

Regional Consultation on the Right to an Effective Remedy for Trafficked Persons

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Restitution and Recovery (Rehabilitation) for Victims of Trafficking

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What is trafficking in persons?

Trafficking is the transport of persons, by means of coercion, deception, or consent for the purpose of exploitation such as forced or consensual labor or prostitution:

"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... The consent of a victim of trafficking in persons to the intended exploitation set forth [above] shall be irrelevant where any of the means set forth [above] have been used.

- Protocol to Prevent, Suppress and Punish Trafficking in Persons especially Women and Children (also referred to as Trafficking Protocol or UN TIP Protocol)

Some facts and numbers

27 mn

Number of worldwide human trafficking victims in 2012

56%

Proportion of human trafficking victims enslaved in a foreign country

68%

Proportion of human trafficking victims held in forced labor exploitation

55%

Proportion of females amongst human trafficking victims in labor

518

Number of criminal convictions worldwide of labor traffickers in 2012

< 1%

Proportion of human trafficking victims that have been identified

“Victims of trafficking are victims of crime but are also victims of human rights abuses and as such are entitled to effective remedies, protection and care... One of the greatest challenges to human rights protection is access to justice and compensation”

– Navi Pillay
UN Human Rights Chief

“Compensation while being the most widely recognized form of remedy is often not readily accessible to trafficked persons, whether in criminal, civil or labor proceedings. Trafficked persons are rarely known to have received compensation, as they are often not provided with the information, legal and other assistance and residence status necessary to access it”

– Joy Ngozi Ezeilo
UN SR on Trafficking in Persons

“The challenge is in identification of victims. The US State Department Trafficking in Persons Report of 2013 estimates that only 46,750 victims have been identified in the last year. We must reach the victims so that we can reach out to them”

– Mohamed Mattar
Executive Director of The Protection Project, The John Hopkins University

Principles of Victim Assistance

The Trafficking in Persons Protocol requires States parties, of origin and of destination to consider implementing measures to provide for physical, psychological and social recovery of trafficked victims.

Governments should, in cooperation with NGOs, provide the following types of support:

- Shelter
- Medical
- Psychological
- Language and translation
- Rehabilitation, skill training and education

- *Tool 8.1: “Obligation of States”*, Online Toolkit to Combat Trafficking in Persons, UNODC

Case study of a trafficked victim: Durga (1/5)



Durga had been **abandoned by her husband** in her village in India. She was a young mother of 2 daughters aged 5 years and 3 years, and was forced to raise them alone.

Her younger daughter required medical attention for a heart condition, for which Durga **needed to arrange INR 30,000 (USD ~600) – a large sum given Durga had no job or means to earn and save.**

Due to abject poverty, and with no ability to secure a decent job in her village, she was easily **lured into accepting an offer to work as a domestic worker in the Kingdom of Bahrain. Her recruiter was her village pastor**, who had joined hands with an agent based in Bahrain.



In April 2012, Durga, along with 15 other women, were taken to the international airport in their home state to board different flights to various Gulf countries. Durga was **received by an Indian agent** in Bahrain, who **immediately confiscated her passport, forced her to work in different homes, and retained her salary for several months.**

Case study of a trafficked victim: Durga (2/5)



With no training or skills as a domestic worker, Durga was unable to cope with the workload, and was returned by her employers to the agent. The agent then began to **physically abuse Durga to coerce her to continue to work. Alternatively, the agent demanded a large sum of money to repatriate her to India.**

In December 2012, Durga **managed to escape** from the agent, and **reached the Indian Embassy in Bahrain. She had no identity documents**, as her passport was still with her agent.

The Indian Embassy **referred her case to the Migrant Workers Protection Society** (MWPS) – an NGO based in Bahrain that operates a shelter for abused female foreign workers.

While at the shelter, she was **provided with comprehensive care**, including free housing and boarding, medical check-up and counselling, follow-up of her case with the Indian Embassy and Bahrain Government authorities, arranging for her air ticket to India, payment of costs of her repatriation, etc.

Case study of a trafficked victim: Durga (3/5)



Durga's case was coordinated with the National Domestic Workers Movement (NDWM) based in India and a partner of Migrant Forum in Asia (MFA).

NDWM recovered her passport details, which was needed to apply for her Emergency Certificate (EC) from the Indian Embassy, which in turn was required to secure the travel clearance from the Immigration Directorate.

Durga returned to India in April 2013 – 4 months after she arrived at the Indian Embassy. She was received at the Hyderabad International Airport in India by NDWM officials, and taken to their office for counselling and a press conference to highlight her case.

Case study of a trafficked victim: Durga (4/5)



NDWM officials accompanied **Durga** to meet with the **Member of Legislative Assembly (MLA)** from her **area**, and inform him of the trafficking and irregular migration from the area.



On instructions from the MLA, a **First Information Report (FIR)** was filed with the local police authorities against the pastor and the Indian agent, who had fled to India to avoid prosecution in Bahrain.

Case study of a trafficked victim: Durga (5/5)



Durga has been **helped with finding a job in India**. She **participates as an activist** in awareness and advocacy programs organized by NDWM and MFA in her home state on the perils of irregular migration and the deception of traffickers.

Lessons to be learned from Durga's case study

- 1. Need for better development in rural areas of sending countries, including access to education, health and sanitation:** Durga was a grade 7 drop-out, came from a family steeped in poverty, and was, therefore, a very easy target for illegal recruiters
- 2. Need to raise basic awareness about the dangers of trafficking amongst the target groups:** Durga was not even aware of the term “trafficking”, and did not know her rights in the situation (e.g., right to hold on to her passport) nor the Labour Laws of the destination country
- 3. Need for stricter regulation and implementation of recruitment agencies and agents by both sending and receiving countries:** Durga was recruited by non-authorized recruiters and entered the destination country without any contract bypassing all protection measures put in place by the sending country
- 4. Need for practical vocational skills training:** Durga did not have the required skills to work as a domestic worker in the receiving country, and had not received any orientation program to equip her with the necessary skills
- 5. Need for awareness and access to effective remedies:** If Durga had not been assisted by MWPS in Bahrain and NDWM in India, she would not have known about the various grievance / redressal mechanisms available to workers in her situation

Challenges in realizing Restitution and Recovery for Victims of Trafficking (1/2)

- Most workers **come from extremely disadvantaged backgrounds** and are not aware of their labour and human rights
- The workers **do not know whom to contact to address their problems** in a foreign country
- **Language barrier** makes them hesitate to approach authorities.
- Many workers are **dependent on their employers (in the MENA region) for their ‘immigration’ status** and do not complain, for fear of being deported
- Many workers, particularly female domestic workers, arrive in the country of destination with **no written contract and through irregular channels of recruitment and are an “invisible” class of workers**

Challenges in realizing Restitution and Recovery for Victims of Trafficking (2/2)

- Most workers **do not possess or carry a copy of their Identity documents**, which is of critical importance in a foreign country
- **Slow judiciary process**, cost of legal and administrative processes and lack of alternative employment while the case is in court, often results in workers getting frustrated at the delayed response and thereby, willing to “cut their losses” and return home to their families
- **Illegal recruiting agents / traffickers are hard to track down**, as they keep changing locations and cell numbers
- Often the “**Illegal Recruiter**” is known to the worker (family member /friend/ part of the village network), who is then hesitant to complain against them
- **Redressal mechanisms in sending countries are generally located in urban centers**, which are difficult to access for the workers, who reside in smaller towns / rural areas
- **Lack of implementation of / compliance to existing anti-trafficking laws**, particularly those related to labor trafficking

Thank you