

Chapter 16

From Victim to Criminality: Understanding Sex Trafficking Within the Walls of Sex Work – Victimization of Victims of Commercial Sexual Exploitation

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ABSTRACT

Trafficking of persons, primarily women and children, is one of the growing social dilemmas concerning global society today. Not only is human trafficking a highly sensitive and polarizing subject, but it is also considered a common norm in many countries. Many women recruited into commercial sex work are coerced into the profession exploiting their financial and economic condition but continue to work in the profession to survive through easy money. The chapter focuses on a theoretical framework for understanding the victimization of female sex workers. It also reflects various lacuna in the present criminal justice system and law enforcement mechanism in criminalizing victims within the sex work industry. The chapter narrates the voices of commercial sex workers in India over the prejudices and criminalization by various laws and regulations towards their consensual sex work. The chapter recommends sensitization training and awareness amongst various stakeholders of the criminal justice system.

INTRODUCTION

Trafficking of persons, primarily women, and children, is one of the growing social dilemmas concerning global society today. Not only is human trafficking an extremely sensitive and polarizing subject, but it is also considered a common norm in many countries. The United Nations Protocol to Prevent, Suppress and Punish Trafficking of Persons, Especially Women and Children of 2000 (further, “The

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UN Protocol”), Article 3, has defined trafficking to include inter alia, “*any recruitment, transportation, purchase, sale or harboring of persons, by threat, force, fraud or violence.... for exploitation which includes prostitution, or for holding such person in forced labor or slavery-like practices.*” (United Nations Protocol to Prevent, Suppress, and Punish Trafficking of Persons, 2000).

Sex trafficking is intrinsically linked with the practice and prevalence of commercial sexual exploitation across states. The UN Protocol states that sex-trafficking is a *prima facie* violation of basic human rights, including the inherent right to autonomy and freedom from sexual violence. Despite, such international principles, the report submitted by the International Labour Organization (ILO) in 2012, reflected that the global commercial sex trade practices buy and sell close to 20.9 million children and adults into commercial sexual servitude every year. (International Labour Office, 2012) Women and girl children are considered most vulnerable in this practice and constitute 98% of the total sex trafficking victims. (International Labour Office, 2012).

This commercial practice of buying and selling often operates in the realm of the economic principles of demand and supply reducing women and girls, to mere market commodities. This trend is reflected in The Global Report on Trafficking in Persons launched by the United Nations Office on Drugs and Crimes (UNODC) which consistently states that most victims of global human trafficking are women and girls who are trafficked for sexual exploitation most of whom who were still minors when forced into prostitution. (Global Report on Trafficking in Persons, 2016). Further, the report released by the UNODC recorded a staggering number of 25,000 reported cases of human trafficking, with three-fourth of the victims being trafficked for sexual exploitation primarily in Asia, Europe, and America. (Global Report on Trafficking in Persons, 2016). Apart from sexual exploitation, various other reports have also recorded the prevalence of sexual slavery where victims are abducted and exposed to sexual abuse while held in captivity (Bernard & Durham, 2014, p. 428).

The UN Report, 2018 on Trafficking of Person, attempted to paint a holistic picture of the socio-demographic pattern of trafficking around the world. In Western and Southern Europe, the report reflected that out of 5,500 victims of human trafficking were detected across 18 countries in the region, 66% of them were trafficked for sexual exploitation. (United Nations Office on Drugs and Crime, 2018). Similarly, in the Central and South-Eastern Europe Region, an estimate of 4 out of every 5 trafficked victims was a woman and out of 1382 victims detected across 14 countries in this region, 70% was sold into the commercial sex market. (United Nations Office on Drugs and Crime, 2018). In Eastern Europe and Central Asia as well, most of the trafficking victims were women with 55% of them (out of 599 detected victims across six countries) were trafficked for sex trade and exploitation. (United Nations Office on Drugs and Crime, 2018). Finally, in the South Asian region, including India, 59% of the total victims (1,099 victims detected) were female with 50% of them (out of 641 victims across four countries), being trafficked for sexual exploitation. (United Nations Office on Drugs and Crime, 2018). As reflected in the data, most human trafficking victims across most nations are women who are trafficked for the sole purpose of sexual exploitation, and commercial sex work without their conscious consent to enter this field. The data portrays a horrifying representation of the gravity and magnitude of human trafficking for commercial sex work across the world, despite the international community frowning upon this practice. Further, since the question of whether female sex work is legal, does not have a uniform concrete answer which exemplifies the taboo, ignorance, and lack of attention received by this crime and the sex workers consequently are forced to live and work in deplorable conditions.

This chapter attempts to address the concerns surrounding commercial sex practices and the victimization of sex workers, with a primal focus on the Indian scenario

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