Chapter 5
Norms mobilizing sex workers

After reviewing the processes and degrees of norm socialization at three levels (policy, program, and institution) in the preceding chapter, this chapter examines how, in what ways AIDS-norm socialization has affected the vulnerable communities of sex workers leading to their collectivization, and their political struggle towards redefining sex work as “work” and demanding workers’ rights. I also examine the broader implications of such AIDS-induced social movements on Indian society in general.

As pointed out earlier, prior to the launching of HIV/AIDS prevention programs, the communities of sex workers were highly stigmatized and marginalized; their basic human rights were not protected, they were forcibly tested, quarantined or jailed, including their right to treatment and care from public health services was denied. With the introduction of “targeted intervention-regime,” sex workers not only became an object for knowledge for clinical trials, experiments and social research, but also came to be seen as part of the mainstream with government bodies, hospitals, doctors, media, NGO-workers etc., viewing them in more positive light. Being sensitive to the rights of the sex workers may have been a part of the regime-requirement for implementing AIDS-programs, but even this instrumental adaptation of human rights norms (not quite believing that sex workers may have human rights) have catalyzed the collectivization of sex workers and new social movements of prostitutes’ groups.

Thus the state’s adoption of various AIDS-regimes and norm socialization has had a boomerang effect — on the one hand, it led the state to change its existing human rights practices; and on the other, the changing practices ensued a cascading effect of political struggle of sex workers towards decriminalizing all aspects of sex work by articulating a secularizing discourse of sex work as any other work. In this frame, sex (as work) is seen as a mundane activity detached from any moral or ethical considerations of individuals.
This chapter therefore focuses on two key effects of norm socialization — how it led to the collectivization and political struggle of sex workers towards decriminalizing all aspects of sex work; and what radical changes are implicated by the proposal to normalize prostitution as “any other work.” To explore the first part of my argument, I first examine the theoretical and discursive foundation of prostitution that inform global policy-making and regime’s norms (since Indian sex workers do not operate in a vacuum); and then explore their mobilization in relation to AIDS-norm socialization and HIV-epidemic in India. To examine the second part, I draw on societal implications of normalizing sex as any other work in commerce and what radical changes are implicated by such a proposal. This part draws on a Scott Anderson’s (2002) work in which he argued that institutional prohibition on prostitution helps maintain sexual autonomy of individuals, and hence normalization would tend to perpetuate already existing inequalities between men and women. Based on this formulation, I examine whether Anderson’s arguments can be juxtaposed well to suit the Indian context and whether a compelling case can be made for the prohibition of prostitution in India. Before I proceed, norm socialization and collectivization of prostitutes’ groups are in order.

5.1. Socializing norms, changing practices

On October 16, 2005, the *Times of India*, a leading national English daily reported that the Planning Commission of the Government of India, the highest body for designing national Five Year Plans had recommended the government to legalize prostitution.\(^{193}\) The *Times of India* reported that the suggestions to remove legal constraints that prohibit prostitution, called the “impediments in the anti-AIDS program,” were officially made to the Prime Minister in the exercise to prepare 11\(^{th}\) Five Year Plan document\(^{194}\) (2007-12). The news was “sensational” because of two

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\(^{194}\) Syeda Hamid, a member of the Planning Commission made a presentation to the Prime Minister to consider legalization of prostitution as a viable option for tackling HIV/AIDS epidemic in the country. In her presentation, Hamid argued that the legal prohibition on prostitution impedes the fight against HIV/AIDS prevention efforts and is discrepant with national AIDS control program that supports “targeted intervention” among sex workers and in brothels. Hamid’s opinion was published in *India*
reasons. First, in a sexually conservative society as India where discussion around sexuality still remains a taboo, the proposal to legalize prostitution caused discomfort not only among conservatives, right-wing radical Hindu nationalist groups, (who view any such proposal as degrading, immoral, and cultural imperialism of the West); but also among feminists, activists, policy makers, development practitioners, and sex workers themselves who were divided over how best to address the problems inherent in prostitution while recognizing the rights of women engaged in it. And second, the news also originated from a particular concern that the “contours of sexual behavior in India may change radically” (Times of India, October 16, 2005) if such a recommendation fructifies. This anticipated change in sexual behavior remained a matter of intense debate among policy makers, researchers, NGOs, and activist groups whose broader argument has been that with legal recognition of prostitution, a range of other associated “industries” such as pornography, strip clubs, private rooms, live sex shows also demand legalization.195

The Planning Commission’s recommendation was based on the fact that India’s HIV-epidemic is primarily heterosexual with more than 84 percent of total transmission taking place through this route196, and still remains largely concentrated among sex workers and their clients, drug users, and men having sex with men (Caldwell, 2006; Commission on AIDS in Asia, 2008; MAP, 2006). According to Sayeda Hameed, Member In-Charge of the Planning Commission of India, “The legal action and criminalized status of prostitution drives the epidemic underground and put the high-risk categories of sex workers out of reach of social interventions197.” Hameed also

195 Until a few years ago, I was one among this group to hold such a view and argued in an earlier newspaper article that the State should now legalize all such range of sexual services including buying and selling of women (Kole, 2006). My conception since then has gone through drastic transformation, especially after being introduced to some women working in the sex industry (and how they view the sex work itself). Others who hold this view maintain that legalization will increase the size of the sex industry and cause more trafficking of women and children. See for example, Mohan, Remya (2005). Sex for sale? The argument doesn’t sell. The Indian Express, November 14.
argued that the illegal status of sex work in India is discrepant with its National AIDS Control Program that supports targeted intervention with sex workers and their clients. It was also estimated that in many metropolitan cities (except Kolkata, formerly Calcutta), somewhere between 40-60 percent of sex workers are HIV positive (Amin, 2004: 3; Chattopadhyay, 2003: 5), who have overall poor access to basic health care services, and are also discriminated against while receiving care and treatment for AIDS related complications. Thus the proposal for legalization was not only an important effect of socializing norms of the AIDS-regime, but was also a step towards improving the living standard of sex workers, and recognizing their basic political and civil rights.

Barely after few months of proposing the above legalization, in January 2006, the Department of Women and Child Development (WCD), Government of India, proposed an amendment to the Immoral Trafficking Prevention Act (1956, 1986). Though this amendment (2006) recognized the prostitute’s right to work and solicit by proposing to delete Section 8 that prohibits soliciting, other provisions proposed in the amendment left excessive legal intrusions into the lives of the prostitutes. Among them, a conflating definition of trafficking and sex work (Sec. 2k); increasing the number of years of imprisonment and fine for keeping or allowing premises to be used as a brothel (Sec. 3-1); increasing the period of conviction of a woman from five to seven years for carrying out prostitution in public (Sec. 10); lowering the rank of police officer from Inspector to Sub-inspector to carry out raids and anti-trafficking operations (Sec. 13-2); and penalizing clients for purchase of sexual service among others. 198

However, the practices of AIDS-related policy-making were changing in India especially after the adoption of various AIDS-regimes. The government thus “opened” this amendment to the NGO-civil society representatives to raise their concerns, and sought criticisms/feedback to be submitted to the Ministry of Law. The proposed Bill polarized the legislators, Indian feminist movement, prostitute’s collectives, civil society activists, and human rights advocates including UN organizations into two

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camps\textsuperscript{199} — one camp arguing for an abolitionist regime modeled in the Swedish law; the other camp arguing for a liberal, democratic, human rights regime that preserves the civil and political rights of prostitutes.

After introducing in the \textit{Lok Sabha} (House of Representatives) in May 2006, the ITPA Amendment Bill was referred to a Parliamentary Standing Committee due to lobbying by both parties. The Committee submitted its findings in November 2006 after consulting with NGOs, lawyers, women’s commissions, and sex workers’ collectives. It suggested further changes besides a complete overhaul of the entire law. In May 2007, WCD moved additional amendments keeping the basic thrust of penalizing clients and the abolitionist frame intact. Objections were raised by the then Health Minister, Ambumani Ramadoss, who apprehended that the bill would push sex work underground and weaken efforts to prevent HIV/AIDS. The Bill was then referred to a Group of Ministers for review. The Bill got caught in the Hindu nationalists’ ideological battle and was not passed. The Amendment was withdrawn and lapsed in February 2009.

\textbf{Changing legal framework}

Sex work in India remained criminalized as per the Immoral Trafficking Prevention Act (ITPA 1956; 1986 and 2006 Amendments) and the law prohibits soliciting, pimping, brothel keeping, trafficking for sex work and living off the earning of a prostitute, though sex work \textit{per se} is not illegal. This law is frequently used by police to arrest sex workers and conduct rescue and rehabilitation raids in brothels that often involve manhandling, beating, sexual coercion, violence and extortion of sex workers’ earning including “free rapes” (Shalini & Lalitha, 1996; Sleightholme & Sinha, 1996). For example, Jean D’Cunha (1992) in an earlier study reported that between 1980-87, nearly 53,000 women were arrested in Bombay alone and convicted for soliciting for prostitution under Bombay Police Act.

\textsuperscript{199} For example, within the UN, while UNAIDS denounced the move to criminalize clients, the UNODC, under its anti human trafficking program, distributed posters to punish clients to end demand for sex work (Tandon, T. 2009. \textit{End of move to criminalize sex work}, New Delhi: Lawyer’s Collective HIV/AIDS Unit. February 27. Retrieved: http://health.groups.yahoo.com/group/AIDS-INDIA/message/9978).
In a more recent study, analyzing reported arrest-data under ITPA maintained by National Crime Records Bureau, Nair and Sen (2005) reported that between 1997-2001, more than 65,000 arrests were made at all India level, of which 87 percent were women (p. 200, though this is likely to be a gross underestimate as most cases of arrests are not even reported by the police who drop the charges against sex workers for bribes). By interviewing the police officers, Nair and Sen also reported that more than 90 percent of persons arrested under ITPA are generally females. For arresting the prostitutes, the police often set up “trap” as a decoy customer or conduct raids, and use abusive language, tear clothes of the prostitutes, beat them up, and demand sex for free. D’Cunha (1992) noted that there are known cases in Bombay where magistrates asked the lawyers defending the case of prostitutes in court, to send the later to them.

Despite its prohibition, prostitution (including pimping, brothel keeping and all other aspects of the trade prohibited by law) continue to occur widely in almost every part of India with an estimated number of 3-10 million prostitutes serving about 10 million clients per day generating 146 billion Rupees (about US$ 3.6 billion) annually. One may reasonably argue whether Indian law has any practical purpose and relevance other than simply controlling some aspects of the trade that tend to offend middle class sensibilities, while morally despising those who engage in it. Over the years, the law has worked against sex workers by placing them outside of legal protection and making them extremely vulnerable to violence from police, pimps, traffickers, and customers who would exploit their relative powerlessness (D’Cunha, 1992; Gangoli, 2007; Kapoor, 2000-01). The proposed legalization, therefore, was an

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200 The figure 10 million is from Friedman (1996, p. 14), whereas Amin (2004, p. 8) reported the number is somewhere between 2.3 million to 8 million, though she contended that the figure is likely to be an underestimate, as many women who engage in sex work do not identify themselves as such due to the stigma associated with prostitution. Several other estimates put the figure of prostitutes between 2-3 million (Nag, 2006); 5 million in 1998 by National Commission on Woman (Venkataramana & Sarada, 2001: p. 1043); 3 million by Commission on Macroeconomics and Health (Gisselquist & Correa, 2006: p. 737); and 3 million in 2004 by government sponsored studies (Bhat, 2006). Assuming that 3 million prostitutes work for 270 days a year (after discounting for menstrual periods and illness, Venkataramana and Sarada 2001), with an average number of 3 clients per day, we get a figure of 9 million clients per day, which is a very conservative estimate that I think I can believe. Assuming that the average rate per client a prostitute charges is Rs. 60 ($1.5), which is realistic and most conservative average estimate, the sexual labor of 3 million prostitutes generate about 146 billion Rupees (3.6 billion US dollars at December 2010 exchange rate) annually.
important step towards improving the living condition of sex workers, ensuring their health and safety standards, recognition of their political and civil rights, and making HIV/AIDS prevention efforts effective in the country (Gangoli, 2006; Kotiswaran, 2001; Shah, 2006).

**Drive towards legalization**

One of the first proposals for legal reform on prostitution was made in 1988 by the Maharashtra State Legislative Assembly in the wake of HIV/AIDS epidemic in the country that called for compulsory registration and licensing of all prostitutes in the state; health checkup and medical examination every three months; a minimum age of 21 years for entry into prostitution; and displaying a list of all prostitutes at the brothel with their ages, among other items. The Maharashtra Legislative Assembly Bill VIII of 1988 states that:

“The medical experts have opined that the main cause of [HIV/AIDS] is common prostitute. About 90 percent of prostitutes are suffering from venereal diseases. It is also reported that about 1 lakh common prostitutes are found in Bombay and they are the major cause of worry for medical authorities. In view of imminent danger of the spread of AIDS, it has become very important and necessary to have such legislation. Hence this Bill”

The objective of the Bill was also ambiguous as it did not clearly mention what medical examination and tests will be conducted on a prostitute and who will bear the expenses. Also, prostitution was defined in the Bill as “the profession carried out by a woman to have sexual intercourse with a man with or without consideration with the knowledge that such person is not her husband” (Ibid., p. 1-2). Such an ill conceived definition not only failed to understand what prostitution is all about by excluding the male sex workers, but also included activities such as extramarital sex and non-marital sexual relations.

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In 1994, Maharashtra witnessed the introduction of another Bill that called for setting up of a board responsible for welfare schemes among sex workers; compulsory registration with the board; mandatory health and medical checkups; quarantine policy; and marking the prostitutes’ bodies with indelible ink if found HIV-positive. Maharashtra Protection of Commercial Sex Workers Act (1994) in Section 4(i) states:

“All persons suffering from STDs, shall be liable to be branded with indelible ink on their persons to indicate the presence of STDs and the Board shall have the authority to decide from time to time the manner of markings, subject to the instructions of the government in this regard.”

Proposed legalizations of this kind giving intrusive power to the government authorities into the personal lives of prostitutes were fiercely resisted by the prostitutes’ collectives all across the country. Though this 1994-Bill and the 1988-Bill cited above were not passed, the procedures outlined in them nonetheless attempted to further stigmatize the sex workers, and violate their basic human rights as citizens.

At the national level, two such proposals for legal reform were drafted by the National Law School of India University at the behest of the Ministry of Women and Child Development (though none of these proposed Bills were considered for implementation). The first proposal (Prevention of Immoral Traffic and Rehabilitation of Prostituted Persons Bill 1993) recommended mandatory testing of sex workers, but also conferred rights to the “victims” of forced prostitution to take legal action against pimps, brothel owners and clients. Although this Bill was mainly concerned with prohibiting immoral trafficking in women and children, it gave substantial rights to women for taking legal action and demand compensation for harms resulting from sexual abuse or intentional transmission of diseases by a customer through refusal to practice safer sex. The proposal outlined community based rehabilitation, vocational training, setting up of a welfare fund to support rehabilitation activities and HIV prevention programs, and meeting educational and health expenses of children of the prostitutes (Kapoor, 2000-01). Among other items, the Bill also called for mandatory

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testing for HIV on prostitutes, their children and spouses, and public humiliation of clients, imposing fines, and assigning them to correctional work (Gangoli, 2006: p. 127).

While the above Bill violated the norms of the AIDS-regime by proposing forcible testing, public humiliation, fines and jail for adult consensual sex, the second national level proposal was more geared towards adopting/implementing the norms of the HIV/AIDS regimes. The second proposal outlined a drastic change in the state’s human rights practices. Mainly concerned with HIV/AIDS crisis, the proposal recommended that sex workers must have safe working conditions to protect themselves from HIV infection and hence prostitution must be decriminalized and considered as a legitimate exercise of the right to work, which also includes right to solicit. The Prohibition of Immoral Traffic and Empowerment of Sexual Workers Bill 1993; and the Sex Worker (Legalization for Empowerment) Bill 1993 proposed to decriminalize voluntary sex work equating it with any other kind of manual labor. The first Bill stated that:

“While the law should severely punish people involved with immoral trafficking and those indulging in child prostitution it should decriminalize totally the voluntary sexual work of prostitutes… equating it with any other manual labor. This view, though apparently obnoxious to contemporary public morals, it is said to be the only sensible position that law can adopt if it intends to empower the women involved and to effectively regulate the health risks of prostitutes, the customers and public at large.203"

The Sex Worker (Legalization for Empowerment) Bill 1993 recognizing sex work as a legitimate right to work, decriminalized prostitution and set out a number of nondiscrimination measures to remove the stigma. It also prohibited the sexual abuse of prostitutes and provided criminal and civil remedies; it provided the right to health care; minimum wages and pay for sexual services; a welfare fund for medical expenses and

old age support; guidelines to form a prostitutes’ collective; and the right of a female prostitute to retain her children (Kapoor, 2000-01).

Similarly, the National Commission for Women in its “Report on societal violence on women and children in prostitution 1995-96” also recommended eliminating the imprisonment of prostitutes; referring cases to the civil rather than criminal courts; repealing Section 4 of the ITPA which prohibits living off the earning of sex workers; introducing law reform to reduce police violence; and addressing other concerns of prostitutes without condoning the prostitution itself (Kapoor, 2000-01).

Legalization, decriminalization or normalization?

It is important to note that legalization, decriminalization, and normalization, by their very definition are different terms. When I use legalization, I only mean giving legal sanction to prostitution as a legitimate work and complete or partial removal of some of the legal barriers that prohibit the institution. Legalization also means introduction of special laws to segregate and institutionalize sex workers as a specific class. When legalized, income from the prostitutes may be taxed (state act as a pimp); it would be considered as a distinct economic activity; and the revenue thus generated may be added to the national system of accounting for calculating gross domestic product. Decriminalization on the other hand may mean, not giving legal sanction to prostitution itself but instead reducing or dropping some of the criminal charges and penalties involving the prostitutes, clients, pimps, brothel owners, etc. Under a decriminalized regime, prostitutes may not claim any legal recourse against customers, brothel owners and pimps for inflicting harms or injuries on them, because prostitution itself remains “illegal.” Normalization is used here in a very specific sense, which is the basic thrust of this chapter. I am concerned here with the discourse/claim that using vagina for commercial activity is equal to using any other part of the body — like brain for writing a philosophical text; fingers to do the typewriting job; or using manual labor to build a house, a ship, a truck, etc.; i.e., sex work is absolutely normal as any other work. The proposals made by the government bodies are often geared towards legalization and/or decriminalization. In contrast, the political struggle of sex workers to
consider sex work as “any other work” can be considered as the drive towards “normalization,” and this is what I deal with in this chapter.

Though various proposals on prostitution reform were made earlier by higher level bodies, the 2005-proposal and 2006 Amendments were fundamentally different in at least three important ways. First, in the late 1980s and early 1990s, when legal reforms were conceived, AIDS regimes were weak, globally; and India was slowly but reluctantly adopting some of the norms of the HIV/AIDS regimes. No large scale prostitutes’ rights movement and NGO activism emerged in India until mid-1990s. Hence, grassroots realities and sex workers’ voices poorly informed the policy formulation that often took anti-prostitution, anti-human rights perspective. In contrast, today’s reform process is a constantly negotiated realm and mediated by complex power relationships between the State, NGOs, media, and prostitutes’ rights groups. This does no way mean that today’s policies are more pro-prostitution, but only to suggest that there is a greater likelihood of prostitutes’ voices being represented in the policy as some of their representatives now actively participate in the policy dialogue.

Second, until mid-1990s, there was also very limited public discussion on the issue of prostitution as it offended Indian middle class morality to talk about “fallen” women. Also, the practices of policy-making were almost centralized and one-way (solely decided and implemented by the government) without the democratic participation of civil society organizations. With the introduction of World Bank’s good governance program, the government now seeks active participation of NGOs and civil society organizations in policy-making. The civil society participation has catalyzed the public discussion on prostitution. Moreover, in today’s rapidly globalizing India, a growing media attention on HIV/AIDS, and local and global networking among various rights groups aided by cheap telecommunication technology such as internet, blogs, e-groups, telephone and fax have brought the issue of prostitution in the public domain. Public discussion affects policy-making in important ways as long as the policy makers get to know the public sentiment on a particular issue (Rao and Walton 2004).

Third (and perhaps the most important), the discursive field of sex work and the nature of discourse within that field have fundamentally changed from a moralistic,
stigmatizing idiom about “veshyas” [literally, whores] to a more inclusive, secular, and normalizing discourse about “entertainment workers.” The meaning of “prostitute” is gradually evolving from “whore,” [veshya] to “sex-worker” [jouno karmi] to more secular forms like “entertainment worker” [binodon karmi] — these workers very recently concluded an All India Conference of Entertainment Workers in Kolkata, India.205 Shading the previous conception in which all prostitutes were uniformly seen as “victims,” the new discourse articulates prostitution as a “free choice” in which women exercise their conscious decision making power and agency. The current view aims to “normalize” prostitution as “any other work” in which selling sexual services is seen equivalent to selling intellectual or other physical labor for making a living. Though the government proposal (2005) only talks about legalization or some form of decriminalization, normalizing prostitution (as we will see later) remained one of the important demands of some of the prominent sex workers’ collectives in India.

In the section that follows, I will outline the collectivization of sex workers and their political struggle to redefine sex work as any other work. It must be remembered that Indian sex workers do not operate in a vacuum — in a highly interconnected and globalized world, they are constantly interacting with sex workers’ rights movements and ongoing discourse on prostitution elsewhere in the world. It is therefore important to tease out the theoretical and discursive foundation of prostitution that informs the policies of the global AIDS-regimes as well as the political struggle of sex workers. Before I proceed to their collectivization, contending perspectives on prostitution are therefore in order.

204 The Sanskrit word veshya originally used to denote the ritual prostitute who used to occupy much higher status in the society was less stigmatized and morally laden word than it is used today. I have used this term in a positive note keeping in mind some of the recent efforts to reclaim sex worker, prostitute, veshya [whore] as an identity. My use of the term should not be considered stigmatizing and morally laden rather, I use veshya as a positive affirmation of an identity category, in the same manner as “whore” in the West is claimed as an identity category. The word veshya and whore are nearly equal in meaning and significance. I also use prostitute, sex worker, and veshya interchangeably.

5.2. Contending paradigms on prostitution

Feminist and activist approaches to prostitution has shifted in the last two decades to reflect society’s modernity/postmodernity (Bell, 1994; O’Neill, 2001) and the discursive terrain of prostitution is extremely murky with several groups of feminists/activists having contentious, often conflicting positions on the issue. For simplicity of understanding, I have classified major debates emerging from these positions into two groups: one that takes a “pro-sex work” view and the other that takes an “abolitionist” view. Among those who articulate a pro-sex work position, there are liberal/libertarian feminist, Marxist feminist, socialist feminist, and postmodern/postcolonial feminists, whereas abolitionist perspective is mostly advanced by the radical feminist school. Both these two groups actively lobby and join forces with individuals and institutions supporting these two opposing ideological strands. For example, pro-sex work feminists in the US have actively lobbied with individuals and institutions that take a (neo)liberal perspective to prostitution, in the same manner as abolitionist feminists have joined the conservative forces to gain access to financial resources from George W. Bush’s anti-prostitution program. There is also rival political agendas among feminists and the differing assumptions of the abolitionists and pro-sex work feminists have lead to different organizing strategies and policy recommendations put forth by two rival global networks of feminist anti-trafficking organizations — Coalition Against Trafficking in Women (CATW) articulating an abolitionist agenda; and the Global Alliance Against Trafficking in Women (GAATW) articulating a sex work agenda. Both these networks have come to dominate the global discursive terrain of prostitution and related policy-making. These networks also have good presence through their partner organizations in various Indian cities. Though various other scholars have summarized their viewpoints more usefully and at length 206

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206 Other scholars also differentiate the prostitution debates in the same way (O’Connel Davidson, 2002; Outshoorn, 2005).
(Bell, 1994; Miriam, 2005; Zatz, 1997), I only briefly outline some of the major debates emerging from these two schools.

The Abolitionist proposition

The abolitionist position advanced by radical feminists results from their general analysis of social relations in which they tend to focus on how women are generally disadvantaged in the society and how these disadvantages are manifested in sexual practices that reinforce and maintain women’s subordinate status as a “class” (Barry, 1995; Overall, 1992). Among other arguments they contend that 1) the good purchased from a prostitute is frequently her own degradation (Dworkin, 1997: p. 2) the existence of prostitution depends on the existence of a deeper system of social and economic inequality between men and women and prostitutes and their customers (Raymond, 2003a, 2004); and 3) prostitution contribute to perpetuate the inequalities that underlie this practice (Giobbe, 1990). With respect to the first claim they contend that prostitution is an inherently violent and degrading institution that causes much harm on women and perpetuates an oppressive and exploitative institutional structure of male dominance that justifies women’s bodies to be sold in the capitalist marketplace as commodities for men’s sexual pleasure (Barry, 1995; Farley, 2004; Jeffreys, 1997; Miriam, 2005; Raymond, 1998, 2004; Sullivan, 2005). They also amass a great deal of evidence and testimony to suggest the violence and brutalization inherent in daily lived-experiences of the prostitutes before, during and after their life in prostitution207 (Barry, 1995; Farley, 1998; Giobbe, 1990; Hunter, 1993). As Raymond (1998: 2) argued that what the prostituted women must endure in their work is what in other contexts would be termed as sexual harassment, rape and sexual abuse at workplace. Hence what men buy in prostitution is the subordination and degradation of women reflected in these

207 A not so exhaustive list of these violence would include, 1) before: sexual abuse as children and adults, domestic violence, drug/alcohol abuse, poverty, divorce and racism; 2) during: rape, assault, murder, stigma, pregnancy, sexually transmitted diseases, discriminatory legal practice, pimp-control, slavery, psychological harms, inability to engage in intimate relationships, and post-traumatic stress disorder (PTSD); and 3) after: social stigma, psychological harms, PTSD and poor employment prospects.
harms which are neither incidental nor separable from the practice of prostitution (Dworkin, 1997).

The second contention holds that the free choice and agency in prostitution is a false consciousness since it does not consider the social, economic, structural and political context under which women make the “choice” to be a prostitute (Raymond, 1998). The fact that the supply of a “free” and “willing” prostitute is available is the result of a deeply entrenched social and economic injustice. The vulnerability to prostitution is thus “gendered” to the disadvantage of women on which the pimps, procurers and brothel owners capitalize. The root question is not whether women “choose” prostitution, but why men have the right to “demand that women’s bodies are sold as commodities in the capitalist market” (Pateman, 1988: 194). Thus the existence of prostitution depends on the role social inequality plays in ensuring that the socially and economically more powerful have access to sexual objects of their choice. As Dworkin (1997: 150) says “any man who has enough money to spend degrading a woman’s life in prostitution has too much money. He doesn’t need what he has got in his pocket. But there is a woman who does.”

The third criticism rests on the argument that prostitution plays a key role in maintaining the social inequality of women. The fact that any woman’s body can be sold for sex in the marketplace legitimized by the state reduces “all” women to sexual objects and instruments thus defining “what a woman is in this society” and “what is she made for” (Raymond, 2003b). Similarly, Carol Pateman (1988: 208) argued, “when women’s bodies are on sale as commodities in the capitalist market..., the law of male-sex-right is publicly affirmed and men gain public acknowledgement as women’s sexual masters.” Prostitution thus supports a stereotype of what women are for and reinforce the society’s tendency to view women, first and foremost, in sexual terms. As

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208 Anderson (2002) contended that much of these harms correspond to prostitution practiced at the lower level of socio-economic status within the domain of prostitution. He referred the readers to a testimony of a prostitute who has escaped many of these difficulties while earning a good living in prostitution (Barbara, 1993). However, when sex is negotiated for money (regardless of prostitutes’ class), men still possess all the power to dictate how, where, and what form of sexual intercourse will take place. The extreme stand on this is taken by Jeffreys (1997) who argued that “if [the johns] had positive attitude [toward women], they might not be able to conceive of using women in prostitution at all” (p. 229-30).
Hughes (2000) contends that since “men create the demand, women are the supply;” so what is really sold in prostitution is a relation of commands in which the prostitute as “employee” sells commands over her body to the john/pimp/employer in exchange for money. It is this fundamental relation of domination and subordination that is mystified, if not denied, by the proponents of “free prostitution” (Miriam, 2005: 4).

The advocates of abolitionist perspective thus view that legalization and/or decriminalization is a state-sponsored prostitution that legitimizes man’s right to buy women’s bodies as commodities.\(^{209}\) They argue that the liberal proposal to normalize prostitution stems from the assumption that prostitution is inevitable, and results from “natural” and uncontrollable man-lust (Farley, 2004), and hence to meet their lust, women and children must be made available in the marketplace.\(^{210}\) This definition of normalcy is then reflected in public policy that defines prostitution as a form of genuine labor (sex work). Citing evidence from Netherlands where 80 percent prostitutes are trafficked from other countries, Raymond (2003a) argues that legalization/decriminalization promotes sex trafficking and it increases the size of the sex industry. Following legalization in Netherlands and Australia, there has been a corresponding increase in number of brothels, pornography, sex-bars, strip-clubs, sex-shows, and women trafficked for prostitution, including child-trafficking\(^{211}\) (Raymond, 2003a, b; Sullivan, 2005). They also offer substantial evidences to support that legalization does not promote women’s health and safety standards; neither it protects them from violence. However, it could be argued that in the absence of legal protection of prostitutes, the situation would be much worse, as it is in India today, and many other

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\(^{209}\) While I do not want to elaborate on some of the well researched critique of legalization, I would only like to point out some of the main arguments emerging from these debates. For an excellent critique of legalization otherwise, the readers are referred to the following sources: Raymond (1998, 2003a, 2003b, 2004); Sullivan & Jeffreys (2001); Farley (2004); and Sullivan (2005).

\(^{210}\) To this extent some social scientists define the predatory behaviors of men buying women in prostitution as normal, maintaining that prostitution is simply part of human nature (Ahmad, 2001; Fisher, 1992). This is in contrast to both the abolitionist and sex work feminists’ view that man’s sexuality is not biological/ “natural,” rather socially constructed and learnt.

\(^{211}\) This proves nothing – the size of the industry has gone up could also be interpreted as more people are gainfully employed in such industries. I would think this only represents one side of the story. There are also better health practices, collective bargain, claiming legal rights, suing the party, condom use and safer sexual practices — all that have gone up, but radical feminist do not mention these in their arguments.
countries. There are certain merits in the argument of the pro-sex work feminists that women would be able to claim some rights at least once it is legalized and decriminalized.

**The sex-work feminist response**

The sex work feminists conceptualize prostitution as a legitimate form of “labor.” By legitimizing the labor in prostitution, and by equating a prostitute’s use of body with a secretary’s use of fingers, or a philosopher’s use of mind (Nussbaum, 1999: pp. 278-85), the sex work feminists aim to restore dignity of women in prostitution by claiming it as “any other work”\(^\text{212}\).” Though they agree with abolitionist feminists on the extent to which the prostitutes suffer from violence, they differ on one significant aspect as to how prostitution should be controlled and regulated under less-than-ideal circumstances. The sex work feminists are concerned that the voices of sex workers are not heard in the abolitionist feminist discourses that completely eliminate the agency of sex workers and view them as permanent victims. Also, as noted by Outshoorn (2005), not all feminists adhering to the sex work position set prostitution within the same feminist framework. Some are radical liberals who celebrate sexual variety and free choice (Bell, 1994); some argue that prostitution should be viewed as a queer and/or subversive sexual practice to challenge the oppressive heteropatriarchal norm (Zatz, 1997); still others, while analyzing prostitution as (sexual) service work, maintain a feminist critique by contextualizing prostitution within unequal relations of sexual economic exchange (O’Connell Davidson, 1998; Pheterson, 1996). Moreover, while some authors may want to “normalize” prostitution as “any other work” (Nussbaum, 1999), others take a quite nuanced position on the complexities of sexual commerce (Kempadoo & Doezema, 1998; O’Connel Davidson, 1998). Often, the phrase “sex

\(^{212}\text{Take for instance the following comparison of prostitution to other bodily services by a sex worker, Eva Rosta: “I think women and men and feminists have to realize that all work involves selling some parts of your body. You might sell your brain, you might sell your back, you might sell your fingers for typewriting. Whatever it is that you do, you are selling one part of your body. I choose to sell my body the way I want to and I choose to sell my vagina” (Pheterson, 1989, p. 146).}


work” is used to gain recognition of the need for interventions in the sex industry to treat it as labor rather than a criminal activity.

Chapkis (1997: 75) has argued that sex work is a distinct kind of “emotional labor” in which sex workers have “the ability to summon and contain emotions within the commercial transaction... a useful tool in boundary maintenance rather than as a loss of self.” Chapkis contended that sexual-emotional labor involved in prostitution is similar to the emotional work involved in psychotherapy, acting or provision of day care that has some intrinsic social value and should be respected and socially honored, as it expresses a form of care and creativity. Similarly Sibyl Schwarzenbach (1990-91: 125) has argued that legalization is essential to transform the institution of prostitution into something as “commercial erotic therapy” in which the prostitute as a practitioner “could be respected for her wealth of sexual and emotional knowledge.” Also, many feminists who are against abolition are divided about what should be done: while legalization is only a prerequisite to protect sexual abuse, violence and harms resulting from prostitution, it is certainly not a guarantee of acceptable working condition. Even the most successful abolition can offer only a partial solution to the problems inherent in prostitution. Hence the goal should be to protect the basic human rights of those engaged in the business by introducing some kind of legalization, regulation, and decriminalization.

The second category of arguments offered by sex work feminists are to distinguish between “free” versus “forced” prostitution and “trafficking” from “voluntary migration” for sex work. They argue that the tendency of radical feminists to view prostitutes as a homogenous group of “victims” who have been trafficked or forced into prostitution is to deny their basic right that many of these women show some amount of choice and agency to enter into the profession. Other than arguing that it is a matter of woman’s self-determination of what to do with her body, they argue that a woman has legitimate right to enter into prostitution similarly as a typist has her right to be one. Two broad sets of arguments are offered against abolition:

First, even at the lowest rungs of voluntary prostitution, women still gain some benefit from it, and it may be the best overall employment option that they have.
Eliminating prostitution would make things worse for these poorest women who have no skills or no other survival options. As Margo St. James points out: “A blowjob is better than no job. In trying to stop abuses in prostitution, one should not try to put the women out of work because the job is all they have” (Pheterson, 1989: p. 21). If women’s economic condition can not be improved by political or other means, then we are forced to consider the second best, still feasible option (Anderson, 2002). Abolition thus does not offer a solution to improve the economic condition of the poor or vulnerable women.

Second, prostitution may be a site of serious harms that need social/political redressal, but those harms specifically result from conscious decision of individuals to engage in sexual commerce as “buyers” or as “providers.” Unless it could be made clear why selling of sexual services contributes to maintaining women’s oppression than other forms of heterosexual relations, it would be unjustified to bar individuals from engaging in voluntary sexual commerce (Anderson, 2002). While prohibition does not improve the background circumstances under which women live, it might make things worse for those women for whom prostitution is the only available survival option. Since prohibition offers only a partial solution, the best way to deal with the problem is to reform the circumstances under which prostitutes work.

After laying down the basic tenets of abolitionist versus sex work feminists’ conceptualization of prostitution, I now turn to explicate how these two discourses have come to inform the Indian prostitutes’ rights movements.

5.3. Norms mobilizing sex workers

The Indian feminists’ and activists’ approaches to prostitution are not significantly different from that of their Western counterpart in that different shades of feminists and activists are divided over abolitionist versus sex work positions. Within India, Durbar Mahila Samanaya Committee (henceforth DMSC, or Durbar), Sangram-VAMP, Lawyers Collective, Samraksha, and National Network of Sex Workers (NNSW) are some of the prominent groups that advocate a sex work position, whereas Sanlaap, Prajwala, Prerna, Restore (International) are some of the groups that believe in
abolitionism. Both these groups actively lobby with various key players to influence the national policy making. The sex work perspective has come to appear as the official position (and norm) of many international development agencies and donor-organizations working in India such as Population Council, CARE, Bill & Melinda Gates Foundation, Ford Foundation, International HIV/AIDS Alliance, Family Health International, Amnesty International, Human Rights Watch, GAATW and other bilateral and multilateral donors (DFID, SIDA, European Union, UNAIDS, Global Fund) including networks of sex workers (Asia Pacific Network), and official bodies of the UN such as ILO (Lim, 1998). Similarly abolitionist groups are supported by their international counterparts like CATW, USAID (PEPFAR), Christian Aid and other similar religious, conservative or Christian Right organizations. It is however, important to note that the “liberal camp” is more powerful in absolute numbers, available resources, logistics, and capacity to lobby and influence the policy-making, than the conservative/orthodox camp.

Indian women’s movement on prostitution and sexuality has passed through two distinct stages. If I can draw a clear temporal line of distinction, I would draw that line at pre-1991 and post-1991 era. There are at least three important reasons for this. First, the AIDS epidemic that emerged in the later part of the 1980s, affected different vulnerable groups mainly sex workers, gay men, and injecting drug users in diverse ways. The draconian and repressive AIDS prevention policy of 1989 that outlined forcible testing of sex workers, and quarantining or imprisoning them denying basic human rights, made enough room for civil society and feminist scholarship to debate on this issue. Second, in mid-1991, India joined the globalization-brigade by exposing its one billion population and a giant economy to neoliberal market forces and foreign direct investment that affected various groups (especially women) in many complex ways (Oza, 2001; Sadasivam, 1997; Upadhyay, 2000). Globalization facilitated global exchange of ideas, a vibrant and mushrooming civil society, and global advocacy on HIV/AIDS prevention that connected global sex workers, global gays and global queers with each other to share their concerns and build collective resistance against the dominant social order. And third, after 1991, India’s adoption of various AIDS-regimes and compliance with norms of HIV-prevention (such as that of FHI or BMGF) required
the collectivization and empowerment of sex workers. Thus a distinct feminist debate on sexuality such as prostitution and lesbian-gays-bisexual-transgender (LGBT) identities is discernible in the post-1991 era. Norm socialization not only changed dominant discourse on sexuality in India, but also affected policy development and “official” government stance on various such issues.

How one would know if it is indeed the “norms” of the AIDS-regime that led to their collectivization and social movement? To understand this, one must compare pre- and post-norm adoption scenarios. In this chapter, I do not claim that it is solely the norm socialization that led to their collectivization. Among other reasons, such as globalization, evolving democracy, and minority rights, norm socializations was the most important factor. In the following section, I compare two different periods – one without norm socialization, and the other, after norm socialization.

**Before socializing norms**

A brief history on the status of prostitution in India seems quite relevant here. In pre-colonial period, the nature of prostitution was fundamentally different in which prostitutes enjoyed a much higher social status and were integrated in the social and cultural system to perform important activities such as worship, song and dance, and entertain the wealthy (Nag, 2006; Sharma, 2007). They were respected for their wealth of knowledge and skills in the domain of classical music, song and dance. There were religious prostitution or *devdasi system* in which young girls were married off to the temple God, but were sexually available to men (for an excellent discussion on this based on ethnography, see Orchard, 2007). There were also the courtesan system (*tawaif*) based in *kotha* (close to modern brothel) in which young girls were trained in classical music and dance but also used to engage in sexual services with men.\(^{213}\) The commercialization of women’s reproductive labor that thrived within Indian cultural milieu got appropriated by different political economic structures in modern times (Sharma, 2007). The British colonial intervention outlawing *devdasi system* and zoning

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\(^{213}\) See Kripalani (2002) for an excellent comparison of Hollywood and Bollywood representation of courtesans; and Sharma (2007) for an excellent account on this.
of prostitution into red light areas has given rise to modern prostitution as we know it today.

The British rule reshaped sexuality discourse in significant ways as common prostitution became an icon for colonialism or foreignization in the eyes of Bengali middle class or bhadralok (Dell, 2005). The Bengali bhadralok (literally “civilized people,” here mostly Hindu upper castes) differentiated their ideal mothers/wives (bhadramahilas) from colonized prostitutes by constructing moral opposition between chaste wife (patibrata, who is shy, silent, does her duty, totally undemanding and keeps her whole body covered) and the prostitute (beshya, who is loudmouthed, always restless, bares special body parts, falls on men and demands jewelry214). In the new discourse, women were seen as mothers belonging to home: prostitutes belong to the market (as non-mothers) and are called bazari aurat (market women). They were seen as an amalgam of filth, vice, disease, vaginal slime, a lot of men have been there, and wanton possessing “dangerous sexuality” that put them in social and moral quarantine away from home and family.

The medicalization of prostitutes’ body as an object of inquiry with the passing of Contagious Disease Act (1864) subjected them to periodic medical intervention and those infected with venereal diseases were treated in the legal confinement at the “lock hospitals” (Ghosh, 2004). This process of social exclusion that started during the British colonial period reinforced the stigma as prostitutes were separated from “women” by demarcating red-light zones away from urban residential areas. Ghosh (2004) pointed out that after independence, the colonized modernity of Indian women

215 The Contagious Diseases Act was first passed by the British Parliament in 1864 to tackle the growing prevalence of venereal diseases in British armed forces. Subsequently, the Act was extended to many British colonies in South and South East Asia to protect the British military serving abroad from acquiring venereal diseases from prostitutes. The Act gave the British colonial administration the authority to detain and forcibly test any woman (who lived in, worked in, or passed through poor areas) suspected to be a prostitute, and undergo medical examination and treatment at the “lock hospitals.” The “lock hospitals” were thus an integral part of the system to control the spread of venereal diseases (mostly syphilis and gonorrhoea) amongst troops. Infected women/prostitutes were detained at the “lock hospitals” and often treated with mercury until the symptoms disappeared. See Ghosh, Swati (2004). The shadow lines of citizenship: Prostitutes’ struggle over workers’ rights. Identity, Culture and Politics, 5(1&2), 105-123.
who emerged as the educated and refined companion of modern man upholding traditional purity did not allow “impure” prostitutes to be accommodated in the nationalist discourse. The Indian elite and nationalist political leaders generally agreed to the legal territorialization of the prostitutes as they posed a constant threat to the monogamous home and family and emerging middle class morality. Thus Indians did not object to the legal measures taken by the British to criminalize prostitution. The Suppression of Immoral Traffic Act passed in 1923 and the regime of control and regulation continued until 1956, when in independent India, Immoral Traffic Prevention Act was enacted. In this revised statute, the prostitutes remained criminalized, despised, fallen and marginalized women “Other,” but prostitution per se was not considered an offense. Such stigmatizing ideas got recycled even in modern times through popular Bollywood films. As the male protagonist, Shahrukh Khan argued in blockbuster film Devdas (2002) directed by Sanjay Leela Bhansali: “Aurat ma hoti hai, behen hoti hai, patni hoti hai, dost hoti hai, aur jab woh kuchh nehin hoti, tawaif hoti hai” (A woman is a mother, a sister, a wife, a friend, and when she is nothing, she is a prostitute).

Thus in the pre-1990s period, Indian women’s movement heavily focused on issues such as sexual assault, sexual harassment, domestic violence, dowry related death, female infanticide and pornography, etc. Sexuality therefore was an adjunct to the discussion of rape, adultery or violence, but rarely seen as a celebration of woman’s identity. As Gangoli (2007) noted that prostitution was perhaps so alien to the experiences of middle class feminists that it was not addressed for possible negotiation as a potentially emancipatory space. Prostitutes were uniformly seen as innocent victims of trafficking, economic hardships or natural calamities. Thus when Immoral Trafficking and Prevention Act (1956) came up for amendments in Parliament in 1986, Margaret Alva who introduced the Bill said:

“The exploitation of women and girls for the purposes of prostitution is an obnoxious feature of crime against them… it has been considered as an evil that wrecks the foundations of the family and community… The most disturbing aspect today is the organized racketeering in sexual abuse of innocent children and young persons in the trade. A number of individuals, advocacy groups, and women’s and voluntary organizations… have been urging upon the government

Alva, thus not only views women in prostitution as “innocent victims” who have no choice or agency, but also believes that it is an evil that wrecks the family, and that this official position has been condoned by a number of women’s organizations, advocacy groups and NGOs. With the emergence of AIDS epidemic in the late 1980s, they were thought to be the reservoir of the disease and vectors of the epidemic. Some feminist activists in the state of Tamil Nadu thus claimed that sex workers should be “eliminated,” or rather, sex work should be abolished (Dube, 2000). The government treated HIV/AIDS as a “law-and-order” problem since it is spread by “criminals,” mostly sex workers, gay men, and drug users who then infect “innocent” people. Thus the policy option was: such criminals must be detected, forcibly tested, and quarantined if found HIV-positive, all of which were outlined in the National AIDS Control Policy (1989). In 1989, the state government of Maharashtra thus deported several hundred Tamil sex workers from Mumbai to Chennai. Following this repressive policy, the state government of Tamil Nadu in 1990 forcibly tested hundreds of sex workers in Chennai and locked up 800 HIV positive women for several months (Dube, 2000: 27). The AIDS awareness campaigns during this initial period also proclaimed that AIDS is a disease spread by veshyas, whereas the official HIV prevention program categorized them as the “highest-risk-groups” (Singhal & Rodgers, 2003). Thus while in public discourse, the prostitutes were conceived as “criminals” and charged with the offence of infecting “innocent people,” the customers who used sex workers were in no place despised or condemned. As pointed out earlier, Maharashtra government proposed in 1994 to mark the infected prostitutes with indelible ink.

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216 For example, in a 2004 report of the UNAIDS, the HIV progression in India was theorized as being transmitted from “highest-risk-groups” to the lowest risk groups such as women and children through the “bridge population” (clients), who have contracted HIV from sex workers (UNAIDS, 2003: p. 10). Such a theorization ultimately holds only the sex workers responsible for transmitting HIV to innocent housewives and their children.
**After norm socialization**

The year 1991 marked a significant divide in the economic, social and political history of India as the country adopted a structural adjustment program and opened its economy to neoliberal global market. The economic reform created a substantial increase in the number of middle class, who in turn, supported economic liberalization as it offered them concrete benefits (Sridharan, 2004). Following economic liberalization, huge amount of funding was available for HIV/AIDS prevention that led to an NGO-boom in the country (mostly established by the emerging middle class people). For example, nearly two-thirds of the total NGOs registered to receive foreign funds with the Ministry of Home Affairs were established in the 1990s. While in 1989 their number was 12,000, by the end of 2006, their number had reached to 34,000. Foreign contribution received by these NGOs also increased significantly from $420 million in 1994 to $1,875 million in 2006, an average annual growth of 25 percent during this period (FCRA Annual Report, Ministry of Home Affairs, Govt. of India).

As per the norm and strategy of HIV/AIDS prevention among vulnerable groups, almost all targeted interventions with sex workers adopted a peer-education approach, in which current sex workers were recruited as “peers” to disseminate information and provide services to other sex workers. Many a times, NGOs from outside of red light areas would recruit sex workers as peer educators by providing them training (such as Samraksha’s work in Bangalore; Prerana’s work in Mumbai, Sanlaap’s work in Kolkata, etc.). At other times, sex workers would themselves form a collective and register it under the Societies Registration Act of India (1860) as a legal entity to receive funds (examples include Kerala Sex Worker’s Network, National Network of Sex Workers, Sangram-VAMP in Sangli, Maharastra; and DMSC-Durbar in Kolkata). Once, they got collectivized, they established networks with sex workers’ collectives in other parts of the country, as well as sex workers’ movements elsewhere in the world. The global movement of sex workers, ideas of resistance and identity gave them a new sense and direction of struggle. Also, the NGOs and advocacy groups brought the issue of prostitution in the public domain through the discourses of sexuality and human
rights in which inclusion of the condemned prostitutes was seen as a mark of spiritual superiority and desired postmodernity of the Indian elite.

The “norms” of targeted intervention, such as participation, decision-making, confidentiality, non-discrimination, and human rights of prostitutes catalyzed a change in the human rights practices of the India state. Instead of seeing them as the “criminal other,” the prostitutes were valued as a “partner” in development process. This shift in values, attitudes, and human rights practices led the state to allow for congregations and assembly of sex workers; to form collectives; to hold conferences and seminars; and to protest and rally against discriminatory policy measures, etc., which were earlier a criminal offense. Police and law enforcement agencies viewed them more favorably as they were afraid of harassing or torturing a sex worker fearing the repercussion from their collectives and civil society groups. For example, from an ethnographic study based in Sonagachi, Kolkata, Cornish (2006) quotes a sex worker:

“No I make the police rub their noses on my feet. Now they would take my case because I am a member [of the Project]. They used to treat me like a dog and make me stand outside the Police Station saying that, a bloody whore from house No. 24 has come to lodge a complaint. But now, they offer a chair, give me a cold drink or tea and talk to me with a lot of respect... Now I have no fear” (Cornish, 2006: p. 468).

Thus the changing human rights practices led to a boomerang effect. Not only the sex workers collectives became a part of the NGO-movement, they also got registered under Foreign Contribution Regulation Act to receive direct foreign funds. This made interventions by the international donor-NGOs easier in the domestic affair of the Indian state, and to condemn/ sham its abuses of human rights in the international arena. This would mean a reduced funding available for AIDS-prevention both from the current and potential donors. The changing practices also opened up avenues for global travel of sex workers with a valid passport, which they were denied earlier based on criminal history check. This global movement of persons and ideas strengthened their struggle and shaped their modes of resistance.

The present unionization of sex workers must be viewed in the overall political-economic context of the Indian state. West Bengal, a Marxist state with over 30 years of
communist ruling has a notorious history of trade unionism, in which various workers’ unions have largely remained successful in getting their demands fulfilled through collective bargaining. The sex (entertainment) workers’ union must be seen as another reflection of the prevailing culture of trade unionism which is similar in ideology and functioning to other lower level trade unions like railway and street hawkers’ union, auto rickshaw and taxi drivers’ union, or jute mill workers’ union. In fact, the lowest prevalence of HIV among sex workers in Sonagachi and the highest use of condoms are attributed to the strong trade unionism among sex workers. In such a climate, if a prostitute refuses to have sex with her client without a condom and another prostitute accepts the same client, there could be trouble ranging from collectively warning the prostitute, to bringing the issue to the union, to the suspension of her membership.

5.4. Towards normalization?

From legal and political battle of claiming basic rights, the prostitutes’ movement took a new direction in the new millennium. From 2000s onwards, organizations and campaign groups in various parts of India such as Sangram and VAMP in Maharashtra, Durbar in Kolkata, the Sex Workers Union in Thiruvananthapuram, Chaitanya Mahila Mandali in Secundrabad, Samraksha in Bangalore, and National Network of Sex Workers in New Delhi among others have articulated their demands. They are working not only to amend the legal and social systems that ensure better working conditions and give the sex workers their basic civil and political rights, but also to evolve prostitution into something else that alters the societal attitude toward it. In this new discourse, prostitution is equated with any other work performed by selling labor for economic exchange. DMSC’s main slogan, gatar khatiye khai, shramiker adhikar chai [we live by making our body toil (literally), we want worker’s rights] now articulates a new discourse around bodies (gatar) in which one’s sexual labor (khatiye) is seen equivalent to say, the labor of a construction or factory worker. For Mala Singh, the Secretary of DMSC, sex work is conceived simultaneously as the work of a doctor, and an artist:
“I am Mala Singh and I am a sex worker from Calcutta… We think of ourselves as workers and I see myself as a worker and as an artist. I am looking forward to the day I can travel with a passport that says that I am sex worker. Those who do not want to be a sex worker should be allowed to leave and go through rehabilitation, but those who want to stay should be allowed to stay. I am not doing anything criminal. I am not thieving. It is a transaction. I make people happy and that makes me happy. I describe my work as someone who cures people. I compare my work to those who make cigarettes and that make people sick. I cure people. I am rather like a doctor…” (UNESC, 1999: 32).

This new discourse articulates a bodily identity in which the label “sex worker” is not only officially recognized as a category in passport, but also asserted as an identity based on one’s profession. One factor that may have contributed to the development of this bodily identity politics is counting, marking, and labeling of prostitute bodies in various ways, especially after the advent of AIDS. Thus following Arjun Appadurai (1996), it could be argued that the practice of conducting census, enumeration, marking and classification of prostitutes for the purposes of HIV/AIDS intervention gave rise to new concept of group identity and bodily distinctions. In this new identity, not only sex work is equated with the work of a doctor, philosopher, singer, or entrepreneur, but bodily (sexual) service is seen equivalent to renting a house in the following communication:

“The media asks us why we do this job, then we also ask them, why do they do their job? To earn money. Then I also say that I work to earn money. When they ask us why we have not done some other job, then we tell them: a landlord rents his house, we also rent our body for some time and get money in return” (cited in Cornish, 2006: 467).

Other prostitutes’ collective like Sangram-VAMP believes that:

“Making money from sex is using a part of our body, which is in no way different from using our brains or physical labor. We protest against a society

\[217\] In this formulation, Appadurai was trying to explain the roots of caste politics in modern India for which he goes back to the practices of conducting census during British colonial times for administrative purposes. He concluded that the practice of conducting census by the British colonial government in India was different in some fundamental ways from those of their predecessors. In the later period, there was an emphasis on marking the indigenous bodies as belonging to a particular caste that gave a new concept of group identity, and bodily distinctions. The way scheduled castes and tribal bodies were counted, marked and classified, gave them a new sense of bodily identity, which was later manifested in violent caste politics in modern India (p. 115).
that deems our work contribution as less prestigious than other traditional forms of work. We believe that we challenge and undermine structures of power by using a part of our womanhood — our sexuality as a source of our power and income” (VAMP, A Statement of Women in Prostitution 2008: n.p.).

Today, this normalizing discourse that sex work is “any other work,” has taken the form of recategorizing and renaming the profession from “sex work” to something like “entertainment work.” To this end, DMSC has also formed a Union of Entertainment Workers in India. In its first All India Conference in 2007, the Union argued “Right to sexual pleasure as a fundamental right218.” Their definition of “entertainment” is extremely broad that gives a secular and depoliticized appearance of the political struggle of sex workers’ union. DMSC’s definition of “entertainment workers” includes traditional dancers, singers, musicians, folk culture, circus artists, and film and television workers, etc. that blurs the line between sex workers and showbiz people as providers of entertainment. As DMSC’s statement on this reads:

“…it is common knowledge that the sex workers entertain their customers and, that their work is a form of intimate entertaining communication involving some very subtle and complex combinations of gesture, language, play and relaxation, yet the ruling social conventions and beliefs in most modern societies fail to concede the status of entertainment workers to the sex workers. It is high time that we put a stop to this hegemony of the ideology of our rulers over our working class consciousness… It is in this situation that we propose that a Union of the Entertainment Workers of India be formed. This Union proposes to unite all the traditional and modern entertainers of our land: the Bauls, Nachonis, Jhumur and Chhou dancers of Bengal, The Nats of Rajasthan, the Tamasha artists of Maharashtra, the Nautanki artists of North India, the Devadasis of Karnataka, all the folk and classical dancers and singers, all musicians, all actors and actresses, the circus artists, sex workers, film and TV workers, all edu-tainers and info-tainers… This union proposes to be a part of the international movement of the entertainment workers219…”

218 Ever heard of such a right? This DMSC-slogan was heard, advocated and debated by prominent personalities including film makers, writers, and activists during the All India Conference of Entertainment Workers in 2007. “Sexual pleasure, a fundamental right?” IBN Live, June 20, 2007. Retrieved: http://ibnlive.in.com/news/sexual-pleasure-a-fundamental-right/top/33717-3.html
This could be interpreted as DMSC’s political strategy to reclaim the historical significance of sex workers as “entertainers” in which devdasis and courtesan prostitutes (tawaifs) did not suffer from social and moral degradation, and there is a lack of evidence on the humiliating aspect of this trade (Sharma, 2007). In the socio-cultural setup where music and dance were an integral part of the secular (as well as religious) functions, the services of such professionals were necessary. While sex work may be called “adult entertainment” which is age restricted, DMSC does not go into this aspect, but rather makes a blanket equation of sex work with “all” other forms of entertainment not restricted by age, including some of the folk cultures. The discourse now focuses on secularizing and destigmatizing the term “sex work” as “entertainment work” or to treat sex work as just any other work. By secularizing sex work as “entertainment” in this discursive framework, the political project of sex workers’ rights movement (and reclaiming the social status of prostitutes) is strengthened, while at the same time, it depoliticizes the moralistic resistance and demobilizes the right-wing veshya-phobia. As Mira Malik, a Sonagachi based sex worker pointed out:

“For more than a decade we have been striving for our rights as entertainment workers. We work hard to entertain our clients as everyone does. We do it in our own way… If any other entertainment worker like singer, dancer, magician, actor, can get social recognition, why not the sex workers? We also entertain people and we think it’s the highest form of pleasure220” (emphasis mine).

Durbar thus emphasizes sex work is like any other “entertainment” and a “real work.” They relate sex work to many other kinds of women’s exploited labor as domestic servants, sweatshop workers or in other oppressive conditions. They emphasize collective action by sex workers’ organization to make their living condition better instead of rescuing them by moralistic middle class activists. Durbar also employs politically sound strategies to produce counterdiscourse on sex work. For example, in a recent survey, Durbar attempted to flip the prevailing conception of happiness and freedom enjoyed by traditional housewives compared to that of the

prostitutes. Based on in-depth interviews of 200 sex workers who were earlier housewives, Durbar claimed that the level of oppression is much less in “sex sector” compared to the “domestic sector” with prostitutes enjoying more freedom on several aspects, more self-sufficient, independent, decisive and a overall higher quality of life than housewives. Though conceptually flawed in many ways such as research design\textsuperscript{221}, and sampling and research bias, such an endeavor signals the effort to change the perception of the mainstream society about prostitutes.

To many people, this normalizing discourse that sex work is “entertainment work” or “any other work,” seems to be deeply problematic. I now turn to explicate the second plank of my argument. Following Scott Anderson’s (2002) framework, I aim to reconstruct what is implied by the proposal to reconsider sex work as “any other work,” and whether a compelling case can be made for the prohibition of prostitution in India.

5.5. Societal Implications

The proposition that sex work is “any other work” stems from the central claim that it is just another use of the body for making a living, which is not different from other paid activities such as singing, painting, dancing, chicken plucking, or writing philosophical texts (Nussbaum, 1999; VAMP, 2008). Hence any reluctance to normalizing prostitution is based on a deep and unjustifiable prejudice that once denigrated woman dancers, actors and singers, which we must strive to overcome (Nussbaum, 1999: pp. 277-80). Anderson (2002) examined this proposition at its face.

\textsuperscript{221} See DMSC-TAAH (2007). A survey of the various types of social, physical and occupational oppressions heaped upon our sex workers before and after their entry into sex work. January. Kolkata: DMSC. The participants for this study were chosen from the current sex workers who had an earlier history of being housewife. I call this conceptually flawed because a majority of these participants joined sex work due to an earlier history of abuse in the family. Durbar interprets this “compulsion” as “free will” and claims that about 98 percent prostitutes joined the profession “out of their own choice” (p. 6-7). Thus selectively choosing persons with history of abuses and then generalizing their experience as the truth for the whole “domestic sector” seems to be problematic. Yet the basic spirit of conducting such a study in collaboration with a foreign institution (Theory and Action for Health – TAAH/ University of Nottingham) can not be ignored — to overturn the prevailing conception of who enjoys more freedom and happiness, prostitutes or housewives?
value, that is, what it would mean to treat sex just as any other activity by hypothetically examining how our lives and practices would be different without “any” prohibition being placed on sexual commerce. Anderson’s fundamental contention was that institutional prohibition and social regulation of what sex can be used for protects and maintains sexual autonomy of individuals in the society. Hence treating sex as any other activity in commerce would undermine three aspects of our sexual autonomy as he illustrated in the following examples (summarized from Anderson, 2002: pp. 762-763):

Scenario I: Incentives to have sex

1. Employees now protected from performing sexual tasks as part of their employment condition may find their job description redefined to include sexual duties. Moreover, some employees may be required to provide sexual services to other employees for hiring or promotion.

2. State welfare agencies or labor and employment division would expect millions of unemployed youth to take sex work as a profession if that is available and they are capable to do so, rather than seeking unemployment compensation from the state.

3. One may be able to make enforceable service contract to make one perform sexual acts and services in his favour, and the courts may be required to uphold such contracts and impose penalties on non-performing parties.

Scenario II: Control over sexual practices

1. Large multinational corporations may legitimately emerge as providers of sexual services (like BabesMart for example, in the model of Wal-Mart, a large scale retail business) and to maximize their returns on cheap labor, they may recruit poor and disadvantaged (exotic) women from developing countries.

2. The corporations may be able to closely monitor and supervise the workplace sexual practices (on close circuit TV/ surveillance camera) for improving standards, customer satisfaction and quality control. Workers
with sexual duties will have to adhere to the standards of non-discrimination with clients and colleagues.

3. Government will be able to inspect the health and sexual practices of the prostitutes as this affect their health and public safety standards and may impose a blanket prohibition on practices that may seem “risky.”

**Scenario III: Pressures on sexual attitudes and values**

1. The BabesMart may be able to aggressively advertise and market its “products” (like “babes,” and the services they offer) by emphasizing the incentive to have sex outside a relationship, or by adverting the “underserved” sexual services/practices and hidden desires, as well as other marketing objectives that attract their consumers.

2. To the extent that special training may help one prepare to pursue such a career, the public schools, vocational schools and colleges may offer practical training on how to be an “entertainment worker” instead of music, dance, painting and art classes. The student counsellor in the school may advise prospective students to take such a career.

Though Anderson’s (2002) arguments are deeply philosophical and hypothetically constructed in a scenario in which there is absolutely no prohibition on using sex in commerce, they are difficult to dismiss on any ideological ground. To a great extent I agree with most of his persuasive philosophical arguments and broader framework. Such arguments were made time and again by many abolitionist groups and activists in India. Anderson did not claim that any of these scenarios is forthcoming following normalization, but instead he examined what it would mean to treat sex as just another use of the body to make a living. He concluded that if any of the above scenarios makes one uncomfortable, then it is because of the ways in which a *laissez faire* approach to sex in commerce would undercut one’s sexual autonomy. A prohibition on exchanging sex for certain kinds of goods and services provides us with a defence against intrusions by others against our sexual selves. He defined sexual “autonomy” as a condition in which sex does not become a necessary means to avoid violence, brute force, economic hardships, or other sorts of pressures. If sex is treated as
any other work in commerce, then pressures emerging in category-I would expose almost every workers and potential job seekers to have “unwanted sex” with their employers as a condition of employment. Though removal of barrier between sex and commerce would vastly increase the number of goods and services one can obtain by exchanging sex, at the same time, it would make it possible for others to legitimately demand expect, solicit, or encourage to have “unwanted” sex by offering or withholding even the ordinary goods within their control. All it leads to a situation in which everybody loses their sexual autonomy by engaging in “forced sex.”

On the other hand, as Anderson pointed out, pressures emerging from the second category would put our sexual autonomy at risk by allowing the third party to monitor and control our private sexual lives by intruding in our bedrooms. In most societies, individuals have a right to privacy in their bedrooms which is upheld by privacy laws. Even the World Charter for Prostitutes’ Rights\textsuperscript{222} (1985) demands that “it is essential that prostitutes can provide their services under the conditions that are absolutely determined by themselves and no one else” (Pheterson, 1989: 40). But the workers employed by BabesMart (and their clients) will not have this privacy as the company is entitled to closely monitor the workplace practice, health of the prostitutes, rigorously training the prostitutes, imposing strict standards, and monitoring client contact to assure quality and efficiency of service. Sex in such a repressive regime is unlikely to be autonomous, which runs counter to some of the sex work feminist’s and prostitute’s claim of exercising one’s sexual autonomy and agency in prostitution.

Anderson’s third contention was that if pressures emerging from both Scenarios I and II are considered together, it appears that the extent to which an individual would suffer from the loss of sexual autonomy would depend on one’s power and resources within the society. Those who have power and resources would be able to trade wanted, or reject unwanted sexual advances. The greatest loss of sexual autonomy would be

\textsuperscript{222} The World Charter for Prostitutes’ Rights was adopted by the International Committee for Prostitutes’ Rights in Amsterdam in 1985. The Charter setting the framework for a rights-based approach demanded, among other things, legal reform to decriminalize all aspects of adult prostitution; ensuring and protecting basic civil, political, and human rights of prostitutes; abolishing the zoning of prostitution; extending employment, counseling, legal, and housing services; and building up of supportive social environment through public education (Pheterson, 1989: p. 40).
experienced by those who are poor and powerless. Those having no power or resources may either lose their job or fulfil their employer’s sexual needs by losing much of their self-respect and personal integrity. If sex is something that an employer might legitimately expect from some employees, then a person who refuses to accept sexual tasks, knowing that someone else might, may lower her chances for career advancement and success. If employers are allowed to reward or punish their employees based on sexual activities, then it would be much less clear than now when a person succeeds, that is, whether her success was based on “merits.” Thus allowing people to use sexual activity as just another means of making money, not actually increases autonomy, but perpetuates a person’s powerlessness and undermines his/her sexual autonomy.

Andreson’s final contention was that if indeed harms in prostitution result from the deep seated structural inequalities and hardships that women face in general, then the proposal to normalize prostitution is a mismatch. Normalizing prostitution only gives the woman an additional economic option but does not alter the broader circumstances of which prostitution is a part. We might expect that normalization would render “sexual” aspect of the job less traumatizing and stigmatizing by making it more like other jobs and change societal attitudes toward prostitution. But it is again a mismatch because the improved work conditions now come at the expense of the sexual autonomy which is retained in other jobs. Normalization would also undermine one’s ability to see the loss of sexual autonomy as an injustice. Though prohibition can not guarantee to provide sexual autonomy to those who now lack it, it plays a role in rejecting arrangements that result in its loss. Moreover, normalizing prostitution tends to undercut the claim that sexual autonomy is a right, and instead make prostitutes’ loss of sexual autonomy as a career choice. But as long as all other jobs are protected by social institutions from their sexualization, prostitution can not be a career.”

In the absence of “any” prohibition, working as a prostitute may seem to be a career for those...
who prefer other goods to sexual autonomy. But if they prefer these goods, then why not suppose that they also “choose” to be treated the same way as they are, and hence, they are adequately compensated for the harms resulting from prostitution?

**Prohibition or laissez faire?**

Though on a philosophical plane, Anderson’s arguments make much sense, they somehow perpetuate the same, old, stigmatizing discourse about prostitution in general and prostitutes in particular. Especially, his attempt towards the end of his article to differentiate between “them” (prostitutes, who are immoral, who choose goods other than their sexual autonomy) and “us” because “they do things we wouldn’t dream of doing” (2002: p. 779). Why is it that “we” render those who prefer other goods to their sexual autonomy to be treated as inhuman? Anderson responds because “it’s connected to a thought that many of us would nonetheless be very reluctant to give up: that our sexual choices are deeply important to us, and thus the ability to make them carefully and autonomously, is something that we aim to protect” (2002: p. 780).

Why do “we” aim to protect this value, and who gets included in this “we?” In a society where there is absolutely no barrier between sex and commerce that Anderson hypothesized, there would also be no “prostitutes.” Hence there is no significance in proposing a contestable value as “sexual autonomy.” To this he responded that this is not how society is currently organized neither he sees any such changes are forthcoming. Throughout history, one’s sexuality has always defined one’s position in the society, his or her self-conception, status in society, and economic and social prospects. Hence there is merit in protecting sexual autonomy however contestable that value may be. But Anderson failed, I think, to reconstruct why choosing to trade other goods with sexual autonomy render a person as morally debouched and justify rendering harms on this ground? It still remains a “prejudice” connected to the thought that he mentioned earlier: unwilling to give up moral and ideological baggage about our sexual choices.

With reference to the Indian case, many feminists, activists and scholars take side with Anderson to argue that a continued prohibition is justified. The 2006
Amendment of ITPA reflected the dominance of this line of thinking despite being contested by liberals. Activists from both camps argue that in a patriarchal institution of marriage, how could a prohibition on selling oneself to “many” maintain sexual autonomy while women are still selling themselves to “one” man in the marriage market? Is sexual autonomy only possible in monogamy? Moreover, what are those regulatory bodies defining and regulating what sex can be used for? Anderson failed to reconstruct these last two questions I raise here.

Though Anderson (and other abolitionist feminists) acknowledge that the current legal regime does not protect the prostitutes from harms that are done to them by pimps, police, johns and psychopaths, it is important that appropriate legal measures be instituted to minimize those harms. Two methods are proposed to this end: undertake legal reform to enable the prostitute to sue the party for damage compensation; and shift the burden from prostitute to penalize the abusive clients, pimps, procurers, police or brothel keepers. The rape law could also be reformed to treat the prostitute as any other citizen and the police and judges may be given special direction to treat the prostitutes’ case with respect and dignity (otherwise the prostitute may be able to sue them).

This seems to be a mismatch in the Indian case. First, because a reform program requires an ease of approaching the court and speedy disposal of the case with proper, corruption-free implementation, which is seriously lacking in India, and which I see is not forthcoming. With a ratio of 10 judges per million population, it would take 324 years just to clear the backlog of cases before a prostitute’s case can be heard (Misra & Chandiramani, 2005: p. 221). And second, shifting the burden from the prostitute to the client will drive the whole sex work underground resulting in more clandestine sex work and risky sexual behavior as documented from Sweden (Kilvington, Day, & Ward, 2001).

Considering both sides, I would take my strongest consideration with some kind of legalization or decriminalization of prostitution not only because it is pragmatic, treats human beings as equal, and removes some of the stigmatizing burden from the prostitutes, but also it is beneficial for public health. Sound public health policies result from pragmatism. Hence the drive towards legalization does not come from a political
agenda to promote sex work, but from evidences about what works in getting people to reduce their health risks.

Thus in Anderson’s model, continued prohibition seems to be justified under circumstances where sex work is normalized as “any other work.” However, barring a few groups such as DMSC, Sangram-VAMP, etc., that calls for complete normalization, what activists and policy makers in India are arguing is for legalization or decriminalization of prostitution. Thus there is a difference between vision of groups such as Durbar and those activists working for policy reform. Many in Durbar while want all moral and ethical baggage of prostitution be removed and normalized, those working for policy reform may still want to maintain prohibition but improve the living condition of the prostitutes. It perhaps is the case that Durbar has moved in a direction more similar to that of COYOTE in the US in calling for using the term “entertainment workers”. India would fare much better if some aspects of prostitution law reform are based on pragmatic public health science.

**Summing up**

In this chapter I have examined two interrelated arguments — the role of norms in mobilizing sex workers and their collective social movement, as well as their articulation of a new discourse of normalizing sex work as any other work; and what could be the broader implication of such a radical proposal on the society in general. While one expected a more liberal and rights-based amendment of ITPA after India embraced various AIDS control regimes since 1990s, the 2006 Amendments clearly indicated the opposite. This is because, sex has always remained a subject based on which nations have defined their boundaries, identities, and citizenship (Bacchetta, 1999). Moreover, in a rapidly globalizing world where traditional cultures are fast

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224 Call Off Your Old Tired Ethics (COYOTE) one of the first and pioneer NGOs in the US to work for sex workers rights was established by Margo St. James in San Francisco in 1973. Later their state chapters (such as Coyote LA, Coyote NY) were established in many US cities. COYOTE works for the rights of all sex workers: strippers, phone operators, prostitutes, porn actresses etc. of all genders and persuasions. COYOTE is also a member of The North American Task Force on Prostitution, and The International Committee for Prostitutes’ Rights.
being replaced by a dominant global cultural frame, the drive toward “returns to culture” have produced varieties of fundamentalism in the newly emerging economies (Said, 1994). These “returns” often accompany rigorous codes of intellectual and moral behavior that are opposed to the permissiveness associated with liberal philosophies as multiculturalism and hybridity (Said 1994: p. xiii). The abolitionist proposal in 2006 Amendments supported by the hardliners in both BJP and Congress must be viewed in this light of “returns to culture.”

In the next chapter I examine this case of “returns to culture” with respect to the mobilization of sexually minority communities in India. While AIDS-norm socialization also affected the sexually minority communities (like prostitutes) in diverse ways leading to their collectivization and struggle for political and civil rights, it simultaneously strengthened the emergence of a homophobic discourse of heterosexist nationalism in India as a move toward “returns to culture.”

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