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## **ENSLAVEMENT ACROSS BORDERS: THE CASE OF TRAFFICKING IN WOMEN AND CHILDREN IN BANGLADESH**

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### **Abstract**

Over the years, trafficking of women and children has gained considerable importance as a humanitarian and social security issue in Bangladesh. Unemployment and abject poverty have instigated labour migration and international trafficking of women and children who are sold into virtual slavery where they are treated, transferred and traded as merchandise. Although there is no reliable quantitative data that indicate the extent of human trafficking in Bangladesh, findings of media reports and NGOs working in this area reveal that trafficking of women and children from Bangladesh into bordering areas and beyond has spiralled to alarming proportions in recent times. The present paper attempts to analyse the underlying dynamics of the problem of trafficking in women and children, and explores the ways of means of dealing with the problem.

### **I. Introduction**

The issue of sale and trafficking of women and children has recently gained considerable importance in Bangladesh. Unemployment and abject poverty have instigated labour migration

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and international trafficking of women and children who are sold into virtual slavery where they are treated, transferred and traded as merchandise. Besides, prevalent socio-cultural and religious norms and practices make women and children economically, physically and emotionally dependent on men. Consequently, despite the equality guaranteed by the Constitution of Bangladesh, there exists, in reality, a wide disparity between the status of men and women. This inequitable situation increases the vulnerability of women and children and exposes them to exploitation by potential recruiters and traffickers. Although Bangladesh has ratified major international documents prohibiting the practice of trafficking and has domestic legislation of similar nature, it has failed to restrict the escalation of illegal trafficking in women and children. This is confirmed by human rights specialists who have, over the last couple of decades or so, documented widespread prevalence of trafficking in women and children in Bangladesh.

Although there is no reliable quantitative data that indicate the extent of human trafficking in Bangladesh, findings of media reports and NGOs working in this area reveal that trafficking of women and children from Bangladesh into bordering areas and beyond has spiralled to alarming proportions in recent times. It is reported that between 10,000-20,000 Bangladeshi women are trafficked each year. Some 40,000 Bangladeshi women are allegedly working as sex workers in Pakistan, while women trafficked from Bangladesh constitute approximately 14 percent of the staff of brothels in Kolkata in India.<sup>1</sup> Many of the victims are minors. It is estimated that some 1693 boys and 1714 girls up to the age of 16 years were trafficked between 1990 and 1999.<sup>2</sup> The aforesaid statistics demonstrate the

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<sup>1</sup> Altschuller, Sarah, "Rights and Challenges for Women" in *Human Rights in Bangladesh 2002*, (Ain O Shalish Kendra, 2003), pp.195-220, at p.207.

<sup>2</sup> Shamim, Ishrat, *Mapping of Missing, Kidnapped and Trafficked Children and Women: Bangladesh Perspective*, (IOM, Dhaka, 2001), p.33.

enormity of a situation that lends a new dimension to exploitation of human beings.

The present paper attempts to explore and analyse the underlying dynamics of the problem of trafficking in women and children and provide an overview of the insecurities faced by victims of trafficking including the limits of the law faced by those who fall prey to this practice.

## II. Trafficking: Definition and Nature

Although the term 'slavery' has been used to describe diverse forms of exploitation of human rights including slave trade, sale, prostitution, pornography, debt bondage, traffic in persons and so forth, it is recognised that new forms, methods and trends in enslavement practices have emerged in the contemporary world. As such, it is necessary to find a clear-cut definition of trafficking in order to distinguish it from other procedures of human movement. Although the term '*trafficking*' is widely used its application tends to be ambiguous to the extent it is often confused with '*migration*'. Although both migration and trafficking may have their roots in economic underdevelopment and impoverishment, they are definitely not the same. While the real intent behind migration is to seek economic empowerment, trafficking is invariably prompted by criminal intent. As the pivotal consideration in the latter case is the application of force or coercion, the practice precludes any real consent. However, women and children may not necessarily be coerced into such a situation — they may also be duped with promises of jobs or marriages.

Thus, trafficking may be defined as, "all acts involved in the recruitment and/or transportation of a woman [or child], within and across national borders for work, services or marriage, by means of violence or threat thereof, abuse of authority or dominant position, debt

bondage, deception or other forms of coercion".<sup>3</sup> While recruiters generally negotiate with adult guardians for their children, women assert a certain degree of independence in decision-making. In the circumstances, the degree and nature of coercion experienced by children also differ from that experienced by women. Nevertheless, prevalent socio-cultural attitudes, systemic economic instability and social disintegration together reduce women to an equally vulnerable category of human beings.

### III. Determinants of Trafficking in Women and Children

Trafficking in women and children is not simply an isolated practice; it must be understood in the context of markets that promote an oppressive use of women and children, of cultures that sustain gender injustice and inequity and of family compliance with the whole process.

#### *i. Poverty and Social Disintegration of Families*

Agriculture being the dominant sector of Bangladesh's economy, land was once the most important natural resource and the chief determinant of social standing and power in rural Bangladesh. It also provided the basis for kinship solidarity upon which the traditional extended and joint families were organised. The scenario has, however, undergone a change as the traditional forms of family organisation are being gradually eroded as a result of the loss of landed assets. Increased loss of material assets undermines the 'moral economy' based on mutual rights and obligations. Such a process is reinforced by social and moral pressure on different kin members. The gradual

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<sup>3</sup> See, Hossain Hameeda, *Trafficking in Women and Children from Bangladesh. Causes and Measures for Combating Trafficking*, (Ain O Shalish Kendra, 1997), p.6; See also, *Survey in the Area of Child and Women Trafficking*, (Bangladesh National Women Lawyers Association), undated.

disintegration of this system among the poorer sections of the population has left women and children particularly vulnerable since they are the least able to find alternative means of security.<sup>4</sup>

A view of the more recent position of women and children under socio-economic transformations reveals how patriarchal norms have undergone a change. For example, before the introduction of rice mills, rice husking was an integral part of household labour undertaken by women. With the introduction of the rice mills there has been a serious reduction in female labour and consequently, in their income.<sup>5</sup> These transformations necessitate the incorporation of all segments of the population in different categories of work processes. Major changes in the rural economy have led to the re-negotiation of aspects of gender relations and female mobility. Women's confinement to the inner or private sphere has undergone a definite shift in view of the changing socio-economic considerations. The transformation in the traditional norms has been wrought by one of the most powerful of agents – poverty. Women and children are vital actors in this turn of events. Conditions of acute poverty compel women and children to seek work outside the household, as social constraints become less binding.

## ii. Rural-Urban Migration

Most people move for economic reasons when material considerations are of prime importance to them. Driven by the necessities of survival, migration often begins as a temporary phenomenon, which reflects not only a plea for employment but also, a willingness to work, and all these at the cost of sacrificing a familiar

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<sup>4</sup> Kabeer, Naila, "Do Women Gain from High Fertility?", in Afshar, Haleh (ed.), *Women, Work and Ideology in the Third World*, (Tavistock Publications, London et al., 1985), pp.83-106, at p.100.

<sup>5</sup> McCarthy, Florence and Feldman, Shelley, "Rural Women Discovered: New Sources of Capital and Labour in Bangladesh", *Development and Change*, (Vol. 14, 1983), pp.211-236, at p. 230.

lifestyle. While economic development in a given society encourages the fruitful utilisation of manpower, it may not be the same for an underdeveloped country that is struggling under a large population. This is because an uncontrolled and growing population tends to reduce the shares of each person in the national resources to negligible proportions. In Bangladesh, dramatic structural changes have been taking place for quite some time. Although farming is still the most important means of making a living, rapidly increasing populations are finding it extremely difficult to survive on what the land produces. As the smallholdings shrink below survival size, some of the heirs to the land have to forgo their right to a share and head for the cities.

Socio-economic necessities have a profound impact on the lives of women and children in Bangladesh. While the loss of homes and farms due to floods, cyclones, river erosion, drought and so forth increase the pauperisation of people, their impact on women and children is particularly sharp. It is said that poverty is a gendered process as it impinges on women more acutely as income-generating opportunities remain traditionally out of their reach. The public-private dichotomy effecting women's employment has similar underpinnings for children whose world is dichotomised along both lines of gender and age.

Until recently migration of women had received little attention in the relevant literature of Bangladesh. Earlier national statistics found female migration at its highest following marriage in the rural areas. When marriage required migration, it was usually the woman who moved. Usually females were short-distance migrants as opposed to the males who went for long-distance moves into urban settings. Females for the most part moved around the rural areas where the surroundings were more familiar. It was basically due to the traditional socio-economic structures that female migration to the urban settings had been more restricted. However, the pattern has changed for females over the last few years. Apart from the usual post-marriage migration, women are increasingly migrating by themselves. Economic

constraints are overriding the customary reservations and females are found migrating in great numbers to the cities and abroad. Moreover, male migration has resulted in increased numbers of households headed by women, with children and sometimes, kin members, helping out. Failing to manage the household on their own, women and children often themselves migrate to urban areas to seek a livelihood.

Young children usually move with women as dependants. When children migrate to urban areas, whether alone, with their mother or as part of a family, they are faced with an alien environment and new labour situation. Migrant children in the urban areas find themselves flung suddenly from rural obscurity to the congested urban setting where they begin a life fraught with uncertainty and insecurity.

Women and children, under stressful economic conditions, are increasingly being compelled to adopt survival strategies and engage in diverse occupations, which hitherto were unknown to them. In the process, some succeed in procuring jobs in factories and in other forms of waged employment or as domestic servants in private households. Others, who are not as fortunate, become victims of prostitution and immoral trafficking both within and outside the country.

### *iii. Demand Factors*

There are definite factors that encourage the illegal influx of women and children across borders. Irregular migrants are devoid of a bargaining power and union rights and, as such, present export oriented production units in countries of destination with a competitive edge over others. The use of unregulated labour of women and children from Bangladesh at below subsistence rates in exploitative conditions offers a competitive advantage in the local market of receiving countries.

There is also a great demand for domestic servants from this region. Given that domestic help is expensive and in short supply, employers from Pakistan, India and the Gulf countries are known to engage young women as domestic help or housemaids. Young girls are preferred as they are considered to be submissive, compliant and hardworking. On arrival, the girls are stripped of whatever official papers (identity or travel) they may have with them in order that they are unable to quit their work as and when they please. A contract of employment is virtually non-existent. The labour relations between the employer and employee are arbitrary and authoritarian which often lead to exploitation of the servants beyond endurance. Torture and maltreatment, including sexual abuse and harassment, are commonplace and in many cases young women, brought in as domestic help, are engaged instead in sex trade. A rise in paedophilic activities has led to an increasing demand for young children. It is alleged that children are also preferred for organs. However, in the absence of hard evidence it is difficult to substantiate this contention.

#### *iv. Adverse Social Conditions*

Various cultural, religious and ideological factors in the social milieu of Bangladesh impinge on the status of women and children in ways that have a far-reaching impact on their legal rights and privileges. Since descent in Bangladesh is traced patrilinearly, sons alone bear the distinction of being the father's sole successor and of upholding the family name and honour. Consequently, there is a deep-rooted social aversion to female offspring who, once married, are deemed as having very little potential to make significant contribution to family resources. Patriarchy<sup>6</sup>, as an ideology, sets out

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<sup>6</sup> The predominant force in the social organisation of Bangladesh is patriarchy. Patriarchy, in this context, means that all power and authority within the family resides with the male. Since patriarchy places the male, who is in control of major property rights, at the head of a given household,



basic standards and a model for women and children, particularly girls, in Bangladesh to which they are oriented to conform to from a very early age. Accordingly, women and girl children, as subordinate groups, identify themselves with and accept the values set by patriarchy. The patriarchal process leads to the naturalisation, within the family and the wider community, of the notions of 'womanhood' and 'femininity'. This engenders a number of social ideologies and prejudices that seriously affect the status of women and girl children who are subjected to various forms of neglect, abuse and discrimination at various stages of their lifecycle. Patriarchal control is manifest in gender differentials in areas of social practice, resource allocation, health, education and legal rights.

Child marriage is another phenomenon that contributes to the devaluation of the status of women and girls. Chastity being of paramount consideration in marriages in Bangladesh, it is normative to plan early marriages for girls to ensure that they are safely in their husband's homes before the onset of their sexual maturity. As possibilities of making a good match are lost in the event of sexual transgressions leading to loss of virginity, parents strive to marry off their minor daughters to avoid accidents that are likely to jeopardise their daughters' prospects for marriage. Moreover, the amount of dowry demanded by the groom's family is significantly lower for a younger girl than for an older one. Failure or inability to pay the dowry demanded before marriage often results in the break-up of marriage negotiations. In such circumstances, hapless parents are compelled to seek alternatives for their daughters, which in many cases turn out to be unsavoury. Child brides are frequently tortured for money and if their families fail to respond to the demands they

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socially, customarily and legally, males in the family are given preference in almost all matters over females.

are subjected to maltreatment and abuse including desertion, divorce, and sale and trafficking into prostitution.

The practice of polygamy, which permits a man to have four wives at a time, also leads to the victimisation of women and girls. Although the law requires that all marriages should be registered, often, this is not done. Many families are ignorant of its necessity. For those who are aware of its protective value, the process of registering with a *Qazi* involves practical and monetary difficulties that discourage both parties from seeking registration. Absence of registration of marriages makes it impossible to check whether a man has been previously married or not.

#### *v. Violence against Women and Children*

The situation is complicated by a culture of violence that is a common occurrence in the male dominated societies. Verbal and physical intimidation of women and children is a strategy whereby the male members can maintain their authority and kin-based hierarchies within the family. Since patriarchal norms bestow on the male the liberty to chastise his wife, wife battering often takes on a ritualistic form. Girl children often either become an additional target for the father's wrath or serve as scapegoats for their mother's frustration and helplessness. Moreover, the practice of polygamy and dowry has encouraged a rise in domestic violence and desertion. Young women, single, unmarried, divorced or widowed, are considered as economic burdens. Particularly, the divorced and widowed women are also subject to a significant degree of social stigma. Therefore, they are not welcome in their parental homes. In the circumstances, offers of marriage or employment are irresistible and, women and girls increasingly find themselves entrapped in exploitative situations.

The social arrangements described above serve to undermine whatever little autonomy women and children may have. The power of patriarchy casts women and girl children into a sex-stereotyped mould, which reinforces and perpetuates their powerlessness and vulnerability making them easy prey to exploitation across borders.

#### IV. *Modus Operandi* of Traffickers

Contrary to popular understanding that women and children stumble into exploitative situations, pimps and traffickers actually maintain well-organised markets and networks for their operations. Rarely do women and children have any idea of what is ahead of them, when, a procurer approaches them. Procurement of women and children is carried out in a variety of ways. The most widely employed procuring strategies include, i. *the tactics of organised crime*; ii. *the practice of kidnapping*; iii. *the purchase of young girls from their families and other procurers posing as marriage contractors*; iv. *the use of fraudulent employment agencies that promise women exciting and well-paid jobs abroad*, and v. *the use of feigned friendship and love*.<sup>7</sup> The bigger pimps send their assistants to scour impoverished areas and persuade, lure, purchase or even kidnap women and children to be smuggled across the borders. Sometimes these pimps are so convincing that the simple-minded rural people are easily conned into permitting their young women and children to accompany them.

Procurers often use female agents who persuade young girls to come with them only to confine them before transferring them to the scheduled destination. These female agents may once have been victims of trafficking or prostitutes themselves and may have graduated into the class of brokers in areas where they command a certain degree

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<sup>7</sup> Barry, Kathleen, "Female Sexual Slavery: Understanding the International Dimensions of Women's Oppression", *Human Rights Quarterly*, (Vol.3, No.2, Spring 1981), pp.44-52, at p.46.

of credibility. However, recruitment and trafficking are not always necessarily linked — what may seem like trafficking may actually be situations where a broker merely assists in labour migration. Nevertheless, such incidental brokerage can and, often, does transform into trafficking scenarios involving slavery-like practices.

One of the popular procedures for procuring young girls is through marriage. Men are employed to marry young girls in their native villages and take them abroad to live with them. Young wives travelling with their husbands are a common enough phenomenon and does not, as such, raise any suspicion. Moreover, the prevalence and practice of child marriage in Bangladesh effectively eliminates any possibility of being questioned by police authorities. After sometime, the men return to marry a second time. It is only after several incidents have occurred do the families of the victims and people around realise their foolhardiness. By then however, it is too late to help the ill-fated girls who are well on their way to India, Pakistan or the Middle East.

Sometimes children are captured with the help of relatives and neighbours, or on their way to school (if they are school going), or from the markets when they are sent on some errand. Sometimes the traffickers entice women and children away from home with rich promises of well-paid jobs in the neighbouring countries of India and Pakistan and in the wealthy Gulf States. The Gulf States, in particular, Dubai and Abu Dhabi, are notorious for using children for racing camels. During the races children are tied to the camel's feet or backs and when the camels begin to trot the children scream out in fear. This induces the camels to run faster, thereby making the races more stimulating for the spectators and worthwhile for those betting on them. The children are starved to keep their weight down to a bare minimum in order that the camels can run swiftly. Alternately, younger and younger children are procured.

Another distressing aspect of sale and trafficking is child prostitution. The extent of professionalism in the field of child prostitution varies from a very well organised 'business' run by the professional syndicates to more or less 'spontaneous' child prostitution in the streets and in the tourist areas.<sup>8</sup> It is evident that organised networks have agents who systematically recruit children into prostitution, through bribery, advances of loan to parents, threats and kidnapping. This form of recruitment is also common in neighbouring states. Children from Myanmar, for instance, are recruited into Thailand and children from Nepal and Bangladesh filter into India. It is understood that there is a great deal of brutality involved with child prostitution. Children recruited by prostitution syndicates are harshly treated and kept under strict control and constant vigilance.

Indeed, parents may encourage their children to work as prostitutes and this process may start out with the child accompanying parents in their occupations, such as begging or vending. In the process, the mother may introduce the child to the pimp and subsequently both the mother and the pimp receive shares from the child's earnings.<sup>9</sup> Where children are born to mothers who are prostitutes, they have little choice but to follow in their mother's footsteps. There are yet others, who being victims of child marriage, take up the profession in an attempt to escape the cruelty and harassment of their husbands or when abandoned by them. Many who escape abuse and neglect at home by boarding a bus, train or steamer, hardly realise that the friendly stranger who takes pity on

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<sup>8</sup> Narvesen, Ove, *The Sexual Exploitation of Children in Developing Countries*, (Redd Barna, Norwegian Save the Children, Norway, 1989), p.67.

<sup>9</sup> Fyfe, Alec, *Child Labour*, (Polity Press, Cambridge, 1989), p.119.

them at the terminals and offers them jobs and food, may turn out to be an exploitative pimp.<sup>10</sup>

Trafficking of women and children is a practice that is controlled and dominated by highly skilled and organised gangs and individuals. People responsible for this phenomenon operate through structured recruiting circles based in big cities like Calcutta, Bombay, Karachi and Lahore. The rules of sale agreement are flexible which enable customers to purchase women and children for a very nominal sum. Corrupt Bangladeshis, working in collusion with traffickers from the neighbouring states of Pakistan and India, engage in brisk business involving women and children along immoral and exploitative lines.<sup>11</sup> In many instances they are able to buy police protection. Therefore, although there are occasional reports of police apprehension of traffickers, they must be regarded as the tip of an iceberg because the number of cases that generally come to the knowledge of the authorities is low.

## V. Popular Routes of Trafficking<sup>12</sup>

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<sup>10</sup> Shamim, Ishrat and Chowdhury, Quamrul Ahsan, *Homeless and Powerless. Child Victims of Sexual Exploitation*, (Bangladesh Sociology Association, Dhaka University), p.39.

<sup>11</sup> See Shamim, Ishrat, "Slavery and International Trafficking of Children: Its Nature and Impact", Country Paper presented at NGO Forums on Children's Rights in South Asia, 10 December, 1992; See also, Shamim, Ishrat, "Trafficking in Children and Child Prostitution", paper presented at the National Workshop on Child Labour organised by ILO-IPEC and the Ministry of Labour and Manpower, 5-7 January 1997, Dhaka.

<sup>12</sup> Information on routes of trafficking has been collected primarily from "Trafficking and Sexual Exploitation of Children: The Bangladesh Perspective", country paper presented at the Regional Seminar on Child Prostitution and Trafficking, 16-18 November 1998, Siliguri, organised by the British Council, Calcutta in partnership with the British Council, Bangladesh and Nepal, pp. 16-17.

Bangladesh has land and sea borders with both India and Myanmar. The bordering countries may be accessed through land, air and water. There are a number of enclaves in India and Bangladesh that serve as excellent outlets for trafficking exercises. The fact that these enclaves are devoid of security patrol encourages traffickers to use the enclaves as recruitment sites. Jessore, Rangpur, Dhaka and Chittagong are the major districts in Bangladesh from which trafficking operations are conducted.

Cox's Bazar in Chittagong is used as a transit point for people from Myanmar. The Benapole border area in Jessore is a popular site for illegal crossing into Calcutta. Other points of crossing into India from Jessore include Bagachra, Sadhipur, Goa and Putkhali. The points of crossing in Satkhira are Kalaroa, Debhata, Kaligonj and Satkhira Sadar. In Rajshahi, the Ganges/Padma is easily navigable in winter when the level of water is low. The most frequently used points in Rajshahi and Nawabganj are Nawabganj, Shibganj, Bholahat and Godagari. In the north, Dinajpur and Naogaon are the principal points through which people regularly cross borders. These areas include Hili, Nitpur, Aihi, Ciroti, Hutshaul, Nirmail and Argadigon. Others crossing points are Singimari, Mogol, Hat Burimari, Durgapur, Villa Bari, Ram Khana, Vurungamari and Batrigach.

## **VI. Problems of Repatriation, Rehabilitation and Reintegration**

Women and child victims of trafficking are faced with a double jeopardy. On the one hand, they often go through multiple sales when they arrive at the destination in the bordering states in the process of which they are subjected to physical brutality, mental torture and even sexual molestation and rape. On the other hand, if the local police apprehend them, they are thrown into prisons, safe custody institutions, shelters and detention centres where they are treated more as criminals and less as victims of crime. Here too, they

live under constant threat of physical violence and illegal incarceration. Having no alternative arrangement, children born of detainees in confinement also live with their mothers in jails.

Attempts at repatriating these women and children are fragmentary and protracted a process that tends to criminalize the victims instead of protecting their interests. Moreover, efforts at repatriation are half-hearted and intermittent due to a general lack of concern and reluctance amongst the concerned governments to undertake necessary measures for repatriation. One of the main reasons for the lack of initiative by governments is believed to be the cost involved in the process apart from the incidental difficulties in the rehabilitation of the returnees.

The process of rehabilitation is complicated by a number of factors. Amongst others, the problems of social resettlement, cultural readjustment and economic placement effectively constrict attempts at rehabilitation. In the absence of adequate institutional support, women and children who return home are often kept in jails in the name of safe custody and detention centres, where there is hardly any opportunity for counselling, training and other services. The shelters lack the facilities essential to reinvigorate the social, psychological and physical needs of the women and children. Instead they are exposed to harassment and violence within the supposed safety of shelters.

Reintegration is highly difficult given the innumerable social problems involved in the process. Women and children often do not want to return to their homes for fear of social ostracism and in view of the treatment they receive upon return, their apprehensions are totally justified. Reintegration of victims of trafficking into society is a formidable task, particularly in a conservative society like Bangladesh. Women and girl children who are rescued are sometimes not accepted by their families apparently on account of their being 'spoilt' through rape and prostitution. Being thus stigmatised, the victims are shunned



by their own communities where the prospects for working or studying are remote. The prospects for making a good marriage are almost impossible. Moreover, since they are thought to have been (and in some cases have been) used sexually they are considered to be 'available' and are accordingly subjected to innuendos, harassment and sexual violence to an extent where they are compelled to leave their home and community. For those who remain their lives are fraught with insecurity, humiliation and shame. This presents them with the problem of fending for themselves — a process, which frequently takes them back the way they came.

### **VII. State Responses to the Problem of Trafficking: International and National Legal Standards**

Concern over slavery and efforts at suppressing it are pivotal to the adoption of many of the international conventions and declarations of the 19th and the 20th centuries. In 1926, the first Slavery Convention was drawn up by the League of Nations, which was subsequently taken up for application by the United Nations as successor to the League. In 1949, the General Assembly adopted the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others. This legal instrument targeted the procurer rather than the prostitute. It required state parties to implement measures designed to prevent prostitution and to rehabilitate prostitutes. States ratifying or acceding to the Convention undertake to prevent the traffic in persons of either sex for the purpose of prostitution. This instrument broadened the definition of slavery of the 1926 Convention by including practices and institutions of debt bondage, servile forms of marriage and the exploitation of children and adolescents. The scope was broadened further in 1956 at a United Nations conference by incorporating the Supplementary Convention on the Abolition of Slavery, the Slave Trade, the Institutions and Practices Similar to Slavery. Protection against abuses of human rights which

border on slavery, in its wider sense, also features prominently in: (i) the Universal Declaration of Human Rights 1948, (ii) the International Covenant on Civil and Political Rights 1966, (iii) the International Covenant on Economic, Social and Cultural Rights 1966, (iv) the Convention on the Elimination of All Forms of Discrimination Against Women 1979 and (v) Convention on the Rights of the Child 1990.

Bangladesh is a party to The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) 1979, which specifically enjoins States Parties to take all measures to suppress all forms of traffic in women and exploitation through prostitution. Bangladesh has also ratified The Convention on the Rights of the Child (CRC) 1990 that represents the most recent attempt at eradicating slavery-like practices. The Convention takes child victims into account and offers protection to children at risk from sexual, economic and other forms of exploitation, including their sale and trafficking. Besides, Bangladesh is also a signatory to the 1956 Slavery Convention.

At the regional level, the SAARC<sup>13</sup> governments have time and again stressed on the need to address the problem of trans-border trafficking of women and children. SAARC Ministerial Meetings have raised the issue of trafficking on several occasions. The initiatives, however, proved ineffectual, as they never found an official place on national agenda of respective states. Moreover, it is normative for concerned states to regard victims of trafficking as criminals. Consequently, regional countries contribute to further victimisation of the women and children by taking punitive measures against them, for example, by detention in the country of destination or transit or on return to their country of origin.

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<sup>13</sup> South Asian Association for Regional Cooperation comprising Bangladesh, Bhutan, India, the Maldives, Nepal, Pakistan, and Sri Lanka.

The Constitution of Bangladesh which is the supreme law of the land guarantees equality of men and women (Article 28) and prohibits all forms of forced labour (Article 34). Measures against trafficking, kidnapping and abduction of women and children are laid out in *The Penal Code 1860*, *The Suppression of Immoral Traffic Act 1933*, *The Children (Pledging of Labour) Act 1933* and *The Children Act 1974*. *The Nari O Shishu Nirjaton Domon Ain 2000 (Suppression of Repression against Women and Children Act 2000)* is the latest of the special laws addressing the issues of oppression against women and children including trafficking and abduction.

The seriousness with which the Government views the issue of trafficking in women and children is evident from the number of policy and legislative initiatives taken by it in this regard in recent times. The Government has adopted the *National Plan of Action against Sexual Abuse and Exploitation of Children including Trafficking* in 2002 for combating exploitative practices involving children. At the international level, the Government has ratified the two *Optional Protocols* to the CRC in 2000 on sale and trafficking of children, child prostitution and child pornography and the *ILO Convention 182 on Elimination of Worst Forms of Child Labour* of 1999. At the regional level, Bangladesh has endorsed the *SAARC Convention on Combating the Crimes of Trafficking in Women and Children for Prostitution* in 2002. The adoption of these various policies and laws is an indicator indeed of governmental commitment to promoting and protecting rights of children and women at all levels.

Despite the prevalence of legal instruments in both the international and national contexts as well as sharing regional obligations, very little has been done to actually ensure the rights of trafficked women and children and to secure their protection against oppression. Bangladesh has been unable to curtail exploitative practices involving women and children and to reduce the alarming rate of

trafficking across the borders. In fact state mechanisms are often found to operate against women and children to the extent where gender violence receives institutional acceptance. Although the Government has plans for 'mainstreaming women', its programmes focus more on poverty alleviation rather than addressing the problem of trans-border trafficking.

The limits faced by law in respect of trafficking are mainly three-fold: problems with the substance of the law, the enforcement of the law and knowledge of the law.

Many laws in their present form contain drawbacks and are in themselves unclear on many accounts. The application of the law of evidence necessitates the production of documents, like marriage registration papers and birth certificates, which, in majority of the cases do not exist. This places the victims in an uncomfortable situation. The process of investigation is slack and there is a general difficulty in collecting evidence. For example, since sexual abuse is to be proved by way of a medical examination of the victim, evidence is most frequently lost owing to delay by or inadvertence of the victim. Even where evidence is found the trial continues for an interminable time during which the victim is subjected to unwarranted public scrutiny. It is evident that the laws have not been enacted with an intention to challenge the basic inequality that underlies exploitative practices involving women and children.

In spite of stringent laws, some of which impose even capital sentence, their enforcement remains weak. Trafficking convictions are low for a number of reasons. For example, there is a tendency amongst law enforcing agencies in Bangladesh to regard victims of trafficking as persons who have violated the Passport Act and not the Penal Code. This practice enables traffickers to be released upon payment of a nominal fine or simply a week's imprisonment. The police are generally indifferent to issues related to women and children and are

more inclined towards trivialising their problems. As such, the submission of charge sheets is slow which effectively clogs the entire procedure.

Access to law is difficult and expensive, particularly for poor rural women and children to whom the intrinsic mechanisms for pressing charges are beyond comprehension. Women and children are devoid of knowledge about laws and are largely unaware of their rights. Moreover, fear of threats from traffickers and the stigma attached to the disclosure of their fate compel women and children to conceal facts and to refrain from seeking legal redress. The situation is complicated further by a culture of corruption amongst law enforcing authorities and border security personnel who facilitate the process of human trafficking by colluding with traffickers and pimps in response to hefty bribes.

### **VIII. Initiatives by Non-Governmental Organisations**

Local and international non-governmental organisations (NGOs) in Bangladesh, which play a key role in the advocacy and monitoring of human rights, are actively involved in assisting in the repatriation, rehabilitation and reintegration of victims of illegal trafficking.

Apart from the rule of law and a credible judiciary, there exists a need for general awareness of the people of relevant laws and rights for their effective implementation. Without adequate knowledge of relevant laws and how to access justice, the vast majority of the poor and disadvantaged, and more particularly women and children, are deprived of adequate legal protection. In this regard a good number of NGOs are engaged in legal awareness campaigns and imparting training to grassroots workers. Accounts of women and children living in inhuman conditions in foreign jails have activated NGOs, particularly women's organisations, to create public awareness about it.

Women groups strive to undertake rescue operations and provide victims of trafficking with safe shelter upon their return home. The Mahila Parishad (Women Council) and the Bangladesh National Women Lawyers Association are two noteworthy organisations, which, have actively conducted rescue operations and catered to women and children seeking safe custody. NGOs have increasingly devoted their energies in providing legal aid and in obtaining the release of people who are taken into police custody on charges that they were being trafficked across the border.

NGOs and women activists have addressed the issue of trafficking in women and children in national, regional and international, forums. They facilitate intensive consultations within the country and assist in strengthening networking amongst regional forums. NGOs have consistently advocated for greater allocations to the social sector, stressing on increasing employment opportunities and alleviation of poverty. NGOs have advocated for legal reform with a view to eliminating gender-based discrimination and oppression. Women's groups have forged alliances to confront the issue of trafficking from various dimensions.

## **IX. Conclusion**

Trafficking in women and children is not simply an isolated practice, which preys on a few socially vulnerable individuals. Although discussions on trafficking are essentially premised on supply factors derived from conditions of poverty and unemployment, the practice does not exist in a social vacuum. Rather, it is the result of multi-dimensional factors that range from the expansion of global market forces and growing materialism to rapid social transformation accompanied by an overall erosion of values. Prosperity and commercialisation in societies in transition have triggered off a demand

for new commodities. This demand is met by a regular supply of women and children, preferably from other states so that the victims having no recourse to legal protection were unable to assert minimum claims. Trafficking in women and children has to be understood in the context of markets that promote an oppressive use of women and children, of states that sustain gender injustice and of family acquiescence in flagrant violation of human rights.<sup>14</sup>

Procurers adopt strategies that are compatible with diverse cultural conditions. For example, in the impoverished rural societies of Bangladesh where women are traditionally regarded as economic burdens on their families, procurers use calculated means of identifying emotionally and/or economically dependent women and girl children. The patriarchal family in Bangladesh maintains values and practices that reinforce male domination over women and children. The practices of dowry, forced, arranged and child marriages, and polygamy effectively establish male ownership of women and children. Premises, which support male domination and oppression of women and children, only heighten their vulnerability to traffickers and procurers.

It is, therefore, necessary for governments to address the issues of poverty and gender discrimination in their proper contexts if any attempt to eliminate root causes of trafficking is to succeed. State interventions should include actions aimed at monitoring of human movements, raising public awareness, effectively enforcing the law, developing the infrastructure necessary for providing victims of trafficking with support measures and so on. There exists a plethora of laws but very little awareness, much less implementation. An effective legal system is one that keeps pace with the changing needs of the

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<sup>14</sup> Hossain, Hameeda, *op.cit.*, 1997, p.4.

people. In order that the legal system can best protect the rights of the people in a society in transition laws have to set in place for their effective implementation. Although, generating awareness about laws and legal remedies is essential in any given scenario, tardiness in implementation and lack of commensurate infrastructure effectively block the way of legal redress.

Since its prevalence spans across regions, the issue of trafficking also needs to be addressed from a regional perspective. Therefore, regional solidarity is imperative if the issue of trafficking is to be addressed effectively. Above all, it is essential to alter the psyche of the people, eradicate normative practices and beliefs that devalue anything that is feminine, generate respect for women and children as able entities and inculcate values promoting gender equity and justice. This may be achieved through community participation and the promotion of economic empowerment of vulnerable groups, such as women and children, which would help them to survive with dignity.