

The long road to winning the battle against trafficking

Anti-trafficking policy exists in India, but where the system is found lacking is in the implementation of the laws



MADAN B. LOKUR &
SHRUTI NARAYAN

July 30 is United Nations World Day against Trafficking in Persons (<https://bit.ly/3iaMdpN> and <https://bit.ly/2Vkp6uV>). It is also a time to reflect on India's human trafficking crisis. Between April 2020 and June 2021, an estimated 9,000 children have been rescued after being trafficked for labour, according to a child rights non-governmental organisation (NGO). In other words, 21 children have been trafficked every day over nearly 15 months. The Childline India helpline received 44 lakh distress calls over 10 months. Over a year, 2,000 children have arrived at its shelter homes and 800 rescued from hazardous working conditions.

Increased vulnerability

The media frequently publishes individual stories of trafficking. Children as young as 12 are trafficked across States to work in factories in appalling conditions, where owners are turning to cheap labour to recoup their losses from the novel coronavirus pandemic. In November 2020, four children, between 12 and 16 years, died after being trafficked for labour from Bihar to Rajasthan; some of them had injuries from beatings.

Child marriages are also rampant – over 10,000 cases were tracked between April and August 2020. In Madhya Pradesh, about

391 child marriages were stopped in April-May 2021, while in Odisha, 726 child marriages were prevented between January-May 2021.

A child rights NGO, working with the Delhi Commission for Protection of Child Rights has highlighted the problem of rampant child labour. In a certain stretch within the national capital, at least 120 children can be seen working. The factors causing increased vulnerability are identifiable. Its report states: “The [corona] virus has resulted in loss of income and economic crisis, causing families’ reduced capacity to care for children in the long-term. It has also caused, in some instances, loss of parental care due to death, illness or separation, thereby placing children at heightened risk for violence, neglect or exploitation.” These factors are compounded by an erosion of some of the checks against child labour and child marriage provided by law, as well as the scrutiny of schools and society.

The increase in Internet access in current times has also led to cyber-trafficking. An August 2020 report by a member of a child rights group in India notes that popular social media platforms and free messaging apps are often used to contact young people. Often, the trafficker or middleman lures the person to a place under the pretext of offering him employment. Once removed from their locality, they face challenges of limited resources, unfamiliarity with the area and perhaps the local language. Threats of violence from the trafficker, and, importantly, the absence of any identifiable authority to approach other than the police – who are often seen as threats themselves – make



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it nearly impossible for trafficked persons to report the incident.

A recent report by the United Nations Office on Drugs and Crime on the effects of the pandemic on trafficking echoes these findings. It says, traffickers are taking advantage of the loss of livelihoods and the increasing amount of time spent online to entrap victims, including by advertising false jobs on social media. In addition, there is an increased demand for child sexual exploitation material online due to lockdowns.

Scant data, other gaps

The Government admitted in Parliament as recently as March 2021 that it does not maintain any national-level data specific to cyber trafficking cases. The efficacy of certain schemes launched by the Ministry of Home Affairs to improve investigation and prosecution of cyber crimes remains to be seen (<https://bit.ly/3iajGR6>).

India is still classified by the U.S. Department of State as a Tier-2 country in its report on global human trafficking (<https://bit.ly/3zKBfgA>). This means that the Government does not fully meet the minimum standards under U.S. and international law for eliminating trafficking, but is making significant efforts to comply. The lack of implementation is il-

lustrated by the state of the Anti-Human Trafficking Units (AHTUs). AHTUs are specialised district task forces comprising police and government officials. In 2010, it was envisioned that 330 AHTUs would be set up (<https://bit.ly/3rEwouF>). RTI responses in August 2020 showed that about 225 AHTUs had been set up, but only on paper.

If properly staffed and funded, AHTUs could provide crucial ground-level data on the methods and patterns of traffickers, which in turn can strengthen community-based awareness and vigilance activities. Global practices such as in Nigeria, Africa, should be encouraged in India, in consonance with a larger framework to protect women and children by incentivising education and creating safe employment opportunities.

Draft Bill, judicial issues

With focus now shifting to the new draft anti-trafficking Bill (<https://bit.ly/3rEEzqP>), the point to be highlighted is that there is no shortage of anti-trafficking policy in India. Where the system is found lacking is in the implementation of the laws. Significant discussion is required on the provisions of the Bill, particularly with respect to bringing in the National Investigation Agency and increasing the punishment for offences, including the death penalty as an option in some cases. It is not proven that more stringent laws, particularly the death penalty, have any greater deterrent effect on crime. The draft Bill also provides for AHTUs/committees at the national, State and district levels, but as noted, their effective functioning cannot be taken for granted. Legislating without the political will to implement and monitor effectiveness is

futile.

Special attention must also be paid to the challenges prosecutors and judges face in trafficking cases. There were 140 acquittals and only 38 convictions in 2019, according to government data. This points to a failure of investigation and cannot be solved by the draft Bill's provision that accused traffickers must be presumed guilty unless they can prove the contrary. Further, trials can drag on for years, with victims sometimes withdrawing their complaints after being intimidated by traffickers. Proper case management must be introduced to give meaning to the “fast track” courts. Other problems include the low number of beneficiaries of monetary compensation and the lack of consistent access to psychological counselling. Parts of the draft Bill recognise the importance of rehabilitation, but implementation is key.

Most victims of trafficking are from low-income communities for whom the novel coronavirus pandemic and lockdowns have caused long-term financial distress. With schools continuing to be closed in much of India and no definite end to the pandemic in sight, it cannot be assumed that incidents of trafficking will decline with a return to “normalcy”. That apart, the failure of existing institutional mechanisms to foresee the present crisis should spur the Government and other stakeholders to take preventive action now. July 30 should be the beginning of the end of human trafficking in India.

Justice Madan B. Lokur, a former judge of the Supreme Court of India, is presently a judge of the Supreme Court of Fiji. Shruti Narayan is a Delhi-based lawyer