

# PRERANA'S ANTI-TRAFFICKING CENTER

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## CROSSOVERS - When Illegal Migration or Human Smuggling gets misprojected as Human Trafficking

A Case Study

Change of abode or workplace often happens in our normal life activities. Migration is a relatively permanent shift of abode by a person, family or a group of people. Historically, the term 'migration' has been used to indicate a voluntary shift of place for betterment. For instance, in the developing countries, there is a similar shift in the abode of the student population as it moves for higher education. In other cases, more important jobs make people leave their place of origin and shift to newer places, sometimes permanently.

**Trafficking, on the other hand, is the buying, selling, transporting, harbouring, of persons for exploitative purposes with illegal and criminal means like force, fraud, deception and such other means.**

'Change of place' across districts, states, nations and continents are not the essential conditions for human trafficking; although there can be such shifts. Trafficking is not the same as migration since the element of consent or voluntarism is missing. In some cases, the element of voluntarism is apparent but closer analysis shows that the consent is for the apparently fair plan suggested by the trafficker as a part of his larger game of deception.

Persons are trafficked for commercial sexual exploitation, servitude, bondage, forced labour and other criminal purposes. 'Commercial Sexual Exploitation' is a better term for what is traditionally and conventionally, yet inaccurately, referred to as prostitution. The term Commercial Sexual Exploitation indicates 'exploitation' as an essential characteristic of the transaction. The word 'commercial' in it indicates the commodification of a human being. As an organization working with victims of trafficking for commercial sexual exploitation, we have come across cases that appear in the media as cases of sex trafficking but turn out to be cases of migration fraud or smuggling.

Sometimes illegal migrants take help of agents who work out the entire operation against charges. It may also work out the other way where an agent may approach people and get them ready for illegal migration. When that happens it becomes a case of human smuggling. The agent may not have an intention to place the illegal migrant in an exploitative situation for the benefit of any other person than the illegal migrant. Following is the case of Ritu Patel (*name changed*), who was rescued by the Police assuming it to be a case of child trafficking.

## **The Case**

On the 4th of March 2018, we read about a case in the *Times of India* of a television actress helping the Versova Police rescue two minors from being trafficked to the USA by a Gujarat based racketeer. The article, covered by *Times of India* showcased some facts about this case: "Police have arrested four agents, including the son of a retired police sub-inspector. One of them was supposed to impersonate as the girls' father. The two girls, (11 years and 17 years) were being sold by their parents and relatives."

According to DCP Paramjit Dahiya, “The racketeers had booked five air tickets. The accused claimed that they were paid Rs.1 lakh each. Each of them has a role of getting the girls from one place to another.”

Once the Prerana team started working on the case, we realized that of the two girls that were rescued, only one (Ritu Patel) was supposed to be trafficked. The other one had a passport and a visa and this was to be used to illegally migrate Ritu to the USA. The two had been brought to the parlour in order to work on their appearances which would in turn aid this process.



Image Courtesy : Mumbai Mirror

### **Intervention by Prerana's Post Rescue Team**

Prerana's Post Rescue Operations team approached the Mumbai Suburban Child Welfare Committee (CWC), to get more details on the case and to understand the current status of the child. Initially, the CWC mentioned of no such case being presented before them. Next, the team got in touch with a Police Officer at Versova Police Station who eventually gave them the contact number of the Investigating Officer of the case. The Investigating Officer (hereinafter referred to as IO) then provided the team details of the case as well as the date of case presentation before the Child Welfare Committee, after which the Mumbai Suburban CWC was approached again. The Counselor, placed at the Child Welfare Committee, gave the team details about her interaction with the child.

After collecting these facts, when the team presented the case to the CWC, the members mentioned of the minor, Ritu Patel (*name changed*) being presented before them on the 5th of March, 2018. The child was placed in a Child Care Institution (CCI) and also referred to the counselor on the same day. The Chairperson of the Mumbai Suburban CWC added that on the 8th of March, Ritu was handed over to her grandfather.

As per section 30 (ii) & (iii), the Child Welfare Committee is responsible to conduct an effective inquiry in a case of a child being produced in front of them, a part of which includes the Social Investigation Report. On inquiring about the restoration, the team realized that the child was handed over to the claimants, not adhering to the procedures laid down in the Juvenile Justice Act 2015. During the discussion about this case and the claimants, the CWC mentioned the documents of the child being submitted by a man who claimed to be the child's paternal grandfather. According to the CWC, they had conducted a general verification by speaking to a couple who claimed to be the child's parents on a video call. The parents claimed to be residing in the USA. After restoring the child to the grandfather, the CWC passed an Order to present the child in front of the CWC in Mehsana, Gujarat once in every three months for the first year.

The team then expressed to the CWC their interest to follow up on the case to check if Ritu had safely reached her hometown (Mehsana) and if she had been presented before the Mehana CWC after being restored to her family. The case was referred to Prerana's Post Rescue Operation team on the 16th of March, 2018, through a formal written order by the Mumbai Suburban CWC. In the month of March, the Chairperson of the Mehana CWC was contacted. He mentioned receiving a call from the Mumbai Suburban CWC about the girl being restored to her grandfather but the girl hadn't been presented before the Mehana CWC.

The team then contacted the Mehana Childline and explained the details of the case to them. They were requested to conduct a Home Visit and to keep the team in Mumbai updated about the child's whereabouts and safety. In the month of April, Mehana Childline conducted the home visit and it was brought to the team's notice that the child was living with her grandparents and her younger sister, Rashi Patel (name changed). Childline was requested to present the case before the Mehana CWC. The Mumbai Suburban CWC was also updated about the follow up on the case.

During the initial interaction with the CWC and also inferring from the conversation with the Childline team in Mehana, the Prerana team suspected that there was a third party to the case. For better clarity on the case, the Post Rescue Operations Team visited Mehana in coordination with Childline, in May 2018.

The Childline coordinator who met the team in Mehana, took them to Ritu's house also mentioned that some communities from Mehana are known for migrating illegally to the USA. He further mentioned it being a common practice of family members to settle down in the USA, by violating the immigration laws and protocols.

During the visit the team found that Ritu's maternal grandfather had come to visit the child. He explained to the team that his daughter and son-in-law had illegally migrated to the USA a few months after Ritu was born. Since then her paternal grandparents had been taking care of Ritu. He also mentioned that Ritu's parents had given birth to a baby girl, Rashi, in the USA who is at present 2 years old. In January 2018, Ritu's parents illegally sent Rashi to Gujarat to meet her grandparents. Her parents wanted Ritu to start living with them in the USA as well. Since they themselves were illegally residing in the USA, they contacted two agents to help them take the child to the USA.

Ritu's maternal grandfather then explained to the team how they contacted two agents, one from Mehana and one from Mumbai, who were going to help in this process. According to him, the agent would make Ritu look like his own daughter (who already had a passport and a visa). They would use that passport to illegally take her to the USA. In efforts to make Ritu look more like the agent's child, Ritu's birthmark on the forehead had to be removed and hence, she was taken to the salon where someone contacted the Police and the agents were arrested.

The team interacted with Ritu and her paternal grandparents who informed them that at that moment they weren't thinking of sending her to the US. They would get her enrolled into the nearby school once the schools reopen. The Childline Coordinator was

requested to take a follow-up for the next month or two, in order to ensure the safety of the child and also the status of her education.

The team along with the Childline Coordinator then visited the Mehsana CWC. The entire case and progress so far were explained to them and a report from Mehsana Childline along with regular follow-ups of the child were requested. A member of the CWC mentioned knowing the child's family very closely since the community in Mehsana was very small. He also mentioned an undertaking being signed by the Ritu's grandfather, taking up the responsibility of the child.

In the month of July, Post Rescue Operations Team got in touch with Mehsana Childline and requested them to conduct a follow-up visit and inquire if the child's school admission process had started and whether she was attending classes. A detailed report was requested. However, the Mehsana Childline informed the team that the schools were closed and the admission process would begin in the end week of July. They mentioned visiting the child's home as well.

In the month of August, the Mehsana Childline was contacted again and they then mentioned Ritu being admitted in the nearby school, a brief report and the school fee receipt was sent to the team. The team further requested Childline to send a detailed report about the entire case to them so that this case could be presented before the new Mumbai Suburban CWC.

In the subsequent months, the team in Mumbai was in touch with the Childline team in Mehsana to take regular updates on the case. As of December 2018, Ritu is studying in a govt. school in Ambaliyasan, Mehsana in the 5th standard.

## **Follow Up**

In the month of August, the news of Mumbai Police arresting a kingpin of an international child trafficking racket that had allegedly sent underage girls and boys from India to the USA surfaced. According to the police, this was the same person involved in the passport forgery case of two minors, in the month of March that year.

On the 12th of November 2018, two social workers from Prerana visited the Versova Police Station in order to get an update about Ritu's case. Prior to this, the social workers had visited the Police Station thrice in the months of October and November but were informed that the IO had been transferred and the new IO had not been appointed. They were directed towards the Investigation Officer's room, where they were informed that the IO wasn't available on that day however the IO was called and informed about the visit. A meeting for the next day was arranged. The IO mentioned on the phone that the charge sheet had been filed in the court.

On the 13th of November, the social worker met with the IO and spoke to him about the case. The social worker also inquired the reason for adding IPC 370 when it was found to be an illegal migration case. According to the IO, IPC section 370 was added in the FIR because there was transport of the girls from Gujarat, and there was no proof that the girls had parents in the US. On investigation, it was found out that the one of the accused



frequently stayed at a hotel in Borivali where the girls were kept when they were being transported, indicating that this was a regular assignment for him. The IO also informed the social workers that that same accused have previous cases against them like fraudulent identity on passports, travelling under someone else's passport (he was not aware of the current status of these cases). According to him, the first charge sheet was filed in April and recently a month and a half ago another was filed for the wanted-accused that they had nabbed. Two accused persons are still wanted. He mentioned the Chennai High Court directing Ahmedabad CID to look into a similar case of about 300 children. The IO's contact details were taken down for further coordination.

Trafficking, illegal migration and human smuggling are not the same crimes. Just the way when trafficking is misinterpreted as mere migration, the crime inherent therein is made invisible or trivial which is incorrect and unfair the same way it is incorrect to project a case of human smuggling or illegal migration as a case of human trafficking. While it is a conceptual error on the part of some people for some others who have a vested interest in mis-projecting any case as a case of trafficking it is an intentional mis-projection. This distinction is needed because the consequences, both legal and political would differ in each case.

**P.S:** We are sure that most of you must be doing such data gathering and analyzing exercises at your end too. If you are, please do share the same with us. We shall be more than happy to share it on our website -

[www.fighttrafficking.org](http://www.fighttrafficking.org)

*Your trusted knowledge partner in the fight against human trafficking*

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