PROTECTION OF HUMAN RIGHTS DURING PEACE OPERATION – PROBLEMS AND PROSPECTIVES

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ABSTRACT

The article accepts the reality that many of the victims of trafficking discover themselves exploited in locality where peace operations are regulated, supporting the need for peacekeepers to develop practical and essential modes and technique for dealing with those responsible for people trafficking and safeguarding and aiding their victims. This article attempt to motivate peacekeepers to examine the multi dimensional and difficult nature of trafficking of persons and to issue a framework by which they can strongly deny the trafficking of persons in their area of functioning in cooperation with suitable agencies and organizations.

KEYWORDS: Article, peacekeepers, trafficking.

INTRODUCTION

To safeguard human rights is to guarantee that people undergo some level of fair and kind treatment. To violate the most essential human rights is to refuse single person from their fundamental moral rights. It means to use them as if they are slighter than human and unworthy of respect and nobility. Crime against humanity includes massacre, abuse, bondage, rape, impose purify or medical investigation and intentional want. These strategies are sometimes applied by governments, limiting the uncontrolled force of the state is an essential part of International law.[1] Basic laws that ban the various crimes against humanity are the concept of fairness and the idea that precise primary rights apply globally.

Trafficking in women is a form of sexual slavery in which women are shifted across national borders and marketed for prostitution. Sexual violence is sometimes considered as a process to ruin male and group dignity or embarrass men who cannot save their women. It is also used to silence women who are politically active, or

[1] Attar Chand., Politics of Human Rights and Civil Liberties, 12 (UDH Publishers, Delhi, edn., 4th 1995).

simply impose fright upon the population at large. Mass rapes may also form part of a massacre plan, intend to apply circumstances that leads to the ruination of a whole group of people.

A government force takes people into custody and locks them in secret and denies admitting the liability for their place or destiny. Abduction in persons is intended to secure information and create fear. In most of the cases examination includes threats and ill-treatment and those who have been arrested are killed eventually.[2] Their bodies are buried in unidentified graves so that no one could find it. In addition women and girls are uniquely vulnerable of human rights abuses.

Inequity against women is still common in many parts of the world which leads to numerous forms of political and social exploitation. This contains strict dress codes and harsh punishment for sexual offence which force acute restrictions on women's basic freedom. In some areas women suffer greater hardship than men and are opposed to political pressure, education, and job training. Abuse of human rights leads to conflict and it results in human rights violations. Violations of political and economic rights are the root causes of many crises. When rights to adequate food, housing, employment, and cultural life are denied, and large groups of people are excluded from the society's decision-making processes, there is likely to be great social unrest. Such conditions often give rise to justice conflicts, in which parties demand that their basic needs be met. No doubt, many conflicts are sparked or spread by violations of human rights such as torture or massacres may inflame hatred and strengthen an advisory's determination to continue fighting. Violation may also lead to further violence from the other side and can contribute to a conflict's spiral out of control.

On the flip side, armed conflict often leads to the breakdown of infrastructure and civic institutions, which in turn undermines a broad range of rights. When hospitals and schools are closed, rights to adequate health and education are threatened. The collapse of economic infrastructure often results in pollution, food shortages, and overall poverty. These various forms of economic breakdown and oppression violate rights to self-determination and often contribute to further human tragedy in the form

[2] *Ibid.*

of sickness, starvation, and lack of basic shelter. The breakdown of government institutions results in denials of civil rights, including the rights to privacy, fair trial, and freedom of movement. In many cases, the government is increasingly militarized, and police and judicial systems are corrupted. Abductions, arbitrary arrests, detentions without trial, political executions, assassinations, and torture often follow. Human Trafficking is a global problem. Every, state, country and nation is involved in such kind of shameful crime. Human Trafficking affects women, children as well as men. Once they are trapped in the trafficking world then there is a very slight chance of them getting out. Certainly, that goes for anyone in the trafficking world. Girls below an age of 13 years are forced in to sex labour. As we are well aware that Human Trafficking is speedily growing and it's getting stronger. It is the second largest organized crime in the world. Maximum numbers of victims are forced to work in sex industry whereas rest of them is forced to work as laborers in labour industries. Maximum number of victims who ran away from home is ill-treated. The common thing amongst them is that they are in need of money. People get drawn in to human trafficking in many conditions, either they are promised to get them something or they are threatened. The most sickening part of human trafficking is the age at which they may start being trafficked. Little girls around the of 12 years old are mostly forced into every prostitution and to start earning for the brothel-keeper what he demands and after everything they do they just get few coins and by these coins they hardly feed themselves. As we all know that human trafficking is growing at an uncontrollable pace. Even though many countries have created laws against such thing their implementation is not that great. Human trafficking still manages to find its way to fly under the radar and at such a low risk.

In cases where an extreme violation of human rights arises, resolution and peace building become much more difficult. Unresolved human rights issues can assist as to stop to peace negotiations. This is because it is difficult for parties to move toward dispute alteration and forgiveness when memories of acute violence and crime are still primary in their minds.

BACKGROUND

The trafficking of a person for the cause of exploitations occurs on a domestic, territorial and worldwide level. In the past few years with globalization traffickers

have developed the geographical reach of their business to survey new markets. The situations now prevail in Africa, Central and Eastern Europe, the former Soviet Union and right across Asia. Offenders draw various victims either separately or in mass with assurance of sincere well paid work in the developed world as domestic help, cleaners, waitresses, baby-sitters, care workers, models or secretaries and others are tricked by faulty commercials, unreal scholarship for study or training or fraudulent portrayal from informal connections. Most of them are even drawn by the victims of trafficking who are offered their liberty in consideration for a number of substitutions. Most of the victims are sold by their boyfriends for cash or are kidnapped. The moment they reach at their destination they are subsequently forced into prostitution or similar kinds of bondage. They are managed by violence, the utilization of traditional rituals such as voodoo, warning of revenge against their families back in their home countries or by fright that local authorities will take a legal action or expel them if they run away or ask for help.

TRAFFICKING OF PERSONS AS A COMPLEX GLOBAL PHENOMENON

The occurrence of trafficking prevails in a complicated relationship with labour, health migration, security, human rights, and crime. The relationships are frequently oversimplified, unclear or misinterpret. This segment will try to explain some of the connections and distinctions between trafficking and prostitution, migration, organized crime and human rights in order to express the difficulty and multidimensional character of fighting trafficking. It is necessary that peacekeepers recognize this problem so that they are fit to make use of the proper methods to fight the trafficking of persons in their locality of operations.

LABOUR

The current drafting of the trafficking convention gave rise to raging discussion on the connection linking people trafficking and the international rule of prostitution. The difference is pertinent to the arrangement of trafficking in either a structure of forced prostitution where jus cogent prohibitions on slavery may be related or a structure of labour or sex work where international laws relating to the rights of migrant workers are applicable.

MIGRATION

People trafficking is a clear idea from people smuggling. Both are transnational crimes that include organized crime syndicates. People smuggling close at the coming of the immigrant at their stopping place and on the other hand, people trafficking expand to the continuing exploitation of the victim. While trafficking must require a transnational component it does not need victims to be drawn to another country. The exploitation of the victim that let exploitation to be brought about is the expository added elements that differentiate trafficking for smuggling. This analytical difference force traffic king a modern form of slavery and smuggling a migration issue. A failure to recognize a trafficked person accurately to aggregate in further contradiction of that person's rights and insufficient protection as migration laws which strive to punish illegal entrance are implemented to that person.

ORGANIZED CRIME

The continuance of the trafficking protocol under the favorable of the United Nation Crime Commission's Convention on Organized C rime reveals that the main centre of attention of the negotiation of these treaties was on fighting transnational organized crime and control of borders. The foundation for this analysis is that traffickers of persons are frequently involved in the variety of other criminal activities which comprises the trafficking of other items. In the criminal background trafficking persons can be observed and handle as a section of the massive area of criminal commerce including other items such as narcotic drugs and firearms or weapons or money laundering. Actually, trafficked persons are frequently shifted along the same physical routes as those other illegal commodities. The vulnerability of trafficking victims to prosecution for prostitution and other offences related to their victimization must be considered in any criminal investigation. Victims are also vulnerable to retaliation or re-victimization where they cooperate with criminal justice authorities.

RELEVANCE OF TRAFFICKING IN PERSONS TO PEACEKEEPING

The trafficking in persons is relevant to peacekeeping in the following ways:

- Physical Nexus: People trafficking are increasingly present in United Nation peacekeeping environment as both a source and destination for victims. One reason for this is that situations of armed conflict and its harmful effects heighten the extreme vulnerability of women and children, refugees and minorities. Without the protection of their male female members women and

children are often at a higher risk of abduction by traffickers. Further, the worsened social and economic situation of women and children during armed conflict fasters trafficking by providing a group of people more likely to be deceived. The lack of law and order facilitates an easier environment for the exploitation of trafficked persons rendering areas of operations attractive destinations for trafficking persons. The trafficking of persons as organized criminal activity adversely impacts on the security of a mission. Usually peacekeeping may imply an anti-trafficking mandate or a role to assist victims of trafficking where the Security Council mandates the mission to maintain law and order or protect civilians in the area of operations. Such tasks may also be implies where peacekeepers are mandated to respond to human rights abuses, crimes and corruption where they exist in their area of operations.

- Involvement of Peacekeepers: The influx of peacekeeping troops and other personnel, contractors, local combatants and reconstruction money creates a source of demand for trafficked victims and an ability to pay for their services. Traffickers target United Nations personnel for revenue and actively seek to corrupt local law enforcement agencies by targeting judicial, bureaucratic and political actors in order to prevent such trafficking and exploitation from interruption. Unfortunately in such situations peacekeepers have been found to be involved in the trafficking of persons. This involvement has taken two forms they are facilitating, condoning or failing to prevent trafficking and the exploitation of victims of trafficking. Thus peacekeepers have been branded as a part of the problem rather than the solution and peacekeeping institutions have been criticized for not taking the issue seriously. A crisis of perception that has been extremely damaging to the reputation of successive missions. The United Nation as a whole has shown its commitment to do a no harm approach thus system will begin to supervise, restrain, reduce, investigate and punish the participation of peacekeeping personnel in things that support human trafficking.[3] While this identification and dedication is often required there is also an urgent need of a framework of means and methods to help to fight the trafficking of persons on present and future peace operations.

INTERNATIONAL HUMAN RIGHTS LAW

[3] www.csis.org (Visited on 29 August 2020).

Trafficking is a human rights abuse. Victims of trafficking suffer from physical abuse, loss of personal liberty and legal status or no access to health relief and no physical security. A function to save and help victims of trafficking and guarantee responsibility of international actors, including violators. They include the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture and Other Cruel, Inhuman of Degrading Treatment or Punishment, the Convention on the rights of the Child and the Convention on the Elimination of all Forms of Discrimination against Women. The rights contained in the International Covenant on Civil and Political Rights must be valued and protected by a State Party where the individuals are within its area and subject to its jurisdiction without difference of whichever form. Without taking part into the debate as to in case this interpretation of Article 2 is legally sound there can be little objection to recognizing that the rights and duties confined in the International Covenant on Civil and Political Rights are norms and degree that reflect greatest practice and should stick to by peacekeepers as a matter of principle. The Convention on the Elimination of All Forms of Discrimination Against Women needs States Parties to repress all forms of trafficking and exploitation of prostitution of women. Likewise, the Convention on the Rights of the Child's Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography places more particular responsibilities on States Parties. The International Labour Organization Convention on the Worst Forms of Child Labour also comprises provisions relating to trafficking and commercial sexual exploitation. The rights these tools recognize are to be enjoyed equally by men and women and without differentiating of any sort such as race, colour, language, religion, political or other opinion, national or social origin, property, birth or other status. The right which may be violated or confined where trafficking of persons takes place comprises the right to life, liberty and security of person, the right to freedom of movement, the right to free choice of employment and to just and favourable conditions of work, the right to a standard of living sufficient for health and well being and the right to education. These tools censure or prohibit slavery, servitude, slave trade, torture, inhuman or degrading treatment or punishment and arbitrary detention.[4]

[4] Walter Kalin and Kunzli Jorg, The Law of International Human Rights Protection, 11 (Oxford

HUMAN RIGHTS BODIES

Human Rights bodies have played a key role in highlighting the human rights proportion of trafficking in persons as the matter has expanded in significance over the past few years. They have promoted awareness and drawn attention to the duties of governments, families, communities and individuals to respect the rights of women and children. Constant reports have considered the matter and explained it as a modern form of slavery and a serious violation of human rights. They stick to work to join human rights into anti-trafficking schemes and programs and encourage national anti-trafficking initiatives and schemes and help national anti-trafficking activities. Human Rights treaty bodies have also considered the matter of trafficking in their inspection of the consent of States Parties with their respective treaties. Furthermore, they help victims by way of provision of funds.

CASE STUDY

Bandhua Mukti Morcha v. Union of India[5]

The rehabilitation of Bonded Labour controlled the Government to grant compensation to bonded labour under the provisions of Bonded Labour System Abolition Act 1976, after taking note of severe violation of Fundamental & Human Rights. The more question arising through implementation of the Bonded Labour System Abolition Act 1976, is that of rehabilitation of the released bonded laborers and that is also a question of the considerable value, because if the bonded laborers who are recognized and released, are not replaced, their condition would be much inferior than what it was before during the time of their enslavement and they would become more exposed to exploitation and fall back once again into enslavement even in the lack of any coercion. The bonded laborer who is free would choose slavery to hunger, a world of slavery and safety as against a world of liberty and starvation. The State Governments must focus on rehabilitation of bonded labour and develop operative scheme for this cause. As a matter of fact, they are under responsibility to do so under the provisions of the Bonded Labour System Abolition Act 1976. Perhaps, the idea of rehabilitation has the following four important qualities as excellently set out in the letter dated 2nd September 1982 addressed by the Secretary.

University Press, USA 2010).

[5] (1984 (3) SCC 161).

Ministry of Labour, Government of India to the various States Governments: Psychological rehabilitation must go side by side with physical and economic rehabilitation;

- The physical and economic rehabilitation has 15 important elements such as allotment of apartment and agricultural land, land development, provision of cheap house units, agriculture, provision of solvency, horticulture, animal husbandry, training for obtaining 134 new efficiency and developing existing skills, encouraging traditional arts and crafts, provision of wage employment and implementation of minimal wages, gathering and developing of minor forest produce, health medical care and sanitation supply of required items, education of children of bonded labourers and protection civil rights.
- There is possibility to bring about unification between many central and central sponsored plan and the current plans of the State Governments for a more qualitative rehabilitation. The nature of such unification is to avoid replication like pooling resources from various sources for the same cause. It should be guaranteed that while funds are not draw from various sources for the same purpose drawn from various areas for various elements of the rehabilitation scheme are united skillfully.
- While drawing any project or programme of rehabilitation of freed bonded labour, the latter must undoubtedly be given the choice between the various alternatives for their rehabilitation and such programme should be finally selected for execution as would require the whole demand of the families of released bonded labourers to allow them to cross the poverty line on the one hand and to stop them from slip back to debt bondage on the other.

Nirmala Rani v. The State of Tamil Nadu[6]

In this case an unidentified letter from a victim was collected by a member of the All India Democratic Women's Association, Chennai on trafficking of women expressing that the accused in the said case was indulging the victim and some other girls in prostitution against their wish, silencing the local police by bribing them and seeking help from the said organization. The accuracy of the said letter was checked by the petitioner who was the Secretary, of the said organization's Trichy unit. She found out

[6]CRL.M.P.Nos.1061 & 1062 of 2003.

that the accused was indeed indulging in managing the prostitution and was zestful in the inter-state trafficking of women. The petitioner has been helpful in lodging the complaints against eventually starting into filing of a case under Section 4(2) (b) of the Indian Trafficking Prevention Act in Tiruverambur Police Station. It also got drawn attention to the criminal connection of urban and rural Trichy police.

It was also noticed that an extremely mild case against the main accused had been registered by the police so that he could get away with minor punishment. The police did not do a thorough investigation and did not try to raid the whole gang, indulged in running prostitution and inter-state trafficking.

The Court observed that a faulty case was registered against the petitioner in a mala fide manner. The High Court while condemning such act from the respondent state authorities ordered Assistant Commissioner of Police Trichy to pay damages of Rs. 25,000 to be paid to the petitioner from his private funds. The High Court also permitted the original criminal petition against the accused.

CONCLUSION

The multidimensional and complex type of trafficking of persons necessarily needs peacekeepers to prudently consider and expand means and technique of tackling people trafficking. The purpose of this paper has been to show a starting point for such thought and to motivate the development of means and techniques in considerable feature by those who have the relevant skills. The means and techniques that are utilized to save and help victims of trafficking must be right-based and flourish and utilize in such a manner that guarantees peacekeepers do not make more victims of trafficking or further exploit those that are already victims of trafficking. Peacekeepers should be motivated to seek counseling to tackle with the trafficking of persons from the variety of organizations involved in this important fight.