

Anti-Trafficking activities: a danger to the mobility of the Bangladeshi poor?

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Abstract

In considering trafficking and the associated campaigns for the protection of women from trafficking harm, this paper will seek to show that the migration agendas of poor women in South Asia have almost been uniformly ignored in the design of anti-trafficking interventions, and that trafficking has been conveniently co-opted, particularly by donor nations as an immigration control measure, intended to disrupt the various spaces shared by trafficking and irregular migration networks. As such, the paper will argue that most trafficking harm is sustained and supported by inadequate migration policy that has not responded to the needs of migrant women and the real needs of the countries of destination for the labour of migrant women. Furthermore, it is suggested that these inadequate policies have created and sustained the spaces in which a variety of criminals can exploit trafficking and that consequently, many previously useful irregular migration networks have intentionally been reconstructed as high risk environments for women.

The paper will contend that the mobility of poor women through irregular migration offers them substantial benefits as well as risks. Furthermore, the paper will suggest that it is the lack of governmental capacity to police such mobility that allows poor women to mitigate or replace the ever present risks associated with the “home” with the risks and opportunities of the “other” place.

Therefore, subverting trafficking in South Asia should be a matter of improving policy before building the capacity of government agencies to further fight organised crime or increasingly police the mobility of irregular migrants.

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“The people do know their problems. After all those are their problems. They live with them. How can it be that they do not know them? If they do not express their views openly it is because they have no power of an organization behind them. They know that they are weak, and their weakness will mean further exploitation.”

- Indian farmer, quoted in Stan Burkey: people First, London 1996, p.60

Introduction

In recent years an increasing number of feminist and other scholars have expressed concerns regarding various interventions supposedly undertaken on behalf of “foreign” women (Doezema 2001; Agustin 2003). These interventions were undertaken and then justified in the public domain as actions intended to protect women from abuse from other, usually patriarchal actors. Prof. Iris Young¹ and others have questioned the use of “woman protection” as a rationale for the support of the war in Afghanistan, and its subsequent reappearance as a justification for further war in Iraq. Trafficking is another issue where powerful state and institutional forces are using the supposed vulnerable bodies of women as the justification for the protection of women, according to an agenda of imagined mutual convenience. The protection of women is sought, rather than the means by which women might be empowered to overcome harm, or allowing for prejudicial institutional arrangements to be adjusted thus reducing vulnerability to trafficking harms.

In considering trafficking and the associated campaigns for the protection of women from trafficking harm, this paper will seek to show that the migration agendas of poor women in South Asia have almost been uniformly ignored in the design of anti-trafficking interventions, and that trafficking has been conveniently co-opted, particularly by donor nations as an immigration control measure, intended to disrupt the various spaces shared by trafficking and irregular migration networks. As such, the paper will argue that most trafficking harm is sustained and supported by inadequate migration policy that has not responded to the needs of migrant women and the real needs of the countries of destination for the labour of migrant women. Furthermore, it is suggested that these inadequate policies have created and sustained the spaces in which a variety of criminals can exploit trafficking and that consequently, many previously useful irregular migration networks have intentionally been reconstructed as high risk environments for women.

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Migration of the poor and trafficking risks in South Asia

South Asia is one of the world’s most densely populated landmasses with a substantial concentration of the world’s poor. In the world of new migrations (Castles 2003) South Asia is a place where new migrations are actually being built upon ancient and traditional mobilities (Siddiqui 2001). These mobilities have become integral to the welfare of the poor, but such migration is becoming increasingly policed. As such, its benefits are in danger of being denied to the poor in a misplaced war on “traffickers”. With the development of a new understanding of migration as a development tool, (Skeldon 1997) it is important that anti-trafficking actions are consistent with ensuring the safe mobility of the poor rather than creating further barriers to their successful mobility (Davies 2002).

¹ Metropolis Migration Conference Keynote address Oslo 2002.

Trafficking in South Asia is an especially confused term with numerous definitions used to describe a multitude of migration vulnerabilities. The principle definitions used in describing trafficking are the Trafficking Protocol from the UN Transnational Organised Crime Convention, the SAARC convention on the trafficking of women and children for prostitution and definitions used by such donors such as USAID. (Appendix A). However, it could be argued that trafficking is as heterogeneous as the practice of prostitution (Agustin 2003), which is often conflated with trafficking. As Shrage argues that prostitution in the West is very different from other prostitutions in time and space (Shrage 1990), it is necessary to consider the differing costs and benefits that might be associated with the various forms of trafficking experienced by different people.

A trafficking outcome for a woman from the developed world might be expected to be experienced as a totally negative and destructive experience; a descent from relative privilege and well-being into a slavery like state. However, for women from the developing world a trafficking episode might be experienced as a didactic transition from a variety of abuses not limited to the migration event, which might eventually result in the final conclusion of some abuses and the exercise of increased agency and economic power. Trading different forms of abuse by various degrees might not be considered a satisfactory outcome by most analysts, but understanding how such changes are considered by the poor should better inform policy and interventions.

Trafficking risks are presently part of the irregular migration systems that offer so much opportunity to the poor. If in overcoming trafficking, opportunities for the migrating poor are reduced it could be that some anti-trafficking initiatives could be considered anti-poor (Davies 2002). Donors such as NORAD, UNICRI and USAID have funded anti-trafficking interventions that are based on improved border control and the policing of the irregular migration of the poor.² However, such controls often can only impact on trafficking in as much as they reduce all forms of irregular migration. It could therefore be concluded that much of the moral panic that has inspired the various calls for action on trafficking has been harnessed by various countries of destination to induce countries of origin to control their borders and prevent all forms of irregular migration rather than to empower their migrants to resist trafficking harm (Davies 2003). Such actions could be considered not to be in the best interests of countries who benefit from migrant remittances and whose migrants are often unnecessarily criminalized by the unilateral migration policies of countries of destination.

Poverty is often considered as a significant push factor in the migration decision making of the poor (ACD 1995). It is also often considered a vector for trafficking vulnerability (ACD 2001; Blanchet 2002). Therefore, the movement of the poor is often presumed to be synonymous with an increased incidence of trafficking, and consequently the disruption of the poor's mobility is often considered to be an effective anti-trafficking strategy.

The mainland of South Asia is a patch work of varying mobility rights that are formally dictated by the overwhelming geographical power of India. However, this hegemony is consistently challenged by the migrating poor, who refuse to be subjected to such controls. The transnational movement of the poor in mainland South Asia is overwhelming by foot, bus and train and as such this requires that the poor subvert any formal restrictions on their mobility by simply ignoring formalities. The success of the informal system would suggest that any attempt to replace it by a formal system should require the new system to be subjected to rigorous scrutiny. Such a scrutiny should consider, before any attempt is made to implement a more formal system, how any new system would offer the poor greater benefits over the present informal system. Building government capacity to police irregular migration before ensuring that the poor can secure their own migration interests, would probably harbour an inherent danger to the well being of the poor.

It can not have gone unnoticed that ratification of the law enforcement instrument of the UN transnational Organised Crime convention's anti-trafficking protocol was signed and ratified by an overwhelming

² UNICRI proposed programme for Bangladesh concentrated on enhancing law enforcement and border control, The USAID funded ATSEC programme also funded law enforcement enhancement, as did the NORAD funded CPCCT project.

number of countries of destination, whereas the Convention on the Rights of Migrant Workers has been completely ignored by the countries of destination. The transnational protocol requires countries of origin to cooperate with countries of destination in greater policing of the irregular migration of the poor as an anti-trafficking strategy; whereas the convention on the rights of migrant workers would empower migrants to resist many forms of trafficking harm on the basis of their enforceable rights.

India and Nepal have mutual free mobility; India and Bhutan have a similar but slightly lesser arrangement. India and Bangladesh have a visa regulated and restrictive regime. India and Pakistan have a severely restricted movement regime. SAARC agreements regarding free movement are subjected to the benevolent consideration of India, as post-colonial divisions in the sub-continent now prevent any regional free movement regime being operated without the involvement of India, because each of the other South Asian mainland nations is separated from every other nation by a part of India.

For the poor of Bangladesh who live close to the border with India, geographic proximity to the long, but supposedly closed border that is in fact extremely porous, promotes significant informal socio-economic opportunities. The small scale smuggling of such goods as sugar, alcohol and clothing provide many families with a useful and sustainable income that is predicated on the failure of bi-lateral or multi-lateral trade agreements. This phenomenon truly represents the potential of a positive effective trickle down effect from macro-policy decisions. When the rich are politically restrained from developing an economic hegemony it leaves spaces for the poor to exploit. As such, the failures of SAARC might be more important to some of the Bangladeshi poor, than its successes.

Regional Cooperation on Migration and Trafficking.

The South Asian Association for Regional Co-operation (SAARC) comprising of seven neighbouring states: Bangladesh, India, Pakistan, Nepal, Sri Lanka, Bhutan and the Maldives is intended to be a platform that provides opportunity for dialogue and strategies in narrowing down the regional differences, problems and issues among the neighbouring countries. In January 2004, the 12th SAARC summit met in Pakistan capital Islamabad. It was attended by all seven South Asian heads of state and government and concluded in drawing up a landmark agreement on a social charter in a bid to improve the socio-economic conditions of the region's populace, the majority of whom live in poverty.

The charter particularly aims at protecting human rights, gender equality, women empowerment and social security. All four areas in the signed charter delineate concerns directly or indirectly that relate to the challenges in combating women and child trafficking in South Asia for prostitution. All other forms of trafficking are studiously avoided and India was extremely careful to ensure that no compensation should be payable to anyone trafficked for prostitution into another SAARC country. India is usually considered the primary country of destination for the poor in the SAARC region. As such, many people who are vulnerable to trafficking harms are offered no protection by SAARC. This could be considered a grave and serious omission that reflects how Indian hegemony regarding regional mobility is exercised to protect Indian interests rather than allowing SAARC to be used to provide rights and protection to the regional poor.

Furthermore, the convention seems to best fit with those groups who are compelled by the supposed moral dangers to migrant women and those groups who are engaged in a political and philosophical war on prostitution. These groups appropriate "trafficking" as a means of attacking all forms of prostitution and as such, perpetuate an unjustifiable conflation (Doezema). An outcome of this conflation is that "trafficking" has become a device for addressing a political agenda on prostitution, rather than allowing this sector to concentrate on addressing the vulnerabilities in migration confronting all of the excluded and poor that result in a wide range of trafficking harm. (Doezema 2001; Davies 2002; Agustin 2003).

This is a recipe for confusion and conflict, as "trafficking" could be reduced to anti-prostitution initiatives. Countries of destination for Bangladesh women who participate or are trafficked for sex work, particularly India, could use the SAARC convention to require Bangladesh to engage in expensive and ineffectual prohibition actions intended to reduce the ability of such women to travel, rather than engaging in cooperation to ensure safe, accessible, and affordable migration opportunities for women. Safe, accessible

and affordable migration opportunities subvert trafficking by allowing women and others to engage in migration without having to resort to trafficking agents.

The SAARC convention seems to favour the limited agenda of destination and transit countries in that it limits their obligations to cooperate only in those matters that might relate to prostitution. The convention protects other exploitative industries from being subject to international scrutiny and as such allows the other forced labour of women and children to be located in a legal limbo and removed from view. This explicitly protects the interests of nations such as India at the expense of the Bangladeshi poor.

The SAARC trafficking convention therefore discourages dialogue regarding civil and other forms of compensation against offending industries outside of prostitution. It is in effect a multi-lateral guarantee that those who exploit trafficked labour outside of prostitution can avoid expensive civil compensation suits in their home countries and most likely avoid similar litigation in other jurisdictions as well.

The SAARC convention uses a definition of trafficking tied to prostitution that was opposed by various civil society groups in South Asia since 1998. The definition has been superseded by the trafficking protocol of the UN Convention against Transnational Organised Crime and as such the Government of Bangladesh should have made the following or similar observation and reservation.

That the Government of Bangladesh notes that the present definitions regarding trafficking in the SAARC convention do not coincide with its impending treaty obligations regarding its ratification of the protocol to prevent, suppress, and punish trafficking in persons, especially women and children which supplements the UN Convention against Transnational Organised Crime, as such the Government of Bangladesh requires that the SAARC convention be amended at the earliest opportunity so as to comply with the more widely accepted International definition of trafficking as contained in the UN protocol.

This reservation or observation would have allowed Bangladesh to revisit the most damaging aspects of the convention at the earliest opportunity with the justification that its UN convention obligations require it to ensure a seamless link between its various anti-trafficking obligations.

Bangladesh and the poor: constitutional safeguards and human rights

Unlike many countries, including some in South Asia, Bangladesh did not attain its independence through the goodwill of its 'masters' but through protracted struggle, sustained by the sacrifices of the common people. Prof. Rehman Sobhan (2002) observed that a democratic Bangladesh was thus honour-bound to build a social order which gave the common people a stake in the development process. In the 13th Anniversary Special, The Daily Star (Jan 31 2004) reported that the rights of people are treated as a sacred thing all over the civilized world. In fact, the fulfillment of the rights of individuals is a yardstick of the extent of democratisation of a society. In the context of Bangladesh, however, governmental institutions have always been too interfering in the lives of the people, though the Constitution guarantees the rights of people in unequivocal terms. Social institutions and political parties are also not sensitive enough to the rights of citizens. The outcome of which is inevitable: the rights of people are violated or undermined at every step, leading to a kind of social order in which the individuals have become subservient to institutional supremacy. The resistance to infringement of the rights of individuals also appears to the negligible, if not non-existent. Therefore, the irony is that common men and women, especially those with limited access to legal support, face serious hurdles while exercising their basic human rights despite the Constitution and the law being on their side.

The Constitution of Bangladesh defends the fundamental rights of its citizens that include rights to equality, non-discrimination and protection. Article 34.1 of the Constitution prohibits forced labour as a punishable offence under the law of the land. Bangladesh has introduced a number of draconian laws intended to deter and punish traffickers. Bangladesh is also signatory to a number of international instruments conventions, protocols e.g.:

- Suppression of Violence against Women and Children, 2000 (*Nari O Shishu Nirjaton Domon Ain 2000*) has provision for death penalty for trafficking.
- *National Plan of Action 1997-2002* in which the Government of Bangladesh assigns high importance in protecting the rights of the child, particularly its accession to the UNCRC in 1989. The National Plan of Action (NPA) for children 1997-2002 has been formulated in line with the CRC, the World Summit for Children (WSC) Declaration as well as SAARC Resolutions. A number of sectorial targets e.g. basic education, health and nutrition, water and environmental sanitation, children in need of special protection, social integration, participation and cultural affairs and information and communications have been identified as priority target areas of interventions in this NPA.
- *National Policy on Women's Advancement, 1997*. whose main objective is that of eliminating all forms of inequalities and discriminations.
- *National Policy on Children, 1994*: the National Policy on Children entails six major objectives: a) survival, b) education/psychological development, c) family environment, d) assistance to children in especially in difficult circumstances, e) best interest of the child and f) protection of their legal rights.

Some of the major International Conventions the Government has ratified include:

- The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), 1979 (entered into force in 1981),
- UN Convention on the Rights of the Child (UNCRC), 1989 (entered into force in 1990),
- Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women, 1999 (entered into force in 2000),
- Provision of International Labour Organization (ILO) Convention on Forced or Compulsory Labour, 1930,
- Abolition of Forced Labour 1957,
- Night Work of Young Person Employed in Industry, 1919 & 1948.

Comment [J1]: include here the dates when Bangladesh ratified them

Some other conventions relating to rights are:

- Convention on the Rights of the Child, 1989,
- Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, 2000,
- International Covenant on Economic, Social and Cultural Rights, 1966,
- International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, 1990,
- Convention on the Political Rights of Women, 1953,
- Convention on the Nationality of Married Women, 1957,
- Protocol to Prevent, Suppress and Punish Trafficking in Person, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, 2000,
- Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, 1950,
- Final Protocol to the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, 1950,
- Slavery Convention, signed at Geneva 1926 and amended by the Protocol done at the UN Headquarters, New York, 1953,
- Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, Geneva, 1956,
- Rome Statute of the International Criminal Court, 1998.

Comment [J2]: no need to separate, unless a clear reason for this is given: and here it is not. Emerge them and order according to date of ratification by the BG.

Irregular migration and trafficking in Bangladesh

Bangladesh is considered particularly vulnerable to the demands of the trafficking market, which in turn is supposedly a product of the desperate poverty in countries like Bangladesh and the demand for cheap exploitable labor elsewhere (ACD 1995; ACD 2001). As such trafficking vulnerability is by definition linked to classical neo-economic migration theory and a subsequent presumption that the movement of the poor and particularly poor women is attended by trafficking risks (BNWLA 2002).

The problem has begun to draw government attention. Bangladesh now has a trafficking law that conflates trafficking with migratory and other forms of prostitution. However, the kingpins have consistently eluded the authorities (International Herald Tribune 2000). It certainly seems that the harms committed by a trafficker of women and children can also easily be the same harms inflicted upon migrant men by “respectable” manpower placement agents or some other migration nemesis. However, in South Asia and Bangladesh, there does not seem to be any substantial political will to address trafficking in all of its forms, but only a will to address the supposed moral harms that might be inflicted upon women and children.

In countries where the poor are systematically excluded from the protection of the courts and women are culturally policed into institutional submission, the imposition of more moral policing must be considered a dubious response to migration vulnerability. It appears to be an extension of patriarchal concern to control the movement of women, and ensuring that male communities are also protected from the power of defiled women who might return (Davies 2002; Davies 2002).

What is more, government efforts to protect the moral victims of trafficking, women and children, has had the expected moral policing outcomes. Bangladesh actually barred women, except for skilled professionals, though not men, from working overseas legally. Until recently women had to migrate illegally for unskilled labour. The prevention of trafficking and protection of women was seen as best ensured by constraining the mobility of poor women. In fact, the policy did not address migration motivation and only ensured that poor women needed to engage with criminal men to undertake labour migration (Siddiqui 2001; Blanchet 2002; Davies 2003).

The Bangladeshi Home Minister recently observed that while poverty, illiteracy, natural calamities, lack of awareness, polygamy, gender discrimination and wars, among other factors were responsible for human trafficking, the laws of the land have not been effective in the South Asian region including Bangladesh in addressing trafficking harm. He did not comment on the equal ineffectiveness of the judicial system in addressing violence against women in general. For Bangladeshi women who have remained in Bangladesh and endured institutional repression that include beatings, rape, torture and other abuse with little hope of ever seeing justice, the comments of the Home Minister simply reiterate that staying where they are, is probably more irrational than accepting the risks of a migration that might eventually result in a better outcome.

Approximately two third of the Rohingya Muslim population of Burma are in self-exile in an attempt to flee the persecution of the Burmese government: 400,000 are in India, 700,000 are in Bangladesh and nearly 400,000 are in Pakistan. Most of them have therefore accepted the trafficking risks associated with irregular migration in the South Asia region as the only way by which to resolve their other insecurities. The majority of this population lives in Korangi, Musa Colony, Landhi and other slums of Karachi. The failure of SAARC and the regional governments to address the needs of the Rohingya has created their vulnerability to trafficking, but many of the Rohingya have used irregular migration to successfully resolve their desperate exclusion.

The large number of irregular migrants has an unknown effect on Pakistan’s economy. However, according to the local law and international conventions, many of these irregulars and refugees could be deported to their countries of origin. For a developing country like Pakistan it could be hard to administer such a project in a humane and legitimate manner. Refoulement would be a likely consequence when procedures and protocols are not adequate to the need to assess fully, what would be many tens of thousands of Rohingya asylum applications.

The Pakistani government has made numerous vacuous commitments to address the issue on various fronts as a law enforcement issue. The Federal government urged the Sindh provincial government to take action

against the criminals involved in this trade. In 1991, the interior minister of the Pakistani government promised to take the matter to the Indian government to ensure that tight security measures would be taken to prevent illegal entries. However, none of these commitments have been realised. The police report figures indicate an increase of approximately 800,000 undocumented Bangladeshi immigrants from 1989 until 2007, which translates into 400% increase. The administration and police are reported as being in league with the traffickers and smugglers, ensuring virtual immunity and providing no protection to the migrant women and children. On the other hand the government, claiming a lack of resources, is unwilling to address the issue for fear of unearthing the larger systematic problems related to illegal trafficking and exploitation.

However, effective policing of the trafficked by Pakistan would involve the development of procedures and protocols that would necessarily allow for the effective policing of all irregular migration. If such institutional control was available and effective, the migration self-solutions of the Rohingya people would have been thwarted and many more would be suspended in the exclusion vacuum that afflicts those Rohingya who are contained in the camps in Bangladesh.

Profile of those trafficked

Various studies in Bangladesh and countries in South Asia revealed that those most targeted for trafficking and are vulnerable to being trafficked include (IOM, Dhaka 2002):

- Poor, unmarried, divorced, separated, abandoned, widowed and sexually exploited women
- Children facing limited economic opportunities and violence in the family
- Runaways and street children
- Sexually abused children
- Ethnic minorities
- Persons who are illiterate or have low literacy level
- Potential migrants
- Families affected by natural disasters and who have no access to legal rights or a means to voice their demands and
- Those who have access to information regarding the issue, little capacity to exercise their legal rights, or those who are indebted.

This oft repeated research exercise (ACD 1995; Blanchet 2002; BNWLA 2002) has produced the result that the poor and powerless are vulnerable to exploitation by those more powerful and influential than themselves. This was not an unexpected finding and obviously such exploitation is not restricted to migration but is common to all aspects of the lives of the poor. Therefore, it begs the question as to why the exploitation experienced by the poor in migration is considered more insidious than the exploitation experienced in their home communities.

No matter what happens, no organisation can bring about a change in the problems that exist in a society till the government is willing to recognise and do something about it. However, in the case of the migrating poor of South Asia the lack of governmental capacity to act against traffickers might be a significant factor in securing the continuing irregular mobility opportunities of the poor.

The Trafficking and Migration Nexus?

‘Trafficking’, ‘illegal migration’, ‘forced migration’ and ‘regular migration’ have different definitions, scopes and connotations as well as implications and have often been confused.

The world migration landscape has undergone sweeping changes in the past decade or so. The enduring impact of globalisation has brought significant consequences for the socio-economic phenomenon of migration. At the same time, migration is helping to transform contemporary economic and social relations. IOM World Migration Report (2003) revealed that at the start of the 21st century, one out of every 35 persons world wide is an international migrant. The Population Division of the United Nations estimates

Comment [J3]: Insert reference



the total number of international migrants at approximately 175 million excluding irregular migrants who escape official accounting. Based on the world population of 6.057 billion in 2000, migrants represent some 2.9 per cent. This percentage has changed in recent decade and has been rising steadily over the past 15 years.

IOM World Migration Report (2003) has proposed the following definitions for the various types and practices of migration:

Return migration – the movement of a person returning to his/her country of origin or of habitual residence after spending one year in another country. This return may or may not be voluntary, or result from an expulsion order. It includes voluntary repatriation.

Forced migration – the non-voluntary movement of a person wishing to escape an armed conflict or a situation of violence and/or the violation of his/her rights, or a natural or man-made disaster. This term applies to refugee movement, movements caused by trafficking and forced exchanges of population among states.

Irregular migration – the movement of a person to a new place of residence or transit using irregular or illegal means, as the case may be, without valid documents or carrying forged documents. This term also covers trafficking in migrants.

Orderly migration – the movement of a person from his/her usual place of residence to a new place of residence, in keeping with the laws and regulations governing exit of the country or origin and travel, transit and entry into the host country.

Smuggling of migrants – this term describes the procurement, in order to obtain, directly or indirectly, a financial or other material benefits, of illegal entry of a person into a state of which he/she is not a national or a permanent resident. Illegal entry means the crossing of borders without complying with the necessary requirements for legal entry into the receiving state.

Total migration/Net migration – the sum of the entries or arrivals of immigrants, and of exit, or departures of emigrants, yields the total volume of migration, and is termed *total migration*, as distinct from *net migration*, or the migration balance, resulting from the difference between arrivals and departures. This balance is called net immigration when arrivals exceeds departures, and net emigration in the opposite case.

Trafficking in persons – this term describes the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation includes, at 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.

Others see ‘Trafficking in person’ as a criminal commerce which involves violations of laws, including labour and immigration codes and laws against kidnapping, slavery, false imprisonment, assault, battery, pandering, fraud, and extortion. Trafficking takes place at national, regional and international levels as a result of both traditional and modern practices. Modern practice frequently involves women traffickers who draw girls into the process through abduction, rape, fake marriages, deceit, parental consent and “women’s welfare” organizations.

Some 4,365 Bangladeshis are now in foreign prisons and deportation camps, informed the State Minister for Expatriates Welfare and Overseas Employment to the Bangladesh Parliament on 28 January 2004. Of them, 3,012 are in prisons and 1,353 in deportation camps. It was also informed that government’s efforts to extend legal support to the detained Bangladeshis through Bangladesh missions where there is one and in absence of one, the support is given through IOM (The Daily Star, 29 January 2004 pg. 10).

The South Asia Policy Dialogue on Human Trafficking: Alternative Advocacy held in Nepal, 21-22 December 2003 unanimously adapted to the resolution that migration is a right and phenomenon both for women and men and therefore curbing migration of women in the pretext of 'protection' is a discriminatory action and blatant violation of informed choice to mobility and enjoyment of their basic rights

Governments, on the other hand, often portray trafficked women as voluntary, illegal economic migrants deserving of punishment. The stories that trafficked women tell indicate, however, that these women are neither mere passive victims nor traditional 'economic migrants'. Many trafficked women are perhaps best described as active labour migrants who become victims in the process. One of the problems is that, despite SAARC governments' talk about regional economic cooperation issues, such as the movement of goods through freer trade, almost no one is talking about the movement of people within the region.

Undocumented immigrants in Pakistan are a case of human misery and the Bangladeshis and Burmese, in particular, suffer the most. They remain scared of the authorities, and rightfully so. They are given far lower waged jobs and are often susceptible to moral, social and other crimes due to their extremely inferior status in Pakistan. Their children are singled out as targets of child labour and child abuse. They inhabit slums (paras) that have no civic amenities at all.

Possibly the single most significant cause of trafficking within South Asia is that countries have failed to negotiate any bilateral agreements for the movement of economic migrants. If a Bangladeshi woman wanted to migrate abroad to improve her life, she was faced with no alternative until recently but to have travelled illegally. Illegal immigration agents often served as her only source of information and access to this travel. The recent change in the law to allow the legal "export" of female labour was not accompanied by any services or resources intended to facilitate the safe migration of this newly legalised class of migrant. In fact, the change in the law has simply legitimized all of the former actors in the previously illegal process. Hopefully women will eventually be able to develop migration networks that will replace the most abusive placement agents.

South Asian governments have shown a remarkable reluctance to recognizing the social, economical and political dimensions of the problem. Problems and procedures therefore, do not address the socio-economic realities of the situation of irregular migrants and victims of trafficking. The lack of will among the governments for any level of bilateral and regional discussion is evident and remains a significant barrier to effective change.

Davies and Abbasi observed that trafficking and all irregular forms of migration in Bangladesh are likely to increase in number before they might decrease. It is anticipated that trafficking in South Asia and Bangladesh will increase in the next decade as the under-skilled and under-educated in the region will be structurally excluded from most of the current migration policy reform that is now developing in many of the desired countries of destination (Davies 2003). Consequently, there is pressing need for stakeholders to be more effective in their engagement with the migrating poor to assist them in optimising the success of any migration. Most anti-trafficking agencies have not considered the advantages of promoting the General Agreement on Trade and Services (GATS) as a means of assisting service workers to increase their migration security. The benefits of safe migration for woman as a means to enable them to tie aspects of social emancipation and fiscal empowerment to the wider globalisation agenda is widely recognised by reactionary political and social forces and as such trafficking protection is often constructed in the form of restrictive practices on the migration of under-skilled women. Incidence of legally restricting migration of unskilled women as an anti-trafficking measure was being pursued in Bangladesh and still is in Nepal, to protect women from abuse in foreign countries. Lack of security creates an environment within which migrants are particularly susceptible to traffickers, who are perceived by many migrants as being able to protect them from the arbitrary actions of Governments in the country of destination by the use of corruption or by being able to seclude the migrant in an informal community.

Rural to urban migration within Bangladesh will most likely continue to accelerate in the next decade. Rural to urban migration within Bangladesh often allows the established urban community to exploit the newly arrived and under-resourced migrant particularly un-accompanied children. The role of the urban middle class in exploiting child domestic labour as a part of many children's trafficking episode is a

phenomena that is often rationalised by the middle class as a benign outcome or even as a positive benefit for the child involved. This particular phenomenon within the sector demands further pursuits and investigation considerations in the future.

Conclusions

In conclusion it can be argued that before donors and others work to build the capacity of the SAARC members to police irregular migration and to increase the capacity of civic society to extend an increasing panoptical and controlling gaze over poor women, it is essential that the opportunities and benefits of migration be secured for the poor through the provision of safe, affordable and accessible migration, which in turn should be guaranteed by bi-lateral or regional agreements on the free movement of people.

Access to safe and affordable migration would certainly nullify any need for most of the migrating poor to resort traffickers or smugglers and as such many trafficking risks could be negated. Therefore such policies and agreements would be a pro-poor response to present trafficking risks.

Appendix A

The trafficking protocol of the UN Convention against Transnational Organised Crime regards trafficking as :

"For the purposes of this Protocol:

- a) "Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;
- b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;
- c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered "trafficking in persons" even if this does not involve any of the means set forth in subparagraph (a) of this article;
- d) "Child" shall mean any person under eighteen years of age."

While the SAARC convention defines trafficking as:

1. Child means a person who is less than 18
2. "Prostitution" means the sexual exploitation or abuse of persons for commercial purposes.
3. "Trafficking" means the moving, selling, or buying of women and children for prostitution within and outside a country for monetary or other considerations with or without the consent of the person subjected to trafficking.
4. "Traffickers" mean persons, agencies or institutions engaged in any form of trafficking.
5. "Persons subjected to trafficking" means women and children victimised or forced into prostitution by the traffickers by deception, threat, coercion, kidnapping, sale, fraudulent marriage, child marriage, or any other unlawful means.

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