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TRAFFICKING IN PERSONS AND THE RIGHT TO EQUALITY: A GENDERED HUMAN RIGHTS ANALYSIS

Dr. Shruti Sharma¹ and Akanksha Tiwari²

ABSTRACT

Trafficking in people is one of the gravest human violation problems in the modern world, which affects human dignity, individual freedom, and equality before the law. Although human trafficking cuts across both genders and age, its effects are gendered, where women and girls are disproportionately represented as victims, especially in the sexual exploitation, forced marriage, and domestic servitude trafficking. The paper explores the trafficking in persons via the normative perspective of the right to equality and the ways that structural gender-based discrimination and socio-economic inequality contribute to increased vulnerability to trafficking and limit access to justice and rehabilitation by the victims. The study places the issue of trafficking within the international law provisions by using a gendered human rights lens and examines the issues of trafficking through the framework of the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the Convention on the Elimination of all forms of discrimination against women. It points out the critical assessment of the roles of states in preventing trafficking, protecting victims, and achieving substantive equality of genders by providing gender-sensitive legal and policy reactions. The article also examines the intersectionality of human trafficking, which reveals that gender tries migration, poverty, caste and social marginalization to create overlapping vulnerabilities and unequal access to the law. After

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reviewing both international and national jurisprudence, the study has outlined how the concept of trafficking is gradually being perceived as a lack of equality and non-discrimination yet it has also revealed the ongoing nature of such issues as victim criminalization, poor rehabilitation systems, and gender discrimination in law enforcement and jurisprudence. The paper posits that the criminal justice approach is not an adequate way to deal with the systemic inequalities that perpetuate trafficking. It arrives at the conclusion that any successful framework to counter trafficking should be gender responsive and transformative to counter structural discrimination and provides equal access to these services and justice, as well as affirm the human rights and agency of trafficked individuals.

KEYWORDS: Human trafficking, Human Rights, Equality, Rehabilitation, Gender

INTRODUCTION

Human trafficking has been perceived as one of the most severe human rights infractions in the modern world, which cripples the very fabric of human dignity, freedom, and equality. It is a contemporary form of slavery, which involves taking advantage of people by using force, manipulating them, power misuse, and structural incapacity. Although there have been elaborate international and national laws addressing the issue of trafficking, the vice continues to thrive at large scale, with millions of people being trafficked across the borders and domestically. Human trafficking is not just a crime but a serious social and human rights problem that lies in the system of inequalities, discrimination, and power relations. Equality is one of the principles of international human rights legislation and constitutional democracies across the world. It requires not just formal equality before the law; it requires substantive equality in enjoying rights and freedoms. Equality gains crucially important weight in the context of trafficking in persons as

trend lines of victimization expose highly gendered and intersectional facets. Trafficking of women and girls is disproportionate with respect to sexual exploitations, forced marriage, and homestead. This unequal weight is not accidental, but an immediate result of the gender inequality, socio-economic marginalization, patriarchal culture and access to education and working opportunities. The structural conditions provide the grounds in which women and girls become more susceptible to deception, coercion and exploitation. An analysis of trafficking through gendered lens shows that the discrimination works at many levels: in the circumstances that precondition trafficking, in the modes of exploitation endured by the victims, and in the reactions of the states and institutions. Trafficked victims, particularly women, are usually stigmatized, victim blamed and criminalized, especially where trafficking overlaps with prostitution, irregular migration or informal labour. These kinds of reactions do not just worsen the damage, but are also detrimental to the right to equality since they deprive trafficked persons of equal protection of the law and equal access to justice, rehabilitation and reintegration. Inability to implement gender sensitive and victim-oriented strategies often leads to secondary victimization, which only exacerbates inequalities. The current paper will analyze gendered human rights trafficking in persons using the right to equality approach. It aims to shift to a more inclusive criminal justice approach of framing trafficking through the lenses of a generalized architecture of discrimination and social injustice. Through the interaction of the three sources, international standards of human rights, legal jurisprudence, feminist and intersectional studies, the paper will examine the effects of trafficking in perpetuating gender inequality. It contends that efficient measures to tackle trafficking should not focus on the symptoms of the vulnerability but guarantee substantive equality to the people who are trafficked. Finally, the paper will argue that the fight against trafficking cannot be isolated of the larger fight against gender justice, human dignity and equal enjoyment

of human rights by all.

CONCEPTUALIZATION OF TRAFFICKING IN PERSONS

Trafficking of people is internationally noted as a serious abuse of the human rights and a modern-day slavery. This definition is formulated to provide clear and explicit account of trafficking in persons that the United Nations Convention against Transnational Organized Crime, 2000 contains in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, which supplements the United Nations Convention against Transnational Organized Crime, 2000.³ The Protocol defines trafficking in persons to include the recruitment, transportation, transfer, harbouring, or receipt of persons by the use of force, coercion, abduction, fraud, deception, abuse of Notably, even the requirement of proving the element of means becomes irrelevant in the event that any of the outlawed methods are used, as it constitutes an insight of the reality that seemingly given consent can be undone by force, falsehood, or structural powerlessness.⁴ Invested in the specifics of the law, trafficking in persons should be seen as an act, which is integrated within the wider context of socio-economic and political frames.⁵ Poverty, unemployment, gender inequality, educational attainment, armed conflict, and repressive migration policies are among others contributing reasons that would enable trafficking to thrive.⁶ Although the Trafficking Protocol specifies the formal definition of trafficking as gender-neutral, it has made an explicit recognition that women and children are more likely to be trafficked with the purpose of sexual

³ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, adopted Nov. 15, 2000, U.N. Doc. A/55/383 (entered into force Dec. 25, 2003) [hereinafter Trafficking Protocol].

⁴ Trafficking Protocol art. 3(a).

⁵ Trafficking Protocol art. 3(c).

⁶ Int'l Labour Org., Global Estimates of Modern Slavery: Forced Labour and Forced Marriage 10–12 (2017).

exploitation and domestic servitude. This acknowledgment is based on empirical realities and is why there has been the need to apply a gender-sensitive interpretation of the trafficking laws. It follows therefore that conceptualizing trafficking in persons cannot be done by isolating criminal acts alone; instead it would involve the understanding of power imbalances, structural discrimination and exploitative social structures in which such acts thrive usually at the cost of the right to equality and social dignity.

THE NON-DISCRIMINATION AND THE RIGHT TO EQUALITY.

1. International Human Rights Framework.

The principle of equality and non-discrimination is the foundation of the international human rights law and the primary normative principle that would allow all individuals to receive unfair and arbitrary treatment. Equality does not only mean the same treatment but demands that a person in a similar situation should be dealt with like other people in similar situations and persons in different situations be dealt with differently to bring about the substantive justice. This principle is contained in the Universal Declaration of Human rights (UDHR), which states that all human beings are free at birth and equal in their dignity and rights and are entitled to equal protection by the law without discrimination and therefore providing moral and legal basis on the later binding instruments. The International Covenant on Civil and Political Rights (ICCPR) strengthens this idea by requiring equality before the law, and equality under the law in other areas, by stating in Article 26 that equality must be exercised in other domains as well, i.e., the economic and social, and cultural domains and so on.⁷ The International Covenant on Economic, Social and Cultural Rights

⁷ International Covenant on Civil and Political Rights art. 26, Dec. 16, 1966, 999 U.N.T.S. 171.

(ICESCR) supports this principle by stating that the equality must be exercised in other areas as well, i.e., the economic and social, and cultural areas, etc.

The direct impact of trafficking in persons on the right to equality is to discriminate against people on the basis of structural vulnerability, as well as deprive them of equal enjoyment of rights, including the right to liberty, the right to security, the right to dignity, and the right to justice. International human rights authorities have stressed that states not only bear negative duties to avoid discriminatory policies, practices, and laws but also positive duties to ensure that equity rights are not undermined by the private actors.⁸ In the context of trafficking, states are under obligation to deal with discriminatory laws, policies, and practices that create vulnerability and hamper the protection of victims.

2. Gender Equality Instruments and Normative Developments.

Although general human rights devices provide equality as a universal norm, gender-specific devices present a more sophisticated framework of combating woman discrimination. The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) is the most inclusive of all international conventions that deal with women equality, and it has gone far enough to define discrimination against women to mean everything that will interfere with the enjoyment of human rights and fundamental freedoms at an equality with men basis. Notably, CEDAW calls upon the states to not only end the direct and indirect discrimination but also proactively realize the substantive equality. CEDAW clearly identifies trafficking and exploitation of prostitution as some of the manifestations of gender-based discrimination and requires the

⁸ Human Rights Comm., General Comment No. 31: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, 8, U.N. Doc. CCPR/C/21/Rev.1/Add.13 (2004).

states to do everything possible to put them in place as the cause and effects of unequal social, economic, and political position of women. In addition to CEDAW, the Beijing Declaration and Platform of Action provides trafficking of women and girls as one of the pressing spheres of interest and recommends comprehensive approaches to the problem focusing on prevention, protection, and prosecution through gender prism.⁹ All these tools testify that equality regarding trafficking will not be possible in the presence of formal legal guarantees. Instead, it needs radical steps that will be taken to break down patriarchal systems, financial inequalities, and social conventions that place women at a disadvantage systematically. Gender responsive concept of equality therefore requires that anti-trafficking policies and laws put protection of victims as their primary objective, structural level discrimination should be considered, and equal access to justice and rehabilitation should be afforded to the victims of trafficking.¹⁰

THE FEMINIZED NATURE OF TRAFFICKING OF PERSONS.

Trafficking in persons is neither a gender neutral issue in terms of causes or effects. Despite the existence of men and boys victims of trafficking, empirical results regularly confirm that both women and girls represent disproportionately large percentage of trafficked individuals globally, as well as that these factors nearly uniformly influence susceptibility to trafficking and trafficking exploitation patterns.

1. Orientalism and Postcolonial Theory

Worldwide statistics show that women and girls make up most of the

⁹ Beijing Declaration and Platform for Action 113–130, Fourth World Conference on Women (1995).

¹⁰ U.N. Office of the High Comm’r for Human Rights, Recommended Principles and Guidelines on Human Rights and Human Trafficking, princ. 1–2, U.N. Doc. E/2002/68/Add.1 (2002).

known victims of trafficking, particularly of sexual exploitation perspectives. Sexual exploitation is the most driver of the reasons and is intended on women and girls and this is because of the culturally determined roles and expectations of women that underpin the demand side of trafficking.

Gendered nature of trafficking is also further depicted through domestic work and care labour. In domestic homes, labour laws are either lax or non-existent and exploitation is often tolerated because it seems that domestic labour is an extension of women's traditional roles as opposed to being employed work, which should be covered by the law. Such invisibility supports gender inequality and supports trafficking in the form of legal employment.

2. Structural factors that contribute to Gendered Vulnerability.

Trafficking is one of the structural factors that are driven by gender inequality. Women and girls are in a disadvantaged position in terms of impoverishment, access to education, unemployment and financial dependence, which would raise their vulnerability to deceptive recruitment methods.¹¹ Women are also denied the autonomy in terms of their economic activities, land ownership and their exclusion in the formal labour markets, which further undermine their vulnerability to dangerous migration procedures.

Social norms that are patriarchal too are of main importance to vulnerability. Early and forced marriages, dowriary systems, favoritism to male children, and disruption of social protection systems are some of the practices that negatively affect girls and women and make them more vulnerable to trafficking in conflict and post-conflict environments.

¹¹ U.N. Women, *A Gender-Responsive Approach to Preventing Human Trafficking* 5–6 (2019).

3. Intersectionality and Multiple Forms of Discrimination.

An intersectional and gender approach to trafficking should also consider the intersectionality i.e. how gender is combined with social identity dimensions like caste, race, ethnicity, migration, disability, and age to enhance the risks of exposing women to trafficking as well as their challenges to protection and justice.¹² An example is that migrant women of irregular status might hesitate to seek assistance in case they are detained or deported and thus they are in effect denied equal protection on the law.

Women of colour Women of ethnic minorities: Indigenous women, Dalit women, and women of ethnic minorities are overrepresented among victims of trafficking in most of the areas, as demonstrates the history of exclusion affecting women and the systemic inequality of women in general.

4. Gendered Impact of State Responses

Gender biases are visible in state reactions to trafficking instead of being broken down. Women who are being trafficked to be sexually exploited are often stigmatized, criminalized or even treated like criminals, especially in some countries where prostitution-related crimes exist, but not therefore failing to address coercive situation that are leading to sexual exploitation of women.¹³ In addition, rehabilitation and reintegration treatments are frequently insufficient, temporary or based on stereotypical beliefs regarding the roles of women including restricting economic prospects to conventionally female talents.¹⁴

¹² Kimberlé Crenshaw, *Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color*, 43 *Stan. L. Rev.* 1241, 1244–45 (1991).

¹³ Amnesty Int'l, *Exploited and Excluded: Criminalization of Migrant Sex Workers in Europe* 11–13 (2017).

¹⁴ Anne T. Gallagher, *The International Law of Human Trafficking* 292–95 (2010).

Based on this argument therefore, gendered aspect of trafficking goes beyond victimization to other social, legal, and institutional reactions that influence the experiences of survivors. The effective response to trafficking, then, is a gender-responsive and intersectional framework admitting of the role of inequality in generating as well as sustaining exploitation and centralizing the realities of those who have experienced trafficking in human right protection.¹⁵

STATE OBLIGATIONS AND EQUALITY IN COMBATING TRAFFICKING IN PERSONS

The major responsibility of states in the international human rights law is to prevent trafficking in persons, safeguard victims, and convict offenders, and, at the same time, to guarantee the right to equality and non-discrimination. These requirements are not only based on anti-trafficking instruments but also other human rights treaties that governments have the responsibility to ensure that the law and substantive equality afford equal protection to every person in their jurisdiction. Within the trafficking context, the requirement of equality suggests that the reactions of the states must target not only the immediate damages to the victims but also the conditions of the structure that make some groups more susceptible to exploitation, especially women and girls.

Prevention of trafficking goes beyond criminalizing it and incorporates the socio-economic and cultural factors that make exploitation easy. Article 9 of the Trafficking Protocol demands that states should come up with holistic policies to ensure that trafficking is prevented, especially amongst women and children.¹ In an equality approach, prevention should entail the abolition of discriminatory laws, practices, and even social norms which propagate gender inequality, poverty and

¹⁵ U.N. Office of the High Comm’r for Human Rights, Recommended Principles and Guidelines on Human Rights and Human Trafficking, princ. 2, U.N. Doc. E/2002/68/Add.1 (2002).

marginalization. Policies that include providing equal opportunities in education, employment, property rights and in social security should be implemented to make one less vulnerable to trafficking.¹⁶

The international human rights bodies have stressed that inability to combat structural discrimination can be a violation of the positive obligation of states, which can further encourage irregular migration which puts more women migrant workers in the hands of traffickers.¹⁷ Equality-based prevention also calls on the states to embrace gender-sensitive and rights-based migration and labour policies to ensure safe and legal routes to movement.¹⁸ The responsibility of protection of persons trafficked is a major pillar of the state obligations and it is interconnected with the right to equality. The international law provides that victims of trafficking have the right to protection, assistance, and support without any discrimination, regardless of gender, nationality, or migration status.¹⁹ This is in form of access to shelters, medical services, psychological assistance, legal services, and compensation. Nevertheless, in reality, protection mechanisms usually address gender and social prejudices, which leads to the inequality in service provision.

The sex trafficked women are often stigmatized, morally judged, and even criminalized especially in those jurisdictions where sex work or irregular migration is criminalized.⁷ The international jurisprudence has come out strongly to appreciate that states need to use victim-oriented mechanisms which do not tend to cause secondary victimization and equal treatment before the law.²⁰

¹⁶ Convention on the Elimination of All Forms of Discrimination Against Women arts. 10–14, Dec. 18, 1979, 1249 U.N.T.S. 13.

¹⁷ Human Rights Comm., General Comment No. 31: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, 8, U.N. Doc. CCPR/C/21/Rev.1/Add.13 (2004).

¹⁸ U.N. Special Rapporteur on the Human Rights of Migrants, *Report on Gender and Migration*, 35–38, U.N. Doc. A/HRC/47/30 (2021).

¹⁹ Trafficking Protocol arts. 6–8.

²⁰ U.N. Office of the High Comm'r for Human Rights, Recommended Principles and

Indicting traffickers should not only be done to bring accountability to the issue but it is also important to make the victims feel acknowledged by the law through prosecution. States must be diligent and impartial in their investigation into trafficking crimes, without any gender discrimination in enforcing law or administering justice.⁹ Equal treatment under the law must also mean that the victims are free to undergo the legal proceedings without fear of being retaliated against, detained or deported. Courts have continued to reiterate that states can be responsible in terms of their lack of due diligence in preventing and responding to trafficking. In *Rantsev v. The European Court of human rights* ruled in Cyprus and Russia that states are not under obligation to combat trafficking and protect victims but rather create effective legislative and administrative frameworks to do so under the substantive obligation of equality in justice which is not formal.

State commitments of equality are spread to long-term rehabilitation and reintegration of trafficked individuals. Reintegration programs should be tailored so as to enhance autonomy and dignity and not gendering them. Economic dependence and inequality Trainers should be trained to take up traditionally feminine jobs only, and the States must thus consider holistic and gender-sensitive reintegration strategies to allow survivors to have access to a variety of livelihood opportunities, education, and social inclusion. Overall, the state duties in the fight against trafficking should be viewed through the prism of substantive equality. Sound anti-trafficking systems cannot be based only on punishment, but structural adjustments that combat discrimination, promote equal protection and respect the human rights and dignity of all trafficked individuals must be implemented.²¹

CASE LAWS ON EQUALITY AND TRAFFICKING

Guidelines on Human Rights and Human Trafficking, princs. 5–6, U.N. Doc. E/2002/68/Add.1 (2002).

²¹ U.N. Women, Gender Equality and Human Trafficking 11–13 (2020).

The judicial interpretation is very important in influencing the application of the anti-trafficking norms and the achievement of the right to equality. The international, regional, and country courts have come to the realization that trafficking in persons are not only a criminal offence but are a serious human right violation which entails the state responsibility. By developing jurisprudence, courts have stated the affirmative duties on the part of states to stop the trafficking and safeguard victims and access to justice without discrimination. This part discusses some of the major legal rulings that have enhanced a gendered and equality-oriented interpretation of trafficking.

1. International and Regional Jurisprudence.

Rantsev v. Cyprus and Russia is one of the most important cases in the international human rights law on trafficking. The decision was made by the European Court of Human Rights (ECtHR) between a young Russian woman who was trafficked to Cyprus and was found dead in suspicious conditions.²² Notably, the Court determined that trafficking human beings is covered by Article 4 of the European Convention on Human Rights that outlaws slavery and servitude, as well as forced labour.²³ Critically, the Court stated that the states had positive duties to make the necessary legislations, preventive actions and probe of possible trafficking cases and safeguard victims.²⁴ The decision was historic because it asserted that trafficking is a crime against the human rights and that the states should have accountability and take proactive measures to address the situation.

These obligations have been further expounded in subsequent ECtHR cases. In *L.E. v. Greece*, the Court held that Greece violated

²² *Rantsev v. Cyprus & Russia*, App. No. 25965/04, Eur. Ct. H.R. (2010).

²³ European Convention for the Protection of Human Rights and Fundamental Freedoms art. 4, Nov. 4, 1950, 213 U.N.T.S. 221.

²⁴ *Rantsev*, App. No. 25965/04, 284–89.

Article 4 of the Convention because it did not prosecute the sex trafficking of a Nigerian woman with due diligence, without gender bias, and without institutional stigmatization. and in *S.M. v. Croatia*²⁵, the victim faced the same fate, as the Court made it clear that it required the state to combat trafficking and sexual exploitation with due diligence, without gender bias and without institutional prejudice.

The Inter-American human rights system has equally tackled the issue of trafficking in the more inclusive context of gender-based violence and discrimination. *González et al. ("Cotton Field") v. Mexico*, Although not a pure trafficking case, the reasoning of the Inter-American Court of Human Rights that state failures to stop violence against women- such as that committed by trafficking-related organizations- have been committed because of structural discrimination and the failed state- shows that gender-insensitive legal frameworks are necessary.

2. National Jurisprudence and Interpretations based on Equality.

At the domestic level, there has been a growing trend in the use of human rights approaches to trafficking by courts, especially in those jurisdictions where equality and dignity have been established through constitutional means. The Supreme Court in India has reiterated the importance of providing support to trafficked women and children by rehabilitating and reintegrating them back into the society and not punishing them. In *Gaurav Jain v. Union of India*, the Court acknowledged the rights of the children of sex workers and highlighted the duty of the state to prevent trafficking and offer rehabilitation, education and protection, without discrimination to sex workers, since victims should be seen as right holders and not

²⁵ *S.M. v. Croatia*, App. No. 60561/14, Eur. Ct. H.R. (2020).

offenders.²⁶

On the same note, in *Bachpan Bachao Andolan v. Union of India*, the Supreme Court also provided detailed guidelines to enhance anti-trafficking mechanisms, enhance identification of victims, and provide rehabilitation to the trafficked children. The Court underscored a constitutional review that incorporates anti-trafficking strategies with the equality and social justice considerations.

In the US, federal courts have construed the Trafficking Victims Protection Act (TVPA) to extend civil recovery to the victims of trafficking and to identify gendered exploitation. In *Doe v. The court, in Howard*, stated that a government official exploiting a domestic worker was liable under the TVPA and that domestic servitude is a form of trafficking, regardless of whether the actions were commercial or not, and that such behaviors should be equally subject to the rule of law.²⁷ This understanding confirms that any exploitation occurring in the domestic context could be covered by the TVPA, as domestic servitude is trafficking irrespective of whether such behavior of exploitation was commercial.

3. Gender Bias, Due Diligence and Equal Protection.

The Equality and capacity of law enforcement agencies, as well as the judicial system to favor a certain gender over another, has also been brought to the fore by the judicial decisions, as they have enabled traffickers to get away with their actions. In *L.E. v. Greece*, the ECtHR condemned the lack of action on the part of the prosecutors alongside the delays in the proceedings, which echo the lack of concern towards a migrant woman subjected to human trafficking.²⁸ The Court emphasized that these oversights infringe on

²⁶ *Bachpan Bachao Andolan v. Union of India*, (2011) 5 S.C.C. 1 (India).

²⁷ *Doe v. Howard*, 404 F. Supp. 2d 1 (D.D.C. 2005).

²⁸ *L.E. v. Greece*, App. No. 71545/12, 58–62.

the concept of non-discrimination and the right to an effective remedy. Equally, victim-blaming, criminalization, and stereotyping have been identified by the national courts to be a breach of the right to equality and due process.²⁹

These cases show that equality regarding trafficking is not only an issue of being formally acknowledged in law but substantially granted access to justice, protection, and remedies. Courts are essential in holding the states responsible of racial discrimination and in making sure that anti-trafficking systems are executed in a way that they do not contradict human rights principles.

4. Case Law Case Law in a Gendered Human Rights Framework.

Combined, both international and domestic jurisprudence has promoted a gendered human rights approach to trafficking. The courts have also been able to recognize that trafficking is a cause and a result of gender inequality and that the actions of states should reflect this truth. Judicial rulings on associating trafficking with equality, dignity, and non-discrimination contribute to the importance of the idea that people who have fallen victims of trafficking need to receive the maximum protection of their human rights, irrespective of their gender, migration, and profession.

Case law therefore has a transformative role in responding to trafficking in a legal and policy way. It confirms that states should enact gender sensitive laws, offer equal protection and offer effective redress to the victims. By so doing, the courts would be part of the bigger project of achieving substantive equality and human dignity in the struggle against trafficking in persons.³⁰

²⁹ Anne T. Gallagher, *The International Law of Human Trafficking* 292–95 (2010).

³⁰ U.N. Office of the High Comm’r for Human Rights, *Recommended Principles and Guidelines on Human Rights and Human Trafficking*, princs. 5–7, U.N. Doc. E/2002/68/Add.1 (2002).

CONCLUSION AND POLICY RECOMMENDATION

Trafficking in persons is one of the most severe current human rights violations that attacks the human dignity, liberty and equality. As this paper has shown, trafficking is not a gender-neutral phenomenon but a phenomenon that is entrenched in the framework of gender inequality, discrimination, and socio-economic marginalization. The issue of women and girls is disproportionate especially in matters of sexual exploitation, forced marriage and domestic servitude that is representative of a longstanding power imbalance and patriarchal conventions. Gendered human rights analysis demonstrates the fact that trafficking is a consequence of inequality as well as a perpetuation of inequality, which is why the achievement of substantive equality is the core of any efficient anti-trafficking strategy.

The criminalization and prosecution as the sole elements of the legal and policy responses are needed, although they are not sufficient to prevent the structural causes of trafficking. Unless the socio-economic and cultural circumstances that cause vulnerability, including poverty, lack of education, gender discrimination and unsafe migration routes are challenged, the anti-trafficking measures will continue to be reactive and disjointed. In addition, state measures that marginalize, criminalize or stigmatize the victims erode the right to equality by depriving the trafficked persons the equal protection of the law and meaningful access to justice, rehabilitation and social inclusion.

In order to deal with these challenges, the following policy recommendations are advanced in this paper:

- To start with, states should consider using gender-sensitive and rights-based anti-trafficking frameworks that embrace prevention, protection, prosecution, and partnership with high levels of equality and non-discrimination. The trafficking should also be

officially included in the laws and policies as a gender based violence and discrimination, according to the international human rights requirements.

- Second, prevention should be implemented to eliminate structural inequalities such as equal access to education, employment, property, social security, and safe migration opportunities to women. The vulnerability should be minimized by gender-sensitive economic empowerment initiatives and labour safeguards, especially in the informal and home-based sectors of employment.
- Third, the mechanisms on victim protection should be non-discriminatory, trauma-informed, and victim-centered. States are to decriminalize trafficked persons on the basis of the offenses that they committed as direct effect of their exploitation, make available shelters, care, legal help and compensation, and provide the necessary protection of residence to facilitate recovery and involvement in legal process.
- Fourth, there should be the enhancement of access to justice in the form of gender-sensitive policing, prosecution and adjudication. Law enforcement, judicial, and service provider training must end gender bias, victim-blaming, and intersectional discrimination. The survivors ought to be given the strength of demand remedies without the risk of being retaliated, imprisoned or deported.
- Fifth, the programs of rehabilitation and reintegration should be based on the promotion of autonomy, dignity, and long-term social inclusion. The states are not supposed to resort to stereotypical vocational training, but offer a variety of educational and employment opportunities that are dependent on the aspirations and abilities of survivors.

To sum up, the fight against trafficking in persons cannot be

independent of the general agenda of gender equality and human dignity. An equality-based, transformative solution to be developed based on human rights, intersectionality, and empowerment of survivors is crucial in order to break down the systems that facilitate trafficking and to make sure that the victims of trafficking are not treated as objects of help but as subjects of rights and justice within society and are afforded protection and equality with all other members of society.