

Briefing on Trafficking in Women since the Beijing Platform For Action, 1995

Trafficking in women was addressed in the Beijing Platform For Action (BPFA) under the critical area of concern D: “Violence against Women”, paragraph 113, Strategic objective D.3, action 130b and e.

Since then, trafficking has been accepted as a form of violence against women and development strategies have included measures to address this. Much has been achieved in terms of clarity of the definition of trafficking, albeit that there is also firm recognition that trafficking is a complex issue and has many ramifications into the related fields of migration and labour and human rights.

The greatest advance in international advocacy on the issue of trafficking in women occurred in the context of the Reports of the UN Special

Rapporteur on Violence against Women. In 3 successive reports to the UN Commission on Human Rights the SR progressively clarified and sharpened the conceptualisation of trafficking for the international community, until her final definition was crafted, which read:

“Trafficking in persons means the recruitment, transportation, purchase, sale, transfer, harbouring or receipt of persons:

- (1.) by threat or use of violence, abduction, force, fraud, deception or coercion (including the abuse of authority), or debt bondage, for the purpose of:
- (2.) placing or holding such person, whether for pay or not, in forced labour or slavery-like practices, in a community other than the one in which such person lived at the time of the original act described in (1.)

(E/CN.4/2000/68, 29 February 2000)

Five years after the BPFA, in 2000, all the elements of this definition were included in the “Protocol on Trafficking in Persons, especially Women and Children”, which is supplementary to the UN Convention on Transnational Organised Crime. Thereby, trafficking is recognised as a crime, and falls under international codes of criminal justice, including modes of investigation, prosecution and victim protection and assistance. This Protocol definition criminalises exploitative labour conditions, amounting to

- forced labour (as defined in ILO Convention 29, art. 2.1) ;
- slavery (as defined in UN Slavery Convention, 1926, Art. 1.1)
- slavery-like practices (as defined in UN Supplementary Convention on the Abolition of Slavery, 1956)

Slavery-like practices include debt bondage, serfdom, servile and forced marriage and delivering a child into exploitation, including of labour. It also criminalises those who intentionally bring women into these exploitative situations. The Protocol also contains directions concerning cooperation among states and relevant agencies and compensation for victims of trafficking.

NGOs working on the issue from various approaches worked very hard to obtain the best possible compromise among the conflicting interests which came to bear on the negotiations. All were united in the promotion of a rights-based approach to the issues, and were disappointed that the final document did not make human rights protections and assistance to victims of trafficking mandatory.

The ESCAP High-Level Intergovernmental Meeting to review regional implementation of the BPFA +5, echoed these recommendations:

“(20) Comprehensive human rights-based strategies should be developed and implemented to tackle trafficking in persons, especially women and children, for the purposes of slavery or slavery-like practices, forced labour or services by addressing prevention, protection and redress for trafficked persons and prosecution of traffickers in accordance with the law.

(21) Efforts, including ongoing efforts, on bilateral, sub-regional and international agreements and treaties to combat all forms of trafficking in women and girls should be promoted.”

(E/ESCAP/1177, 18 February 2000)

Now, 5 years further and 10 years after the BPFA, what is the score regarding trafficking in women?

The NGO document for Beijing +5 (Big Blue Book, 2000) identified the following general persistent issues which also affect the women affected by trafficking:

- the attitudes and practices of some law enforcement agencies and officials, who themselves participate in /profit from trafficking in women, and thus are not motivated to do anything to stop the practices;
- the gender bias of the legal system, which perpetuates discrimination against women who have experienced violence
- negative community attitudes, also within families, towards issues of violence against women, including trafficking (especially into forced prostitution) do not encourage women to speak up and take action against the violence.

Next to these, several emerging issues were also identified, which point to the shift of **the context and focus of anti-trafficking advocacy and action to the field of women and the economy, especially the informal economy.** These issues are:

- an increase in levels of migrant workers, related to which is an increase in the trafficking of women for participation in the formal and non-formal labour sectors, including the commercial sex sector;
- the failure of social support mechanisms in the face of global economics changes and the specific impact on women, who are still primary care givers in most of the region
- the increased use of internet-based technologies have promoted trafficking of women and children and increased the use of women and girls in electronic forms of pornography;

Related to these, in the Critical Area of Concern F: Women and the Economy, the following persistent and emerging issues reiterated the necessity to advocate and defend the rights of women in the informal economy, in order to prevent trafficking of women:

- the ever faster pace of globalisation of economies continues to exacerbate inequalities between women and men in employment opportunities, wages, and occupational categories; it has also given rise to the phenomenon of sub-contracting and casualisation of labour, especially in the sectors where most women work, thus subjecting women to further exploitation and lack of access to any form of social protection and benefits.
- women continue to be pushed into the informal sector of the economy, thus remaining without any social security and protection
- the persistent feminisation of migration, within and outside of countries make women bear the greater burden of sustaining families and at the same time

subjecting them to continued abuses and other forms of exploitation, including trafficking.

This last point was echoed in the list of emerging issues in the Critical Area of Concern I: Human Rights of Women:

- in the period since 1995 the impact of global economic trends and policies have negatively impacted on the promotion and protection of women's human rights, reflected in trends such as the increase in trafficking of women for economic exploitation and the collapse of social structures in countries within the region;
- there is an increasingly strong advocacy for the rights of migrant women workers, (who are mostly working in the informal sectors of home-based sub-contracted work, domestic work and the sex industry)

Anti-trafficking activism: an emerging issue for BPFA + 10?

While all of the above can be maintained as persistent issues at this moment, 10 years after Beijing, perhaps one trend stands out as both positive and negative.

The last 5 years has seen an explosion of organisations and agencies of all colours of the civil society and governments and governmental agencies all over the world. Work is being undertaken at all levels and directed at addressing all the various aspects of trafficking, broadly under categories of “prevention”, “prosecution” and “protection and assistance”. Most of these initiatives affirm a rights-based approach.

Whether the incidence of “trafficking” itself is increasing is a question difficult to answer: Is it a real increase in incidence, or is it that the “anti-trafficking awareness” has increased, and that more agencies and organisations are framing explicitly anti-trafficking programmes?

A related question refers to the methodology of these programmes. A certain drive to count and mark up “results” in the competition for funding many times leads to high-handed and insensitive approaches, like raids on brothels and border controls which only serve to curtail even further the precarious freedoms of the women involved. There is a need to reflect on the emerging issues, but also on our responses. Effective action for human rights is characterised by a conscientious concern for the process, which is deemed as important as the result, and which should also observe principles of human rights. One can say that the very act of speaking out for one’s rights is in itself the exercise of the right to free speech. And the only proof we can have of entitlement to certain rights is the ability to exercise them.

Recommendation:

To advance rights-based anti-trafficking work, we would like to strongly recommend the following;

That efforts be combined to address the economic, political and social conditions which maintain and contribute to the prevalence of forced labour, slavery and slavery-like conditions of the (informal) work sectors in which the majority of migrant women (both internal and cross-border) find themselves;

That in the process, the fundamental principles of human rights action be observed, especially that of enabling the self-organisation and self-representation of the migrants themselves so that they can participate in all actions taken on their behalf as equal partners and without discrimination.



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