

Punishing the Victims

Officials help the spread of AIDS epidemic

by
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In July 1990, the Madras high court ordered the release of four HIV positive women who had been illegally detained at the remand home in the city. These women along with several others had been originally detained under the Prevention of Immoral Traffic Act (PITA) and sentenced to between one and three years of detention in a remand home. While under detention, they along with about twenty other women similarly detained, tested positive for the Human Immunodeficiency Virus (HIV). After it was determined that they were infected with the possible precursor to AIDS (Acquired Immune Deficiency Syndrome), a court order was issued requiring the continued detention of these women, even after their sentences were served. The rationale was that the best way to prevent the spread of the infection to others and to provide medical help to these women would be to isolate them in detention for an indefinite period.

I first met these women in the remand home at Madras in May 1989 when I was doing research on discrimination against HIV positive people and possible methods of rehabilitation. All of them had originally

been sentenced under PITA and most had completed their periods of sentence. Access to them was difficult. The press was totally banned, a decision influenced no doubt by the superficial sensationalist reports that had appeared about the women. The superintendent of the home was a kind, cordial lady who nevertheless made it abundantly clear that any meeting with HIV positive women could be arranged only with the consent of her superior; who eventually did agree, but refused to make it official. She claimed that both the letters of request I had forwarded to the department had been misplaced. Finally, after more than a month of repeated visits and requests, I was allowed to meet them. "No cameras, no tape recorders, all interviews only in the presence of the superintendent," I was warned.

I waited that sunny morning in the superintendent's office. An *ayah* went out into the verandah calling, "AIDS girls, hey you AIDS, come here." From my seat near the entrance I could see curious knots of girls forming quickly beside the path to the office as a straggly line of ostensibly

infected women walked past. They didn't look at anybody in particular, just talked to each other in whispers with occasional bursts of defiant laughter. Some looked rigidly ahead, their heads held high. They all seemed completely normal, there was nothing to distinguish them from the others except the behaviour of the others themselves, who would quickly press back if any of the women got close. In the office, they had just been lined up against a wall, when one of them, 25 or 26 years old, tall and strikingly attractive, suddenly started shouting, "What do you mean by locking us up here like this? Are we sheep or cows to be paraded around, to be poked and pried into, to be stared at? Look at me- see my hands and legs, do I look like I am ill? How dare you lock me up like this after I have finished my sentence? Let me go I say, let me go or I'll kill myself." Turning to me she cried, "Amma, what is the use of all of you coming here? Why don't you help me get out? I have a little son I haven't seen for 3 years now." Suddenly, her energy spent, she started sobbing, wheeled from the room and ran right down the way she had come. Emboldened by

her outburst, several of the other women also demanded their release asking to be returned to their families. They were obviously unaware of the illegal nature of their detention and reported that they hadn't been allowed to talk to lawyers. "Help me please," whispered a young girl, certainly not a day over sixteen, possibly younger. Her huge eyes swam in unshed tears, her childish plump face constantly threatened to erupt into sobs. "They say there is something wrong in my blood because I slept with different men. Every night I pray to God that he will clean my blood soon so I can go back home. I just want to be with my mother. She will take care of me." The mother of another detained girl whom I met outside asked, "Now that they have served their sentence periods, why can't they be freed? Leave them to us. We can look after our children best."

Acknowledging the illegal nature of the detention, the authorities however pointed out that it was their responsibility to detain the women since they would otherwise be a threat to society. To be fair, it was obvious that the women's physical needs were adequately looked after. All of them were on a special diet and received regular medical attention. Though they were housed separately, they sat along with the uninfected girls in the classroom and ate their meals together as well. But it was easy to see that neither the infected women nor the others in the home, including the staff, had any clear idea of the nature of HIV and AIDS, the ways in which it was spread and the effects it could have on people. The women were constantly referred to as "pools of infection" and "threats to society" without any consideration whatsoever of the fact that they had originally been infected through some man who himself was continuing to spread it to every other woman he slept with, and sometimes through her to her unborn child. Besides, many of the men were likely professional donors of blood as well and the infection could spread through that route too.

It is fairly certain that all these women were infected by men already infected with the disease who paid to have sex with them but did not use a condom during intercourse. It is not possible to tell from a person's appearance if they are HIV positive. Appropriate use of a condom is at present the best precaution to adopt to keep from getting infected during sexual intercourse with someone of either sex who might be infected.

Many of the infected women I met told me that the men never use a condom. When I asked them the reason, there were two main responses:

1. They weren't aware that they were at risk of falling ill with an incurable disease. Since they go to a doctor once or twice a month they thought that this visit took care of whatever risk there was in getting treatment for any sexually transmitted disease; they weren't aware that there is no treatment for AIDS, that all those who become HIV positive eventually get AIDS, and that it has proven so far to be invariably fatal.

2. They felt they didn't have a choice. In the brothels where they worked if they said they wouldn't have sexual intercourse with a man unless he used a condom, they would be beaten to force them into it. In addition, they might not be fed.



The brothel owners I spoke with didn't seem to care. One madam screamed at me: "What condoms? We'll lose our business! Just go away and leave us alone. Don't come nosing around here. I take my girls to the doctor regularly...a private doctor, not all these government chaps...If any girl falls ill we'll replace her. Mine is a clean place. No man will pick up any disease here." Obviously, the notion that the client could be the cause of the infection hadn't occurred to her. Or if it had, she didn't seem to take it into account.

The mortal danger to women having unprotected sex with HIV positive men wasn't a salient issue for the brothel owners, nor did they make any efforts to devise means whereby the women might acquire more power to negotiate safer sex with clients.

The women talked about other issues. They told me that the only thing that would give them more security and help them negotiate directly with the client was to get the police off their backs. Asked the girl who had threatened to kill herself: "When my husband beat me every night, did the government help me? When my child had to go to school, did the government pay for his uniform or books or all the other things that even a so-called free school asks? If you people can't give me a good job so I can earn enough to eat well and educate my children, what right do you have to lock me up for doing the only thing I know to do to survive? Why don't you lock up the man who came to sleep with me, why don't you lock up the pimp who hired me into this, why do you people keep harassing poor girls like me who don't know anything?"

Indeed, even a cursory examination of court records in any state will reveal that there are almost no cases of conviction of brothel owners or pimps despite the fact that PITA is aimed primarily at stopping trafficking in women. Though prostitution is legal, it is invariably the women who are threatened, bullied and arrested by the police and subsequently convicted by the courts.

One reason for this anomaly is clear. Though prostitution is legal, soliciting (in a public place) is not. The police-pimp nexus uses this clause to its advantage. The police pick up a woman on the pretext of soliciting even if she is only shopping for vegetables- and the pimp holds the threat of conviction over her to demand total obedience. If soliciting were to be decriminalized, it is unlikely that the women would solicit in a truly public place (they are much more desirous of anonymity than their clients). On the other hand, the law can then truly be applied to the traffickers while actually providing the women themselves with more leverage.

Discussion about AIDS as an issue and of the vulnerability of prostitutes in particular was something no official was willing to talk about. One even told me that the AIDS file was closed. I wrote to the public prosecutor in November 1989, pointing out the facts of the case and requesting a meeting. I also sent copies of the letter to other officials. The letter was ignored. Nobody was listening. Though it was becoming more and more obvious that the magnitude of the problem would defy any quick solutions, the general tendency was to close the debate on HIV and AIDS.

In March 1990, I filed a writ of habeas corpus in the Madras high court seeking the release of five of the women, whose particulars I had. Though the specific purpose was to obtain their release, it was actually an attempt to stimulate discussion on an issue that screamed for attention. A supporting affidavit was filed by Dr. S. Sunderaraman, a psychiatrist who has been working unceasingly with prostitutes to promote awareness on sexually transmitted diseases (STDs) and AIDS. The petition argued that:

1) The detention of the women beyond their period of sentence was without the authority of law and amounted to a violation of their rights under Article 19 (i) (d) and Article 21 of the Constitution.

2) The detained women had not been afforded the minimum procedural

safeguards of the adversarial system or the rules of natural justice because they had not been furnished with copies of medical reports. Neither did they have the opportunity to challenge the accuracy of the same, thus violating their rights under Article 14 and Article 21 of the Constitution.

3) Blood tests had been done without the consent of the detained persons with no precautions to protect their confidentiality.

4) There had been invidious discrimination against the women because not all women arrested under PITA and testing positive for HIV are detained. In many cases the women are released on bail before the results of the blood tests are known.

5) Similarly, no attempts have been



made to confine and isolate blood donors whose samples were HIV positive.

6) For every infected prostitute there was at least one man infected — the man who infected her — and possibly other men who were infected by her. No attempt had been made to identify and confine these men.

7) There was thus gender discrimination and prostitutes who were already sociological victims were being doubly victimised, while many men, including their clients and infected professional blood donors, were not being confined or isolated.

The authorities' reply merely submitted that the women were being held at the remand home on their written request for medical treatment; that the women posed a danger to society; and that, in the absence of any agency willing to

rehabilitate them, the home had a responsibility towards society to keep them there.

The court then appointed an advocate commissioner to meet the women to check if their stay was voluntary. In her report the commissioner pointed out that all the women said that they wished to go home, and that, in spite of having been at the home for five years, they were ignorant of why they had been detained and were under the impression that they were now cured. Citing the report, the Madras high court ruled on 17 July 1990 that the women be released as "it appears to us that there is no justification for keeping (these four) in the home."

After the ruling, I approached the authorities to let me meet with the women so that I could counsel them and offer help or rehabilitation if they so desired. But my request was ignored. I had no way of knowing whether the women had actually been released till I approached the Legal Aid Board for help. Through them I heard that they had indeed been freed. However there was no way of tracing them.

The story, unfortunately, doesn't have the traditional happy ending. The women are out, probably back to selling sex. Not only are other people at risk of infection, they themselves are soon likely to require medical and psychological attention which may not be available. Though these questions plague me, I still think it is wrong to set such a dangerous precedent-isolation in this case- that can only be self-defeating. On the other hand, I feel that in the years to come a good support system needs to be built around the needs of such people. I believe advocacy has a limited role in the context of a complete absence of social support. Realising this, several non-government organisations in the state are now looking at education, counselling and care projects in the area of HIV and AIDS.

However, the larger issue of prostitution and helping women engaged in commercial sex to be able to protect themselves from infections remains unresolved. □