

# INCORPORATING GENDER PERSPECTIVE INTO THE ENFORCEMENT OF TRAFFICKING IN PERSONS

In the tumult of every conflict, human rights face great repercussions. The emerging situation in the Middle East has drawn the focus and energies of many activists and advocates of human rights, especially concerning the anticipated toll of human loss and heightened vulnerabilities of women and children. Yet, undeterred by these challenges, resilient global human rights' activists persist in championing the causes for human rights protection. Internationally, "16 Days of Activism against Gender Based Violence (GBV)" campaign, spanning from 25th November to 10th December 2023 has been launched. This timeframe holds symbolic significance, commencing from the International Day for Elimination of Violence against Women on November 25 and concluding on the International Day for Human Rights on December 10. Throughout this campaign, crucial messages reverberate globally, shedding light on the intersection of trafficking in persons and GBV. Three conceptual dimensions related to GBV and trafficking in persons warrant consideration during this activism:

## 1. INTERSECTION OF GBV WITH TRAFFICKING IN PERSONS

The discourse surrounding trafficking in persons and smuggling of migrants commonly revolves around criminalization of these offences, often sidelining the crucial dimension of GBV. The well-established intersection of GBV with trafficking in persons and with irregular migrants is evident. For example, highlighting this dimension, a brief from the European Parliamentary Research Service (EPRS) acknowledges a global trend emphasizing the central role of gender in trafficking. It noted:

"According to the UNODC 2022 Global Trafficking in Persons report, in 2020, 60% of all victims of trafficking in persons detected globally were women and girls (42% and 18% respectively), while 40% were men and boys (23% and 17%). Female victims continue to be the worst affected by trafficking, yet it appears that over the last 16 years the number of men, boys, and girls detected has risen more than that of women: the share of adult women fell from over 74% in 2004 to 42% in 2020."

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Likewise, it observed a similar pattern in the EU, where 63% of the victims are women, when it stated:

"According to the fourth report on the progress made in the fight against trafficking in human beings from 2022, trafficking maintains a clear gender dimension with 63% of the victims in the EU being women and girls. Even though the share of male victims in 2019-2020 rose compared to 2017-2018 (from 23% to 33%), women and girls account for 87% of the victims of trafficking for sexual exploitation, while men account for the 66% of victims of trafficking for labour exploitation."

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The data presented above clearly indicates that the primary purpose behind most instances of trafficking and smuggling of women and girls is sexual exploitation. Thus, there is a strong case to mainstream the concept of GBV in the fight against trafficking in persons and smuggling of migrants. Currently, the international response on this front is often lacking, with offenses of trafficking in persons sometimes perceived as the agenda of the developed world against the developing world, merely aimed at curbing irregular immigration.

The limited understanding of GBV as central to trafficking has resulted in a rather one-dimensional discourse. Hence, there is a strong rationale to look at the offences related to trafficking from a gender lens. Such an approach would render preventive strategies more effective and garner greater support from civil society and human rights activists.

## **2. MULTIPLE CRIMINALITY**

International law mandates countries to incorporate provisions criminalizing trafficking in persons and the smuggling of migrants in their municipal laws. Often, the impression of criminalization is limited to relocation of persons/migrants from one place to another, with no consideration of additional criminal activities beyond the movement. This has happened for not factoring in GBV in the original criminalization. The sexual exploitation of women and girls leads to a cascade of criminal activities and exposing offenders to be prosecuted not only for one trafficking charge, but for multiple offences including rape, assault, and sexual harassment. In Pakistan, the traffickers are typically charged solely for transportation of the victims, neglecting the heinous acts of rape, sexual assault, and harassment, that get secondary consideration. Local police frequently refrain from filing charges for rape offenses, restricting charges to trafficking alone. There is a critical need for a shift in these practices, with law enforcement being sensitized and trained enough to pursue more comprehensive and holistic prosecutions. The list of perpetrators must be expanded to include exploiters and predators who, while not directly involved in the trafficking but may have created the demand for heinous offences.

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## **3. INCHOATE LEGISLATION**

In their current form, the Prevention for Trafficking in Persons Act, 2018 and the Prevention for Smuggling of Migrants Act, 2018 lack a provision that enables the integration of the two laws with GBV by highlighting the concept of multiple criminal offenses. Likewise, the legislation must oblige law enforcement agencies to collect evidence related to GBV for effective prosecution. Conversely, the general criminal law of Pakistan, as outlined in its Pakistan Penal Code, 1860, does not impose similar obligation on police to preserve evidence regarding trafficking obtained in an originally reported rape case. This parallel investigation system is not alien to the criminal justice system and is already in vogue in the domain of money laundering, where cross-case exchange of evidence and charging is permissible.

**In their current form, the Prevention for Trafficking in Persons Act, 2018 and the Prevention for Smuggling of Migrants Act, 2018 lack a provision that enables the integration of the two laws with gender-based violence by highlighting the concept of multiple criminal offenses.**

## **CONCLUSION**

Incorporating a gender-based violence perspective into the understanding of trafficking in persons and smuggling of migrants is a crucial knowledge component that should be integrated into the ongoing discourse surrounding these organized crimes. By introducing a gender dimension, preventive strategies and prosecution efforts can be enhanced, providing a more comprehensive and robust framework for legal and administrative protection, particularly for women and children. Recognizing GBV as inherent to these criminal activities not only broadens our comprehension of the issues at hand but also underscores the imperative for tailored interventions that address the specific vulnerabilities and experiences faced by victims. This expanded awareness contributes to a more effective and sensitive approach in combating trafficking and smuggling while prioritizing the safeguarding of the rights and well-being of those most affected by these offences.