

# Gender Equality, Human Rights and Trafficking: A Framework of Analysis and Action

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## I INTRODUCTION

Trafficking<sup>1</sup> in persons is defined as the recruitment, transfer, transportation, harbouring and receipt of persons, by means of blatant force or violence, or subtle inducements that capitalize on an individual’s vulnerability to achieve “consent” – for the purpose of exploitation. Exploitation refers to exploitation of the prostitution of others and other forms of sexual exploitation, forced labour/services and slavery or slavery-like practices. Marked by willful deception, coercion and exploitation, trafficking nullifies initial “consent”, to move or migrate within or across national boundaries. It thus distinguishes itself from migration, which is characterized by “consent”, although poor and unskilled migrants are also exploited.

Trafficking in persons is not new. It has however acquired grave dimensions worldwide in the recent context of globalization. These are:

- its increasing magnitude<sup>2</sup> and global reach, with women and children being the majority of those trafficked. This has been referred to as “the dark side of globalization”;<sup>3</sup>
- newer source and destination sites, with people flows from poorer to more prosperous venues;<sup>4</sup>
- its occurrence largely within the migration process, by manipulating the vulnerability of persons and official migration channels;<sup>5</sup> The latter may involve: (a) legal mechanisms of entry but illegal residence (outstaying visas) and illegal work or conditions of work; (b) illegal entry, but finally regularizing resi-

dence and work. Trafficked persons may thus be able to negotiate their way out of trafficked situations, obtain regular immigration status and a better deal for themselves; and (c) illegal entry, residence and work.

- its diverse and sophisticated mechanisms;<sup>6</sup>
- its varied purposes, with sexual exploitation considered the most dominant for women and girls;<sup>7</sup>
- its complex socio-economic and political basis underscored by class, gender and ethnic concerns;
- changes in the profile of trafficked persons to also include men and very young children;<sup>8</sup>
- hefty profits, which according to some estimates exceed that of the underground narcotics and arms trade;<sup>9</sup>
- strong connections between trafficking networks and public officials;
- vertical and horizontal linkages between trafficking networks, sectors of the crime industry and legitimate corporate enterprise, including transport, tourism;
- gross human rights violations – ironically in a “civilized, global era”.

Trafficking, especially in women and in children, is consequently an important concern on the agenda of governments and non-governmental actors worldwide. However significant inroads into the problem do not appear to have been made. This is partly attributable to conceptual ambivalences, perspectival biases and the need for more strategic thinking in formulating and operationalizing plans, policies, laws and programmes to address the issue.

The dominant discourse and interventions on trafficking are:

(a) *not normally gender-responsive, though focused primarily on women and girls;*

Many such initiatives recognize differences and inequalities between men and women as natural and unchangeable, reinforcing discriminatory gender stereotypes. They tend to ban or restrict women’s actions and choices, control or morally reform women, often while intending to protect them. All of this disempowers women. An example is the ban on women’s

migration as a “safeguard” against trafficking. This violates women’s right to mobility, discriminatorily reinforces women as dependents, does not address the root causes of trafficking, or penalize traffickers. Moreover, it predisposes women to trafficking. A gender sensitive rights-based approach would address unsafe and discriminatory contexts, and equip women to deal with potential exploitation.

(b) *largely lacking in a rights-based sustainable development orientation;* They are:

- embedded in morality, law and order, national security and sovereignty paradigms marked by class, gender, ethnic and nationality concerns, restrictive and punitive strategies. These violate human rights. The onus is discriminatorily placed on people who are victims of an unjust social order and a chain of coercive and deceptive events.
- largely reactive, focusing mostly on immediate post-trafficking assistance, and less on prevention.
- poorly oriented to factors generating demand.
- when preventive, often in the nature of micro livelihood projects that are neither gender- nor market-responsive, nor cognizant of the impacts of macro policies and processes on women’s employment and businesses. These projects are unsustainable and create and reinforce vulnerability to trafficking.
- lacking in integrated multi-sectoral linkages.<sup>10</sup>

The paper therefore invites practitioners to address trafficking from a gender sensitive, rights-based development paradigm. It:

- defines and lays out the key elements of a gender sensitive rights-based development perspective on trafficking, as a framework of analysis and action (Section II);
- identifies the main gender and rights concerns throughout the trafficking process (Section III);
- suggests strategic interventions with a preventive focus, emphasizing multi-sectoral, bilateral and multilateral collaboration between countries of origin and destination (Section IV).

## II

## A GENDER SENSITIVE RIGHTS-BASED FRAMEWORK OF ANALYSIS AND ACTION ON TRAFFICKING

### IIa

### DEFINING A GENDER SENSITIVE RIGHTS-BASED APPROACH

A rights-based approach is a vision and practice of development that ensures fundamental human entitlements – social, economic and political. It does this in ways that expand choices, promote human dignity, well-being and empowerment, equally for men and women. It places human beings at the centre of development as equally active participants, owners, steerers, and beneficiaries of development. At the heart of such an approach is the principle that human beings have a unique value and that individuals and States have a responsibility to ensure the rights and dignity of all persons. The human rights approach establishes norms of conduct for governments in relation to people and vice versa and people in relation to each other.<sup>11</sup> Human rights is thus a value-laden concept and has a strong moral force. Human rights cannot be reduced. They impose an obligation on States to fulfil them.<sup>12</sup>

A gender-responsive approach is necessarily a rights-based approach. Gender discrimination against women and girls is now recognized as a fundamental denial of human rights,<sup>13</sup> and must be at the centre of development initiatives. Women's human rights must therefore lie at the core of any credible anti-trafficking strategy,<sup>14</sup> for violations of their human rights are both a cause and a consequence of trafficking in women and girls.

Although women and girls are human beings with human rights, they are differently and inequitably situated in relation to men and boys in most contexts in terms of their gender roles and the impact of gender stereotypes. They thus have different needs. Therefore, a human rights orientation to trafficking must be responsive to gender differences and disparities. It must focus on realizing human rights equally for women and men, girls and boys. More specifically this means:

- acknowledging that women and men, girls and boys are trafficked; This is because gender stereotypes that present men as powerful and operating in the public sphere, and women as passive and primarily relegated to the privacy of domesticity, feed the misconception in many societies that “men migrate, but women are trafficked”. However what is often not recognized is that men too are trafficked and that women are not only trafficked, but also migrate,<sup>15</sup> and that trafficking often occurs within the process of migration.
- recognizing the similarities and differences in the trafficking experience of women, men and children in relation to vulnerabilities to trafficking, violations and consequences, including differential policy and programme impacts.
- recognizing that these differences that disadvantage women and children the most through the trafficking process, are grounded in hierarchical gender role and trait stereotypes that interact with their other peripheralized identities – age, class, ethnicity – marginalizing women and girls from ownership and real access to resources.
- holding that as gender inequalities are socially conditioned, they can be transformed in the direction of justice, equality, and fair partnerships between men and women. As gender inequalities in all spheres of life are both the cause of trafficking and rights violations throughout the trafficking process, rectifying these imbalances can prevent trafficking in women and girls. This can be done by:
  - (a) empowering potential victims, and those trafficked, especially women and children to access remedies and claim rights;
  - (b) giving practical effect to the above by ensuring enabling policy and legal environments that provide equal opportunities to males and females;

(c) ensuring enabling institutional and social environments by transforming institutional rules, procedures, mindsets and practice at all levels and in all spheres of society, among women and men. This is to ensure actual equality of access and benefits – real and substantive equality. It may include special short-term affirmative action measures for women, to compensate for a long history of disparity and disadvantage.

Quite obviously, the gender approach, though woman-centred, is not woman-exclusive. Exclusivity tends to marginalize women from mainstream processes. It leaves male consciousness and practice unaddressed, and thus disempowers women. Moreover many women-targeted approaches tend to disempower women, if they reinforce traditional gender stereotypes.

## IIb KEY ELEMENTS OF A GENDER SENSITIVE RIGHTS-BASED APPROACH

### ❖ **Universality, inalienability, indivisibility and interdependence of rights**

Rights apply equally to all people. Women as human beings have the same rights as men, that cannot be taken away or denied, whatever the circumstances. Further, all rights – social, economic and political – are equally important, interrelated and cannot be obtained in isolation. This calls for a holistic and multi-sectoral approach to guaranteeing rights.

### ❖ **Non-discrimination, equality and equity**

Human rights should be equally enjoyed by all without intended or unintended discrimination<sup>16</sup> on grounds of race, colour, sex, religion, political or other opinion, nationality or social origin, property, birth or status. This does not necessarily mean equal treatment in all instances. For example, men and women are different and currently have unequal social positions in most societies. Equal treatment that enjoins women to behave like men or to be treated according to male standards blurs differences, and can reinforce and perpetuate existing inequalities. The equity approach must instead be adopted. It addresses the differential impacts of rights violations on women, because of their different and less-valued roles, and includes special provisions, preferential treatment or positive discrimination, to compensate for long years of discrimination. This helps ensure equality of access and results.

### ❖ **Attention to vulnerable groups**

Human rights are universal, but priority should be accorded to those who are especially vulnerable and may not be able to exercise their rights – the poor, women, ethnic minorities, undocumented migrants, trafficked persons.

### ❖ **Recognizing and guaranteeing new woman-specific rights in the private sphere**

Recently recognized woman-specific rights in the private sphere – reproductive rights, the right to freedom from domestic and other forms of gender-based violence – must form an important component of anti-trafficking strategies, to reduce vulnerability to trafficking and the impact of its consequences.

### ❖ **Recognizing and guaranteeing the special rights of children in their best interests**

The Convention on the Rights of the Child and the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, provide special measures for children. This is because children are still in a formative stage of physical, sexual, emotional and cognitive development. Their knowledge and experience of the world is limited. This impacts their ability to discern and make decisions in their best interests. They thus need special protection from harms that have a more debilitating impact on them.

## ❖ Rights as empowering

Rights are intrinsic to the concept of empowerment, which involves two separate, but related aspects: (a) the structural dimension of rights and (b) the individual empowerment element. The structural dimension constitutes the socio-economic, political explanation or the development context for the guarantee or violation of individual or group rights. Interventions at the structural level must be integrated and multi-sectoral to be effective. The individual empowerment element equips individuals and groups to claim their rights.

### (a) The structural dimension includes three important elements:

#### 1 The legal or institutional element which:

- (a) defines the right through standard setting;
- (b) codifies rights through law and policy to make them claimable;
- (c) develops appropriate and enabling enforcement and monitoring institutions and machinery to give legal effect to these rights;

International human rights instruments, national legislation consistent with human rights standards and related mechanisms constitute the empowering legal and institutional element.

#### 2 The enabling environment element: generating a pervasive gender sensitive rights-based culture

Policy, institutional and social environments must pervasively respect the rights and dignity of all human beings and all trafficked persons, especially those of trafficked women and children. This enables trafficked persons, particularly individual women and young people to claim their rights, regardless of how well informed they are or personally empowered they may feel. This is because their rights would continue to be violated if institutions or powerful figures controlling these institutions refuse to recognize their rights.

#### 3 The element of obligation and accountability

A gender sensitive rights-based approach to development involves rights as well as duties and

responsibilities. It has therefore both duty-holders and claim-holders. While the primary obligation is placed on States, individuals and the international community are also obligated to respect, promote and ensure human rights.

#### *Obligations of the State*<sup>17</sup>

Under the Constitution and International Human Rights Law, a State is obliged to ensure that all people living within its jurisdiction enjoy human rights and freedoms. State obligations involve the obligation:

- to respect the human rights of people and not itself violate these.
- to protect human rights by ensuring that private persons and institutions respect, protect and promote the human rights of others. This places on States the responsibility of ensuring that human rights violations are penalized, and perpetrators are brought to justice.
- to fulfil human rights which includes:
  - (i) the obligation to facilitate an enabling environment that in principle and practice allows for the full enjoyment of human rights.
  - (ii) the obligation to directly provide certain rights

In relation to trafficking, the above state obligations include prevention through appropriate anti-trafficking laws, policies and programmes, investigating violations when they occur, taking appropriate action against violators and providing remedies and reparation to those trafficked, regardless of their immigration status.

#### *Obligations of the Individual*

All individuals are obligated to exercise their responsibly towards other individuals and the community, without violating the rights of others or provoking rights violations. For example, a person cannot claim freedom of speech and expression to violate women and their bodies on the internet or provide information, including pornographic descriptions of women and children and sexual encounters with them on internet sites, thereby facilitating trafficking or clients reaching the woman. Individuals employed by the State are especially bound to comply with State obligations to respect, protect and ensure human rights.

### *Obligations of the International Community*

States have an individual and collective obligation to co-operate with each other to fully realize human rights, and to co-operate in development from a gender sensitive rights perspective. Development assistance is not charity, it is a responsibility.

The United Nations has played an important role in setting international human rights standards, including the recognition of women's rights as human rights. Monitoring mechanisms in the form of treaty bodies have been set up under various Conventions to help States Parties to assess their performance and discharge their obligations to ensure fulfilment of rights. However the UN instruments' enforcement mechanisms are weak. At best the concluding comments and recommendations of treaty bodies can be used to create international and national public opinion to bring pressure on States Parties to introduce the required changes. At the national level there is no better substitute than organized civil society to actively advocate with governments for change.

But governments are not always unwilling to act. They often lack the capacity to intervene in appropriate ways that ensure rights from a gender perspective. It is therefore incumbent on national actors and the international community to strengthen the capacity of States to comply with obligations to respect, protect and fulfil human rights, and to enhance individual capacities to claim and exercise their rights and freedoms.

#### **(b) The individual empowering element**

Rights must be actively claimed by those who hold them. As both claim- and duty-holders, women's

individual and collective empowerment is an essential prerequisite for a gender sensitive rights-based approach. This involves:

- (i) the recognition, understanding, respect and appreciation by women of themselves as full human beings with full human rights that enhance their human potential and well-being;
- (ii) the recognition, respect and protection by women of the human rights of others;
- (iii) the ability to assess when and what rights are violated, and the conviction of women to actively claim their own rights. Trafficked women and children, for instance, need to define their experience in terms of rights violations and exploitation, rather than see themselves as "criminals";
- (iv) the knowledge and understanding of how to use legal instruments and institutional machinery to seek redress;
- (v) participation by trafficked persons, especially women and children (and potential victims) in standard setting, in formulating, enforcing, and monitoring policies, legislation and programmes from a gender sensitive rights perspective;
- (vi) the ability of civil society groups, including trafficked persons, to hold governments account.

#### **❖ Gender-responsive, rights-promoting protection**

Protections for trafficked women and children must be gender-responsive. They must be constructed as rights that empower women. Protective measures that reproduce gender stereotypes, reinforce discrimination and control over women should be challenged.

## **III GENDER AND RIGHTS CONCERNS IN THE TRAFFICKING PROCESS**

It is difficult to find accurate sex-disaggregated data on the magnitude of trafficking. But available evidence and general consensus suggests that women and children are the majority of those trafficked. Trafficked women and men share some similar concerns arising from their economic, nationality, ethnic and irregular immigration status.

Some of these are exploitative recruitment fees, appropriation of travel documents, contract violations and low wages, ill health, arrest, detention and deportation. But hierarchical stereotypes in favour of men and unequal gender relations render a web of vulnerabilities and abuse either peculiar to, or more common for women and children

throughout the trafficking cycle. The intensity of these violations, coupled with women's limited access to support and redress mechanisms, generally make long-term recovery more difficult for

them. This section foregrounds gendered vulnerabilities, abuse and its consequences at various stages of the trafficking process.

### IIIa GENDERED VULNERABILITIES TO TRAFFICKING

Skewed processes of socio-economic and political development marked by class, gender, ethnic concerns, and bound to larger global processes, lay the ground for trafficking.

#### The Supply Side

On the supply side these are:

❖ **Gendered development processes exacerbated in the recent context of globalization, that enhance gender inequalities and feminized poverty**

Development strategies are predicated on the existing gendered division of labour and associated attributes, that relegate women to the unpaid care economy and men to the productive public sphere. This marginalizes women from education, paid employment and resources. It renders them economically dependent on men and highly vulnerable in the event of a calamity or withdrawal of male support. Paid employment for women is generally marked by occupational segmentation in "woman-oriented" jobs, that are extensions of their lower-valued domestic roles, and are hence at the lower end of the job hierarchy.

This situation is exacerbated in new ways under globalization and its unregulated market model of development.

(a) Downsizing the public sector – an important employer of women in many countries – and cost-cutting measures in the formal manufacturing sector has reduced economic opportunities. Public sector women employees and women workers have often been among the first to suffer retrenchment and unemployment.

Loss of jobs by male family members has also adversely impacted women.

(b) Outsourcing, subcontracting and relocation to cheaper production sites in developing countries has generated a growing informal labour-intensive manufacturing and service sector. The informal sector characterized by flexible, insecure, low-waged and unprotected employment, monopolized by women, creates supply pressures for migration and trafficking.

(c) Reduction of revenue from tariffs and other trade-restricting measures has been offset by downscaling or withdrawal of state subsidies for public services like health, childcare, education and the privatization of these. This has transferred the socio-economic costs and burdens of providing these services to women, as caregivers. In a male-privileged culture, women and girls are more marginalized than men and boys from costly health care and education. More girls than boys are being withdrawn from school. They assist in feminine tasks of household management, family care and sub-contracted homework alongside their mothers, to augment family income. This reduces their opportunities for better jobs.

(d) The shift from centrally planned to market models of development in some countries of the Mekong subregion, in countries of Eastern Europe, and the former Soviet Union has resulted in socio-economic dislocation, and deprivation. This systematic marginalization, has thrown a huge pool of socio-economically and emotionally vulnerable women and girls into the circuit of migration and facilitated job placement, with large numbers being trafficked.<sup>18</sup>

(e) Revolutionized information and communication technologies under globalization, including the mass media disseminate information, images and ideas speedily and relatively inexpensively to remote corners of the world. This stimulates the desire for adventure, the yearning to be free from control and aspirations for better living standards, material gratification or competitive lifestyles, creating pressures to move. However marginalized women's lack of access to reliable information and contacts, language barriers, naivety about the real world, overestimation of the ability to deal with exploitative situations, increases women's risk of being trafficked.<sup>19</sup>

❖ **Displacement due to natural and human-created catastrophes such as war, ethnic conflict, state repression and human rights violations**

These situations tend to create a skewed demographic balance in favour of women, the aged and children, and a sharp increase in woman-headed households. The disintegration of family, community and state support systems, prompts women to flee in desperation with their children in search of physical and economic security, rendering them more vulnerable to traffickers.

❖ **Dysfunctional families**

The death of parents and guardians, child abuse and incest, marital discord and family disintegration create emotionally and economically vulnerable children. Traffickers prey on them as they try to escape oppressive situations.

❖ **Gendered cultural practices, gender discrimination and violence in families and communities**

(a) Contrasting evaluations of a son's and daughter's role and status in patrilineal family systems generate a culture of son preference. In addition, daughters are perceived as a liability to the natal family, who must marry them off early and appropriately, ensure their premarital sexual purity, provide hefty marriage expenses and other material resources on auspicious occasions to the daughter's marital kin. Poor households, in particular, cope with this in var-

ious ways. If an opportunity presents itself, families are willing to trade unwanted women and girls with little thought for their rights or future well-being. Examples are: sale of women and girls into marriage; willingness to marry women and girls off even to strangers who make no monetary demands, thus predisposing them to trafficking; sale of women and girls into prostitution when sexuality acquires an attractive market value.

(b) Empowering traditions and practices in some matrilineal and bilateral contexts (where a daughter's role and status is more or equally valued as a son's, and where a daughter provides economic and social security to ageing parents), have been appropriated by a patriarchal modernization process, disempowering women. Women and young girls are now manipulated by consumerism and a perversion of family values to fulfil family needs and consumption in the name of cultural tradition – duty, care, gratitude – even if it means being sold into prostitution.

(c) Many young women are vulnerable to trafficking not only because they lack economic opportunities, but also because they want to escape from the burden of long hours of unpaid domestic work and family care expected of them. The tedium of fetching fuel and water in rural areas and working as unpaid labour on family farms or in an informal sector enterprise, are not attractive to many young women especially those exposed to alternative modern lifestyles through some education or the media.

(d) Vulnerability caused by marital infidelity, alcoholism, domestic violence, desertion by husbands and divorce, increases the risk of women being trafficked.

(e) In contexts where sexual purity is the insignia of ideal womanhood, rape, other forms of sexual abuse, or non-conformity to prescribed sexual codes result in stigmatization and a loss of self-worth. Traffickers prey on the family's sense of outrage and dishonour and the woman's or girl's guilt, shame and desire to escape the situation.

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## The Demand Side

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On the **demand** side, globalization has fuelled changes in the relative shares of economic sectors, and in the international division of labour and labour market demand. Feminized migration for work and trafficking in women has largely occurred in response to this demand-driven reality, which is marked by:

❖ **The development of certain economic sectors with a more woman-specific demand, circumscribed by gendered occupational segmentation, gendered perceptions of attributes, skill, value, perceptions of body and sexuality**

- the emergence of labour-intensive export-oriented production; cost-effective, subcontracted, flexi production in the burgeoning informal sector;

This is characterized by low wages, casual part-time jobs, hazardous work conditions and an absence of collective bargaining mechanisms. Women are preferred in these sectors as they are viewed as submissive, suited to simple repetitive tasks, abundant and needy, cheap and pliable.

- the development of the “feminized” service sector, but more specifically the sex sector and domestic work;

(a) The lucrative sex industry is predicated on male-centred ideological assumptions: sex is a male right and a commodity; commercial providers of sex services are largely women; women in prostitution exist as sexualized and commodified bodies functional to male rights. They are to be dissected, fragmented, appropriated, used and abused as “common property”, in the interests of male biology, male sexual fantasy and hegemony.

(b) Tight labour market conditions in newly industrialized countries like Singapore and

Hong Kong, have drawn educated middle-class women into the workforce. This is combined with a lack of participation by men in domestic work, a scarcity of local labour and their disdain for low status domestic work, raising the demand for foreign domestic workers to take over domestic and caregiving roles.

- (c) Demographic profiles in Western countries are increasingly being marked by a growing ageing population. Independent lifestyles and looser family bonds are relegating care of the elderly to institutions or home-based caregivers. This, combined with a scarcity of local labour and the exorbitant prices they command if available, raises the demand for overseas workers for caregiving jobs.

Demand for these jobs is not just marked by gender concerns, but economic inequities within and between countries, as well as discriminatory nationality and racial stereotypes. The jobs are considered dirty, degrading and dangerous. Nationals in destination countries who enjoy some measure of social protection are unwilling to take them, despite tightening economic conditions. By contrast, they are accepted by women from poorer countries where unemployment is high, wages are much lower and social safety nets absent.

❖ **Discriminatory socio-cultural practices**

- a burgeoning marriage market and bride-trade;

An example of this is trafficking for marriage between Vietnam and China. China’s one-child population policy, which in a male-centred context has resulted in son preference, has produced demographic imbalances. With a male-female ratio weighted in favour of men, Chinese men find it difficult to find spouses, raising the demand for prospective brides. Long years of war in Vietnam has skewed the demographic balance in favour of women. The pressure on women in a patriarchal Vietnamese context to marry, compels many women

into being second or third wives. A thriving trade in Vietnamese women for the Chinese marriage market has thus emerged.

- “the mail-order-bride” system, in which large numbers of Asian women are trafficked for marriage to the West;

This is the result of fragile man-woman relationships, the diminishing ability of Western men to dominate assertive Western women, combined with gender and racial stereotypes of Asian women as docile, subservient homemakers, and the aspiration of some Asian women to acquire “farang” husbands as a prestige symbol and as a means for upward mobility.

❖ **Restrictive immigration and emigration policies and laws, and fewer, decent and non-gendered job opportunities for women**

While trade and capital flows are liberalized, deregulated and integrated globally, people flows are not. Restrictive immigration laws and policies are obstacles to demand for cheap unskilled labour in host countries and a large supply of human power from countries of origin. This generates a lucrative market for traffickers. Poor women job-seekers, particularly from remote rural areas with poorer access than men to information on migration and job opportunities, recruitment channels and procedures; less access to decent, non-conventional, legitimate jobs; and who are less worldly-wise and confident than men, are at a higher risk of being trafficked.

Restrictions also take the form of complete bans, or age-, occupation- and country-specific bans by countries of origin on women’s out-migration. This is often intended as a “protection” against trafficking. Such measures raise the demand for undocumented migration often provided by traffickers. They marginalize women from access to pre-departure orientation programmes that help them deal with potential exploitation.

❖ **Impoverished and impoverishing political processes such as poor leadership and governance, making trafficking a low-risk, high-profit venture**

Existing political practice generally tends to be marked by aggression, a lack of inclusiveness, transparency, integrity, and a gender sensitive rights-based orientation. Some manifestations of this in relation to trafficking are: economic and political trade-offs between traffickers and public officials; the lack of political will to regulate recruitment agencies and impose sanctions against traffickers and unscrupulous public officials. Deeply internalized attitudes that condone exploitation, reinforce this. Trafficking and institutions into which persons are trafficked thus become low-risk and high-profit enterprises, reinforcing the violation of trafficked persons with impunity.

❖ **Rights violations caused by increasing alienation, and impoverishment of human values and the human spirit**

- The overwhelming emphasis on capital accumulation, material acquisition and status, regardless of the means to this goal, results in rights violations.
- In the case of the sex sector, alienated human beings with fractured emotionalities and psyches often have alienated sexualities. This raises the demand for alienated forms of sex with the need for stimulation from newer and different sexual partners – particular nationality, racial, and ethnic groups, and children – all imagined as exotic with the promise of boundless sexual excitement.
- Destination country realities are distorted and deceptively romanticized as economic gold mines or havens of refuge.

Traffickers match demand and supply, cashing in on gendered vulnerabilities. Their preference in many countries is for women and girls, because they are deemed a safer risk, are more vulnerable, easier to control and are less likely than men to seek retribution.

### IIIb GENDER CONCERNS DURING TRANSFER AND IN DESTINATION SITES

Some gender concerns during transfer and at destination sites are:

- Stranding en route in the event of problems with authorities, rendering women vulnerable to physical and sexual violence;
- Cultural prejudices that label trafficked women as “morally depraved” and “sexually available”, while trafficked men tend to be constructed as “criminals – thieves, drug runners, national security threats”;
- Gendered abuses related to gendered division of labour and trait stereotypes in destination sites;

Institutions into which women and girls are trafficked such as domestic work and prostitution, demand the provision of personal and intimate services that invade a woman’s privacy and entire being in ways different from men working at construction or manufacturing sites. This is more obvious in the case of prostitution where women exist to be abused with impunity, as this is functional to male biology, male sexual fantasy and hegemony. The paid nature of the transaction and the belief that women are sexually available obscure violation. The industrialization of sex services involves service diversification – more specialized, and hence more expensive acts – that intensifies the abuse of women and children. Thus violence and an all encompassing invasiveness are endemic to the institution.

While such violation is less obvious in domestic work, women domestic workers are often sexually abused by male employers under threat of further violation or of losing their jobs. There are also documented cases of employers forcing their domestic workers into prostitution in sex service establishments that they own or operate. Further, even when women are employed in factories or other kinds of service jobs, they are more vulnerable to sexual abuse by employers or are forced to engage in pros-

titution within or outside their employment sites on pain of being fired or to supplement low wages.

Isolation, convergence in living and work space, moral disapproval, invisibility, and criminal linkages exacerbate the situation, making escape or access to external support and assistance more difficult.

- Lower wages for women for the same or similar jobs as men;
- The absence or lack of independent assets, putting greater pressure on women to endure acute abuse;

As women are poorer, own nothing or have fewer assets than men, their recruitment and travel costs are often paid through borrowing liquid funds from family and friends or from moneylenders at usurious rates or from the sale of assets owned by male relatives. In extreme cases, where women cannot make payments, costs are recovered at source from wages, trapping women in debt bondage. Moral responsibility to repay debts, fear of reprisals for inability to repay, and debt bondage compel women to put up with the worst forms of abuse.<sup>20</sup>

- Health and well-being impacts related to women’s generally poorer health status and work-related violations;

Trafficked women suffer from anaemia, tuberculosis, fevers, common respiratory ailments, related to their generally poor health. This is exacerbated by poor living and working conditions in institutions into which they are trafficked. Reproductive health concerns, STDs and HIV/AIDS, injuries and death on the job, are commonly related to physical and sexual violence at the work site. Abuse, alienation and stigmatization impacts on self-esteem, causing psychological trauma and self-harm.

### IIIc GENDER CONCERNS DURING RETURN AND RESETTLEMENT

Some gender concerns during return and resettlement are:

- Compulsory HIV/AIDS testing, particularly of women returnees;
- Emphasis on “moral rehabilitation” of young women returnees, which includes forced “marriage alliances” or return to the family. Men do not normally face these pressures;
- The personal and social costs of trafficking tend to be higher for trafficked women and female dependents of trafficked men, with the potential for further abuse:
  - (a) When women migrate or are trafficked, the impact on the children tends to be more severe. Emotional problems, poor grades, dropping out of school, drug and alcohol intake are documented concerns. Girl children are known to be married off early by relatives wishing to ease themselves of responsibility;
  - (b) Long periods of separation result in marital instability and discord – alcoholic husbands, infidelity, violence, desertion and divorce;
  - (c) Inability or unwillingness of families to understand the experience of trafficked women;
  - (d) Greater stigmatization of women returnees specially those who are physically and sexually abused or return prematurely, traumatized and without savings;
  - (e) Inadequate protection against reprisals from traffickers, lack of socio-economic reintegration facilities, the concern of creditors over economic losses when women return prematurely and empty-handed, often cause them to be re-trafficked. This delays recovery for women;
  - (f) Lack of control over earnings. Remittances tend to be sent to male relatives, most often the husband, who may use it for personal needs, conspicuous consumption or on productive investments such as land, housing, and a small business registered in his name. This reinforces dependence on men and exacerbates feminized poverty. In the event of divorce, desertion or other calamities, there is no guarantee that the woman would not be marginalized from these assets and re-trafficked or pressured into exploitative situations once more for survival.

## IV STRATEGIC INTERVENTIONS ON TRAFFICKING

### IVa FRAMEWORK FOR INTERVENTIONS

Trafficking has a complex socio-economic and political basis linked to larger regional and global development processes. It cannot be treated solely as a “social” problem, or by “band aid” and ad hoc

micro initiatives, as these do not address poverty or related causes of vulnerability to trafficking in strategic or sustainable ways. On the contrary, they create and reinforce vulnerability to trafficking.

Responses should:

- *treat trafficking as a development concern and place it on national, regional and international agendas;*
  - *integrate a gender sensitive rights perspective into all development plans, policies and programmes, and related anti-trafficking interventions in an integrated multi-sectoral manner and in accordance with international human rights instruments.*
- *ensure a balance between interventions providing immediate post-trafficking assistance and more long-term prevention;*
  - *develop mechanisms to enforce and monitor policy and programme implementation;*
  - *undertake multi-stakeholder collaboration at national, regional and international levels, involving countries of origin, transit and destination.*

## IVb SPECIFIC INTERVENTIONS

Anti-trafficking interventions must address prevention as well as post-trafficking assistance, including during return and resettlement. This paper focuses on preventive strategies, including demand-generating factors, because concerted strategic preventive action is likely to have a greater impact on the issue in the long run.

The following preventive strategies have been identified as strategic: economic empowerment for women and girls; education for sustainable livelihoods and resilience; social security and protection for women and girls in difficult circumstances; legal strategies; safe migration and citizenship rights for women and adolescent girls; transforming male-centred perceptions, attitudes and practice related to men and women, their bodies and sexuality.

### ❖ ***Economic empowerment for women and girls***

Interventions for women's economic empowerment must address unequal gender relations that marginalize women economically. They must enhance women's access to productive resources and to markets and ensure secure and sustainable upward economic mobility. Economic empowerment of women and girls must ensure gender equality in the family, community and society at large. Specific interventions include:

- recognizing and valuing women's paid and unpaid work equally with men's at all levels of society;
- analysis of the gender impacts of macroeconomic processes and policies on women's employment and businesses;
- explicitly integrating into policies, legislation and programmes the specific concerns of the particular target groups of women that arise from their gender roles and the impact of gender stereotypes;
- expansion and provision of better, paid employment and business opportunities for women, consistent with market trends and in non-conventional sectors;
- reforming rules, procedures, norms and practice of institutional service providers to enhance women's access to, ownership and control over economic resources like land and credit;
- forging collaboration between the private sector, government, NGOs and other institutional service providers on the basis of comparative advantage;
- building the capacity of women producers and entrepreneurs in product development, production process, business and financial management, access to information, marketing, including the ability to effectively respond to market change;
- empowering women stakeholders to recognize and claim their economic rights, including the right to sustainable livelihoods through employment, access to skills, information and

markets in accordance with international human rights standards;

- developing and ensuring enforcement of guidelines for corporate social responsibility and good labour practice based on human rights principles and standards;
- gender and rights awareness-raising for families and communities that helps them recognize and support women's paid and unpaid economic contribution, and reduce women's unpaid work burden by sharing domestic work;
- macro policies that provide for basic infrastructural facilities like safe, clean and adequate water, social services like free or subsidized childcare, health services, and those that promote the use of appropriate and affordable labour-saving technologies, all aimed at reducing women's domestic work burdens.

#### ❖ **Education for sustainable livelihoods and resilience**

- Expand opportunities and improve access to formal education for women, girls and boys at all levels and in non-conventional streams;
- Ensure a match between better education and available job opportunities;
- Incorporate gender and human rights concerns, (including themes like trafficking) into school and university curricula;
- Ensure life skills and resilience training, that raises awareness on the ploys of traffickers, and harms of trafficking, and enhances assertiveness and ability for self-defence.

#### ❖ **Social security and protection of women and children in difficult circumstances**

- Introduce employment guarantee schemes;
- Provide subsidized or free childcare, health care and education;
- Provide services, such as counselling, education, alternative institutional or foster care and community support for children at risk.

#### ❖ **Legal strategies**

Legislation must protect, promote, give practical effect to the rights of trafficked persons, especially women and children and thus contribute to establishing a gender and rights-based culture.

Effective prosecutions of traffickers will act as a deterrent and promote and protect the rights of those trafficked.

It is necessary to:

- amend or adopt national legislation in accordance with the UN Trafficking Protocol and other international standards;
- develop guidelines for the rapid identification of trafficked persons;
- decriminalize trafficked persons, for illegality of their coerced entry, residence or activities resulting from being trafficked. They should be able to use their trafficked status as a defence in status-related offences;
- strengthen provisions for access to legal remedies, and socio-economic assistance for physical and psychological recovery;
- provide adequate witness protection;
- explore options of residency in countries of destination or third-country resettlement, to prevent reprisals, or when re-trafficking is likely;
- provide special measures for children in accordance with the Convention on the Rights of the Child and the UN Trafficking Protocol;
- criminalize traffickers and penalize public officials involved in trafficking and related activities;
- make legislative provision for confiscation of assets of traffickers;
- build into legislation measures to enhance the efficacy of legal enforcement, such as:
  - (a) promoting legal literacy, especially among vulnerable communities, and improving access to affordable legal assistance;
  - (b) establishing hotlines and effective information networking systems, national and transnational co-ordination and co-operation to facilitate access to assistance and to prosecute traffickers (including safe witness protection programmes and innovative incentives for witnesses to provide evidence);
  - (c) conducting in a sustainable manner legal refresher courses for enforcement agencies, gender and rights training to identify trafficked victims and treat them in accordance with human rights principles and standards;

- (d) promoting civil society participation (including those trafficked) in formulating, enforcing, monitoring legislation and the provision of related services in a manner that centres the needs of trafficked persons;
- (e) establishing institutional mechanisms to en-sure accountability, that include civil society participation.

#### ❖ **Safe migration and citizenship rights for women and adolescent girls**

There are two dimensions to this, the first concerns national development strategies that provide decent and sustainable livelihoods and living opportunities. This expands choices for the community, especially women and children, and has the potential to contain migration and reduce vulnerability to trafficking. The second deals with a set of gender and rights-based interventions that make migration safe, thus putting a brake on trafficking. These are:

- generation of databases on migration, disaggregated on the basis of sex, age, ethnicity, etc., that provide information on sectors of job demand, supply and remittances;
- awareness-raising on the costs and benefits of migration from a gender sensitive rights perspective in source sites, in the interests of informed decision-making;
- building women's capacity to deal with potential exploitation through pre-departure gender sensitive rights-based orientation and training, that provides information on rights, available services, where and how to access these when needed;
- regulating recruitment and travel agencies, and developing mechanisms for accountability, including those that ensure safe living and working conditions compatible with human respect and dignity;
- ensuring that people, including trafficked persons have the right to seek and enjoy asylum from persecution in accordance with international refugee law, in particular through effective application of the principle of non-refoulement;
- reviewing immigration laws and policies in accordance with international human rights standards, and an assessment of demand for migrant women's labour in various sectors;

- promoting bilateral and multilateral agreements that provide for the protection of migrant workers, especially women;
- enforcing minimum national labour standards for the protection of national and foreign women migrant workers;
- ensuring appropriate legal documentation for birth, citizenship and marriage.

#### ❖ **Transforming male-centred perceptions, attitudes and practice related to men, women and sexuality**

Trafficking is a demand- and a supply-driven reality. Reducing demand for trafficked persons must focus on the institutions into which they are trafficked. Efforts to reduce demand, have principally been deterrent measures via the criminal justice system, more stringently directed at trafficking in children for sexual exploitation, and paedophilia. There have by and large been a lack of interventions to transform male-defined ideas, attitudes and practice on gender stereotypes, male and female sexuality, that create and reinforce the demand for women, including trafficked women, into certain "woman-oriented" sectors, such as domestic work or the sex sector.

Demand may be addressed by more gender sensitive rights-oriented information, analysis, socialization, awareness-raising, counselling and therapy for diverse sectors and population groups. This must challenge:

- dominant notions of womanhood defined in terms of domesticity and dependence, and manhood in terms of active public sphere roles;
- prevailing ideas on male sexuality as potent and irrepressible, and women as fitting objects for male sexual expression;
- pervasive constructions of women's sexuality as either inert and existing for procreation in marriage or active and existing for the provision of sexual pleasure in prostitution;
- the alienation and impoverishment of the human spirit expressed in the commodification of human beings and human relations, and growing human rights violations;

These must be replaced with respect for human dignity, human rights, mutuality and sensitivity in all human relations.

## V CONCLUSION

Trafficking is an increasingly important development issue, particularly for many of the poorest countries and poorer regions of less poor countries. Trafficking in women and children is a major component of global trafficking, although the precise magnitude is not known due to the lack of accurate data.

Although anti-trafficking activities are largely focused on women and girls, and the international community is generally aware of the rights violations involved, trafficking projects, programmes and interventions remain largely gender-blind and are often incompatible with a rights-based development perspective. This makes it important for practitioners to address trafficking from a gender sensitive rights-based development framework.

The paper maintains that a gender sensitive rights-based approach to development ensures fundamental human entitlements – social, economic and political – to expand choices, promote human well-being and empowerment in equitable and sustainable ways. The claim to human rights has a strong moral force and imposes an obligation on States to respect and ensure their realization.

Women's rights as human rights must lie at the core of any meaningful development and anti-trafficking strategy. But women are differently and unequally situated in relation to men in terms of their different and less-valued social roles and attributes. This makes women and girls more vulnerable to trafficking and results in a host of

abuses peculiar to and more commonly perpetrated against them through out the trafficking process.

A gender and rights orientation to trafficking must address the different and specific needs of women and of children at all stages of the trafficking process. It must focus on realizing rights equally for men and women, girls and boys by empowering them to claim their rights and by ensuring enabling policy, institutional and social environments that are responsive especially to the concerns of women and children. This may include special provisions for women and for children to compensate for cumulative disadvantage and to ensure real equality.

Such an approach establishes that attention must be paid to both the individual and structural dimensions of human rights for women. Realization of the structural dimension of women's human rights is the key to both the prevention of trafficking in women and girls, and the integration of survivors of trafficking into their communities of choice.

This recognition points to the need for an integrated and multi-sectoral approach to address trafficking as a development issue at national and local levels. Recognition of the global nature of trafficking and its prevention points to the need for co-ordinated collaboration at regional and international levels among countries of origin, countries of transit and destination, as well as the international community as a whole.

## ENDNOTES

1 (a) **“Trafficking in persons”** shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power, or of the posi-

tion of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation 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;

- (b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;
- (c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered “trafficking in persons”, even if this does not involve any of the means set forth in subparagraph (a).
- (d) “Child” shall mean any person under eighteen years of age.

[Article 3: UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime; 2000.]

- 2 See **UNDP Human Development Report 1999**, that makes a clear link between trafficking as a criminal activity on the rise as a result of the expansion of globalization.
- 3 **Communique of the Ministerial Conference of the G-8 countries on Combating Transnational Organized Crime**; Moscow; 19-20 October 1999.
- 4 There is often overlap between source, transit and destination sites. Cited below are sites that dominate each category. In addition to older source and destination sites, emerging source sites in Asia include Lao PDR, Cambodia, Vietnam, China and Myanmar, while Thailand continues to be a source, transit and now important destination country. While Germany, the Netherlands and Belgium continue to remain important destination points for Asian women, the USA, New Zealand and Australia are emerging new sites. Besides, new destination points have also developed within Asia. These include Malaysia, Singapore, Japan, Hong Kong and Taiwan. There is evidence of Russian and Ukrainian women being trafficked to Asia. See D’Cunha, J; **Trafficking and Prostitution from a Gender and Human Rights Perspective:**

**The Thai Experience** in A Comparative Study of Women Trafficked in the Migration Process (Indonesia, the Philippines, Thailand, Venezuela and the United States); CATW; February 2002. The IOM has identified Russia, Ukraine, Poland and the Baltic states as emerging source sites; Hungary, Romania and the Czech Republic as important transit countries, while the USA has now joined Western European countries, especially the Netherlands, Belgium, Germany, Italy and Greece as principal destinations. See USAID; **Women as Chattel: The Emerging Global Market in Trafficking** in Gender Matters Quarterly; No.1; February 1999.

- 5 For discussion on the links and differences between migration, smuggling and trafficking, see D’Cunha, J; **UNIFEM Briefing Kit on Empowering Women Migrant Workers in Asia** website: [www.unifem-eseasia.org](http://www.unifem-eseasia.org). Also Gallagher, A; **Human Rights and the New UN Protocols on Trafficking and Migrant Smuggling: A Preliminary Analysis** [n.d.].
- 6 Traffickers use blatant violence, but often more subtle inducements and deceptions that capitalize on an individual’s vulnerability to gain consent. These may be promises of well-paying legitimate jobs, residency status in more prosperous countries or befriending, declarations of love and fake marriages. The internet is increasingly used in this regard. Material inducements are often provided to relatives and guardians who may or may not be deceived about the fate of the potential victim. There are also more extreme cases involving kidnapping and abduction. These cases though common in parts of South Asia are less common in the Mekong subregion, although there are widespread reports of kidnapping of boys for adoption in China and neighbouring countries. The rape and sale of women and young girls is yet another method. See D’Cunha, J; Op. cit.
- 7 Trafficking in persons occurs for a wide range of purposes, the most dominant is reported to be for prostitution and other forms of sexual exploitation. In 1998, the United Nations identified the sex trade as the fastest growing international trafficking business. Other important purposes for which trafficking occurs include

- sweatshop labour, illegal adoption of children, forced marriages, domestic work and begging. See Forbes, M; **Exposed: City's 'Sex Slave'**; *The Age*; Sunday, 9 May 1999. Also see USAID; Op. cit. See UNICEF, UNOHCHR and OSE-ODIHR; **Trafficking in Human Beings in Southeast Europe**; 2002. Also see Kigai, N; **Trafficking in Persons (Russia)**. Paper Commissioned by the Swedish Ministry for Foreign Affairs; 2001.
- 8 Men and boys are also trafficked. Furthermore, the age of trafficked persons appears to be getting younger with documented evidence of trafficked children as young as five. See Sengupta, R and Huq, S; **Trafficking of Persons and Gender Inequality in South Asia**; October 2001[Unpublished paper]. See D'Cunha, J; Op. cit.
- 9 In 1997, according to UN calculations, the procurers, smugglers and corrupt public officials who ply the emerging international trade in human beings extracted \$7 billion in profits from their cargo. See USAID; Op. cit.
- 10 Primary education alone for girls, as an anti-trafficking strategy, may be ineffective because it is insufficient to lead to paid employment and hence poverty reduction in the home country. It neither challenges the "unvalued" family status of girls, nor competes with the attraction of a nearby country that offers paid (albeit low status and exploitative) employment even to uneducated girls, thus leaving them vulnerable to trafficking. A recent study suggested that increased education for girls in a hill-tribe area of Lao PDR, in the absence of an integrated approach was likely to create vulnerability to trafficking. See Chamberlain, J R; **HIV Vulnerability in the Northern Provinces of the Lao People's Democratic Republic**; UNDP South-east Asia HIV and Development Project; March 2000.
- 11 See **A Rights-Based Approach to Development: Programming for Development from a Rights Perspective**; Paper presented at APGEN Partners Conference; Kuala Lumpur; 23-25 May 2002.
- 12 IWRAP Asia Pacific; **Facilitating the Fulfillment of State Obligations to Women's Equality: Training Module on the Convention on Elimination of All Forms of Discrimination against Women**; November 2001.
- 13 Bunch, C and Frost, S; **Women's Human Rights: An Introduction**; 1997 [<http://www.cwgl.rutgers.edu/whr.html>].
- 14 UNOHCHR; **Recommended Principles and Guidelines on Human Rights and Human Trafficking**; Report of the UN High Commissioner for Human Rights to the Economic and Social Council (E/2002/68/ADD1); 2002.
- 15 Sengupta, R and Huq, S; Op. cit. Also Blanchet, T; **Beyond Boundaries: A Critical Look at Women and Labour Migration from Bangladesh**; Research Publication; Drishti Research Center; Dhaka; April 2002.
- 16 IWRAP Asia Pacific; Op. cit.
- 17 **A Rights-Based Approach to Development: Programming for Development from a Rights Perspective**; Op. cit.
- 18 Between 70 to 80 percent of unemployed workers in the Russian Federation, for instance, are women vulnerable to trafficking. See USAID; Op. cit. Also **A Survey of Trafficked Women and Women in Prostitution, The United States** in A Comparative Study of Women Trafficked in the Migration Process (Indonesia, the Philippines, Thailand, Venezuela and the United States); CATW; February 2002. Also Kigai, N; Op. cit. See UNICEF, UNOHCHR and OSE-ODIHR; Op. cit.
- 19 For a more detailed discussion, see Kigai, N; Op. cit.
- 20 Blanchet, T; Op. cit.