

HUMAN TRAFFICKING AS A TRANSNATIONAL CRIME

Article



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Human Trafficking in South Asian Countries: An Analysis from the Prism of Law

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Abstract: Human trafficking is an international crime perpetrated by the traffickers for unlawful gain through the heinous act of sex trafficking, forced labor, begging, pornography, forced marriage, removal of organ, etc. Traffickers are using the information technology and online services to facilitate trafficking and to promote sex industry and sex slavery. Several laws and policies have been framed but failed to address the root cause of this menace. This study revisits the existing legal system to unfold the changing dimensions of Human Trafficking, focusing on the conditions of victims in South Asian Countries. The issues like changing pattern of slavery with changing attitude towards sexuality and gender, growing inequality, economic depressions, migration, sex tourism, etc. has been critically analyzed to address the challenges before the existing legal system coupled with human right responses with legal arguments. The above study is based on analytical study with an empirical insight by incorporating secondary data and advocates in favor of collaborative governance. This paper, drawing on available scientific evidence, validates the hypothesis that the issue must be addressed through a human rights — centered approach within a comparative legal framework. It argues that states in the South Asian region have failed to assume the

necessary responsibilities and that, since the Covid-19 pandemic, the global polity has been experiencing an unprecedented human crisis. In this context, the social work profession must intensify awareness programs and help ensure the welfare of affected individuals.

Keywords: trafficking in person; modern slavery; transnational crime; human rights; cultural degradation

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I. Introduction. Human Trafficking: An International Crime

Human trafficking is certainly a crime that undermines the dignity of a human being and is a form of modern-day slavery. Every year a considerable number of men, women and children fall prey to traffickers across the globe as the traffickers have their nets spread in almost all the countries. Often it is argued on the part of the researchers that the term “trafficking” is akin to the categories like prostitution, smuggling and migration and does not contain any different status or meaning. However, the offence of trafficking should not be downplayed by placing it within any fixed pattern or category of crime; rather, it should be understood as a violation of the fundamental rights of trafficked persons, one that undermines their dignity and constitutes a direct assault on their integrity. A holistic and integrated approach is needed to address the heinous crime of human trafficking and to curb the activities of traffickers.

Broadly, the trafficking is done for the purpose of forced labor and sex and thus involved a modern form of slavery. The crime of trafficking may occur within or across state boundaries and entails grave violations of human rights, whereby freedom of speech and expression, freedom of movement, the right to life, bodily autonomy, the right to privacy, the right to live with dignity, and the right to preserve one's integrity and sanctity are brutally jeopardized. Almost all the countries across the globe are affected by traffickers as they commit the crime in the country of the origin, transit or destination of the victims (Liv, 2019, p. 1). Trafficking is a process through which the victims are placed in an exploitative situation with an immoral and illegal motive for gaining undue economic advantages. Victims of modern-day slavery are often recruited through deception or subjected to coercion, duress, force, or threats of immediate harm or injury, and are subsequently compelled to work in domestic service, agriculture, restaurants, hair and beauty salons, hotels and pubs, strip clubs, the commercial sex trade, and forced marriages, among other exploitative settings. As a result, a significant section of society falls prey to an inhumane cycle of discrimination, sustained violence, and injustice.

It is deeply unfortunate that the international community remained silent for so long on the formulation of a universally accepted definition of trafficking, and until the late 1990s, no serious attempt was made to distinguish trafficking in persons from related practices such as prostitution, smuggling, and illicit migration. The first internationally accepted definition of trafficking was incorporated into the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (UNTOC) (2000).¹ For the first time the above trafficking protocol, along with the UNTOC, considered trafficking as a crime having a transnational character that can be investigated and prosecuted (Nee, 2018, p. 2).

¹ Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. Adopted and opened for signature, ratification and accession by General Assembly resolution 55/25 of 15 November 2000. Available at: <https://www.ohchr.org/sites/default/files/Protocolontrafficking.pdf> [Accessed 05.06.2026].

By incorporating the above Trafficking Protocol of 2000, the international community decided to take an effective measure to fight and eliminate trafficking in persons especially women and children by formulated appropriate legal measures related to the occurrence of crime of trafficking in origin, transit and destination. It was eventually recognized, albeit rather late, that a separate international instrument was required to address trafficking in persons, as it could not be effectively combated through instruments designed to deal with other forms of exploitation, particularly those affecting women and children.

The State Parties to this Protocol had also decided to supplement the UNCTOC to strengthen the fight against transnational organized crime including trafficking in persons. The above Trafficking Protocol (2000) incorporated a broader outlook to define “trafficking in persons” as recruitment, transportation, transfer, harboring or receipt of persons by means of threat or use of force or by applying deceitful tactics or by using the fiduciary positions or by abuse of power or by obtaining consent by way of offering money or any other consideration with a sole object to exploit them by compelling the victims to join the activities of prostitution or other forms of the activities of sexual exploitation or forced labor or work in the nature of slavery or for the purpose of removal of organs.²

² Art 3 of the Trafficking Protocol (2000) says, “For the purposes of this Protocol:

(a) “Trafficking in persons” shall mean the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs.

(b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used.

(c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered ‘trafficking in persons’ even if this does not involve any of the means set forth in subparagraph (a) of this article.

(d) ‘Child’ shall mean any person under eighteen years of age”.

Thus, regrettably, slavery continues to persist in the twenty-first century in a new form, namely human trafficking, whereby traffickers exploit victims either by subjecting them to forced labor or by coercing them into commercial sexual exploitation for pecuniary gain at the expense of their bodily autonomy and human dignity. Human trafficking primarily takes two major forms — forced labor and sex trafficking — and is carried out for a range of exploitative purposes, including labor exploitation, sexual exploitation, and organ removal, largely for economic gain. Trafficking, as a form of modern slavery, includes, but is not limited to, forced labor, domestic servitude, and sexual exploitation, and constitutes a lucrative criminal activity with a global reach.

Traffickers use their victims as commodity for financial gain violating their integrity and dignity. Human trafficking is ranked as the third most profitable and organized crime and enable the traffickers to earn estimated 32\$ per annum worldwide (Miranda, 2011, p. 7). However, in the absence of specific data, particularly regarding the number of victims, it is difficult to estimate with precision the profits derived by traffickers from exploitation. Victims are often treated as commodities, with their value determined through transactions between traffickers; the illicit profits generated by trafficking vary according to the scale, structure, and typology of the criminal organizations involved. Large criminal organizations earn more illicit profits than the smaller ones.³ On the other hand, victims of human trafficking are deprived of their freedom, liberty, and dignity. They often find themselves in deeply devastating circumstances, with their hopes for a secure and meaningful life shattered, and are compelled to live under conditions of extreme fear. Many are subjected to sustained physical and psychological abuse, and some experience sexual violence and exploitation.

Trafficked women and children are particularly vulnerable and, in many instances, suffer more severe forms of sexual abuse and exploitation than trafficked adult men. They are frequently denied autonomy over their own bodies and exposed to repeated violations of their bodily integrity. Analysis of court cases conducted by the United Nations Of-

³ UNODC, Global Report on Trafficking in Persons 2020 (United Nations publication, Sales No. E.20.IV.3). Available at: https://www.unodc.org/documents/data-and-analysis/tip/2021/GLOTiP_2020_15jan_web.pdf [Accessed 05.06.2026].

fice on Drugs and Crime (UNODC) indicates that the physical or extreme violence inflicted by traffickers on female victims is three times higher than that inflicted on male victims, while children face such violence at twice the rate experienced by adults.⁴

However, the number of male victims, including both boys and men, has increased considerably, with an estimated rise of approximately 3 % since 2019, despite the overall global decline in reported trafficking incidents.⁵ This increase in the proportion of male victims may be attributable to demand for forced labor and other forms of exploitation, as well as to the failure, or lackadaisical attitude, of member states and countries of origin to improve the socio-economic conditions of impoverished communities and to provide adequate protection against traffickers through effective law enforcement and stronger legal safeguards.⁶

However, according to the Global Estimates of Modern Slavery Report (2022)⁷ published by the ILO and its partner organizations, an estimated 50 million people worldwide were living in conditions of modern slavery on any given day. Of this total, 12 million were children, while women and girls constituted 54 % of the affected population. According to the above global estimates, the number of females subjected to modern slavery in 2021 was higher than that of males, which appears, at least *prima facie*, to be inconsistent with the findings of the UNODC report. However, the UNODC analysis is based on trends in the profiles of detected victims during the period from 2004 until 2020. It is pertinent to note that the Global Estimates of Modern Slavery Report addresses the broader phenomenon of modern slavery, which rests primarily on two principal components: forced labor and forced marriage.

⁴ UNODC, Global Report on Trafficking in Persons 2022 (United Nations publication, Sales no.: E.23.IV.1). Available at: https://www.unodc.org/documents/data-and-analysis/glotip/2022/GLOTiP_2022_web.pdf [Accessed 05.06.2026]. P. XII.

⁵ UNODC, Global Report on Trafficking in Persons 2022.

⁶ UNODC, Global Report on Trafficking in Persons 2022. P. XI.

⁷ Global Estimates of Modern Slavery: Forced Labour and Forced Marriage. International Labour Organization (ILO), Walk Free, and International Organization for Migration (IOM), Geneva, 2022. ISBN: 978-92-2-037483-2. Available at: https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---ipec/documents/publication/wcms_854733.pdf [Accessed 12.06.2026].

In this framework, forced labor encompasses debt bondage, slavery and slavery-like practices, as well as human trafficking. The report further provides data, disaggregated by income group, on the number of persons (in millions) and the percentage of the population living in conditions of modern slavery in 2021.⁸

According to the Global Estimates Report (2022), in 2021, approximately 27.6 million people are subjected to forced labor worldwide. Of this total, 3.3 million are children, while women and girls account for 11.8 million. The report further indicates that 86 % of all forced labor is imposed by private actors; within this category, 63 % involves labor exploitation and 23 % involves forced commercial sexual exploitation. Remaining 14 % are engaged in force labor by the state concerned. Globally, an estimated 22 million people are living in forced marriage, of whom 14.9 million are women and girls. This figure suggests that approximately three in every 1,000 people are subjected to forced marriage, reflecting the alarming scale of this form of exploitation. In this context, forced marriage refers to situations in which individuals are compelled to marry without their free and full consent, and this includes child marriage.

II. Human Trafficking: An Organized Crime Stampeding the Criminal Justice Delivery System

Human trafficking is one of the most heinous and barbaric crimes committed worldwide, which is shaming the humanity. It is a serious human right issue as the rights of the trafficked persons are infringed either in their countries of origin or abroad. Thus, the crime of trafficking involves transnational or cross-border jurisdiction, as the acts constituting trafficking may occur in the victim's country of origin, in a transit country, or in the country of destination. Ordinarily, trafficking in persons is regarded as a continuing offence and may therefore give rise to both intra-territorial and extra-territorial jurisdiction. There is no doubt that human trafficking is a transnational crime; however, it remains debatable whether it should invariably be characterized as or-

⁸ Global Estimates of Modern Slavery: Forced Labour and Forced Marriage. P. 20.

ganized crime. Many scholars contend that the concept of transnational organized crime is itself vague. The organized crime thesis seeks to establish that human smuggling is carried out through well-organized networks, operates in a hierarchical manner, and is linked to the trafficking of other goods and services, including women, weapons, and drugs (Baird, 2013, pp. 11–12). The organized crime thesis posits that, like other forms of organized criminal activity, human trafficking involves a central command-and-control structure operating within a hierarchical framework, often under transnational coordination, where decisions are made in a concerted manner with the aid of modern technologies.

However, many scholars reject this view based on evidence relating to human smuggling, which suggests the absence of a mafia-style hierarchical structure in the commission of such offences (Baird, 2013, pp. 11–12). The justification may be there in the organized crime thesis but it is true that the traffickers work through a network through which they remain in contact with each other. Currently, traffickers take the advantages of the modern information technologies; they use a social networking system to maintain liaison among themselves to commit the crime of trafficking. However, this does not mean that the offence of human trafficking is never committed by individuals acting alone, although such instances typically occur on a smaller scale. An analysis of court cases conducted by the United Nations Office on Drugs and Crime (UNODC) reveals that individual traffickers do operate independently. Nevertheless, the proportion of trafficking offences committed by such individuals is significantly lower than that committed by structured criminal organisations.⁹

Here it is pertinent to mention Art. 2 of the UNCTOC that defined *an organized criminal group* as a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing the crime(s) of a serious nature for financial or other material gain.¹⁰ Thus, in the light of the definition given above, it can

⁹ UNODC, Global Report on Trafficking in Persons 2022.

¹⁰ United Nations Convention against Transnational Organized Crime (UNTOC) Available at: https://www.unodc.org/pdf/crime/a_res_55/res5525e.pdf [Accessed 05.06.2026].

safely be concluded that most of the crime of trafficking is committed in an organized and structured way. Under the international law regime, the offence of trafficking mainly comes within the cross-border crime framework and for that reason it advocates in favor of solidarity among the nations (Turner, 2019, p. 105).

III. Human Rights-Centric Approach to Trafficking: Legal Measures to Combat the Menace

Poverty, socio-economic crises, cultural degradation, patriarchal hegemony, the lack of democratic space in decision-making processes, the misuse of technological advancements — particularly information technology and cyberspace — for unethical purposes, social disparities, war and international terrorism, environmental degradation leading to environmental displacement, the growing activities of drug traffickers, and unchecked population growth are among the root causes underlying the emergence and proliferation of human trafficking. Human trafficking is a crime perpetrated against the underprivileged. Offenders — often linked to networks of power and political influence — exploit the vulnerability of impoverished individuals. They entrap victims through inducements directed either at the individuals themselves or at their immediate custodians, obtain consent through deceitful means such as fraud and misrepresentation, or coerce them through threats directed at them or their loved ones. Victims are subsequently exploited, and their bodies and labor are commodified for unlawful monetary and material gain.

However, the politics of human trafficking rarely allows for a discussion on the issues concerning migration, global inequalities and border politics to resolve such inhuman activities; rather, it prefers to highlight the dichotomies between the offender and the victim, in which the victim is generally a woman in prostitution to play with the sentiments of the people (Plambech and Pedersen, 2019, p. 17). Some exponents highlight the issue of “double speak” in political and legal parlances by politicians and law makers so that they can construe selective narratives as per the situation. For example, they support the issue of the rights and well-being of migrants and, at the same time, oppose the unlawful

migratory practices and migrants especially those without legal status (Sibley and Meulen, 2022, p. 409).

The Covid-19 pandemic not only affected global health and the economy but also had an unprecedented impact on human rights. It starkly exposed the vulnerability of poorer and marginalized sections of society, particularly women and children, and intensified the harms inflicted upon them. During the pandemic, millions of people lost their livelihoods and faced hunger, food insecurity, and malnutrition on an alarming global scale. The resulting socio-economic distress created conditions conducive to trafficking in persons, enabling traffickers to adapt their methods and expand their operations.

Notably, there was a significant rise in online commercial sexual exploitation and sex trafficking, including online sexual exploitation of children (OSEC). Reports indicated an increased demand for and distribution of child sexual exploitation material (CSEM), alongside persistent patterns of forced labor, during the pandemic period.¹¹ Since then, traffickers have been continually developing new strategies to exploit women and children, particularly through cybersex and other forms of online abuse. By leveraging the internet and social media platforms, they traffic individuals with false promises — often related to employment or other opportunities.

Over the past decade, the human trafficking has become a major concern of the world polity and gradually the awareness is growing within the international community to end with barbaric human exploitation. With the growth of the international legal mechanism, the claim for human rights-centric approach towards human trafficking is gradually intensifying across the globe. A human rights — centric approach to trafficking in persons requires recognition that governments bear both a legal and moral obligation to protect the life and dignity of all individuals within their jurisdiction, including non-citizens. Accordingly, states must take effective measures to prevent individuals from being subjected to human exploitation for unlawful or immoral purposes.

¹¹ Trafficking in Persons report (2021). Department of State, USA. Available at: <https://www.state.gov/wp-content/uploads/2021/09/TIPR-GPA-upload-07222021.pdf> [Accessed 05.06/2026].

It must be ensured that no individual is compelled to compromise his or her fundamental rights to life, liberty, and dignity. Governments are therefore obligated to work toward the elimination of trafficking and related forms of exploitation. A human rights — centric approach further requires that all laws, policies, and practices aimed by the government at combating trafficking be assessed in light of their impact on the rights and well-being of trafficked persons and those in vulnerable situations. States must also address the structural conditions that enable trafficking, including disparities in the distribution of societal resources, inequities in the justice delivery system, systemic discrimination based on race, caste, sex, and other statuses, as well as social exclusion and entrenched prejudices against marginalized communities. These factors constitute significant impediments to the eradication of human trafficking and contribute to the violation of the inalienable right to live with dignity.

A human rights — centric framework imposes corresponding responsibilities on the United Nations and its principal organs, international agencies, and multinational corporations to collaborate in formulating and implementing effective measures to combat this menace. Such efforts must be grounded in the well-established principle that violations of human rights are both a cause and a consequence of trafficking in persons.¹²

However, various international instruments have been incorporated to initiate legal measures in combatting human trafficking. Over the past decades, we have witnessed the development of a comprehensive legal framework consisting of international and regional treaties as well as broad range of soft-law instruments concerning human trafficking. The most important international instrument to address the issues of trafficking was Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the UNCTOC also known as the Palermo Protocol.

¹² Recommended Principles and Guidelines on Human Rights and Human Trafficking. Office of the High Commissioner for Human Rights. Available at: <https://www.ohchr.org/sites/default/files/Documents/Publications/Traffickingen.pdf> [Accessed 05.06.2026].

The Trafficking Protocol is incorporated to prevent and combat trafficking in persons especially women and children, to protect the human rights of the trafficked persons and to promote cooperation among State Parties to achieve the above objectives (Art. 2). Article 5 of the Trafficking Protocol requires States Parties to adopt appropriate legislative and other measures to criminalize human trafficking, attempted human trafficking, and participation in or abetment of trafficking, in accordance with the conduct defined in Art. 3. Thus, it addresses the definition and constituent elements of the offence, including abetment.

The United Nations Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1950) marked the first concerted effort by the UN to establish criminal liability in this field. It required the punishment of any person who procures, entices, or leads another into prostitution, or who exploits the prostitution of another, with a view to suppressing trafficking in persons for the purpose of prostitution.

The International Labor Organization (ILO) regards trafficking as a modern form of slavery and has primarily focused on addressing forced labor and forced marriage. To this end, it adopted the Forced Labor Convention (1930) (No. 29) and the Abolition of Forced Labor Convention (1957) (No. 105). In addition, the Slavery Convention (1926) obliges States Parties to abolish all forms of slavery and to prevent and suppress the slave trade, as defined in Art. 1 of the Convention.¹³ The Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (1956) further strengthened this framework by requiring the elimination of slavery, the slave trade, and analogous institutions and practices.

¹³ Art. 1 of the Slavery Convention signed at Geneva on 25 September 1926 provides for the following definitions:

(1) Slavery is the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised.

(2) The slave trade includes all acts involved in the capture, acquisition or disposal of a person with intent to reduce him to slavery; all acts involved in the acquisition of a slave with a view to selling or exchanging him; all acts of disposal by sale or exchange of a slave acquired with a view to being sold or exchanged, and, in general, every act of trade or transport in slaves.

Available at: <https://www2.ohchr.org/english/law/pdf/slavery.pdf> [Accessed 05.06.2026].

Human trafficking deprives victims of their inalienable rights, including the right to life, bodily integrity, liberty, privacy, freedom, and dignity. Accordingly, States are obliged to comply with applicable international human rights instruments. For instance, Art. 1 of the Universal Declaration of Human Rights (UDHR) affirms that all human beings are born free and equal in dignity and rights. Article 4 unequivocally prohibits slavery in all its forms, while Art. 5 prohibits torture and cruel, inhuman, or degrading treatment or punishment. These obligations extend not only to citizens but also to non-citizens within a State's jurisdiction.

The binding nature of these principles is further reinforced through their incorporation into the International Covenant on Civil and Political Rights (ICCPR) that entered into force on 23 March 1976.¹⁴ In addition to the aforementioned instruments, one of the most significant international legal frameworks for the suppression of trafficking in women is the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (1979). General Recommendation No. 38 (2020) of the Committee on the Elimination of Discrimination against Women represents an important development in this regard. It obliges States to take comprehensive measures to prevent the trafficking of women and girls; to ensure their sustainable development; to identify, assist, and protect survivors; to prevent revictimization; to prosecute and punish perpetrators; and to secure effective remedies and access to justice for victims.

Additional legal instruments aimed at safeguarding the right of women and children to live with dignity, particularly in the context of trafficking and sexual exploitation, include the Charter of Fundamental Rights of the European Union (2000) and Directive 2011/36/EU of the European Parliament and of the Council on preventing and combating trafficking in human beings and protecting its victims (2011); the South Asian Association for Regional Cooperation (SAARC) Convention on Preventing and Combating Trafficking in Women and Children for Prostitution (2002); the Optional Protocol to the Convention on the

¹⁴ Available at: <https://www.un.org/sites/un2.un.org/files/2021/03/udhr.pdf> [Accessed 05.06.2026].

Rights of the Child on the sale of children, child prostitution and child pornography (2000); and the Convention on the Rights of the Child (1989).

In addition to binding treaties, a number of “soft law” instruments contribute to the normative framework for combating human trafficking. Although these instruments do not directly impose legally binding obligations on States, they provide important guidance in preventing trafficking, prosecuting offenders, and facilitating victims’ access to justice. Such non-treaty instruments are often developed by specialized bodies, including UNICEF (e.g., the UNICEF Guidelines on the Protection of Child Victims of Trafficking) and UNHCR (e.g., guidance relating to the application of the 1967 Protocol Relating to the Status of Refugees to victims of trafficking and persons at risk of being trafficked). Soft law instruments serve as authoritative guidance and normative standards for governments, reminding them of their responsibilities and directing their efforts toward more effective and rights-based responses to trafficking.

IV. Understanding the State Responsibility in South Asian Region to Address Trafficking

South Asia — comprising Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan, and Sri Lanka — serves as a source, transit, and destination region for trafficking in persons. Trafficking in this region encompasses forced labor, sexual exploitation, domestic servitude, forced marriage, and organ removal, among other forms of exploitation. Populations across South Asia face multiple vulnerabilities that facilitate trafficking, including poverty, socio-economic inequality, gender discrimination, lack of access to education, and, in certain areas, open and porous borders.

These challenges are compounded by weak law enforcement mechanisms, insufficient political will, limited public awareness and vigilance, deficiencies within the criminal justice system, systemic corruption, high levels of unemployment and underemployment, and the persistence of child labor. Collectively, these factors create an enabling environment for traffickers to operate with relative impunity.

According to the UNODC Global Report on Trafficking in Persons (2016), approximately 88 % of trafficking victims in South Asia are trafficked domestically.¹⁵ According to UNODC observations based on available records, trafficking in persons is most commonly perpetrated for the purposes of forced labor and sexual exploitation. However, it also occurs in other forms, including exploitative surrogacy arrangements, fraudulent or forced marriages, sex tourism, forced begging, medical or drug testing, organ removal, etc. Migrant smuggling from this region predominantly occurs along routes leading to Europe and North America.¹⁶ Under the UNODC Global Report on Trafficking in Persons (2020), of the 7,644 detected victims of trafficking in South Asia (excluding Afghanistan), 11 % were adult males, 44 % were adult females, 24 % were male children, and 21 % were female children.¹⁷

The Report on Global Trafficking in Persons (2022) clarified that almost all victims found in the above region were trafficked domestically.¹⁸ The Report further states that many victims from the above region are detected in outside of the region and in the countries in East Asia and the Pacific, Western and Southern Europe, North America, victims of trafficking in person from South Asian region have been found in an increasing number since 2017.

It is noteworthy that Bhutan and Pakistan, among the South Asian States, are not parties to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (2000), supplementing the UNCTOC.¹⁹ However, all Member States of the South Asian Association for Regional Cooperation have signed the SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution. The Convention emphasizes that trafficking in women and children for the purpose of prostitution is contrary to hu-

¹⁵ Available at: <https://www.unodc.org/southasia/en/topics/frontpage/2009/trafficking-in-persons-and-smuggling-of-migrants.html> [Accessed 05.06.2026].

¹⁶ UNODC's Global Trafficking in Persons Report (2016).

¹⁷ Available at: https://www.unodc.org/documents/data-and-analysis/tip/2021/GLOTiP_2020_15jan_web.pdf [Accessed 05.06.2026].

¹⁸ Available at: https://www.unodc.org/documents/data-and-analysis/glo-tip/2022/GLOTiP_2022_web.pdf [Accessed 05.06.2026].

¹⁹ Global Report on Trafficking in Persons (2020).

man dignity and honor, constitutes a grave violation of human rights, and requires regional cooperation for its effective suppression.²⁰ The above Regional Convention directs the member States to incorporate the effective provisions in their respective legal systems to ensure that trafficking in any form is an offence and to inflict appropriate punishment to the offenders. It calls for coordinated efforts in protection, rehabilitation, assistance, repatriation of victims, and prosecution of offenders, in line with relevant international instruments.²¹ To attain the above objectives there should be the mutual legal assistance among the State Parties.²² The Convention further provides that trafficking in persons shall be treated as an extraditable offence between the Parties, subject to the existence of an extradition treaty between them.²³ The above Convention directs sharing of information related to the offence of trafficking among the States, supervision over employment agencies, establishment of Regional Task Force to implement the provisions,²⁴ establishment of protective homes or shelters and making arrangements for providing legal advice, counselling, job training and health care facilities to victims.²⁵

Thus far, the legal narratives of South Asian countries remain inadequate to effectively challenge traffickers, curb their activities, ensure their prosecution and incarceration, and bring victims to justice in order to prevent trafficking at its roots. In India, we can find a structured legal system to combat trafficking in person endorsed by its Supreme Law, i.e., the Constitution of India. The Constitution of India envisions a threefold conception of justice — social, economic, and political — for its people in their dealings with the state as well as with the fellow-citizens (Nariman, 2023, p. 95). To achieve this objective, it incorporates a set of fundamental rights in Part II known as political and civil rights,

²⁰ Available at: https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-new_delhi/documents/genericdocument/wcms_251026.pdf [Accessed 12.06.2026].

²¹ SAARC Convention on Preventing and Combating Trafficking... Art. III.

²² SAARC Convention on Preventing and Combating Trafficking... Art. VI.

²³ SAARC Convention on Preventing and Combating Trafficking... Art. VII.

²⁴ SAARC Convention on Preventing and Combating Trafficking... Art. VIII.

²⁵ SAARC Convention on Preventing and Combating Trafficking... Art. IX.

fundamental rights in Part III, and a set of Directive Principles of State Policy in Part IV that reflect social, economic, and cultural rights. Together, these provisions form the constitutional framework for the protection and promotion of human rights.

Notably, the Constitution of India explicitly prohibits trafficking in human beings, beggar, and other similar forms of forced labor²⁶ and employment of any children below the age of fourteen years in factories, mine or any other hazardous employment.²⁷ Apart from the above, the Constitution advocates in favor of “equality before law” and “equal protection of law,”²⁸ fundamental freedoms especially under Art. 19(1) and the “right to life and personal liberty”²⁹ that are immensely important for a human being to live with dignity and to enjoy a meaningful life. If the above rights of the people are not honored, then not only the victim or his legal representative but any public-spirited individual may approach the High Court on the ground of violation of fundamental rights or any other rights³⁰ or the Supreme Court — the highest Court of India.³¹

The Constitution of India also mandates to secure a social order to ensure welfare of the people,³² distributive justice along with the equal pay for equal work and well-being of the workers and child,³³ equal justice and free legal aid,³⁴ just and human conditions of work and maternity relief,³⁵ living wages to workers,³⁶ opportunity to the workers to participate in a decision making process of the industries,³⁷ to

²⁶ The Indian Constitution. Art. 23. Available at: <https://www.legislative.gov.in/static/uploads/2025/07/c9fe9c9b6840524844316f74bb1c556c.pdf> [Accessed 05.06.2026].

²⁷ The Indian Constitution. Art. 24.

²⁸ The Indian Constitution. Art. 14.

²⁹ The Indian Constitution. Art. 21.

³⁰ The Indian Constitution. Art. 226.

³¹ The Indian Constitution. Art. 32.

³² The Indian Constitution. Art. 38.

³³ The Indian Constitution. Art. 39.

³⁴ The Indian Constitution. Art. 39A.

³⁵ The Indian Constitution. Art. 42.

³⁶ The Indian Constitution. Art. 43.

³⁷ The Indian Constitution. Art. 43A.

improve public health,³⁸ etc., which are crucial to eliminate the offence of trafficking. Apart from the above, India enacted the Immoral Traffic (Prevention) Act long back in 1956 to eliminate immoral trafficking. In 2021, India introduced a draft bill titled The Trafficking in Persons (Prevention, Care and Rehabilitation) Bill to curb trafficking by ensuring the prosecution of offenders and by providing welfare measures for the rehabilitation and protection of victims within an enabling environment. Unfortunately, the bill has not attained the status of a statutory enactment. Also, India enacted a number of important laws to ensure the protection of women and children, namely: the Protection of Women from Domestic Violence Act (2005), The Prohibition of Child Marriage Act (2006), The Prohibition of Child Marriage (Amendment) Bill (2021), The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act (2013), The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (1989), The Bonded Labour System (Abolition) Act (1976), etc.

Indian criminal jurisprudence prescribes stringent punishments to curb the various facets of this offence. For instance, it provides penalties for offences such as wrongfully confining any person for unlawful intent or gain,³⁹ committing assault or inflicting criminal force on wrongfully confined persons,⁴⁰ kidnapping of a person from India or from lawful guardianship,⁴¹ kidnapping or abduction with an intention to confine the victim wrongfully and secretly,⁴² trafficking of persons for illegal and immoral purposes and for wrongful gain,⁴³ compelling any women into forced marriage,⁴⁴ procurement of a minor girl,⁴⁵ importation of a girl below the age of 21 years,⁴⁶ trafficking a minor for sexual exploita-

³⁸ The Indian Constitution. Art. 47.

³⁹ Section 127 of the Bharatiya Nyaya Sanhita (BNS) (2023).

⁴⁰ Section 135 of BNS (2023).

⁴¹ Section 137 of BNS (2023).

⁴² Section 140 of BNS (2023).

⁴³ Section 143 of BNS (2023).

⁴⁴ Section 87 of BNS (2023).

⁴⁵ Section 96 of BNS (2023).

⁴⁶ Section 141 of BNS (2023).

tion⁴⁷ for indulging into the act of slavery,⁴⁸ selling minors for the act of prostitution or illicit intercourse,⁴⁹ buying minor for prostitution,⁵⁰ forced labour,⁵¹ etc. (Mishra, 2024, pp. 693–729)

No doubt, India has a strong and stringent legal base to combat the offence of trafficking, but unfortunately, the offence of trafficking in persons is going on rampantly. A large segment of the population belonging to the lower strata of society, as well as marginal and vulnerable groups, constitutes the worst victims of sexual and physical exploitation and continues to suffer conditions akin to slavery and servitude. In view of this factual scenario, the U.S. Department of State ranked India as Tier 2 in its Trafficking in Persons Report (2022), implying that although the Government of India does not fully meet the minimum standards for the elimination of trafficking, it is making significant efforts toward that end.⁵²

The Report on Human Trafficking (2020) published by the National Crime Records Bureau revealed that 2,278, 2,208, and 1,714 cases of human trafficking were reported under the Indian Penal Code for investigation in the years 2018, 2019, and 2020, respectively, indicating a gradual decline in the reporting of cases for investigation. However, in 2020, the total number of victims trafficked was 4,709, of whom 1,912 were male and 2,797 were female. According to the report referenced above, the police filed chargesheets in 85.2 % of cases to initiate prosecution against alleged offenders. However, the conviction rate stands at only 10.6 %, a figure that is markedly low.⁵³

In addition to the low conviction rate, the aforementioned NCRB report indicates that only 0.1 % of cases are registered under cognizable

⁴⁷ Section 144 of BNS (2023).

⁴⁸ Section 145 of BNS (2023).

⁴⁹ Section 98 of BNS (2023).

⁵⁰ Section 99 of BNS (2023).

⁵¹ Section 146 of BNS (2023).

⁵² 2022 Trafficking in Persons Report: India. Available at: <https://www.state.gov/reports/2022-trafficking-in-persons-report/india/> [Accessed 25.03.2023].

⁵³ Report of NCRB. Available at: https://ncrb.gov.in/sites/default/files/crime_in_india_table_additional_table_chapter_reports/Table%2014.6_3.pdf [Accessed 25.03.2023].

offenses.⁵⁴ The low rate of registration of cases involving trafficking in persons, the low conviction rate, and the limited registration of cases under cognizable offenses collectively signify a lack of governmental commitment to the elimination of such crimes. These indicators further reflect deficiencies in vigilance among competent police authorities, inadequate accountability of prosecuting authorities and other law enforcement agencies in securing convictions, instances of misconduct and deeply rooted corruption at various levels of government, and insufficient sensitization of judges, police personnel, and prosecutorial officials. Additionally, they suggest a lack of integration and coordination among relevant departments in addressing such cases, as well as the possible weakening of cases at the stages of First Information Report (FIR) registration and the filing of chargesheets by the police.

The U.S. Department of State's Trafficking in Persons Report (2022) identified several deficiencies in India's response to trafficking, including shortcomings in victim protection services, the Government's failure to update its National Action Plan (NAP), and the absence of adequate or effective rehabilitation policies for victims. The Report further observed that an excessive emphasis on establishing *mens rea* in prosecutions — particularly under provisions such as Section 370 of the Indian Penal Code, which addresses trafficking for exploitative purposes — has hindered efforts to effectively combat trafficking in India.⁵⁵

In addition to the Constitutional guarantees of equality before law,⁵⁶ protection of the rights to life and personal liberty,⁵⁷ the pro-

⁵⁴ Cognizable offences are those in which the police are authorized to arrest an accused person without a warrant or prior approval of a court of law. These offences generally encompass heinous and serious crimes and are distinguished from non-cognizable offences by the gravity of punishment prescribed, which may range from imprisonment exceeding three years to life imprisonment. Section 156(3) of the Criminal Procedure Code 1973 (CrPC) — now repealed and replaced by the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) — and its corresponding provision, Section 175(3) of the BNSS, set forth the procedure governing the investigation of cognizable offences.

⁵⁵ 2022 Trafficking in Persons Report: India.

⁵⁶ Section 27 of the Constitution of the People's Republic of Bangladesh (Act No. of 1972). Available at: <http://bdlaws.minlaw.gov.bd/act-367/section-24562.html> [Accessed 12.06.2026].

⁵⁷ Section 32 of the Constitution of the People's Republic of Bangladesh.

hibition of forced labour,⁵⁸ the emancipation of working classes and people belonging to backward section of the society from all forms of exploitation,⁵⁹ and the promotion of public health and morality — including efforts to prevent prostitution and gambling⁶⁰ — Bangladesh enacted the Prevention and Suppression of Human Trafficking Act (PSHTA) (2012) to eliminate all forms of trafficking.

In compliance with the mandate of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (2000), Bangladesh expanded its criminal justice framework and, in 2020, established specialized anti-trafficking tribunals to expedite the prosecution of human trafficking cases nationwide. Notwithstanding these measures, Bangladesh's record in eliminating trafficking remains unconvincing. For these and related reasons, the U.S. Department of State has classified Bangladesh as a Tier 2 country in its trafficking assessment.⁶¹

The Trafficking in Persons Report (2022) placed Pakistan in the Tier 2 category, which states that it does not fully meet the minimum requirements to eliminate the offence of human trafficking but is initiating significant efforts towards that end.⁶² Pakistan has enacted the Prevention of Trafficking in Persons Act (PTPA) (2018) to eliminate the crime of human trafficking, but the legal mechanism is not capable enough to successfully investigate and prosecute the offenders for their wrongdoings.

According to the Trafficking in Persons Report (2022), significant impediments to combating trafficking include inadequate law enforcement mechanisms to address labor trafficking, insufficient efforts toward victim identification, governmental inaction in initiating criminal

⁵⁸ Section 34 of the Constitution of the People's Republic of Bangladesh.

⁵⁹ Section 14 of the Constitution of the People's Republic of Bangladesh.

⁶⁰ Section 18 of the Constitution of the People's Republic of Bangladesh.

⁶¹ 2022 Trafficking in Persons Report: Bangladesh. Available at: <https://www.state.gov/reports/2022-trafficking-in-persons-report/bangladesh/> [Accessed 12.06.2026].

⁶² 2022 Trafficking in Persons Report: Pakistan. Available at: <https://www.state.gov/reports/2022-trafficking-in-persons-report/pakistan/> [Accessed 12.06.2026].

proceedings despite credible reports of trafficking, the absence of a robust victim protection and support framework, and corruption.⁶³

According to the United Nations Office on Drugs and Crime (UNODC) Global Report on Trafficking in Persons (2022),⁶⁴ the number of trafficking offences recorded in Pakistan for the years 2019, 2020 and 2021 was respectively 7, 15, and 6 respectively. Such markedly low figures raise concerns regarding the adequacy of detection and reporting mechanisms and suggest a limited institutional response to the problem of trafficking. Moreover, Pakistan acceded to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (2000) only in 2022. This delayed accession may be viewed as indicative of the State's historically limited engagement with the international legal framework addressing human trafficking and exploitation.

Although Sri Lanka has not enacted comprehensive standalone legislation specifically addressing human trafficking, its Penal Code contains stringent provisions to combat the offense. Section 360C of the Penal Code of Sri Lanka provides that any person convicted of trafficking shall be punished with imprisonment for a term of not less than two years and not exceeding twenty years, with or without a fine. In cases involving child victims, the prescribed penalty is imprisonment for a term of not less than five years and not exceeding twenty years, and may also include a fine.⁶⁵ Section 360A of the Penal Code prescribes a term of imprisonment ranging from two to ten years for the offense of procuring a person, primarily for illicit purposes. Section 360B provides for a term of imprisonment ranging from five to twenty years, with or without a fine, for the offense of sexual exploitation of a child. Despite the existence of stringent penal provisions, the Government's efforts to eliminate trafficking and to safeguard the human rights of victims appear inadequate. In addition to the low number of registered trafficking cases, only a limited number of offenders were investigated and/or

⁶³ 2022 Trafficking in Persons Report: Pakistan.

⁶⁴ Available at: https://www.unodc.org/documents/data-and-analysis/global-tip/2022/South_Asia.pdf [Accessed 12.06.2026].

⁶⁵ Available at: http://hrlibrary.umn.edu/research/srilanka/statutes/Penal_Code.pdf [Accessed 12.06.2026].

prosecuted between 2017 and 2020, and no convictions were secured for trafficking offenses during that period;⁶⁶ due to such poor performance, Shri Lanka has been assessed as Tier 2 by the U.S. Department of State.⁶⁷

Although Nepal acceded to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (2000) only in 2020, it has long relied on the Human Trafficking and Transportation (Control) Act (HTTCA), 2007 to address sex and labor trafficking. However, the Act contains certain inherent shortcomings and does not fully conform to the definition of trafficking set forth in the Trafficking Protocol. Nepal is classified as a Tier 2 country by the U.S. Department of State.⁶⁸ Notwithstanding these limitations, Nepal's performance with respect to prosecution and conviction rates for trafficking offenses has been comparatively commendable within the South Asian region. According to available records, the conviction rate in 2020 was approximately 50 %, a notably significant figure in the regional context.⁶⁹

Bhutan is not a signatory to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (2000). In light of concerns regarding its efforts to eliminate trafficking, the U.S. Department of State has placed Bhutan on the Tier 2 Watch List in its trafficking assessment.⁷⁰ Afghanistan acceded to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (2000) in 2014 and enacted the Law to Combat Crimes of Trafficking in Persons and Smuggling of Migrants in 2017 with the objective of addressing all forms of trafficking. Despite these formal measures, serious concerns persist regarding the protection of human rights within the country, particularly under the current Taliban regime, where the rights of women and children have been significantly

⁶⁶ The Penal Code of Sri Lanka. Section 360C.

⁶⁷ 2022 Trafficking in Persons Report: Sri Lanka. Available at: <https://www.state.gov/reports/2022-trafficking-in-persons-report/sri-lanka> [Accessed 25.03.2023].

⁶⁸ 2022 Trafficking in Persons Report: Nepal. Available at: <https://www.state.gov/reports/2022-trafficking-in-persons-report/nepal/> [Accessed 25.03.2023].

⁶⁹ 2022 Trafficking in Persons Report: Nepal.

⁷⁰ 2022 Trafficking in Persons Report: Bhutan. Available at: <https://www.state.gov/reports/2022-trafficking-in-persons-report/bhutan/> [Accessed 25.03.2023].

curtailed. In its trafficking assessment, the U.S. Department of State has classified Afghanistan as a Tier 3 country, indicating that it does not meet the minimum standards for the elimination of trafficking. The Maldives acceded to the Trafficking Protocol in 2016, although it had previously enacted the Maldives Anti-Human Trafficking Act (Act No. 12/2013) to criminalize trafficking offenses. The Act was amended in 2021 to strengthen provisions relating to the elimination of trafficking in persons, including measures addressing child trafficking. Despite these legislative efforts, the Maldives has been designated as a Tier 2 country by the U.S. Department of State, reflecting concerns regarding the adequacy of investigations and prosecutions, limited progress in eliminating trafficking, and shortcomings in capacity-building initiatives for judges and relevant officials tasked with addressing such cases.⁷¹

V. Conclusion: Searching a Path for Freedom from Enslavement

Trafficking in person is a crime as well as a deep-rooted social problem whereby the victims are compelled to accept the situations of slavery, bonded labor, sexual exploitation, forced marriage, etc. Thus, their elementary rights of life and liberty are infringed. This heinous practice is a serious challenge to the global polity posing a serious threat to the human dignity and humanity. Despite sustained measures taken at the international and national level the crime of trafficking is accelerating and challenging the criminal justice delivery system. A plethora of laws, international instruments, protocols, covenants, and policies have been enacted; yet this cruel and inhuman practice of the slavery system remains in vogue. The Covid-19 pandemic proved a boon for traffickers, enabling them to explore new avenues of exploitation. One of its most significant consequences has been the shift of this illicit practice to on-line platforms. At present, the digital environment has increasingly become a hub for commercial sexual exploitation, sex trafficking, and the buying and selling of human beings for immoral purposes.

⁷¹ 2022 Trafficking in Persons Report: Maldives. Available at: <https://www.state.gov/reports/2022-trafficking-in-persons-report/maldives/> [Accessed 25.03.2023].

The process of enslavement has been further expedited by ongoing conflicts in various parts of the world, which are gradually intensifying due to the direct or indirect involvement of developed and other influential states, thereby causing the global energy crisis and exacerbating climate change. Conflict and global warming are both responsible for producing refugees, compelling people — mainly those who are poverty-stricken and those from marginalized and weaker sections of society — to migrate from their secure habitats to insecure and unsettled patterns of life, rendering them more vulnerable to falling prey to traffickers. This situation is further aggravated by the discrimination and injustice suffered by a considerable section of society, especially in South Asian countries. Besides, ensuring the good governance, introduction of welfare economy with strong political will for elimination of the offence of trafficking, a holistic criminal justice delivery system and a vigilant law enforcement mechanism is needed in the South Asian Countries. Besides ensuring good governance, the introduction of a welfare-oriented economy backed by strong political will for the elimination of the offence of trafficking, along with a holistic criminal justice delivery system and a vigilant law enforcement mechanism, is urgently needed in the South Asian countries. It is the need of the hour to adopt a coordinated approach within criminal jurisprudence to expedite and strengthen investigations, prosecutions, and convictions of trafficking offenders, to ensure that no individual is exploited on account of miserable socio-economic conditions, and to initiate sensitization programs for judges and allied officials so that they do not unnecessarily insist upon the fossilized formula of corroboration as a prerequisite for conviction. The policy makers must understand that the nature of the offence of trafficking is not akin to other types of crime because of its hidden nature. In the offence of trafficking, seldom do the victims approach the law enforcement agencies for justice (Pfeffer, 2018, p. 1). For the above reasons, it is needed to formulate pragmatic human rights-centric National Action Plans based on a victim-oriented approach for its eradication (Farbey, 2007, p. 16). Apart from the above, the establishment of fast-track courts to deal with trafficking cases, the provision of anti-trafficking training to officials engaged in the elimination of such offences, close monitoring of porous borders, strict vigilance over the ac-

tivities of recruitment agencies, and strengthened coordination among South Asian countries — considering the transnational character of the crime — are *sine qua non* for ending this process of enslavement.

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