

**Colloquium on
Justice Delivery in Human Trafficking Crimes
for Judicial Officers, Prosecutors and Police Officers**

On Saturday, 15 November 2008

At Vigyan Bhawan, New Delhi

As patron-in-chief of the National Legal Services Authority (NALSA) it is my privilege to participate in this ‘Colloquium on Justice Delivery in Human Trafficking Crimes for Judicial Officers, Prosecutors and Police Officers’. I would like to thank Dr. Justice Arijit Pasayat, his colleagues in the organizing committee, the National Legal Services Authority and the United Nations Office on Drugs and Crime (UNODC), Regional Office for South Asia for working together to organise this programme.

In addition to its regular statutory functions, the National Legal Services Authority (NALSA) has recently undertaken several projects such as interactive workshops on reporting of court proceedings by journalists; extending all help to improve the implementation of the National Rural Employment Guarantee Scheme (NREGS); and now, this colloquium which

focuses on the problem of ‘Human Trafficking’. Through such initiatives, the members of the legal fraternity are devoting their time for public service-oriented activities.

The scourge of ‘human trafficking’ needs no introduction. Every year, millions of individuals are trafficked all over the world and are coerced into living conditions that amount to slavery, forced labor and servitude. Since innumerable young girls and women are especially victimized by trafficking, this problem is seen as one that intersects with that of commercial sexual exploitation.

In particular, the trafficking of women and children has received the attention of governments all over the world as well as at a multilateral level. It has been clearly denounced by the international community as a blatant violation of human rights, a modern form of slavery, and a particularly heinous form of violence against women.

From the legal point of view - India has been a front-runner in the battle against human trafficking. The criminalization of trafficking flows from Article 23(1) of the Constitution which states that –

"Traffic in human beings and 'begar' and other similar forms of forced labor are prohibited and any contravention of this provision shall be an offence punishable in accordance with law".

To tackle human trafficking, we have had the necessary legislation in place, principally the Immoral Traffic (Prevention) Act, 1956, in addition to several provisions in labour laws and the Indian Penal Code. These form a composite legal code for the prosecution and punishment of traffickers. In addition to these legislative measures, the Supreme Court of India has touched on this issue in two prominent judgments, i.e. - *Vishal Jeet v. Union of India* (1990) and in *Gaurav Jain v. Union of India* (1997). These judgments directed the Government of India, among other things, to prepare a 'National Plan to Combat Trafficking and Commercial Sexual Exploitation of Women and Children'. As a result of this, a National Plan was drafted in 1998 which lays down suggested measures for prevention, rescue, rehabilitation and reintegration.

One of the key prescriptions of this plan was to prepare a special module for sensitization, training and orientation of judicial officials in

respect of how to handle cases of commercial sexual exploitation and to appropriately respond to the situation of women and child victims.

It is pertinent to mention that the project on "*Strengthening the law enforcement response in India against trafficking in persons through training and capacity building*" is a joint initiative of the UNODC and the Ministry of Home Affairs, Government of India. The project has been initially implemented in five states, namely - Andhra Pradesh, Bihar, Goa, Maharashtra and West Bengal. The major activities under the same include special training for police officials and prosecutors, setting up of Anti Human Trafficking Units (AHTUs), developing training tools for better law enforcement and developing appropriate support structures with NGOs in order to improve the prevention and prosecution of human trafficking.

A '*Colloquium on Justice Delivery in Human Trafficking Crimes*' was held at Andhra Pradesh Judicial Academy, Hyderabad on 4-5 August, 2007. The same was organised by UNDOC in collaboration with the Andhra Pradesh Judicial Academy, Director of Prosecutions (Andhra Pradesh) and the Criminal Investigation Department (CID), Andhra Pradesh. The participants for the two days colloquium were Judicial Officers, Prosecutors

and Police Officers. I have been made to understand that this programme was able to generate keen interest among the participants and had a definite impact on the subsequent handling of investigations, prosecution and trials relating to human trafficking crimes. The same was visible in the form of increased arrests of traffickers/offenders, effective investigation and prosecution and better 'witness protection' measures being put in place during trial. The tangible results were also seen in the form of increased convictions based on firm evidence.

In respect of developing training tools, a Resource Book on the Legal Framework for Anti Human Trafficking measures has been designed to collect, review and analyze the relevant national legislations, international and regional instruments as well as judicial precedents that bring out the full range of 'human trafficking' related crimes. This Resource Book is meant for use by law enforcement officials and other stakeholders with the aim of sensitizing them about the effective role that they can play. It is hoped that a proper reading of the law will lead to its better enforcement; victims will be rescued more effectively, appropriate protective measures will be ordered with due regard to the age of the victims and they will have a better chance of reintegration in society. This Resource Book has been developed by the

National Law School of India University, Bangalore in association with UNODC and has received valuable inputs from senior judges, prosecutors, police officials and civil society organizations. The document has been prepared in a simple lucid style with cross-references to legal provisions and judicial pronouncements.

Gaining experience from the programme at Hyderabad, this colloquium seeks to achieve:

- i) Larger awareness and sensitization on the issue of human trafficking.
- ii) Strengthening the technical capacities of law enforcement agencies and officers towards prosecution of crimes of trafficking.
- iii) Improved response of the three wings of the criminal justice system while sharing information and promoting best practices
- iv) Rights-oriented, gender-sensitive implementation of laws that combat human trafficking, with the well being of victims as a due consideration for law enforcement officials.

Since, trafficking is a complicated and multifaceted problem it requires a co-ordinated and interdisciplinary response. It touches on the domains of 'human rights protection' and 'gender justice' while posing some difficult problems for law-enforcement officials. There is of course an urgent need for intensified action to curb this menace. I hope that the participants of this workshop will develop a 'Plan of Action' for themselves in improving justice delivery and tackling the problem of 'human trafficking' in the country.

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