

Role of Non-Governmental organizations in Combating Human Trafficking–An Critical Analysis

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a. Introduction

Trafficking is considered as trading activities which is prohibited by law and it includes unlawful trading of drugs, organs and human beings. Human trafficking has become a serious concern in the world as millions of people are trafficked and exploited for various purposes. Today human trafficking is become a global issues as every country around the world, regardless of socio-economic status, history or political structure has been effected. Human traffickers have created an international market for the trade in human being based on the high profits and demand for commercial sex and cheap labor. Trafficking has affected 161 countries worldwide. Human trafficking can be for the trade in humans, most commonly for the purpose of sexual slavery, forced labour or for the extraction of organs or tissues, including surrogacy and ova removal. It is a very risky job but the traffickers have established such a strong network throughout the world that the global police are finding it very difficult to curb these activities. Human trafficking is driven by demand and supply, if there is a demand for forced sexual services or forced labour, traffickers use all means to meet those demands by targeting vulnerable people who are unaware of the harm and false pretext under which they are recruited.

b. Magnitude of the problem;

The number of adults and children currently in forced labour, bonded labour and forced prostitution is 12.3 million. Worldwide, 1.8 per 1,000 persons is a victim of human trafficking, increasing to 3 persons per 1,000 in Asia and the Pacific. Women make up 56 percent of the 12.3 million trafficked adults and children. It is found that 79% of women who are trafficked are subjected to sexual exploitation.

c. Human Rights Violation against victims:

Crimes perpetuated against the victims of trafficking are human rights violation at every stage of the process. During the trafficking process, crimes perpetuated against the victims include illegal deprivation of liberty, threats, cruel and or degrading treatment, theft of

documents or property, aggravated and /or sexual assault, forced prostitution, rape or even death. Labour violations occur as well and include the non-payment of wages, violation of safety measures and failure to respect the maximum number of working hours. Offences committed against the State include document forgery, violation of immigration and labour laws, corruption of government officials, smuggling of migrants; money laundering and tax evasion. Trafficked victims can be found working in beauty parlour, begging, restaurants, factories, agriculture farms, industry. They are made to work for long hours with minimum or negligible wages.

d. Indian Scenario as to human trafficking issue

India stands in the fifth position in the world in the seriously affected list of top 10 human trafficking countries in the world. Human trafficking is a major problem in India. Although it is illegal in India human trafficking laws are not implemented properly. Humans are trafficked in, out and across India for various purposes such as forced labour, forced prostitution, forced organ implantation etc. Girls are forced to become surrogate mothers against their will. “Ninety percent of India’s trafficking problem is internal, and those from the most disadvantaged social strata-lowest caste Dalits, members of tribal communities, religious minorities, and women and girls from excluded groups are most vulnerable.”¹

Traffickers transact their business through mobile applications, websites, and online money transfers to facilitate commercial sex. Trafficker have prime destinations for foreign and Indian female victims in Kolkata, Mumbai, Delhi, Gujarat, Hyderabad and along the India-Nepal Border demarked for criminal activities such as human trafficking.²

Trafficking of minor girls the second-most prevalent trafficking crime surged 14 times over the last decade and increased 65% in 2014, according to new data released by the National Crime Records Bureau. Girls and women are the main targets of immoral trafficking in India, making up 76% of human trafficking cases nationwide over a decade, reveal NCRB data. Other cases registered under human trafficking over the last decade include selling girls for prostitution, importing girls from a foreign country and buying girls for prostitution. As many as 8,099 people were reported to be trafficked across India in 2014.

¹Trafficking in Persons Report 2015, U S Department of States

²Trafficking in Persons Report 2016 Country Narrative India, U S Department of States

According to National Crime Report Bureau data out of 6,877 cases of Human trafficking reported in India 3,490 (51%) were children and in this 3,087 (88.5 %) were registered under Section 366-A (Procuration of Minor Girls to force her into sex) of Indian Penal Code. The data showed more than 50% of human trafficking cases, minors were the victims and in that 90% of the girls trafficked were for the purpose of forcing them into prostitution.³

e. Scope of NGOs

Non Governmental Organization function either through the financial assistance provided by the government or self financing also. Their motive is to provide service to the vulnerable sections of society and uplift them in order to make them physically and mentally suitable to sustain and fight against the various kinds of exploitations in this world. NGOs field of work or areas of concern may be different but their motive or objectives are for the downtrodden sections of society.

Many Non Governmental Organizations have taken initiative in addressing this serious issue of human trafficking either by coordinating with the government or they function independently. As police authorities have shortage of staffs, infrastructure and no sufficient knowledge or experience in handling trafficking issues and the judiciary already overburdened with litigation role of NGOs in assisting them in rescuing, rehabilitation, reintegration and legal proceedings has in fact helped the survivors in getting fast remedy. They have effectively contributed to implementation of provisions of Immoral Trafficking Prevention Act, 1956 and has also insisted the government to bring about various changes in the trafficking legislations in order to protect the survivors of trafficking. NGOs despite having limited resources, funding have contributed efficiently in combating trafficking of human beings.

f. Role of Non Governmental Organization

The term NGO embraces a wide variety of organizations, NGOs will mean 'exogenous or indigenous voluntary private non-profit organizations that are engaged in relief, rehabilitation and development programmes using finance raised from voluntary, private sources, and the donor agencies and managing themselves autonomously at local, national and or international

³ National Crime Record Bureau report ,2015 , Ministry of Home Affairs

levels'. NGOs working for the social cause can be considered as complimentary to the role played by the police in investigating, rescue operation of victims of trafficking.

This is fathering considerable momentum through claims that NGOs are efficient and effective, that they are innovative, participative, in the areas they work. NGO's have played a major role in creating public awareness of various problems in the society either through newsletter, publishing articles in the journals, organizing seminars, conferences, encouraging research on the human rights violation topics and also it conducts survey and exposes before the society the actual status.

Statistics of NGOs functioning in India

The Central Bureau of Investigation issued its estimate in response to a Supreme Court order in September 2013. It found 13 lakh NGOs in the States and Union Territories that submitted their data. In Uttar Pradesh alone 5,48,194 NGOs are operating, Kerala had 3,69,137 NGOs, Maharashtra 1, 07797, Madhya Pradesh 1, 40,000 and Gujarat has 75,729 NGOs. But 11 states including Delhi, Andhra Pradesh, Karnataka and West Bengal failed to respond. CBI submitted its affidavit to the Supreme Court on July 2015 that there are a total of around 31 lakh NGOs in 26 states. There are more than 82,000 NGOs registered in seven Union Territories of India.

Mode of working of NGOs

NGOs have adopted various methods to tackle the menace of human trafficking. Their role differs from case to case. But they first decide on what type of assistance is required to the rescued victims, it may be medical help, counseling, psychological support, providing education or providing jobs based on their skills. In certain cases they try to trace out the victim's family members and reintegrated them. Some NGO meet the women at airport, railway station in order to ascertain whether they are victims of trafficking. NGO's have played a vital role in prevention, protection, rescue, reintegration of the victims. They have provided the information about the traffickers to the police and also assisted them in the raid. NGOs find it very difficult to tackle the problem of trafficking as neither the government nor do the law enforcement authorities consider human trafficking as a serious offence. And the corruption among the police authorities, the government officials and the legal enforcement officials has led offender to escape from the eyes of law.

Immoral Trafficking Prevention Act, 1956, Section 13(3) provides for an advisory body of NGOs in the enforcement of this social legislation.⁴ NGOs have taken the initiative to create awareness among the law enforcement authorities, provided training to the police officials in tackling this serious problem, they have also extended their assistance to the Central Bureau of Investigation and also the court in the rescue, rehabilitation and reformation of victims of trafficking. They have joined hands with corporate sectors to provide the victims with employment to prevent them from being re-trafficked due to financial crisis. NGOs are actively assisting the victims of trafficking either in preventing the vulnerable sections of society from being trafficked, or extending protection to the survivors of trafficking and providing legal assistance to the survivors in prosecution of traffickers.

Prevention

NGOs take initiative in preventing the vulnerable sections of society from being trafficked. Traffickers target those persons who are poor, illiterate especially girls and women. As there is great demand for young girls in the sex industry they are easily trapped with the false promise of either lucrative job opportunities, or the traffickers marry them in order to avoid emigration problems and later sell them to the traffickers abroad. NGOs have started educating the school girls and women as to the modus operandi of the traffickers and they have also effectively trained them as to the measures to be adopted to escape from the clutches of traffickers. NGOs make recommendations to the government in framing policies and programme to prevent the trafficking offence from being committed. A survey conducted in New Delhi as to status of domestic workers it was found that there were 5000 unrecognized domestic worker placement agencies functioning in Delhi. Agents identified girls from extremely poor families and traffic them with a job offers in the city. These girls are sold by the agents to domestic workers placement agencies for about US \$ 600 each and these agencies re-sell the girls to a family who are in need of domestic worker for a price ranging from US \$ 600 to US \$ 700. These girls are made to work for 14 to 16 hours per day and do all household works but the wages paid is very less or in some cases the wages are

⁴Section 13(3) of ITPA –For efficient discharge of his functions in relation to offences under this Act-
a) The special police officer of an area shall be assisted by such number of subordinate police officers (including women police officers wherever practicable) as the State Government may think fit; and
b) The State Government shall associate with the special police officer a non-official advisory body consisting of not more than five leading social welfare workers of that area(including women and social welfare workers wherever practicable) to advise him on questions of general importance regarding the working of this Act.

paid to the agents. These girls are regularly moved from one household to another and they are also subjected to sexual exploitation.⁵

It has been successful in bringing about mandatory registration of placement agencies as it was brought to the notice of the government there were many unscrupulous labour recruiting companies which have recruited innocent victims on the false promise of job opportunities like domestic servants, miners, garments workers etc. These people were subjected to various kinds of exploitation by the traffickers. Effective prevention is possible only if the weaker sections of society are protected by government by uplifting the economic status of these people. NGOs have taken this initiative by developing a network in which various agencies coordination and cooperation are also involved. Government has also framed various policies and schemes to prevent the vulnerable section from being trafficked.

Protection

It is futile effort if only a law is enacted with no proper enforcement and inadequate victim protection measures. Nepal earthquake which occurred on 25th April 2015 had led to increase in the rate of trafficking as the traffickers took advantage of the helpless conditions of women struck in the calamities, on false promises and number of Nepali women was trafficked into Middle East and Africa.⁶In 2015 before earth quake 8 cases of trafficking was reported and 12 traffickers were arrested, 47 victims were rescued. Sashastra Seema Bal (SSB) in Nepal had rescued 47 children, 4 months before earthquake while traffickers trying to cross the Indo-Nepal border. Between 25th April and 10th October 2015, SSB rescued 159 children from Nepal affected by quake. These children were lured by the traffickers on the promise of job opportunities with a salary of Rs.6000/- to Rs.8000/-per month.⁷

NGOs have played an effective role in providing necessary protection to the rescued survivors of trafficking in many ways. This role of extending protection to survivors of trafficking is taken up by the NGOs in entering into partnership with the corporate sectors and they were successful in getting suitable jobs to the trafficking survivors. The corporate sectors as part of their Corporate Social Responsibility (CSR) programmes have extended

⁵<http://www.womenundersiegeproject.org/blog/entry/silent-slaves-stories-of-human-trafficking-in-india> visited on 8-1-2017 @ 7.20 p.m

⁶Trafficking in Persons Report 2016 - Country Narratives – India, U S Department of States

⁷<http://images.indianexpress.com/2015/11/capture1.jpg> visited on 7-1-2017@ 10.25 a.m

their helping hands to these NGOs in their noble endeavor. NGOs such as Apne Aap, Arz, Bharatiya Kisan Sangh, Jabala, Prajwala, Rescue Foundation, Sanchaya Prayas, Sanlaap, Sthree, and STOP Delhi, along with many collaborators, have transitioned survivors into careers as beauticians, embroiderers, restaurant and cafeteria workers, hospital nursing staff, hotel caterers, housekeepers, security guards, ATM technicians and mobile phone repairers. If the victims are interested in reintegration into their families is also taken care of by the NGOs. Just Trust is a NGO which takes the initiative to contact the relatives of victims and tries to identify the genuineness of the persons who comes to take the victims.⁸

There are several instances where communities have developed initiative and dynamics in protecting the interest and rights of the victims and survivors of the trafficking. It includes identification of victims, fact finding and rescue at source, transit, destination, care and attention during rescue and post-rescue situations, counseling. They also have networks with different agencies for rehabilitation of victims. NGOs keep track of the rehabilitated survivors in order to protect them from being re-trafficked; they also provide financial assistance to survivors in need of it.

Prosecution

Prosecution is primarily the responsibility of law enforcement authorities and the judiciary, but it can be supplemented by NGOs and international organizations. Several NGOs have worked with police to intervene in transit areas to halt trafficking. Manav Seva Sansthan runs “Life Guards Centers” at cross-border transit points along the Nepal Border. Volunteers help to identify traffickers and collaborate with police to apprehend them. Prayas has local informers such as vendors and rickshaw pullers at railway stations, and have rescued more boys than girls, who had been trafficked for labour. Legal aid in trafficking cases is provided by many NGOs including Apne Aap, HAQ centre for Child Rights, Just Trust, Rescue Foundations, Save the Children India, Socio Legal Aid Research and Training Center (SLARTC) and STOP. These groups generally inform victims of their rights and prepare them for testimony.⁹

Some NGO’s have taken the initiative to file Public Interest Litigation in the court to punish the violators and to protect the victims of trafficking. The procedure involves investigations,

⁸Sadika Hameed , Sandile Hkatshwaya, “Human Trafficking in India: Dynamica, Current effort and Intervention, Opportunities.” Asia Foundation; March,12,2010

⁹Sen.S. (2004). A Report on Trafficking in Women and Children in India 2002-2003. New Delhi: National Human Rights Commission, UNIFEM, Institute of Social Science.

identification of traffickers and other offenders, in human trafficking, arrest and detention, interrogation, prosecution, conviction of offender.

People's Union for Democratic Rights v. Union of India ¹⁰*People's Union for Democratic Rights*, also known as the Asiad Games Case, was brought by means of a letter addressed to Justice Bhagwati of the Supreme Court of India. The letter, sent by a public interest organization and based on an investigation by three social scientists, alleged violations of labour laws by the Union of India, the Delhi Development Authority and the Delhi Administration, based on their employment of workers on construction projects for the Asian Games. The letter was then treated as a writ petition for enforcement of a constitutional right. The Hon'ble Court directed that the minimum wage or a higher wage if applicable should be paid by the contractors to the workmen directly, without the Intervention of the *jamadars*, and that the *jamadars* were not entitled to deduct or recover any amount from the minimum wage as commission.

Bandhua Mukti Morcha v. Union of India ¹¹In this case NGO named as Bandhua Mukti Morcha (Bonded Labour Liberation Front) addressed a letter to Justice Bhagwati alleging that there were large numbers of workers in the stone quarries of Haryana who were bonded laborers, in violation of the Bonded Labour System (Abolition) Act, 1976 and that in addition to being held in bondage they were working in inhumane conditions. The Supreme Court directed the State Government to act as a Welfare State and ensure that workers are continuing in work with improved conditions. NGO was successful in providing the bonded labourers the minimum wages they were entitled and rehabilitation of the bonded labours from the inhumane working condition.

*Prajwala v. Union of India*¹²In this case a PIL was filed in the Supreme Court for formulating a pre-rescue, rescue and post-rescue victim protection protocol for the entire country. This PIL was filed in wake of mass raid conducted by police in the brothels. Those victims who were taken into custody by the police were housed in sub human jails, and the victim's basic human rights were not assured and they were treated like criminals. It was also found the victim protection programmes were totally inoperative and they were deprived from access to legal aid, information, counselling, compensation or protection from the traffickers. Long trials created further trauma to the victims. PIL sought from the Supreme Court directions for

¹⁰ A.I.R. 1982 SC 1473

¹¹ AIR 1984 SC 820

¹²(2005) 12 SCC 136

trauma counselling, rights of the child victim of trafficking, right to confidentiality and information for victims, right to minimum standards of health, nutrition, diet and clothing at the Protective Home and provision of sustainable livelihood skills and options.

*Bachpan Bachao Andolan v. Union of India*¹³ A Writ Petition was filed by the Bachpan Bachao Andolan on child labour and exploitation that prevailed in circuses. These young children are kept in bondage and forcible confinements and were frequently subjected to sexual harassment and abuses. Petition also brought to the knowledge of the court that Central and the State Governments response to these issues were not satisfactory. Hon'ble Court gave directions to the Central Government to have constant monitoring of circuses and also to ensure the children are not subjected to any kind of exploitations and if any reports received immediate action to be taken to protect the interest of children.

*Prerana v. State of Maharashtra*¹⁴The Bombay High Court has given certain directions to the State Government of Maharashtra for the welfare of the children of the commercial sex workers. This petition sought directions to be given to the State Government in respect of Kasturaba Sadan, a rescue home established by the State Government of Maharashtra for such victims. In this case the High Court of Bombay issued certain directions for the proper implementation of the related Acts, keeping in view the rights of the trafficked persons. The court order addressed several issues regarding child rights, viz. the role of advocate and NGOs and child friendly procedures in dealing with rescued persons and also brought out clear guidelines for compliance by all the authorities concerned. *Apne Aap Women Worldwide Trust ..v. The State Of Bihar & Ors*¹⁵A writ petition was filed requesting the court to give directions to the Bihar state government to carry out their constitutional obligations enshrined in Article 23 of the Constitution by strictly enforcing the provisions of the Immoral Traffic (Prevention) Act, 1956 and also to raid in the red light area in the presence of the petitioner. They also prayed that the rescued victims to be rehabilitated only in the shelter homes certified by the State Social Welfare Department as per ITPA norms. They also highlighted that Anti Human Trafficking Units set up in the country have miserably failed to check the trafficking network of national, international traffickers, which has permitted them to flourish in this lucrative trade. There is no exact statistics given by the concerned department authorized to check human trafficking about the number of human trafficking

¹³(2015) SCC 988

¹⁴2003(2) Mah.L.J.105

¹⁵(2014) Pat H.C 234

cases registered, rescued victims and the measures taken by them. NGOs have contributed to protection of human rights by constantly bringing to the knowledge of the court as to various kinds of exploitations that is prevailing in the country.

Immoral Trafficking Prevention Act, 1956 deals only with the sexual exploitation of women and girls and it has not focused on other kinds of trafficking. The term 'trafficking' includes bonded labour, forced labour domestic servitude, organ transplantation, illegal adoption, surrogacy and prostitution. Since the ITPA does not cover all kinds of trafficking offences the Court has to interpret the provisions of other legislation like, The Bonded Labour System (Abolition) Act, 1976, The Indecent Representation of Women (Prohibition) Act, 1986, The Transplantation of Human Organs Act, 1994, to provide justice to the survivors of trafficking.

Capacity Building

A variety of activities fall under capacity building, because of the importance of bringing many stakeholders and groups with different skills to the table in tackling a problem as complex as trafficking and anti-trafficking networks are critical to improve the effectiveness of all anti-trafficking groups. The largest network is Action against Trafficking and Sexual Exploitation of Children (ATSEC) India, which has more than 500 NGO's as members and functions in 26 states. Research into trafficking helps to shed light on the otherwise hidden trafficking world, and is conducted by groups including the Joint Women's Programme. Shakti Vahini, and the Institute of Social Science, New Delhi, Prerana conducts research, produces documentations and disseminates the information through training sessions at its center in Mumbai. Conference is one approach via which researchers can disseminate information to the trafficking networks. NGOs are also involved in strengthening the judiciary as well. The National University of Juridical Science and Sanlaap work together to train prosecutors.¹⁶

Obstacles in functioning of NGOs

Functioning of NGOs is dependent on various factors like social, economic and political situation. Financial contribution from the government and the volunteers plays a major role in successful functioning of the NGO. NGOs working for the rescue and protection of trafficked

¹⁶Supra Note5

victims are very few and they have taken initiative in rescuing, rehabilitating many victims. As they have direct contact with the victims they are in a position to win their confidence which in turn helps them to prosecute the offenders. NGOs have been successful in identification of the trafficked victims, providing counseling, legal support and in many cases reintegration into their family.

NGOs run shelter homes have financial constraint as they are mainly depend on contributions to render service to the victims of trafficking, only few NGOs are funded by government but the fund allotted to them does not reach on time or the amount is misappropriated by the corrupt government officials, and there is shortage of trained personnel especially counselors and medical staff.

NGOs have successfully rescued, rehabilitated and reintegrated many survivors of trafficking but in this endeavor they have come across there are many police officials who are corrupt and have close nexus with the traffickers refuse to cooperate with the NGOs in the rescue operations when requested by them. In certain instances police officials inform the traffickers about the raid and thus the traffickers escape from the place identified by the NGO to be raided. This is one of the reasons the actual statistics as to number of women being trafficked cannot be ascertained.

NGOs have the efficiency and ability to counsel as well as mentally prepare the survivors to prosecute the traffickers but their efforts becomes futile because of indifferent attitude of police officials. It was found in most of the cases police officials refuse to register a FIR but insist the survivor (girls/women) of trafficking to enter into compromise and not to prosecute the traffickers. This has resulted in trafficking cases being not reported and the drastic fall in the trafficker's conviction rate.

Legal proceedings are cumbersome and long proceedings which have led to survivors withdrawing themselves from the prosecution of the traffickers and the witnesses turning hostile as there are no monetary benefits conferred on them for the time and amount spent by them in assisting the survivor and the court in prosecuting the traffickers.

Traffickers often mislead the Court by misrepresenting themselves as guardians or relatives of survivors of trafficking and the survivors are re-trafficked from the government run shelter homes. Thus objectives of NGOs to rehabilitate and reintegrate the survivors of trafficking and protect them from being re-trafficked fail. All these drawbacks add to the trafficker's

advantage of escaping from the clutches of law in spite of committing serious violations of human rights of victims. These are the major obstacles faced by the NGOs who volunteer to work for the victims rescue, rehabilitation and reintegration.¹⁷

Conclusion& Suggestions

NGOs play a vital role in prevention, prosecution and rehabilitation of victims of human trafficking. Today, individual organizations are taking initiative to tackle the problems in the society. Even though law enforcement agencies are taking sincere efforts to curb this menace, NGOs contribution is complementary to combat trafficking. With the assistance of NGO the Government of India successfully repatriated 7 Bangladeshi trafficked victims from Chennai in 2010 and 29 Bangladeshi victims from Maharashtra in 2010-11. Media is also contributing effectively and efficiently in creating public awareness by their coverage both through print and electronic medium. This has resulted in compelling the government to enact stringent laws in eradicating such menace. Corporate Sector has also voluntarily extended a helping hand in rehabilitation of the rescued victims, so that they become economically stabilized and are not subject to re-trafficking. Though the government has taken various measures to prevent, protect and rehabilitate the victims of human trafficking the benefits are not completely enjoyed by the victims as there is no follow up of the programmes or the working of various government run rehabilitation centers.

Suggestions

1. **Lack of inadequate staff-** NGOs alone will not be in a position to take the entire burden of tackling this evil as there are always obstacles in one or the other way. Efficient staff for medical assistance, counseling, and legal assistance to be provided.
2. **Sensitization-**Law enforcement authorities to be sensitized as to the serious of human trafficking offence and consider trafficking cases as also an offence committed not only against an individual but also against the state.

¹⁷Trafficking in Persons Report 2016- Country Narrative India

3. **Lack of resources/funding** NGOs working for combating human trafficking should be provided sufficient fund and also encouraged for their contribution in this endeavor.
4. **Strict disciplinary action-** for dereliction of duty to be taken against the police officials who refuse to cooperate in the rescue operation and also compelling the survivors who are interested in prosecuting the traffickers to enter into compromise with the traffickers without filing a First Information Report.
5. **Corruption-**Prosecute the law enforcement authorities who are found guilty of indulging in corruption in human trafficking offence.
6. **Need for coordination-**There should be coordination among the law enforcement authorities, judiciary and the NGOs to combat human trafficking.
7. **Need for Deliberation** - Initiate interactive ongoing dialogue, round table meetings and seminars between NGOs and media centering the issue of missing or trafficking girls and women.
8. **Need for increase in rehabilitation centers-** More rehabilitation centers should be established in collaboration with NGOs for those women and girls who are survivors of trafficking.
9. **Corruption-**Prosecute the law enforcement authorities who are found guilty of indulging in corruption in human trafficking offence.