

An Overlooked Transnational Human Trafficking in the State of Manipur: Plight of the Youth

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Abstract

As the name suggests, transnational crimes are an organised crime that does not confine to geographical jurisdictions or intra-border but across the international border and became transnational problems. Transnational crime such as human trafficking seldomly caught the attention of the country and many times remains unnoticed due to its complex, sophisticated pattern of carrying out the activities. But the existence of such crime needs much more attention than ever because of an upsurge in the number of cases, especially in the state of Manipur. Prey of this crime extended to both adolescent male and female. The paper aims to addresses the prevalent illicit trafficking in the state of Manipur (a part of the North-eastern region of India) that is transnational, also the modus operandi and the plight of the victims. The paper will further highlight the root cause of the crime, the inadequate governance to mitigate the same and recommend the mode of weakening the network. I base a substantial part of the paper on the primary source such as personal interview.

Keywords: Transnational crime, human trafficking, organised crime, Northeast.

Introduction

The notion of 'transnational crime' which is one aspect of criminology, emanated as early as the mid-1970s when the term was coined by United Nation while identifying certain criminal activities that transcend cross border jurisdiction. Defining transnational crimes is complicated as it transcends national jurisdictions and the parameters of information systems and law enforcement agencies. In 1995, the United Nation list out various transnational crimes executed in the utmost organized manner, sometimes referred to as organized crime, and defined transnational crime as "an offence whose inception, prevention and/ or direct or indirect effects involved over one country."ⁱ The identified crimes included money laundering, terrorist activities, theft of art and cultural objects, theft of intellectual property, illicit arms trafficking, aircraft hijacking, sea piracy, insurance fraud, computer crime, environmental crime, trafficking in persons, trade in human body parts, s drug trafficking, fraudulent bankruptcy, infiltration of legal business, corruption and bribery of public or party officials. ⁱⁱ In India with the emergence of globalization, transnational crime has spread swiftly,

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ⁱUnited Nation, 9th UN congress on the prevention of crime and the treatment of offenders, UN DOC A/CONF.169/15/Add.1(April. 4, 1995)

ⁱⁱ*Ibid*

and despite some progress that has been made by the states in developing measures to combat this illicit trafficking one form of transnational crime still apparently prevail in the state of Manipur which is part of Northeast India.

According to **Article 3(a)** of 'United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially in Women and Children; defined "Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, through the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or a position of vulnerability or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for 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;ⁱⁱⁱ it further enshrined in the article that consent of a victim of trafficking in persons to the intended exploitation set forth is immaterial.

It is perceived that human trafficking as modern slavery that violates basic human right. It is apprehended that in a country where stringent law against this heinous crime is absent the chance of occurring is high, notably, Asia is notorious for the global hub of human trafficking.^{iv}

Contributing factors

Owing to its precarious geographical location with the rest of the country, the menace is believed to be rooted in all the states of the North-Eastern Region, comprising eight states namely Assam, Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Tripura and Sikkim. Geographically, North-Eastern Region is a landlocked region, sharing over 98 percent of its borders with neighbouring countries such as Myanmar Bangladesh, Bhutan and China. Undoubtedly, the geopolitical location put the region vulnerable to cross border trafficking and has become a significant location as the source of illegal trafficking. According to Hasina Kharbi, most of the borders are 'open and unmanned which provides an easy passage in and out of India for organized human trafficking syndicates to operate undetected.'^v

Concerning the state of Manipur, after an intricate analysis of various cases; as personal interview and brief fieldwork carried out among some section of the youth who have been a victim of the human trafficked to some part of Southeast Asia countries such as Malaysia and Singapore, it has been unfolded that human trafficking in the state of Manipur seems to be low but a closer look reveals the

ⁱⁱⁱ United Nation, *Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime*, (Nov.15 2000,) <https://www.ohchr.org/Documents/ProfessionalInterest/ProtocolonTrafficking.pdf>

^{iv} Neimenuo Kengurusie, *Human Trafficking in North East India: Patterns and Emerging Trends*, 7 JNEIS Journal 115,120(2017)

^v *Supra note at iv*

rapid menace taking its toll. The cause of human trafficking is multi-folded and certainly difficult to attribute any element as the main contributing factor. After much research; socio-economic conditions, inadequate enforcement machinery, corruption, shortage of job opportunity and social awareness concerning the activities of human trafficking emerge as the major factors that lure the youth to entangle into the trap of this heinous crime. The practice of corruption among the government official force young calibre to give up dreaming of staffing in state government job, the amount of bribe is ten times higher than the expected salary for a concerned post, the higher the designation the higher the amount of bribe which is unaffordable especially for economically weaker section of the society, this evil deeds roots in the state for several decades. Complex ethnic conflicts sprung up among various tribes coincide violently and arson of various inhabitants, that resulted in an environment of destitute not conducive for steady employment and social stability, adding the problem of trafficking further exacerbated.

The state of Manipur part of the north-eastern state of India is surrounded by the district of Assam on the west, Nagaland on the north, and Aizawl district of Mizoram on the south-west. The entire eastern border is shared with Myanmar. Geopolitically it carries strategic importance for international trade and commerce with the Southeast Asia countries. The literacy rate is 79.9% as of 2017,^{vi} which remains stable. Ironically, despite the high literacy rate in the state, the above contributing factors especially poverty and lack of job opportunities pave the way for the trafficker to exploit the vulnerable condition of ambitious young people in the region, desperate for a job opportunity and do something for themselves and support their parents as well. Undeniably, trafficker advance job opportunity as the key tactic to entice this youngster, on one side their indigent condition sway them to fall into the evil trap without realizing what future has in store for them. Every staffing is voluntarily executive at the end of the victim by entering a concerted contract for a certain bonded period not unaware of the type of job position they are intake for. Metaphorically within the stipulated duration, they cannot release themselves no matter in what condition they may be staff.

The myth, 'working in the foreign country earning in terms of dollar uplift social-economic condition' predominantly instils into the people in the region. This misleads conviction not only deter to reveal the true plight of the victim but restrain them from seeking legal redress. Regrettably, for some, especially those young educated ones, the thought of ensnaring oneself into such idiotic conviction and concerning the social stigma hurt their pride and ego that they end up portraying and staging themselves working in a respectable job, living a good life and harbour perpetrator of the menacing crime. Since they refuse to be acknowledged as victim, they remain unreported to the law enforcement body which is why they failed to be reflected in the data of human trafficking record, seemingly this resulted in a minimal case of human trafficking in the state and only closer looked

^{vi} Knoema, <https://knoema.com/atlas/India/Manipur/Literacy-rate>.

reveal the dark side of the fact. Because of ignorance of the legal procedure and absence of adequate awareness, support from law enforcement officer and community member, the victim's intrigue to solicit for legal remedy is left helpless. Human trafficking beside closely tied to poverty and unemployment, failing to shed light on this issue has become one of the contributing factors in an upsurge of this heinous crime.

Modus operandi

At the outset, it is pertinent to raise this question; why the agent of this organised crime actively and openly prevails in the state? The mode of executing this organised crime is very sophisticated, which involves inter cross border connection and multi-layers of organising agents. An agent base in the state of Manipur is entrusted to recruit people to be it male or female but preferably educated ones, this agent advances job opportunities without disclosing the actual job profile while undertaking the responsibility of incurring all the travelling mean and expenses which is a key tactic to pursue them. As a result, they will have them sign a bond or agreement for a certain bonded unpaid period which may extend to eight months or one-year. Also, during the bonded period they are restrained from all sorts of mobility, their passports seized and were threatened with rigorous life imprisonment in case of any breach of contract.

Unlike the conventional mode of human trafficking, predominantly in the instant prevailing practices; there are two modes of transporting the victim which are either by road or air, this depends on an agent to agent. When the victim is literate, air transit seems preferably subject to possession of all the requires document and consent to stage throughout the transition phase. Once they arrive at the destination, they are to receive by a connected agent who are vested with job allocation or staffing responsibility. The kind of job inter alia includes prostitution, maid, nanny, cleaner, etc. The other mode of transportation is adopted, which involves a whole level of an illegal process of crossing an international border via Myanmar. It is also revealed that some of these recruiting agents belong to the close relatives of the victims, who accrue money at the expense of their close relatives and family. This shows that trafficker resorts to all means to perpetuate their modus operandi, they mask human trafficking under the pretext of financial aid and opportunities. When "attractive" job offers in a foreign country with free travelling expenses and lodging come from traffickers disguised as "good Samaritans", uneducated and destitute parents easily give in to the lure of opportunities for their wards. This makes it hard to unearth and prompted a wave of the menace beside the other contributing. In a nutshell, the mode of carrying out this crime is trafficked and re-trafficked.

Statutory framework in India

To mitigate the menace of Human trafficking, the government of India has passed various legislative since many decades, even though an upsurge in cases is a debatable subject and an ending concerned. Addressing the various legislative provisions undoubtedly trafficking of human being or person is

prohibited under the constitution of India, read as “Trafficked in human beings and begar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with the law.”^{vii} One of the primer legislations that addresses trafficking of human for a commercial purpose is the ‘Suppression of Immoral Traffic in Women and Girls Act of 1956 (SITA)’ which come into force in 1958, later amended and repealed by ‘Immoral Traffic (Prevention) Act of 1986 (ITPA)’, also known as PITA was in response to the ratification of the International Convention on Suppression of Immoral Traffic and Exploitation of Prostitution of Others in 1950. The main loophole of SITA was the ambiguity, gender disparity and inadequate concerning the penalty provision, where the Act defined prostitution as indicating women only and the same is invoked for the prosecution of persons other than the prostitutes only if the persons involved “knowingly” or “unwillingly” made women engage in prostitution.^{viii}

To overhaul and robust legal lacuna and framework for protecting children from sexual assault and exploitation, safeguarding the interest of a child at every stage of the judicial process, A special Law was passed by the Parliament of India known as ‘Protection of Children Against Sexual Offences (POCSO) Act, on 22 May 2012 which come into effect from 14th November 2012. The aim of the instant Act is frame keeping in mind the interest of the children at the forefront, therefore, making it an easy recourse of the mechanism such as friendly reporting, recording of evidence, and speedy investigation and trial of the alleged offence through designated special Court. The Act also defined various forms of sexual abuse which includes penetrative and non-penetrative sexual assault, sexual harassment. Apart from this Act, there is other specific legislation enacted relating to trafficking in women and children Prohibition of Child Marriage Act, 2006, Bonded Labour System (Abolition) Act, 1976, Child Labour (Prohibition and Regulation) Act, 1986, Transplantation of Human Organs Act, 1994, apart from specific Sections in the IPC, such as dealing with selling and buying of girls for prostitution^{ix} Some state government also enacted specific addressing the issue in the particular state (e.g. The Punjab Prevention of Human smuggling Act, 2012). The Government of Mizoram was the first state in the North East that has taken several steps to curb the evils of human trafficking as a watershed formulating the ‘Victims of Crime Compensation Scheme.’^x

Intending to tackle the menace of human trafficking, the Ministry of Home Affairs (MHA), Government of India has undertaken several measures in administrative measure and interventions, Anti-trafficking Cell (ATC) are set up and Nodal officer of anti-human trafficking units are nominated as well in all states and Union territory with whom meeting are conducted periodical. This

^{vii} INDIA CONST. art. 23, cl. 1.

^{viii} ResearchGate, <https://www.researchgate.net/publication/273769876> ‘The politics of trafficking amongst tribal women in Manipur - North-East India’ (last visited Feb.14, 2021).

^{ix} Indian Penal Code, 1860 § 372 & § 373

^x Latest Law, <https://www.latestlaws.com/wp-content/uploads/2015/08/Mizoram-Victims-of-Compensation-Scheme2011>. (last visited Feb.15, 2021).

mechanism is a focal point for communicating various decisions and follow up on action taken by the state Governments to combat the crime of Human trafficking. MHA also promulgate numerous comprehensive advisories to all state and Union territories for effective tackling and prompt responsiveness of the concerned crime.^{xi}

India is also a signatory to various international conventions such as the Convention on Rights of the Child (1989), Convention on Elimination of all forms of Discrimination Against Women (1979), UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (2000) and the latest South Asian Association for Regional Cooperation (SAARC) Convention on Preventing and Combating Trafficking in Women and Children for Prostitution (2002). It also signed a bilateral mechanism with Bangladesh for dealing with cross border trafficking, victim identification and repatriation and make process speedy and friendly, in pursuant a task force was constituted.^{xii}

Conclusion

Referring the definition of Human trafficking, ambiguously the mode of recruitment and transition may be voluntary from the victim ends, however, the whole activities amount to human trafficking and bonded labour as consent is immaterial in this regard. The evil menace of human trafficking has crept into most interior parts of the country, which required great attention to tackle and curb it before it spreads further. Its sophisticated modus operandi deters conspicuous existence of this evil menace in the society. However, the plethora and the frequency of the crime reveals the complex network. Notably, besides the other contributing factors as discuss above, the geopolitical structure of the state and the weak governance pave easy access of inter cross border to date, which enable the trafficker to recruit and transport them across the international border. This shows that India requires much more stringent law coincide with effective monitoring and enforcement on cross border staffing, it's prime time that the cross-border staffing policy should be amended and do away with the lacuna. To combat human trafficking, India undoubtedly has adequate legislation quantitatively. But apprehending the increasing number of cases, the effective enforcement of the machinery remains questionable. To deviate this inefficiency, one effective option can be; framing the legal devices mandating political intervention and inclusion of all sections of institutions such as public, private, religious institutions and the community in fighting human trafficking. The State Government should set up means to check the alarming issue within the sphere and effective implementation of the mechanism through all this institution. Also, the efficacy of the criminal justice system needs proper appraisal in tackling this issue.

Perceiving the ongoing situation and mentality of the people in the region, a massive awareness programme in the immediate context is of paramount importance, ignorance of the gist of the crime

^{xi} Ministry of External Affair, <https://mea.gov.in/human> (last visited Feb.11, 2021).

^{xii} *Supra note at xi*

among the people being one of the prime factors to fall into the web of this menace. An adequate awareness programme could be carried out in collaboration or partnership with various organisations among several tribes. The role of religious institutions is also significant in fighting against this evil menace of human trafficking as they hold a great realm of influence in society, due to the pragmatic reason that a substantial population of the diverse tribal in the states belong to the Christian community. Therefore, optimum mobilisation of religious institutions as a medium to generate public awareness is the utmost requirement. It would not be wrong to ascribe the uneven development between states in the North-eastern region and states of other regions in the country that have forced people to migrate outside the state or in search of better opportunities make them more vulnerable targets for trafficking. Therefore, alleviating Poverty and elevating development can also be attributed as effective tools to combat the war of this crime, which denotes that the more the government could concentrate on the upliftment of development, it can infuse ample employment in the region, coincide exterminating the practice of bribing government official or government official accepting bribe, can ingrain a ray of hope and confident once again among the educated youth in pursuing their dream of serving as a government servant. Hence, overall improvement in every sphere of the system is requires for eradicating this menace of human trafficking.