

Socio-Legal Causes of Trafficking In Bangladesh: An Overview

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Abstract

Human Trafficking is cross boundary offence in all over the world. Especially women and children are used to be victim and the key outlay of this severs inhuman and illegal trading of the world. There may be no other situation as worst for trafficked women and children then to face vulnerability and cruelty. This study seeks to unveil the reasons of trafficking which creates very harsh reality for those vulnerable women in Bangladesh. This study would be carried on to identify socio legal cause of trafficking and to identify necessary strategy for effective control of trafficking especially women and children from Bangladesh. In its addition, the study intends to draw out the key barrier which creates challenges to adjudicate trafficking proceeding in Bangladesh.

KEYWORDS: Human Trafficking, Social-Legal Causes, Precautionary Strategy, Vulnerability, Legal Framework and Measures.

1. Introduction:

Human trafficking is a crime against humanity, is the issue which people consider as the gross violation of human rights for the person trafficked. It violates many national and International laws, trafficked women are being raped, tortured, abducted and murdered. Study revealed that every year more than 1.5 million women and children worldwide are being trafficked and served for illegal sexual purposes¹. Over the past few decades a mass extent globalization trends has been started and that's now going on all around the world and in the same track human trafficking has reached epidemic portion proportionately.² Bangladesh is in the worst position in this regard for victimizing women through trafficking. Women and children trafficking is a perennial problem in Bangladesh. Poverty, over-population, gender-based discrimination, lack of consciousness are some of the reasons behind women and children trafficking in Bangladesh. Bangladesh has adopted Anti-trafficking laws but not strong enough to protect women for some loopholes. Thereby a necessity has brought for Bangladesh to have few more precautionary strategies for effective protection of women and children.

1.1. Rationality of the Study:

The rationality of this study implies that trafficked women and children are doubly marginalized fallen in a very hard reality due to their inherent vulnerability. It is a social

¹ Miko, Francis T. "Trafficking in Women and Children: The U.S. and International Response", available at: <http://fpc.state.gov/documents/organization/9107.pdf>

² Haque, Tania. Globalization and Women's Trafficking: An Analysis, Social Science Review,(Dhaka University Studies, Part – D), Vol. 2, No-1,June 2009.

understanding that trafficked women and children are inferiority in status, mostly they are under aged at the time of trafficking (perceived as immature); economic dispossession and dependency on male paternity in order to represent themselves properly. When initiating anti-trafficking programs, it is essential to understand the cultural, religious and societal factors that contribute to this trade. There is a need to review the existing laws on trafficking and justifiability to evaluate all concerned factors for trafficking of women and children.

1.3. Objective of the Study:

The main objective of this study is to analyze the domestic Anti-trafficking strategy in Bangladesh. Additional objectives are-

- To have an idea regarding the root causes for women trafficking in Bangladesh.
- To analyze socio legal causes of trafficking and its linkages between international and domestic crime.
- To finally construct some recommendations for precautionary strategy in controlling women and child trafficking in Bangladesh.

1.4. Methodology:

This is a qualitative study. The general methodological approach of this study is grounded on theoretical approach based on data and information systematically gathered and analyzed. Therefore, this methodology will allow the researchers to generate new theory out of initial data, which may also modify or elaborate the existing theory. Data collected through depth interviews of victimized trafficked women. The second sets of data collected from specific records and official desk reports. Interviewees were questioned about women's background before being recruited or trafficked into the sex industry, the methods used to recruit them, whether and how they were moved around, how they were initiated into the roles and activities they had to carry out, how they were controlled, and how they coped with and resisted the conditions under which they lived. Interviewees were asked about the recruiters, traffickers and pimps and the men who buy women in trafficking.

2. Trafficking:

The Trafficking Protocol defines human trafficking as the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion of abduction of fraud of deception of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation³. Exploitation shall include, in a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or removal of organs. So trafficking, its definition perhaps depends on multivariable and the process of its activity towards jerky from one place to another for unlawful commercial and degrading purposes

Article 3of the Palermo Protocol defines human trafficking as:

“Trafficking in Persons shall mean the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability,

³ Ibid.

or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs.

The 'consent' of the victim of trafficking shall be irrelevant where any of the means set forth above have been used. 'Consent' is irrelevant in case of children even if this does not involve any of the means set forth above."Considering these definitions, the Trafficking in Persons encompasses multiple forms of trafficking⁴:

- Trafficking for sexual exploitation
- Trafficking for labor exploitation
- Trafficking for illicit activities, such as, involvement in pornography, drugs trafficking, forced begging, involuntary servitude or debt bondage or slavery.
- Trafficking for the purpose of organ removal and trafficking in organs, tissues and cells

3. Trafficking in Bangladesh:

Human trafficking is now considered as one of the major concern for Bangladesh. A UNICEF report says that approximately 400 women and children in Bangladesh are victims of trafficking in each month. Another study reports that approximately 300000 Bangladeshi children and women between the ages of 12 and 30 have been trafficked to India alone in the last 10 years. The annual report of an organization based in Pakistan called Lawyers for Human Rights and Legal Aid reveals that nearly 200,000 Bangladeshi girls and women were sold in Pakistan⁵. All these statistics indicate how big the problem of human trafficking is in Bangladesh. Both internal and cross-border trafficking exists in Bangladesh. In the case of internal trafficking, women and children are often taken away from their homes on false promises of a better life with good employment or by using various other criminal acts and by that means the traffickers who sell them to brothels. According to unofficial statistics, during the last ten years, more than two lac women were trafficked to Pakistan and 5 lac were sent to India.⁶ Ninety-percent of women and children were trafficked through Benapole border at Jessore. The other transit points are Sona Masjid at Rajshahi, Meherpur, Hili, Shylet and Brahmanbaria. They are mainly trafficked for sex trade, domestic work, forced labour, camel racing, forced marriage and other forms of exploited labour. 200-400 young women and children are smuggled and trafficked every month from Bangladesh to Pakistan and Arab Gulf countries. An estimated 10,000-15,000 women and children are trafficked from Bangladesh to India annually. An average of at least 70-80 women and children are trafficked daily from

⁴ "Trafficking in Persons Especially on Women and Children", National Human Rights Commission (NHRC) of Nepal. Nepal. available at: [http://www.internaldisplacement.org/8025708F004CE90B/\(httpDocuments\)/B0E3D300AF1EF81DC125798F004DA211](http://www.internaldisplacement.org/8025708F004CE90B/(httpDocuments)/B0E3D300AF1EF81DC125798F004DA211)

⁵ Babur, Zaheer Uddin, Violence against Women in Pakistan: Current realities and strategies for change. available at <http://epu.ac.at/fileadmin/downloads/research/Babur.pdf>

⁶ ibid

Bangladesh to other countries. An estimated 200,000 women have already been trafficked in different countries including girls as young as 9 years old.⁷

4. Reasons for trafficking:

The number of people living outside their countries of origin is over 175 million, more than double the number from 35 years ago.⁸ Vastly differing population growth rates, together with extended life expectancy in most regions, is resulting in significant demographic differences between regions and corresponding variations in labor supply. The reasons for migration can be divided into two main aspects, the so-called "push" and "pull" factors. Push factors are those in their old place which force people to move. Pull factors are factors in the target country which encourage people to move.⁹ The term "trafficking" is used by different actors to describe activities that range from voluntary, facilitated migration, to the exploitation of prostitution, to the movement of persons through the threat or use of force, coercion, violence, etc. for certain exploitative purposes. Women are brought over to Dhaka and forced into antisocial activities. Good-looking women are being trafficked abroad. Although Dhaka is their hub of activity they have networks across the country. In recent times trafficking is increasing in the name of labor migration. The main destinations of the trafficked persons are from India, Pakistan, Middle East, Lebanon, Thailand, and Cambodia. Attitudes towards women in the society should be changed and their contribution should be valued. Most of the trafficking incidents take place through the border areas. The crime of trafficking is mainly committed against persons who are socially and economically vulnerable. For example, there may be civil wars or wars in general in the country, but political or religious oppression, climate changes, lack of jobs or simply poverty are all important push factors. Few more Push Factors are like as poor medical care, not enough jobs, opportunities, and primitive vulnerable conditions, fear of torture and mistreatment, religious discrimination, loss of wealth, natural disasters. On the other hand a chance of a better job, better education, social security, and a better standard of living in general as well as political and religious freedom. Few more pulling factors are as like as chances of getting a job, better living standards, enjoyment facilities, education, better medical care, security, family links, lower crime society. In fine the key factors liable for are poverty, social exclusion, gender-based discrimination, widespread illiteracy, lack of awareness and poor governance are the key factors contributing to trafficking in persons in Bangladesh.

5. How does it take place?

Trafficking conducted in two main ways in which one is trafficking with consent it called voluntary migration with deception and another is coercion Forced, kidnapped, sold, abduction. The main purposes are like: Prostitution, Pornography, Work in sex tourism industry, Cabaret dancers, Barmaids Bride trade, Domestic work, bonded labor, Factory work, Begging, Organ sells. ultimately as their Legal or illegal channel & movement

⁷ ibid

⁸ Supra note

⁹ Imam, Mahmuda. Trafficking in Bangladesh.. Available at :
<http://www.thedailystar.net/newDesign/news-details.php?nid=190528>

outcomes either: Sold, resold, debt bondage, Physical confinement, trapped, unlawful detention, confiscation of legal identity, Dependency, Forced, labor, Violence, Arrest, Health Problems, Suicide or Murder.

6. Existing legal framework to combat trafficking:

Bangladesh has signed and ratified several international human rights instruments, including the Conventions and Protocols related to combating Trafficking in Persons:

- Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, 1949
- Convention on the Elimination of all Forms of Discrimination against Women, 1979
- Convention on the Rights of the Child, 1989
- Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, 2000
- Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, 2000
- SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution 2002
- UN Convention on Transnational Organized Crime 2000

6.1. Bangladesh has yet to ratify:

- UN Convention on Transnational Organized Crime 2000 Protocol to Prevent, Suppress and
- Punish Trafficking in Persons, Especially Women and Children 2000 – Palermo Protocol;
- UN Convention on Migrant Workers and Their Families 1990.

6.2. Existing legal framework to combat Women Trafficking in Bangladesh:

Bangladesh has addressed issues of trafficking in specific terms in its Constitution. There are two main provisions on trafficking dealing with forced labor and the other with prostitution. Article 34(1) Prohibits all forms of forced labor, Article 18(2) Places a duty upon the State to adopt effective measures to prevent prostitution and Article 31 of the Constitution guarantees every citizen the right to enjoy the protection of law wherever they may be. The implication of this provision is that to enjoy the protection of law it is not essential for a citizen to be on the territory of Bangladesh. In other words, the state is obliged to ensure the protection of law internally and extraterritorially. Existing other statutes on women trafficking prevents and controls are like The Human Trafficking Prevention and Control Act 2012, The Suppression of Violence against Women and Children Act, 2000, The Penal Code, 1860, Under section 366 prescribed detail provision of kidnapping or abducting or inducing a woman to compel marriage. In 370 prescribed provisions of buying or disposing of any person as slaves. Selling minor for purposes of prostitution, etc. under section 372 and in 373 dealt with buying minor for purposes of prostitution, etc. 374, Unlawful compulsory labor. The Children Act, 1974, In section 41 prescribed offence of keeping children above four in brothels and in section 35 about using children for begging, The Extradition Act, 1974, In Para 4 of the schedule describes procuring or trafficking in slaves are extraditable offences. Procuring of trafficking in women or young person's is an extraditable offence. The dowry Prohibition Act, 1980, In this act prescribed any act to prohibit the taking or giving of dowry in marriages. Under section 3 Penalty for giving or taking dowry in sec. 4 Penalty for demanding dowry and

in sec. 5 declaring dowry agreement as void. The Suppression of Acid Offence Act-2002, This is a special act enacted to define and prevent offence creating through and an act to suppress acid offences strongly under this act sec. 3 confirmed supremacy of this law on that issue. In section sec. 4 prescribes punishment for causing death by acid in sec. 5 about Punishment for causing hurt by acid, in sec. 6 Punishment for acid throwing or attempt for such acid throwing. In sec. 7 prescribed punishment for abatement in offence. The Bangladesh Labor Act, 2006, the Emigration Ordinance, 1982

7. Drawbacks of Existing Legislations:

The role of victims is restricted to that of informant and witness for the prosecution, even though s/he has suffered physical, emotional, psychological injury as well as financial and property losses. This current legal approach seriously discourages the victims of trafficking to actively participate in the investigation and trial proceedings which ultimately results in very low conviction rate in trafficking cases. On prosecution, there is a large backlog of cases due to procedural delays. Existing penal laws of Bangladesh are predominantly based on the philosophy of crime control method rather than human rights based approach. The concept of restorative justice is fully ignored in the counter trafficking penal legal framework of Bangladesh. Although laws against trafficking exist, their implementation remains weak. Although the new laws have increased penalties their application has certain technical problems which are in the process of being identified. There is scope for misapplication and harassment of innocent persons. The law enforcing authorities and the judiciary need to be better sensitized about the issues involved. There is a need for stronger action against members of law enforcing authorities who are themselves involved in trafficking. Regional cooperation is essential to coordinate legal and administrative measures and procedures. Information needs to be shared and extradition of offenders allowed. Victims are sometimes charged with prostitution or immoral behavior and put in jail. The repatriation of Bangladeshi women trafficked abroad needs to be facilitated.

8. Recommendations:

Trafficking is now considered third largest offence in Bangladesh. Law enforcement experience shows that, there are large enterprises and international networks that create a sophisticated and well-organized industry in the countries of origin, transit and destination.¹⁰ It needs a preventive strategy rather than punitive process. Therefore, the studies recommend the following suggestions.

- There is a need for building up community awareness, and forming watch committees comprising border guards, Union Parishad members and NGO's to contain the menace. The local bodies should become particularly proactive in reaching out to the vulnerable families, mostly the ultra-poor, in finding work or employment for the adult members. A number of NGOs especially CWCS working on trafficking, it can benefit from technical support to develop their capacity to implement and monitor trafficking programs, and improve their networking, coordination and strategic planning.
- Developing and implementing appropriate, targeted anti-trafficking prevention efforts culturally sensitive prevention and awareness-creation efforts are desperately needed

¹⁰ Official Desk Report, The Centre for Women and Children Studies in Bangladesh.

that reach the root level of the community level. The situation analysis described above will be used to identify cost-effective prevention approaches.

- Communication strategies will be developed to identify effective prevention messages for different target groups in Bangladesh, to assist victims of trafficking, protecting them and prosecuting traffickers. CWCS is supporting efforts of the Bangladesh National Women Lawyers Association (BNWLA) to protect, prosecute, repatriate and rehabilitate. U.S. Mission policy articulated and resources being invested to implement that policy, USAID are optimistic that progress will be made in reducing trafficking within and from Bangladesh.
- Responding to the challenges requires far more coordinated and targeted work to be undertaken to control trafficking from Bangladesh. As trafficking is verily concerned with sophisticated matter likewise state minimum
 - Coordination and Cooperation among national and international organizations.
 - Recovery, Rehabilitation and Reintegration of trafficked women.

9. Conclusion:

Trafficking is a 'social evil' that seems to be growing at an alarming rate in all over the world. Bangladesh is a major country of origin and transit for men, women and children subjected to trafficking in persons, especially forced labor and forced prostitution. There is internal trafficking within the country, but a large proportion of trafficking is cross border. Therefore, any effective and sustainable effort to combat human trafficking must be integrated, transnational and collaborative. I sincerely believe that this train-the-trainers effort to combat trafficking is the beginning of a visionary collaboration. Preventive strategy will be more effective to combat women trafficking in Bangladesh.

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