

AN ANALYSIS OF THE NEXUS BETWEEN HUMAN TRAFFICKING AND MIGRATION

Written by Chetana Prakash & Padmalaya Kanungo***

** 3rd Year BBA LL.B Student, Symbiosis Law School, Hyderabad*

*** 3rd Year BA LL.B Student, Symbiosis Law School, Hyderabad*

ABSTRACT

Human trafficking refers to the transportation of people either forcefully or coercively from a particular country or region for the purposes of sexual exploitation or forced labour. In this era where people are busy focusing on a number of social issues, this issue has gained momentum since the past few years keeping in mind its severability and violation of human rights on a large scale. Further, human trafficking coupled with Migration is a whole new issue that has started gaining momentum over the years and still the top bureaucrats and diplomats of various countries who are at the apex of financial stability have failed to find a solution to this problem and it seems that now discussions at an international level is the only platform available to try finding a solution to this situation. Before discussing the topic as a part of a larger picture, we need to know the definition of migration. Migration refers to the moving of people from their own country and finding a place to live in some other country due to loss of livelihood, war in their country or various other reasons.

INTRODUCTION

Human trafficking and migration may seem to be two different issues but if we have a closer look and go deep into both the problems then we can clearly notice the inter-connection between the two issues. Migration can both be legal and illegal where the decision of migration might either be a free choice or forced on the migrant. There exist various reasons such as wars and conflict, economical problem or environmental changes due to which a migrant has to forcefully leave his place of origin and go to some other place for a better survival. If the migration is an irregular one then there is a chance where the migrant may come across a smuggler who will assist in the migration into a country for a sum of money.

Trafficking is fundamentally different as it involves the movement of people for the purposes of exploiting their labour or services.ⁱ Studies suggest that most of the people who fall a victim to human trafficking are migrant workers. The exception to this is the small percentage of people who are abducted or sold into forced labour and have therefore made no decision to migrate.ⁱⁱ They are told about different employment opportunities abroad which provide better salary so they decide to migrate.ⁱⁱⁱ Many countries have made their immigration law stricter and tighter in order to control human trafficking but it has proved to be of no help.^{iv} Hence, this research paper would deal with the issue of human trafficking by touching upon the concept of migration and would propose suggestions or policies which shall reduce the trafficking of human beings that is in rise in the present scenario.

ELUCIDATION OF THE TERMS “HUMAN TRAFFICKING” AND “MIGRATION”, CORELATION BETWEEN THE TERMS AND THE TREND OF EFFECTS

The issue of human trafficking is seen to have gained more attention in the last few years. It's not possible for a human being of a conscious mind to accept the exploitation of any men, women or a child that is widely happening in different corners of the world. Many children lose their happy and healthy childhood by falling prey to this shameful crime of human trafficking. There are huge numbers of women and girls who face brutal sexual exploitation and humiliation. Similarly, many men are equally a victim of this cruel crime. They are kept as slaves to a master in some other country where they are severely humiliated and exploited. The approach or the line of action which is being followed to tackle the problem and prevent

human trafficking is quite a traditional one which is to protect and support the persons who are vulnerable and to get the culprits before the court of law. However, it is having very little to no impact in curbing the crime of trafficking in human beings.^v

The United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime^{vi} (Trafficking in Persons Protocol) is considered to be “the principal, legally binding global instrument to combat trafficking in persons,”^{vii} not least because it sets out the very first international legal definition of “trafficking in persons”.^{viii} Under article 3 of that instrument, trafficking in persons comprises three elements: (i) an “action”, being recruitment, transportation, transfer, harbouring or receipt of persons; (ii) a “means” by which that action is achieved (threats or use of force or other forms of coercion, abduction, fraud, deception, abuse of power or a position of vulnerability, and the giving or receiving of payments or benefits to achieve consent of a person having control over another person); and (iii) a “purpose” (of the action/means): namely, exploitation, which includes, 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”.^{ix} All three elements must be present to constitute “trafficking in persons” except in relation to trafficking of children for which the “means” element is not required.^x The consent of a victim in trafficking is specified as irrelevant when any of the stipulated “means” are used.^{xi}

The United Nations Office on Drugs and Crime (UNODC) has made the very first global evaluation and has come up with a Global Report on the issue of trafficking in human beings.^{xii} According to the Report, the most common form of human trafficking (79%) is sexual exploitation.^{xiii} Indigenous populations or the politically and economically weaker sections of the society are mostly the victims of human trafficking. They are given false promises of employment in major cities and are sexually exploited since they live in poverty. Surprisingly, in 30% of the countries which provided information on the gender of traffickers, women make up the largest proportion of traffickers.^{xiv} In some parts of the world, women trafficking women is the norm.^{xv}

The second most common form of human trafficking is forced labour (18%), although this may be a misrepresentation because forced labour is less frequently detected and reported than trafficking for sexual exploitation.^{xvi}

“At the launch of the Report in New York, the Executive Director of UNODC, Antonio Maria Costa said that "many governments are still in denial. There is even neglect when it comes to either reporting on or prosecuting cases of human trafficking". He pointed to the fact that while the number of convictions for human trafficking is increasing; two out of every five countries covered by the UNODC Report had not recorded a single conviction.”^{xvii}

“The United Nations Protocol against Trafficking in Persons - the foremost international agreement in this area - entered into force in 2003. The Report shows that in the past few years the number of Member States seriously implementing the Protocol has more than doubled (from 54 to 125 out of the 155 States covered). However, there are still many countries that lack the necessary legal instruments or political will.”^{xviii}

There are a lot of causes of human trafficking such as poverty, lack of adequate education, absence of legitimate job opportunities and also migration. The authors in this paper are mainly dealing with the cause of migration as one of the means of trafficking in human beings. The people who are migrating from their home countries in search of job opportunities or for safety reasons are the ones who are most vulnerable to human trafficking. For instance, when Russia was preparing for the Sochi Olympics, several men from Serbia, Armenia, Azerbaijan, and other nearby countries were promised construction jobs, only to be paid very little and be treated poorly. And many women from countries like Nigeria, Ukraine, and other Eastern European and African countries are offered nannying or restaurant jobs in Western Europe, only to be trapped in sex trafficking.^{xix}

According to Shaw’s (1975) conventional definition, migration is “the relatively permanent movement of persons over a significant distance”.^{xx}

According to the International Organization of Migration (IOM), a migrant is ‘any person who is moving or has moved across an international border or within a State away from his/her habitual place of residence, regardless of (1) the person’s legal status; (2) whether the movement is voluntary or involuntary; (3) what the causes for the movement are; or (4) what the length of the stay is’, a broad definition indeed. Under such definition, and strictly limiting our analysis to south-to-north migrants, two major broad categories may be identified: -

- a. Labour (or economic) migrants (and family reunification) and

b. Forced migrants (asylum seekers and refugees);

Whose reasons to migrate may differ, even if difference between the two categories are probably smaller that estimated once and the same migrating individual may fall in one or the other category at the same time.^{xxi}

There are certain macro and micro factors which when combined results in migration. Macro factors include lack of human and economic development, rise in population, poverty, wars and dictatorships, social cause in order to find a better life and environmental factors such as climate change and natural calamities. Factors like education, religion and marriage are some of the micro factors which constitute to migration of individuals. In this paper the authors will be mainly highlighting the nexus that exist between migration and human trafficking by briefly explaining the factors responsible for migration. Mostly, people migrate from their place of origin in search of job or better opportunities to have a better standard of living and to escape from poverty. It is these people who often become a victim of human trafficking as they leave their community and go to a new place where they are promised employment but they end up being victimised by the traffickers.

In case of wars or any conflict in ethnic groups, there is forced displacement of oppressed groups which makes them more vulnerable to this cruel crime of human trafficking.^{xxii}“The United Nations High Commissioner for Refugees (UNHCR) estimates that there were 25.4 million refugees in the world in 2018, over half of whom are under 18 years of age. In 2018, UNHCR stated that, furthermore, there are 68.5 million forcibly displaced people globally, a figure increasing at the rate of one person every three seconds.”^{xxiii}

Another reason responsible for trafficking in humans is the restrictive migration and labour laws. Research shows that a migrant who is without any proper documents are more vulnerable to trafficking than the ones having relevant documents. There are different opinions regarding the migrant’s knowledge in respect to the process of migration. Some studies say that migrants having less information about the process of migration are at a more risk to face exploitation. But according to other it is suggested that even though migrants are well informed or aware of the risks involved they are compelled into such dangerous situations as they have no other option. The policies which are in relation to restrictive immigration which includes passport and visas, delay in the process of applying for visas, restrictions exercised on some visas and the costs that is involved are some of the major reasons which increase the risk of trafficking.

Now talking about the situation of labourers, it is seen that the migrants who are working in any private home as domestic workers or as workers to any private agent who have a higher degree of authority and can restrict their mobility by retaining the visa is one of such situation where they are vulnerable to human trafficking. These situations are not often given the required attention as it is not easy to access such a situation and also the existing legal provisions doesn't provide sufficient protection to the migrants. Moreover, these migrants don't have proper access to the legal systems which might be of help to them and protect them from the abuse.

Here's a brief analysis of few countries:

Turkey:

Turkey has witnessed a rise of illegal immigrants as it has become a major route for migration. Many are crossing the border and entering into Turkey from the countries like Syria and Iraq which are presently unstable. This is resulting in heavy trafficking of people. Dr Stephanie Nawyn, assistant professor of sociology at Michigan State University, travelled to Istanbul in 2013, and said the central cause for high human trafficking rates in Turkey and the link to increased migration comes down to space.^{xxiv} There are certain programmes and legislations that are in place to combat trafficking in Turkey. National Task Force to prevent trafficking in human beings mainly keeps a check on the implementation of the actions related to anti-trafficking in Turkey. Then there is a National Action Plan which lays down eleven points regarding the protection and prevention of human trafficking though it didn't prove to be much effective as the nature of the crime of human trafficking is ever changing. Also, there is The Foreigners and International Protection Law that is in force in Turkey. It is a very systematic law and plays a significant role to combat trafficking in human beings. In spite of the aforementioned actions to combat human trafficking, Turkey still has a long way to go in order to deal effectively with this crime by spreading awareness and re-evaluating the current strategies towards human trafficking.

India:

According to the latest data produced by the National Crime Records Bureau (NCRB), 8132 cases of trafficking in human beings were reported in India in the year 2016. In that very year, the numbers of trafficked people were 15,379 out of which 9,034 were victims who were less than 18 years of age. Most of the rescued victims reports being trafficked for the purpose of

forced labour (10,509 victims), followed by sexual exploitation for prostitution (4,980 victims), and other forms of sexual exploitation.^{xxv} Section 370 of the Indian Penal Code criminalises all forms of sex trafficking and slavery and prescribes a punishment of seven years of imprisonment. Also, section 372 and 373 of the IPC declares prostitution of children as a serious crime for which there is a stringent punishment of ten years of imprisonment and a fine.

The Indian Government does not have satisfactory laws to combat human trafficking although it is taking significant steps in that direction. Experts have estimated that India has millions of women and girls who are a victim of human trafficking which shows that India needs to regulate the existing provisions and take firm steps towards preventing the crime of human trafficking.

Thailand:

In the year 2019, the number of rescued victims of human trafficking has been the highest as per an official data given by the government. Thailand has been in the discussion in the past years for trafficking in humans and slavery. There are about 4.9 million migrants in Thailand, making up more than 10 percent of the country's workforce, according to the United Nations. Most are from poorer neighbouring countries including Myanmar, Cambodia, Laos and Vietnam.^{xxvi} There has been amendment in the Thailand laws where heavy fines and imprisonment is prescribed for forced labour. "Forced labour or service" has been incorporated as an offence under the law relating anti-human trafficking. Any person who is found guilty of the crime will be fined 400,000 Thai baht and will be imprisoned for four years. The penalties will be stricter if a victim is severely harmed. The Thai government has to make sure proper implementation of the laws in order to fight against the crime of human trafficking.

Conclusively, it can be clearly seen that there exists a nexus between migration and the crime of human trafficking. Migrants who leave their home country in search of better opportunities and standard of living are often trapped by the traffickers. As a result of which they are sexually exploited or engaged in forced labour or slavery. There are also instances which involve organ trading where people who are affected by poverty are lured by large amount of money in order to donate their organ. Sometimes it so happens that the traffickers steal organs without the knowledge of the individual. Hence, the aforementioned reasons show very clearly the reason behind migration being one of the top most cause of human trafficking which is in rise in today's world. This makes us come to the point where it is highly required that certain measure

or provisions are to be kept in place in order to have a check on the ongoing crime of human trafficking.

SITUATION PREVAILING IN PARTS OF THE WORLD WHICH SUGGESTS THAT THERE IS WIDESPREAD HUMAN TRAFFICKING DUE TO MIGRATION

Human Rights violation is a matter of grave concern and it requires immediate attention. The increase in the trend of globalization as well as varying patterns of economic trends in different countries leads to migration. Often it is seen that migration is related to human trafficking in the form of sexual exploitation, forced labour, drug transport, organ transplantation, terrorism and many more illegal activities. In the above question the authors have given a clear definition of human trafficking as well as migration. Also, the authors have stated the connection between human trafficking and migration and causes for both the issues and how migration leads to human trafficking. Now, we need to see how there has been widespread cases that clearly state that there is a very evident connection between human trafficking and migration and in most of the cases the latter leads to the former and results in human rights violation of the innocent migrants who's consent has been obtained either by force, fraud, coercion or desperation for survival.

Case 1: Human Trafficking and Migration of Filipina Sex Workers in South Korea: -

Crime and Human Trafficking go hand in hand and what adds up to this crime is illegal migration which is usually in a forced manner or coerced manner. The trend is very well followed in South Korea where law has failed to achieve justice and protection to the migrants who are coerced into the profession of 'entertainers' for the U.S. camp towns that are functional in South Korea. South Korea has an ongoing history of governmental regulation and patronage of the sex industry around U.S. military bases in Korea, particularly since the 1970s, when the U.S. government decided to reduce its troops in Asian regions.^{xxvii} The law is ineffective to an extent that it has clearly failed to recognize the rights of the victim migrants, failed to provide remedies for their upliftment and rescuing them from the mud that they have been thrown into in a blindfolded manner.

Every year, more than four thousand foreigners enter South Korea with "art and entertainer" (E-6) visas.^{xxviii} These E-6 visas have been categorized into 3 different types and they are as follows:-

- a) E-6-1 visas: These visas are for specifically for those who are going to perform only in places of tourist establishments like hotels, restaurants and other places of tourist interest.
- b) E-6-2 visas: These visas are for those who are going to work as entertainers in "foreign-only entertainment establishments"^{xxix}
- c) E-6-3 visas: These visas are for sportspersons.

From the year 2004 onwards, the Filipino women are seen to have the highest share in the E-6-2 visa of South Korea. As of June 2014, 5,086 foreigners reside in Korea with E-6 visas.^{xxx} Among them, 82.7 percent (4,207) are staying with E-6-2 visas.^{xxxi} Of these foreigners, 85.6 percent (3,602) are women.^{xxxii} Among those women holding E-6-2 visas, 85.7 percent are from the Philippines (3,089).^{xxxiii} As per the immigration laws of Korea, a person applying for E-6-1 and E-6-2 visa has to get a recommendation performance that is issued by the Korea Media Rating Board and according to the statistics available around 1850 people were issued the E-6-2 visa for the foreigner only clubs. As of 2010, 348 foreigner-only clubs were operating in Korea, concentrated in U.S. military camp towns, while a much smaller number are located in shipbuilding areas where a number of high-income foreign engineers reside.^{xxxiv} Here, it should be noted that most of the E-6-2 visa holders belong from Philippines and are mostly women. Now, the authors would throw light on the recruitment process of the women holding E-6-2 visa. For the purpose of issuing of the E-6-2 visas, single mothers and single bread winners of a family are targeted and they are lured by saying that they will be given a decent salary and the job of a singer in the foreigner only clubs. This is done with the help of the recruiting agencies that are active in the Philippines and the Korean Media Rating Board in close association with the Korean Government. The single mothers or bread winners of the family are approached by the local agencies in Philippines and they are offered the work of a singer and this how these women get in contact with the local agencies and in some cases the women see the advertisement of the local agencies in Philippines and they approach the agencies in the hope that they will get to work as singers and earn a decent salary. In order to get an E-6-2 visa, the women need to pass the singing qualifying test and the test is monitored by a promoter who runs the working dispatch agency in South Korea. Once the woman is

selected by the agency in Philippines and the promoter from Korea the singing video of the woman is sent to the Korean Media Rating Board in order to receive the approval for the recommendation of performance. In order to obtain the recommendation of performance the women have to sign a performance contract for a specified period of time i.e. one year. Once the recommendation of performance is granted to the woman, the Ministry of Justice issues a Certificate of Eligibility of Visa Issuance and once the Certificate of Eligibility of Visa Issuance is received by the woman, the agency in Philippines takes the woman to the Korean embassy in the Philippines for a visa interview and at the visa interview no further question is asked to the applicant and the applicant gets the visa on the same day of the interview. The woman gets prepared to fly high with open wings and achieve all that she ever dreamt of but as soon as she lands at the Seoul Airport, she realizes that the wings were provided to her to be cut before she absorbs the happiness of achieving her dreams. As soon as the woman reaches the Seoul Airport, she is told that she will not be working as a singer but as a hostess for the U.S. military camps in South Korea. This is how her dreams turn out to be the worst nightmare of her life. This is how the sad reality of life hits the innocent migrated woman hard and the law fails to take notice of an innocent's plight. While prostitution is illegal in South Korea but it is legalized in the areas that have the U.S. military camps popularly known as the kijichon. The government has shielded from law enforcement those involved in prostitution in kijichon and even encouraged Korean women to relocate to and work in this industry, praising it as "patriotic."^{xxxv} Government officials and legislators may start out by promising to treat women working in the sex industry as victims but wind up treating them as criminals, perhaps because that is how the police and other public authorities tend to view sex workers.^{xxxvi} Indeed, many governments have been accused of adopting overtly punitive approaches, which are far from the victim-assistance approaches that structural feminists would endorse.^{xxxvii} This is how efficiently sex racket works in South Korea in the U.S. military camps and causes grave violation of human rights and trafficking amongst the Filipina workers who are clearly coerced into this profession.

Case 2: Human Trafficking and Migration in the United Arab Emirates: -

There are experiences that just heard about and then there are experiences that are not just heard but also lived by a particular person. While some experiences are pleasant there are few other experiences that leave behind an ineradicable patch of remorse in the life of the person who experiences such remorse. Migrating to a new country to start a new life with new hopes leaves

behind an ineradicable patch of remorse as soon as migration is coupled with human trafficking. United Arab Emirates, the country which is famous for its liquid gold, taints its reputation when it comes to providing security to migrants and fails to recognize their silent cries of despair. There exists a misunderstanding that human trafficking refers only to women who are kidnapped by men and forced into the sex industry has, problematically, become the functional definition of the term in policy, media, and discourse.^{xxxviii} This has altered the way in which trafficking is represented, pursued, and prosecuted.^{xxxix} In this research paper the authors have aimed to show as to how human trafficking is not limited to forced or coerced sexual activities and can have a wider ambit to it. The authors are going to highlight as to how parenthood can force migrated women to be land up in trouble in the UAE and get trapped in the situation of human trafficking. They aren't careful and they end up in had situations, with a child, with no idea who the child's father is.^{xl} So some of them end up in jail because you know it's illegal here Like that [pregnancy out of wedlock], or run away and live on the streets.^{xli}

In this research paper the authors are going to show as to how motherhood of migrant women can pose a threat towards their well-being and make them vulnerable to human trafficking through force, fraud or coercion. The first such instance is of Gladys from Philippines. Gladys belongs to a really poor family and had two daughters and her husband is a seafarer. Her family was in debt and they couldn't afford to pay for the daughters' education and also not able to provide them with the basic necessities of life. That's when Gladys decided to work so that she can earn some money for her family and can help her husband. She went to the streets in search of a job but all in vain. That's when she visited the Philippines Overseas Employment Agency in order to seek employment abroad. The Agency informed her that she had to undergo a training period in order to secure an employment abroad. Gladys didn't have enough time to undergo the training procedure and secure an employment as she was in dire need of money. Gladys then met a recruiter who said that she will give her a job in the UAE but that required her to provide some payment towards the procurement of the job. Gladys paid the price for the job, completed the paper work and flew off to the UAE. She was given a job in a British man's house who worked in real estate. After a few weeks of working at the man's house the man started abusing her and even deprived her of food and water. When asked as to why she did not leave the job she said that the man provided her a lot of money for the job which was used by her to fund her daughters' education and if she backs out of the job then she will be left with no money but more debt and she may also face deportation;. Also, when asked as to why she doesn't prefer approaching the police for help, Gladys says that the police would prove to be

much more dangerous than her employer. They would confiscate all her money and even put her behind the bars for illegal deportation which would bring a shame to her and her family back in Philippines. Hence, she prefers to cry silent cries of sorrow rather than take a step ahead and demand for justice. This deportability structured the daily lives of many of the women who would not speak up in cases of abuse, withholding of wages, or other types of force, fraud, or coercion.^{xlii} This is one perfect example as to how motherhood and love for one's child can land a mother in the clutches of human trafficking. The discourses about human trafficking often paint migrant women as victims of globalization or their own circumstances.^{xliii} One more diversified example as to the nexus between migration, human trafficking and motherhood would make it clearer as to how the situation is in the UAE. So the example is of Shadi, an Iranian woman who went to the UAE in search of new opportunities, love and adventure. Her quest for love and adventure became a nightmare as soon as she entered motherhood and got trapped in the clutches of human trafficking in the fear of deportation. Shadi initially worked as a secretary in an Iranian banking company and had a contract with the company for a period of 3 years. At the end of 3 years, Shadi had fallen in love with an Emirati man named Ahmed who told her that he loves her and persuaded her to stay in the UAE and also promised her that he would arrange everything required for her stay in the UAE. Soon after the contract came to an end, Shadi and Ahmed started living together. Till now everything was going as planned and life seemed to be a bed of roses for Shadi as she had finally found what she was looking for. Unfortunately, one fine day Shadi discovered that she is pregnant with Ahmed's child and in order to do a check-up she went to the hospital. At the hospital she was asked to show the legal papers but she was unable to provide so and it was then that she realized that Ahmed had actually duped her by saying that he will complete all the legal formalities required for her stay at the UAE. Her pregnancy was illegal as she was unmarried. Hence she could not have access to any medical treatment and moreover she was threatened to be put behind the bars for being illegally pregnant. She requested the doctor to give her a month's time to get married as she was sure that Ahmed would marry her. But this assumption of Shadi was clearly mistaken as Ahmed did not love her and ended their relationship when Shadi was 7 months pregnant. Even Ahmed's parents were so pissed at her that they threatened to kill her. Shadi was kicked out of Ahmed's house and next thing that she was doing was roaming on the streets of UAE in the hope that someone would show some mercy towards her and her unborn child. All she received was sorrow and despair inspite of mercy and care. Without any working papers and with no access to medical help, a heavy fine for having illegally overstayed her visa, and the fear and

shame of returning to Iran (where sharia or Islamic law is even more strict than in the UAE) as an unmarried pregnant woman, Shadi felt "stuck," as she often said.^{xliv} Furthermore, she was "stuck" in the UAE and a "criminal" because she had become pregnant out of wedlock.^{xlv} Shadi started sleeping on the streets and gave birth to her son at a local restaurant. She got a place for temporary residence at the women shelter home but that relief was not long lived as the shelter home closed one fine day. Shadi was back on the streets of UAE and worked at the sexual industry at times and at times worked as a baby sitter or rendered private beauty services. When her son turned two she had gathered enough money to return to Iran but could not do so as she had no legal papers which would land her in trouble and also because of the fact that her son was an Emirati citizen (being born to an Emirati man makes the child an Emirati citizen). According to the laws of the land of UAE, citizenship is passed from the father to the son and if the son wants to leave the country then he can do so only with the permission of the father. Shadi was scared to talk to Ahmed as they had stopped having conversation since the time Shadi's innocent illegitimate child was born. Shadi's experience shows that, contrary to discourses about women without "sexual morals" or migrant women seeking to "scam the system," many migrant mothers actually are harmed by the system as a result of decisions to have children with partners with whom they have developed long-term relationships.^{xlvi} Her narrative also reflects the ways that women find themselves in trafficked-like situations of illegality or undocumented status, or even incarceration, once they become mothers during migration.^{xlvii} Neither woman who have children nor who have any intention of having them also experience pressures due to their reproductive capacities.^{xlviii} Citizenship laws and trafficking policies are not in line with the complexity of lived experience, and, thus, are not relevant to these women's needs.^{xlix} It is believed that "fifty to seventy-five percent of the legal migrants leaving Indonesia, the Philippines, and Sri Lanka are women, most of them hoping to earn money as domestic workers in the Middle East and other parts of Asia."^l As noted, Middle East migration scholar Ray Jureidini has observed that there are over 600,000 domestic workers-and possibly more if undocumented migrants are considered-in the UAE.^{li} "Women's mobility is a nodal point involving many people and relationships with children, the elderly, and persons with whom women are involved"^{lii} hence protection of migrant is a duty of the State and it should not refrain from performing such duty towards the migrant women. This is how migration leads to human trafficking in the case of the UAE and sets an example for the world as to the fact that there needs to be the presence of stringent laws for trafficking and

migration in every country in order to stop this crime being committed towards an individual and the society as a whole.

Case 3: Better approach towards Human Trafficking and Migration in Hong Kong: -

The authors discussed about South Korea and the UAE where the governments have failed to take firm steps in order to prevent human trafficking through migration. Also, it is quite evident as to how difficult is it for the migrated people especially women who are trafficked for various reasons leads to an inhuman treatment of the people trafficked. Now, the authors would like to discuss the situation prevailing in Hong Kong which is quite different from the situation existing in South Korea, UAE and most of the other countries of the world due to its stringent enforcement of laws.

In contrast to the state of "partial decriminalization" for local sex workers, Hong Kong law prohibits anyone who is not a resident of Hong Kong from conducting sex work in the territory.^{liii} Hong Kong authorities regularly conduct raids on illegal "vice establishments" and arrest and prosecute thousands of migrant women every year for immigration offences arising from sex work (including breaching the "conditions of stay" in their tourist visas, using forged or altered documents, or "making a false statement to an immigration officer").^{liv} From the period of 2005 to 2007, approximately 12,000 Mainland Chinese women were admitted to Hong Kong prisons, representing about half of Hong Kong's female prison population.^{lv} Hong Kong has always reported very less number of trafficking cases due to its efficient legal framework. "For example, Section 129 of the Crimes Ordinance provides:

(1) A person who takes part in bringing another person into, or taking another person out of, Hong Kong for the purpose of prostitution shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for 10 years. (2) It shall not be a defence to a charge under this section to prove that the other person consented to being brought into or taken out of Hong Kong whether or not she or he knew it was for the purpose of prostitution or that she or he received any advantage thereof".^{lvi} Thus, in the area of cross-border trafficking for the purposes of prostitution, the criminal offense is defined quite broadly in Hong Kong more broadly than is required under the Trafficking Protocol.^{lvii} Majority of the women who migrated and were involved in sexual activities were from Mainland China and they came to Hong Kong because they were not getting enough money in China for a livelihood. In cases where the women know the consequences of migrating to Hong Kong and still preferred to work in the sex industry were not identified as victims by the Hong Kong authorities because treating them

as victims would not lead to fall in the migration of women from China but would rather lead increase in human trafficking due to migration. This is the scenario in Honk Kong that makes it a haven quite a safe from the clutches of human trafficking due to migration and rest of the countries should learn from Hong Kong and frame stringent laws that would lead to decline in human trafficking due to migration.

CONCLUSION

Last but not the least, the authors would like to conclude by saying that this issue of human trafficking coupled by the issue of migration is a serious crime and needs the attention of the hour. In the cases that the authors have analyzed, it is very evident that women form the majority of the victim population trapped in the clutches of human trafficking and migration. While the world is putting a step forward towards technological and economic development coupled with globalization it actually needs to take a step forward towards formulation of stringent laws world-wide for the prohibition of human rights violation especially due to illegal migration and human trafficking. The world exists because of us, the human beings. If we aren't able to provide protection to our other fellow human beings then the technological and economic advancement would all go in waste. Keeping this in mind, the authors would urge every other person to take a step towards humanity and contribute in the smallest way possible as "Rome was not built in a day". It may take quite a good amount of time for a reform to take place but the first step towards reform is rebel and being a rebel for a good cause can never go unnoticed.

SUGGESTIONS AND RECOMMENDATIONS

Through the research paper the authors would make the following suggestions and recommendations: -

- 1) In places where people are vulnerable to migration and human trafficking in those places help should reach and know their reasons for wanting to migrate to another country so that they can provided with the required help. This would reduce their vulnerability.
- 2) In most of the cases it is seen that the people who are being migrated to a different country and then trafficked are given false hopes by the traffickers. The migrated

people in the search of job and money easily get duped by such fake promises. Hence there should be agencies to conduct background research of the job being offered to the migrant that should be make them aware of the unfavorable situation that they may face once they reach the host country and get trapped in the trafficker's hands.

- 3) There is a need to address the imbalance of power that exists between the employers and the employees. There are situations where the employer restricts the mobility of the employee or withhold his legal documents required for returning to his place of origin. As a result of which the employee falls prey to human trafficking through migration.
- 4) Slavery is still an issue which has remained unaddressed. People migrate from their country and fall prey to slavery which violates their human rights. There has been lack of knowledge with regards to their reasons for falling prey to slavery in the host country. For filling this gap, proper research needs to be conducted in this field because in order to eradicate a disease the doctor needs to know the virus that exists.

BIBLIOGRAPHY

1. CummingsC, ForestiM, PacittoJ, LauroD. Why people move: understanding the drivers and trends of migration to Europe. London: Oversea Development Institute (ODI), 2015.
2. Emmaline Soken-Huberty,10 Causes Of Human Trafficking.(<https://www.humanrightscareers.com/issues/10-causes-of-human-trafficking/>)
3. file:///C:/Users/HP/Downloads/Issue_Paper_International_Definition_TIP.pdf
4. Hathaway, J. C. (2008). The human rights quagmire of human trafficking. Virginia Journal of International Law, 49(1), 1-60.

5. Jennifer McCal, Turkey sees rise in human trafficking due to migration.5 December 2014.Retrieved from (http://english.alarabiya.net/en/perspective/features/2014/12/05/Turkey-sees-rise-in-human-trafficking-due-to-migration.html)
6. Mahdavi, P. (2013). Trafficking parenting: Migration, motherhood, forced labor and deportability in the united arab emirates (uae). *Middle East Law and Governance*, 5(1 and 2), 173-194.
7. Nanachanok Wongsamuth, rescued human trafficking victims in Thailand nears record high. July 22, 2019. Retrieved from (https://www.reuters.com/article/us-thailand-trafficking-malaysia/rescued-human-trafficking-victims-in-thailand-nears-record-high-idUSKCN1UH0EE)
8. National Crime Records Bureau 2017, *Crime in India 2016 Statistics*, Ministry of Home Affairs, p. 512-518. Retrieved from: (http://ncrb.gov.in/StatPublications/CII/CII2016/pdfs/NEWPDFs/Crime%20in%20India%20-%202016%20Complete%20PDF%20291117.pdf.)[18 May 2018].
9. Petersen, C. J. (2015). Sex work, migration, and the united states trafficking in persons report: Promoting rights or missing opportunities for advocacy. *Indiana International & Comparative Law Review*, 25(1), 115-[ix].
10. Pieter Kok, The Definition of Migration And Its Application: Making Sense Of Recent South African Census And Survey Data, *SA Journal Of Demography*, 7(1), Pg 19, (1999).
11. Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention Against Transnational Organized Crime, United Nations Treaty Series, vol. 2237, p. 319, done 15 November 2000, entered into force 5 December 2003 (Trafficking in Persons Protocol). (file:///C:/Users/HP/Downloads/Issue_Paper_International_Definition_TIP.pdf)
12. Report of the Conference of Parties to the United Nations Convention on Transnational Organized Crime on its fourth session, held in Vienna from 8 to 17 October 2008 (CTOC/COP/2008/19), decision 4/4. (file:///C:/Users/HP/Downloads/Issue_Paper_International_Definition_TIP.pdf)

13. Root causes (<https://www.unodc.org/e4j/en/tip-and-som/module-7/key-issues/root-causes.html>)
14. UNODC report on human trafficking exposes modern form of slavery (<https://www.unodc.org/unodc/en/frontpage/unodc-report-on-human-trafficking-exposes-modern-form-of-slavery-.html>)
15. UNODC report on human trafficking exposes modern form of slavery (<https://www.unodc.org/unodc/en/human-trafficking/global-report-on-trafficking-in-persons.html>)

ENDNOTES

ⁱ The internationally recognised definition of trafficking is set out in the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, November 2000

ⁱⁱ Mike Kaye, the Migration-Trafficking Nexus Combating trafficking through the protection of migrants' human rights. November 2003. Retrieved from (file:///C:/Users/HP/Downloads/the_migration_trafficking_nexus_2003.pdf)

ⁱⁱⁱ Sometimes, the people who give them such information are recruitment agencies that make such offer and assist them in travelling to other country. They migrate from their abode to another new place in search of better employment opportunities, to find a improved way of life and to escape poverty. Most of the time, these people are trafficked and are subjected to exploitation. They are engaged into forced slavery, illegal sexual activities, illegal donation of organs etc. After migrating, they realise that the work which they were assured does not exist as a result they are engaged in other jobs which stands in complete violation of human rights and to which they have not given consent.

^{iv} The tighter laws have rather increased the problem as it is profitable to the smugglers who assist people to migrate into other countries through irregular migration.

^v Before December 2000, the international law had not defined the term 'Human Trafficking' in spite of it being a part of many legal instruments on an international level. The delay in having a proper definition was because of the differences in opinion related to the various aspects of trafficking in human beings. The various aspects included the acts which constitute the crime and the significance of such acts, the consequence of trafficking and also how human trafficking is similar or different from irregular migration and the trans- border movement which takes place where individuals are involved in prostitution or other irregular employment.

^{vi} Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention Against Transnational Organized Crime, United Nations Treaty Series, vol. 2237, p. 319, done 15 November 2000, entered into force 5 December 2003 (Trafficking in Persons Protocol).

(file:///C:/Users/HP/Downloads/Issue_Paper_International_Definition_TIP.pdf)

^{vii} Report of the Conference of Parties to the United Nations Convention on Transnational Organized Crime on its fourth session, held in Vienna from 8 to 17 October 2008 (CTOC/COP/2008/19), decision 4/4.

(file:///C:/Users/HP/Downloads/Issue_Paper_International_Definition_TIP.pdf)

^{viii} The "international legal definition of trafficking in persons" refers in this paper to the definition of trafficking in persons in the United Nations Trafficking in Persons Protocol.

(file:///C:/Users/HP/Downloads/Issue_Paper_International_Definition_TIP.pdf)

^{ix} Trafficking in Persons Protocol, art. 3.

^x Ibid, art. 3 (c).

^{xi} Ibid, art. 3 (b). In the case of a child victim, there is no stipulation to establish the means of the trafficking and hence the consent of the child victim is always irrelevant. (https://www.unodc.org/documents/human-trafficking/2018/Issue_Paper_International_Definition_TIP.pdf)

^{xii} The data is based on the information that is collected from 155 countries concerning the shameful crime of human trafficking. The Report primarily deals with an overall pattern of human trafficking, legal measures adopted to fight the cause and it also provides certain information that is specific to a particular country.

^{xiii} UNODC report on human trafficking exposes modern form of slavery
(<https://www.unodc.org/unodc/en/human-trafficking/global-report-on-trafficking-in-persons.html>)

^{xiv} <https://thefreedomstory.org/the-case-of-female-traffickers/>

^{xv} <https://www.unodc.org/unodc/en/human-trafficking/global-report-on-trafficking-in-persons.html>

^{xvi} *Id.*

As per the report, almost 20% of the victims of human trafficking globally are children.

^{xvii} UNODC report on human trafficking exposes modern form of slavery
(<https://www.unodc.org/unodc/en/human-trafficking/global-report-on-trafficking-in-persons.html>)

^{xviii} UNODC report on human trafficking exposes modern form of slavery
(<https://www.unodc.org/unodc/en/human-trafficking/global-report-on-trafficking-in-persons.html>)

^{xix} Emmaline Soken-Huberty, 10 Causes Of Human Trafficking.
(<https://www.humanrightscareers.com/issues/10-causes-of-human-trafficking/>)

^{xx} Pieter Kok, The Definition Of Migration And Its Application: Making Sense Of Recent South African Census And Survey Data, SA Journal Of Demography, 7(1), Pg 19, (1999).

How so ever the definition includes the use of two terms that is relatively and significant which is indicates a larger problem in definition. It has to be taken into consideration that migration also includes the dimension of time apart from the dimension of distance which is neglected in the definition given above. Therefore, migration is now defined as a change in one's place of living for a temporary purpose. Most of the times, migration is temporary and repetitive where migrants move from one place to another for better employment opportunities and safety.

^{xxi} CummingsC, ForestiM, PacittoJ, LauroD. Why people move: understanding the drivers and trends of migration to Europe. London: Oversea Development Institute (ODI), 2015.

^{xxii} They are engaged in all types of activities where they face extreme exploitation. They are coerced into slavery and are sexually assaulted. The same follows when people migrate from their abode due to environmental changes like natural disaster or climate change which proves to be dangerous.

^{xxiii} Root causes (<https://www.unodc.org/e4j/en/tip-and-som/module-7/key-issues/root-causes.html>)

^{xxiv} Jennifer McCal, Turkey sees rise in human trafficking due to migration. 5 December 2014. Retrieved from (<http://english.alarabiya.net/en/perspective/features/2014/12/05/Turkey-sees-rise-in-human-trafficking-due-to-migration.html>)

^{xxv} National Crime Records Bureau 2017, *Crime in India 2016 Statistics*, Ministry of Home Affairs, p. 512-518. Retrieved from: (<http://ncrb.gov.in/StatPublications/CII/CII2016/pdfs/NEWPDFs/Crime%20in%20India%20-%202016%20Complete%20PDF%20291117.pdf>). [18 May 2018].

^{xxvi} Nanachanok Wongsamuth, rescued human trafficking victims in Thailand nears record high. July 22, 2019. Retrieved from (<https://www.reuters.com/article/us-thailand-trafficking-malaysia/rescued-human-trafficking-victims-in-thailand-nears-record-high-idUSKCN1UH0EE>)

^{xxvii} Yoon Jin Shin, *Human Trafficking and Labor Migration: The Dichotomous Law and Complex Realities of Filipina Entertainers in South Korea and Suggestions for Integrated and Contextualized Legal Responses*, 48 Vand. J. Transnat'l L. 753 (2015).

^{xxviii} Yoon Jin Shin, *Human Trafficking and Labor Migration: The Dichotomous Law and Complex Realities of Filipina Entertainers in South Korea and Suggestions for Integrated and Contextualized Legal Responses*, 48 Vand. J. Transnat'l L. 753 (2015).

^{xxix} *Id.*

^{xxx} KOREA IMMIGRATION SERVICE, MONTHLY STATISTICS OF JUNE 2014 [hereinafter KOREA IMMIGRATION SERVICE], available at <http://www.moj.go.kr>

HP/COM/bbs_003/ListShowData.do?strNbodCd=notiOO97&strWrtNo=141&strAnsNo=A&strOrgGbnCd=104000&strRtnURL=IMM_6070&strAllOrgYn=N&strThisPage=1&strFilePath=imm/[http://perma.cc/47PK-A7UQ]

Yoon Jin Shin, *Human Trafficking and Labor Migration: The Dichotomous Law and Complex Realities of Filipina Entertainers in South Korea and Suggestions for Integrated and Contextualized Legal Responses*, 48 Vand. J. Transnat'l L. 753 (2015).

xxxi *Id.*

xxxii *Id.*

xxxiii *Id.*

xxxiv MINISTRY OF CULTURE, SPORTS AND TOURISM, THE CENSUS ON BASIC CHARACTERISTICS OF TOURISM ESTABLISHMENT 2009, at 44 (2011).

Yoon Jin Shin, *Human Trafficking and Labor Migration: The Dichotomous Law and Complex Realities of Filipina Entertainers in South Korea and Suggestions for Integrated and Contextualized Legal Responses*, 48 Vand. J. Transnat'l L. 753 (2015).

xxxv See, e.g., Ju-Min Park, Former Korean 'Comfort Women' for U.S. Troops Sue Own Government, REUTERS (July 11, 2014), <http://uk.reuters.com/article/2014/07/11/uksouthkorea-usa-military-idUKKBNFGOWK20140711> [http://perma.cc/Q9TT-5NMY] (archived Feb. 10, 2015) ("The women claim the South Korean government trained them and worked with pimps to run a sex trade through the 1960s and 1970s for U.S. troops, encouraged women to work as prostitutes and violated their human rights.").

Yoon Jin Shin, *Human Trafficking and Labor Migration: The Dichotomous Law and Complex Realities of Filipina Entertainers in South Korea and Suggestions for Integrated and Contextualized Legal Responses*, 48 Vand. J. Transnat'l L. 753 (2015).

xxxvi Carole J. Petersen, Sex Work, Migration, and the United States Trafficking in Persons Report: Promoting Rights or Missing Opportunities for Advocacy, 25 Ind. Int'l & Comp. L. Rev. 115 (2015).

xxxvii *Id.*

xxxviii Pardis Mahdavi, Trafficking Parenting: Migration, Motherhood, Forced Labor and Deportability in the United Arab Emirates (UAE), 5 Middle E. L. & Governance 173 (2013).

xxxix *Id.*

xl *Id.*

(An interview conducted by the author i.e. Pardis Mahdavi with an Emirati gynaecologist and Ministry of Health Advisor in the month of July in the year 2009).

xli *Id.*

(An interview conducted by the author i.e. Pardis Mahdavi with an Emirati gynaecologist and Ministry of Health Advisor in the month of July in the year 2009).

xlii Pardis Mahdavi, Trafficking Parenting: Migration, Motherhood, Forced Labor and Deportability in the United Arab Emirates (UAE), 5 Middle E. L. & Governance 173 (2013).

The author i.e. Pardis Mahdavi interviewed a few other women who had been the victims of human trafficking due to migration and their experience has been pathetic and they are in a helpless situation.

xliiii Norman Jean Roy, Mariane Pearl, and Kevin Bales, *Traffik* (Brooklyn, NY PowerHouse, 2008); Siddharth Kara, *Sex Trafficking: Inside the Business of Modern Slavery* (New York: Columbia University Press, 2010); and Nicholas D. Kristof and Sheryl WuDunn, *Half the Sky: Turning Oppression into Opportunity for Women Worldwide* (New York, NY. Vintage, 2010).

Pardis Mahdavi, Trafficking Parenting: Migration, Motherhood, Forced Labor and Deportability in the United Arab Emirates (UAE), 5 Middle E. L. & Governance 173 (2013).

xliv Pardis Mahdavi, Trafficking Parenting: Migration, Motherhood, Forced Labor and Deportability in the United Arab Emirates (UAE), 5 Middle E. L. & Governance 173 (2013).

xliv *Id.*

xlvi *Id.*

xlvii Pardis Mahdavi, Trafficking Parenting: Migration, Motherhood, Forced Labor and Deportability in the United Arab Emirates (UAE), 5 Middle E. L. & Governance 173 (2013).

xlviii *Id.*

xlix *Id.*

¹ Rima Sabban, "Migrant Women in the United Arab Emirates: The Case of Female Domestic Workers" (GENPROM Working Paper No. io, Gender Promotion Program, International Labour Organization, Geneva, 2002).

Pardis Mahdavi, Trafficking Parenting: Migration, Motherhood, Forced Labor and Deportability in the United Arab Emirates (UAE), 5 Middle E. L. & Governance 173 (2013).

^{li}Ray Jureidini, "In the Shadows of Family Life: Toward a History of Domestic Service in Lebanon," *Journal of Middle East Women's Studies* 5, no. 3 (2009): 74-101; and Ray Jureidini, "Trafficking and Contract Migrant Workers in the Middle East," *International Migration* 48, no. 4 (2010): 142-163.

Pardis Mahdavi, *Trafficking Parenting: Migration, Motherhood, Forced Labor and Deportability in the United Arab Emirates (UAE)*, 5 *Middle E. L. & Governance* 173 (2013).

^{lii} Pardis Mahdavi, *Trafficking Parenting: Migration, Motherhood, Forced Labor and Deportability in the United Arab Emirates (UAE)*, 5 *Middle E. L. & Governance* 173 (2013).

^{liii} In Hong Kong the visa rules are such that no person can acquire a visa for sex work in Hong Kong.

Carole J. Petersen, *Sex Work, Migration, and the United States Trafficking in Persons Report: Promoting Rights or Missing Opportunities for Advocacy*, 25 *Ind. Int'l & Comp. L. Rev.* 115 (2015).

^{liv} 3 Immigration Ordinance (1997), Cap. 115, BLIS, §§ 41 2 (H.K.). For a detailed study of the offenses convictions and range of sentences, see generally Laidler, Petersen, & Emerton, *supra*, note 52.

Carole J. Petersen, *Sex Work, Migration, and the United States Trafficking in Persons Report: Promoting Rights or Missing Opportunities for Advocacy*, 25 *Ind. Int'l & Comp. L. Rev.* 115 (2015).

^{lv} Written replies by the Hong Kong Special Administrative Region to the list of issues (CAT/C/HKG/Q/4) to be taken up in connection with the consideration of the fourth periodic report of HONG KONG addressed to the Committee Against Torture (CAT/C/HKG/4), IM 133 39, U.N. Doc. CAT/C/HKG/Q/4/Add.1 (Sept. 26, 2008) [hereinafter *Written Replies of Hong Kong to CAT*], available at http://tbintemet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fHKG%2fQ%2f4%2fAdd.1&Lang=en.

Written Replies of Hong Kong to CAT, IM 108-09 (providing this data in response to a question from the U.N. Committee Against Torture as to why the female imprisonment rate in Hong Kong is so high).

Carole J. Petersen, *Sex Work, Migration, and the United States Trafficking in Persons Report: Promoting Rights or Missing Opportunities for Advocacy*, 25 *Ind. Int'l & Comp. L. Rev.* 115 (2015).

^{lvi} Crimes Ordinance, § 129

Carole J. Petersen, *Sex Work, Migration, and the United States Trafficking in Persons Report: Promoting Rights or Missing Opportunities for Advocacy*, 25 *Ind. Int'l & Comp. L. Rev.* 115 (2015).

^{lvii} While the Trafficking Protocol also provides that the consent of the victim to exploitation is irrelevant, this is limited to situations in which a person has been trafficked by certain means (e.g. force, coercion, deception, abuse of power or abuse of a position of vulnerability). *Trafficking Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children Supplementing the Convention Against Transnational Organized Crime*, U.N. Doc. A/55/383 at 25, Nov. 15, 2000, 2237 U.N.T.S. 319 (listing states parties to the Protocol as of June 2014), available at

<https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg-no=XVII-12a&chapter-18&lang=en> [hereinafter *Trafficking Protocol*]. For background information on the Trafficking Protocol and the Convention Against Transnational Organized Crime, see *United Nations Convention Against Transnational Organized Crime and the Protocols Thereto*, U.N. OFFICE ON DRUGS AND CRIME, <https://www.unodc.org/unodc/en/organized-crime/intro/UNTOC.html> (last visited Jan 19, 2020).

Carole J. Petersen, *Sex Work, Migration, and the United States Trafficking in Persons Report: Promoting Rights or Missing Opportunities for Advocacy*, 25 *Ind. Int'l & Comp. L. Rev.* 115 (2015).