

National Human Right Commission - Combating Trafficking In Women and Children

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Introduction

The problem of trafficking in women and children is an issue of serious concern over the years at the national and international level. As such, it is the decades old serious in - human crime depriving total dignity and freedom and is the total violation of human rights. On one hand, the effort of the 21st century world is in the process of improving the quality of life of the people based on human rights and development with Millennium Development Goal and Poverty Reduction Strategy. On the other hand, trafficking in women and children is gaining momentum with impunity aggravated by different push and pull factors and by diversity of country to destination. Economic factors such as poverty and unemployment, social and cultural causes including low status of women and girl child, culture of violence, dysfunctional families, migration, open boarder, weak enforcement of legislation and external factors including pull factors of attraction for the urban life can be listed as major factors as the root causes of trafficking in women and children. Further, there is increasing demand of children for trafficking for the purpose of exploitation in factories in domestic work, begging, camel jocking and even for the sale of organ. Children are more sexually exploited in prostitution because of their low risk of being vulnerable to HIV/AIDS. The struggle continues today specially in all most all the poor and developing countries and Nepal comes as one them .A girl child born in poor rural family in Nepal bears a high risk of being trafficked that eventually she may be traded as sex slave to neighboring country.

Since over the last decade there have been concerted efforts in Nepal to address the trafficking of women and children and their commercial exploitation. National Human Right Commission (NRHC) with its responsibility and accountability to protect and promote the human right of people in Nepal has included the agenda of combating the trafficking in women and children as the priority concern to advocate and work for improving the human right status of women in Nepal. In this endeavor, NHRC works closely with international conferences and conventions, including the commitments of regional forums like Asia Pacific Forum and national policies and legislations.

Gravity Of Trafficking Problem In Nepal

Nepal has long tradition of human trafficking to its southern neighbor, India, but recently trafficking to Korea, Malaysia, Thailand and Arabian countries is increasing. Though Women and girls are trafficked for forced labor, organ transplant, circus work, domestic labor, camel jockeying, adoption and forced marriage, but the major cause that overshadows all the others is sexual exploitation. Traditionally, only few districts were prone to trafficking problems. By now, based on the incidence of trafficking. The Ministry of Women Children and Social Welfare (MWCSW) have identified 26 geographic districts, being prone to the problem. Among them, some districts have been identified as high incidence zones.

The statistical data on trafficking victims remains widely varied. The conservative estimate shows that the figure of trafficking of women comes to the total of 5000-7000 per annum. Whereas the ILO Study- 1998, states that the figure might be as high as 12000 per annum. UNICEF reports that of the total trafficked victims 20 percent of them are under the age of 16 years. The estimated 100,000 to 200,000 Nepali girls and women are currently working in the Indian sex industry.

Commitment And Initiatives Of HMG/N To Address The Trafficking Of Women And Children In Nepal

1. Commitment in the International Forum

Trafficking in women and children is a growing phenomenon on national, regional and international level. The state party by being the participant and signatory of the different international conferences and convention has shown the commitment to address the problem.

HMG /N has committed to redress the trafficking in women and children and thereby to improve their status of human rights at national, regional and international level. By being the state party of the following international initiatives:

- First Congress Against Commercial Sexual Exploitation, 1996
- Fourth World Conference on Women -Beijing, 1995
- UN Convention on The Rights of Children, 1989
- Convention on the Elimination of All Forms of Discrimination Against Women, 1979
- ILO Convention on the Prohibition of and Immediate Action on the Elimination of the Worst Forms of Child Labour, 2000
- SAARC Regional convention on Preventing and combating Trafficking of Women And Children for Prostitution, 2000-2004
- Convention on the Abolition of Slavery, Slave Trade and Institutions and similar to slavery, 1956
- ILO Minimum Age Convention, 1973
- ILO forced labour convention on forced or compulsory Labour, 1930

2. National Initiatives

Under the Article 20 (1) of the constitution of the kingdom of Nepal 1991, the right against exploitation is guaranteed which explicitly prohibits the traffic in human beings, slavery and serfdom or force labour in any form. Any act contravening to the Article is regarded as heinous crime and is punishable under the existing law. The Human Trafficking (control) act 1986 is enacted and enforced as special Act. The ACT provides strict provisions of burden of proof, which lies on the accused in some circumstances. The penalty of 20 years jail terms. As a party of the international legal instrument Nepal has state obligation to adopt necessary and effective measures to meet the objective put forward.

The National Human Right Commission established under the Human right commission Act-1997 is responsible for the effective enforcement as well as protection and promotion of human rights conferred by the constitution and other prevailing laws. Therefore, NHRC has full

responsibility to combat Trafficking of women and children as an act of direct violation of human right against women and children

National Policy on Trafficking in Women and Children, National Plan of action Against Trafficking in Children and Women-2003, provision of Ministry of Women and Children and Social welfare as Focal institution to deal with trafficking, establishment of National coordination Committee and District, village task force to deal with trafficking are major initiative of HMG/N towards addressing the issue of trafficking of women and children in Nepal. Further, the establishment of Office of National Rapporteur (ONRTWC) is then innovative step of HMG/N to deal with the problem trafficking in women and children from the prospective of human right status.

The Office of the National Rapporteur on Trafficking in Women and Children (ONRTWC) has been established by developing a Memorandum of Understanding between Ministry of Women, Children and Social Welfare (MWCSW) and National Human Rights Commission (NHRC) as recommended by Beijing+5 outcome Document 2000. Although the both parties signed the Memorandum of Understanding on 29th August 2002, the ONRTWC started functioning since 10th January 2003 only. The ONRTWC has been positioned within the structure of the National Human Right commission with the strategy to effectively influence national, regional and inter national policies and programme in favor of the rights of women and children for sustainable human development. The objective of ONRTWC is to bring about conceptual clarity on trafficking and related vulnerability, to monitor the incidence of trafficking to coordinate national regional and international effort to combat the incidence of trafficking, and to generate the high level commitment to improve the human right situation of women and children.

Accordingly, The National Rapporteur on Trafficking has been positioned. The major responsibilities of the National Rapporteur are related with developing national and international linkage and coordination with respective stakeholders for the sake of advocating the rights of trafficked women and children relating to the recruitment and transportation of women and children who are trafficked, rescued, repatriated and reintegrated. She /he is also responsible for collection and dissemination of information, monitoring legal frame work to meet the international legal obligations, trans boarder trafficking initiatives of GO/NGO. As the Rapporteur, she/he has to promote and sustain effective working relation between National Human Right Commission of Nepal and its counter parts in South Asia and other countries specially the Indian Human Right Commission. In addition she /he has to liaising with international investigatory and supervisory mechanisms such as the United Nation's Special Rapporteur on violence against women, the United Nation's Committee on the Elimination of discrimination against Women and United Nation's Committee on the Rights of the Child to enhance the relevance, accuracy and effectiveness of the international scrutiny.

Activities Undertaken by Office of National Rapporteur

Co-work with Indian National Human Rights Commission

The Seventh Annual Meeting of the Asia Pacific Forum of National Human Rights Institutions held in New Delhi from 11 to 13 November 2002 concluded that it is important to strengthen strategic partnerships with human rights institutions. And the agreement between the National Human Rights Commissions of India and Nepal to work together on this issue was also made.

Both National Human Rights Commissions of India and Nepal prepared MoU for the purpose The MOU is in consideration to be signed during Asia Pacific Forum (APF) meeting. Some of the agenda of the MOU are as following:

- Sharing of information and data on trafficking
- Joint Task Force (JTF) to prevent/combat trafficking in women and children
- Review of laws /treaties and advise their respective Governments regarding the course of action
- Listing out Human Rights Principles to the Government of either side while framing relevant guidelines/rules/strategies with regard to rescue, repatriation, rehabilitation, reintegration etc of trafficked person(s)
- Training of Trainers (ToT) for officials, security personnel posted on the border, law enforcement agencies, media personnel, NGOs and general public of both sides to deal with the human rights issues on matters related to cross-border trafficking
- Complaints Redress of human rights violations that allegedly take place during the rescue operation and other activities related to trafficking in women and children between Nepal and India
- 9. Bilateral Treaty to advise the Governments for a bilateral treaty on trafficking, that would address all types of exploitation and human rights violations
- 10. Implementing SAARC Convention and Joint Work with United Nations and Asia Pacific Forum
- Work jointly with United Nation Office of the High Commission for Human Rights (UNOHCHR) and the Asia Pacific Forum for National Human Rights Institute (APF) on the forced cross border issues.

Interactions/Workshop/Seminar

- Interaction program *Prevention Strategies on Trafficking in women and girls* at Rupandehi district
- Interaction program on *Human Rights Standards for the Treatment of Trafficked Persons* with senior media persons
- Interaction with Different INGOs, Governmental Officials, Security Personnel and Media Personnel was conducted with the intention of expediting the momentum in its fight against trafficking and sharing the experiences of people representing different sectors
- Interaction Program on *Conceptual Clarity Interactive Program of Trafficking* for the members, departmental heads and officers of NHRC
- Regional Workshop on *The Challenge of Trafficking in Women and Children* at Morang district of eastern and Banke district western development region
- A one-day interaction program was organized at NHRC hall in order to focus attention on the need of forming a uniform rehabilitation policy from all governmental and non-governmental sectors.
- Taking this issue as the main theme, a one-day interaction program on *The Issue of Witchcraft: Violence against Women and Violation of Human Rights* was organized
- An interaction program was organized with 26 women rescued by Maiti Nepal with a view to observe the rescued women and to acquire information on the process of trafficking,

Meeting with District Task Forces

The National Rapporteur visited Udayapur, Jhapa, Dhanusha, Morang and Sunsari districts of eastern region, Rupendehi, Nawalparasi, Chitwan and Dhading districts of western region and met the task forces of these districts and Lalitpur district of Central Region and collected information on the activities undertaken by them against trafficking of women and children.

Protection/ Promotion

- Visit to Women Police Cell at Kakarvitta and Morang for collecting information on the survivors and on the process of reporting in the cases of trafficking.
- Published two brochures on different issues and the English version of *Recommended Principles and Guidelines on Human Trafficking* were translated into Nepali language.
- Organized a poster competition asking the artists to prepare posters reflecting the real situation of trafficking and its effects along with the depiction of rights of women and children. Among the 18 participants, the five best artists were declared as winners and they were awarded the cash prizes on '55th Human Rights Day' 10th December 2003.

Research

- Research on *Study on Girls and Young Women Employed in Entertainment Sector in Nepal* was conducted
- Research on *Assessment of Human Rights Mechanism in Women Police Cell* was conducted

The review on the performance of the ONRTWC presents encouraging picture especially in consultation, developing IEC materials and its dissemination at national and district level for raising the awareness in favour of combating trafficking. It has also created environment to develop net working with respective GO and NGO at national and district level. Since the work has been just initiated a lot has to be performed by strengthening its activities intensively and extensively based on its responsibilities in line with the mandate of NHRC to protect promote the human right of women and children in the context of trafficking. In this context in addition to the national endeavour international support and cooperation from the human right forum needs more attention and favour.

Challenges Ahead

- Ratify and implement the international commitment and establish standard status with international community.
- Management of open border issues relating to trafficking in women and children.
- Distract the young generation the pull factors created by rural urban gap consumerism and globalisation, which create deceptive bright career opportunity.

- Address existing law and human trafficking bill, in terms of definition with human right and consideration including adequate compensation victims, camera hearing, victims and witness protection mechanism.
- Create protective environment in the society by eliminating century aged socio-cultural discriminatory and bias practices and women and girl.
- Coordinate and formulated program by integrating different plan of action such as CEDAW, CRC, BPFA and Plan of action for trafficking in women and children.
- Punish the criminals resume rehabilitate and reintegrate the victim of trafficking women and children.
- Redress the negative impact of conflict and protect the right to life and property of the vulnerable group.

The Way Out

- Rectify and implement international commitment with state accountability and responsibility and mobilization society, local initiative, private sector and development partners especially for the enforcement of the commitment.
- HMG/N to take the responsibility of formulation and implementation of policy and, legislation and NHRC to monitor the effectiveness of enforcement of legislation and its impact on the victim of trafficked women and children in relation to rescue rehabilitation and reintegration to protect and promote their human right
- Involve NGO dealing with trafficking, civil society and also private sector from policy formulation to implementation
- Launch targeted legal awareness and advocacy programme by integrating with development programmes for vulnerable women and children to protect them from the risk of trafficking.
- Implement positively discriminatory policy and legal measures to eliminate socio cultural discriminatory practices, which make women and children a traffic victim.
- Strengthened the administrative and management capacity of NHRC and other relevant legal institutions with the provision of necessary human resource and infrastructure.
- Mobilise internal and external resource from HMG/N and external development partners to finance the programme of NHRC on the trafficking related issues.
- Formulate and implement the integrated programme on trafficking based on different Plan of Action for facilitating effective implementation
- Develop effective monitoring and evaluation mechanism with indicators for effective implementation
- Conduct research in the pertinent issues relating to trafficking both in the areas of national and trans-border context.