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• Embodiment

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Chapter 5
Trafficking of Women and Girls from Nepal to India for Prostitution; What is Known about its History, Nurturing Factors, Health Effects and Prevention?

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Introduction
The aim of this chapter is to present a general overview of the trafficking of women and girls (W/G) from Nepal to India for prostitution, including what is known about its history, nurturing factors and health effects as well as the ongoing activities against W/G trafficking in Nepal.

By trafficking we mean “the transportation, selling or buying of women and children for (forced) prostitution within and outside a country for monetary or other considerations with or without the consent of the person subjected to trafficking” (SAARC, 2002).

Trafficking and prostitution are two distinct but linked phenomena. The main objective behind the trafficking of W/G is to involve them in forced prostitution. The majority of trafficked W/G are enticed away from their homes with false promises, or unwillingly and unknowingly abducted, lured, drugged or otherwise dragged away. By law, forced prostitution is a criminal activity in Nepal. Sometimes the W/G are taken with the consent of their family and relatives. Because of poverty, illiteracy and myths of prosperity abroad, parents are motivated to consent to the migration of their daughters. No existing policy or legislative documents speak about such “voluntary” prostitution.

The trafficking of W/G for the purpose of sexual exploitation occurring around the world is a deliberate and medieval human rights violation. The United Nations (UN) has stated that human trafficking is
the world’s third largest criminal activity and the second most lucrative business. It is considered to be a demonstration and outcome of sexual power relations: relations in which men are dominant and women dominated (Shrestha, 1997). According to the UN, approximately four million W/G are victims of international trafficking every year for different purposes, such as labour or prostitution, (recently, the UN Office on Drugs and Crime denounced the fact that, although the victims of sexual exploitation are predominantly W/G, in 30 percent of the countries that provided information on the gender of traffickers, women make up the largest proportion (UN Report, 2009).

History

The trafficking in Nepalese W/G for sexual exploitation began in Nepal with the rise of the Rana rulers in the mid 19th century, when the Rana ruling classes started keeping Tamang girls (a tribe from Janajati) as concubines and servants in their palaces in Kathmandu. The Rana rulers were subsequently overthrown in 1950, and had to escape to India with their young Tamang concubines and household servants. As those girls aged, the Rana “husbands” sold them into prostitution in Indian brothels. Some of those prostitutes later started their own brothels in India and periodically returned to Nepal to recruit more Tamang girls into prostitution. Similarly, with the downfall of the Rana in Nepal, the brokers who used to supply young girls to the Rana palaces subsequently established connections with brothels in Indian cities like Mumbai and Kolkata (Mahila Attama Nirvar Kendra, 1997; Sangroula, 2001).

With the success of the carpet industries in Nepal during the 1980s, labour contractors began to bring young girls from villages in the mountains and lowlands of Nepal to Kathmandu. Usually the workplaces were congested and dusty with poor lighting and ventilation. The girls were exploited within the carpet factories with long working hours, low salaries, job insecurity and sexual harassment. They were also vulnerable targets for forced prostitution as the carpet entrepreneurs had links with trafficking networks and child labour was phased out from the carpet industry in Nepal in early 2000. The exploitative working conditions in carpet factories were helpful for traffickers, who preyed on those girls by promising better jobs in India which in fact turned out to be forced prostitution (Sangroula, 2001). Other high risk areas included workplaces such as domestic work, dance bars, restaurants, beauty parlours, stone quarrying and construction worksites, and brick kilns production.

The trafficking of Nepalese W/G to Indian brothels was fully established by the 1960s. Criminal links between Indian sex traders and the
Nepalese traffickers were well established by the 1970s, and the trafficking increased tremendously during the 1980s (Coomaraswamy, 2000).

The statistical data on trafficked W/G in Nepal still vary widely; figures range from 5,000 to 12,000 annually (McGirk, 1997). According to the “Fact Book on Global Sexual Exploitation, Nepal, 1999”, the estimated number of Nepalese W/G trafficked to Indian brothels up until 1999 was over 200,000 (Fact Book on Global Sexual Exploitation, Nepal 1999). The government of Nepal and the Ministry of Women, Children and Social Welfare has stressed the importance of research into human trafficking. However, political instability, lack of commitment from political leaders, corruption within government structures, internal conflict, the scarcity of trained manpower and financial constraints have so far made these goals unachievable.

Vulnerable districts

It has been widely noted that trafficking for the sex trade began in the hilly districts of Nepal, like Nuwakot, Sindhupalchok and Makwanpur. However, trafficking has now spread throughout the country (Bal Kumar, 2001). In a study on 67 trafficked W/G it was found that they originated from 27 districts. The majority (40 cases) had been trafficked from workplaces in urban areas and the rest (27 cases) had been trafficked directly from rural areas (Bal Kumar, 2001).

Similarly, the National Task Force on Trafficking recognised 26 districts as being trafficking-prone after examining the cases of trafficking registered by the Nepal police in 1998 (MOWCSW, 2008). A report published by the Institute for Development Studies and United Nations Development Fund for Women in 2004, based on newspaper reports (1994–2001), showed that trafficking takes place in 36 districts (Status and Dimensions of Trafficking within Nepalese Context, 2004). A baseline survey conducted by Lutheran World Nepal and SAATHI in 2006 identified 10 districts as highly affected by trafficking: Sindhupalchok, Sarlahi, Makwanpur, Kanchanpur, Rupandehi, Dang, Banke, Sankhuwasabha, Nuwakot and Kavre (SAATHI, 2006). All these figures can be expected to be afflicted with report bias and therefore underestimated. The trafficking of W/G is possible throughout the 1,740 mile-long open border between India and Nepal. No passports or visas are required for Nepalese people to travel to India, and the citizens of both countries can easily cross the border for business or shopping.
Nurturing factors

Many actors are involved in the trafficking business, from the initial recruitment and procurement of W/G to their transportation within and across borders. These agents could be anyone, e.g. either or both of the parents (biological or step-parents), husband, family members, close or distant relatives, neighbours, employment agents, brothel keepers, corrupt law enforcement officials or government staff, crime syndicates with bases in many countries etc. In India there are numerous Nepalese brothels, where the recruitment of new W/G is often conducted by older prostitutes or brothel owners returning to their home villages.

For the traffickers and the brothel owners, W/G trafficking is a highly profitable business. The trafficked W/G are sold to the brothel owners in India for US$ 2,000–2,400, and they have to work in the brothel until they pay back the debt along with interest. This may take a decade and sometimes it is a never-ending contract. Brothel owners use physical and mental threats along with severe beatings to keep the W/G under control. The US Central Intelligence Agency states that a trafficked W/G who works as a prostitute is worth approx US$ 250,000 on the sex trade market (WNH, 2010).

The main reason behind the trafficking of such a large number of Nepalese W/G to Indian brothels is the high demand for them. Not only are the Nepalese people working in India a source of “buyers of sex”, but the fairer complexion of the Nepalese W/G is attractive to most native Indian “buyers”. Similarly, for the brothel owners, importing Nepalese W/G is safer than buying local Indian W/G, as ignorance of the local languages and customs makes Nepalese W/G less likely to complain to the police (Sangroula, 2001).

The one and a half decade long political conflict, followed by economic instability in the villages, compels people to migrate to bigger cities. This urge contributes to an increased risk of trafficking. W/G are easily lured by local recruiters, neighbours or relatives promising a better life elsewhere. To convince the family, traffickers may provide them with a few thousand Nepalese Rupees as the first instalment of their daughter’s future salary. This convinces the family to let the traffickers take their daughter with them and places the W/G in a state of indebtedness.

The average age of trafficked W/G from Nepal to India fell from 14–16 years in the 1980s to 10–14 years in 1994 (McGirk, 1997). Young girls are highly sought after, as they are less likely to suffer from sexually transmitted diseases and HIV. Obscure beliefs, such as “HIV/AIDS is cured by having sex with a virgin”, has also contributed to the preference for younger girls (Rights, 2001).
There are various factors nurturing W/G trafficking in Nepal. There is a consensus that unemployment, extreme poverty, conflict situations, lack of infrastructure and the supply of basic needs, social norms such as the low status of W/G in the family and society, tradition and culture, illiteracy or ignorance about being trafficked and sold, lack of political commitment, administrative deficiencies, urbanisation, globalisation, the highly profitable nature of the business for brothel owners and the high demand for Nepalese W/G in brothels in India are the major factors contributing to trafficking for prostitution (Bal Kumar, 2001; Rajbhandari and Rajbhandari, 1997).

III-health

The health consequences that are relevant to the trafficking of W/G globally are based on three broad categories (Beyrer and Stachowiak, 2003):

- The direct health consequences are an increased risk of exposure to STDs, HIV and sexual trauma. The long-term complications of STDs include infertility, ectopic pregnancy and malignancies such as cervical cancer and AIDS.

- Threats to mental health, such as depression, substance abuse, post-traumatic stress disorder and the complex psychological burden of rape, slavery and sexual exploitation.

- Difficulties in gaining access to health care (e.g. prevention services) compared to non-trafficked prostitutes.

- Most of the HIV-positive W/G are sent back to Nepal from the brothels in India. Due to social stigma and the limited economic opportunities available to them, is it likely that they will take up the same profession in Nepal. They are suffering from multiple mental health disorders and often even attempt to commit suicide (NHRC, 2002).

Rescue and reintegration

Nepal and India are signatories to the South Asian Association for Regional Cooperation Convention on Prevention and Combating Trafficking in Women and Children (2002). Their aims are the repatriation and rehabilitation of trafficked W/G and to prevent the use of W/G in international prostitution networks, particularly when countries in the South Asian region are the countries of origin, transit and destination. Similarly, rescue and integration is an area of interest in the National Plan of Action against Trafficking in Children and their Commercial Sexual Exploitation, 1998. In order to implement that National Action Plan, anti-trafficking networks were established at the national, district, vil-
lage and municipality levels in the form of task forces. Task forces are to coordinate activities against trafficking at those respective levels. The minister of the Ministry of Women, Children and Social Welfare is the chairperson of the National Task Force.

At the district level, task forces are headed by the Chief District Officers. The Chief District Officers are mandated to communicate with their counterparts in adjoining provinces of the neighbouring countries in order to solve problems related to trafficking.

If victims and culprits are found, e.g. at the border, police arrest the culprit and hand over the victim to the relevant NGOs. Both Nepalese police and NGO personnel have indicated that there is a good cooperation between the Nepalese and Indian police in order to control all forms of crimes, including W/G trafficking (Suwal, 2001).

The state law enforcement organs and NGOs of both Nepal and India work in close cooperation to prevent W/G trafficking and to facilitate the rescue and rehabilitation of the trafficked W/G.

A few NGOs are concentrated on the interception of trafficked W/G at border crossing points, arresting traffickers with the help of the police (both Indian and Nepalese), and rehabilitating the intercepted W/G in transit homes, offering counselling and family reunion. Other NGOs, with the support of the Indian Police Service, raid Indian brothels to rescue trafficked W/G and arrest brothel keepers and traffickers.

Integration is seen as the most difficult part of anti-trafficking programmes. There is a great risk that society will not accept the rescued W/G, and it is risky to send them back to the community that has already abused them. In a study among adolescent girls, nearly all (94.0 percent) reported that the community looked upon the returnees with hate (Community Perceptions of Trafficking and its Determinants in Nepal, 2001). Because of discrimination and threats, some trafficked W/G do not want to return home. Is it always right to perform rescue operations aimed at the reintegration of trafficked W/G without their consent? Some argue that it could end up being another incarceration of the victim, from a brothel to a shelter (Child Trafficking in Nepal, an Assessment of the Present Situation, 2003).

Preventive activities

The government of Nepal has made significant improvements in its law and policies aimed at averting W/G trafficking and other activities focused on opposing violence against women.

Below we have listed examples of Nepalese anti-trafficking initiatives to empower women and children in general and to combat trafficking in particular:
1. The first legislation against trafficking in Nepal was the New Muluki Ain (Civil Code) which has been in force since 1964. New Muluki Ain lays down as an offence the separating of a minor below the age of 16 from her/his guardian or enticing the minor to “cross the border with the intent of trafficking or strike a deal in this regard.” Article 3 prohibits the sale or purchase of any person.

2. Under the Human Trafficking Control Act of 1986 (an amendment to the New Muluki Ain, 1964), transporting a person to a foreign country with the intention of selling them or forcing a woman into prostitution are offences punishable with imprisonment of up to 20 years.

3. In 1990, the Constitution of Nepal included a provision which allows for special laws to prohibit traffic in human beings, slavery, serfdom, or forced labour in any form and thus seeks to protect women and children by making trafficking punishable by law.

4. The Ninth Plan (1997–2002) acknowledged a need for different measures for gender mainstreaming in activities such as national development, the elimination of gender inequality and the empowerment of women. Similarly, it has focussed on the identification of crimes, the necessary punishment system, a remedy and rehabilitation system and raising social consciousness in order to reduce all forms of violence against women.

5. The National Plan of Action against Trafficking in Children and their Commercial Sexual Exploitation 1998 has focussed on the prevention of W/G trafficking through measures such as: i) Policy, research and institutional development; ii) Legislation and enforcement; iii) Awareness raising, advocacy, networking and social mobilisation; iv) Health and education; v) Income and employment generation; and vi) Rescue and reintegration.

6. The National Plan of Action against Trafficking in Children and Women for Sexual and Labour Exploitation 2001 was formulated on the basis of the previous action plans. The major areas of this National Plan of Action were i) Policy research and institutional development; ii) Legislation and enforcement; iii) Awareness creation, advocacy, networking and social mobilisation; iv) Health and education; v) Income and employment generation; vi) Rescue and reintegration; vii) Trans-border, regional and international issues; and viii) Monitoring and evaluation.

7. In 2004 the National Plan of Action for Gender Equality and Women’s Empowerment was developed, covering the 12 critical areas of concern identified at the Beijing Conference (UN, 1995). These were: i) The burden of poverty on women; ii) Inequalities, inadequacies and unequal access to education and training; iii)
Inadequate conditions for health for many women; iv) Violence against women; v) The impact of armed conflict and other deep-rooted conflicts on women; vi) Inequality in all realms of economic structures and policies; vii) Inequality in all power and decision-making structures and processes; viii) Insufficient mechanisms to promote the achievement of women; ix) Lack of respect and adequate protection of the human rights of women; x) Media stereotyping and inadequate access for women to communications systems; xi) Gender inequalities in the management of natural resources and the environment; xii) Discrimination and violation of the rights of girl children.

8. The National Expert Committee’s recommendations on the implementation of the United Nations Convention on the Elimination of Discrimination against Women (CEDAW) in 2004 opened doors for new laws and legal reforms, such as the Legal Aid Act, under which free legal aid is available in cases of abortion, trafficking, sexual exploitation and domestic violence in Nepal.

9. The Women’s Commission Act of 2006 and its Regulation in 2008 have been introduced to protect and promote the rights of women and involve them actively in mainstream national development. The National Women’s Commission five-year strategic plan (2009–2014) was developed based on the core values of the rights of women such as Gender Equality, Social Equity/Inclusiveness, Diversity, Participation, Independence and Autonomy, Integrity, Accessibility and Accountability. The Interim Constitution of Nepal 2007 protects the interests of children and women by conferring on them certain fundamental rights and imposing certain duties on the state in the form of directive principles and policies of the state.

10. The Human Trafficking (Control) Act 2007 has come into existence as a reformation of the Human Trafficking Control Act, 1986. The aim of this act is to control the sale and trafficking of human beings, and to offer protection and rehabilitation to trafficked W/G and survivors. It defined human selling to include the selling or buying of a human being with a motive, insisting on or forcing any person into prostitution with or without taking profit, the illegal dismembering of human organs, and any person having sexual intercourse with prostitute women. This means that prostitution is illegal in Nepal, and if arrested, both the prostitutes and their customers are prosecuted under this act. The scope of this Act is sufficiently wide to establish extra-territorial jurisdiction, i.e. to reach offences that are committed outside Nepal.
11. The Domestic Violence (Offences and Penalties) Act, 2009. “Domestic Violence” includes any form of physical, mental, sexual and economic abuse perpetrated by any person to any other person with whom s/he has a family relationship. The definition also implies to the acts of reprimand or emotional abuse.

The Government of Nepal is signatory to the followings International Conventions:


The forms of trafficking are changing with the shifting socio-political contexts of Nepal. Trafficking routes vary depending on changes in legal environment, political commitment and the level of vulnerable groups’ knowledge, means of transport and destination. The trafficking routes appear as an integral part of the map of human mobility, both legal and illegal, within a given time frame and geography. The governmental and non-governmental authorities do not have proper data to determine the course of trafficking in W/G over recent years.

The major constraints on preventing trafficking in Nepal are the illegal network of trafficking, the community’s eagerness to migrate, traffickers' vested interests, inefficient government mechanisms to implement national and international commitments and a lack of actual information/data and proper networking among stakeholders. Effective policy requires conceptual clarity in the framework that addresses trafficking for sexual exploitation. The state and civil society should take social and economic initiatives to alleviate the factors that make W/G vulnerable to trafficking, such as poverty, unemployment, illiteracy, violence against women, social exclusion and discrimination.

Furthermore, there is a lack of institutionalised reporting systems in W/G trafficking from Nepal. Thus, in order to set priorities, reliable and uniform data on trafficked W/G should be made available and the findings of studies conducted by various agencies should be disseminated to all stakeholders. Without comprehensive, carefully documented research on trafficking, it is impossible, for example, to identify vulnerable districts. Research can motivate the government and civil society to take ac-
tion once the extent of a problem is proven. Therefore, it is important to improve research methods and techniques in order to gather more reliable quantitative and qualitative data in the changing Nepalese context.

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