prostitute is using her body/ vagina, is she selling her body? Or is she selling labour, is she selling time, services and skills...

Setting such thoughts {radical, as they were} in motion, the participants compared what a construction worker sells with what they felt a prostitute sells...

Prostitutes sell	Construction worker sells
body/ flesh	labour
labour {degraded}	
sex for entertainment services	energy
sexuality	time
social status	skill
izzat	
energy	
human dignity	health

It was obvious from the answers that there was a conflict in thoughts. While some obviously saw prostitution more in the light of 'sex work', others saw it as 'degraded', as something which deprived women of any 'honour'. The question is who is selling what and on whose behalf? Who is making 'profits' out of the transaction, and who is just managing to survive? And just what is this 'honour', which seems to be a direct correlate of sexual behaviour? Some said a prostitute was selling sex, others said sexuality... is there a difference between sex and sexuality? What is this difference? We decided to go into smaller groups and debate on the issues and questions which were arising in our minds. As the discussion progressed, many of us discovered a whole new way of looking at sex, at marriage and at 'honour'.

### Glimpses of the discussion

- Is there a difference between sex and sexuality?  
It was agreed that there was a difference between sex and sexuality. Sex requires only involvement of the body, while sexuality was seen to have expressive, passionate and emotional involvement at the level of the mind. Sexual intercourse as such need not be a part of sexuality. **A prostitute woman might be selling sex but not her sexuality.**
- What is the difference between a wife and a prostitute? Who has (more) control over their sexuality? In case of prostitutes, it was expressed that normally they do not have any emotion attached to the act with their customers. However, participants who worked closely with prostitutes said that very young sex workers did sometimes become involved with clients. Many of them get infatuated with certain clients, and soon one finds a (almost marital) 'relationship' being structured. Many men exploit them because of this and it is seen that they are taking money from the girls, sometimes even giving the girls their clothes to be washed - it becomes a 'domestic' affair! The kind of exploitation many married women face in their marriages cannot be overlooked. It is wrong to say that sex within marriage necessarily has an emotional angle to it. Many times, it may not. It is just a 'wifely duty'. Moreover, the wife would appear to have less control over her sexuality and over the act itself, because there is a social and legal compulsion that the wife has to have sex with her husband whenever

he wants to. Someone pointed out that if a prostitute has a stomach ache she can close her doors and say "no work today"... a wife in most cases can't even do that. We only need to look at the socio-legal sanction given to marital rape to know that forcible sexual intercourse within a marriage does not count as 'rape'. Similarly, past cases bear testimony to the fact that the rape of prostitutes is not considered "real rape". We see therefore that the notion of rape does not exist in marriage or in prostitution. Ultimately it is the man who has control over sexuality and sex in all cases, and ultimately, if we are to be honest about it, there is very little difference between a wife and a prostitute in this respect. In a brothel, you normally have a group of prostitutes controlled by a group of pimps, in a house there is the wife controlled by the husband. **The two institutions of marriage and prostitution are a creation of patriarchy to enable male control and appropriation of women's sexuality.**

- By giving so much sanctity and importance to the vagina, we are creating a hierarchy within a woman's body. Different values are therefore attached to different parts of the body. Is the vagina really a site for 'love' or intimacy, that it gets sanctified {or stigmatized, as the case may be} in this manner and becomes linked with 'honour' and 'dignity'? An explanation for this could be that it is central to the construction of virginity (and therefore 'chastity', 'purity' and 'good'-ness), on which there is an infinite premium in every culture. We need to understand that there is no reason really to hierarchize, and therefore fragmentize our bodies in this manner; the hands, the nose, the eyes are as important as the vagina. Abha drew a parallel to the hierarchies created in violence against women, which are also very problematic. Who is to say that rape is worse than molestation, or eve-teasing is better than sexual harassment...
- Who decides whether a woman's work is 'dignified' or not? Will it be decided by her capacity to bargain, or her class, or the recognition of her work in some way by some section of society? What is dignity, according to society and what is dignity, according to us. Is there a gap in the two? It was agreed that in society, it is the *recognition* of one's work which gives it dignity. This recognition may be by the State, by the family and by the market. It is unfortunate that only after recognition by these is there a recognition of this fact by oneself. Within the feminist discourse how do *we* redefine the notion of dignity for women? For us, the criteria for 'dignity' was having a choice to do certain things, and the extent of negotiation power in her work. Whatever a woman does, our efforts should be to 'dignify' it not by merely giving it legal sanction, recognition by the State etc. but more importantly by ensuring she has choices within it, is not vulnerable to exploitation and has the power of negotiation.
- Is there anyone who has not been made to feel like a whore, by a man's gaze, language, etc...? Just being alone can "invite" such attention. How do we feel if we are mistaken for prostitutes, when we are working with them in the same area ... do we hasten to clarify that 'no, no it isn't us, it's them' ... how do we react? We have to look into ourselves and learn to give alternative answers -- which are not judgmental and do not make it appear that 'they' are a distinct category, inferior to 'us' --- like "I'm not working today" or even, as a Bangladeshi participant says, "You can't afford

me". As we are realizing, the line between 'us' and 'them' is very thin. In situations 'they' can be 'us', and 'we' can be 'them'—our functions in the lives of men are very often the same.

Marriage and prostitution are twin sisters who historically came up together as a product of patriarchy. They both cater to patriarchal needs, and have been constructed as opposites because this opposition is beneficial to the men. The construction of the images of the good women and bad women are the basis for dividing womankind so that each goes into either of these (separate, opposite) institutions, both of which are accessible to men. Ultimately the collusion of 'market' and patriarchy legitimizes this in such a way that the 'bad' woman's labour is seen as 'degraded', and the men who demand them are not.

"It changes from place to place, doesn't it...in America I am not 'bad' if I wear a wraparound skirt, but perhaps somewhere else I am..."  
- Jasmine

"With my in-laws and in rural areas I cover my head and be a 'good' woman, but I am 'bad' when I quarrel, complain... or drink milk first when I go home, without serving my husband or children first!" -Niloufer

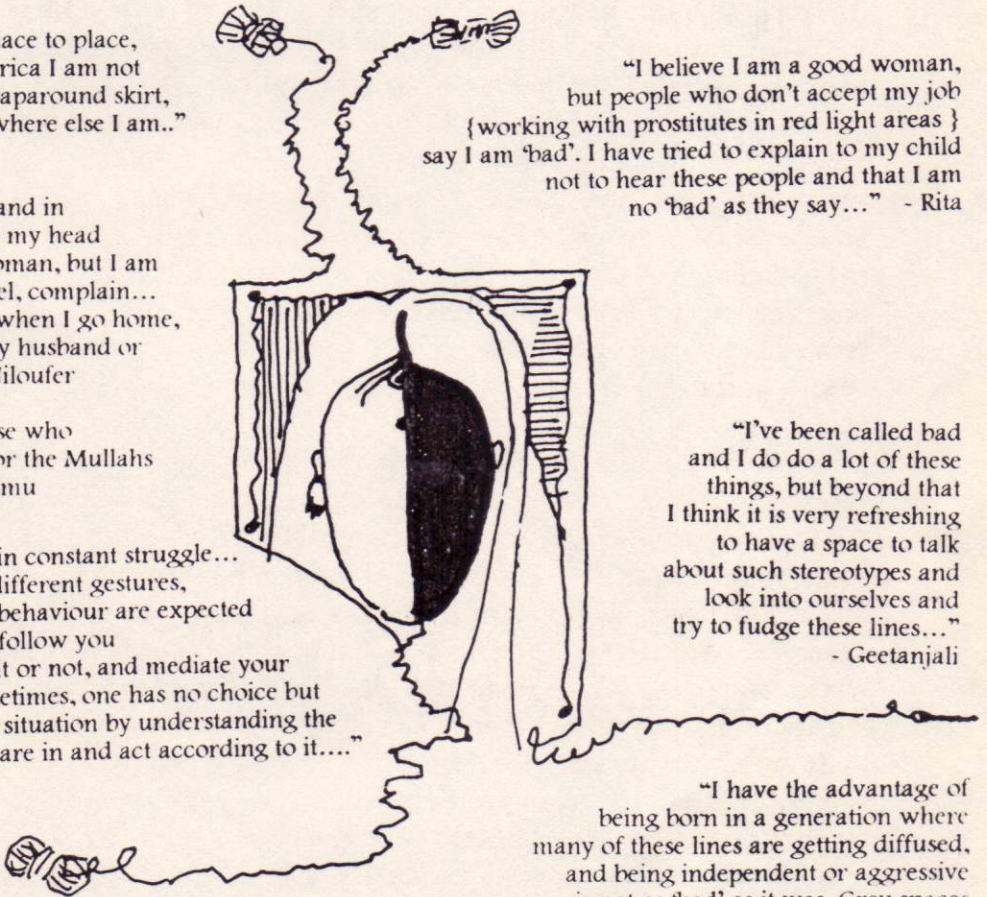
"I am good for those who I work with, but for the Mullahs I am 'bad'!" - Shimu

"My identities are in constant struggle... in different sites, different gestures, different kinds of behaviour are expected...these definitions follow you whether you like it or not, and mediate your expression...so sometimes, one has no choice but to manipulate the situation by understanding the environment you are in and act according to it...."  
- Abha

"I believe I am a good woman, but people who don't accept my job {working with prostitutes in red light areas} say I am 'bad'. I have tried to explain to my child not to hear these people and that I am no 'bad' as they say..." - Rita

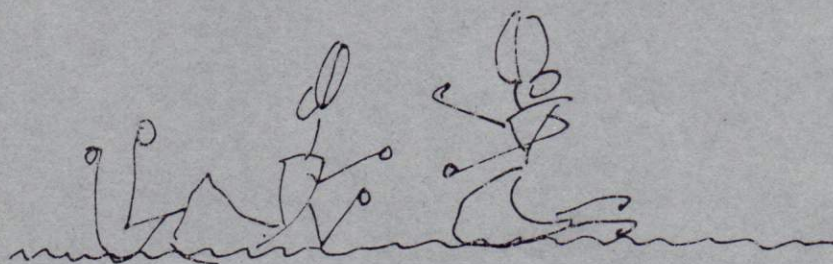
"I've been called bad and I do do a lot of these things, but beyond that I think it is very refreshing to have a space to talk about such stereotypes and look into ourselves and try to fudge these lines..."  
- Geetanjali

"I have the advantage of being born in a generation where many of these lines are getting diffused, and being independent or aggressive is not as 'bad' as it was. Grey spaces are being formed... moreover, if one is successful one can often dictate 'goodness' or 'badness', or on the other hand, it no longer affects behaviour." - Manjima



# FACE TO FACE

## THE GOVT.-NGO DIALOGUE



## SECTION II- FACE TO FACE THE GOVT- NGO DIALOGUE

This workshop was significant insofar that Government and NGO groups' views were presented on the same platform, where members from both engaged in dialogue over the issues at hand. The session was a unique opportunity to exchange information, opinions and strategies and make the relationship between the two more transparent.

Government officials from Bangladesh, Nepal and India -

- Niloufer Begum, Deputy Secretary, Ministry of Women and Child, Bangladesh
- Vijay Bhaskar, Deputy Secretary, Department of Women and Child from India
- Urmila Shreshta Special Secretary, Department of Women and Child, Ministry of Social Welfare from Nepal

presented a brief overview of their respective Governments' position on the issue and the conditions and constraints they were working under. Chandni Joshi, Regional Director (South Asia) of UNIFEM then gave a regional overview.

### Excerpts from presentations

#### **Niloufer Begum speaks on the Government of Bangladesh**

With regard to concrete steps to deal with violence against women, the Government of Bangladesh set up a Central cell in 1990 for the prevention of Violence. Six-member committees were set up with inclusion of women officers being compulsory in the committee. The NCWD, National Commission for Women and Development was set up in 1995, with the Prime Minister chairing the Commission. There has been a DANIDA funded violence against women project, where the aim was primarily to give women better access to justice and to raise general awareness on the issue through a public education campaign.

Trafficking in Bangladesh has been seen to be a result of dramatic changes arising from landlessness and poverty, as well as the operations of regional gangs. Specifically for trafficking, the Government has constituted certain enactments to combat it. SITA, Suppression of Immoral Trafficking Act, was passed in 1993. The 1860 Act covers trafficking also, while the recent law passed {Women and Child Repression Act} punishes traffickers with capital punishment. The rehabilitation of repatriated women are admittedly limited. The Government has only five shelter homes, not only for women who have been trafficked but also those who have faced violence in their homes, etc.

Currently, a NORAD supported project is in operation. The objective of the project is to prepare a database of the overall situation of women so that further strategizing can take place. This project is a multi ministerial task, and is therefore expected to take some time.

Both in the formulation and implementation of policies, of course, there are limitations and obstacles. patriarchal attitudes in legislation, and ineffectual implementation make the process very difficult.

The Government is not an isolated missionary and has always tried to work in co-operation with other agents working for the benefit of the nation.

Recently BNWLA {Bangladesh National Women Lawyers Association} made some recommendations to the Government of Bangladesh, among which were the suggestion to have a regional treaty on trafficking, and the recognition of trafficking as a form of violence against women. These were very helpful, and perhaps we should work together so that there is space to include NGOs in the policy making arena, and consult women and children directly before making policies.

### **Urmila Shreshta on Nepal's view of trafficking**

First of all, let me say that the NGOs in Nepal are doing some very good, hard work on trafficking and violence against women.

After the Ministry of Women and Social Welfare was set up, it has done much in one year. A Council for Women and Child Development has been constituted. The policy focus of the programmes on Women and social Welfare have been-

- awareness
- rescue-rehabilitation programmes
  - compensations to victims
    - HIV/AIDS
    - self employment
    - vocational education
    - information system
  - national consensus on any issue
- multilateral collaboration/ treaties/ agreements

Of the above it is identified as to which activities are slotted to the Government and which can be undertaken by NGOs or other groups etc.

Recently there has been an MoU signed with ILO/IPEC which will initiate the reviewing of existing legislation and sensitisation programmes, especially for the police, within one year. Trafficking is perhaps the biggest problem for Nepal, out of the South Asian countries and we are looking for an agreement between States to deal with it. However as the Technical Committee meeting to discuss the SAARC Convention to Combat Trafficking for prostitution revealed there are problems with regard to the way repatriation and rehabilitation are handled in the document.

Should my friends from Nepal here have anything to add or comment on, they are welcome to do so.

Participants from Nepal put forth their comments:

- In our experience it seems that many times the Government is not aware of the dimension of the problem at hand, or is not recognizing it. NGOs have also been saddened by the criticism we have faced from the State, we have been accused of bringing AIDS to Nepal, when we bring back our girls who have been trafficked to brothels in India etc. Moreover, it is sad that these women are not treated as human beings, the Nepali Government does not recognize their economic contribution, they are sending money back to their families. This is true even for the Indian Government.. India may want to push them out but even India benefits economically from their work.
- In the approach of the State, it is obvious that there is too much focus on rescue and rehabilitation, and not enough, if any, on the traffickers network.

### **Vijay Bhaskar speaks on the Government of India's perspective**

The SITA, Suppression of Immoral Trafficking Act was the first concrete act to deal with trafficking. Because of inherent problems in the Act it was amended to the prevention of Immoral Trafficking Act, PITA in 1986. PITA was a broader act in the sense that it also included brothel owners and pimps as offenders.

In 1991 The Central Social Welfare Board brought out a survey which was very widely read and quoted, which identified and analysed the precise nature of trafficking in different regions, and sensitive areas which were the givers of women and children and which areas were the receivers, e.g. it was found that areas where the tradition of devadasis continued 'supplied' much of trafficked women, and usual places to which they were trafficked were metropolis like Calcutta or Mumbai. Trafficking was from rural to urban areas, and usually such that the language spoken by the trafficked women was different from the language in the area they were taken to, so they were unable to communicate without the help of (trafficking) agents.

In 1996 the Bombay raid revealed that 60% of those raided were from other countries, and 40% of the women were from Nepal. Cross country trafficking as a result got a lot of attention. In India, however, intra country trafficking is also of an alarming magnitude.

The CBI was asked to intervene, because it was perceived that organized gangs were behind the operations. Moreover technical problems arose in handling trafficking. For instance, law and order is a State subject, but trafficking is almost always an interState subject- traffickers nearly always traffick those who don't speak the local language.

Contradictions and problems also arise out of the clubbing together of prostitutes and the trafficked women. There are also problems in the definition of a child. Also, there is little awareness or acceptance of trafficking in State officials, the attitude is that it doesn't happen in our State.



There are 360 short stay homes in the country but even this is low. The level of Government funding for these is very low. These homes are not specifically for trafficked women. In fact, a lot of homes were not willing to take the women and children rescued in the Bombay raids because of the social stigma attached to these women. Lack of seriousness in law enforcement, lack of co-ordination among the Border Security forces, lack of support lines and drop in centres, all hinder the momentum and effect of any action.

The SAARC Convention has been a major step towards concretizing a plan of action in handling the problem. India took the onus of framing and rearing the document, and while there has been no official consensus as yet, there is potential in the convention to be concrete. Women's groups and NGOs have given their recommendations on the Convention, and these are appreciated.

### **Chandni Joshi, Regional Director (South Asia) of UNIFEM gives a regional overview**

Each country has its own issues, its own problems, but there are certain problems which are cross border issues. In fact, one of us here, Dr. Hameeda Hossain was among the first to write about cross-border issues in the region.

Trafficking in South Asia is not only a woman's issue, like many other issues which are not only women's issues... in searching for a way of dealing with these problems collectively, we are in fact searching for and initiating a culture of peace. But, at the same time we are going against a very strong current. There are certain points which at this time seem to be distinct problems in the handling of the problem of trafficking.

To begin with, the giant called data and data collection is a very big problem. How does one go about collecting data in case of such issues. How does one judge existing data. Different sources show different, even contradictory data. Which is the correct 'good' data, the 'true' data.

The solution is perhaps to just recognize that true data is impossible to come by, and believe that the problem is big enough to warrant action without roof of its precise magnitude! UNIFEM is trying to bring together some information, documents etc. from our sources and make a kit for public awareness on the issue, this should be ready soon.

Secondly, with regard to the Convention, it seems improbable that a consensus will be reached by all members of the SAARC. It would perhaps be easier if regional treaties were signed by two countries at a time. This way only two countries would have to have come to an agreement and the focus would also be far more specific.

Issues of migration are also problematic for us. India has a 300 mile open border. Nepali citizens don't need passports to cross over... obviously there will be a problem. We are caught in a contradiction, where we understand that having such porousness is helpful to the traffickers, but also not wanting to restrict women who really wish to migrate.

It is also heartening to see that an important, and till now missing, link has been made between trafficking and current 'development' models and the issue of sustainable development. By connecting the two, we begin a new understanding of the power equations at work. We connect all the marginalized people who are affected by such 'development', so that our struggles are not fragmented any more.

## Issues Of Concern From The Dialogue

### **Data Collection**

Statistics and data on the issue are difficult to gather, and existing data varied, conflicting and difficult to trust. Do we, as NGOs and women's groups have any capacity for data collection ourselves? For one working in the community, it is difficult to collect hard data. The people you are working with will feel used, will lose trust in you and in all likelihood you will be chucked out of the community. The Sri Lankan contingent talked about how there is a mechanism to keep certain amount of statistics in Sri Lanka about migrant labour. There is a 'contract of employment' which all individuals migrating for work have to submit. They have to register themselves with the Sri Lankan Foreign Employment. A participant gave the example of a Russian report, which was brought out after a group posed as clients and investigated a racket. Is it possible for us to do such investigative data collection? Perhaps some of us could go to the Gupteshwar mela where 'everything happens'-women, girls are seen, sold, bought. It takes place in November normally, and those interested could find out about it and follow it up.

### **Homes**

- With regard to the Mumbai raids in 1996, and the aspersion that homes were unwilling to take in these women it was pointed out that the homes had been hesitant in taking the women *not* because of social stigma, but because they were taken unawares by the sheer number of women raided. They did not know how to handle the situation, and they did not have the capacity and the facilities to do so.
- Groups/NGOs who run such homes face much harassment trying to get someone from the Nepal Consulate or Bangladesh high Commission to come and take responsibility, or at least come and see the Nepali or Bangladeshi women and children in the homes. It takes one year, of making innumerable visits by the NGO workers to the Consulate/ High Commission, before the Consulate or High Commission sends someone to the home.

### **Raids**

The process of 'raids' and the role of police comes into strong question. By employing such fascist methods of supposed protection, how effective is the process? Moreover, the complaint from these areas is normally that the police is a source of harassment and terror for the women in the area. The police are rarely interested in protecting rights of people, and lastly that of prostitute women! The police are very often those who violate their basic rights. Also, many a time children of prostitutes who have come to visit their mothers, get

caught in raids, and are arrested. How does one distinguish those minors in the brothel and the children of the prostitutes?

### Right to residence

The issue of the rights of women to a place to stay in, is also attached to the issue of raids. Raids have left thousands of women homeless, pushed onto the streets in the middle of the night, or the monsoons - is this not a violation of their rights?

### Citizenship

- The issue of citizenship is central to the discussion, and the complexities of it need to be understood by the State. They need to understand that a woman coming from Bangladesh is actually just going across the border to meet her cousin, say from Rajshahi to Malda. She is just going across a river, she doesn't know she is an 'illegal migrant' now. The notion of citizenship, and the implications thereof, are alien to a large part of the population of the subcontinent. Measures to restrict trafficking must not affect border areas where there are women who come to work from across the border everyday, or come to meet their families in villages across the {river} border.
- More disturbing is the way citizenship manifests itself in the patriarchal possession of women's bodies as national properties and the attitude of 'their women, our women'. It has been proved that once identities of the trafficked women is disclosed, if she does not 'belong' to the country she has been trafficked to, *without any consultation she is sent back*. The country she came from no longer wants her { 'fallen woman', 'AIDS suspect' etc. } - in such a situation, where does the woman belong?
- It is wrong for the Government of India to say that they cannot keep her in the country, because when it has suited them, the Government has never objected to Nepali citizens (as domestic labour, military personnel) in India--- the Gurkha battalion has been around for centuries. This only highlights the disposability of women in this age of globalization. Citizenship between India and Nepal in the past has never been an issue. There is still no physical border between the two countries and since the freedom struggle, the CPI there has been affiliated to the CPI here, the Congress in Nepal has strong ties with the Congress here. It is only today with the issue of trafficking that citizenship has become such a thorny issue between the two countries.
- The idea of ration cards has also been a difficult one, because in the process of this, the Government identifies Bangladeshi and Nepali girls and picks them up and deports them. These are legitimate ways in which the State terrorizes women who are insecure as it is, and are facing layers of oppression already. One participant gave the example of Seemapuri where since the time of the Bangladesh liberation struggle Bangladeshi women have been staying. They have a life here now, they have for the last 27 years contributed to India and her economy. This is their home now. They don't *want* to go back.

### Compensation

The issue of compensation also came in for some discussion. The question was raised that should compensation for those who have been trafficked be requested as part of the re-integrative process. Opinion was divided. While money is important and necessary for

reintegration of these women and children, should the State be abdicated of its responsibility to take long term, stronger measures to deal with the problem?

### Penalties

- It is shocking that the penalty for travelling without a passport from India to Bangladesh is only 140 taka!! This is no deterrent to any trafficker, and only shows just how 'serious' a crime the Government and the police consider trafficking! Traffickers, even if they get arrested, make the payment and are out within minutes. Such sham 'penalties' need to be reviewed by the State. Border police, guards etc. on the Bangladesh- India border have been seen to be complicit in the act of trafficking. All they have to do is take a 10 minute break to go and take a leak in the bushes, and twenty people cross for which he 50-100 taka per person who crosses over.
- Is making punishment more stringent an answer to the problem? Making punishment more and more stringent in fact becomes counter productive. As it is, traffickers do not get apprehended. By having death sentence as a penalty to a trafficker, it merely *ensures* that traffickers will not get punished. Moreover punishments like this have no public support and by dramatising the issue, the State only serves in diluting it. Such an announcement to raise punishment is only lip service by Governments, to project to the world, on the surface, that they are indeed committed. It does not change the ineffectiveness of the State in tracing and prosecuting the traffickers. Capital punishments are actually impossible to implement, particularly in democratic frameworks.

### Handling cases

Dr. Hameeda Hossain, who has a legal aid centre in Dhaka { Ain O Sailash Kendra }, talked about the kind of work legal centres are doing in Bangladesh around trafficking. It is possible to file a public Interest Litigation, and file charges against the Government, the Secretary of Home, Ministry of Labour with regard to cases of children sent to be camel jockeys. The State has to bear responsibility because there is a legal ban against children below 12 in labour. There is also much work around tracing children who are reported missing by their parents, who have sent them away with 'family', 'relatives', normally actually people from the same village, and who have no news of the child after that. This is difficult, and requires much networking among groups working in different areas, in different countries etc. There are also cases of children who have been brought back, but whose parents have to be traced. The inefficiency and incompetence of the police is a constant hurdle in this. She related the case of a child whose parents could not be traced for six years, but who were actually only two kilometres away! And this was only because, the police at that thana did not think of sending a circular/photograph of the child to nearby stations. She expressed concern that counselling was not as prevalent as it should be, and raised the question of how safe was 'safe custody'.

### The State versus NGOs

It is the difference in attitudes which accounts for a large part of the antagonism between the State and NGOs when dealing with issues like trafficking, prostitution, rescue, rehabilitation etc.. When NGOs, for example, said that let the women continue to be in the

brothels if they wanted to do so (after the Mumbai raids), the Chief Justice called them pimps, and accused them of trying to perpetrate this trade. Even women lawyer activists themselves did not know how to structure their argument, because there is no space to do so in the Indian judicial system.

### **Political Will**

Traffickers or the trafficking network does not seem to be the concern of the State. They are ghost-like figures in the whole picture, with no details about their frame, their colour, their nature. The preoccupation lies with how to handle women who have been 'rescued', or need to be rehabilitated. Why such a blatant ignorance of the pursuit of traffickers? It was expressed by others also that there seems to be no political will in wanting to be firm in dealing with the trafficking of women and children. Some police, and even members of the Government in Nepal knew the names of traffickers both in India and in Nepal very well, but no efforts were made to nab them. Is this a result of politics, corruption and a crime-politics powerful nexus? What does one do about this, where does one look to if the police themselves take no action? Mr. Bhaskar suggested the setting up of a Regional Task Force; however, who monitors the Regional Task Force was yet another issue.

Mr. Bhaskar explained why there is difficulty in taking care of everything because different laws are made by different ministries, different departments have different considerations. When we are talking about a Convention or an integrative strategy, obviously all departments must be committed and in agreement with one another, but this itself is a tremendous challenge. Then of course there are the problems of perception, where many think women's issues are 'soft' issues unlike law and order which are 'hard' issues!

Certain laws themselves are ineffective and problematic, in case the laws are relevant, one finds that they do not matter, because what does matter ultimately is the will of the police, of the State to implement these and punish the traffickers. For example, in Karnataka with the passing of the the **Devdasi Prohibition Act** any man who married a devdasi, or a devdasi's daughter, would be given monetary compensation as well as utensils. It was soon seen that this procuring of the money and utensils was a racket, and the girls were found two weeks later to be {back} in prostitution.

### **From pressure groups to partnership: a beginning**

The State as well as NGOs need to consciously differentiate between trafficking and prostitution, or prostitutes and trafficked women {who may have been forced into prostitution also} and formulate strategies to deal with trafficking into other sites. It must also be recognized by the State that the cases of women and children are distinctively different. There is no question of volition in case of children, while women have the right to consultation and choice. Different policies are therefore obviously called for.

At this point we do not know if the SAARC Convention has been signed yet or not. If not, and it comes back for review, there is a plea from this dialogue that the Convention be

broadened to include trafficking for purposes other than for prostitution and separate Conventions/ chapters be implemented for women and for children, and issues of repatriation etc. reworked on.

The fact that every comment, whether by representatives of the State or NGOs, begins with 'this is a complex issue...' was heartening, and meant that this dialogue was a beginning, a step ahead in understanding the shades of grey, the difficulties in the issues, and the sensitivity and depth required to deal with them. It cannot be overemphasised that we need to work together. The NGO sector and the State need to listen to each other and formulate strategies and plans TOGETHER. The State and NGOs have often seen to be opposed to each other. NGOs have seen themselves and have been seen by others as 'pressure groups', where a conflictual relationship is implied. perhaps, after this dialogue we can begin calling it a partnership. A partnership becomes a mutual bond, complementary, with an implicit understanding that we will build on each other's knowledge and capacities and understand each other's limitations.

SECTION III

# TRAFFICKING AND 'DEVELOPMENT'



## SECTION III- TRAFFICKING AND DEVELOPMENT

### Trafficking, 'development' and food security:

#### Making crucial links

Resource persons- Hameeda, Jyoti, Abha

Trafficking cannot be delinked from issues of basic marginalization. The South Asian countries share similar positions on the economic map of the world - they are the 'Third World', the 'developing' countries, following "development" models of the West. It is important to contextualize the trends of trafficking within this framework and recognize the direct and serious links between trafficking and globalization, liberalization, militarization, ecology and erosion. All these penetrate people's lives and their economic and food security, leading to the creation of an exploitable, 'traffickable', pool of people {particularly women}.

Hameeda began the discussion by talking about our economies being economies in transition, and how this had much to do with the 'incidence' of trafficking in the region. We need to consciously look at other forces, social, political and economic, which are occurring around us and pushing women and children into a space where they are vulnerable to being trafficked. Increases in dowry demanded, introduction of dowry in places where it was not a dominant practice because of increasing materialism, cases of desertion, flood, famine, soil erosion, displacement - all of these lead to marginalization of a particular section which become vulnerable to exploitation. Imposed 'developmental' schemes push out people from their subsistence agriculture/homes and force them out into areas where they are desperate for any work, even if it means migrating to another area. In such cases, it has been seen that it is women and children who ultimately have to look for a means to earn a livelihood and support the family and themselves. Due to existing socio-economic-cultural situations, it is the women are disposable and usable in such cases and therefore they are the one who become particularly susceptible to {sexual} exploitation and trafficking.

The legitimacy and the facilitation of these trends must be looked at with reference to the changes which are happening around us as a result of 'development' and the 'free market', changes in consumption patterns - the increase of materialism, changes in the issue of food security and the growing militarization of the world.



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**as time goes by**.....>>>>

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Mother's generation	Our generation	Our children's generation
old radio was a luxury	getting a transistor was a big jump	t.v, sometimes even two multiple deck tape recorder
bare minimum in clothing		new clothes constantly
	food habits- rice and different vegetables never refused anything mother made	food habits- short cut foods/ - FAST food -vegetables no longer large part of the diet - children refuse food if they don't like it, DEMAND fast food - powder milk in popular use even other milk is not pure - change in the number of times meals are taken - SNACKING is very common

### Consumption patterns / Materialism

Our consumption patterns and requirements - whether of food or of other commodities- have been shifted from basic needs to 'luxurious' and far more complex, and indeed constructed 'needs'. This is because, to begin with, earnings of a certain class have increased and the number of double income families is very high. So the feeling is that now we can afford these things, we can indulge the children and give them whatever they ask for. Besides, 'everyone is doing it'. Not succumbing to these things becomes 'abnormal'; materialism is no longer a negative ideology or a kind of 'greed', but a healthy normal process. The role of the media in this process of constructing 'needs' is central. What used to be luxuries are now necessities. In such a context, it is not difficult to understand the importance of these necessities/ luxuries and the movement of people towards them.

In districts in Nepal, where trafficking is prime, there is observed to be a distinct increase in materialism. In these areas more and more material comforts are visible. Those who do not have these material comforts also desire them. This 'envy' leads to a process where one by one other families become easy targets for traffickers. The media and projections

of a 'happy' life, the winds of 'modernizing' and attraction of becoming a 'city girl' are also responsible to a certain extent for such trends.

### **Food Security**

According to Abha, global changes have caused a shift in eating patterns and markets. Patterns of demand and supply, particularly that of food, have changed according to the MNCs that control the global agro-industries.

On the **demand** side, food habits are being determined by external forces, by the media, by the 'free market', by constructions of what constitutes 'modern' food and what does not etc. These new food habits, we are realizing, have bad effects. Traditional food habits evolved over a period of time and contained local wisdom and were of a cyclic nature. They were related to climate of a region, availability and a traditional understanding of what is good for your system and what is not. Today such wisdom does not exist behind food habits, which are largely based on western models of quick consumption. Even the food value of most items, especially vegetables, has gone down due to the use of fertilizers, pesticides, packaging and artificial elements to preserve them.

On the **supply** side, there is an increasing effort by the agro-industries to homogenize/ universalize food consumption patterns. It has led to mono-agriculture. Today rice and wheat are eaten everywhere in the world. This should have been to our advantage, for it is the South Asian countries who have always been prime suppliers of rice and wheat. But it has not been so. Instead we are moving towards **food dependency** on those who have no traditional knowledge of these agricultural activities, or even knowledge of our lives and lifestyles, such as MNCs like Monsanto.

Jyoti gave specific examples of the increasing grip of profit-making Multi-National Corporations {MNCs} over our basic agrarian structure- leaving farmers marginalized and the country increasingly dependent on MNCs. Recently Monsanto, the MNC giant in fertilizers and agroindustries, signed an agreement with the Grameen Bank of Bangladesh to supply terminator seeds for farmers. Terminator seeds are genetically engineered seeds with special characteristics- the seed once used, does not regenerate itself, it is resistant to specific pesticides etc. It is said that it also releases toxic substances into the soil, as a result of which crops in neighbouring fields are affected and the crop itself may not be safe for consumption. The fact that the seed does not regenerate means that Bangladeshi farmers will have to keep going back to Monsanto every season for new seeds implying total dependence on an external, capitalist, powerful profit-making force. As a result, farmers who cannot afford to buy these seeds get outcast, and those whose crops will be affected in neighbouring fields will also no longer have a stable livelihood.

Moreover, the knowledge of food, cropping patterns and processes related to these is moving out of the hands of women. In the past knowledge of agricultural related activities remained largely with the women, for instance the art of preserving seeds was passed down orally over generations. Participants talked about how they recall their grandmothers saying there were 180 kinds of {rice} seeds. Now there are only 12 types. The use of artificial, hybrid seeds are destroying the variety which was naturally available.

If the process of dependency on outside forces can be reversed and these traditional knowledges and practices reclaimed, or even given attention, women would not be seen as economic burdens but economic assets. Infact even in the case of trafficking it was observed that suddenly in times like these of marginalization and poverty, women are becoming economic assets- for it is they who are having to go out and find livelihood.

As a result, there is the reality that in many places food crops are no longer grown, and as a result patterns of demand change. Because it is more profitable to grow, for example, tobacco or cashew nuts or coffee, where what is needed in that area is rice. Obviously, in such cases food habits will change - people there will eat what is coming to them in the market, they will not have a real say/choice in what to eat. Where the cash crop fails sometime, it means they don't have the money to get food from the market also. A participant from Sri Lanka explained how in Sri Lanka, farmers who used to grow traditional crops which could be used for their own consumption also, now *have* to grow cash crops—such as gherkins, banana and tobacco. If crops fail, it becomes a very precarious situation. In fact in 1995, there were a spate of incidences of suicides by farmers. In such situations, women have to become migrant labourers. The majority of migrant labour from Sri Lanka are women. This year too{1998}, in India there was an alarming series of suicides by farmers.

Recently in Nepal, when the price of lentils went up alarmingly, analysts attempted to pinpoint the source of this sudden inflation. It was found that the 555 brand (cigarettes) had entered the market, and the Tobacco Development Board had floated loans for farmers to shift from other crops to tobacco. Farmers rushed to get the loans leading to shifts in agricultural patterns in favour of tobacco. As a result there was a shortage of lentils in the market. Basic food was being given up so that a multinational tobacco company could eat profits! It was also noted that in the areas where the shift in crops was taking place, self dependency fell, and displacement and marginalization—particularly in times of bad seasons- increased. Most importantly, these were the areas where trafficking was growing, from where traffickers were 'picking up' women and children.

There is also the issue of wages—even today, in many areas, with spiralling prices of food, wages are not adequate enough for subsistence. It is a logical link - in many cases trafficking is possible because people want to leave their area of origin because food security no longer exists in their area of origin. Where people are unable to live off the land- whether because of displacement, deforestation, 'developmental' projects etc. , people will have to start looking for other means of food security.

### **Militarization**

The implications of militarization, particularly on sex tourism, also need to be looked at. A shocking development which the participants from Bangladesh shared was the SOFA- the Status of Forces Agreement, which was being signed between USA and Bangladesh. According to this, there will be a US military base in Bangladesh, like in the Philippines, Okinawa, Vietnam etc. The fear is that this will lead to the mushrooming of prostitution areas and sex tourism around that area, as has happened in the Philippines etc. We all

know the links between militarization and s/exploitation -moreover the terms and conditions are shockingly imperialistic. The-US soldiers will not need passports or documents to enter the country, and will not be tried on Bangladeshi soil but US soil in case of any legal case against them!

### The New Human Cash Crop

Such linkages make us realize how well organized traffickers are and how quickly they locate new targets/markets for profitable sale of human commodities. Where has there been an earthquake or a flood? Where is there instability in the market for a certain crop, where are dams being constructed and people being displaced? All these potential sources of people to traffick are being closely monitored. If we make concrete links and consciously map out migration patterns, we will be able to see the way in which economy of an area and trafficking trends correlate. It is in disturbed, or 'developing', economies that the new human cash crop is forced to emerge.

It is too simplistic to say that poverty leads to trafficking. In reality it is linked to consumerism, to the free market economy. It is linked to food security {or the lack of it} and the resultant migration patterns which are then bound to happen. People move to find something better- but the new environment is *not* necessarily better.

So we find that various, very complex processes are going on—values are changing, consumerism increasing, wages are stagnant, prices are rising, land is becoming scarce, and in many places misused. There is a gap between the producers of food and the consumers of food, in fact the food itself is alienated from the consumer. Women, who feed the world, have less and less access to food themselves. Food security has become an issue of serious and alarming concern. Attached to this is the processes of migration, globalization, liberalization etc, the business of profit making, and the business of trafficking. All these processes are interlinked, and occur simultaneously or in reaction to one another. **In searching for new ways of addressing ecology, food security, livelihood and 'development', we will be simultaneously addressing the issue of trafficking and exploitation.**

## Globalization And The Sex Entertainment Industry

- a session by Jyoti Sanghèra from GAATW Canada

Trafficking is an international phenomenon which strengthens itself through its collaborations with the tourism industry, entertainment sector, travel and transportation industry, international media and the national income itself. Sex tourism becomes a substantial source of national income, and because of its "pay-off", the Government throws a blind eye to the hordes of women being exploited and violated {for 'national prosperity'...}, bestowing it with national legitimacy. The World Bank, IMF, WTO gives further international legitimacy by encouraging such 'tourism', as it has done in the countries like Thailand and Singapore. In fact, after Singapore fell in line with this strategy of "development", it made a gigantic leap from 'Third World Country' to an NIC {Newly Industrialized Country}.

In times like these when migration policies {particularly for people moving from east to west} are becoming more and more strict, Canada gives "special visas" for exotic dancers. This is an indication of how commercially viable and how legitimized the sex industry is to many countries, not only to Canada. The sex entertainment industry includes prostitution in its direct form as well as strip tease shows, exotic dancers, cabarets, massage parlours, fantasy tours {with wild sexual adventures promised}, hazardous sexual acrobatics and such. The profits which are said to accrue to the owners of these places and to the country's tourism sector is stupendous. In Canada for example, the owner of a massage parlour invests \$40000, which will be recovered in only six months!

Something which needs attention and is even more frightening than the other forms is the way trafficking is done under socially accepted and institutionalized guises like marriage and domestic labour. This is not the case only in Bangladesh or Indian rural areas, but very much a strategy even in the trafficking of girls to the Western countries. There are six hundred registered marriage bureaus in North America which undertake 'trafficking'. They have a catalogue of women, normally from the 'Oriental east' {who are supposed to be passive, submissive- perfect sexual slaves} which are shown to the clients for selection. In Germany there are bureaus with a "guarantee"- if you are not satisfied you can return her within thirty days. These are marriage markets in all senses of the term. Once these women are 'delivered' to the men, they are often subject to tremendous tortures and face violence and exploitation - parts of the deal they had not bargained for. Being in an alien environment, they have no social support around them, no friends and are too scared to go to the police, even if they are legal migrants. The status of a woman in a new country, particularly America or Canada, is very fragile - they are under constant threat of being deported in the first two years. In most cases the girl is 20-25 years of age and the man-over 50. Even within this trade {true to American enterprise and innovation}, there are special bureaus which supply women to disabled men - for example, the Vietnam war veterans who are not able to get wives {but need someone 'passive' to cook/clean/ have sex with}, or those stuck in farming, fishing in remote areas. By getting themselves an Oriental "wife" they are getting a package deal - sexual slave plus caretaker for self/ the elderly plus domestic worker - three for the price of one.

Realizing that this is the situation, what exactly are we trying to do. Whose interest are we trying to place centrestage? Are we trying to stop women from migrating or are we trying to 'protect' the women from exploitation? Do we want to 'protect' the women?

The need to work, or migrate to find work and livelihood, for women in many countries is very much a reality. At the same time, there are very few women who can travel alone. Very often they need the help of men - agents. These facilitators of travel are sometimes genuine, and sometimes a member of the network of traffickers. So the main question is how to make movements secure so that women do not fall prey to male abuse. We want to 'protect' the women in the sense that we want the women to be secure.

**It is necessary to make distinctions between protection and security so that we don't end up restricting women's mobility.** While our ideal sense of free mobility may be doing away with 'borders', it is too revolutionary. Within the existing structures, our efforts need to be aimed at making movements secure rather than restrict them.

As for making distinctions between women and children, the protection cause is valid in case of a child. Of course there are distinctions within 'child', and we have to look within our cultural milieu...and see how do we define 'child'. In our countries, we see child brides, and very young 'women' who would be considered children elsewhere, giving birth to children themselves. There are even discrepancies in international laws and agreements, with regard to definition of a child.

Recent years have seen a feminization of poverty, and consequently the feminization of migration. 80% of migrant labour are women. In market economies, there is an increasing demand for women's labour. With poverty, displacement, lack of food security and lack of local livelihood options, the supply of women's {cheap} labour is also available. However, strong restrictive border controls of the State make this movement very difficult and increasingly so. It is ironic that there should be a huge pool of labour which is insecure, criminalized, which is not allowed to move freely when everything else from information to technology to food products move freely. These same borders are crossed by traffickers without any problem.

Trafficking for prostitution or other aspects of the sex industry is not the only kind. The organ trade is reputed to be an important site. Begging is also a major site for trafficked children, particularly from Cambodia and Burma to Hong Kong, and camel jockeying from Bangladesh to the Middle East. In fact new forms and sites for trafficking are being created all the time - with constant innovations and the rate of changes, diversification of trade, techniques etc. Globalization makes available options of new kinds of work. Definitions of 'labour' and notions of what is degraded labour are becoming less rigid. We need to expand the definition of work to allow for these new categories to fit in, and make it more inclusive of modern forms of {'degraded'} labour. We also need to recognize formal and informal sectors, women's work in the domestic sector, as 'work'

UN figures say that in the last ten years, 30 million people have been trafficked. In the last three years profits from trafficking exceed profits from underground and narcotics trafficking. Different studies have come up with different data, some of them indeed

contradictory. In both national and international fora, statistics are given a lot of importance. It is high time we let go of this statistical obsession. We have to be wary of figures, and find ways of handling constant pressure to give statistics from donor agencies or the media.

Trafficking is not a petty crime. It is a highly complex, connected and organized process by criminal gangs or chains of people making profits along the way. A Channel Four documentary- 'The Women Trade' - recently reported that organized crime gangs in Sicily and Cyprus are in control of major operations of trafficking worldwide.

Finally, even in the West women's groups do not have much of a say in the areas of prevention, policy making etc. They are slotted into rehabilitation/reintegration roles. In trying to address trafficking, governments make no effort in finding out what the trafficked women want. When asked, many have said all they want is there to be no stigmatization, the right to have jobs and live their lives without harassment.

SECTION IV ·  
LOOKING  
AHEAD





## SECTION IV- LOOKING AHEAD

### **Working with the Media**

Resource person - Akhila Sivadas

The media is a necessary strategy for any struggle today. It has influence and the power to make or break issues. Most importantly it has reach - it goes into more bedrooms, more houses than we can imagine. As NGOs we are often antagonistic about the media, and see it as a highly problematic, commercialized and sensationalist way of flippantly constructing events, persons, ideas and concepts without realizing the consequences - and sometimes *with* full knowledge of the {negative} consequences, but *strategized* to have that very effect.

Such a negative attitude about and with the media is of no help to us. When we want our voices to be heard and our issues to become centres of discussion, we *have* to collaborate with the media in trying to bring attention to the issue. The media can be a tool for us to generate mass awareness and act as pressure groups for the Government

We do not realize it but a lot of the time, NGOs are doing the media's job. The media quote from their statistics, newsletters, get stories from their archives and so on - most information is from them. We have an advantage here and must find ways to use this.

#### **Media and Ethics-**

It is also our concern to make sure that the media does not harm the interests of those involved, or offend our cause in any way. Our main concern, contradiction even, is how do we present the issue- and simultaneously protect the women from being harshly objectified by media spotlights. Participants from Bangladesh talked about how whenever the media people feel they have a story, they want the photo of the women concerned before anything else. Even if the women themselves are not averse to media attention, there may be negative unforeseen consequences. Other than the issue of photographs/identities of the women, embarrassing questions are asked by the press/ media, leaving the women squirming, and ultimately belittling the situation. It was pointed out that sometimes even we, as NGOs and women's groups, need to draw the line for ourselves; there are many times when we ask those very questions. Therefore, we face certain contradictions- we are not in favour of controlling/censoring the media, but at the same time where do we draw the line.

Naresh, a journalist participant from Nepal, admitted that unethical behaviour was indeed used by some, but this does not imply that all journalists are unethical. He promised to go back and mobilize journalists to portray the issue sensitively without being unethical.

#### **Alternatives**

Sri Lankan participants gave a new angle to the discussion by initiating discussion on alternative media possibilities. In Sri Lanka, there are two 'alternative' papers currently

with a wide circulation. Through a strategized and consistent process, it may be possible to create a 'market' for such alternative sources of information for the general public.

### Strategizing-

In order to use the media to our benefit, we have to know what we want to communicate and the exact process of going about it. We also have to understand the media and the way it works.

- Knowing what we want

We want the media to focus on the following:

- highlight the differences between trafficking and prostitution
- establish links to food security, especially the marginalization of farmers leading to forced migration and trafficking
- shift focus on the traffickers, instead of the women and children
- let prostitute collectives themselves call a press conference/discussion with the press
- awareness to young girls and parents etc. through skits on radio etc.

We also need to ask ourselves certain questions to plan our strategy, like-

How do we create a more positive environment with the media?

What kind of media do we want to use?

How much role does the State have in this relationship between the media and NGOs?

Who is our audience?

- Understanding the media.

The media needs to be *given* all the information - quickly. They will not wait for you. The media also needs a CONTEXT to print or focus on any news. Normally it takes a very homogenized view of the issue, any issue. It glosses over the issue, it does not build on details. Only feature articles go deep into a 'story', or an issue. The topic of any feature has to be commissioned by the editor, and features on any one topic are generally not repeated. So, our expectations from the media have to be realistic. It is unfortunate but true that the media needs sell-able 'stories'. The operative words are 'scoops', dramatic events, hard hitting facts, statistics, stories of heroism, courage or in their language, 'human interest stories'. On the other hand many of us are not willing to sell the stories of 'victims' to get media space, we don't like to sensationalize, we don't trust statistics and the thought of using the women we work with as 'scoops' sickens us. But if we want to make a dent in the media, we have to find negotiable spaces which may seem like a compromise, but are vital to the cause.

Today, the all important person who needs influencing is not the editor. Editors in fact are the most fragile posts and can be changed overnight! The whole structure within journalism has undergone a change. The proprietor is the one who wields power today, and takes the decisions about what will be 'news' worthy. Beyond the journalist, the marketing person is also important.

- **Building relationships**

Find out who writes on what kind of issues in the papers around you, follow the writings of those who you think have a sensitive bent. Make a list of journalists and other writers, who are accessible and open to ideas and who are not. Find out those who write substance which is deeper than normal reports, such as think pieces. Based on this list, try and meet them and introduce your ideas to them. Don't spend too much time trying to woo older, more known journalists. Young journalists are normally more receptive to new ideas, seeing it as a space to 'reveal a scoop'.

- **Building Bridges**

Don't begin the idea of alternative media by thinking of it as a competitor to media. See it and develop it as a bridge between us and them. After all any 'alternative media' is likely to be local and will not have the kind of reach the global media has. And today, it cannot be denied that cable television, whatever be its criticism, is galloping into even interior India and spreading its tentacles over everywhere and everyone. It is not true that the poor or the rural population are not acquainted with it. It has nothing to do with economy, only entertainment. In fact surveys in India show the middle classes are now 'cutting cable' because their children are not studying.

- **Learning to take advantage of the situation**

If the SAARC Convention is the issue now, e.g., use it NOW before it becomes old news. Before the SAARC focus, the interest on the meet dwindles, use the Convention to get spotlight, and then branch onto other related issues. No one will write about the Convention once the SAARC meeting is over.

#### Steps which can be taken now-

1. Go back to our countries and dialogue with Government to find out status of the Convention.
2. Find out if the Convention was covered in local newspapers and media or not. If it was, who covered it. What was its focus.
3. Find spaces to enter into and initiate pressure to separate trafficking and prostitution, women and children etc.
4. Strategize in your own mind—prioritize and understand what we want, what we do not want and why.

We cannot underestimate the importance of the media in our lives, and in any campaign we may want to initiate. We all understand the need to build a relationship with the media, and not be media shy, so that we can communicate with the widest number of people possible, and at the same time exert pressure on the State.

## Working with the State

Lobbying at the State level has always been a crucial part of any strategy. In a series of actions South Asian women's groups have been taking the initiative over the last many years to put the issue of trafficking on the SAARC agenda {Appendix I}.

The draft of the SAARC Convention on Preventing and Combatting the Trafficking in Women and Children for Prostitution was critiqued by South Asian women's groups. The arguments are articulated in the Preamble drafted by them.

### SAARC CONVENTION ON PREVENTING AND COMBATTING THE TRAFFICKING IN WOMEN AND CHILDREN FOR PROSTITUTION

#### RECOMMENDATIONS BY SOUTH ASIAN WOMEN'S GROUPS

#### PREAMBLE

The SAARC Convention on Preventing and Combatting Trafficking in Women and Children for Prostitution reflects the lobbying efforts of women's groups and a well-thought, intensely debated plan of action by the Member States of the SAARC Region.

While we strongly support the Convention and applaud the efforts which have gone into it, we are concerned about its underlying assumptions.

First, **the Convention needs to broaden the scope and notion of trafficking.**

Trafficking takes place for a *range* of ultimate purposes, not only for the purpose of prostitution. It is crucial to recognize that the main motive of the traffickers is **profit** through trade, **however that profit may accrue**-- whether from sale to brothels, to adoption homes, for camel jockeying, begging ; the use to which the trafficked persons are put depends on global trading patterns and the demand and supply trends as dictated by the market economies.

As representatives of South Asian womens' groups, our starting point is our commitment to trafficked women and safeguarding their interests by ensuring that their political and social **HUMAN RIGHTS** are not infringed upon or overlooked and bypassed in any way, **in whichever country they are.**

**The Convention must recognize that by not giving them any voice, any choice or agency, they are being victimised twice.**

It is unfortunate that physical borders between our countries divide the trafficked into '*our women/children*' and '*their women/children*', and therefore determine the kind of **treatment they will get.** In this '*nationalistic*' process, the violations she has undergone get pegged to a lower priority than the accompanying problems of citizenship/nationality/migration. **The Convention must realize the need to shift the focus to 'traffickers'**, their operations need to be brought under a tight vigil and States

must begin talking about 'rehabilitating' the traffickers rather than polarising the debate around the 'rehabilitation' and 'repatriation' of the trafficked persons! The complexities of trafficking cannot be reduced to a solution of simple welfare acts - to 'shelter homes' and 'rehabilitation'.

Previous efforts of Member States to 'repatriate' women and children clearly indicate that the line between 'repatriation' and 'deportation' is thin. In view of the highly charged, patriarchal and moralistic attitude against trafficked women/children, by their families and by the State in the respective countries, it is not feasible that she be forcefully 'repatriated' and 'rehabilitated'. While we are aware of the enormous task that each State is entrusted with or has to fulfil, we urge the Member States to apply strategies that will REINTEGRATE the trafficked person-- socially, politically and economically **without compromising on her right to self determination**. The Convention needs to recognize that terms like 'repatriation' and 'rehabilitation' snatch the trafficked persons' voice, and empower the State to 'retraffick' the person, without asking the person whether she/he chooses such an option. However, the term 'reintegration' takes the trafficked persons' voluntary participation and choice into account and does not deny them agency.

The Convention must recognize that due to hard economic pressures, women are forced to migrate looking for livelihood options. Any moves to combat trafficking must not interfere with a woman's right to mobility. **The Convention should not become an instrument to restrict or police women's (voluntary) movement from one country to another**. Issues of trafficking and migration must not be collapsed; a clear distinction can only be made if the elements and motives of trafficking are defined clearly.

Finally, **the Convention and Member States must recognize that trafficking in women and children is a product of global patriarchies, economic liberalisation and the media invasion, which further objectifies women's bodies as commodities**. The signatory countries to the Convention need to take serious note of the impoverishment of their own economies. The near total breakdown of social and economic securities has precipitated the trade of trafficking, and the most 'degraded' and 'vulnerable' population - women and children--are obviously the section/ 'commodities' being traded. It is known that after being trafficked, many of these women support their families. They, in fact, become an economic anchor for their families. The families and States need to recognize their economic contribution rather than see them only as a source of shame and burden for the family and the nation. It is also imperative that the SAARC Countries fulfil their commitments providing social and economic securities in areas with large scale gender discriminatory indicators. Ensuring sustainable development that upholds women's dignity is vital for the SAARC Region.

We further reiterate that the present paradigm of development encourages free mobility of capital, technology, experts and sex tourism. Trafficking in this framework is inevitable. Only a reversal of this process can bring about fundamental changes in the present situation of women.

### Legal Critique of the Convention

**Madhu Mehra**, a feminist lawyer based in Delhi who has done considerable work on the CEDAW gave a legal critique of the Convention, and pointed out some inherent problems with it. To begin with, the Convention is in direct conflict with CEDAW and other International Human Rights agreements. In the latter end of the Convention it is stated that when any national law and the Convention are in conflict, the national laws will be given primacy. This is rather ironic considering it is the national laws themselves which are problematic and for which the Convention is being drafted. Other than having an obvious protectionist, patriarchal framework, it is also shocking to note that the offender has a choice in where to be tried, but the woman herself has no choice, no voice in what will happen to her next.

One wonders also who will pay for all the proceedings. There is no financial commitment by any country or all countries to support the processes in the document. Why are there no provisions for a SAARC Fund?

The Convention needs to be read with existing human rights laws and the provisions in it need to be revised to ensure that they are in line with human rights laws.

### Current Status

The draft of the Convention was not adopted at the Colombo SAARC Summit in August 1998. No consensus was reached by the Committees who reviewed the draft prior to the Meet. Contentious issues included that of repatriation and rehabilitation. While this delays SAARC action on the issue of trafficking it also gives us some time to lobby and push forth our arguments regarding the Convention and the approaches to the issues around trafficking.

## Working Together

### Thinking Aloud-

- With reference to the separation of women and children in trafficking laws etc. -- IF this happened, then was there not a possibility that the border police would {mis}use this to shed some of their responsibility? For instance, one might say "oh this is not my problem, I handle children.. go to that person, they handle women..."
- The legalization issue seems to be throwing us back rather than taking the efforts forward. As women's groups, we should be wary of being used by other forces who want legalization only so that they have a visible vote bank to work on. Our differences in this regard need to be sidelined while more important issues take the foreground.
- The lack of specific laws with regard to pedophilia must be strongly questioned. As a way of handling cases of pedophilia, rape laws {however problematic they are} can be

used. **Clients who have sex with minors in a brothel can be charged with statutory rape.**

- The issue of clubbing trafficking and domestic service is dangerous, because it will endanger women who actually need to go and find work as domestic servants. This highlights the very greyness of the trafficking problem. There is the complexity of movement, the interplay of agency and exploitation on one hand, and there is the concrete and very real need for employment on the other. It is being sensitive to these grey areas which this workshop has tried to evolve.
- The overall concern was not to introduce new legislation but to implement the existing ones- national and international instruments- and expand the definitions of these while applying them.

### **On separating 'women' and 'children' when talking about trafficking and migration...**

We have to be conscious about making this distinction ourselves. Many a time, when there is funding coming in for projects there is a tendency to club the two together because that is the norm for a lot of projects. This must be avoided.

Prostitutes and collectives of prostitutes themselves must discuss these issues, and decided for themselves who should be accountable for what. The idea of a Self Regulatory Board was brought up again. If the prostitutes themselves decide that they will not have 'children' below a certain age, however they define that to be, working in their area, a beginning would be made. They should introduce a mechanism to stop the entry of small girls into the trade. Then the Board itself would be accountable for cases of trafficking of children into the trade in certain areas.

We should take on the responsibility of disseminating information in whichever way possible, in simple language, with simple explanations to as wide an 'audience' as possible explaining why such distinctions between trafficking and prostitution, trafficking and migration and between women and children are important. We should also not fragment ourselves according to issues, there should be no 'this is my issue, this is your issue' kind of cleavages in our work. The first thing we all must do on our return is go back and discuss these issues within our own groups and with groups around us, and gather support and consensus, followed by the strategies we have discussed above.

### **ENDNOTE**

The subsistence culture which once dominated in the subcontinent has today been eroded. As a result, people particularly women *need* to migrate or move across the region in search of alternative livelihoods-- they have no or little choice considering the current trends of 'development'. The 'solution' therefore is *not* to stop their movement, but make their movement SECURE. We must integrate this into our strategies.

## RESOLUTIONS

1. Trafficking in women and trafficking in children must be separated because  
different strategies are used to traffick women and children  
they are trafficked mostly to different sites of work  
different measures are required to reintegrate them back into the mainstream. Children MUST go back home or to a safe institute for {girl} children, but the Government must ensure their 'home' is a safe place to return to. Women must be allowed to decide for themselves.  
we are doing a disservice to both by treating women as children and children as women  
the issue of CONSENT is crucial and cannot be overlooked
2. Trafficking and prostitution must be distinguished from one another.  
All other sites of trafficking must be recognized and acted on. Note also that we expect the areas/ sites of trafficking to expand, with new forms of exploitation coming up every day, thanks to globalization, liberalization and the increasing feminization of poverty.
3. A SAARC Fund needs to be instituted to ensure a financial pool for the use of Governments in handling cases of trafficking, whether it is the expenses for prosecuting a trafficker, or for sending children back, or for reintegration of trafficked persons.
4. 'Safehomes', as opposed to remand homes and shelters etc. must be opened. Hygienic and good living conditions as well as counsellors are imperative.
5. Each strategy to handle trafficking must not be vague and general, but needs to be specific to work sites. The strategy for trafficking into prostitution and the strategy for trafficking into camel jockeying will obviously have to be different.
6. Clients who have sex with minors must be charged with statutory rape.
7. The idea of Self Regulatory Boards should be evolved. Prostitutes collectives should themselves resolve to stop entry of child sex workers in brothels.



## Appendix I

### **CONSULTATIONS TOWARDS SAARC PEOPLE'S FORUMS ON TRAFFICKING IN WOMEN AND CHILDREN AND RELATED ISSUES OF FOOD SECURITY**

#### **Bangladesh**

##### ***I. Background : Calender of Events***

1. In December 1996, during the SAARC Foreign Ministers meeting members of various organisations, including UBINIG, AWHRC, Sanlaap, Jagori met all the Foreign Ministers from the SAARC countries and appraised them of the situation in South Asian countries.

The women's and human rights groups in Bangladesh, India, Nepal, Pakistan and Sri Lanka urged upon the member countries of the SAARC to take trafficking as a priority issue and to put it on the agenda of the SAARC Heads of the State Summit in Maldives, 1997.

2. In April 1997, International Networks such as Resistance and Asian Women's Human Rights Committee working at the regional level, formulated a common position paper for SAARC countries before the 9th SAARC Summit held in Male, Maldives.

As a result of the mobilisation of the NGOs, in 1997, the SAARC Heads of the States in the 9th Summit held in Maldives, expressed their grave concern over this issue and pledged to examine the feasibility of a Convention on Trafficking in Women and Children for Prostitution.

3. The SAARC leaders unanimously agreed to take measures against this heinous form of trade within the South Asian countries.

**The Declaration of the Ninth SAARC Summit, to be known as the MALE DECLARATION in the section on Women in Development reads:**

*Expressing grave concern at the trafficking of women and children within and between countries, the Heads of State or Government pledged to coordinate their efforts and take effective measures to address this problem. They decided that existing legislation in Member States should be strengthened and strictly enforced. This should include simplification of repatriation procedures for victims of trafficking. They also decided that the feasibility of establishing of Regional Convention on Combating the Crime of Trafficking in Women and Children for Prostitution be examined by the relevant Technical Committee.*

(This is the 27th paragraph in the Male Declaration)

4. After the 9th SAARC summit the Secretary of Foreign Affairs met with the relevant organisations to discuss about immediate actions. The Ministry of Women and Children's Affairs took initiative to Draft SAARC Convention on Combating the Crimes of Trafficking in Women and Children in collaboration of NGOs which was submitted to the 12th Meeting of the Technical Committee on Women in Development held in Katmandu, September 21-22, 1997.

- ◆ This year before the 10th SAARC Summit, an Expert Committee Meeting was held in Delhi (18-19 June 1998) to negotiate the draft of the Convention on Trafficking in Women and Children. The Convention was drafted by the government of India on the basis of earlier drafts received from other countries such as Bangladesh. In the Expert Committee meeting two NGOs from Bangladesh (UBINIG, and Ain O Shalish Kendra) were taken as part of the government delegates.
- ◆ The draft is being finalised at the 13th Technical Committee Meeting in Katmandu, Nepal. This will then be submitted to the SAARC Summit for ratification by the heads of the states.

## OUR CONCERNS REGARDING THE CONVENTION

- ◆ In the Draft Convention, there is a problem of linking narrowly trafficking in women and children for prostitution. Whereas trafficking is occurring for many other reasons including marriage, bonded labour, camel jockeys, organ trade etc. It was because the delegates of some governments felt that they had to be bound by the exact wording of the Male Declaration. But the Bangladesh delegation argued that the Male declaration was to look into the feasibility of the convention, which will be examined by the relevant technical committee; so it does not pose such binding. The Bangladesh delegation strongly felt that for the Convention to be effective we must widen the definition and scope of trafficking. There is the possibility of having the Convention on Trafficking of Women and Children for Prostitution, which will become a hindrance to combat the trafficking of all other forms.
- ◆ Persons subjected to trafficking means women and children victimised by the traffickers by deception, threat, coercion, etc. and it should not only limit to as in the draft Convention "forced into prostitution". Trafficking stands on its own and the prostitution is a separate problem and not only as a problem that is linked to trafficking or the main issue of trafficking.
- ◆ Women who have gone for purposes of migration and who have been for one reason or the other stranded and who did not wish to come back should have their freedom of choice that they should not all be lumped together under the rubric of victims and willingly be sent back. Repatriation should not be immediate and there should be care and rehabilitation provided in the receiving country pending the repatriation should be voluntary.
- ◆ The Convention on Trafficking should not become an instrument to curb women's mobility from one country to the other.

## Major Issues related to Trafficking and Migration

- ◆ Ref: Convention on Trafficking in the United States and the European Union Convention Code of Conduct - The main purpose of this convention is to restrict the entry of women. Basically to have more stringent immigration laws and to restrict the entry of women who are defined as labour, whether trafficked or legal, there are also efforts to stop the legal movements of labour and migration.
- ◆ It is very important to make a distinction between trafficking and migration. And trafficking should not simply be defined as cross border migration because there is lot of trafficking within the country. The elements and principles of trafficking should be defined clearly. The distinctions need to be made between trafficking and migration, trafficking and smuggling, trafficking and illegal migration. All these are now clubbed under the same category.
- ◆ There is no doubt that trafficking is a gross violation of human rights of women and children. But in the process of trafficking in women, we have to be careful that we do not stop the movement of women.
- ◆ The rhetoric around free trade, they are asking for free mobility of capital, free mobility of technology, free mobility of expertise but everywhere labour is in chain. There is increasingly “more unfreeness” as far as movements of labour and people are concerned.
- ◆ In the area of trade, the power of state is becoming more and more diluted, but in the area of citizenship, nationality it is acquiring more and more power to take repressive measures. It is becoming a policing agency in favour of the multinational consortium. That is the role the state it has assigned upon itself.

- ◆ Distinction must be made between trafficking and prostitution. We do not want a new legislation on prostitution, but we want a convention on trafficking. Trafficking takes place in several sites and prostitution is only one of them. Therefore in the convention every site into which trafficking occurs must be covered.
- ◆ An integrated analysis from various fields is necessary including food security is needed because that is one main reason that this happening.
- ◆ Conceptualizing new forms of work and labour. With globalisation and capitalism in its present form, work has become extremely degraded. There is degradation of labour. New forms of work or labour have up which are degraded forms, e.g. begging has become a work. In Thailand children and old women are trafficked from Cambodia and are engaged in begging by organised groups. It is an organised industry. How to address the situation of "workers", including sex workers in these degraded forms of labour so that we can center the interest of women and children in this form of labour.
- ◆ It is important to make distinction between women and children. By clubbing the two together women tend to get infantilised. So women have no responsibility, they could never have consent, they cannot take any decision to work or go anywhere.

### **Links of Trafficking in Women and Children to the issue of Food Security**

- ◆ There is a very important link between trafficking in women and children with food security issue and with the whole question of macro-economic policy, globalisation, agrarian policies by which people are getting disarticulated or de-linked from their food sources, the means of production, and from land, and thereby seeking jobs in the urban areas for their survival.

- ◆ There is a dichotomy or ambiguity with regard to the question of the state. In dealing with the issues of trade, IPR, WTO regimes, or agricultural agreements it is seen that because of the globalisation state is getting more and more marginalised. State does not have the capacity or the authority to come up policy options, even the legal options or the institutional options. In the case of women's trafficking, the nationality of the women becomes a big problem for the state. State denies the nationality to women.
- ◆ Trafficking issue is not only a legal issue. Legislations to combat trafficking are for curative measure. But this problem must be looked at from preventive point of view. Question must be raised how to reorganise the state. How the capacity of state can be built and how the question of nationality should be brought forth.
- ◆ There is no effective regional cooperation on trade issues.
- ◆ Agreement on Agriculture will have very negative consequences in the rural areas and will accelerate the trafficking in women and children.
- ◆ Child labour issues should be taken into account as well.

Appendix II

**TRAFFICKING IN SOUTH ASIA: A CONCEPTUAL CLARITY WORKSHOP**  
**JULY 29-AUGUST 1, 1998, NEW DELHI**

WORKSHOP OUTLINE AND SCHEDULE

**July 29, 1998**      **CONTEXTUALIZING TRAFFICKING, DEFINING THE ISSUE**

- 10:00-10:15      Introducing the workshop - the historical context and the objectives of the workshop - Abha Bhaiya
- 10:15-12:00      Introductions, Expectations and Issues - Jyoti Sanghera and Abha Bhaiya
- 12:00-1:00      Finalizing the Agenda, Identifying the Issues
- 1:00-2:30      LUNCH
- 2:30-4:00      Focus Group Discussion : Addressing critical questions and issues
- Trafficking and prostitution
  - Trafficking and migration
  - Trafficking in women and children
- 4:15-6:30      Towards Clarifying Concepts: Definitions and Distinctions - Jyoti Sanghera
- Definitions and areas of contention
  - Making and maintaining distinctions
  - Identifying and deconstructing myths
  - Legalization, decriminalization, rescue, rehabilitation etc.
- Night:              Feature film - Doghi

**July 30, 1998**      **SHADES OF GREY: DIVERSITY OF THE DISCOURSE**

- 9:00-10:00      Focus group discussions on:
- Sex and Sexuality
  - Child and Adult trafficking
  - Victim and Agency
  - Constructions of 'good' and 'bad' women
- 10:00-10:45      Presentations
- 11:15- 12:00      Large group discussion and summing up  
Interaction with women's groups
- 12:00-1:00      Food securities, household economies and trafficking
- 1:00-2:30      LUNCH
- 2:30-5:00      The Pandora's Box:  
Opening up issues like
- Development Models and trafficking
  - Globalization, Poverty and Marginalization,
  - Migration, Work, Labour

4:30-6:30 Debates, Consensus, Differences and Alliances  
7:30-8:30 Video Film: The Selling of Innocents

**July 31, 1998 CONCEPTUALIZING ACTION, FORMULATING STRATEGIES**

9:00-10:30 National and Regional Perspectives - Overcoming obstacles

Panel Discussion

Speakers : Chandini Joshi : Regional Advisor, UNIFEM

Vijay Bhaskar : Deputy Secretary, Dept. WCD, GOI

Urmila Shreshta: Special Secretary, Ministry of Women  
and Social Welfare, Nepal

Niloufer Begum - Joint Secretary, Ministry of Women and Child Affairs,  
Bangladesh

11:00-1:00 Identifying Issues for strategizing: Open Discussions

- formal and informal networking,
- awareness, rescue, repatriation,
- reintegration and/or rehabilitation,
- victimization and criminalization,
- state initiatives, etc.

1:00-2:30 LUNCH

2:30-4:30 Legal dimensions, Women's Human Rights discourse on Trafficking  
Interaction with lawyers and legal experts

- Hamida Hossain : Ain O Shailish, Bangladesh

- Madhu Mehra : Feminist Lawyer/Researcher

6:00-9:00 Strategies for Media Advocacy - Akhila Sivadas  
Night: Channel Four Documentary on trafficking- The Women Trade

**August 1, 1998 LOOKING AHEAD**

9:00-1:00 Drafting the Convention on Trafficking for South Asia  
Critique and Alternate Formulation

Future Planning: Follow-ups and Next Steps...

1:00 Closing Remarks

Lunch

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Appendix III  
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