

PROSTITUTION, HUMAN RIGHTS, LAW AND VOLUNTARY ACTION

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Prostitution is as old as it is disturbing. Further, it has become incompatible with contemporary socio-political thinking. With this in view, this paper examines its linkage with urbanisation, its incongruence with human rights and the role of legal measures and voluntary action to tackle it. While prostitution is not an offshoot of urbanisation, its several disquieting forms flourish mainly in the urban areas. Many of them reportedly have a thriving market complete with managers, intermediaries, buyers and sellers (including call-girls). This is also borne out by the police record. Trade in flesh clearly militates with all that the UN Declaration of Human Rights stands for. Concepts like human dignity and equality, health and happiness, and sanctity of marriage and family, lose substance in the face of the problem. Based on abolitionist approach, legal provisions against prostitution in India leave much to be desired. That is why their enforcement has been more episodic than consistent or effective. In containing the problem, the scope for voluntary action is wide. This is also stipulated in the law. However, it is yet to come about in a substantive way. In view of contemporary social ideals, we need to initiate effective social and legal strategies-concurrently.

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Introduction

In one form or another, prostitution has been almost a constant unsettling feature in society. Few societies in time and space have been totally free from the problem. Time and again, it has worked up the collective conscience, and campaigns have been launched to subdue it. However, seldom have all these well-meaning measures been able to make any appreciable dent into the problem. This could be attributed to several biological, psychological, economic and Socio-cultural factors. Nonetheless, the problem of prostitution, in a cynical way, has come to be regarded as a 'necessary evil'.

To a large extent, prostitution could be explained in terms of certain basic bio-psychological and Socio-cultural terms. *Homo sapiens* are bisexual and capable of finding sex stimulation in asexual situations. On the other hand, the institution of marriage hinged the gratification of sexual needs upon wedlock. While some persons had the idea that they could sell sex, others thought that they could buy it.

It follows that prostitution is a two-way phenomenon. It involves prostitutes as much as it does their patrons. Several studies show that owing to excessive status-striving, or emotional dissatisfaction within the family, many women take to trade in flesh (Mukerji, 1979; Singh and Singh 1980). A still larger proportion, reportedly, is of those who are driven to it because of adverse economic circumstances. After having been in the trade or in a red-light area, a majority of these women develop a stoical attitude towards life and the future. On the other hand, a large number of males, being treated for VD presumably contacted in the red-light areas, have been studied (Gokhale,

et al., 1972). It is reported that most of them were not very well organised in their life-style. Most of them were from lower socio-economic strata.

There are writers who categorise women in this 'oldest' profession into two broad groups: voluntary and involuntary prostitutes (see, for example, Kapur, 1981). Raghuramaiah (1981) has classified them into four groups: hereditary, religious and traditional victims of social circumstances, and pathological cases. A detailed classification of prostitutes in Bombay has been provided by Punekar and Rao (1962). Indeed, there are several types of prostitutes: Religious (*devadasis*); tribal (Nayaks and Jonsar-Bowars); familial-ancestral; *nautch*-girls; brothel-girls; call-girls; and part-time or free-lance prostitutes. This gives rise to another issue: Is prostitution largely an urban problem?

At this juncture, attention may be diverted to the nexus between prostitution and economic deprivation. Considerable amount of research" exists which brings out that a vast majority of 'fallen women' have been driven to red-light areas by adverse economic circumstances. Most tribal and ancestral, as also several first generation brothel girls, exemplify the point. Similarly, most of the patrons who frequent brothels reportedly come from the lower socio-economic strata. It is not only economic deprivation which gives rise to the flesh trade. An equally extensive amount of research exists delineating the life and style of high-class call-girls and their high-class patrons coming from middle-upper and upper income groups. Moreover, if prostitution is viewed as a consequence of economic deprivation, how do we explain this problem in affluent countries? Apparently, the problem of prostitution has directly little to do with either affluence or deprivation.

This notwithstanding, bartering in sex appears to be incompatible with modern socio-political thinking. It does not fit into the notions of freedom, liberty, justice, equality and all that which goes with democracy as is borne out by the fact that in most democratic countries policies and programmes have been evolved to combat the problem. Have these policies and programmes been able to produce the desired results?

It can hardly be gainsaid that prostitution mocks at established social norms and institutions. It reduces human emotions to baser animal drives, and degrades human love and affection into some sort of saleable commodity (see Khan and Krishna, 1984). It denotes a lowering of human values and, thereby, of human dignity. Above all, prostitution has several pernicious repercussions for the individual, family and community. It is, therefore, hardly surprising that sex, on a mercenary basis, has aroused much popular indignation. Several well-meaning citizens and organisations have launched action or even movements to tackle the problem. Have these measures made an impact on the problem?

While on this theme, a mention may be made of the concept of human rights. As is generally accepted, the concept, or to be specific, the Declaration of Human Rights, epitomises modern social thinking. However, it is primarily concerned with the larger political, economic and social rights—of people in diverse cultures and political systems. It would be, therefore, of more than a passing interest to examine as to what extent the concept has a bearing on policies and programmes directed against prostitution.

Present Paper

Keeping the foregoing issues in view, in the Indian social context, the present paper aims to look into (a) prostitution as an urban problem, (b) its incongruence with the concept of human rights, (c) legal measures adopted to curb it, and (d) the role of voluntary, action in containing it. It may be clarified that, in the paper prostitution is taken to mean indiscriminate bartering of sex with relative emotional indifference. Further, arguments throughout the paper are based on the assumption that the problem cannot be totally eliminated, it can only be brought within manageable limits.

Prostitution as an Urban Problem

A large body of literature exists to show that prostitution is, more or less, a concomitant of human civilisation. In time and space, most societies have been afflicted by the problem. As such, it would be logically untenable to view it as an offshoot of urbanisation. Furthermore, several studies highlight promiscuity and bartering of sex among tribals in different parts of the country. Likewise, there are available accounts of women in several castes who have traditionally taken to prostitution as a customary occupation. Nevertheless, prostitution stands out predominantly as an urban problem.

It is mostly in urban areas that commercialized and organized forms of the trade in flesh have flourished and caused concern to citizens and law enforcement agencies. So is the case with the red-light areas. Over the years, urban neighbourhoods like Foras Road, Sona Gachhi, and G. B. Road have come to be identified with the flesh trade. Legal sanctions notwithstanding, these and similar pockets in different urban centres continue to provide for the needs of the sex-hungry. Previously, there used to be brothels and 'houses' but following the action by law enforcement agencies, they have changed into 'dancing joints' and 'massage houses'. Young and attractive girls, mostly from the rural and tribal areas, are procured or kidnapped and kept in these houses. They are trained in the art before being offered in the market. Some of them are coerced, even mentally and physically tortured. Not only are these establishments managed by 'madams' and 'bhaiyas', but also these are overseen by the local musclemen. Besides, there operates a chain of pimps and touts. Consequently, the woman selling her body is not the sole beneficiary. Her earnings are shared by several others, including sometimes by unscrupulous law enforcement officers. Reportedly, Delhi alone has more than 6,000 professional prostitutes. Such an organisation or system is inconceivable in a rural setting.

A mention may be made of those who patronise commercialised sex. As referred to earlier, several migrant workers in metropolitan cities like Bombay regularly visit the red-light areas. They may have something less than satisfaction, or, worse still, they may contract VD or AIDS, but visit prostitutes they must, as they have few alternatives. Such a regular clientele would be unthinkable in villages.

Next, a reference may be made to part-time or free-lance prostitutes as also of call-girls. As is well known, quite a few college students, working women and even housewives, find no harm in making a little extra money by trading sex favours. This practice is resorted to in order to supplement the family income, and to enjoy the thrills of a life of luxury. According to one speculation, there are about 6000 such part-time prostitutes in Delhi. The institution of call-girls has come to be associated with

modern urban life (see also Kapur, 1981). These glamour girls or high-class prostitutes cater to the needs of the affluent. Furthermore, they have come to occupy a significant place in modern corporate and multi-national business. In other words, their services are utilized as a part of hospitality to business associates. Cultured and educated, these girls live in expensive apartments and colonies and carry on their business through luxury hotels. They may operate independently, or through taxi-drivers and room-service staff of hotels and guest-houses. Doubtless, the call-girls represent a purely urban phenomenon. According to the estimate, in Delhi itself there are more than 1,500 call-girls.

At this stage, attention may be paid to the number of cases registered by the police in different metropolitan cities, under the Suppression of Immoral Traffic Act (see Table 1). It is found that during 1975-80, the number of cases registered by the police in Bombay has ranged between 277 to 1,079, in Calcutta between 47 to 76, in Delhi between 58 to 141 and in Madras between 959 to 1,998. These figures merely shed light on the existence of the problem in different metropolitan areas. Beyond this, it would be hazardous to conclude that the magnitude of the problem is lowest in Calcutta or, for that matter, highest in Madras. The possibility of variation in problem identification as well as in law enforcement is more than imminent. Nevertheless, all accounts converge on the fact that prostitution, particularly in organised forms, is a feature of urban areas. This hardly augurs well in view of the steadily growing rate of urbanisation in the country.

Prostitution and Human Rights

As outlined earlier, the practice of prostitution sharply contrasts with the concept of human rights. These are the rights which human beings enjoyed as their inherent rights before the political systems crystallized. The concept springs from the collective desire for 'a decent civilized life in which the inherent dignity of each human being will receive respect and protection'. Stated differently, human rights are basic to human nature and without them human beings would hardly be able to live like human beings (see Khan, 1979). As would be readily seen, prostitution runs counter to all those ideals which the concept of human rights stand for.

There are several reasons to consider the concept of human rights, and all that which goes with it, as socially worthwhile. The Magna Carta of 1250, the Bill of Rights of 1689, the American Declaration of Independence in 1776, and similar documents have gone into the evolution of these social and political ideals. As a matter of fact, the Constitution of the Republic of India contains, in one form or another, all that is implied in the concept. As such, if the trade in flesh militates with the concept of human rights, it ought to be a matter of concern.

Before proceeding further, a little historical perspective would not be out of place. During World War II, human dignity and rights were blatantly trampled which caused much concern throughout the world. Soon after coming into existence, the United Nations paid attention to the protection and promotion of human rights, reaffirming its faith in man and his worth and dignity. As such, one of its earliest tasks, in 1948, was the adoption of the Universal Declaration of Human Rights. Subsequently, in 1966, the Declaration was given an operational shape in the form of two covenants: (i) International Covenant on Economic, Social and Cultural Rights, and (ii) International Covenant on Civil and Political Rights. There is also an optional Protocol

to the latter Covenant. All these instruments came into force in 1976. Nonetheless, it is the Universal Declaration of Human Rights which deserves to be examined in relation to the problem of prostitution.

It may be reiterated that the Declaration primarily deals with social and political rights. However, there is much in its 30 articles which has a bearing on a social problem like prostitution. For example, its preamble underlines the inherent dignity and equality of human beings which is taken to be 'the foundation of freedom, justice and peace in the world'. These ideas are concretised in the first part of Article 1. "All human beings are born free and equal in dignity and right". It follows that promiscuity and emotional indifference which accompany barter in sex reduce the seller, by the very nature of the situation, to a sub-human level. This clearly conflicts with the ideal of equality in human relations. Nor does it bring any dignity to the family or to the dependents of prostitutes (Article 23, Clause 3).

As brought out earlier, in quite a large number of cases young girls are kidnapped or procured by the brothel keepers. In the beginning, a close surveillance is kept on them or, if need be, they are held in captivity. This scenario may be examined in relation to Article 4: "No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms". Notwithstanding this, the sale and purchase of girls for immoral purposes is reported to be quite common. Further, new entrants are oriented and initiated into the profession often through coercive, inhuman and obnoxious means. The Declaration is explicit in this regard: "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment" (Article 5).

Next, we may focus on Article 25 (i). It lays down: "Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family...". May be call-girls come near to this ideal, yet the condition of those inhabiting red-light areas is hardly encouraging. Even in those countries which have a system of licensing and periodical medical check-up, the state of health and well-being of common prostitutes leaves much to be desired. In India, the condition is reportedly much worse.

The Declaration pays due attention to relations between the sexes as also to the underlying social purposes: Article 16 (1) proclaims, "Men and Women of full age, without any limitation,... have right to marry and to found a family". In prostitution, we have, instead, mechanical sex, with little or no social purpose, reducing human emotions, in a way, to animal drives. Likewise, the Declaration is unequivocal about the gratification of sex needs through the social institution of marriage. "Marriage", Article 16(2) lays down, "shall be entered into only with the free and full consent of the intending spouses". In contrast, we have in prostitution consent between sex partners where the roles of the two are mixed up. What is more, the Declaration regards the family, and rightly so, as "the natural and fundamental group unit of society" which is "entitled to protection by society and the state" (Article 16, Clause 3). On the institution of family prostitution, through indiscriminate bartering of sex, makes serious inroads. Instances are not rare in which ladies of easy virtues have ruined the family life of their patrons. Taken together, trade in flesh clearly militates against human rights.

Prostitution and Legal Measures

Indeed, legislation has a key role in controlling and curbing trade in flesh, provided that it is based on sound assumptions and realistic objectives and is enforced by motivated functionaries. In this direction, many countries have adopted a prohibitionist approach and have, at least in principle, declared an all-out attack on the problem, totally prohibiting prostitution and the related conduct. The example of most communist countries and those in the Middle-East may be cited in this regard. On the other hand, others have resorted to the abolitionist approach. They have initiated limited action through licenses and regulations, intending to abolish prostitution only in organised forms. Countries like India and the United Kingdom fall in this category.

India is a signatory to the International Convention on the Suppression of Immoral Traffic in Women and Children (1921). Certain amendments were made, in 1924, in the Indian Penal Code making kidnapping of a girl under 18 years, for immoral purposes, an offence. Ever since, many states have enacted anti-prostitution laws. The main among these are: The UP Minor Girls Protection Act (1929), the UP Nayak Girls Protection Act (1929), the Bombay Devadasi Prevention Act (1934), and the Madras Devadasi (Prevention of Dedication) Act (1947). This apart, many states have made provisions in their police laws to curb soliciting, pimping, brothel-keeping, and living on the earnings of prostitutes.

After signing yet another international convention in 1950, India had to further strengthen the legal framework. A central legislation, the Suppression of Immoral Traffic (in Women and Girls) Act was brought on the statute book in 1956. The main objective of the SIT Act is to suppress prostitution in public places and organised forms. In other words, it does not attack the problem of prostitution *per se*; it only intends to prevent or abolish its 'organised' and commercialised forms. It is not possible to erase manifest forms without paying attention to the underlying causes and hidden aspects. Apart from this, the law regards prostitution solely as a female phenomenon: "Prostitution means an act of female offering her body for promiscuous sexual intercourse for hire whether in money, or in kind. This kind of male approach' to the problem and 'gender justice' have often resulted in patrons going scotfree and hapless prostitutes being turned in by the hundreds. It may be noted that the SIT Act extends throughout the country. But the question is one of enforcement.

Before going into the issue of enforcement, a brief outline of the provisions in the SIT Act may be provided. The law comes down heavily as those persons who carry on the 'wicked trade' in an organised manner. Engaged in recruitment or procurement (Section 5), they may be exploiting women and girls presumably from regions characterized by economic deprivation or tolerant social norms. They may be running 'houses of pleasure' or brothels (Section 3). These shady places may also be used to detain and to hold captive new entrants (Sections 6 and 18). Having coerced girls into the nefarious trade, they may be living on their earnings (Section 4).

The SIT Act, however, goes beyond its stipulated objectives of curbing traffic in women and girls. Perhaps, motivated by puritanical ideals, it prohibits soliciting in public places (Section 8), and prostitution in any premises within a distance of 200 metres of any public place (Section 7). The intention of keeping public place from being defiled by the doings of prostitutes is understandable. What is however not so understandable is the technicality whether these provisions are in line with the

objective, 'suppression of traffic'. Besides, few places in a populated zone of a city would be there which may not be within the radius of 200 metres of a public place of some sort. This stands in sharp contrast with the fact that the Act does not recognise the existence of red-light' areas. Consequently, common prostitutes, even in the areas known for such activities, are liable to attract the law enforcement agencies. This is exactly what often happens. Not only are red-light areas a frequent target of 'raids', but also traps are laid for those who may be discreetly carrying on their profession in not-so-very-public places. Does this amount to abolition or to prohibition?

Table 1
NUMBER OF CASES/ARRESTS UNDER SIT ACT DURING 1975-81

	<i>India</i>	<i>Bombay</i>	<i>Calcutta</i>	<i>Delhi</i>	<i>Madras</i>
1975					
Cases	14,708	277	76	141	1,607
Arrests	16,066	318	125	408	1,607
1976					
Cases	16,150	1,079	40	120	1,998
Arrests	17,590	1,219	76	153	2,006
1977					
Cases	13,924	1,002	53	59	1,674
Arrests	15,233	1,046	92	53	1,698
1978					
Cases	15,448	789	52	58	1,609
Arrests	15,920	935	76	123	1,632
1979					
Cases	14,195	952	44	64	959
Arrests	14,727	1,138	52	127	959
1980					
Cases	14,308	863	49	115	1,174
Arrests	16,016	1,206	53	167	1,174
1981					
Cases	15,658	890	48	86	1,362
Arrests	17,220	1,365	61	141	1,362

Source: Crime in India, New Delhi: BPR & D.

The SIT Act provides for specialized functionaries: In Section 15, a clear mention has been made of women police officers and special police officers who may effect a raid, search or arrest in the presence of local social workers. Keeping this in view, attention may be paid to the number of cases registered by the police and of persons arrested under the SIT Act. During the period 1975-80, in the country, the highest number of cases registered and persons arrested by police were in 1976, perhaps the

peak year of the Emergency. On an average, every year the police have registered 4,789 cases and arrested 15,925 persons for different offences under the SIT Act. A brief reference has already been made to the number of cases registered by the police in four urban areas, namely, Bombay, Calcutta, Delhi and Madras. The number of persons arrested under the law follows more or less a similar pattern (see Table 1). These figures hardly denote the nature and extent of the trade in flesh in the four urban centres; at best, they point out to the quality of law enforcement. Apparently, the enforcement of the SIT Act in Bombay and Madras is more vigorous than in Calcutta and Delhi.

The SIT Act also provides for specialized agencies like Rescue Homes, State Homes, Reception Centres, Corrective Institution and Protective Homes (Section 21). Several states, mostly under the Directorate of Social Welfare, have organized these institutions with different nomenclature like Nari Niketan, Stree Sadan and Abhaya Nilayam (numbering, in the whole of the country, around 120). All things considered, legal provisions taken together have hardly been able to achieve what they are supposed to achieve. This leads to a search for viable alternatives.)

Prostitution and Voluntary Action

In combating a hoary and pernicious social malaise like prostitution, voluntary action by citizens and non-governmental organisations is essential. Apart from well meaning citizens, there are many NGO's which have been, for quite some time, active in the field of women's welfare. The Mahila Samaj and YWCA can be mentioned in this regard. Also, several others are functioning which, directly or indirectly, concern themselves with the problem of exploitation of women. These include the Association for Social Health of India, Nari Raksha Samiti, Saheli and several others in different parts of the country. Nonetheless, all these organisations have a somewhat limited scope and coverage. As such, the discussion which follows is mostly futuristic indicating lines along which voluntary action needs to move, if the problem of trading in sex is to be tackled effectively.

Much significant work can be done by way of prevention. As is well known, the status of women in the country, like anywhere else, needs to be elevated and brought on par with that of the other sex. That women can sell sex favours and men can buy them may have something to do with the unequal social status of the womenfolk in society. The preference for a male offspring, the practice of dowry and dower, the multiplicity of role expectations from the bride in the husband's household, and the subdued participation of women in the affairs of the community, are among the numerous indicators of the status of women. The Committee on the Status of Women in India (Govt. of India, 1974) highlights these very aspects. To mitigate disparities between the sexes, legal measures by themselves can accomplish precious little. To change the ways of thought and social values, governing the status and role of sexes, what we need is concerted voluntary action.

While the family is the basic building block of society, it has faced in recent decades, much erosion. Processes like industrialisation, commercialisation and modernisation have thrown the family organisation somewhat off-balance. Among other things, this has loosened the hold of the family on individuals, their norms and values, and conduct and behaviour. The system of free-lance prostitutes and perhaps of call-girls exemplifies this contention. With different objectives in view, the Universal

Declaration of Human Rights as well as the Committee on the Status of Women give much emphasis on the need for strengthening the family. It goes without saying that voluntary action can contribute significantly in this area.

Next, attention may be turned to the curative and the rehabilitative aspects of voluntary action in respect of sex trade. As argued earlier, the problem of prostitution exists both in open and clandestine forms. Apart from women in brothels there may be a significant number of women interspersed in neighbourhoods and residential areas. Through coordinated voluntary action, they may be identified, persuaded and provided with viable social and economic alternatives which would deflect them from the path of vice. The possibility of extending this kind of passive intervention, even to brothels, is not all that impracticable.

The SIT Act requires the presence of respectable inhabitants during raid and arrest (Section 15). Perhaps the purpose behind this provision is twofold: The suspect women may not be unduly harassed; and well-meaning citizens may realise that they *can* do something about dysfunctional aspects in society. On both the counts, voluntary action can be much more meaningful and substantive than has been hitherto possible. Vice dens, camouflaged 'pleasure haunts' and call-girls with respectable fronts, may be identified and reported to vice-squads or authorities. Similarly, a little more discriminating interest may be taken during the raids and arrests, so that innocent or unconcerned women are saved from harassment.

Section 10 of the SIT Act provides that, in deserving cases a woman or a girl may be released by a court after admonition on probation of good conduct. This opens a vast field for voluntary action. Much can be done by way of shielding them from those adverse environmental conditions which pushed them over to the vice, by way of providing them counselling and guidance in order to restore in them self-reliance and self-confidence, and by way of helping them to get socially and economically reintegrated into society.

Similarly, there is seen much scope for voluntary action during and after the institutionalization of fallen women. It may be noted that a large number of SIT-institutions in the country are run by voluntary organisations. This notwithstanding, voluntary action can lend more than a helping hand even in government run institutions. While in the institution, the inmates need counselling, guidance and services to develop skills. After their discharge, they need all that which has been mentioned earlier in relation to those released after court admonition. On the whole, voluntary action has a definite and major role in the institutional treatment of these unfortunate women.

Conclusion

Undisputably, prostitution undermines the very social order on which it thrives. The diverse range of measures taken against it in the past did manage to diffuse or conceal it, but seldom have they been able to cure it. This calls for a periodical stocktaking of the problem as also a reappraisal of the approaches and strategies adopted to combat it.

Although dependable data are not to hand on the extent of the problem in rural and urban areas, the available information clearly underscores the preponderance of the

problem in the urban areas. Not only is the number of prostitutes in urban areas large but several newer types have also surfaced (free-lancers and call-girls). Furthermore, the flesh trade in the urban areas has become highly organised. Why is it that urban areas are so increasingly afflicted with the problem? Perhaps, urban centres offer the kind of anonymity which cannot be easily found in the villages. Secondly, the relative prosperity in towns and cities has had in this no small hand. Lastly, the process of urbanisation has brought in its wake a weakening of social mores and the means of social control. All these considerations make it imperative that the vice scene in the country has to be closely watched.

Prostitutes and their 'organisations' may play upon such expressions like liberty, justice and freedom of occupation in arguing for their avocation. But a dispassionate analysis, encompassing the problem both in form and spirit, would readily show that barter in sex contravenes all that the concept of human rights stands for. Further, the Declaration of Human Rights urges national governments to protect human dignity and the institution of family. This makes anti-vice strategies more than a formal necessity.

The way in which legal measures have been devised and implemented to abolish the flesh trade leaves much to be desired. The SIT Act does not do gender justice. It regards prostitution a female frailty and comes down heavily on unfortunate women and turns a blind eye towards their patrons. Possibly, it also suffers from a 'class bias'. The law and the enforcement agencies are found to be very active (if only sporadically) in posh hotels and expensive guest-houses. Perhaps, it is time that we reset our legal objectives and redraft the law so as to make it more realistic and effective.

Much significance has been attached, here, to voluntary action in dealing with the sex trade. It may be restated that voluntary action is there not to supplant the legal measures, but to supplement them. Notwithstanding this, its contribution in combating the problem thus far has been somewhat nominal. On the other hand, there are umpteen ways, both short term and long term, in which citizens and voluntary organisations can lend a helping hand in curbing the problem.

In so far as prostitution is a human and social problem, it requires to be neutralised by a combination of legal and social interventive strategies. But intervene we must, to save posterity from a chain of overwhelming personal and social problems.

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