

SECURING AND SAFEGUARDING RIGHTS OF STIGMATISED THROUGH SOCIAL AND LEGAL ACTION

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Movements of different social groups are closely related with law in many ways. However when particular social group becomes target of assault from the state, majority community, media, intelligentsia and even social political activists on certain moral grounds, the relation of movement of any such group with law obviously is more pronounced and dimensional. Bar girls and bar dancers are such a distinct social group in recent times. **Therefore the movement of the bar girls bound to have important relation with law, lawyers, law enforcement agencies, judiciary and issues such as morality, legality and rights.** The reason is obvious when the present society goes against you en mass you can only look for safeguards in the constitution. But this is not the only reason why bargirls movement have intimacy with law.

Right from the very beginning of the bar girls union, it was interaction with law and law enforcement agencies that help us to organise and unionise bargirls in many ways. Before the ban on dance in the bars of Mumbai, the legal standing of the bar dancer was quite different. The bar and dance in the bar till midnight was legally sanctioned and politically blessed. But at the same time the law enforcement agencies; police had certain legal weapons against the bargirls. These weapons were acts against obscenity, indecency in public places etc. This has made them vulnerable to constant police harassment. It would not be over statement that the union of this most unorganised and scattered section was able to emerge because of police, the law enforcement agents.

The situation in which bargirls and bar owners were in due to this, enabled me to intervene and organise section of the society which was bit difficult for middle class woman like me to organise. Why I am saying 'difficult', because no feminists, leftists or even political parties have made attempt to organise or mobilise this section, which is almost two decades old. The bar dancing phenomena emerged in late eighties. There were thousands of bargirls boarding late night trains in Mumbai for more then two decades. Every one was watching them, but no one took notice, as if they were non-existents. Leave them organising, it is matter of great surprise that there was only one research study on this group in last thirty years and that too sponsored by one ultra right wing institution. So when fifty thousand girls participated in a rally with the demand of rehabilitation in the wake of ban announcement at Azad Maidan, and hundreds of girls participated in 21 day long sit-in movement, very few believed that it is the work of their union. Media and activists said it was the protest managed by bar owners, which was not true.

The process through which the union got organised and the issues it raised during its struggle can throw light on the distinct relationship of social and legal activism at every stage and this is the precise reason why I accepted invitation of this workshop.

As I mentioned earlier it was police who indirectly helped in unionising bargirls. I want to tell you few examples.

Now to begin with I started approaching bargirls while they were travelling. After six long months of work we were able to register not more than 200 members. I was constantly looking for the strategy to quicken the organising process. Once I was told that the police harass girls on their way to home when they return at late night. They used to threaten to book them under soliciting act even if they were waiting for train or bus. I discussed the matter with one police station. They told me that these girls do not have any identity proofs that they work in bar, so we naturally assume that they are sex workers. We decided to provide identity cards to union members. The result was surprising. The police began to let our members go unharmed after showing the card. This became a buzz and our membership began to swell. Later on cops even started to ask girls to show union cards. This made even bar owners to come with us on talking terms, which was essential for unionisation. Here the cops who wanted to misuse law against this section only for extortion were bit afraid doing it when it got organised. At the same time this made us seek legal advice on the matter. **Thus the social group, which is constantly vulnerable to misuse of law by authorities, have no alternative then becoming legal experts themselves or seek legal expertise.** However, typical legal expertise can do little if it lacked sensitivity and this made us aware of the need to have close relation with legal activists. **We also recognised that unless we can exert pressure through our numbers we cannot prevent misuse of law. So even if there are laws to protect basic rights, the groups such as bargirls, who are more vulnerable then other marginalized in terms of misuse of law due to their peculiar working conditions and life style need to build collective power to defend their rights on the ground in their day to day interaction with law enforcement agencies.**

The process of unionisation reached to another height with one particular raid by police on a bar, where we intervene effectively. On this bar police raided on the pretext of rescuing minors and took into detention 34 women dancers. When I reached the spot the police told me that they had a tip about it, while bar owner told me that the DCP of the area wanted hike in hafta. When I looked at the women sitting on the ground I realised anyone could make out that majority of them were in their late twenties or in thirties. When I asked who out of these women they think are minors? They showed me four girls. One of them was having child too. Without arguing I asked them why then they are not allowing other woman to go who were obviously not minors.

They told me that they would book them under obscenity act since raid was performed. When I insisted upon showing me complaint against obscenity, they surrendered to my rudimentary knowledge of law and released thirty women immediately. This was big victory for the union and shock to bar owners. This method proved more effective and economic than their usual methods. The news spread and doors of bars got opened for the union all over Mumbai within a week. The police were using bargirl as hostages to extract money from owners. This was not good for girls either as they bound come under obligation of the owners once they took their help for release. But now the situation was reverse, girls with the help of union and some scattered knowledge of rights started rescuing owners from this harassment. We started gaining practical knowledge of “how to use law and legal terms to frighten Mumbai police”. But this was not enough. It is sad that even the lawyers available easily to such groups are only good at bargaining with police. Some times police and lawyers together invent novel ways to misuse law to extract money. Union was seriously lacking necessary legal resources. Only thing in which we were graduating was how to impress authorities that we know more about law than they know and that was the only shield we had for survival. The problem is that what is in law is less important for certain people as law is invariably interpreted differently for such group and that is not just by police but by the whole society. Rape may be same in the eyes of law but it is different in the eyes of society when it is committed on bargirl or sex worker and here the close relation of legal and social activism becomes necessity.

In yet another case we realised the implications of our movement and not only in application of laws but changes in the law itself is necessary to enable certain stigmatised sections to defend themselves from state and societal repression. Few minor girls were arrested by remand home found out to be adults and court asked to release them on bail. Principally remand home cannot release a person on bail. This created a dead lock and their release was delayed by several days. During their release I saw how the authorities were ridiculing their parents about giving birth to children and making them dance in the bars. More surprising was the response of the parents. They were trying to tell authorities that they have no other alternative, as it is their traditional profession. Here the new chapter opened for us with this insight. The brothers of these girls were educated and they expressed desired to work with us. They told us that more than 400 bargirls are either their sisters or aunts. When I delved more I found 90 percent of bargirls were from traditional dancing or entertaining communities. Many of them stooped into commercial sex work after loss of their traditional patronage and dance bars of Mumbai gave these communities a chance to bring their women out of sex work and engage in dancing, which was more suitable and respectable transformation of their age old profession. Now all this brought radical change in my attitude towards issues such as trafficking, sexual exploitation and rights of these typically oppressed communities. Many of our present laws as well as our perceptions today have vastly influenced by Western interpretation of Indian caste system

and culture I felt. These communities have completely different world of morality and values. Their transformation to mainstream modern society has become painful in the absence of culturally sensitive legal, political and social activism. There is a need of different perspective to deal with the change process of such communities into modern Indian constitutional system and here again the coordinated and concerted effort of social and legal actions are warranted.

Few months before the ban, bar owners requested me to become intervener in the case against the government challenging raids. We agreed on the condition that we will not oppose raids altogether but only insist on for proper their conduction. I went to Flavia Agnes to request her to fight case on our behalf. She was very sceptical as a legal activist and feminist about this bar dancing phenomena. She told me she has no time to talk with me but I insisted. I told her that she had to listen me once before she confirms her opinion about it as I had sold her books at the age sixteen. She agreed. I took her and other feminists to bars so that they themselves can decide. Bargirls met all of them separately. All this was necessary as Flavia at that time was working with the organisation, which had filed interveners application on behalf of the state against us. It is difficult for feminists to take any clear-cut stand on the issue for many reasons. Firstly, as apparently it is product of consumerist culture. Further the working of women where liquor is served increases their vulnerability to sexual exploitation. Thirdly, though it was legalised business unlike pubs it was perceivably more immoral in its operation. Finally, there are only male customers and mostly women performers in this 'bar line', which thus put women into their stereotype role of sex object for men and can be viewed as commodification of women. Being woman with leftist background I too had similar reservations in the beginning and therefore I was sure that once the reality come clearly before them, they would definitely support this cause. **Here we come to another connecting point between law, law-focussed activism and social activism. In case of the issues, which seek to redefine legal, moral and political correctness, there is lot of space for exchange between the two.** For example take the issue of minor girls working in the bars. It is legally and morally wrong. But after working with these girls now I know what happens on the ground if girl is not allowed to work in the bar at the early age, which is more painful. Marriages of girls are not allowed in certain communities. The usual practise is to sell virginity. Now selling virginity is equivalent to wedding ceremony among them. Thus if anyone unable to sale virginity of their daughter after attaining puberty they are pressurised through taunts, harassment by their community in the same way the unmarried girls family in other communities are. However, many of those who put their daughters directly in the bars are those who want to postpone sale of their virginity with a hope that they would be able to avoid it altogether. One of the vice president of the union boasts that how she was able to keep virginity of her two daughters intact till the age of 21 and 18, by making them bar dancers. She is writing her autobiography in a hope that someone will make film on it

and she will give consent only if her daughters are made heroines in it and thereby she could avoid this calamity permanently. But nevertheless she also boasts about the offers her daughters have got as any other mother would boast about marriage offers received by her daughter. Now all this does not mean that minors should be forced into dance but one should be also aware of different ground level repercussions of any law based on morality.

When the home minister of Maharashtra announced the ban on dance it was also result of social and legal activism of a kind and vicious moral campaign targeted against bargirls. Instead of opposing ban the union decided to demand alternative employment or rehabilitation. Thousands of bar girls came on the street to protest demanding 'rehabilitation'. The issue of 'rehabilitation' became the agenda of debate and support to it began to come from quite unexpected quarters. Though at last, despite month long sit in movement, petitions to UPA chairperson Sonia Gandhi and interventions of National Women Commission, Human Rights Commission, 50000 strong rally of bargirls, the Government successfully carried out its plan after six months of resistance to ban 'dance' in the bars. This movement suggested that there is nothing in law to address issue of displacement caused on the ground of morality. Though government pretended that it was against bar owners it agreed to pay back licence fees to them as per law, while not a penny was spent on the rehabilitation or relief of unemployed bargirls.

After implementation of the ban the matter went to court. Since rehabilitation was not done we appealed against the act on the basis of right to life, livelihood and expression. The high court accepted dance as legitimate profession and termed the ban as discriminatory and unconstitutional. However short-lived it may be this was much needed victory of sort for us. Why I say much needed because after the ban and subsequent vicious campaign against bargirls the police, the criminals, the customers everyone had got a sort of state sanction to exploit bargirls without any fear of law. The high court verdict has put somewhat brakes on the deteriorating condition of bargirls. But with delay of every single day I am aware, someone or other is going to become pray of someone. Secondly this verdict also sent signals to many groups, which have started contacting us. We are also in the process of forming first mass organisation of accused persons for protecting their rights in Maharashtra.

In last few years, they have become soft target for the state that wants to hide its failures in addressing important developmental issues and gain legitimacy. Moral policing has emerged as new space for the communal forces to keep their relevance after the decline in their support since the fall of NDA government at the centre. Intolerance of middle class is growing along with its economic and cultural insecurity. They require new targets and enemies to perpetuate their sway through hatred and bigotry. Moral and cultural policing have therefore increasingly targeting youth, women and liberals. Even the so called secular parties are eager to obtain support of the vast middle class through this moral policing as it can grab share of rightist vote bank without alienating Muslims or dalits. Bargirls can easily become their point of attack as

they can be painted as vamps and adulterous other woman. Now this warrants greater coordinated efforts of social and legal activists to protect rights of all those who can be obvious victims of such attacks.

To sum up:

The relation of law and the movements for the rights of certain social groups such as bargirls, sex workers and traditionally victimised communities is more close and inevitable. We need to have concerted social and legal strategy and action to safeguard the rights of the groups, which are vulnerable to rights violation due to their stigmatised position. Misuse of law by authorities is socially sanctioned and politically blessed in case of these groups and therefore their rights cannot be secured without adequate legal resources and inputs to their movements. Further their movement can throw light on other dimensions of sensitive issues such as trafficking, sexual exploitation, commodification of women on which there is relative consensus among the scholars and activists. This in turn is necessary for development and changes in the law to secure rights of different social groups and create just society.

(A Paper presented by VARSHA KALE, President, Bhartiya Bargirls Union)