



# RMMRU

## Working Paper Series No. 7

**Human Security Concerns of Trafficked Women  
and Children: Bangladesh, India and Nepal**

**Sumaiya Khair**

The RMMRU Working Paper Series presents papers in a preliminary form. More information on the work and research projects of RMMRU can be found online at [www.rmmru.org](http://www.rmmru.org).

**Acknowledgements**

This paper was produced under RMMRU's project titled: *Population Movements: Non-Traditional Issue in South Asian Security Discourse Project*, supported by the Ford Foundation.

**Terms of Use**

This material may be published in its entirety, or only in part, in newspapers, wire services, internet-based information networks and newsletters, you are also free to use the information in your radio-TV discussions or as a basis for discussion in different contexts, provided that credit is given. If you do choose to publish this material, you must inform us via email at [info@rmmru.org](mailto:info@rmmru.org)

**Recommended Citation**

Khair, Sumaiya, (2006). *Human Security Concerns of Trafficked Women and Children: A Synthesis of Findings from Bangladesh, India, and Nepal* (Working Paper Series no. 7, Dhaka: RMMRU)

## **Human Security Concerns of Trafficked Women and Children A Synthesis of Findings from Bangladesh, India and Nepal**

### **1.1 Introduction**

Security discourses have customarily concentrated on external armed or military threats to a state. Influenced largely by the realist underpinnings of international politics, the traditional school of thought did not differentiate between the security of a state and that of its citizens. Over the years however, this perception has undergone substantial transformation as the issue of human security gained prominence whereby it was considered synonymous to state security. New issues of human insecurity have been identified that include *inter alia* economic security, food security, environmental security, personal security, community security and political security. In common parlance these issues are referred to as non-traditional security, which has a direct bearing on individuals.

Of late, policy makers and analysts have been viewing mass movements of people as a major security challenge. Alluding to it as non traditional security threat, they argue that such movements carry serious implications in terms of financial capacity, political and social stability and the well-being and integrity of the host countries. Illegal immigrants, irregular migrants and trafficked victims fuel resentment amongst the local populace for apparently imposing a strain on jobs, housing, food, education and public utilities. There is also the general perception that immigrants bring an increase in crime, delinquency and social disorder.<sup>1</sup> While human trafficking has long been viewed as a security concern in destination countries, there is a need to traverse beyond existing rhetoric and examine the broader dimensions of trafficking to gain an understanding of the

---

<sup>1</sup> 'Non-Traditional Security Threats: Economics, Crime and Migration' in Croft, Stuart, James, Lucy, Morgan Patrick M., Terriff, Terry (eds.), *Security Studies Today*, Polity Press, Cambridge, 1999, pp.135-168, at p. 157, 161.

human security concerns of women and children who are subjected to cross-border trafficking.

Restrictions on mobility of the people across the region invariably result in underhand movements of human populations. Historically people of this region have always migrated to neighbouring countries for economic reasons. While lack of regularised migration opportunities is manifest in some countries, in others the immigration controls are too rigid. In either situation, people are compelled to rely on unscrupulous groups in order to procure jobs abroad. Undeniably this enhances the profitability of human trafficking and more and more people are unwittingly entrapped in sexual slavery and forced labour, women and children predominating. With many countries restricting immigration, people are increasingly relying on trafficking networks for assistance in crossing borders, thereby placing themselves in potentially dangerous situations. Consequently, trafficking today has reportedly turned into a big business in this region as women and children in large numbers are routinely transferred into the bordering countries and beyond.

Trafficking in women and children features prominently on the global agenda both from human rights perspective as well as broader safe migration viewpoint. The present paper, a synthesis of findings from three country studies conducted in Bangladesh, India and Nepal, examines salient aspects of the phenomenon and highlights human security concerns of trafficked women and children.

## **1.2 Objective of the Study**

This study seeks to examine the specificities of human security concerns of trafficked women and children in the three countries at different stages of the process. It also seeks to address the gaps in regulatory mechanisms that contribute to the continuance of the phenomenon and provide a benchmark for possible redress of the problem.

### 1.3 Research Methodology

The research involved both primary and secondary methods of data collection. Secondary data comprises primarily of existing literature on the subject including unpublished books, monographs and reports of NGOs working in this field. The primary data have been generated from two sources: firstly, in-depth interviews with women and children who had been trafficked and who have now returned or been rescued and secondly, discussions with key NGO personnel working with trafficked victims. The respondents were identified and interviewed with the assistance of the concerned NGOs. The sampling of the respondents was therefore, purposive. The sample comprised a total of 53 women and children of which 26 were from Bangladesh, 13 from India and 14 from Nepal.

## 2. Conceptualising Trafficking

Trafficking in women and children is a complex process that involves a host of factors, actors, phases and experiences. In order to avoid possible overlap and confusion in defining the phenomenon, it is essential to distinguish between trafficking, human smuggling and irregular migration.

According to the *UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, 2000* (a supplement to the UN Convention against Transnational Organized Crime):

“Trafficking in Persons’ shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of threat or use of force or other forms of coercion, of abduction, fraud, deception, of the abuse of power or position of vulnerability, 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 in this context shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs”.

Comprehensive in its approach, the UN Protocol addresses three principal factors, namely, *what acts constitute trafficking* (recruitment, transportation, transfer, harbouring, receipt), *what are the means of trafficking* (threat, use of

force, other forms of coercion, abduction, fraud, deception, abuse of power or position of vulnerability, giving/receiving payments) and *what are the purposes of trafficking* (exploitation of prostitution, other forms of sexual exploitation, forced labour or services, slavery or slavery-like practices, servitude and the removal of organs). It is evident from the definition of trafficking under the Protocol that the people who are being trafficked have become diverse and the means of trafficking have also developed over the time in view of the changing demand in a highly lucrative global market.

An analysis of existing definitions on trafficking indicates that the key element in trafficking is force or other forms of coercion. Although trafficking implies the absence of consent, Article 3 of the *Palermo Protocol on Trafficking* explicitly maintains that such consent is irrelevant in the case of children. In other words, the recruitment, transportation, harbouring or receipt of a child shall constitute “trafficking in persons” whether or not any force, coercion or deception is involved.<sup>2</sup>

In any case, the term “consent” and the assumption that individuals have the ability to choose and take control of their lives must be viewed with care. What may seem like free consent may not be free after all. For example, trafficked persons may choose to remain in exploitative situations, as the available alternatives are worse. In some cases families may have incurred debts while helping the girl to migrate, albeit under false promises. If she returns home before the debt is repaid, the consequences will be far worse, so she chooses to stay back. Again, trafficked persons fear persecution by families and communities on being “spoiled” in the process and consequently, not accepted back in their midst. Moreover, where families stand to gain financially from the process, return of trafficked persons would be far from welcome. In instances of forced or fake marriages, the “wives” have no choice but to submit to the whims

---

<sup>2</sup> ILO Technical Paper on *Forced Labour, Child Labour and human Trafficking in Europe: An ILO Perspective*, presented at the European Conference on Preventing and Combating Trafficking in Human Beings, 18-20 September, 2002, Brussels, Belgium, p. 5.

and control of their “husbands” whereby they are held as virtual prisoners, raped and forced to work as domestic labourers.

It is common for NGOs, media and policymakers to use the terms ‘trafficking’ and ‘human smuggling’ interchangeably. Smuggling is fundamentally distinct from trafficking in the sense that it implies a degree of consent between the individual who is being transported and the transporting agent. Upon arrival at the country of destination, the business relationship terminates and the smuggler and the smuggled part and go their respective ways. In trafficking, the journey culminates in abusive and exploitative engagements and in smuggling, although the smuggled individual may suffer injuries and indignities, the choice is voluntarily made.

Migration and trafficking, though separate, are nevertheless interrelated issues. Migration may be through both regular and irregular channels. If the migration is through irregular ways then although migrants are exposed to serious risks in the course of the journey, they are generally free to do as they choose on arrival at the place of destination. Trafficking, on the other hand, has an altogether different dimension. It involves the movement of people for the sole purpose of exploiting their labour, sexual and otherwise.

However, while distinctions between trafficking, smuggling and irregular migration are important for conceptual clarity, the fact that human smuggling and irregular migration can, and often does, turn into trafficking cannot be ruled out. It is often that, with the exception of those who are sold or abducted, people who are trafficked are basically individuals who decide to migrate or agree to be smuggled in search of a better livelihood; instead, they become hapless victims of exploitation and forced labour in an alien territory.

## **2.1 State of Trafficking in Women and Children: The Country Contexts**

Crossing between Bangladesh and Indian through West Bengal is a routine affair for most people living close to the borders. Similarly, under the 1950 Treaty between India and Nepal citizens of both countries are free to move between the borders without the hassles of immigration controls.

Given that Bangladesh is strategically located and shares common borders with both India and Myanmar that are slackly patrolled greatly facilitates the illegal influx of women and children into these countries. Cox's Bazar in Chittagong is used as a transit point for people from Myanmar. The Benapole border area in Jessore is a popular site for illegal crossing into Calcutta. Other points of crossing into India *inter alia* are Rajshahi, Dianjpur, Naogaon, Nawabganj, Satkhira and Joypurhat.

India is a receiving, transit and sending state. While on the one hand, women and children from Bangladesh and Nepal are transferred to India, on the other, they are sent on to Pakistan and the Middle East via India. The most popular exit points for trafficked victims are Bombay and Kashmir.

There are 26 officially recognised transit points between Nepal and India, most of which these are used by traffickers. Several of these transit points are unguarded. This is a blessing in disguise for criminals, including traffickers, in both the countries. Traffickers change routes frequently to mislead the police or security patrol. The number of districts where the recruitment takes place and used for trafficking has also increased over the years. Although the Ministry of Women, Child and Social Welfare has identified only 26 districts as traffick prone areas, as per media reports the number of traffick-prone districts is no less than 39. The 26 districts are Nuwakot, Dhading, Sindhupalchok, Kailali, Kavre, Makawanpur, Gorkha, Banke, Sindhuli, Udayapur, Rasuwa, Lalitpur, Kaski, Morang, Sunsari, Parsa, Rupandehi, Kathmandu and Dang.<sup>3</sup>

---

<sup>3</sup> Source: MWCSW.



Due to the clandestine nature of the phenomenon and definitional complexities, an accurate calculation of the actual number of women and children trafficked from the respective countries is hard to achieve. The problem is particularly in the case of Nepal as nationals of both Nepal and India are not required to have either passport or other travel documents to cross into either side of the border. To date there has been no comprehensive survey to explore the extent of trafficking in women and children in any of the three countries. Moreover, missing women and children often go unreported or simply concealed to avoid unwanted publicity and stigmatisation. As such, there is no reliable quantitative data on the phenomenon, and whatever little is available is gleaned from reports of the media and local NGOs. Consequently, available statistics are often fragmented and inconsistent.

According to a survey report by South Asian Association for Regional Cooperation (SAARC) at least 12 thousand women and children from Bangladesh are trafficked to India every year.<sup>4</sup> NGOs working in the area quote different figures. For example, a mapping exercise based on 10 years of media coverage from 1990 to 1999 revealed that the trend in children trafficking which increased from 37 in 1990 to 927 in 1997 showed a decline since then. The case was the same in respect of trafficking in women.<sup>5</sup> Another source reported that 4,500 Bangladeshi women and children were trafficked to Pakistan yearly.<sup>6</sup>

The most widely quoted figure on the number of trafficked persons in Nepal is between 5,000 and 7,000 women and girls every year. The latest census undertaken in 2001 reported that the proportion of female population absent from households was 82,712. Of this population, 40.6 percent were absent for

---

<sup>4</sup> Source: *The Daily Bhorer Kagoj*, September 27, 2003.

<sup>5</sup> Shamim, Ishrat, *Trafficking in Women and Children: Situational Analysis*, Keynote Paper, Experience Sharing Meeting and National Workshop to Combat Trafficking in Women and Children, 7-9 January, 2001, Centre for Women and Child Studies (CWCS), Dhaka.

<sup>6</sup> Bangladesh National Women Lawyers Association (BNWLA), *Survey in the Area of Child and Women Trafficking*, 1997.

unknown reasons and 14.4 percent for reasons of marriage. The percentage of women absent for unknown reason is very high compared to 9.2 percent men absent for unknown reason.<sup>7</sup>

There is no official data or information on the number and magnitude of women and children trafficked from India. Indian NGOs consulted during this study claimed that India is only a destination and transit country for trafficking of women and children from Bangladesh and Nepal. While there is interstate trafficking within India, there is no evidence of cross-border trafficking of Indian women and children. This contention is untenable given that the present study did come across trafficked victims during the field investigation. Moreover, it would seem highly improbable that Indian women and children are never trafficked abroad given India's strategic location in this region.

### **3. Legal Frameworks**

#### **3.1 *The National Legal Regimes***

Bangladesh has a host of laws that deals with the issue of women and child trafficking in varying degrees. The *Constitution of Bangladesh 1972*, a vanguard of fundamental rights for citizens, pledges *inter alia* the protection of women and children from exploitation including forced labour and prostitution. Constitutional guarantees in this regard are supplemented by other laws. Amongst these various laws *The Penal Code, 1860, The Suppression of Immoral Traffic Act, 1933, The Children (Pledging of Labour) Act, 1933, The Vagrancy Act, 1972, The Children Act, 1974, The Extradition Act, 1974, The Emigration Ordinance, 1982*, deal *inter alia* with abduction, kidnapping, oppression, prostitution and so on in varying degrees and prescribes penalties that in some cases may extend to death.

---

<sup>7</sup> Institute for Integrated Development Studies and United Nations Development Fund for Women (2004) *Status and Dimensions of Trafficking Within Nepalese Context*, Kathmandu.

India has similar legal provisions. The *Immoral Traffic (Prevention) Act, 1956* covers sexual exploitation of both sexes exploited for commercial purposes and provides *inter-alia*, enhanced penalties for offences involving children and minors. It prohibits prostitution in its commercialised form without rendering prostitution per se an offence. The *Indian Penal Code* also provides stringent measures to deal with wrongful restraint and confinement; kidnapping, abduction, slavery and forced labour and sexual offences, the sale and purchase of minors for purposes of prostitution. The *Juvenile Justice Act, 1986* likewise has elaborate provisions for the care, protection treatment, education, vocational training, development and rehabilitation of children rescued from those procuring, inducing or taking persons for the sake of prostitution and detaining persons in premises where prostitution is carried on.

The *Constitution of Nepal* of 1990 outlaws trafficking in human beings, slavery, serfdom and forced labor by making the offenses punishable. *The Civil Code (Muluki Ain) of 1797* was the first codified law that banned slavery, human trafficking and sale of human beings. *The Civil Code* was amended in 1963 to include a chapter on Trafficking in Human Beings, reinforced by the *Human Trafficking (Control) Act 1986*. Following criticism that the legislation does not adequately address the problems of trafficking, the MWCSW proposed the *Trafficking in Human Beings (Control) Bill* in 2001. This unfortunately remains in limbo as the Parliament stands dissolved since 2002. Other related laws include *The Foreign Employment Act, 1985*, *The Labor Act, 1991* and *The Child Act, 1991*.

### **3.2 Regional Initiatives**

At a regional level, all three countries have endorsed the *SAARC Convention on Combating the Crimes of Trafficking in Women and Children for Prostitution* in 2002. With concerns over trafficking escalating, the Heads of the Governments of SAARC member states met in Male in 1997 and pledged to co-ordinate their efforts and take effective measures to address this problem. The Convention

provides a framework for regional cooperation in curbing human trafficking and other exploitative practices. It requires member states to take necessary measures for ensuring *inter alia* legal and health services for victims of trafficking. It calls on countries to sensitise their Judiciaries and law enforcement agencies on the issue of trafficking and to promote awareness of the phenomenon with particular focus on preventive and development focus.

Doubtless a commendable effort, the SAARC Convention nevertheless, has a serious drawback in that it only applies to women and children in prostitution, exploitation, fraudulent and child marriages without taking into account other aspects of trafficking, e.g., domestic labour, camel jockeys.

South Asian countries, including Bangladesh, also participated in the international symposium that adopted the *Bangkok Declaration on Irregular Migration* in 1999. It acknowledges the various factors that contribute to irregular migration, which often result in smuggling and trafficking in human beings. Accordingly, the Declaration urges countries in the region to enact legislation that would criminalise these practices and cooperate to bring the perpetrators to justice. It also calls for humanitarian treatment of irregular migrants and for designating national focal points for collaboration on issues of migration.

Governments of South Asian countries have endorsed the *South Asian Strategy against Commercial Sexual Exploitation of Children and Child Sexual Abuse* in preparation for the Second World Conference against Commercial Sexual Exploitation of Children in Yokohama in 2001. The strategy stresses on development of national plans of action, the enactment of requisite laws and effective implementation of the same, the establishment of regional and national focal points, consultations with relevant stakeholders, advocacy for law reform, strengthening prosecution mechanisms and sensitising judicial and law enforcing agencies for combating commercial sexual exploitation of children.

Nepal has undertaken initiatives to bring together government officials, civil societies, NGO workers, police officials from Nepal and India to develop mechanisms at the district level to address problems of trafficking through sharing information on the phenomenon. Transit homes have been established at India-Nepal border to intercept women and children with the help of a border surveillance team of girls.

### **3.3 The International Legal Framework**

Bangladesh, India and Nepal are parties/signatories to a number of international legal instruments, adopted under the auspices of the United Nations and the International Labour Organisation that impinge directly on the issue of trafficking in women and children.

Bangladesh and India are parties to the *Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, 1949*. Nepal has not ratified this document. The Convention stipulates that a person who procures, entices or leads away, for purposes of prostitution, another person, even with the consent of that person shall be punishable (Article 1). The Convention encourages States Parties to adopt measures to prevent trafficking through education, health facilities, social and economic activities (Article 16), ensure protection of children while entering/leaving a country (Article 17) and supervise employment agencies (Article 20).

One of the most comprehensive of UN documents the *Convention on the Rights of the Child 1990* is noted for its high number of ratifications. Ratified by Bangladesh and Nepal and acceded to by India, this Convention recognises that children need special care and protection on account of their vulnerability. It provides for the protection of the child from all forms of sexual exploitation and sexual abuse and requires States Parties to take appropriate national, bilateral and multilateral measures to prevent the inducement or coercion of a child to

engage in any unlawful sexual activity, the exploitative use of children in prostitution or other unlawful sexual practices, the exploitative use of children in pornographic performances and material (Article 34). Similar initiatives are recommended to prevent the abduction and sale of and traffic in children for any purposes and in any form (Article 35). States Parties are also required to take appropriate measures to combat the illicit transfer and non-return of children abroad (Article 11).

The *Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, 2002* supplements the provisions of the CRC and effectively ensure the protection of the child from sale, prostitution and pornography. Bangladesh has ratified it while Nepal has signed it. Under the Protocol, States Parties are required to prohibit child sale, prostitution and pornography (Article 1). It provides that State Parties shall make the offer, delivery or acceptance of a child for the purpose of sexual exploitation, transfer of organs for profit, engagement in forced labour and prostitution punishable under the penal laws of the land (Article 3). The Protocol urges States Parties to adopt or strengthen, implement and disseminate laws, administrative measures and social policies and programmes to prevent the abovementioned offences (Article 9).

The Government of India is currently seriously considering ratifying the *Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography*. It has started the process to ratify the ILO Convention (No. 182) on the *Worst Forms of Child Labour* and the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*, supplementing the United Nations *Convention against Transnational Crime*.

The three countries are parties to the *Convention on the Elimination of All Forms of Discrimination against Women, 1979*, which requires States Parties to take all

appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation and prostitution of women (Article 6).

All the three countries have ratified ILO's *Forced Labour Convention, 1930* that seeks to suppress forced labour or compulsory labour in all its forms and makes the illegal exaction of forced or compulsory labour punishable as a penal offence.<sup>8</sup> Bangladesh and India are also parties to ILO *Convention on the Abolition of Forced Labour, 1957 (No.105)* enjoins upon States Parties to take appropriate measures not only to suppress forced labour, but also to secure the immediate and complete abolition of forced or compulsory labour (Articles 1 and 2).

Bangladesh and Nepal are parties to ILO *Convention on the Elimination of the Worst Forms of Child Labour, 1999 (No. 182)* that defines the worst forms of child labour as all forms and practices of slavery such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour including forced or compulsory recruitment of children for use in armed conflict, the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances, the use procuring or offering of a child for illicit activities in particular for the production and trafficking of drugs and the work, which is likely to harm the health safety or morals of children (Article 3).

Bangladesh is a signatory to the *International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families, 1990* that provides protective measures for migrant workers and their families. Accordingly, they are granted the right to life (Article 9) and effective protection by the State against violence, physical injury, threats and intimidation (Article 16). Migrant workers and their families are excluded from torture or to cruel, inhuman or degrading

---

<sup>8</sup>The Convention defines forced labour as the work or service, which is exacted from any person under the threat of any penalty and for which the said person has not offered himself voluntarily (Article 2) and calls for its suppression in the shortest possible time.

treatment or punishment (Article 10). The convention also provides that a migrant worker or a member of his/her family shall not be held either in slavery or servitude or be required to perform forced or compulsory labour (Article 11).

### **3.3.1 Other International Commitments**

Apart from the various human rights treaties and labour conventions Bangladesh, India and Nepal have also participated in a number of international events that culminated in declarations and plans of action relevant to human trafficking. While these declarations lack binding force, they nevertheless demonstrate the willingness and consensus amongst the participating states with regard to taking necessary action to implement the commitments set out in these documents.

The most celebrated of these international commitments is the *Universal Declaration of Human Rights, 1948* that prohibits slavery and the slave trade in all their forms and maintains that none shall be held in slavery or servitude. It provides that none shall be subjected to torture or to cruel, inhuman or degrading treatment. It further lays down that everyone who works has the right to a just and favourable remuneration ensuring an existence worthy of human dignity, supplemented, if necessary, by other means of social protection.

In 1993, the *Vienna Programme of Action* adopted by the World Conference on Human Rights viewed trafficking as one form of gender-based violence. This was followed by the *Cairo Programme of Action* adopted by the International Conference on Population and Development in 1994 called on governments to prevent international trafficking in migrants, particularly for purposes of prostitution. Similarly, the *Copenhagen Declaration on Social Development* adopted at the World Summit for Social Development in 1995 urged countries to take effective measures for protecting the rights of migrants and their families and to prevent trafficking in undocumented migrants.



*The Beijing Declaration and Platform of Action* adopted in 1995 at the Fourth World Conference on Women called on governments to address the root causes of trafficking in women and children. It urged countries to strengthen existing laws to better protect women from violence, take special measures to assist migrant women in both countries of origin and destination, ensure punishment of traffickers, allocate resources to heal and rehabilitate victims of trafficking.

### **3.4 Factors Impeding Implementation of Laws**

Like many other countries, policies and practices in Bangladesh, India and Nepal focus on the illegal aspect of migration, ignoring the involvement of organised criminal networks in the trafficking of women and children. Consequently, control mechanisms are primarily aimed at irregular migrants rather than perpetrators involved in the exploitation of women and children. National laws and policies prove inadequate in dismantling the organised criminal networks and the linkages with local partners. This is largely due to the weakness in law enforcement, collusion of law enforcement officials with recruiters and traffickers, inadequate cooperation between law enforcement agencies and the criminal justice system and other relevant institutions such as border control and immigration. Very few people have trust in the police force on account of their blatant corruption. Moreover, the policemen are devoid of adequate training to handle cases of trafficking.

Victims of trafficking, therefore, shy away from the formal justice system for a number of reasons. Apart from the fact that they are persecuted for violating the immigration laws, they become labeled as perpetrators of illegal acts, mostly on account of the kind of jobs they are forced to engage in on arrival in the destination countries, e.g., prostitution and criminal offences. The general public in the destination countries likewise, tend to regard them as perpetrators of crimes rather than victims of exploitation. Accordingly, attempts to flee from abusive conditions often result in arbitrary detention and inhuman treatment by the authorities.

The surreptitious nature of the movement of trafficked individuals discourages individuals from actually reporting to authorities, particularly where immigration officials and law enforcement agencies are involved in the process. Consequently, the number of prosecutions is low compared to the estimated magnitude of the practice. Where victims are emotionally attached to recruiters, typically a husband or a boyfriend, or a relative, classically an elder cousin, uncle, brother-in-law, they do not immediately recognise the risks attached. When they do realise their predicament, it is too late to take any practical action.

Lack of proper evidence incriminating traffickers is yet another reason why they are not prosecuted. Victims are generally reluctant to divulge the identities of the perpetrators for fear of backlash. Equally, victims of trafficking are restricted from lodging any formal complaints on account of their own illegal status. Moreover, devoid of money, shelter, family and friends, trafficked individuals, on arrival at the destination countries, are severely curtailed in their choices. Another fundamental factor that compels trafficked people to acquiesce to such exploitation and refrain from lodging formal complaints is the memory of the conditions that compelled them to leave home in the first place. Where families are in debt, victims feel that they have no alternative but to succumb to present conditions or return home empty handed. These deficiencies essentially block the way the way for effective investigation, prosecution and adjudication of cases involving trafficking in women and children.

Regional initiatives too, fall short of expectations for a number of reasons. There is an absence of concrete arrangements between neighbouring countries for sharing information on trafficked individuals or arranging for their rehabilitation and/or repatriation. Consequently, it often takes years to arrange a safe return of a trafficked victim despite being traced by NGOs or families. The situation is no different for individuals who are willing and eager to return.

A fundamental problem that commonly hinders implementation of regional arrangements is the absence of birth registration of victims of trafficking. In Bangladesh, for example, notwithstanding existing legislation that requires compulsory birth registration, the practice is virtually non-existent. Birth registration is crucial for ensuring a person's right to a name and nationality. Birth registration is also essential for an accurate knowledge and verification of a person's age, which is often required to determine the status of the person concerned vis-à-vis relevant laws and regulations. It is difficult to trace and bring back women and children who have been trafficked to foreign states as, in the absence of birth registration, they are devoid of official documentation defining their nationality.

As for international commitments, implementation is seriously hampered on account of the non-binding nature of the initiatives. There is very little evidence of Courts actually making use of international human rights law to interpret and apply national laws in a way that would advance justice for trafficked victims. This is largely due to ignorance of the concerned judges of the scope and content of international instruments and the manner in which they may be applied in domestic jurisdictions. Where, however, Judges are knowledgeable on the subject, they are nonetheless content to settle matters on the basis of national laws alone without resorting to international human rights law. Despite this uninspiring scenario, there is growing evidence of judicial activism whereby Judges are increasingly referring to international human rights instruments in interpreting and applying domestic laws. Consequently, precedents are being set with emphasis on the relevance of international human rights law.

#### **4. Socio-Economic Profile of Trafficked Women and Children**

This section examines the demographic characteristics and socio-economic background of the respondents in an attempt to acquire a clear understanding of their conditions prior to and after the trafficking experience.

#### **4.1 Age and Gender**

The practice of trafficking in all the three countries has a definite gender and age bias. Victims of trafficking are by and large women and children. This propensity stems from prevalent socio-cultural prejudices that relegate women and children to a subordinate position in the social hierarchy. Consequently, women and children seldom have control over their own lives but are compelled to adhere to stereotypical behaviour. This reinforces their helplessness and increases the likelihood of their exploitation by unscrupulous individuals.

Of the 26 Bangladeshi respondents, 14 were female and 16 male. Amongst the Indians, 8 were female and 5 were male.

Amongst the Bangladeshi respondents, 46 percent were currently between 10-15 years of age, 31 percent were between 16-20 years and 15 percent were between the ages of 21-25 years. Of the 13 respondents from India, 15.38 percent were currently from 0-14 years of age, 23.07 percent were from 15-18 years age group, 46.15 percent were from 19-25 years age group, and only 15.40 percent were above 25 years of age.

42 percent of the Bangladeshi respondents were between 6-10 years of age at the time when they were trafficked while 38 percent said that they were between 11-15 years of age. These figures are followed by 12 percent who stated that they were between 1-5 years of age at the time. In case of India, of the 13 respondents, 69.23 percent were within the 0-14 years age limit, 23.07 were in the 15-18 years age limit and only 7.70 percent were above 25 years of age when they were trafficked. Of the 14 Nepalese respondents, 21.42 percent were between the ages of 10-14 years, 35.72 percent were between the ages of 15-18 years and 28.57 percent were between the ages of 19-25 years at the time when they were trafficked. It is evident from these findings that in the majority of cases,

trafficked persons were relatively young which indicates a general preference for youthful people.

#### **4.2 Marital and educational status**

76 percent of the total respondents from Bangladesh stated that they were currently unmarried. This is followed by 12 percent who are married presently. When asked about their marital status at the time of trafficking, an overwhelming majority, i.e., 81 percent stated that they were unmarried at the time, while only 19 percent were reportedly married. These statistics again confirm that young and unattached individuals generally constitute the target group for human trafficking.

In the Indian context too, the majority of the interviewees were unmarried at the time when they were trafficked. The Indian data demonstrates that 84.60 percent of the respondents were unmarried at the time when they were trafficked, whereas only 15.40 percent were married at the time. Current marital status of the respondents remains the same.

All the Nepalese respondents were unmarried at the time they were trafficked. Their marital status remains unchanged following trafficking. They are all residing at rehabilitation centers in Kathmandu since their return.

As for the educational status, it is found that 36 percent of the respondents from Bangladesh read up to the primary level, while 20 percent reached up to the secondary level of education. Another 20 percent stated that they had non-formal education. 27 percent of the total respondents were at the primary level of education at the time when they were trafficked, while 57 percent had no education at all. A small proportion, i.e., 8 percent was at the secondary level of education when they were trafficked.

In the Indian context, 38.46 percent of the victims had no education whatsoever, while 61.54 percent read up to the primary level of education at the time when they were trafficked. Only a handful continued their study in the post-trafficking period. 30.77 percent of them are still devoid of any education whereas 38.46 percent has had primary education and 30.77 percent managed to reach the secondary level of general education.

The Nepalese scenario is quite dismal. The respondents were predominantly illiterate who never completed their school. The Nepalese data reveal that 42.88 percent were illiterate, 21.42 read up to primary level and 14.28 reached the secondary level. Only 21.42 percent were found to be literate.

The above findings reveal that a great majority of the respondents lacked education at the time when they were trafficked. This merely confirms that traffickers target uneducated individuals or individuals with nominal education as it is easier to manipulate and convince them of the need to move. Moreover, given the age at which most of the respondents were trafficked and their socio-economic background, the lack in scope for higher education is understandable.

#### **4.3 Family composition**

The respondents from Bangladesh came from relatively large families. 34 percent of them belonged to families comprising 5-6 members, while 31 percent stated they came from families that had 7-8 members. Only 12 percent stated their families were relatively small, consisting of 1-2 members only while another 8 percent reportedly had families hosting 9-10 members.

The Nepalese context reveals that 92.85 percent were Hindus while 7.15 percent were Buddhists.

## **5. Experiences of Trafficking**

An attempt is made here to explore the circumstances that instigate trafficking in women and children in this region. The three countries share commonalities in respect of the “pull” and the “push” factors that dominate the trafficking scenario in this region.

### **5.1 Factors Contributing to Trafficking**

Trafficking in women and children is not simply an isolated practice, which preys on a few socially vulnerable individuals. It must be understood in the context of markets that promote an oppressive use of women and children, of cultures that sustain gender injustice and inequity and of family compliance with blatant violation of human rights.

#### **5.1.1 Supply Side**

There are certain factors that operate at the personal/societal/community and global level which essentially instigate movements by women and children. These factors are compounded by structural dynamics in ways that increase the vulnerabilities of women and children and expose them to the risks of trafficking

#### ***Poverty and unemployment***

Poverty is as much a product as a cause of trafficking in women and children. The ideal site for recruitment for trafficking is usually an impoverished area that is characterised by livelihood loss and food insecurity. Those living in poverty have limited access to resources, which reinforces their vulnerability to trafficking. Women and children tend to suffer more on account of their positions in the social hierarchy. They have fewer employment opportunities, unequal access to land and other assets and lack education and skills necessary for competing in the formal labour market. Consequently, they are confined to subsistence activities for very little pay. These conditions compel increasing numbers of women and children to seek alternative livelihood options, thereby enhancing their vulnerabilities to trafficking.

Amongst the Bangladeshis who moved voluntarily, 41 percent were instigated by family poverty, 41 percent was motivated by the urge to seek economic independence, 7percent was inspired to seek material comfort and 7 percent moved following marriage.

Amongst the Nepalese respondents, 42.85 percent alleged that their move was primarily instigated by economic considerations. 21.42 percent stated that they moved to seek employment, 14.28 percent wanted to tour the cities, while another 14.28 percent were fraudulently lured away. Only 7.14 percent claimed that they moved due to other social reasons.

### ***Discriminatory socio-cultural practices***

Socio-cultural norms and ideologies often work to the detriment of women and children. Social exclusion of persons on the basis of sex, caste and ethnicity are amongst the major factors contributing to the trafficking of women and children in this region. Socio-cultural stereotyping reinforces women's subordinate positions and engenders in them a sense of powerlessness without male protection. In case of children, they are mostly at risk when they are illegitimate or orphaned or separated from their families or are subjected to abuse or are economically and socially deprived. Child labourers in the informal sector and street children are particularly vulnerable to trafficking in the absence of concrete safety nets.

Women and girls face marginalisation in a number of ways. Situated at the lowest rung in the social hierarchy women and girl children are discriminated against in terms of *inter alia* food and resource allocation, educational opportunities, health care, property rights and employment. Maternal mortality rates are high amongst women of the region, often a consequence of early marriage. School drop-out rates amongst girls after the primary level shows an upward high and where poor families at all invest in education, it is invariably in favour of boy children. Inheritance laws tend to discriminate against women who lack any real control over land or assets.



Although women and girls in rural households help grow, process, store and cook food; collect water, fodder and fuelwood; and attend to other domestic chores, their work is grossly underrated and frequently goes unacknowledged.

Disintegration of families through death of parents, incest and sexual abuse, domestic violence, marital discord, desertion, divorce displacement as a result of natural disasters like landslides or floods, migration, armed conflict, and child marriage and polygamy compel women and children to seek out ways to flee such oppressive situations.

Socio-cultural practices based on ethnicity and caste also play a significant role in devaluing women and children in certain societies. In India for example, parents of certain scheduled castes marry off their daughters to deities or temples. Traditionally, known as the Devadasi system, this practice requires the girl to provide sexual services to upper-caste community members from the temples. They can never enter into formal marriages. This practice has been declared illegal in India since 1988. Similar practices are carried out in western Nepal where trafficking of girls into sexual slavery has been an age-old tradition.<sup>9</sup> accordingly, traffickers recruit these girls for trafficking. Customs like *Deuki*, *Badi*, *Jari* and *Jhuma* are all synonymous with prostitution; consequently, where these practices are carried out, girls are routinely sold to traffickers without any consideration of the resultant harm that may be caused to them.<sup>9</sup>

### ***Breakdown in Relationships***

Strained relations with family members and members of the community often operate as a strong incentive for women and children to wish to move. Amongst the Indian respondents for example, 46.14 percent were reportedly not on good terms with their families prior to being trafficked whereas, 7.70 percent claimed that their relationship with their families was simply intolerable prior to their move.

---

<sup>9</sup> ADB, *Combating Trafficking of Women and Children in South Asia. Regional Synthesis Paper for Bangladesh, India and Nepal*, 2003, p. 57.

Another 7.70 percent admitted to having a tolerable relationship with their families and 38.46 percent stated that they shared a good relationship with their families.

The scenario was different amongst the Bangladeshi respondents of whom a great majority, i.e., 77 percent enjoyed a good relationship with their family members at home. This was followed by 23 percent who alleged that their relationship with their family members was, in fact, bad.

When asked about the cause of bad relationship with family members, an overwhelming majority, i.e. 96 percent cited poverty as a major cause for disharmony with family members. Only 1 respondent i.e., 4 percent complained of mistreatment as the chief motivating factor behind the move.

As for relationship with the neighbours, the scenario also demonstrated a positive trend amongst the Bangladeshis. 61 percent of the respondents stated that they shared a good relationship with their neighbours, whereas 19 percent thought that their relationship with the neighbours was so-so. Only 8 percent admitted that their relationship with neighbours was not good, while another 12 percent were unable to answer. There were circumstances where neighbours maintained a distance from respondents due to the difference in economic and social status, whereas in others, they co-existed relatively peacefully, despite the occasional disagreement over the use of land, water and other utilities.

### ***Institutional weaknesses***

Institutional governance or rather the lack of it similarly contributes to the continuation of the practice. Absence of good governance breeds corruption amongst various state actors who often collude with recruiters and traffickers instead of prosecuting and punishing them. Despite domestic legislation and international and regional obligations to curb the practice, countries in this region have been unable to restrict trafficking in women and children for exploitation. Very

little has been done to actually ensure the rights of women and children and to secure their protection against oppression. In fact, state mechanisms are often found to operate against women and children to the extent where gender violence even receives institutional acceptance. There exists a plethora of laws but very little awareness, much less implementation. In order that laws can best protect the rights of the people in a transitional society, laws have to be placed in context for effective enforcement.

External migration policies also create opportunities for traffickers and human smugglers to engage in illegal transportation of women and girls with promises of jobs abroad. Where legal migration is rigid, vulnerable groups choose to migrate in illegal ways and become unwitting victims of exploitation in the process. Moreover, those working in illegal situations are more likely to be susceptible to traffickers and recruiters. It is therefore, recognised that interventions should primarily focus on addressing human rights abuse occurring during migration or at the place of destination rather than hindering migration per se.<sup>10</sup> In other words, care should be taken to secure the rights of the person who chooses to migrate and not restrict the choice itself.

Political problems also contribute to the phenomenon. For example, armed conflict in Nepal and the diktat by armed insurgents to contribute one member from each family to join the 'people's army' have precipitated the growing displacement of women and children. This situation is likely to enhance the prospects of trafficking as police are unable to penetrate into areas that are under the control of the armed insurgents in order to apprehend traffickers and pimps.

---

<sup>10</sup> Asian Development Bank, *Combating Trafficking of Women and Children in South Asia*, Regional Synthesis Paper for Bangladesh, India and Nepal, April 2003, p.65.

### ***Ignorance of the phenomenon***

In many instances trafficked victims had no knowledge about trafficking and its associated risks. Ignorance of risks factors considerably increases the vulnerability of individuals to trafficking. Ignorance of the phenomenon stems to a large extent from confusions about the dynamics of the move. In many cases individuals actually think they are migrating when they are actually being trafficked. In other contexts, while they may indeed start their journey as irregular migrants, they may well fall into a trafficking nexus at a later stage. In such circumstances, it is difficult for individuals to differentiate between migration and trafficking at the time of departure from home, as it is only after arrival at the place of destination or when they are halfway into their journey do they realise that they have been trafficked.

### ***5.1.2 Demand Side***

Although discussions on trafficking are essentially premised on supply factors derived from conditions of poverty and unemployment, the practice does not exist in a vacuum. The demand for trafficked persons arises from a number of factors.

### ***Global market forces***

Human trafficking is the result of multi-dimensional factors that range from the expansion of global market forces and growing materialism to rapid social transformation accompanied by, an overall erosion of values. Prosperity and commercialisation in industrialised countries and in societies in transition have triggered off a demand for new commodities, namely humans. This demand is met by a regular supply of vulnerable women and children, preferably from other states, so that the victims, having little access to resources and development opportunities and even less recourse to legal protection, are unable to assert minimum claims. Thus, while the term 'slavery' includes diverse forms of exploitation of human rights including slave trade, sale, prostitution, pornography, debt bondage, traffic in persons and so forth, new forms, methods and trends in enslavement practices have emerged in the contemporary world.

Evidently, the demand factors are essentially driven by the motivation of specific groups of people who stand to gain the most from the practice. These include recruiters/traffickers, employers and consumers who benefit from trafficked labour. The principal factor that motivates these various categories of individuals is the tangible financial gain that accrues from the trade of individuals and exploitation of their labour. The fact that in the majority of cases trafficked individuals largely comprise of people who are socially and economically marginalised in the countries of origin enables beneficiaries of trafficking to manipulate and exploit their labour and make a quick and hefty profit in the process.

There is a great demand for trafficked women and children from the commercial sex industries in both countries of origin as well as transit and destination countries. Paedophilic activities have triggered off a demand for children in the sex industries. Apart from brothels and bars, trafficked persons are also engaged in forced labour and slavery-like situations. Domestic labour is yet another occupation, which absorbs a considerable proportion of trafficked populations.

Women and children are also preferred in small scale industries match factories, fireworks, *bidi* making, carpet weaving, gem polishing on account of their apparent dexterity at work. There is also a predominance of children who are engaged in camel racing and begging in the destination countries. For example of the 26 Bangladeshi respondents, 13 percent found themselves in prostitution, 23 percent were engaged in domestic service, 9 percent worked as cattle herds, 23 percent became camel jockeys and 32 percent were engaged in home-based *bidi* making. Of the 13 Indian respondents 69.23 percent were engaged in begging after they were trafficked, while 30.77 percent were in prostitution.

## 5.2 Modus operandi of trafficking

Traffickers usually deploy a wide range of methods to procure and transfer their victims. While word-of-mouth and personal contacts are amongst the most common means of drawing people who want to migrate abroad for employment, recruitment techniques tend to vary in terms of age and sex. For instance, children are usually lured away and abducted or taken from the parents on the pretext of finding them a job as domestic workers. In extreme cases of impoverishment, parents would willingly give up their child for a price. In the case of women, apart from abduction and job offers as domestic maids, the mechanism may also include promises of employment abroad and marriage. Thus the primary means of trafficking include *inter alia* promises of well-paid jobs in the Middle Eastern countries, fake marriages, kidnapping and abduction.

Women and children are often deceived about the destination country and the nature of the job. Sometimes they are forced to engage in prostitution and criminal activities upon arrival in the destination country in their bid to repay the debt or costs incurred during travel from the country of origin. Women and children are by and large lured away by people who they are acquainted with. In certain cases they are kidnapped or sold directly for payment/recruited under the garb of legitimate employment with the promise to send huge money on a monthly basis.

Victims were transferred via both land and air. In the majority of instances public carriers were utilised to transport the women and children. Evidently, the use of public transports belied any suspicion of irregular activities, which in ordinary circumstances, are expected to be carried out surreptitiously.

There is no statistical data available on who are the traffickers or the parties to the process. This study finds that actors who are involved in the process include state and non-state actors. Non-state actors are pimps and procurers, relatives, friends and lovers, someone who promises marriage or actually marries

to later sell, local woman recruiters, criminal syndicates, school teachers, village headman, trafficking gangs, brothel owners, pedophiles, customers and sex clients, labour contractors and in some cases parents. State actors include corrupt local government officials, police officials, border policemen, customs officials some of whom are also customers and sex clients.

The Nepalese respondents were sold into India primarily by people who were related to them or were known to them personally. An overwhelming majority, i.e., 28.57 percent were sold off by friends, 14.28 percent were sold by fellow villagers. Other actors included an aunt, a sister, a second husband and even a journalist. 14.28 percent admitted that they did not know the people personally whereas another 14.28 percent chose not to respond. The principal reasons for trusting them was the fact that they knew them personally or were totally convinced of the good life that was portrayed to them.

Ironically, the respondents in the study had to pay almost nothing for their passage which is contrary to ordinary migration processes. Whatever little was spent was incidental. There were instances where respondents took a small amount of money for their personal use and to deal with contingencies.

### **5.3 Decision-making**

Efforts were made to discover whether the respondents' move was voluntary or whether there was any element of force involved. A great majority, i.e., 69 percent of the Bangladeshi respondents stated that their move was entirely voluntary as opposed to 31 percent who stated that their move was not voluntary. Although the move was reportedly voluntary in the majority of cases, it is important to note that the respondents were convinced of the resultant benefits by family members before they decided to move. When asked as who made the actual decision for them to move, 62 percent of the respondents admitted that it was their parents who actually decided that they should move. 18 percent claimed that the decision to move was taken by themselves, while, 15 percent

moved at the wish of their husbands. Relatives and siblings played a negligible role in decision-making.

Thus, the decision to move is often the result of a collective effort at the family level and the movement itself is frequently voluntary in nature. The fact that the respondents moved in groups primarily consisting of community members or people they knew personally, presents them with practical difficulties in differentiating between elements of “altruism” and “harm”. Consequently, in many instances what seemingly starts out as internal migration for employment may end up in cross border trafficking for commercial sex work or domestic servitude.

Where the move was not voluntary, 38 percent of the Bangladeshi respondents were abducted or kidnapped, closely followed by 37 percent who cited other causes of involuntary movement. Of the 13 Indian respondents 69.23 percent moved voluntarily whereas for 30.77 of them the move was not voluntary.

## **6. Security Concerns of Trafficked Women and Children**

Trafficked individuals are faced with security concerns at different levels. In the destination country they are exposed to various insecurities both at their place of residence and at work. On the other hand, they are deemed to pose security threats to the country of destination by virtue of their irregular status. Again, despite the somewhat cheerless portrayal of these insecurities, there are instances where the victims are found to have attained a degree of economic and social security, at least in comparison to their pre-traffick stage. This section examines the sources of these various in/securities experienced by trafficked women and children.

### **6.1 Threats to human security in transit**

Trafficked people reportedly suffer a multitude of problems during transportation and on arrival in the destination country. The present study reveals a somewhat



mixed picture of what transpires during travel to the place of destination, i.e., when victims are in transit.

#### **6.1.1 Treatment in transit**

Application of force in covert and overt ways is a common means of ensuring compliance of individuals on the move. The mobility of trafficked women and children is circumscribed by the fact that the recruiters keep a constant vigil over all their activities. They experience various discomforts during their journey from home. Since the move is made through illegal channels, victims are subjected to the rigours of travel without food, rest and medical aid, often for long periods of time.

However, 85 percent of the Bangladeshi respondents claimed that they were treated well during the journey. 15 percent of them (4 respondents) responded that they were treated badly during the travel. Of the 4 respondents who admitted that they were treated badly during travel stated that they were physically beaten.

For some respondents the entire journey was like a dream. They could not remember very clearly what transpired at the time or how they were treated. Many of them were doped and were therefore not able to recall anything with clarity. By the time they revived, it was too late and there was nothing they could do to change the situation.

Where respondents had misgivings about leaving home, economic imperatives compelled them to submit to the process. For example, there was one respondent who was clearly reluctant to leave home to work abroad instead of attending school. However, he realised that given the state of impoverishment, his parents had no alternative but to send him to India.

A great majority, i.e., 73 percent admitted that they were scared. Amongst the others, only 4 percent realised that they were actually trapped, 4 percent were

miserable on account of their predicament and another 4 percent were reportedly tearful. However, they did not seek help from anyone. 39 percent stated that since their families were eager for them to leave in search of a livelihood, they saw no justification in seeking help to return home, while 23 percent admitted that they did not realise the gravity of the situation until too late.

The Nepalese scenario demonstrates that the victims of trafficking suffer social, psychological, physical problems. Their basic human rights are grossly violated as they are subjected to torture, humiliation and violence. The women and young girls face sexual and verbal abuses, forced to work against will, forced to perform sexual acts, forced to drink alcohol or drugs, undergo abortion against their will and so on. The humiliation and torture has caused these victims to suffer from acute depression, shock, anger and fear.

The physical impact of trafficking is enormous. Analysis of the case studies of trafficked persons indicates a variety of physical torture that victims had to undergo. These include rape from the beginning of the recruitment to the final destination, the burning of private parts with cigarette butts, beating and gang rape, and wage exploitation. Many of them suffer from sexually transmitted diseases, including HIV-positive and AIDS.

#### **6.1.2 Role of border and law enforcement agencies**

It is widely reported that a grave source of vulnerability is the complicity of government agencies and crime networks in trafficking in persons. It is recognised that corrupt officials collaborate with criminal syndicates in furtherance of a common design for personal gain. Slack enforcement mechanisms enable recruiters and traffickers to engage in the practice with impunity. Consequently, the sending and destination countries provide victims with very little protection. Rather, they consider victims of trafficking as criminals and illegal aliens, an attitude that effectively discourages trafficked persons from

seeking help from local government authorities of the destination countries or representatives of their own countries for fear of arrest and incarceration. This, in essence, enables perpetrators to go scot-free and continue business as usual.

Attempts were made in the present context to uncover the extent of complicity of border security and other government functionaries in trafficking in women and children. A vast majority of the respondents from Bangladesh stated that they were not stopped by the border security or the law enforcement agencies during their move to the place of destination. While 92 percent denied any intervention by border or law enforcing agencies, only 8 percent of the respondents admitted that they were stopped on their way out of the country.

In case of the respondents who were stopped by the border security/police, 1 was temporarily detained, questioned and released without any further trouble. As for the other 2, they were arrested and sent to jail. The respondent who had been detained stated that she was not been treated badly while in detention. As for the respondents who were arrested, they were far too young at the time of arrest and could not recollect their experiences.

As for active involvement of state functionaries in trafficking in women and children, curiously, only two respondents from Bangladesh were allegedly assisted by the Police and BDR respectively in crossing the border. The majority of the respondents reportedly moved in the company of people who seemed to know the routes that would get them across fairly easily without being detected or apprehended by relevant state authorities. In the event of their capture, the perceived notion is that the trafficking network can ensure their release in exchange for a price.

The Nepalese respondents were equally divided in terms of trusting border security force. 42.85 percent claimed that they trusted the border police whereas another 42.85 percent answered in the negative. 14.30 percent were not able to

make a judgment. Apart from a common mistrust of the border security which was perceived amongst 42.85 percent of the respondents, 21.42 percent stated that the principal reason for not trusting them was corruption. Another 21.42 percent alleged that border officials were not serious about their duties. An overwhelming majority, 57.14 percent stated that border checking was far from effective and believed that trafficking would automatically be controlled if border checks were strictly enforced.

## **7. Threats to Human Security at Place of Destination**

Experiences from different countries reveal that like other irregular migrants, victims of trafficking are subjected to exploitation by recruiters and employers alike. While recruiting agents maintain control over them confiscating travel documents and other relevant papers, employers subject them to illegal confinement, cruel, inhuman and degrading treatment, sexual exploitation, torture and physical abuse, violent punishments and unregulated work without wages. While individuals may face similar situations in their home countries, the susceptibility of migrant workers to human rights violations is higher due to lack of legal status, both in terms of immigration and employment.<sup>11</sup> Consequently, the issue of trafficking in persons is of particular significance within the overall human security discourse.

### **7.1 Problems at place of destination**

The respondents were asked about problems they faced at the place of destination. Most respondents cited more than one problem from the given options. 32 percent of the Bangladeshi respondents said that they felt uncomfortable with the unfamiliar environment, 28 percent claimed that they were virtually imprisoned, 19 percent complained of physical insecurity. 9 percent of the respondents felt the pangs of separation from family and friends, while 7 percent experienced wage insecurity. Only 5 percent alleged that they suffered from all the above-mentioned elements. Moreover, 38 percent of them stated that

---

<sup>11</sup> *Ibid.*, pp.8.

they suffered from insecurity at the workplace, 16 percent affirmed that they felt insecure at home and another 38 percent alleged that they experienced insecurity at both home and the workplace.

Of the 13 respondents from India, 23.07 percent also complained of virtual imprisonment whereas 15.40 percent confessed that their biggest concern was alienation from their families. 7.70 percent admitted to physical insecurity, 7.70 percent stated that they suffered from wage insecurity and another 7.70 percent were troubled by the unfamiliar environment. All respondents, a 100 percent, claimed that they felt greatly insecure at both home and at work.

### **7.1.2 Insecurities at place of residence**

With regard to insecurities at places of residence, 42 percent of the respondents from Bangladesh confirmed that they were subjected to violence by employers or customers as the case may be. 12 percent complained of intimidation while 38 percent spoke of harassment. Only 1 respondent claimed that she was sexually abused and another 1 implied that she had to pay a fine for every little mistake she committed.

As for the Indians, 69.23 percent of the interviewees said that violence, intimidation and harassment were the principal sources of insecurity at home. On the other hand, 30.77 percent of them noted that sexual abuse was the main source of insecurity at home. It appears that sexual abuse was commonly experienced by women and children who were in prostitution, whereas other forms of violence, harassment and intimidation featured prominently amongst victims who were engaged in other occupations.

Other sources of insecurity included poor nutrition, unhygienic living conditions, wage deprivation, alien culture and language, constant threat of physical violence, drug abuse and a degeneration of their health, education and other basic rights.

### **7.1.3 Insecurities at workplace**

The kind of insecurity faced at the workplace varied a great deal. While responses overlapped at times, 26 percent of the Bangladeshi respondents complained of mental torture, while 37 percent mentioned about violence by employers/customers depending on the nature of the job. 29 percent replied that the principal source of their insecurity stemmed from the non-payment of wages, while 4 percent alleged sexual abuse/exploitation.

There were diverse stories of workplace insecurities. One of them said that they never had a proper workplace as they were engaged as camel jockeys. They were given inadequate food to keep their weight down so that they could be used as jockeys for a long period. Consequently, they suffered from perpetual undernourishment.

The respondents from Bangladesh stated they there was hardly any scope of experiencing insecurities on the streets as they never had the opportunity of venturing out on the streets. Virtually confined to their workplaces, the respondents were not free to move about at will. 81 percent of the respondents stated they had virtually no freedom of movement in the place of destination. Only 19 percent were reportedly free to move as they pleased during the time they were abroad. Very often the doors and windows of the workplaces were kept locked to ensure that they did not wander off.

Amongst the Indian respondents, 69.23 percent of the respondents stated that insecurities at workplace included violence by employers, violence by customers, sexual abuse, non-payment of wages and mental torture. 30.77 percent of the interviewees said that the principal insecurity at the workplace was sexual abuse.

Of the Nepalese respondents, 71.43 percent admitted that they were sold into Indian brothels after arrival in the place of destination. While 21.43 percent did not answer, 7.14percent said that they were apprehended as they were being

sold. They were physically and mentally tormented to accept the new way life. Most of them were held in bondage in brothels where they were mentally and physically tormented to accept their new way of life. They were beaten and gang-raped if they resisted from doing what they are forced to do or perform. The main threat came from the *gharwalis* (brothel-keepers), their agents, employers, unscrupulous police officials and pimps.

The earnings of the trafficked persons are often withheld by either traffickers or employers. The women and girls are kept in complete isolation and are denied freedom of movement. They are not allowed to develop close or confidential relationship with anyone lest they escape with their assistance. 100 percent of the Nepalese respondents reported that they were never paid on time during post trafficked period. 100 percent also reported that the salary they received was far below than what they had expected. 100 percent of the respondents said they were never paid for working overtime nor were they awarded any bonus during festivals.

None of them were allowed any holidays, weekly or otherwise. 42.85 percent of the respondents admitted that they received medical facilities while 50 percent answered in the negative. 42.85 percent stated the medical facilities they received were in terms of treatment by medical doctors, 21.41percent spoke of getting medicine for treating their illnesses. An overwhelming majority, i.e., 57.14 percent stated they sought help from friends where medical facilities were not available.

78.57percent stated that they did not receive any compensation for physical injuries sustained at work. 85.71 percent admitted that they were punished for their mistakes. 78.57 percent of them stated that they were subjected to physical punishment while 28.57 percent confessed to being abused verbally.

Despite realising their situation, the Nepalese victims were reluctant to report to the local police at the place of destination. The reasons for this reluctance were

varied. 14.28 percent felt that complaints would be ineffectual as the police were by and large corrupt, 14.28 never got the opportunity to lodge complaints, 21.42 percent alleged that they were threatened of dire consequences if they reported to the police and 21.42 percent had no idea of the procedure. Only 14.28 percent of the respondents stated that they informed the police.

It is evident from the above responses that maltreatment in the place of destination can have varied dimensions. While the respondents on the whole may not have been subjected to physical brutality to an extent that is commonly highlighted in trafficking literature, the fact that their mobility was severely curtailed amply demonstrates another side to human security threats. An individual may have all the comforts in life and still be handicapped if s/he is deprived of the freedom of movement or to make rational choices.

In the majority of cases, women and children did not find themselves in occupations that were promised to them or what they had expected. Formal contracts were non-existent, which essentially increases the vulnerabilities of trafficked victims to the whims of their employers, who are at liberty to hire and fire at will. Working hours were long with no scope for rest of holidays. Workplace injuries were adequately attended to, let alone compensated. Payment of wages was irregular and paltry, that is, if paid at all. There were instances where there was no cash involvement as employers simply fed and clothed the respondents in return for their services.

### **7.3 Impact of trafficking on women and children**

Trafficking reduces women and children to bare commodities that can be bought, sold, transported according to market demands. The resultant trauma, both physical and psychological, for victims and their families makes it one of the most degrading forms of human exploitation. Trafficked victims are subjected to harsh working conditions including violence, physical and sexual abuse in the countries of destination. The victims of trafficking suffer social, psychological, physical



problems. They are forced to work for relentless hours, tortured, made to perform distasteful sexual acts, forced to drink alcohol or drugs, undergo abortion against their will and so on. According to the Nepalese respondents, women and girls forced into prostitution have to sleep with as many as 20 clients in one night. Many of them suffer from sexually transmitted diseases, including HIV-positive and AIDS. Two Indian respondents were infected with HIV which according to them was transmitted to them by their customers. As for others, they suffered ill health periodically but received no medical treatment. Case studies of trafficked persons indicate that they are subjected to physical and sexual abuse including rape from the beginning of the recruitment until the end of their journey.

Alienated from their own communities they are unable to go to local authorities for help; where they do have the option they are reluctant to utilise it lest they are jailed and prosecuted as illegal migrants. Thus, charges are rarely pressed; apart from the complexities involved in judicial proceedings, fear of reprisal by the accused generally discourages victims from bringing formal charges against the offenders. Evidently, the absence of adequate legislation and in some instances, slack implementation of existing legislation on trafficking, permits organised syndicates, recruiters and middlemen to engage in this criminal activity with impunity.

The whole situation is augmented by the high profit involved in the business that benefits a wide range of actors spread across international borders, including recruiters, traffickers, pimps and brothel owners, border officials, police and government functionaries at various tiers and in some instances, families and communities to which trafficked individuals belonged.

Clearly, the market forces operate to the detriment of the persons who are trafficked. Forced to work in unregulated conditions, their vulnerability to exploitation increases manifold. On one hand, the laws of the destination country do not protect them and on the other, where laws are enforced in destination

countries, they are more likely to be enforced against the victims instead of the perpetrators. For example, in a typical police raid of brothels, it is the women who are questioned, detained and deported while the associates of the organised syndicate and pimps go scot-free. Consequently, criminal prosecutions of traffickers are virtually non-existent.

While the significance of trafficking as a market for sexual exploitation of women and children can in no way be undermined, there are other aspects to the problem, for example, exploitation of women and children in domestic work, sweatshops and other forms of forced labour. Although domestic work *per se* is not necessarily forced labour, it can be reduced to the latter when it involves debt bondage, trafficking, and physical restraint. There is a general demand for migrant domestic workers in countries where there is no reserve labour to satisfy the needs for domestic service. The demand of domestic workers is found in countries, which have a sizeable urban middle class including significant numbers of female professionals and where industrialisation has created a proletariat out of the rural and urban poor.<sup>12</sup>

The bulk of domestic workers are women and young girls, as domestic service is perceived primarily as woman's work. Women and girls leave their homes for the economically richer urban cities either in their own countries or across the borders. Where domestic workers migrate abroad their vulnerabilities are compounded by social alienation, adjustment problems and above all, immigration and labour restrictions in host countries. Apart from the practical difficulties in the destination countries, they are also restricted by the seemingly protective emigratory regimes in the countries of origin that essentially seek to deter trafficking by preventing women from migrating.<sup>13</sup>

---

<sup>12</sup> Chew, Lin, Discussion paper on the *Protection of Domestic Workers against the Threat of Forced Labour and Trafficking*, Anti-Slavery International in cooperation with ILO's Special Programme to Combat Forced Labour, 2003, p. 6.

<sup>13</sup> *Ibid.*, p.7.

## **8. Security Concerns of Destination Countries**

Current security discourses are increasingly viewing non-military challenges like transnational criminal syndicates and mass population movements as security threats. Although the influx of people into foreign lands is by no means a new phenomenon, receiving countries are progressively demonstrating anxiety about long-term implications for the socio-political and economic stability of their own territories. The actual dimensions of the risks posed by irregular population movements are still ambiguous. Nonetheless, it has been argued that large scale influx of migrants imposes considerable strain on local resources. It is also common for natives to complain that their jobs are being taken away by foreigners. Irregular migrants and trafficked individuals attract greater hostility on account of their “illegal” status. Resentment centers on speculations that these people bring an increase in crimes and other social ills. People from specific geographical locations are often labeled as beggars and thieves irrespective of their profession. There are others who, on account of their occupations, alien habits, cultural practices and way of life are deemed as triggering social degeneration. They are also held responsible for spreading sexually transmitted diseases including HIV/AIDS. On the whole, the attitude of receiving states towards migrant populations and in certain instances, retaliatory measures adopted by the latter may contribute to growing social disorder and political tension in both the sending and the receiving states.

## **9. Sources of Security**

Attempts were made to uncover whether trafficked individuals, despite the negative implications of their move, secured any tangible benefit from their stay abroad.

### **9.1 Occupation: Pre and post-trafficking stage**

Efforts were made to assess the difference between occupations of respondents prior to and after their trafficking experience. In response to questions regarding their occupation, both pre-and post trafficking, 46 percent of the Bangladeshi

respondents stated they were currently studying, while 38 percent said that they had been studying when they were trafficked. Another 38 percent are presently engaged in different occupations like security guard, tailor, employee in NGO, trainer in NGO, garments factory worker, earth digging and cattle hand whereas 17 percent were similarly occupied in different undertakings when they were trafficked.

The data reveals that 11 percent of the respondents from Bangladesh were totally unoccupied at the time they were trafficked whereas this trend is noticeably absent in their current status. For 22 percent of the respondents the option was not applicable as they were very young when they were trafficked and hence was not occupied in any way.

Amongst the Indians, 61.54 percent were students prior to their trafficking experience, 23 percent were engaged in petty business and 15.40 percent worked as housemaids. Their post trafficking status reveals that 69.23 percent were students, 7.70 percent engaged in petty business while 23.07 percent worked at other occupations. Their current occupational status demonstrates a slight improvement compared to their pre-trafficking stage.

Of the 14 Nepalese respondents, 78.57 percent were engaged in farming while 14.28 percent were students before being trafficked. There was no response from one. At the post trafficking stage 14.28 percent were reportedly students, 71.42 percent were employed and 14.28 percent were engaged some kind of business. None went back to farming after their return.

### **9.1.2 Income: Pre and post-trafficking stage**

When asked about their current income, 42 percent of the Bangladeshi respondents said that they earned between Taka 100-1000 per month, while 8 percent stated their earnings varied between Taka 1100-2000 each month.

Another 42 percent of the interviewees alleged that they currently had no income whatsoever.

With regard to monthly income at the time when they were trafficked, an overwhelming majority, i.e., 80 percent of the Bangladeshis reported that they had no income at the time of the occurrence. Thus, the majority of the respondents virtually earned nothing at the time when they were trafficked. The post trafficking income status reveals that there has been some improvement in their income status following trafficking, for instance whereas 80 percent of the respondents had no income prior to trafficking, the percentage has come down to 42 percent after trafficking.

The monthly income of the Indian respondents and their families prior to trafficking was the same given that the majority of the respondents was disabled and did not contribute to the family income in significant ways. Accordingly, their income, individually and collectively, before they were trafficked reveals that 69.23 percent had no income, 23.07 percent earned Rs. 0-200, 7.70 percent had an income of Rs. 300-500 per month.

Amongst the Indian respondents, their income at the place of destination varied according to the occupations they were engaged in. 61.54 percent earned about Rs. 15,000-20,000 by begging in countries in the Middle East, 23.07 percent earned about Rs. 40,000-50,000 by engaging in prostitution in the Middle East and another 15.39 percent earned Rs. 10,000-15,000 through prostitution in India per month. However, although the respondents earned a good income, they were not in total control of their earnings as their employers impounded a sizeable portion of the money earned.

The income of the India respondents has drastically dropped after their return home. 15.38 percent of the respondents have no income, 23.07 percent earn Rs.

400-500, 46.15 percent earn Rs. 600-800 and only 15.40 percent have an income of Rs. 1500-2000 per month.

Amongst the Nepalese, only 2 respondents stated that their earning was higher than Rs. 14,000 per annum before they were trafficked. 12 respondents admitted that they had no earning. In the post-trafficking period, 57.14 percent said that their annual income level went up to Rs. 28,855 (on an average they said they made between Rs. 2,500 and Rs. 7,500 per month). Two of the respondents said they had no earning while the remaining four did not respond.

### **9.1.3 Family Income: Pre and post movement**

57 percent of the respondents from Bangladesh were unable to state their family income prior to the incident, while 35 percent responded that their family had an income of Taka 1100-1500 prior to their being trafficked. Only 8 percent had families who had an earning of Taka 500-1000 prior to the incident.

46 percent stated that their family income following trafficking was between Taka 1100-1500, while 31 percent responded that their family had an income of Taka 1600-2000. 15 percent answered that their family had an earning of Taka 2100-plus following their being trafficked. For 8 percent of the respondents the family income after the incident took place varied between Taka 500-1000 each month. It would seem from the above data that the family income of the Bangladeshi respondents has improved following their being trafficked. This indicates that, despite the risks attached, the potential for earning a livelihood abroad, however small, cannot by any means be undermined.

Amongst the Indian respondents, the scenario is different. The family income of the respondents in current times does not indicate any discernible improvement. 15.38 percent had a family income of Rs. 1200-1500, 23.07 percent had a family income of Rs.1800-2000, 46.15 percent had families that earned between Rs.

2500-3000 while 15.40 percent of the respondents had families that earned Rs. 3500-4000 per month. Lack of improvement in family income may well be attributed to the fact that none of the respondents were able to send money home.

#### **9.1.4 Impact of trafficking on family conditions**

Attempts were made to identify the impacts, in terms of food, housing and personal security, on family conditions following trafficking. 50 percent of the respondents from Bangladesh stated that the quality and intake of food of their families were unchanged, whereas 27 percent claimed that the situation was worse than before. Only 23 percent of the respondents alleged that their food quality and intake have improved following their being trafficked. With regard impact on housing, 57 percent stated that housing conditions were the same as before, while 35 percent said that housing conditions changed for the better after the incident. Only 8 percent of the respondents alleged that housing conditions deteriorated after they were trafficked. As for the impact on personal security, a good majority, i.e., 64 percent replied that they enjoyed greater personal security, while 28 percent stated that the security situation remained unaltered. Only 8 percent alleged that their personal security suffered a setback following the incident.

Evidently, there have not been conspicuous improvements in family conditions, despite increase in family income after trafficking of respondents. However, it is noteworthy that the situation appears slightly better after the trafficking experience. Even more interesting is the impact on personal security that shows a positive trend following the trafficking of the respondents. This, in some ways, indicates the bargaining power acquired by respondents by virtue of their exposure and experience as survivors of the trafficking experience.

Attempts were made to discover whether the respondents enjoyed greater economic security after their return home. 76.93 percent of the Indian

respondents denied any improvement in terms of financial security after their stay abroad, while only 23.07 percent answered in the affirmative. This indicates that the respondents continue to be economically vulnerable.

69.23 percent of the Indian respondents also stated that their social status did not enhance in any way since their return home, whereas only 30.77 percent claimed to have achieved a degree of social security after their return. Amongst the principal reasons for enhancement of social security, acquisition of financial independence was cited by 15.37 of the respondents, increased self confidence was cited by 7.70 percent while another 7.70 pointed to improvement in social status. For example, one respondent was trafficked to Mecca when he was a child where he was engaged in begging. His village, however, referred to him as *Hajji* as they believed that he had performed *Hajj*, the Islamic holy pilgrimage, while he was there. Since *Hajjis* are generally held in high esteem, his social status enhanced considerably.

As for the Nepalese 7 of the respondents claimed that their economic status in terms of income had improved in the post trafficking period compared to pre trafficking period. The remaining half said the condition was the same for them in both pre and post trafficking situations. Amongst the chief reasons cited for apparent improvement in family conditions, were assistance by the family, business and better standard of living.

#### **10. Security Concerns: Post-return Stage**

Vulnerabilities of trafficked victims continue even after their rescue and return to their respective places of origin. In some instances, they are found to be more insecure in comparison to their situations in the place of destination. Security threats at the place of origin are rooted in their own communities and their families. Discussions with respondents in the three countries unfolded various aspects of their concerns on the home front.



### **10.1 Mental condition upon return**

When asked about their emotional and mental condition upon returning home, 58 percent of the Bangladeshi respondents replied that they were indeed happy to be back, 38 percent stated they were relieved, and 12 percent admitted to suffering from a sense of shame. As for their feelings at present, 23 percent felt insecure, 12 percent felt uncomfortable and 1 respondent felt contented while another 1 felt disillusioned. 15 percent of the respondents were discontented with their lives.

There were mixed feelings amongst respondents with regard to their current feelings. Some of them were relieved that they are no longer in dubious professions, at the same time they feel ashamed when people look at them differently. When they were abroad they dreamt of escaping oppressive situations and returning to the safety of their homes. However, the reactions they on their arrival home were not as they had anticipated.

### **9.2 Reaction at home**

Respondents were asked about the reaction of the community when they returned. 88 percent of the respondents from Bangladesh reported that the community accepted them gladly whereas a small proportion of 12 percent admitted that they were received back with reservation.

For the Indians too, the experience was similar. Clearly, trafficked individuals suffer stigmatisation in a number of ways. The kind of work they engage in destination countries has a labeling effect on them, which intensifies on their return home. They are marginalised to an extent where even their families are unwilling to receive them back. Considered spoilt in the process, trafficked individuals suffer social exclusion, indifference and intolerance at different levels, which make their reintegration a difficult task.

### **10.3 Role of the State**

With regard to whether they received any support from the State upon their return, an overwhelming majority, i.e., 96 percent of the Bangladeshi respondents answered in the negative. Only 1 respondent stated that she received medical treatment from the Government when she returned back home. The study finds that attitudes of states at both the sending and receiving ends leave much to be desired. In some instances attitude of state actors at the place of origin is more offensive than that of the state actors at the place of destination. Discussions with NGOs revealed that while trafficked victims received virtually no support from the State upon return, they were subjected to harassment and hostility by the police and other agencies of the State.

### **10.4 Tangible gain from stay abroad**

Respondents were asked whether they made any tangible financial gains as a result of their exposure abroad. 45 percent of the Bangladeshi respondents replied in the negative and 35 percent answered in the affirmative. 8 percent of the respondents said that their economic status was so-so, while 12 percent claimed that their financial position remained unchanged.

Of those whose financial status was reportedly better off after the trafficking experience, 67 percent claimed of enjoying a better life than before whereas 33 percent felt that they now had greater independence. In their understanding these were the most tangible benefits that they reaped in the process. When asked whether the move had enhanced their social status, 58 percent disagreed while 38 percent stated that their social status remained the same. Only 1 respondent claimed that her social position has enhanced since the move and cited increased self-confidence as an important indicator of her enhanced status. Of those whose status in the society did not improve, 47 percent of them stated that social rejection impeded their social status, 40 percent spoke of insecurity as hindering their social status whereas 13 percent indicated other reasons.

64.24 percent of the Nepalese respondents claimed that their social status has actually increased following their experience while 28.57 percent responded in the negative. Among those who said trafficking had increased their social status, 57.14 percent said that the process has instilled a great deal of self confidence while 21.42 percent alluded to economic independence as the source for their enhanced social status. Of those who said trafficking has not increased their social status, 14.28 said it had only brought shame upon the family while 1 respondent admitted that the experience had isolated her socially. The remaining 11 respondents did not respond.

## **11. National Action in Combating Trafficking**

The present section attempts to highlight some of the major initiatives taken by the Governments of the respective countries in their effort to combat trafficking in women and children.

### **11.1 *The National Policy Regimes***

The seriousness with which the respective Governments view the issue of trafficking in women and children is manifest in policy initiatives taken by them at various junctures.

In Bangladesh, the *Interim Poverty Reduction Strategy Paper* adopted by the Government in 2003, underscores the need to reduce poverty and at the same time eliminate social violence against the poor and the disadvantaged, especially violence against women and children. Social violence clearly escalates vulnerabilities of women and children to trafficking and insecurity. The strong endorsement by the IPRSP to reduce social violence indeed strengthens and supplements existing policies that seek to combat trafficking in women and children.

To date, the significant policy documents that address the issue of trafficking in women and children in Bangladesh include the *National Plan of Action for Women and Platform of Action 1998*, the *National Plan of Action for Children 1997-2002*<sup>14</sup> and the *National Plan of Action against Sexual Abuse and Exploitation of Children including Trafficking*, 2002. These policies contain explicit programmes to combat trafficking in women and children. The role of different agencies of the Government in implementing anti-trafficking laws and policies is also explicitly outlined in these documents.

Current initiatives of the Government focus on prevention, interception, rescue, recovery and reintegration of trafficked women and children. The key Government stakeholder is the Ministry of Women and Children Affairs (MWCA) which is implementing a NORAD supported pilot project on *Child Development: Coordinated Programme to Combat Child Trafficking (CPCCT)*. The primary thrust of this project is to undertake motivational activities and to support organisations working in the area and other relevant stakeholders through trainings, workshops, information dissemination and community empowerment. Law enforcement officials including police, BDR, CID and Ansar-VDP constitute one of the major stakeholders who are trained on salient issues pertaining to trafficking. MWCA is also implementing another Project with UNICEF on *Empowerment and Protection of Children and Women* which essentially addresses sexual exploitation and abuse of women and children, the promotion of gender equality and empowerment of adolescent girls. Other programmes include capacity building of law enforcement agencies with support from IOM and vocational training, non-formal education and health services for improving street children's environment and addressing the problem of HIV/AIDs and mobility in the development context with assistance from the UNDP and ILO-IPEC Programme to combat trafficking in children for exploitative employment.

---

<sup>14</sup> The National Plan of Action for Children 2003-2007 has been drafted and is awaiting approval by the Government.

The Ministries of Home, Social Welfare, Expatriate Welfare and Overseas Employment, Information and Foreign Affairs frequently collaborate with MWCA in implementing and monitoring various anti-trafficking initiatives. Besides, the Government works in partnership with local NGOs and INGOs, e.g., Action Aid-Bangladesh, Care-Bangladesh, Asian Development Bank, USAID, Save the Children Alliance, UNAIDS and UNIFEM in its attempts to prevent the phenomenon and provide assistance to the victims.

The Government of India has drawn up a National Plan of Action (in 1998) and constituted a National Advisory Committee to combat trafficking, rehabilitate victims of trafficking and commercial sexual exploitation and improve legal and law enforcement systems to strengthen the fight. It has set up State Advisory Committees on Trafficking for the same purpose, devolving authority and seeking to mobilise greater State resources for fighting the problem.

It has undertaken regional efforts, in alliance with NGOs, to create greater awareness of the dimensions of trafficking and increase sensitivity to victims among government departments, the police and judiciary, as well as within civil society at large in order to combat trafficking in source areas.

In addition, the National Human Rights Commission (NHRC) of India, in association with UNIFEM, has initiated a survey of trafficking, across national boundaries and within the country. The study intends to investigate the causal and behavioural aspects of all agents in trafficking. The NHRC, together with the National Law School, is also engaged in preparing manuals for judicial officials, focusing particularly on the judges at the district and *taluka* (lower administrative block) levels. However, the most significant for those at the ground level, the government has begun the process of creating a network of special police officers to monitor trafficking.

Certain landmark Court cases have influenced the government decisions and plans of action. Amongst these the 1990 case of *Vishal Jeet vs. Union of India*, in

which the Supreme Court directed the government to undertake steps in keeping with the Coomaraswamy recommendations for combating trafficking. This case led to the constitution of the Central Advisory Committee on Child Prostitution in 1994 and subsequently, the formation of the Committee on Prostitution, Child Prostitution and Children of Prostitutes in 1997 which formulated the National Plan of Action.

In Nepal, His Majesty's Government emphasises on the welfare of women and children in its policies and programs. The *Tenth Plan (2002-07)* outlines policies aimed at promoting gender equality by (a) proposing to amend relevant laws to outlaw the traditional violence against women, including the system of witch, jhuma, deuki and badi; (b) raising awareness about women's rights; and (c) providing for a package program including compensation, consultancy, health care, legal support, and community-based rehabilitation and reintegration of women affected by violence, including trafficking. The *Ninth Plan (1997-2002)*, on the other hand, recognises trafficking as a growing problem but outlined no specific anti-trafficking plans and programs. However, it did mention the need for drafting and implementing legislation aimed at sexual exploitation and sale and theft of children.

The Nepalese Government approved the *National Plan of Action Against Trafficking in Women and Children for Commercial Sexual Exploitation* in July 1999. It has eight areas of intervention: (a) policy, research and institutional development, (b) legislation and enforcement; (c) awareness, advocacy, networking and social mobilisation; (d) health and education; (e) income and employment generation; (f) rescue and reintegration; (g) trans-border, regional and international issues; and (h) monitoring and evaluation.

In all the three countries Government responses to the problem of trafficking, taken in cooperation from a number of NGOs and donor partners, primarily aim at supply reduction through awareness among vulnerable groups, advocacy and

awareness-raising amongst relevant stakeholders, skill development for alternative employment and income opportunities for women and girls, rescue and reintegration of the victims, capacity building of various stakeholders, networking of government agencies and NGOs, and prosecution of traffickers. Both Governments and NGOs are also paying increasing attention to the linkages between poverty and trafficking for purposes other than sexual exploitation.

### **11.2 Problems in Implementation**

At the policy level, in spite of the their increased commitment to address trafficking in women and children, the three countries have failed to curb the practice, on account of existing complexities at various stages. Government plans of action often lack clarity on structural measures for engaging different agencies of the Government and fostering collaboration amongst them in addressing the issue. Budgetary allocations are nearly always inadequate and not all elements of Government policy have been included in plans of action, for example, the significance of promoting safe migration. Consequently, the extent to which these plans and programmes contribute to the more coordinated approach to dealing with the issue of trafficking in women and children remain, for the most part, unclear.<sup>15</sup>

Despite great strides made by NGOs in the area, there is very little coordination amongst NGOs involved in anti-trafficking activities. Even bilateral and multilateral donors program their funding on the basis of personal contacts rather than as part of the national strategy for donor-level coordination. Since most NGOs focus on all aspects of trafficking, there is no specialisation that allows the NGOs to concentrate on one particular area. Most interventions are event based. Unfortunately most of these programmes are being undertaken without a

---

<sup>15</sup> *The Counter Trafficking Framework Report: Bangladesh Perspective*, GoB, February 2004, p.30.

baseline study of the area. Even NGOs engaged exclusively in anti-trafficking activities have neither developed working definitions nor collected baseline data. Moreover, many of the agencies work without the necessary technical inputs and skills. Information on resources being spent on anti-trafficking activities is largely absent.

## **12. Conclusion and Policy Recommendations**

Despite growing awareness of the issue of human trafficking amongst relevant actors, there still exist ambiguities in the context of understanding labour market dimensions. Authors have time and again emphasised the need to examine labour market dimensions in order to effectively address the issue of trafficking. With globalisation has come increased mobility of people across national and international borders for various purposes, earning a livelihood predominating. Rapid economic growth in the newly industrialised countries, the graduation of the earlier unskilled labour pool and declining fertility rates, have produced labour deficit economies. This has led to the growing demand for labour from abroad, particularly, for unskilled jobs into which irregular migrants are drawn.<sup>16</sup>

It is said that trafficking can be construed as a market in which women and children are treated as commodities. The fact, that women and children have limited access to formal and regulated labour markets and experience greater restriction in their mobility, effectively circumscribes their opportunities for legal migration. This situation is compounded by rigid immigration policies of both the countries of origin and destination. Consequently, they opt for irregular migration, a process that ultimately lands them into low-paid, unskilled and exploitative work that is characterised by inadequate labour standards and poor conditions of work. Moreover, the emergence and expansion of certain gender specific economic sectors that are typified by gendered perceptions of skills, value, body

---

<sup>16</sup> Marshall, Phil, *Globalisation, Migration and Trafficking: Some Thoughts from the South-East Asian Region*, paper presented at the Globalisation Workshop, Kuala Lumpur, 8-10 May, 2001, UN Inter-Agency Project on Trafficking in Women and Children in the Mekong Sub-region, Special Action Programme to Combat Forced Labour (SAP-FL) and International Programme on the Elimination of Child Labour (IPEC), p. 2.



and sexuality, contribute significantly to the demand of trafficked women and children.

The exercise is carried out by organised criminal syndicates that work in collusion with local pimps and recruits under pretense of assisting migrants to reach labour markets abroad. With regard to the institutional framework, all too often in countries of origin, transit and destination, there is a conspicuous lack of anti-trafficking mechanisms/ regulations; where they do exist, they are not properly enforced. Passport controls are often weak and border management slack and rife with corruption. To make matters worse, trafficking is not a priority on the law enforcement agenda.<sup>17</sup>

Traffickers maintain control over their recruits in various ways. While in the majority of cases the victims are devoid of formal travel documents as they are transported illegally, for those who do possess passports, they are likely to have them confiscated. In the absence of legal documents, the vulnerability of the victims increases manifold. The fact that they lack the necessary papers divests them of an identity, which is essential for pressing legal charges. Moreover, they are unable to seek help from the police for fear of being arrested on account of their irregular entry into the country. Existing cultural and language divide marginalises them further as they are unable to speak in the local language and seek assistance from the local residents. The situation is augmented when the local populace views their presence in their country with suspicion and hostility on account of their illegal status. Besides, the traffickers very often subject them to physical and psychological abuse, rape and torture in order to extract their subservience.

While the fundamental motivation behind these moves more or less remain the same, dynamics of population movements tend to vary. Since these movements

---

<sup>17</sup> Monzini, Paola, "Trafficking in women and girls and the involvement of organised crime, with reference to the situation in Central and Eastern Europe", paper presented at the first Annual Conference of the European Society of Criminology, September 6-8, 2001, pp. 1-10, at pp. 1-2.

occur in both regular and irregular ways, there is often an overlap between the two, which adds to the complexity of the phenomenon. Consequently, there appear gaps and inconsistencies in the paradigms of irregular migration and trafficking, making it difficult to make clear-cut distinctions between the two. It is thus, essential to develop an understanding of the broader dimensions of trafficking in order to alienate it from irregular migration if targeted solutions are to be achieved. Restrictive immigration laws and policies generate a lucrative market for traffickers. Poor women and children from remote rural areas who have little or no information on migration and job opportunities, recruitment procedures and channels are at a greater risk of being trafficked. While restrictions on mobility are rationalised as “protection”, such measures essentially increase the demand for irregular migration and marginalise women and children from access to pre-departure orientations that may have helped them guard against potential exploitation.<sup>18</sup>

It is found that in the majority of instances different aspects of movement during trafficking are for the most part voluntary, in the sense that the individuals themselves have chosen to migrate for work. Generally, the decision to move is made with support from their families, which also assist in raising the money for the trip from relatives or lenders on the assumption that it would all be repaid from the monthly salaries of migrating individuals. It is the ultimate outcome, the nature and the terms and conditions of work in the destination country that defines most cases of trafficking. In essence, the situation is characterised by a combination of migration, generally irregular, and labour exploitation.<sup>19</sup>

To date, most of the concentration on human trafficking has revolved around security concerns, which are generally addressed by deportation and repatriation

---

<sup>18</sup>D'Cunha, Jean, *Trafficking in Persons: A Gender and Rights Perspective*, paper presented at the Expert Group Meeting on Trafficking in Women and Girls, New York, November, 2002, p. 19.

<sup>19</sup>Marshall, Phil, *Globalisation, Migration and Trafficking: Some Thoughts from the South-East Asian Region*, paper presented at the Globalisation Workshop, Kuala Lumpur, 8-10 May, 2001, UN Inter-Agency Project on Trafficking in Women and Children in the Mekong Sub-region, Special Action Programme to Combat Forced Labour (SAP-FL) and International Programme on the Elimination of Child Labour (IPEC), p. 3.

of victims as measures against the practice. Nonetheless, these measures must focus more on contracting and recruitment systems in countries of origin, transit and destination. Slack supervision and regulation of employment agencies has often been at the core of the problem. It is imperative therefore, to ensure that these agencies are routinely monitored and regulated in a manner that would enable them to contribute in tangible ways to improved management of migration. More importantly, approaches and programmes against trafficking should not be compartmentalised where law enforcement and victim protection are seen in isolation from preventive approaches. Just as adequate prevention will require targeted programmes in communities/regions from where most of the trafficked victims originate, it is equally important for prevention that relevant institutions be strengthened and supervised to carry out their proper functions.<sup>20</sup>

### ***Possible responses to trafficking***

In view of existing complexities of the issues involved, any response to international trafficking must be comprehensive and designed to take in both the “push” and “pull” factors that determine the nature and direction of people’s movement. Integrated strategies are a prerequisite for effectively dealing with the problem of trafficking in women and children and addressing their human security concerns. The components should ideally include prevention of the phenomenon by concentrating on eradicating some of the root causes of the problem, setting up prosecution mechanisms and offering victim protection and assistance.

There is no authentic data on the size of trafficked population in any of the countries. It is crucial to initiate a national survey to determine the precise extent and nature of the problem of trafficking in scientifically verifiable terms. In order to achieve this it is imperative for policy makers and activists to acquire conceptual clarity about the phenomenon and delineate between irregular migration and trafficking.

---

<sup>20</sup> ILO technical paper on *Forced Labour, Child Labour and Human Trafficking in Europe: An ILO Perspective*, presented at the European Conference on Preventing and Combating Trafficking in Human Beings, 18-20 September, 2002, Brussels, Belgium, p. 15.

National policies should look beyond the welfare model and adopt a broad based human security approach in dealing with trafficked victims. Unless there is a concerted effort to provide minimum conditions for security in the context of food, education, health care, housing and income opportunities, efforts to curb human trafficking will by and large remain ineffectual. This necessitates a major review of current and proposed plans and programmes in terms of their rationale and effectiveness and draw upon varying experiences to develop a comprehensive national strategy that essentially integrates anti-trafficking initiatives with issues of human security.

Since recruitment essentially occurs in countries of origin, there is an urgent necessity to adopt and implement programmes that are geared towards preventing the phenomenon. This should ideally include mass-scale awareness campaigns, information dissemination, research and assistance to relevant actors to improve and develop capacities for combating against trafficking. One fundamental area that requires immediate attention is the need to ensure that all births are compulsorily registered. While birth registration is indeed important in terms of the right to an identity and nationality, its absence increases the vulnerability of women and children to trafficking and exploitation. The absence of birth certificates makes it difficult, if not entirely impossible, to trace trafficked persons, let alone rescue them. Lack of registration similarly disentitles individuals from other kinds of legal and social services and protection.

Restrictions on emigration are often legally untenable. As such, certain routine practices that have developed in limiting the right to leave one's country have acquired the paradoxical status of legally indefensible, yet tolerated practices. In the circumstances, the sending state treads a legal tightrope in attempting to reconcile the inviolability of the constitutional right to leave one's own country with limiting the exercise of the right for ensuring an orderly and human emigration process. This is relevant for Bangladesh, which, confronted with the

need to restrict clandestine emigration and at the same time, ensure the welfare of emigrants deemed most vulnerable to exploitation, adopted restrictive emigration policies.<sup>21</sup> It is important to bear in mind that gender differentials also play a crucial role in designating the status of men and women within the trafficking-migration paradigm. For instance, it is a common perception that when men move, they are said to “migrate” but when women move, whatever may be the manner, they are said to be “trafficked”. It is important to recognise that men can be trafficked just as women may migrate.

Thus, initiatives to restrict the movement of women and children might not always be in their best interests and would not necessarily offer them the protection they deserve. Measures adopted to prevent trafficking should not restrict a woman’s freedom of movement. Rather, measures to prevent the practice should be counterbalanced by providing safe migration options and the recognition that migration contributes significantly to increasing the means of survival of both men and women.<sup>22</sup>

If one recognises that trafficking is, in the majority of cases, essentially a fall-out from irregular migration, the need for well-managed regular migratory movements becomes a matter of national priority. The global demand for migrants will be filled by an outflow of irregular migrants unless the policy makers recognise the need for facilitating the process in regular ways. Just as destination countries benefit from the work and tax contributions by migrant workers, if migration process was well managed, remittances channeled back to home countries would contribute greatly to social and economic development. As it is, remittances from abroad account for a substantial amount of a country’s income. Apart from narrowing the trade gap, increasing foreign currency reserves, facilitating debt servicing, reducing poverty and inequality and supporting

---

<sup>21</sup> Ahmed, Syed Refaat, *Toward an International Legal Regime on Undocumented Migrant Workers*, pp.1-12, p. 3.

<sup>22</sup> Asian Development Bank, *Combating Trafficking of Women and Children in South Asia*, Regional Synthesis Paper for Bangladesh, India and Nepal, April 2003, p.37.

sustainable development, remittances have the potential of improving family conditions in terms of food, health, education and business investments.<sup>23</sup> Thus, it is essential to promote regular migration within a transparent, standards based and well-managed migration system whereby individuals can take up jobs abroad in ways that are safer, and cost-effective and guarantees their human rights, including their rights at work, in the country of destination.<sup>24</sup>

Regularisation of migration would offset the negative consequences pertaining to irregular migrants, namely, unregulated working conditions and violation of human rights. Measures aimed at reducing irregular migration would invariably reduce trafficking and the involvement of transnational criminal networks. If irregular migration were to be brought under a regulatory framework, it would be useful to consider linking immigration policies to labour laws. Rights of migrants must be ensured, regardless of their status. Complaint mechanisms must be made available to them, ensuring at the same time, that they are not required to come into direct contact with the police or immigration officials. This would encourage migrants, irrespective of their status, to report instances of abuse and exploitation without fear of reprisal and deportation.

It is essential that trafficked individuals be decriminalised. This would entail a change in attitude and mindset of policy makers and law enforcers. Welfare services geared to reintegrate victims are to be developed and implemented. This would include *inter alia*, health care, counseling, vocational and skills training. The rescue and return of victims should also be carried out systematically in order that they are not subjected to yet another form of exploitation in the process. Thus, while the protection of the human rights of the victims is certainly a priority, it is equally important to ensure that they are not subjected to further harm and humiliation during recovery, return and reintegration.

---

<sup>23</sup> Anti-Slavery Society, *The Migration-Trafficking Nexus. Combating Trafficking through the Protection of Migrants' Human Rights*, U.K., 2003, p. 14.

<sup>24</sup> *Ibid.*, p. 24.

While the passage of legislation is indeed crucial for deterring the practice, it is similarly important to ensure that anti-trafficking laws are properly implemented. Enabling policy, institutional and social environments must be manifested in supportive, rights-based anti-trafficking interventions. This is more pertinent because trafficked persons, more particularly women and children, are generally unable to claim their rights effectively on account of persistent inequalities that undervalue their roles. The success of legislative interventions depend on certain key measures that include (a) training of relevant agencies which come into contact with trafficked migrants like police, border officials, immigration personnel, NGOs, judicial officers and so forth, (b) ensure adequate resource allocation for agencies working in this sector, (c) place the issue on the policy agenda on a priority basis and finally, (d) ensure protection of the victims with the necessary support services.

Since trafficking in persons is a transnational crime, there is a serious need for an effective legal approach to the problem, which can be successfully achieved if there is a transnational policy that underscores the treatment of trafficking in persons. It is likewise important to ensure that the human rights implications of trafficking in persons are addressed in relevant policies, programmes and legislation adopted to address the problem of trafficking. In other words, a human rights framework is integral to the design, implementation, monitoring and evaluation of anti-trafficking initiatives.

## BIBLIOGRAPHY

Asian Development Bank, *Combating Trafficking of Women and Children in South Asia. Regional Synthesis Paper for Bangladesh, India and Nepal*, 2003.

Ahmed, Syed Refaat, *Toward an International Legal Regime on Undocumented Migrant Workers*, Dhaka,

Anti-Slavery Society, *The Migration-Trafficking Nexus. Combating Trafficking through the Protection of Migrants' Human Rights*, U.K., 2003.

Bangladesh National Women Lawyers Association (BNWLA), *Survey in the Area of Child and Women Trafficking*, 1997.

Chew, Lin, Discussion paper on the *Protection of Domestic Workers against the Threat of Forced Labour and Trafficking*, Anti-Slavery International in cooperation with ILO's Special Programme to Combat Forced Labour, 2003.

Croft, Stuart, James, Lucy, Morgan Patrick M., Terriff, Terry (eds.), 'Non-Traditional Security Threats: Economics, Crime and Migration', *Security Studies Today*, Polity Press, Cambridge, 1999.

*Bhorer Kagoj*, September 27, 2003.

D'Cunha, Jean, *Trafficking in Persons: A Gender and Rights Perspective*, paper presented at the Expert Group Meeting on Trafficking in Women and Girls, New York, November, 2002.

ILO Technical Paper on *Forced Labour, Child Labour and human Trafficking in Europe: An ILO Perspective*, presented at the European Conference on Preventing and Combating Trafficking in Human Beings, Brussels, Belgium, 18-20 September, 2002,

Institute for Integrated Development Studies and United Nations Development Fund for Women *Status and Dimensions of Trafficking Within Nepalese Context*, Kathmandu, 2004.

Marshall, Phil, *Globalisation, Migration and Trafficking: Some Thoughts from the South-East Asian Region*, paper presented at the Globalisation Workshop, Kuala Lumpur, 8-10 May, 2001, UN Inter-Agency Project on Trafficking in Women and Children in the Mekong Sub-region, Special Action Programme to Combat Forced Labour (SAP-FL) and International Programme on the Elimination of Child Labour (IPEC).

Monzini, Paola, "Trafficking in women and girls and the involvement of organised crime, with reference to the situation in Central and Eastern Europe", paper presented at the first Annual Conference of the European Society of Criminology, September 6-8, 2001.

Shamim, Ishrat, *Trafficking in Women and Children: Situational Analysis*, Keynote Paper, Experience Sharing Meeting and National Workshop to Combat Trafficking in Women and Children, 7-9 January, 2001, Centre for Women and Child Studies (CWCS), Dhaka.

*The Counter Trafficking Framework Report: Bangladesh Perspective*, GoB, February 2004,



