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HUMAN TRAFFICKING: PROTOCOL TO ITS PREVENTION

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Abstract: *Trafficking is defined as a trade in something that should not be traded in for various social, economic or political reasons. Thus we have terms like drug trafficking, arms trafficking and human trafficking. The concept of human trafficking refers to the criminal practice of exploiting human beings by treating them like commodities for profit. Even after being trafficked victims are subjected to long-term exploitation. Trafficking both for commercial sexual exploitation and for non-sex based exploitation is a transnational and complex challenge as it is an organized criminal activity, an extreme form of human rights violation and an issue of economic empowerment and social justice. The trafficking of women and children causes untold miseries as it violates the rights and dignity of the individual in several ways. It violates the individual's rights to life, dignity, security, privacy, health, education and redressal of grievances.*

India is a source, destination, and transit country for men, women, and children trafficked for the purposes of forced labor and commercial sexual exploitation. Internal forced labor may constitute India's largest trafficking problem; men, women, and children are held in debt bondage and face forced labor working in brick kilns, rice mills, agriculture, and embroidery factories. While no comprehensive study of forced and bonded labor has been completed, NGOs estimate this problem affects 20 to 65 million Indians. Women and girls are trafficked within the country for the purposes of commercial sexual exploitation and forced marriage especially in those areas where the sex ratio is highly skewed in favor of men. Children are subjected to forced labor as factory workers, domestic servants, beggars, and agriculture workers, and have been used as armed combatants by some terrorist and insurgent groups.

India is also a destination for women and girls from Nepal and Bangladesh trafficked for the purpose of commercial sexual exploitation. Nepali children are also trafficked to India for forced labor in circus shows. Indian women are trafficked to the Middle East for commercial sexual exploitation. There are also victims of labor trafficking among the thousands of Indians who heavily migrate willingly every year to the Middle East and Europe for work as domestic servants and low-skilled laborers. In some cases, such workers are the victims of fraudulent recruitment practices that lead them directly into situations of forced labor, including debt bondage; in other cases, high debts incurred to pay recruitment fees leave them vulnerable to exploitation by unscrupulous employers in the destination countries, where some are subjected to conditions of involuntary servitude, including non-payment of wages, restrictions on movement, unlawful withholding of passports, and physical or sexual abuse.

Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children

The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (also referred to as the Trafficking Protocol or UN TIP Protocol) is a protocol to the Convention against Transnational Organised Crime. It is one of the three Palermo protocols, the others being the Protocol against the Smuggling of Migrants by Land, Sea and Air and the Protocol against the Illicit Manufacturing and Trafficking in Firearms. The protocol was adopted by the United Nations General Assembly in 2000 and entered into force on December 25, 2003. As of February 2018, it has been ratified by 173 parties so far. The protocol commits ratifying states to prevent and combat trafficking in persons, protecting and assisting victims of trafficking and promoting cooperation among states in order to meet those objectives.

This UN Protocol contains provisions on a range of issues, including criminalisation, assistance to and protection for victims, the status of victims in the receiving states, repatriation of victims, preventive measures, actions to discourage the demand, exchange of information and training, and measures to strengthen the effectiveness of border controls. The protocol stipulates that states parties must adopt or strengthen legislative or other measures to discourage the demand that fosters all forms of exploitation of persons, especially women and children that leads to trafficking.

In spite of the fact the the UN's Protocol contains a number of provisions aimed at preventing trafficking. State parties are required to establish policies, programmes and other measures aimed at preventing trafficking and protecting trafficked persons from re-victimization. The existence of vulnerable situations of inequality and injustice coupled with the exploitation of the victim's circumstances by the traffickers and others cause untold harm to the trafficked victim who faces a multiplicity of rights violations. Therefore policies, programmes and strategies that address prevention have to be unique with a focus on and an orientation towards all these issues. Accordingly the prevention of trafficking needs to be addressed not only in relation to the source areas but also in the demand areas the transit points and the trafficking routes. Strategies in all these areas have to be oriented towards the specific characteristics of the situation and the target groups. The best method of prevention is its integration it with prosecution and protection. Prosecution includes several tasks like the identification of the traffickers bringing them to the book, confiscating their illegal assets. Protection of the trafficked victim includes all steps towards the redressal of their grievances thus helping the victim survive, rehabilitate and establish herself/himself. Thus prosecution and protection contribute to prevention.

India and Human Trafficking

The Government of India prohibits some forms of trafficking for commercial sexual exploitation through the Immoral Trafficking Prevention Act (ITPA). Prescribed penalties under the ITPA — ranging from seven years' to life imprisonment — are sufficiently stringent and commensurate with those for other grave crimes. India also prohibits bonded and forced labor through the Bonded Labor Abolition Act, the Child Labor Act, and the Juvenile Justice Act. These laws are ineffectually enforced, however, and their prescribed penalties — a maximum of three years in prison — are not sufficiently stringent. Indian authorities also use Sections 366(A) and 372 of the Indian Penal Code, prohibiting kidnapping and selling minors into prostitution respectively, to arrest traffickers. Penalties under these provisions are a maximum of ten years' imprisonment and a fine. India's efforts to protect victims of trafficking varies from state to state, but remains inadequate.

India has been named the most dangerous country for women in terms of human trafficking according to a new Thomson Reuters Foundation Survey. The available data from the National

Crime Records Bureau (NCRB) indicate that there were 8,132 reported cases of human trafficking across India in recent times. In the year 2016, 15,379 people were trafficked of whom 9,034 victims were below the age of 18. In addition, 23,117 people were rescued from trafficking situations of whom 14,183 people were below the age of 18. The NCRB report notes that the number of rescued victims is higher than the number of trafficked people as rescued victims may also include persons trafficked in the previous year. Most of the rescued victims reported being trafficked for the purpose of forced labour (10,509 victims), followed by sexual exploitation for prostitution (4,980 victims), and other forms of sexual exploitation (2,590 cases). (Source: Global Slavery Index, 2018.)

Moreover, The United States (US) has placed India on the Tier-2 Watch List for human trafficking for the 5th consecutive year as India has failed to take effective measure in combating it. The government of India has undertaken several measures in the past to combat this menace. The Ministry of Women and Child Development was made the nodal agency by the government to deal with human trafficking in India. A nodal cell against human trafficking has been constituted in the Ministry of Home Affairs. The National Human Rights Commission has formulated an integrated plan of action to prevent and combat human trafficking with special focus on women and children. However there is still a lack of clarity in government policies with regard to human trafficking. To combat human trafficking, several short-term and long-term measures are needed to be taken up at all levels. There is an urgent need to create awareness among the public about human trafficking. Media can play a very effective role here. Poverty alleviation measures too will help in combating it in the long run. Since India is also a transit point for human trafficking, the government should take speedy measures to secure India's borders by completing its fencing and ensuring strict vigil. There is a need to develop an institutionalised system of co-ordination between the law enforcement agencies and non governmental organisations (NGOs) who sometimes prove to be more effective than government agencies in exposing human trafficking networks. There is a need to have greater co-ordination between different states in India as trafficking has a long trail from the source point to the destination with several transit points in between. Investigation in the cases involving human trafficking should be carried out with the aim to destroy this long trail. Increased co-ordination between government departments like police, public welfare, health, women and child is required to ensure an effective response. Government and NGOs should work together to ensure post-rescue rehabilitation of the victims in terms of providing them healthcare, education and other employment opportunities.

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