

The Ugly Face of Human Trafficking in the Modern Era of Globalization: Major Issues and Challenges

Abstract

In the present era of globalization the issue of human trafficking has assumed considerable significance. It is a growing transnational organized criminal activity which ranks just after drug peddling and arms trafficking. Human trafficking may be for diverse purposes, but most prominently it is for commercial sexual exploitation and forced labour. Persons are trafficked for sexual exploitation, forced labour, organ removal, slavery, servitude etc. Human trafficking is fostered by social, economic and geographical disparities.

Keywords: Human Trafficking, Geographical disparities, Globalization.

Introduction

Trafficking is defined as a trade in something that should not be traded in for various social, economic or political reasons. Thus, we have terms like drug trafficking, arms trafficking and human trafficking. The concept of human trafficking refers to the criminal practice of exploiting human beings by treating them like commodities for profit. Even after being trafficked, the victims are subjected to long term exploitation¹.

Men, women and children are the victims of trafficking, be it within one country or from one country to another. Thus, in the context of trafficking a country can be either a country of origin or a country of transit and lastly the country of destination. The country of origin signifies a country from which the victim is by deceit or by any other unlawful means taken away, he/she may be transported from the country of transit and finally in the country of destination. But on the contrary in the case of domestic trafficking a victim is taken away, transported and ultimately exploited within the geographical boundaries of his/her own country.

Different national and international reports on trafficking of persons reflect that over the last ten years the profile of the detected victims have changed. Even though most trafficking is of women and children but now men make up a larger share of the total number of victims than they did a decade ago. Further, the share of victims who are trafficked for forced labour has increased. The domestic trafficking has increased significantly. A decade ago, trafficking was thought to mainly involve women trafficked into an affluent country for sexual exploitation.

Human trafficking is grossly violative of human rights and fundamental freedoms. The victims are exploited, humiliated, ravaged at every stage, be it that of procurement, transportation or ultimate sale. Helpless men, women and children are treated as mere commodities and their price depends upon their age, looks, complexion etc. The recent United Nations studies and reports reflect that human trafficking has assumed serious dimensions as the countries showing human trafficking routes are growing with every passing year.

Yet trafficking is nothing new. Trafficking and smuggling has been described as a diverse form of trade that is 'as old as trade itself', even though there is great diversity in what is trafficked, what trade is prohibited, and by whom over time.²

Today human trafficking has become the subject for much empirical research, academic debate and advocacy in diverse disciplines and fields, such as criminology, politics, law, human rights, sociologies of migration, gender and public health. It has been variously understood as the new white slave trade, transnational organised crime, an illegal migration problem, a threat to national sovereignty and security, a labour issue, human rights violation or a combination of the above.³

Sharanjit

Associate Professor of Law
Rajiv Gandhi National University
of Law,
Patiala, India

Trafficking patterns and routes are often highly complex, ranging from trafficking within one country and cross border flows between neighbouring countries to inter-continental and globalized trade. The general understanding is that the movement of trafficked people is from less developed areas to more developed regions. Thus, the flow of trafficked women and children moves from the south to the north, from countries in social, economic and political crisis to more socially and politically stable countries, or from rural to urban areas. People have been trafficked from South-East Asia and South America to the United Kingdom, Italy and the US. They are also trafficked to the Middle-East. Some cases of trafficking from India to South –East Asia have been reported. Delhi and Mumbai are said to be the main transit zones for international movement.⁴

AIM of the Study

Human trafficking is a transnational organized crime with countless number of men, women and children falling prey to it. Human trafficking can be viewed as a large scale exploitation, commercialization and commodification of the trafficked persons. Lack of international cooperation, porous borders, rampant corruption aggravates this problem.

Nature of Human Trafficking

Trafficking is an abuse of power. It is a betrayal of all that is good and decent in human relationships. As Frederick Douglas puts it over 160 years ago, behold a man transformed into a brute. Trafficking strips the victim of his or her humanity. It is an experience that teaches people harsh lessons about the innate cruelty of their fellow human beings.⁵

Trafficking is more of a law and order problem in which the position of a woman is reduced to that of a common marketable commodity which can be bought and sold without her consent in the process, and thereby, leading to the dehumanisation of womanhood, wherein the procurers and others determine the destiny of women. Prevention and control of trafficking would not amount to prevention of flesh trade, but prevention of flesh trade would contribute to the termination of trafficking to a considerable extent.⁶

Human trafficking and slavery, particularly when children are victims not only deny fundamental human rights but also account for an utter failure of our religions, cultures and civilizations, casting a blot on the Constitution and legislation, thereby perpetrating a development disaster. It is a manifestation of the systematic injustice, disparities, discrimination, a proof of corrupt governance and a completely pathetic society. Therefore, this has to be dealt with in the composite context of crime, development, human rights and social evil. No singular approach can eradicate this problem in toto.⁷

Major Issues Involved In Human Trafficking

The major issues relating to trafficking of men, women and children are forced labour, domestic labour, commercial sexual exploitation, domestic sexual abuse, call girl racket, massage/ beauty parlours, paedophilia, child labour, children for begging, organ trade, use of children as camel

jockeys, forced marriages, adoptions, missing persons etc.

Millions of minor girls and boys world-wide are being used in sex industry, pornography and other forms of sexual abuse and exploitation. Every year more than one million girls, in the industrialized and developing countries, are bought into the sex industry.⁸

Children, especially those from poor families, are most vulnerable to trafficking. The National Human Rights Commission (NHRC) Action Research Study found that a majority of trafficking victims belong to socially deprived sections of society including scheduled castes, scheduled tribes, etc. children from drought prone areas and places affected by natural or human made disasters are also more likely to fall prey to trafficking. The NHRC estimates that almost half of the children trafficked within India are between the ages 11 and 14. They are subjected to physical and sexual abuse and kept in conditions similar to slavery and bondage.⁹

Over the last 10 years, the profile of detected trafficking victims has changed. Although most detected victims are still women, children and men now make up larger shares of the total number of victims than they did a decade ago. In 2014, children comprised 28 per cent of detected victims, and men, 21 per cent. About four in 10 victims detected between 2012 and 2014 were trafficked for forced labour, and out of these victims, 63 per cent were men. The share of detected trafficking cases, that are domestic – that is, carried out within a country's borders – has also increased significantly in recent years, and some 42 per cent of detected victims between 2012 and 2014 were trafficked domestically. These shifts indicate that the common understanding of the trafficking crime has evolved. A decade ago, trafficking was thought to mainly involve women trafficked from a far into an affluent country for sexual exploitation.¹⁰

Human trafficking for the purpose of forced labour has to be understood at a wider platform as it may include trafficking for forced labour in industry, seasonal agricultural work, fishing industry, construction and cleaning industry etc.

Conflicts create favourable conditions for trafficking in persons, but not only by generating a mass of vulnerable people escaping violence. Armed groups engage in trafficking in the territories in which they operate, and they have recruited thousands of children for the purpose of using them as combatants in various past and current conflicts. While women and girls tend to be trafficked for marriages and sexual slavery, men and boys are typically exploited in forced labour in the mining sector, as porters, soldiers and slaves.¹¹

Victims of trafficking may be international migrants who, in some cases, may have been smuggled or may also be refugees. Refugees fleeing persecution or other dangers in their country are particularly vulnerable to traffickers. Similarly, migrants and refugees who have been smuggled are particularly vulnerable to being exploited because of

lack opportunity in the destination country and the costs associated with smuggling.¹²

Children of young age are traded from one country to another. Asian women and girls abroad are confined against their will and their passports are confiscated. Forms of international trafficking range from bride syndicates, forced marriages, abuse of entertainment workers, to contract work as domestic helpers, all of such can result in sexual exploitation and yet occur under the legal cover of labour migration.¹³

In China due to the one child policy, and in India (particularly in the states of Punjab and Haryana) the sex ration is adverse to females. This leads to a demand of trafficking of young women in India and China. Foreign girls and women from Burma, North Korea, Russia and Vietnam reportedly are trafficked into China as forced brides, concubines and prostitutes. In India, the trafficking happens within the country as poor girls are trafficked from West Bengal and Assam to Punjab and Haryana to act as forced labour, prostitution and forced marriages.

Sexual slavery and forced marriages were documented by the UN Special Court for Sierra Leone during the civil war there. In this case, different arms group involved in the conflicts systematically abducted women and girls for the purpose of holding them in captivity as sex slaves. Among combatants, the practice of using women as sex slaves was accepted, open and endemic. Some victims were as young as eight.¹⁴

The advancement of medical science has given the civilization boon like organ transplantation. It has also led to a factor contributing to trafficking of humans because transplantation needs human organs and the patients are ready to pay the desired amounts, resulting in demand for such persons. The victims of trafficking for the purpose of organ removal are picked from vulnerable groups. There may be involvement of an organized criminal group to obtain organs by luring people abroad with false promises and convincing them to sell their organs in order to repay their debts. Recipients of the organs must pay a much higher price, part of which benefit brokers, surgeons and hospital directors. There is a relationship between unemployment, lack of education and poverty and vulnerability to such crimes.¹⁵

Impact of Trafficking On the Victims

Human trafficking involves the displacement of the victim from one place to another and at times from one country to another. During this process of displacement the victim is exploited. At a later stage occurs the commercialization and commodification of the trafficked person. Human trafficking is grossly exploitative.

Emotional Turmoil

The victim of human trafficking may feel stigmatized, isolated, psychiatric disorders, depression and helplessness. The victims who are saved from the clutches of traffickers often have a sorry story to tell. They may suffer from low self-esteem and confidence. In *X v. Govt. of NCT of Delhi and another* (2014),¹⁶ a village teenage girl was

trafficked to a city and brought to a brothel and subjected to forcible sex. She contracted HIV/AIDS and was 19 weeks pregnant. The Court granted her the permission for termination of the pregnancy. It was held that to carry a child in her womb, as a result of conception through an act of rape is extremely traumatic, humiliating and devastating. Similar observations were made in the case of *Hallo BI @Halima W/o Aamin v. State of Madhya Pradesh*,¹⁷ where the petitioner was forced into prostitution and she was 12 weeks pregnant. The termination of pregnancy was allowed by the Court and it was held that the anguish caused by a pregnancy caused by an act of rape constitutes a grave injury to the mental health of the pregnant woman and forced prostitution amounts to rape.

Physical Impact

When the trafficking is for the purpose of commercial sexual exploitation the victim is vulnerable to HIV/AIDS, sexually transmitted diseases, high risk abortions, reproductive disorders. The helpless women may have to bear the burden of unwanted pregnancies and motherhood.

Social Consequences

The social consequences of human trafficking for the purpose of commercial sexual exploitation are serious. The victim may have to bear the burden of unwanted pregnancies and motherhood, she is shunned by society, looked down with disgust and hate, then there are problems of children of trafficked women and not to forget there is stigmatisation of the victim and rejection by her family and community. The children of prostitutes are also not accepted by the society. They have to live a life with a bloat of prostitution. This may in turn have a very adverse impact on their emotional and psychological health and growth. In the case of *Gaurav Jain v. Union of India*,¹⁸ the Apex Court had issued several directions for rescue and rehabilitation of child prostitutes and children of fallen women. The Court observed that it is the duty of the State and all voluntary non-governmental organizations and public spirited persons to come out in their aid and to retrieve such women from prostitution and rehabilitate them with a helping hand to live a life of dignity of person, self-employment through provisions of education, financial support etc.

In the case of *Vishal Jeet v. Union of India*,¹⁹ a writ petition was filed in the Apex Court under article 32 of the Constitution of India seeking directions for: (i) Inquiry against police officials under whose jurisdiction the malady of forced prostitution, Devdasi system and Jogin traditions were flourishing, and (ii) rehabilitation of the victims of the malady. The Court held that the malady of prostitution is not only a social but also a socio-economic problem and therefore the measures to be taken in that regard should be more preventive rather than punitive. This cannot be eradicated either by banishing, branding, scourging or inflicting severe punishment on the helpless victim most of whom are unwilling participants, and involuntary victims of compelled circumstances. This devastating malady can be suppressed and eradicated only if the law enforcing authorities in that

regard take very severe and speedy action against all the erring persons such as pimps, brokers and brothel keepers.

Legal Consequences

Unfortunately, the sex workers are not within the ambit of normal labour laws. Few years back, the National Commission for Women had asked for the legalizing of fresh trade in order to prevent human trafficking and exploitation for the purpose of flesh trade. The Supreme Court of India had also suggested that prostitution should be made legal in India. The sex workers are harassed by the police. Due to the lack of legal awareness the prostitutes are helpless souls often at the receiving end. In the case of *Prajwala v. Union of India (2004)*,²⁰ Prajwala an anti-trafficking organization filed a Public Interest Litigation in the Supreme Court petitioning the government to create a 'victim protection protocol' so as to protect the rights of the victims of trafficking with regard to pre-rescue, rescue and post rescue, stages in the rehabilitation of women and children.

Human Trafficking As A Transnational Organized Crime

Trafficking is an organized crime involving several *dramatis per sonae*, who are directly or indirectly linked to its various processes. The crime of trafficking manifests itself through the following: (i) Displacement of the trafficked person from her/his community, at least for a short period, (ii) exploitation that could be physical, sexual, emotional etc., (iii) commodification of the trafficked person who is sold, purchased or bartered like a non-living object, and (iv) the trafficker and other vested interest benefits, usually monetarily, from the exploitation of the trafficked person. The underlying feature of trafficking in women and children is the exploitation of their vulnerable situation.²¹

Trafficking operates internationally within an expanding network of supply-demand and transit of girls for commercial sex. The buying and selling aspect of trafficking as a system of payment for the procurer's work of finding, cajoling, marrying and then transporting the girls. In this way these helpless children become commodities and their price depend upon the age, complexion, looks and physique and where she is sold to.²²

Looking at the global pattern we can see that Europe is the destination for victims from the widest range of origin, while victims from Asia are trafficked to a wide range of destinations. The Americas are prominent both as the origin and the destination of victims of human trade.²³

Looking at South Asia as an origin of cross border trafficking in persons, victims from this region have been detected in many parts of the world. About 30 countries reported detections of South Asian trafficking victims between 2012 and 2014, including 12 countries in Western and Southern Europe (comprising 2 per cent of the victims detected there). Victims from Bangladesh and India were detected in four countries in South America; and the United States of America detected victims from all the South Asian countries considered. In addition, victims from South Asia were detected in or repatriated from East

Asia and the Pacific, where South Asian victims (mainly from Bangladesh, and to a lesser extent from India) accounted for approximately 6 per cent of the victims in 2014 (or most recent).²⁴

According to the United States Government data that disaggregated transnational trafficking in person by age and gender, showed that, of the estimated 600,000 to 800,000 men, women and children trafficked across international borders each year, approximately 80 percent are women and girls and up to 50 percent are minors. This data does not include millions of victims around the world who are trafficked within their own national borders. Human trafficking is modern day slavery. The International Labour Organisation (ILO) the United Nations agency charged with addressing labour standards, employment, and social protection issues, estimate that there are 12.3 million people enslaved in forced labour, bonded labour, forced child labour, sexual servitude and involuntary servitude at any given time. The nationalities of these persons are as diverse as world cultures.²⁵

Trafficking of children for exploitation as combatants in armed conflicts is widely documented in different regions of the world. For instance, in the Central African Republic – a country which has been wracked by civil war over the past four years – boys are domestically trafficked to serve as combatants in the armed forces. In 2014, as many as 6,000 children were estimated to be associated with different armed groups involved in this conflict.²⁶ Similarly, between 2010 and 2013, the United Nations documented 4,194 cases of children forcibly recruited to serve as combatants, escorts, cooks, porters, guards and sex slaves in the Democratic Republic of the Congo by many of the armed groups operating in that country and in neighbouring countries.²⁷ More recently reports have surfaced that children in northern Nigeria are being forced by the terrorist group Boko Haram to carry out suicide attacks.²⁸

Trafficking in persons and enslavement of women and children of the Yazidi Ethno religious group by ISIL in Iraq and the Syrian Arab Republic. The United Nations Assistance Mission for Iraq (UNAMI) and the United Nations Office of the High Commissioner for Human Rights (OHCHR) reported in October 2015 that Islamic State was holding approximately 3,500 civilians, mostly women and children, primarily Yazidi.²⁹

The United Nations Global Report On The Trafficking Of Persons For 2016³⁰

The 2016 report of the United Nations Office on Drugs and Crime has brought forward the following issues concerning human trafficking across the globe-

1. This report covers 136 countries and provides an overview of patterns of flow of trafficking in persons at global, regional and national levels based on 2012-2014.
2. The report highlights that most of the countries have passed legislations that criminalize trafficking in persons as a separate offence. It was 33 countries in 2003 to 158 countries in

2016. This has helped to assist the victims and prosecute the traffickers.
3. Trafficking for various types of marriages is emerging in a more prevalent form. Trafficking for forced labour in fishing industry is also rampant.
 4. This report reflects that the overall criminal justice response to trafficking of persons has not improved significantly.
 5. The report reflects that conflicts can lead to trafficking of persons. Migrants and refugees can also be vulnerable to trafficking. The report highlights the overlapping between the victims of trafficking of persons, refugees and the smuggled migrants.
 6. A total of 63,251 victims were detected in 106 countries and territories between 2012 and 2014. Based on the 17752 victims detected in 85 countries in 2014 for which sex and age were reported, a clear majority were females – adult women and girls – comprising some 70 per cent of the total number of detected victims. Females have made up the majority of detected victims.
 7. Although women still comprise a majority of detected victims, there has been an overall decrease in the share of female victims cover the past decade, from 84 per cent in 2004 to 71 per cent in 2014.
 8. Children remain the second most commonly detected group of victims of trafficking globally after women, ranging from 25 to 30 per cent of the total over the 2012-2014 period. This represents a 5 percentage points decrease from 2011; largely due to reductions in the number of boys detected in 17 reporting countries.

Human Trafficking in the Indian Sub-Continent

The Constitution of India under Article 23 prohibits the traffic in human beings and forced labour. In *People's Union for Democratic Rights v. Union of India*,³¹ the Apex Court considered the scope and ambit of article 23 in detail and said that article 23 strikes at every form of beggar and forced labour. Similarly in *Bandhu Mukti Morcha v. Union of India*,³² the Apex Court held that the government is under a Constitutional obligation to prohibit forced labour.

India enjoys the dubious distinction of being both a country of origin and destination. Most of the girls are trafficked into India from Nepal and Bangladesh for the purposes of commercial sexual exploitation, forced labour and forced marriages.

Significant legislative initiatives have been taken in India to prevent human trafficking. The Suppression of Immoral Traffic Act, was made in 1956, it was amended and renamed in 1986. Recently, the Indian Penal Code, 1860 was amended and trafficking in persons has been included as an offence in this substantive criminal law. Both definition as well as punishment for human trafficking has been incorporated. But unfortunately law alone is insufficient to root out the evil of human trafficking from the society. Due to large scale poverty, illiteracy, ignorance about one's rights, corruption and greed for money, the problem of human trafficking is persistent and it is more acute in the States of West Bengal,

Tamil Nadu, Andhra Pradesh, Karnataka and Maharashtra.

The skewed sex ratio in Haryana, Punjab and Western Uttar Pradesh has led to a flourishing trade in women, who are often bought for as little as rupees five thousand from the poverty ridden villages of Assam, West Bengal, Jharkhand and Orissa. Labeled 'Paro' or 'Molki'(means one who has a price), they are subjected to sexual slavery and bonded labour. In this variant of modern slavery, the women who are usually promised marriage, find themselves in places like Mewat where the go-between sell them-sometimes repeatedly to men who cannot find local women. Cut –off from their native states, they are forced to work as bonded labour or pushed into forced marriage or prostitution.³³

Conclusion and Suggestions

Human trafficking degrades the humanity as a whole but unfortunately it is widespread and growing. It is the largest illicit trade after arms and drug smuggling. As witnessed above human trafficking is a multifaceted phenomenon enmeshed in an intricate web of transnational organized crime, sexual exploitation, migration, labour connections, gross violation of human rights, thus it has to be eradicated by adopting a multi-pronged approach. The following suggestions are made in this regard-

Strong Political Will

As discussed above, human trafficking is not the problem of an isolated nation but the entire world is suffering from it. Thus urgent need of the hour is that every individual nation must show a strong political will to ensure that no act of human trafficking occurs on its soil. Rooting out corruption in law enforcement can go a long way in eradicating and preventing human trafficking.

Legal Awareness

Legal awareness needs to be generated among the people. The victims and the general public needs to be made aware of their constitutional rights and duties.

National Coordination Mechanism

In order to maintain a check on the pimps, brokers and other agents involved in human trafficking a national coordination mechanism needs to be devised and upgraded on regular intervals. This will help different states to collaborate, share vital inputs and information on human traffickers.

Addressing the Concerns Of Missing Persons

In India, according to the National Crimes Record Bureau (NCRB) thousands of people go missing each year. Some of these persons are ultimately trafficked for diverse purposes. Thus by tracking the missing persons diligently, the human trafficking may also be prevented.

Guidelines for the Tourism Industry

In many countries across the world, sex tourism is on the rise. Sex tourists and paedophiles from developed countries often travel to less developed countries for indulging in sexual activities and child pornography. To prevent sex tourism the government must frame appropriate guidelines for the tourism industry. The resorts and hotels in which such unlawful activities are carried on under the garb of

massage parlours of otherwise must face serious consequences. In this way countless number of poor children can be saved from the clutches of paedophiles.

Protection and Rehabilitation of the Victims of Trafficking

Unfortunately, the victims of trafficking are viewed as offenders of law. The women who are trafficked in flesh trade are often harassed by the police. To compound the problem, the society is not willing to lend a supportive hand for their rehabilitation and resettlement in the society. The Government, Non Government Organizations as well as the public spirited individuals must get help in the rehabilitation and reintegration of the victims in the society by appropriate mechanisms. Special job oriented training and education can be imparted to such individuals in order to make them financially independent. Micro credit and other facilities may also be provided for establishing small scale and cottage industries.

Role of the Community

The rehabilitation of the victims of human trafficking particularly for the purpose of commercial sexual exploitation is an uphill task. Unfortunately the society often shows reluctance in accepting the victims of flesh trade, the women who are trafficked for commercial sexual exploitation are more or less considered as offenders of law rather than victims of a social evil. The society, in particularly the Indian society has to change its outlook towards such helpless victims by giving them optimum help and support.

Stringent and deterrent punishment

The people who are involved in human trafficking must suffer stringent and deterrent punishment so that it sends the right signal to other individuals and groups who traffic in men, women and children in order to fulfil their ugly designs.

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