

**The Role of International Organizations in Combating
Child Trafficking in South Asia**

*Dissertation submitted to Jawaharlal Nehru University
in partial fulfilment of the requirements
for award of the degree of*

MASTER OF PHILOSOPHY

BHAWNA SHARMA



INTERNATIONAL ORGANIZATION DIVISION
Centre for International Politics, Organization and Disarmament
School of International Studies
Jawaharlal Nehru University
New Delhi – 110067

2010



Date: 28 July 2010

DECLARATION

I declare that the dissertation entitled “The Role of International Organizations in Combating Child Trafficking in South Asia” submitted by me for the award of the degree of Master of Philosophy of Jawaharlal Nehru University is my own work. This dissertation has not been submitted for any other degree of this University or any other university.

Bhawna Sharma
BHAWNA SHARMA

CERTIFICATE

We recommend that this dissertation be placed before the examiners for evaluation.


Professor RAJESH RAJAGOPALAN

Chairperson, CIPOD

Chairperson
Centre for International Politics,
Organization & Disarmament
School of International Studies
J.N.U., New Delhi


Dr ARCHANA NEGI 28/7/10

Supervisor

Dedicated

to

my Grandfather

Lt. Shri Sarnimal Sharma

Acknowledgement

This dissertation would not have been possible without the guidance and the help of several individuals who in one way or another contributed and extended their valuable assistance in the preparation and completion of this dissertation.

First and foremost I offer my sincerest gratitude to my supervisor, Dr Archna Negi who has supported me throughout my dissertation with her patience and knowledge whilst allowing me the room to work in my own way. I attribute the level of my dissertation to her encouragement and effort and without her this dissertation, would not have been completed or written.

I would also thank my Institution and my faculty members namely Prof. C.S.R Murthy, Dr. J. Madhan Mohan, Dr. Moushumi Basu and Dr. Yeshi Choedon for their assistance and advice. Without whom this dissertation would have been a distant reality.

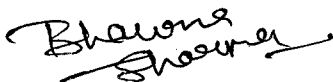
I would also like to thank Dr. Devendra Sharma, Assisstant Professor, California State University Fresno for his guidance and valuable suggestions.

I am indebted to my friends namely Alpana Tripathy, Grishma Rana, Divya Manas, Neha Mishra, Akanksha Kumar, Rashid Raina, Sajad Ahmad, Yogesh Joshi, Atul Kumar Singh, Idris Bhat, Abid Hussain, Savita, Huma and Aditi for helping me to get through the difficult times, and for all the emotional support, camaraderie, entertainment, and caring they provided.

I wish to thank my entire family for providing a loving environment for me especially my brothers Harish kumar and Nachiketa, my sister Shweta Sharma, my uncle, aunty and my cousins who were particularly supportive.

Lastly, and most importantly, I wish to thank my parents, Mr. Lalit kumar and Mrs.Yashoda Devi. They raised me, supported me and loved me. I want to pay my special thanks to my grandmother Smt. Sharma Devi for her blessings.

I offer my regards and blessings to all of those who supported me in any respect during the completion of my dissertation.



Bhawna Sharma

Contents

List of acronyms and Abbreviations	i
Chapter One	
Introduction	1
Chapter Two	
Child Trafficking: A Conceptual Analysis	10
Chapter Three	
International Organizational Responses to Child Trafficking	33
Chapter four	
South Asian Association of Regional Co-operation (SAARC) and Child Trafficking	54
Chapter Five	
Non Governmental Organizations and Child Trafficking	78
Chapter Six	
Conclusion	97
References	105
Annexure 1	115
Annexure 2	124

List of Acronyms and Abbreviations

ACD	Association for Community Development
ADB	Asian Development Bank
AIDS	Acquired Immunodeficiency Syndrome
ASK	Ain O Salish Kendro
ATSEC	Alliance Against Trafficking and Sexual Exploitation of Children
BNWLA	Bangladesh National Women Lawyers Association
BSAF	Bangladesh Shishu Adhiker Forum
CETS	Child trafficking Exploitation Tracking System
CACL	Campaign Against Child Labour
CACT	Campaign Against Child Trafficking
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CSEC	Commercial Sexual Exploitation of Children
CARE	Cooperation for Assistance and Relief Everywhere
CRC	Convention on the Rights of the Child
CSW	Commercial Sex Worker
CWCS	Centre for Women and Children Studies
CIDA	Canadian International Development Agency
CPCCT	Child Development: Coordinated Program to Combat Child Trafficking
CHS	Commission on Human Security
CSW	Commercial Sex Worker
CWCS	Centre for Women and Children Studies
DANIDA	Danish International Development Agency
DAM	Dhaka Ahsania Mission
DFID	Department for International Development
DWACRA	Department of Women and Child Rural Agency
DWCD	Department of Women and Child Development
ECPAT	End Child Prostitution, Pornography and Trafficking
ESCAP	United Nations Economic and Social Commission for Asia and the Pacific
GAATW	Global Alliance Against Trafficking of Women
GAATW	Global Alliance Against Trafficking in Women
HIV	Human Immunodeficiency Virus
HRTMC	Human Rights Treaty Monitory Committee
Him Rights	Himalayan Human Rights Monitors
IPC	Indian Penal Code
IRC	Internet Relay Chat
ILO	International Labour Organization
IOM	International Organization for Migration
ICDS	Integrated Child Development Services
IEC	Information, Education, and Communication
IPEC	International Programme for the Elimination of Child Labour
INCIDIN	Research and Services NGO in Bangladesh
IPSA	Initial Poverty and Social Analysis
IRDIP	Integrated Rural Development Program

ITPA	Immoral Traffic (Prevention) Act (1956)
INGO	International Non Governmental Organisations
JWP	Joint Women's Programme
LTTE	Liberation Tigers of Tamil Eelam
LHRLA	Lawyers for Human Rights and Legal Aids
LACC	Legal aid and Consultancy Center
MoU	Memorandum of Understanding
MOWCA	Ministry of Women and Children Affairs (Afghanistan)
MWCSW	Ministry of Women, Children and Social Welfare
MWCA	Ministry of Women and Children Affairs
MWCSW	Ministry of Women and Children and Social Welfare
NICP	National Initiative for Child Protection
NHTCA	Nepal Human Trafficking Control Act
NPCL	National Policy on Child Labour
NHEN	National policies on Health, Education and Nutrition
NPC	National Policy on Children
NCWC	National Commission for Women and Children
NCPA	National Child Protection Authority
NGO	Non-Government Organization
NACO	National AIDS Control Organization
NACSET	Network Against Commercial Sexual Exploitation and Trafficking
NATSAP	Network Against Trafficking and Sexual Exploitation and Trafficking
NCRB	National Crime Records Bureau
NCW	National Commission for Women
NHRC	National Human Rights Commission
NNAGT	National Network Against Girl Trafficking
NORAD	Norwegian Agency for Development Cooperation
NPA	National Plan of Action
NICP	National Initiative for Child Protection
NATIRC	National Anti-Trafficking Information Resource Center
NATG	National Alliance against Girl Trafficking
OHCHR	Office of the High commissioner for Human Rights
PEACE	Protecting Environment and Children Everywhere
PIL	Public Interest Litigations
PPA	Pakistan Paediatric Association
RETA	Regional Technical Assistance
REC	Women's Rehabilitation Centre
SANLAAP	an NGO in India
SAPAT	South Asia Professionals Against Trafficking
SAARC	South Asian Association for Regional Cooperation
SITA	Suppression of Immoral Traffic in Women and Girls Act (1956)
SAARC	South Asian Association for Regional Cooperation
SAFAHT	South Asia Federation Against Human Trafficking
SASEC	South Asia Sub-regional Economic Cooperation
SCSP	Sub-regional cooperation strategy and program
STEP	Support to Training and Employment (India)

STHREE	Society to Help Rural Empowerment and Education
STOP	an NGO in India
TVPA	Trafficking Victims Protection Act (2000)
TMSS	Thengamar Mohila Sabuj Sangha
THOA	Transplantation of Human Organs Act
TWB	Traffic Watch Bangladesh
TWB-YN	Traffic Watch Bangladesh Youth Network
TWSA	Traffic Watch South Asia
UNTP	UN Trafficking Protocol
UNFPA	United Nations Population Fund
USDS	United States Department of States
USHH	United Nations Department of Health and Human service
UAE	United Arab Emirates
UNAIDS	United Nations AIDS
UNODC	United Nations Office on Drug and Crime
UDDIPON	United Development Initiative for Programme Action
UNICEF	United Nations Children's Fund
USAID	United States Agency for International Development
UN	United Nations
UNDP	United Nations Development Programme
UNIFEM	United Nations Development Fund for Women
USAID	United States Agency for International Development
UNGIFT	United Nations Global Initiative to Fight Human Trafficking
UNHCHR	United Nations High Commissioner for Human Rights
WOREC	Women's Rehabilitation Centre

Chapter 1

Introduction

The purpose of this study is to analyse the role of international organisations in combating child trafficking in South Asia. An activity that involves “....the recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation” may be defined as “trafficking in persons”. This definition, which is given in the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children*, further adds that even if the activity “does not involve any of the means such as 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”, it is considered as child trafficking (UN Trafficking Protocol 2001: GA Res. 55/25). Trafficking in children constitutes human rights violation of the child. Children are more vulnerable to trafficking than adults because they could be easily coerced and trafficked; the question of consent does not matter. It is for this reason that child trafficking has become a matter of global concern. The international community has undertaken a number of initiatives for the purpose of combating child trafficking. Child trafficking attracts the attention of several international organisations that work to address it. This study focuses specifically on the role of international organisations in combating child trafficking in South Asia. The rationale for choosing South Asia as the region of investigation is clear-cut; states in this region do not consider child trafficking as a violation of human rights. Rather, they consider the issue as a criminal activity and relate it with prostitution thereby ignoring other forms of trafficking. This study evaluates the initiatives undertaken by various international organisations – international, regional and non-governmental – in combating the problem of child trafficking in South Asia.

Human trafficking connotes one of the following activities (a) “sex trafficking in which a commercial sex act is induced by coercion or in which the person involved has not attained 18 years of age” (b) “the recruitment, harbouring, transportation, provision” or use of a person for labour or services in a coercive manner for the purpose of involuntary servitude, debt bondage or slavery (USDS 2000). Human

trafficking is becoming a matter of global concern. The incidence of trafficking appears to be increasing by the day. The prevalence of trafficking victims in the world is about 1.8 per 1000 inhabitants. In Asia and the Pacific, the prevalence is higher than the global figure; it is about 3 per inhabitants (USDS 2010: 6). Child trafficking is a part of human trafficking. The problem of child trafficking is more acute as it gets clubbed with human trafficking in general. As a result, child trafficking has not been receiving the attention, it deserves.

The international community has been responding to the problem of child trafficking in a number of ways. The *Convention on the Rights of the Child, 1989* (CRC) is an important milestone. This convention has the highest number of ratifications. Article 35 of CRC is significant; it obliges states to “take all appropriate national, bilateral and multilateral measures” for preventing child trafficking in any form (CRC 1989). The implementation of the CRC is overseen by the Committee on the Rights of the Child. The UN General Assembly adopted two Protocols to the CRC on 25 May 2000 (GA Res. 263, UN Doc. A/RES/54/263). The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (Optional Protocol on the sale of children) came into effect on 18 January 2002. Article 3.1 of the Protocol calls on states “to criminalise the domestic or transnational sale of minors” for the purpose of “sexual exploitation, removal of organs, forced labour or illegal adoption” (Optional Protocol on the sale of children 2000). The UN Trafficking Protocol is yet another important international instrument. This Protocol which is the *UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children* came into force in 2000. Article 3(a) of the UN Trafficking Protocol specifies the means involved in the activity of trafficking. The means may include one of the following: (a) threat or use of force (b) other forms of coercion (c) abduction (d) fraud (e) deception (f) abuse of power or of a position of vulnerability and (g) giving or receiving of payments (UN Trafficking Protocol 2000). Child trafficking is defined in Article 3(c) of the Protocol. It is defined as the ‘recruitment, transportation, transfer, and harbouring of a minor for the purpose of exploitation’ even if the means mentioned in Article 3(a) are not used (Scarpa 2006: 436). Recently on 26 March 2010, the General Assembly of the United Nations adopted a resolution on “Improving the coordination of efforts against

trafficking in persons” (United Nations 2010: GA Res. 64/178). This study focuses on combating child trafficking in South Asia. As mentioned in the preceding paragraphs, the logic of choosing South Asia amongst other regions has to do with the high incidence of trafficking in the region. Trafficking in persons continues as a trend in all states in South Asia. A pattern in trafficking could also be observed. Sexual exploitation is the main form of trafficking in most states. A large number of victims of sexual exploitation have been reported in Nepal and India. Trafficking for forced labour is another form that is prominent in the region. Child victims who were returned from the Middle East, being trafficked into forced labour as camel jockeys is yet another form that is prevalent in Nepal and Pakistan. In the case of Afghanistan, the number of children (of both sexes) and adult males, who were identified as victims of trafficking, was higher than the number of adult females (UNODC 2009).

The prevalence of trafficking in South Asia could be attributed to a number of factors. Problems such as poverty, unemployment, inequality and exploitation of vulnerable sections of society including women continue to persist in the region. South Asia as a region has witnessed little progress in terms of overall socio-economic development notwithstanding the opportunities being provided by globalisation and economic liberalisation. Globalisation, which is theoretically an integrative phenomenon, is proving to be divisive in a different sense: It has widened the level of economic and social inequality between the affluent and the marginalised sections of society. It may appear that globalisation has generated more job opportunities. However, this is just an illusion. The reality is that the relatively privileged sections of society in terms of proficiency in English language and expertise in terms of skill sets are cornering the benefits of Structural Adjustment Programme (SAP). Moreover, the process of globalisation is also influenced by the fluctuation of market forces. Financial crisis has become periodic. The first one, in recent years, was the crisis in South East Asia, which occurred during 1997-1998. The next one is the recent financial crisis, which began as an upheaval in US and Europe and spread to other parts of the world thereafter. In any case, globalisation has increased the pace of migration across state borders. Skilled and semi-skilled individuals have migrated to greener pastures crossing the boundaries of states in the process. A large number of workers have been working in informal sectors. These sectors are not covered by most labour laws or

regulations. A high proportion of workers who work in informal sectors are women and children. The working condition of these workers is deplorable. They do not enjoy the benefit of social security schemes. The outbreak of a financial crisis, which triggers recession, has made the condition of workers more vulnerable. Child trafficking is a matter of concern for the international community. In the South Asian context, the gravity of the problem is more acute, given the prevailing socio-economic milieu of the region. A reading of the Human Development Index (HDI) provides a graphic picture of the state of affairs in states in South Asia (UNDP 2009).

State	Rank	Human Development Index Value	Human Poverty Index
Afghanistan	181	0.352	59.8
Bangladesh	146	0.543	36.1
Bhutan	132	0.619	33.7
India	134	0.612	28.0
Maldives	95	0.771	16.5
Nepal	144	0.553	32.1
Pakistan	141	0.572	33.4
Sri Lanka	102	0.759	16.8

(UNDP 2009)

States in South Asia have been responding to the problem of child trafficking in various ways. Initiatives are being taken at the local, national and regional level. At the regional level, the *South Asian Association for Regional Cooperation (SAARC) Convention on Preventing and Combating Trafficking in Women and Children for Prostitution* was adopted on 5 January 2002. However, the scope of the definition for “trafficking” is too narrow. It is limited to trafficking of women and children for commercial sexual exploitation. It does not include other forms of trafficking or trafficking of men (Hameed et al. 2010: 8). This is one of the major criticisms of the convention. At the national level, mechanisms to deal with trafficking do exist. With the exception of Maldives and Afghanistan, states in South Asia have included the

offence of trafficking in their criminal codes. Five out of the eight states criminalise trafficking in persons for sexual exploitation and forced labour; there is no restriction on the age or gender of the victim. In Bangladesh, criminalisation is confined to trafficking for sexual exploitation (UNODC 2009: 33). Legal mechanisms that exist at the national level are plagued by several pitfalls. The most important loophole is the excessive focus of the national laws on criminalising prostitution. As a result, it is just the symptom of the phenomenon of trafficking that is contained. The underlying causes that lead to the phenomenon, which is trafficking are rarely addressed (USDS 2010: 174). The other important deficiency within the existing mechanism has to do with weak and ineffective enforcement procedures. In practice, a substantive proportion of the culprits who are behind the activity of trafficking hardly get convicted. Even if they do, they are subjected to lesser punishment than what they deserve.

Non-Governmental Organisations – international and local – have played a critical role in highlighting the issue of child trafficking in the South Asian context. They have been instrumental in collaborating with the states and influencing their strategies in dealing with the problem of trafficking. ECPAT (End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes) International is one of the leading International Non-Governmental Organisations (INGOs) in the field, which is involved in combating child trafficking in South Asia. There are NGOs that work at the local level as well. In India, *SANLAAP*, *PRAYAS*, In Nepal *MAITI*, *ABC Nepal*, and In Bangladesh *BNWLA* (*Bangladesh Women Lawyers Association*), *ATSEC* (*Action against Trafficking and Sexual Exploitation of Children*) are some of the several NGOs that are engaged in anti-trafficking programmes in South Asia. NGOs, by definition, have several advantages in terms of highlighting issues of societal importance. The most important of them is their reach with the local population. However, they are also severely constrained in pursuing anti-trafficking initiatives. They have assisted the governments in carrying out law enforcement raids but were unable to do anything significant in prosecuting the traffickers. NGOs also complain of delay in disbursement of national government funding, which is specifically earmarked for the provision of shelters to victims of trafficking. The *Ujjuwala* scheme, which is meant to protect and rehabilitate female trafficking

victims, funded by the Ministry of Women and Child Development (MWCD), Government of India is a good example (USDS 2010: 173-174).

The prevalence of the problem of child trafficking, of such high magnitude, is a matter of concern. The persistence of the problem in South Asia in spite of various initiatives being taken at the international, regional and national levels is certainly a matter of academic concern. The study therefore focuses on the following questions: (a) What has been the role of international organisations in combating child trafficking in South Asia? (b) What explains the difficulty in combating child trafficking in the South Asian context in spite of the adoption of international instruments and existence of legal mechanisms at the national level?

The existing literature on the field of research has not addressed the above-mentioned questions in a rigorous manner. Few studies have been attempted on the issue of child trafficking in the context of South Asia. Most studies of child trafficking have focused on Eastern and Central Europe, Australia and South and Central America. Studies that were conducted on the South Asian region have primarily been descriptive, offering no more than policy recommendations. These works are mostly in the form of reports (USDS 2010; UNODC 2009; Hameed et al. 2010).

A number of works seek to identify the causes that result in trafficking. Poverty, lack of education, child labour, sexual exploitation and gender based discrimination are some of the causes that are often mentioned in the literature (Ebbe 2008: 30). However, studies on children in particular and their vulnerability to trafficking are limited. It is noted that children are deprived of their basic human rights and dignity in a systematic manner. The problem of child trafficking illustrates this quite clearly (Flowers 2001). International instruments that aim to combat trafficking have been enumerated and their provisions, adequately explained. The limitation of these instruments including the UN Trafficking Protocol has also been pointed out (Scarpa 2006). Nonetheless, a critical analysis of the effectiveness of these international instruments and the usefulness of the role played by international

organisations in addressing the issue of child trafficking is missing in the existing literature.

Existing legal mechanisms and recent legislative reforms in South Asia have been mentioned and evaluated (USDS 2010; UNODC 2009; Sanghera 1999). The inadequacy of these mechanisms is inherent in their fixation with criminalisation of prostitution to the exclusion of point of view of the victims. The practice of the '3D' phenomenon – detention, deportation and disempowerment of victims of trafficking – is a serious obstacle in the realisation of the '3P' paradigm of prevention, protection and prosecution (USDS 2010: 16). Gallagher emphasises upon the need to view trafficking from a human rights perspective (Gallagher 2002). In other words, the point of view of victims has to be the frame of reference and policy measures have to be devised from that perspective. NGOs claim to be addressing issues from the perspective of victims. They have done remarkable work in the field of combating child trafficking. The proactive role played by NGOs is very well acknowledged (Flowers 2001). However, a scrutiny of the role played by NGOs, with a few exceptions such as the work by Aradau, in the arena of anti-trafficking has not been seriously attempted (Aradau 2004: 251-277).

It seems that no comprehensive academic study that explains the emergence and prevalence of the problem of child trafficking in South Asia has been done. This study is a modest attempt to fill the gap in the available literature. The study aimed at addressing the following questions:

- (a) What are the root causes behind the increasing rate of child trafficking in the South Asian region in recent years?
- (b) To what extent are international laws such as the 1989 Convention on the Rights of the Child successful in combating the problem of child trafficking? How effective has this international law been in addressing the problem in the South Asian region?
- (c) Which international organisations are active in combating with the problem of child trafficking in South Asia?
- (d) What is the action taken by regional organisations such as the SAARC in recent years in combating child trafficking in the South Asian region? How

successful has the SAARC Convention of 2002 been in preventing trafficking of children in the South Asian countries?

- (e) What has been the role played by NGOs in addressing the issue of child trafficking in South Asia? How has the corporate sector been in helping NGOs in different projects to prevent, rescue and rehabilitate the child victims?

At the beginning of the study, the following hypotheses were proposed.

- (a) The issue of child trafficking suffers as it is clubbed in the same category as women trafficking, leading to its being overshadowed.
- (b) Existing laws – both at the UN and the SAARC – are inadequate to address the severity of the situation in the South Asian region.
- (c) NGOs are more effective in combating with the problem of Child Trafficking in South Asian Region than global and regional Institutions.

Towards the end of the study, the hypotheses have been proved. However, they have been nuanced further for gaining a better appreciation of the subject of research. The inferences that are drawn at the end of the study are outlined in Chapter 6, which is the concluding chapter of the dissertation.

The study used inductive method. By examining the role of international organisations in combating child trafficking in South Asia, the study could arrive at a general understanding of the problem of trafficking. Quantitative techniques have been used. Descriptive statistics has been employed in this regard. Primary sources that have been used include documents of international organisations such as the United Nations and its specialised agencies and official documents of states in South Asia. Reports by NGOs, both international and national, have also been utilised. Secondary sources include articles in journals, books and other publications.

Organisation of the dissertation

The second chapter provides a conceptual understanding of child trafficking especially in the South Asian context. It also gives a historical overview of the problem of trafficking.

Chapter Three focuses on international organisational response to child trafficking. This chapter evaluates the organisational response to the problem. It argues that international organisations have not been successful in tackling the issue; the failure is explained by the absence of specific convention on child trafficking. Moreover, 'globally' prescribed solutions do not match the requirements of the South Asian region.

Chapter Four analyses the response of SAARC in combating child trafficking. This chapter points out the SAARC convention, by limiting its focus to criminalisation of prostitution, is proving to be inadequate in addressing the issue of child trafficking.

Chapter Five dwells on the response of NGOs to the problem of child trafficking. NGOs have been able to highlight the issue, organise campaigns and pressurise states to act towards combating child trafficking. They address the problem at its roots and therefore are more effective in dealing with the issue.

Chapter 2

Child Trafficking: A Conceptual Analysis

Child trafficking is a global phenomenon, not limited to any geographical region or country. It is a gross violation of a child's dignity and rights, affecting her physical and mental well-being and even posing a threat to her life. Considering the growing threat and its complex nature, it is important for various regional and global institutions to respond to the issue of child trafficking. The main objective of this chapter is to analyse the problem of child trafficking and its various components. The chapter discusses the larger problem of human trafficking – its scale and causes – and locates child trafficking as a part of the phenomenon of human trafficking.

1. Human Trafficking

Human trafficking may be defined as a phenomenon involves the translocation of a person from his place of origin to a new one, against his will and with the use of force, for exploitation for personal gain. Although trafficking in persons, especially in women for the purpose of prostitution, has been on the international agenda for many decades. There were many laws, which have been made to combat the trafficking for sexual exploitation. In the late 20th Century trafficking in person took new forms in practice. This change was linked to the increase in transnational organized criminal activities (Scarpa 2006:441). Therefore, to fight this new form of “Trafficking in person” United Nations General Assembly adopted the Protocol to Prevent, Suppress and Punish Trafficking in persons, especially women and Children (2000), it was known as Palermo Protocol. This protocol supplements the UN Convention against Transnational Organized Crime. The Trafficking in Persons Protocol aims at curbing trafficking and fostering international co-operation against the activity.

Article 3(a) of the Palermo Protocol defines human trafficking as ;

“recruitment, transportation, transfer, harbouring or receipt of persons, by means of a 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”¹.

“Trafficking” is a term that encompasses economic and organ trafficking as well as trafficking in conflict situations. Human trafficking takes place in almost all parts of the world. Human trafficking has been identified as a form of “modern slavery” by Kevin Bales (2009: 36) and John Miller (2006: 72). They say that, it is one of the greatest human rights challenges of our time since it affects a great number of countries across the world. According to trafficking in person report 2010, it is estimated that there are millions of trafficking victims in South Asia, who have been trafficked to pay off their ancestors’ debts. In other words, they are working in new locations without payment or very less payment (USDS 2010: 9). These people can be known as “Modern Slaves” (Kevin et al. 2009: 121). These people work in brick kilns, rice mills, quarries, agriculture and fireworks and garment factories for long hours and at exhausting work conditions.

In some definitions, human trafficking is associated with several other forms of criminal activities. For example the 1949 UN *Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others* assimilates human trafficking with prostitution. The Convention in its first article defines trafficking as a punishable offence. It defines human trafficking as leading away of a person for prostitution or sexual gratification of another person (Convention for the Suppression of the Traffic in Persons 1949: Article 1). The United Nations General Assembly defined human trafficking as “The illicit and clandestine movements of persons across national borders” (United Nations 1995). It says that human trafficking occurs largely in developing countries, and there too women and girls are more vulnerable as they are forced into sexual activities and other illegal activities such as forced marriage and domestic labour.

¹Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

1.1 Elements of human trafficking

On the basis of the definition given in the Trafficking in Persons Protocol, UNODC website has describes these three elements of trafficking in persons ;

The Act (What is done)

The act of trafficking involves recruitment, transportation, transfer, harbouring or receipt of persons. First of all, individuals are recruited from one place and then transferred to another destination from where they cannot run away easily. At this destination, they are sold to the client or handed over to other traffickers for further sale.

The Means (How it is done)

Human trafficking is done in various manners. Sometimes the traffickers use force and coercion as in kidnapping etc. In some cases, they abuse their position of power and threaten and force the victims to leave their place. Sometimes traffickers take the help of mediators in buying humans from the person who has control over them (parents, guardians etc.). They promise money or other benefits to such persons and buy the victims from parents or mediators, using lies and manipulation to make them leave their place of origin.

Purpose (Why it is done)

Human trafficking is done for many purposes; first and foremost is sexual exploitation. Not only women and girls but young boys are also used to provide sexual services to clients. They work in brothels, beaches, hotels and massage parlours. Human beings are also used as forced labour for slavery or similar practices. For example, in history, as part of the 'triangular trade', Africans were routinely trafficked to North America for many years for the purpose of slavery. In modern times, many new purposes have come into existence for trafficking, such as for organ transplant.

Pino Arlacchi (former UNODC director) while addressing the permanent council of Organization for Security and Cooperation in Europe (OSCE) said that trafficking in human beings is the fastest growing organized crime. He also mentioned

that there are reports that drug traffickers are switching to human cargo to obtain greater profit with less risk (UNODC 2001: 1). The business of trafficking in humans is today organized by those groups who are also involved in weapons and narcotics trafficking. Human trafficking is a profitable business and one of the most difficult to tackle. Government authorities and institutions hardly notice child trafficking because it is a less visible crime as compared to arms and drug trafficking (Agbu 2003: 1).

1.2 Historical Overview of Trafficking

Trafficking of human beings has a long history. It has always existed in different forms and efforts have also been made from time to time to combat the problem. Human trafficking in recent times for purpose of sexual or labour exploitation is referred to as “the new slave trade” or “modern slavery”. Victims of trafficking often suffer the same conditions as those experienced by slaves in former times. In the colonial era, “trafficking” referred exclusively to the movement of white women to the colonies to provide sexual services. In 1904, the first Convention on Trafficking was held in Paris when European leaders became concerned about the trafficking of European and Asian women. Nazi Germany trafficked gypsies, Jews and many others to labour camps. At the same time, the Japanese trafficked Asian women for sexual slavery in military camps. In 1949, the earliest UN convention on trafficking did not define the term but instead relied on this previous understanding as it sought to eliminate “immoral trafficking in women” (Pattanaik 2006: 17).

Britain was first country to take the initiative to ban the trans-Atlantic slave trade. The British Parliament banned slavery in 1807. Slavery was abolished in the British colonies in 1833. In this process more than three-quarters of a million slaves got freedom from slavery. British were trying to end slavery, but till the second half of the 19th century the practice of slavery was common in United States, Russia, and Middle East. But there was a change in people’s point of view towards slavery. They began to view it as morally wrong. The *Agreement for Suppression of the White Slave Trade* was a milestone in the process of abolishing slavery. But, because of its non-binding nature of provisions and self-reporting mechanisms, the attempts to abolish prostitution largely failed. Despite making prostitution a criminal offence, International trade in women for sexual exploitation diminished. But trafficking became more local and regional. In the 1980s and 1990s, there was a change in

trafficking and counter-trafficking efforts. Sex tourism in Southeast Asia and the trafficking of women and girls from poor countries to Western Europe and North America raised concern among governments and human rights groups. Human rights groups consequently pushed for new laws. Although many efforts were made to abolish human trafficking and slavery, they just changed their face and still exist as modern slavery.

There are two important elements of the early trade in slaves between the Americas and Africa. The first is that, in the 1600s and 1700s, state-owned companies monopolized the trade in human beings from Africa to colonies in the Americas. However, smaller private traders conducted the bulk of the trade. The other important element about the early trade in human beings is that there has always been an illicit element to the trade. The illicit slave trade became more prominent because those countries who first regulated this trade later criminalised it (Friesendorf 2009:117).

The motive behind human trafficking throughout history has been profit making. The industrial age increased the vulnerability of humans to trafficking. Demand for cheap labour and increase in industrial age made children more vulnerable to trafficking. Till today children get less money for the same work done by an adult. Industrial age upgraded the living standard and now even upper middle class want to have servant for domestic work. Children have become the easy target to fulfil such demands because they work maximum time on fewer wages than an adult. It is important to understand the sociological factors that drive the problem of child trafficking.

2. Understanding Child Trafficking

The term 'child trafficking' can be defined as the movement of children within or across borders. This includes use of force, coercion or deception for the purpose of exploitation. Child trafficking is a business of buying or selling children for personal gain. The illegal trade in children is one component of a wider global problem of human trafficking (Meier 2008: 11). The *trafficking of adults* is defined in international law by coercion, abuse of power, force or threats that initiate the movement into exploitation{Article 3 (a)}. Children, by definition are much more

vulnerable to exploitation. As compared to adults, children are easy to traffic. Thus it is important for international organizations to make separate laws, policies and programmes to combat the problem of child trafficking.

The term “Trafficking in Children” is different from “Trafficking in Person” because In child trafficking the force or coercion is not required. According to Trafficking in Person Protocol Article 3 (d) of the Protocol any person under the age of eighteen is considered as child. Further the article 3 (c) explains that a child has been trafficked if he or she has been recruited, transported, transferred, harbored or receipt within a country, or across borders with the purpose of exploitation. It is not compulsory that in this activity whether there was a use of threat, force, coercion, abduction, or fraud or not, only the exploitation purpose is enough to prosecute the trafficker. In other words, if the trafficking victim is a child, then evidence of deception, force and coercion must not be emphasized (UN Trafficking Protocol 2000: Article 3 (d)).It entails the exploitation of children who are forced to leave their homes to make money for those people who traffic them from one place to another within the country or outside the country.

Palermo Protocol (2000) is marked as a significant milestone in international efforts to stop human trafficking. Moreover it is a supplement to define trafficking in children. It is important to be aware of the distinction between trafficking in adults and trafficking in children. This protocol considers child trafficking as the transfer of a child through a third person which results in exploitation. It does not matter how the child comes to move or was transferred from his/her place. The fact is that throughout the trafficking process children are being exploited in different ways.

The legal definition of child trafficking reflects a particular conception of childhood. It is incorporated into current international law that the child is an object of adult protection. However trafficking exposes children to violence, sexual abuse and infections like HIV. Children are more vulnerable to trafficking than adults because they do not know their rights. Moreover it undermines the basic need of a child to grow up in the protective environment of a family. It violates the child’s right to live with dignity. They can be easily tricked or coerced. Especially in the South Asian

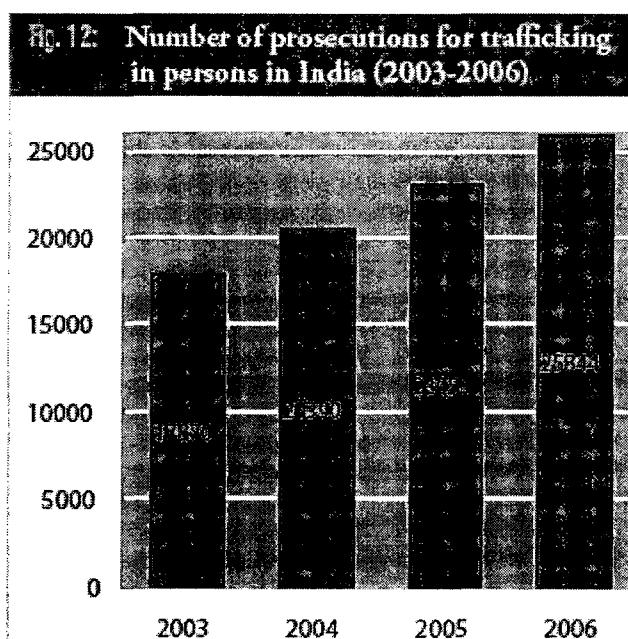
region, limited working opportunities and lack of education enhance the possibility of trafficking (Richards 2004: 147).

Child trafficking has grown as a big threat in the South Asian region as there are very few and those too old laws to combat child trafficking in particular. For instance, India adopted the *Immoral Traffic Prevention Act* (PITA) in 1956, which was amended in 1986 to become the *All India Suppression on Immoral traffic Act* (SITA) 1986. It covers law and penalties for offences of trafficking involving children. According to this Act, if a person seeks to acquire anybody, is legally responsible to be punished. Similarly if a person who moves a person from one place to another with coercion or force can be prosecuted. However this Act is not very effective in preventing trafficking in children. It has many limitations. First of all, the Act only deals with trafficking in women and children at brothels. But now the form of child trafficking has changed; today children are trafficked for different purposes and traffickers provide children to pedophiles at destinations other than brothels, such as at beaches, hotels and personal farm houses etc. Secondly, the biggest loophole in the Act is that if children are found in a brothel, then they are passed off as children of the prostitutes there and they are mostly released without any proper investigation (Nair 2005:194).

It is important to differentiate between smuggling and trafficking because sometimes the victims of trafficking are treated in the same way as those of smuggling. But this is not a right approach because smuggling involves consent of the parents or guardian of the child or him/her, whereas trafficking victims have never consented. When a migrant reaches his destination, the process of smuggling is over, but trafficking involves the ongoing exploitation of the victim again and again. Smuggling is always transnational, whereas trafficking may not be. Trafficking can occur regardless of whether victims are taken to another state or moved within a state. In smuggling cases, profits are derived from transportation while in trafficking cases profits are derived from exploitation. Thus trafficking victims are more vulnerable than those of smuggling so they should be provided with special protection. Separate laws and conventions are needed for both types of victims.

2.1 Sociology of Child Trafficking

Globalization has played a remarkable role in the expansion of criminal activities worldwide because now the world has become a “global village” and commuting from one place to another is not a problem at all. Globalization has increased cross border criminal activities like drug and arms trafficking and most important human trafficking. Global report on Trafficking in person 2009 says that during 2003 to 2006, the South Asian region recorded a high number of criminal proceedings in human trafficking. India, Pakistan and Nepal had high percentage of trafficking where Maldives and Bhutan recorded no prosecution for human trafficking (UNODC 2009: 43).



Sources: UNODC (2009) Global Report on Trafficking in persons page no: 43

The problem of trafficking of children for exploitative purposes has for long been recognized as a matter of concern. There are also wider social and economic factors such as drought or floods that enhance chances for a poor child to be trafficked especially in rural areas. There are man-made emergencies, such as conflict, that might drive a family from their home into a refugee camp where traffickers pick up

children whose families have lost everything. Domestic violence has also been shown to be a factor in increasing the vulnerability of children to trafficking. Children who witness or suffer violence in the home may run away and live on the streets, where their vulnerability to exploitation, violence and trafficking is acute (US.DHHS 2004: 14).

The problem of poverty is essential to understanding the overall causes of child trafficking in many countries of South Asia. Poverty leads to the supply of children and profit is the motive that drives the market. Natural disasters are also the reason behind child trafficking as they make children more vulnerable. An example is the thousands of children orphaned by the Asian Tsunami of 2004, “Thousands of child survivors were orphaned or separated from their families, making them more vulnerable to trafficking and other forms of exploitative child labour” (ILO 2006: 12). There are some other factors also which make some children more vulnerable to trafficking than others, like gender, religion, race and ethnic origins.

Communities live on a border and have always crossed that border to find seasonal work, there also children’s vulnerability to trafficking may be increased. It is a very common practice in India; Andhra Pradesh, West Bengal, Maharashtra, Tamil Nadu, Karnataka, Bihar, Orissa and Delhi are said to have been identified as the most affected states (Khan 2009: 20). Geographical factors such as climate change may ruin the livelihoods of fishing or farming communities. Institutional risk factors also include situations in which children are separated from their families (Romer 2006: 61). Trafficking into child domestic labour also illustrates another vulnerability factor because children from ethnic minority groups or certain castes are traditionally exploited as domestic servants and may be trafficked into this servitude.

3. Reasons for Child trafficking

There are many reasons that make children vulnerable to trafficking like Poverty, conflict situations, unstable government, disturbed law and order situation and sometimes the culture of a particular place. Children are being trafficked for several reasons including sexual exploitation, adoption; entertainment & sports, marriage, labour, begging, organ trade and, smuggling. Children are taken away to new places

to exploit them sexually in pornography, brothels and sex tourism. There are other reasons also such as labour exploitation, wherein children are forced to work in dangerous conditions like mines, bangle or firework factories. They work as domestic servants, housekeepers, nannies etc. The South Asian region is a region of conflict, disease and natural disasters, all of which lead to large-scale displacements of population. These factors all contribute to the increasing rate of child trafficking in the South Asian region. A wide array of reasons is found to be operational behind this menace. Some of them are discussed below.

3.1 Sex Trafficking and Sexual Exploitation

The nature of the Child Trafficking problem is so complex that accurate statistics are hard to collect, because children are frequently transferred through underground networks of traffickers. Most cases of sexual exploitation of children never come to the attention of government authorities. In many countries, it is not even recognized as a problem. Still it is estimated that approximately one million children (mainly girls) enter the multi-billion dollar commercial sex trade every year (UNICEF press release 2001). Sexual abuse and exploitation make young girls and boys vulnerable to trafficking and increase their risk of HIV infection. Trafficking victims are physically abused by the perpetrators. It is a violation of Article 19 of the United Nations *Convention on the Rights of the Child* (CRC) (1989), which ensures the protection of child from all forms of physical or mental violence (CRC 1989; GA/44/25)

Internet has increased the demand for children to be trafficked. These children once trafficked are used to work in porn movies. Pornographers produce images of these children. And sell them to paedophiles.

3.2 Child Slavery or Labour Exploitation

Child slavery/labour is a violation of the fundamental human rights of a child. It creates an obstruction in the children's development and may lead to lifelong physical or psychological damage. Child labour refers to work that is harmful to children's physical and mental health. The problem of child trafficking for

slavery/labour purpose is not new for the world. It was being practiced since a long time. Thus there was a need to identify the problem. Trafficking in person report provides a recent example, where about 300 adult and 50 child victims per year were identified under “slavery” during 2009, and about five to 20 victims per year were identified under “trade of slaves” (UNODC 2009: 260)

Although almost every country has adopted labour laws, labour regulations apply only to the formal sector. These laws do not protect people who are working in the informal sector, in which children who have been trafficked are most likely to be exploited. Jyoti Rao in her article says that 252,000 children are engaged in beedi manufacturing and 208,833 in the construction sector. It also says that an estimated 185,595 children are employed as domestic help and in *dhabas* (small roadside eateries) and 49,893 children work in auto-repair workshops (Rao 2007: 1). According to International Labour Organization, Asia and the Pacific region has the highest number of working children worldwide, where 122.3 million children from ages 5 to 14 are economically active (ILO 2006:1).

India, with an estimated 155 million child workers of 5-14 years, has the third largest labour force of child workers. It has a higher proportion of girls than boys engaged in labour. These girls are working under far worse conditions than those faced by boys (Ebbe 2008: 67). Some children are under pressure to work in order to contribute to their family income. For these children it is a necessity to work, as they are considered as the earning member of the family. However, national laws may not provide protection in case of migration-related child labour. It is because if the movement of child was not done with the purpose of labour exploitation, thus it would not be considered as child trafficking.

3.3 Domestic and Inter-country Adoption

Inter country adoption is a new form of trafficking in children. It is a kind of trafficking because it involves movement of a child from poor nations to rich nations in order to meet the demand for children. Rich countries use their wealth and power to buy children from poor countries. Article 3, clause 5 of the CRC *Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography* states that “State parties shall take all appropriate legal and administrative measures to ensure that all

TH-18753

persons involved in the adoption of the child act in conformity with applicable international legal instruments” (CRC 1989: A/RES/54/263). Smolin in his article argues that inter-country adoption is a form of child trafficking because the law and current system of inter country adoption permit to operate as such (Smolin 2005: 324) The first International Conference on Inter-Country Adoption was organized in Kathmandu in March 11-13, 2007. In this conference, it was felt that there was a need for a convention which could provide a proper definition for ‘inter-country adoption’. Till now the main international document which addresses inter-country adoption as a form of child trafficking is the OP-CRC (Optional Protocol to the Convention on the Right of the Child on the Sale of Children, Child Prostitution and Child Pornography, A/RES/54/263 (2000). The OP-CRC defines the “sale of children” as “any act or transaction whereby a child is transferred by any person or group of persons to another for remuneration or any other consideration.” (Smolin 2004: 300). Inter-country adoption is an increasingly common form of family formation. It can be defined as adoption of a child by a person of another country. The child’s true background is sometimes concealed because the child is a part of illegal trafficking (Cogen 2008: 33). There are few cases where adoption is done for trafficking, but all the adoption are not trafficking. Only those adoptions come under trafficking in which “exploitation” is a motive. There are lots of genuine cases as well. So every adoption cannot be suspected as a matter of child trafficking. Inter-country adoption is not the only form of child trafficking; sometimes the motive of domestic adoption can also be exploitation. Some people adopt children for domestic work, especially in cities where domestic labour is expensive.

3.4 Organ Trafficking



Science and technology have given rise to a new form of child exploitation that is known as organ transplant. The issue of trafficking in persons for the purpose of organ removal is defined in Palermo Protocol. According to the definition in the case of children there is no need for deception or coercion. If a third party removes the organ of a child, which is sufficient to prosecute him/her. Now a day, there is high demand for organs, but donors are available in a very limited number. Thus the requirement of organs of human body for medical purpose leads to organ trafficking.

It creates an environment that enhances child trafficking and children become unwilling donors of organs. In the end of the year 2006, Nithari case (India) where 19 children were reported killed, brought into focus trade of human organ trafficking (Gupta 2007: 1). Since there is no data available on how many children are trafficked for the purpose of organs, it remains invisible and children are used as an easy source. The Trafficking in person report 2009 clearly indicates that such practices are noticed in South Asian Region (UNODC 2009: 50).

The leading organization specifically working to this issue – Organs Watch – has conducted research on organ trade, based on that research at least all of the countries of South Asia can be seen to have a significant organ trafficking problem. India announced a new law on organ trafficking namely, *Transplantation of Human Organs Act* in 1994. Before adopting this act India had a bad reputation internationally for its organ trade. Wealthy people from all over the world used to buy kidneys from poor people in India. For instance, a residential colony of largely poor people in Madras in South India called Villivakkam became infamous as 'Kidneyvakkam' because many residents of this locality had sold their kidney for money (Kumar 2001).

Although few authors do not agree with this term and say that it is just a myth and there is no such instance as such. Said that these are just groundless rumors' and they are not true. He calls it an "Urban legend" and to prove his point he provides an example of India where one report say about child trafficking but the name of trafficker was missing. (Leventhal 1994: 25). But there is a huge demand and a market for body parts especially eyes, hearts and kidneys belonging to children (Gupta 2007). Child organ trafficking is happening because people who have money are ready to pay anything for their life. Thus it is easy for traffickers to buy children and sell their organs on high rates. This is a kind of instant business because there are thousands of people waiting for organ transplant and donors are very limited. Rich patient prefer to take a child's organ because the chances of having diseases are less and they are more durable than an adult's organ.

3.5 Child Soldier trafficking

In different parts of the world children are exploited for different reasons. Mostly in conflict areas, children (often orphaned by the conflict) are trafficked for military purposes and used as 'child soldiers'. Armed conflict creates special risks of sexual violence and exploitation for women and children. Desperation may force women and children into prostitution. Refugees are vulnerable to demands for sex by camp officials, border guards, police officers, and military personnel. In war-torn Colombia and Sierra Leone, girls as young as 12 have been forced to sexually submit themselves to armed soldiers in order to defend their families (UNICEF press release, 12 Dec 2001). This is in clear violation of international law. Thus United Nations asked all states to take measures to prevent and to put an end on such trafficking in children (USDS 2005: 861).

3.6 Entertainment and Sports

Generally it is assumed that child trafficking takes place only for the purpose of sexual or labour exploitation. Children are also exploited in sports like camel race in the United Arab Emirates. UAE has more than two million camels and camel racing is one of the most popular sports in the country. Camel racing takes place in every winter. The jockeys are usually young boys 2 to 7 years of age, who are chosen because of their light weight. When the race starts the boys cry with pain, thus the camel runs faster. They are bound to the back of the camel. Sometimes they slip off and are crushed between camels.

At the end of the race boys are injured or sometime even die. Although it is illegal to use such small boys as camel jockeys, the practice continues. Human rights organizations are not allowed to operate in UAE. The lives of young boys are put at risk in the name of entertainment. South Asian boys in particular are recruited because they tend to be cheapest and weigh less. They also scream louder at a higher pitch than most adults, causing the camels to run faster. Trafficking in person report 2009 says that children from Pakistan, Afghanistan, Bangladesh and India are trafficked to UAE for camel racing (UNODC 2009: 55).

South Asian countries have large populations of poor people and it is easy for traffickers to buy children from poor families. The networking of these traffickers is

so strong that it is difficult for authorities to grab them. Countries near UAE, Pakistan and Afghanistan are more vulnerable to this kind of trafficking. There are agents who trafficked children for camel jockeying in the United Arab Emirates (UAE) were not convicted and continue to engage in child trafficking. Trafficking in person report 2010 states that during 2009, the Government of Pakistan completed a four-year project to repatriate and rehabilitate child camel jockeys who had been trafficked to the United Arab Emirates (USDS 2010: 262). Young boys from South Asia are trafficked to UAE, Oman and Qatar and forced to work as camel jockeys (Yousaf 2006: 16). But the good part is that UAE government is funding a UNICEF program to provide rehabilitation assistance to repatriated children who had been trafficked to the UAE in previous years for service as camel jockeys.

3.7 Early Marriage

Early marriage is a form of child trafficking, because these girls are often minors. There is a tradition of early marriage in many South Asian countries. There are two major reasons why people want early marriage that first to have economic gain and secondly to control female sexuality. Poor families do not want to waste scarce resources on their daughters. They believe that once they are married, they will not contribute in family income. They would also not provide support for their parents as they grow old. So bride-price that a young girl fetches is needed to support her birth family and pay off debts. But in some cases it is a source of funds to purchase brides for her brothers (Warner 2004: 241).

South Asian girls are exploited through early marriage, often with elderly men. In India, the traditional practice of *devadasi* is still practised. It requires a young girl to be married or dedicated to a temple deity before puberty period (Bales 2009: 97). The *Devadasi* tradition in India has a long history. The term has been found in written records around twelfth century. In short, the *Devadasi* tradition is a religious function, in which girls and women are dedicated (through marriage) to different gods and goddesses. After that they become the wives or servants of the deities and perform various temple duties. Later on, these duties transformed into sexual services

to priests and patrons of the temples. But still the *Devadasi* women are recognized as a symbol of divinity. Thus some authors called it a “sacred prostitution” (Blanchard 2005: 191). *Devadasi* tradition is widespread in some states like Karnataka, Orissa and Tamil Nadu. Since The girl child has no scope to take decision for her own life because *Devadasis* are dedicated to Gods at a very young age. There is a huge gap between the sex ratio in some South Asian countries. Thus the old groom finds a young bride in another country. In that way, child trafficking occur some time on the name of religion and some time on the name of marriage.

4. Child Trafficking in South Asia

“Human trafficking” is reported in nearly all countries of South Asia. India, Pakistan, Nepal, Sri Lanka, Bangladesh and Afghanistan are more vulnerable to trafficking than Bhutan and Maldives (UNODC 2009). Countries in the South Asian region are developing countries. Thus their mechanisms to combat child trafficking are not very strict. Globalization has encouraged free mobility of capital and technology, which is responsible for increasing problem of child trafficking in the entire South Asian region. It is posing a unique and serious threat to human development.

South Asian countries (India, Pakistan, Bangladesh, Sri Lanka, Nepal, Bhutan, Maldives and Afghanistan) have created a regional organization called SAARC (South Asian Association for Regional Cooperation). SAARC countries have taken an initiative to combat child trafficking in this region. They have signed a protocol called “*SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution*”. Before this protocol, in most South Asian countries’ law, the term ‘trafficking in children’ was used only in the context of sexual exploitation of children. But after the SAARC agreement these laws now include all forms of exploitation of children. Child trafficking is increasing in these countries because they are inflicted with poverty, illiteracy, cultural oppression and poor health conditions. Traffickers take advantage of the miseries of people and use the promise of higher wages and good working conditions in foreign countries to lure children away from their families. Traffickers offer children false promises of a better future and a chance to earn some extra money. About 20% of trafficking in this region occurs for sexual

exploitation, the rest 80% of trafficking is forced labour, agricultural work, domestic work etc. (Johnson 2008: 270).

Child trafficking is common in Bangladesh. It is a country of origin. “Bangladesh Country Report on Combating Trafficking in Women and Children”, 208 victims of trafficking in persons were identified by State authorities. These victims included 96 women, 86 children and 17 men. The Association for Community Development (ACD) reportedly sheltered from 20 to 30 victims of trafficking in persons per year between 2003 and 2007 (UNODC 2009: 192). Child Trafficking is growing rapidly in India also, but still there is no reliable data available on the issue in India. According to figures provided by the National Crime Records Bureau (6.1), It is clear that in 2004, nearly 6000 cases were reported under the Immoral Trafficking Act but in 2008 this figure went down to 3000. But many cases remain unreported. There are cases of kidnapping and abduction of children qualified as forms of trafficking but poor people do not report them to police. India is a big country in South Asia thus it is the main route for trafficking in children.

In Nepal trafficking has been associated with poverty, social exclusion and ignorance. Nepali children, young girls and women are trafficked within the country and outside country as well. In Nepal, trafficking is also associated with the practice of slavery and the bonded labour system. Thus it is important to understand the specific contemporary processes of trafficking in Nepal. It is also necessary to have in-depth knowledge of the historical processes of trafficking in human beings. Nepal there were 29 convictions of cases of trafficking in persons in appellate courts in 2002-2003, four in 2003-2004, 11 in 2004-2005 and nine in 2005-2006. Convictions of cases of trafficking in persons in the Supreme Court numbered 11 in 2002-2003, 17 in 2003-2004, 16 in 2004-2005 and four in 2005-2006 (UNODC 2009: 201).

In Pakistan also situation is more or less the same. Pakistan has taken some steps to combat with the problem of Human Trafficking. It has adopted an act for criminalizing trafficking for sexual exploitation, adoption, forced labour, slavery and other forms of trafficking in 2002. The name of this act is *Prevention and Control of Human Trafficking Ordinance (PACHTO)*. Pakistan has adopted another act called *The Pakistan National Action Plan for Combating Human Trafficking (NAPCHT)* in 2006. In the case of children it has *The National Action Plan for Children (NAPC)*.

Between the year 2003 to 2006 1,826 cases were registered under PACHTO according to federal investigation agency. It says that out of all these cases 254 were decided with 222 persons found guilty and convicted (UNODC 2009: 203). The NGO lawyers for Human Rights and Legal Aids (LHRLA) in Pakistan identified 10 women and 47 children (42 males and five females) between five and 15 years of age as victims during 2001-2007. It claims that forty three children were trafficked to gulf countries in the Middle East for use as camel jockeys. In Pakistan for child traffickers Rahim Yar Khan & Dera Ghazi Khan & (Southern Punjab) are the centre for trafficking in children, and are major sources of children trafficking and as camel jockeys (Anwar 2004: VII).

In Sri Lanka also cases of child trafficking were identified. According to **Savitri Goonesekere** children are being trafficked to UAE through fake documents (Goonesekere 1993: 16). Some children remain trapped there because traffickers do not fulfil the promises made to the client and they do not release the children after race. Although the SAARC (South Asian Association for Regional Cooperation) Convention on Trafficking in Women and Children has been an important breakthrough to this serious problem still most of the countries in the region do not have anti-trafficking legislation or means to protect the victims of trafficking.

4.1 Supply and Demand

Trafficking in children is a supply and demand business. There is a demand in the global market for the children for various purposes. Developing countries work at the supply side as they provide easy access to child trafficking victims. Globalization has increased the free movement of money and labour. Humans cannot be treated as commodities. The demand of children also comes from traffickers, who hope to make money by traffic them. There are several types of demand in the international market. Two most important demands are (i) cheap labour and (ii) sexual exploitation. Child trafficking can be best studied within a framework of larger human security concerns that often contribute to the 'supply and demand' of trafficking. Child trafficking is a vastly complex issue affected by the global politics of trade, war, occupation, development, corporate business, and organized crime (Bechard 2006: 116).

It is important to distinguish between consumer demand and derived demand. Consumer demand is, when people want to buy cheap goods. The factory owner try to get cheap labour thus he/she prefer to take work from a child. Children get less money for the same work than adults. Thus, this kind of demand is generated by the consumer indirectly. The other type of demand is derived demand, which is directly generated by the people who stand to make a profit from the trafficking (UNODC 2009:54).

4.2 Child Trafficking Patterns and Flowss

As stated above, the market for child trafficking is more profitable than that for drugs and arms because a child can be resold and reused many times. Where selling of drugs and arms can produce cash only once, child can produce cash in every transaction. Whereas trafficking in children report 2009 says that cases of child trafficking are limited in scope, Trafficking in person report 2010 says that Pakistani, Indian, and other Asian migrant workers are subjected to forced labour in the country, and South Asia crime networks transport South Asian children to the country for commercial sexual exploitation (USDS 2010: 330). This evidence indicates that trafficking in persons occurs in a majority of the South Asian countries.

In this region, some countries are 'origin' countries, some are 'transit' and others are 'destination' countries for child trafficking. There are some countries in the region that serve as destination, origin and transit countries. For example India, Nepal and Bangladesh are origin, transit and destination countries, means children are taken away from here to different countries (origin), they are trade routes (transit) and children are brought here from different countries (destination). A country such as India is not only a site of destination within the region, but a transit country as well whereas Bangladesh and Nepal may be characterized as sending countries or countries of origin (Sanghera 1999: 5). But, overall South Asia is mostly reported as a region of origin.

Child trafficking takes place both within the region and between South Asia and other regions, including East Asia, Europe and the Gulf States. In some cases trafficking is 'symmetrical', meaning that trafficking routes lead both into and out of two countries. For example, India and Bangladesh, the problem of concave and

conclave has made the problem of child trafficking severe for both countries. There are some villages which are part of India and Bangladesh both. The National borders between India and Bangladesh are not defined. Thus it is very difficult for the border security forces to identify people from the particular country. People from these villages cross border daily to earn their livelihood. Thus it is very difficult for security forces to keep an eye on all the people who cross border in a single day that whether they came back or not. So it is very easy for traffickers to take children to transit or destination country because of this problem.

Child trafficking in South Asia is most commonly connected with sexual exploitation. But this is not the only reason for trafficking in the region. Trafficking takes place for various other exploitative purposes such as labour exploitation, including domestic servitude and begging, criminal activities, exploitation in armed conflict etc. Particularly in South Asia, forced marriage, debt release and settlement of disputes are reasons for a big percentage of child trafficking. In debt bondage women and children are forced to continue in prostitution through the use of unlawful “debt”. Exploiters insist that if they want to be free, they must pay off their transportation, recruitment, or even their crude “sale” (USDS 2010: 9). Thus it is also a kind of trafficking.

In many countries of South Asia, people are illiterate. They take debt from “*MAHAJAN*” or local lender instead of bank, these elite people misuse their ignorance and they use them as “*begar*”, which means work without payment. These people work against their debt (which they are never able to return) whole life and then their next generation also pay for the same. It is estimated that there are 27 million enslaved today, and 10 million in debt bondage in South Asia alone (Logan 2008: 1).

5. A New Approach to Child Trafficking

Palermo Protocol provided the “3P” paradigm of Prevention, Protection and Prosecution in 2000. It means prevention from trafficking, protecting victims from

trafficking and prosecuting traffickers for their crime. Since “Trafficking in Person Protocol (2000)” has been adopted, it is the basic approach to study human trafficking.

The ‘Rights-based approach’ places the child at the centre of all interventions. According to this approach, the study of child trafficking needs to go beyond viewing it simply as a sub-issue of human trafficking (Sanghera 1999: 36). It empowers the child to make informed choices, recognize risky propositions and face the future with confidence. This approach emphasizes creatively to look into the root of the problem of trafficking. It also takes care of the child after rescue and informs the country of origin for the treatment of trafficked children in a better way. It is a comprehensive approach that places the human rights of children at its core.

This approach emphasizes the rights of a child as defined in the *UN Convention on the Rights of the Child* 1989. It also takes stock of circumstances in countries of origin and transit, so that the exclusion or deportation policies adopted by the destination state do not lead to expected human rights violations abroad.² The rights-based approach requires addressing the root causes of child trafficking, including discrimination and other social, economic and cultural factors. It also ensures that approaches to study child trafficking are sensitive to children from different age groups and backgrounds.

6. Child Trafficking as a Threat to International Security

Human trafficking’ comes under the broader ambit of human security. The concept of ‘human security’ redirects attention in discussions of security from the national/state level to human beings. It means protecting people from critical and pervasive threats and situations (Commission on Human Security 2003:1). Human trafficking is a same situation which has become a threat to human freedom thus it is a matter of global concern. Human security is a vast concept. It is not just the absence of violence and conflict. United Nations development program report describes the concept of human

² International courts have established conclusively that states are responsible for human rights violations committed outside their jurisdiction on deportee, where the deporting state could have foreseen the violations, see *Soering v UK* (1989) 11 EHRR 439; *Ng v Canada*, Human Rights Committee Communication No. 469/1991, 5 November 1993

security as “freedom from fear” and “freedom from want” (Commission on Human Security 2003: 4)

‘Human security’ is discussed at different scales and with reference to threats of varying scope. Human security can be treated as the security of the human individuals. Thus ‘human trafficking’ falls under the vast ambit of human security. Human trafficking may be defined as the use of force, fraud or coercion to transport persons across international borders or within countries to exploit them for labour or sex.

The concept of security has evolved considerably over the years. Traditionally, security was defined primarily at the nation-state level and almost exclusively through the military prism. After the end of the Cold War the debate on the future of national and international security begins. The new research agenda become broader in its focus. Several research scholars focused their attention on the issues, which were falling outside the domain of the state centric conception of security. A need was felt to broaden the agenda of security studies. The main document which establishes the concept of human security comes from the United Nations Development Program (1994). Human security is defined as: 'first, safety from such chronic threats as hunger, disease and repression. And second, it means protection from sudden and hurtful disruptions in the patterns of daily life -whether in homes, in jobs or in communities. Such threats can exist at all levels of national income and development' (UNDP 1994: 23)

Traffickers make large profits from sending people illegally into another country. There are dangerous links between the trafficking of children and the drugs trade. Children are trafficked into exploitation as drug couriers and dealers. They are given drugs as salary in order to make them addicted to drugs. Then it becomes easy for traffickers to entrap children. Such children are at high risk of other forms of violence and even murder. Because of the illicit nature of drug dealing, children who are caught are more often treated as serious criminals (Bechard 2006: 118).

Conclusion

Child Trafficking usually treated as a sub-issue of human trafficking at global level. The same pattern is seen at the national level across South Asia. Although many cases of child trafficking remain unregistered, the current situation indicates that trafficking in human beings occurs in the majority of the countries in South Asia (USDS 2010:156). Most of the countries in South Asia are countries of destination, origin and transit in the human trafficking chain. Internal trafficking (trafficking within national borders) also occurs in this region. It is estimated to be a significant form of trafficking in the region. This signifies that governments in South Asia have multiple responsibilities which include prevention of trafficking and protecting children who are victims or who may be at risk. These governments also have to prosecute perpetrators and to ensure the recovery and empowerment of children who are victims of trafficking, exploitation, abuse and violence.

Child trafficking is a human rights threat, which needs to be addressed urgently. Even though efforts have been made to combat the problem at the international and regional levels, those are not enough. South Asian nations are the victims of poverty, illiteracy and terrorism. Their main concern is economic growth, but child protection needs to be taken up on a priority basis. It is also true that trafficking is not always linked to sexual exploitation. Girls and boys are trafficked for almost all forms of exploitation mentioned above. In some countries of South Asia, anti-trafficking laws focus on controlling prostitution, considering it a way to stop child trafficking. Thus laws also focus on the immorality of the sexual activity rather than as a child rights violation.

Child trafficking needs to be addressed separately. Most of the laws in South Asia merge women trafficking and child trafficking. Confronting these structural causes requires long-term initiatives which are possible, if states and international organizations work collaboratively, thereby synergizing national and international anti-trafficking strategies. The following chapter will provide an outline of the initiatives taken by international organizations and evaluate the efficacy of such responses.

Chapter 3

International Organizational Responses to Child Trafficking

This chapter will highlight the responses of international organizations to combat the problem of child trafficking in general and to examine the implications of their work for the South Asian region. The purpose of this chapter is to analyse the effectiveness of responses by international organizations to the problem of child trafficking. The argument that is proposed is as follows: though international organizations have done admirable work in the field of human trafficking, they have been unable to achieve their goal of eliminating child trafficking in South Asia for a number of reasons. First, there are no specific conventions that deal exclusively with the problem of child trafficking. Second, the few related conventions that do exist are so poorly implemented that the problem persists.

The United Nations and other international organizations are working in the direction of eliminating the problem of child trafficking at the global level. Some of the important international organizations involved with the issue of child trafficking include United Nations Children's Fund (UNICEF), International Labour Organization (ILO), United Nations Office on Drugs and Crime (UNODC), United Nations Global Initiative to Fight Human Trafficking (UNGIFT), UN High Commissioner for Human Rights (UNHCHR) and International Organization for Migration (IOM). These organizations have been operating different programmes for combating different dimensions of the problem of child trafficking.

This chapter is structured into four sections: the first section examines the historical efforts at combating human trafficking undertaken by the League of Nations and other international organizations; the second section looks into the current scenario and treaties pertaining to the problem of human trafficking/child trafficking, which are basically initiated by United Nations; the third section elaborates on the work done by various international organizations in general to combat the problem of child trafficking and the fourth section highlights the contribution of the above-mentioned organizations in tackling the problem of child trafficking in South Asia.

1. Historical Conventions to combat Human Trafficking

White women and black slaves both were the victims of slave trade. So when there was legal abolition of black slavery, white women also raised their voice against the 'white slave trade'. White slavery was discussed in Europe at a conference organised in Paris in 1895 and then again in conferences at London and Budapest in 1899. International Conferences against white slavery were organised in Paris in 1899 and in 1902. In 1904, an international agreement for the suppression of the "white slave traffic" was signed in Paris. The aim of this agreement was to provide protection to women and girls against "white slave traffic". There were special provisions to provide security to victims of trafficking.

1.1 International Convention for the Suppression of White Slave Traffic (1910)

White slavery means the supply of a 'white' woman or a girl against her will for prostitution by the use of force or drugs (Doezema 2000: 13). The white slavery movement was the movement against prostitution and slavery. It has been argued that the white slavery and sexual exploitation of white women is closely connected to the exploitation of 'black' slaves (Leppanen 2007: 15). In nineteenth century, trafficking was often linked to women and girls for prostitution. In the end of the nineteenth century, Josephine Butler (feminist activist) brought this term "White Slave Trade" in international consideration. It was very narrow as it was used only for European and American women, who were trafficked for prostitution in western European countries and the United States. It did not include the trafficked people from other races and colours (Derks 2000: 8). Later on, the term "white slave" became popular and was used in *International Convention for the suppression of the White Slave Traffic (1910)*. It was the first convention at the international level to fight against human trafficking. According to Article 1 of this Protocol:

"Whoever, in order to gratify the passions of another person, has procured, enticed, or led away, even with her consent, a woman or girl under age, for immoral purposes, shall be punished, notwithstanding that the various acts constituting the offence may have been committed in different countries" (White Slave Traffic 1910: Article 1).

This convention only deals with women and girls for the purpose of prostitution. There is no reference to the term "child trafficking" in the convention; only the term "girl under age" finds a mention.

1.2 International Convention for the Suppression of the Traffic in Women and Children (1921)

In 1921, the League of Nations organised an international conference in Geneva. In this conference, the women's movement demanded that the convention on "white slave traffic" needs to be replaced by "traffic in women and children" (Kangaspunta 2010: 3). Feminists urged the need to expand the scope of trafficking, because the previous convention used the narrow criterion of "white women and children". Moreover, these feminists wanted this amendment to be made because they wanted to include children of both sexes as potential victims of trafficking. It was the first time when it was recognised that male children could also be the victims of trafficking.

As a result, in 1923, the League of Nations appointed a group of experts to investigate the problem of women and child trafficking in cooperation with the governments of the countries facing this problem. They submitted two reports resulting from this study: first in 1927 and second in 1932. In the first report, international traffic was defined as "*the direct or indirect transportation for gain to a foreign country*". The report said that the bulk of the trafficking involved Asian women who were trafficked from one Asian country to another. The methods of trafficking described in the reports included many of the current elements of trafficking in persons such as "heartless fraud and cruelty of a different character" (Fergus 2005: 10). The first report of 1927 stated that the motive behind trafficking was profit making as it is the case in modern times as well.

On the basis of these reports, the League of Nations proposed an *International Convention for the Suppression of the Traffic in Women and Children*, which was opened for signature in Geneva in 1921. Thirty three states were the party to this convention. The Convention refers to the offences mentioned in the 1910 Convention on white slave traffic. Article 2 of the convention requires countries to take necessary measures to prosecute persons who are engaged in the traffic in children of both sexes (International Convention for the Suppression of the Traffic in Women and Children: Article 2).

The convention also recognises the need for protection for women and children from trafficking. In Article 7 of the convention, countries were asked to display warnings on notice boards about trafficking in women and children. Countries were also encouraged to arrange exhibitions in railway stations and in ports about the danger of trafficking and indicating the places where accommodation and assistance could be obtained (International Convention for the Suppression of the Traffic in Women and Children: Article 7). The main weakness of this Convention is found in Article 14 which says that “*State signing the present Convention may declare that the signature does not include any or all of its colonies, overseas possessions, protectorates or territories under its sovereignty*” (International Convention for the Suppression of the Traffic in Women and Children: Article 14). It was simply a biased convention and was in favour of colonial powers.

2. Initiatives taken by United Nations

The United Nations was established in 1945 and it also introduced various conventions. Several significant international treaties and agreements have been established to address the trafficking of human beings.

2.1 Convention on the Suppression of Trafficking and the Exploitation of the Prostitution of Others (1949)

The United Nations Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others was adopted in 1949 and entered into force in 1951. It was the first legally binding instrument to combat human trafficking. This convention perceives prostitution as a criminal activity. The main reason for the low ratification rate is that several countries do not want to criminalise prostitution (Kangaspunta 2010: 4). This convention basically deals with “*internal trafficking*” for the purpose of criminalising prostitution.

The United Nations (UN) has taken several initiatives to combat human trafficking. It has adopted many conventions and started many programmes in affected countries. The first step was taken UN with the *Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others*, known as 1949 Convention. This convention determined laws and initiatives at the international and

national levels until 2000. The *UN Convention on Transnational Organized Crime* (2000) was the first convention, which views trafficking as a problem of organized crime, law and order, and migration. It framed the issue of trafficking as a moral problem. The 1949 Convention was basically a tool to legislate on the issue of prostitution because it could not differentiate between trafficking and prostitution.

2.2 Convention on the Elimination of Discrimination of Women (CEDAW) (1979)

The *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW) is an international human rights treaty that focuses on women's rights and women's issues worldwide. It was adopted by the UN General Assembly on 18 December 1979. It is also referred to as the Treaty for the Rights of Women and the International Bill of Rights for Women. This convention is developed under the guidance of the UN Commission on the Status of Women. It describes the meaning of equality and also guides how women could achieve that. Article 6 is dedicated specifically to the issue of trafficking: "*States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women*" (CEDAW 1979). Article 2 of the *Optional Protocol to the CEDAW* provides a communications procedure, which allows either individuals or groups of individuals to submit individual complaints to the Committee on the Elimination of Discrimination against Women. CEDAW annually identifies the areas to eliminate discrimination against women. It also reviews reports provided by different organisations and recommends programmes for the development of women.

2.3 Convention on the Rights of the Child (CRC) (1989)

The UN Convention on the Rights of the Child is probably the only convention which focuses specifically on children. It was adopted by the UN in November 1989. It includes all the basic human rights to which children everywhere are entitled. The Convention (CRC) in its Articles 9 and 10 states that besides the best interest of the child, he/she should not be separated from his/her parents against their will and the best interests of the child should be the supreme objective. CRC also dwells on international adoption in Article 25. It clearly declares that this kind of adoption must

not involve “improper financial gain”. It is an important article to stop child trafficking on the basis of adoption.

The trafficking related articles are Articles 11, 32, 34, 35, 36, and 39 which require states to combat the illicit transfer of children abroad. These articles direct states to adopt, appropriate national, bilateral and multilateral measures, to prevent the sale or trafficking of children for any purpose or in any form. Moreover these articles provide protection to children against economic, sexual and all other forms of exploitation. The above-mentioned articles are relevant to the protection of child victims of trafficking. The aim of these articles is to create an environment for children, where they can have a right to physical and psychological development. These articles help UNICEF to determine its policy and area of intervention to combat child trafficking (UNICEF 2002: 2). The Committee on the Rights of the Child is situated in Switzerland. It monitors the progress of the Convention by receiving reports from individual countries. It also recommends as to how countries can implement the rights of children.

2.4 International Convention on the Protection of the Rights of All Migrant workers and Members of their Families (1990)

The International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families entered into force on 1 July 2003. The Convention was adopted and opened for signature, ratification and accession by the UN General Assembly on 18 December 1990. Historically, migrant workers and their families have not been protected in the international legal system. However, the primary objective of this convention was to protect migrant workers from exploitation and the violation of their human rights. It requires state parties to take appropriate action in order to prevent and eliminate clandestine movements and trafficking in migrant workers. This convention was based on several UN conventions along with the Convention on the Rights of the Child (1989). The Convention helped in protecting the fundamental rights of migrant workers {International Convention for Migrant Workers (1990) : GA/ 45/158}. It covers all aspects of the migration process from country of origin to country of destination. It was a joint effort by ten NGOs and

International Organization for Migration (IOM). The three agencies of the United Nations – The High commissioner for Human Rights, UNESCO and International Labour Organization – were also the part of the initiative.

2.5 The Hague Convention on the Protection of Children and Cooperation in Respect of Inter-country Adoption (1993)

The main objective of this convention was to prevent illegal inter-country adoption. The convention seeks to regulate inter-country adoption and establishes certain rules and regulations for such adoptions to prevent trafficking of children. It clearly directs member countries to make these adoptions possible only if it is in the best interests of the child with respect for his/her rights (The Hague Convention on Inter-country Adoption 1993: Article 1 (a) and 4(a) (b) (c) and 24). The Convention also focuses on the need for countries to work to prevent the abduction, sale, or trafficking of children (The Hague Convention on Inter-country Adoption 1993: Article 1). Not all countries have signed the convention but few are following this convention's rules for inter-country adoption.

2.6 The Stockholm Declaration and Agenda of Action against Commercial Sexual Exploitation of Children (1996)

The first World Congress against Commercial Sexual Exploitation of Children was held in Stockholm in 1996. It was a landmark event where 122 countries were participating to discuss the issue of commercial sexual exploitation of children. It was a combined effort of the Government of Sweden, UNICEF (United Nations Children's Fund), ECPAT (End Child Prostitution, Pornography and Trafficking) International, and the NGO Group for the Convention on the Rights of the Child. This was the first time that states, United Nations and the civil society came together to address violation of children's rights (Bueren 1998: 371).

The Government of Japan, UNICEF, ECPAT and the NGO Group for the CRC invited governments and NGOs to deliberate upon the elimination of commercial sexual exploitation of children in 2001. The main motive of this meeting was to evaluate the progress made since the Stockholm Convention. Moreover, the actors involved were seeking new partnerships and commitments (Shrivastava 2007: 69).

2.7 International Labour Organization Convention No. 182 Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (1999)

There was a need to have a convention which could decide the minimum age of a child worker. It was also important to highlight the worst forms of child labour at the international level. It required immediate and comprehensive action by the International Labour Organization (ILO). Thus ILO adopted the Convention No. 182 Concerning the Prohibition and Immediate Action for the Worst Forms of Child Labour in 1999. This Convention is based on the resolution 'elimination of child labour' adopted by the International Labour Conference at its 83rd Session in 1996 (ILO 2002: 24). It is known as the "Worst Form of Child Labour (No. 182)". After this convention, the discourse on the subject of trafficking incorporated the dimension of child labour. This new labour approach has allowed some interesting new approaches to tackling trafficking of children. Because of this approach, trade unions and chambers of commerce have started taking initiatives to protect children. The child labour approach if combined with principles of the CRC, could create the most empowering of approaches on the issue of trafficking (Gilada 1989: 15).

The focus of this convention was to decide the minimum age of a child for admission to employment. It also gives importance to free basic education and the need to remove children from labour work. This resolution states that poverty is the main reason behind child labour. Thus the solution for child labour is sustained economic growth, which would lead to social progress. Forced Labour Convention (1930) and the United Nations Supplementary Convention on the Abolition of Slavery and the Slave Trade (1956) were also getting adopted in order to eliminate child labour {UN Convention on Slave Trade 1956: A/51/492}. In 1998, International Labour Organization adopted '*ILO Declaration on Fundamental Principles and Rights at Work*' in its 86th session. It covers some of the worst forms of child labour.

The Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices similar to slavery, 1956 is the first Convention to specifically deal with the exploitation of children related to slavery and similar practices. In Article 1 (d), the Convention defines slavery in the following manner.

“Any institution or practice where by a child or young person under the age of 18 years, is delivered by either or both of his natural parents or by his guardian to another person, whether for reward or not, with a view to the exploitation of the child or young person or his labour” {Article 1 (d)}.

This is the first convention to identify the various practices that constitute slavery such as debt bondage and forced marriage.

2.8 The Optional Protocol to the CRC on the Sale of Children, Child Prostitution and Child Pornography (2000)

There are two optional Protocols to supplement the *Convention on Rights of the Child*. The first Optional Protocol is *Sale of Children, Child Prostitution and Child Pornography* (OPSC). It was adopted in May 2000 and entered into force in January 2002. It is the first Protocol of its kind, which prohibited the sale of children, child prostitution and child pornography. This protocol requires these offences to be treated as criminal acts. It also requires the states parties to establish grounds for criminalizing these prohibited acts (OPSC 2000: UN Doc. A/RES/54/263).

The purpose of this convention was to promote international cooperation. It encourages collaborations between states to pursue offenders. It also provides support to child survivors of commercial sexual exploitation. OPSC has Committee on the Rights of the Child (CRC). This Committee is composed of 18 experts, which are elected for a term of four years by states parties. In this committee, states parties are required to submit their reports on the implementation of CRC and OPSC. It also monitors the implementation of two Optional Protocols, one concerning the involvement of children in armed conflict and one concerning the sale of children, child prostitution and child pornography (ECPAT Annual Report 2007: 4).

2.9 United Nations Convention against Transnational Organized Crime

The UN *Convention against Transnational Organized Crime* was adopted by General Assembly resolution 55/25 on 15 November 2000. It is the main international instrument in the fight against transnational organised crime. The Convention is supplemented by three Protocols. These Protocols were opened for signature by Member States at Palermo in Italy. Thus they are also known as “Palermo Protocols”. They are given below.

1. *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.*

2. *Protocol against the Smuggling of Migrants by Land, Sea and Air*

3. *Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition.*

Countries have to become parties to the *UN Convention against Transnational Organized Crime* before becoming parties to any of these three supplementary protocols. The Convention itself proves the seriousness of the problems posed by it. Moreover, it also identifies the need of international cooperation in order to tackle these crimes. The UN Trafficking Protocol and the UN Convention against Transnational Organized Crime are both based on the framework of prevention of trafficking. They were even finalised under the guidance of the UN Crime Commission.

In the above-mentioned protocols, the one which is related to trafficking was, the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (2000)*. It protects and assists the victims of trafficking in persons with full respect for their human rights. ‘Palermo Protocols’ must be read and applied with the parent Convention *i.e.* UN Convention against Transnational Organized Crime. Each country is required to become a party to the Convention in order to become party to the Protocol. Protocol offences are deemed to be Convention offences for the purposes of extradition and other forms of cooperation.

This Palermo Protocol is a global legally binding instrument to combat human trafficking. For the first time, the international community developed and agreed on a common definition. Trafficking in person is defined in Article 3(a), which is given as follows:

“Trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring 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 labour or services, slavery or practices similar to slavery, servitude or the removal of organs” {Article 3 (a) Palermo Protocol}

In this protocol, the definition of child is given in Article 3(d) as any person under the age of eighteen. Child trafficking is defined in Article 3(c), which is as follows:

“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”

The definition of “trafficking in person” is comprehensive in this protocol; this is a major development in the law of trafficking. Moreover, it provided a more dynamic definition of trafficking than the earlier definition of the 1949 Convention of trafficking. It is for the first time that a distinction is made between women and children. It also provides special provision for children by stating that whereas in the case of women, evidence of some form of coercion or abuse of vulnerability is necessary, in the case of child fraud and deception, coercion or abuse is not a necessary condition. Article 3 (c) of the Convention states that a mere recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation would be construed as child trafficking, the means involved notwithstanding (Coomaraswamy 2006: 7).

International, regional and national organisations working in the field of child trafficking often follow this definition. It has been variously defined in terms of human rights, criminal activity, irregular migration, labour exploitation and modern slavery. Trafficking in children is now widely understood to be not only a crime but also a serious violation of human rights, rights of children, labour rights and fundamental freedoms. The basic purpose of the Protocol is to prevent and combat trafficking. The main focus of the protocol was to protect and assist victims and to promote international cooperation. Victims and witnesses are also dealt with in the Transnational Convention but the protection of victims is specified as a core purpose of this Protocol. Moreover, it also recognizes the critical needs of trafficking victims and the importance of their assistance. It not only investigates the cases of trafficking but also prosecutes trafficking crimes.

In addition, the Protocol adheres to an expansive notion of trafficking. The definition given in the Protocol for trafficking goes beyond sexual exploitation or prostitution. It includes a range of purposes such as forced labour, removal of organs or other slavery like practices. The Protocol emphasises on the special requirements of child survivors of trafficking; it asks each state party to “take into account, in applying the provisions of this article (on assistance to and protection of victims of

trafficking), the age, gender and special needs of children, including appropriate housing, education and care {UN Trafficking Protocol 2000: Article 6(4)}.

States are bound to take appropriate measures for preventing trafficking. A reading of the text of the protocol makes this clear. Article 9(1b) of the Protocol requires parties to “protect....especially women and children, from re-victimization” {UN Trafficking Protocol 2000: Article 9(1b)}. The Protocol goes further in addressing the underlying causes that lead to trafficking. It advocates that measures be taken through “bilateral and multilateral co-operation to alleviate factors that makechildren, vulnerable to trafficking, such as poverty, underdevelopment and lack of equal opportunity {UN Trafficking Protocol 2000: Article (9)(4)}. The importance of sensitising immigration officials to the needs of children is also stressed [UN Trafficking Protocol 2000: Article 10 (2)]. The UN Trafficking Protocol, for the reasons discussed above, certainly constitutes a major advancement in terms of protecting the rights of the trafficked children.

International Response to Sex Trafficking of Children

Trafficking of children has primarily been defined in the CRC (Convention on the Rights of Child, 1989) in Article 35. This article says that “states parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form” (CRC 1989 : GA/44/25). In this convention, the main focus was on sexual exploitation of children. According to Article 34 of CRC, “...States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse” (CRC 1989: GA/44/25). CRC came into force in 2 September 1990. Since 1990 till 1999, the discussion on child trafficking was related only to the sexual exploitation of children.

Trafficking is made possible when there is a collapse in protective environment. Whenever, social, political or economic conflicts come along with poor legal systems, then children are more vulnerable to trafficking (Silvia 2005: 90). The commercial sexual exploitation of children is persistent and never very far away (Ebbe 2008: 27). Many measures have been taken to prevent exploitation of children and to aid their recovery and reintegration into society. Many projects have sought to

protect children, who are particularly vulnerable to exploitation in the form of sex trafficking.

The first World Congress against Commercial Sexual Exploitation of Children (1996) placed the issue of commercial sexual exploitation of children (CSEC) on the international platform. It describes it as a fundamental violation of their rights and a crime in international law. Since then the exploitation of children in prostitution and pornography, and the sale of children for sexual services, has been the focus of much study (Gupta 2008: 3). The UN Trafficking Protocol is an important step, which demonstrates a better understanding of trafficking that essentially implies exploitation of human beings for any purpose.

International Response to Labour exploitation of Children

The suppression of slavery has always been the objective of the international organisations. Whether it was the League of Nations or the United Nations, they have always been concerned about removal of slavery. They have made numerous legislative and policy instruments to fight slavery. Slavery and the slave trade were abolished centuries ago by the French revolution. The British Parliament and the 13th amendment to the American Constitution have banned slavery. But human trafficking and modern forms of human exploitation are not part of that history (Scarpa 2005: 18). This new form of slavery *i.e* “modern slavery” demands new legislation to tackle it. The ILO classifies child trafficking as one of the worst forms of child labour, under Convention C-182. An *Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography and ILO Convention 182* directs ILO to take immediate steps to prohibit the worst forms of child labour, including child prostitution and child pornography. If a country is poor, it is difficult for it to eliminate child labour completely. Thus there is a need for suitable mechanisms for such developing states. The project to combat Trafficking In Children in South Asia (TICSA) began in 1998 with research, consultation, and analysis leading to a two-year regional project, covering Bangladesh, Nepal and Sri Lanka in the first phase. These three countries continue to be core countries for the second phase, which began in October 2002 with a focus on policy development, capacity building, prevention, rescue, rehabilitation, and reintegration. The project

experience acquired during the first phase is being applied in non-core countries viz. Pakistan, Indonesia and Thailand (ILO 2009: 7)

A job-seeker should have freedom of geographical movement and access to employment. If consent is there then it would not be considered as trafficking. But if there is lack of legal rights to mobility, then it may enhance their vulnerability to harms such as trafficking.

3. International Organizational Responses at Regional Level

Many countries have reviewed their laws and legislations on trafficking; more than 21 countries are applying extra territorial legislation. These legislations allow the prosecution of nationals, who have committed offences against children in other countries. However, it is not enough to solve the problem of child trafficking at the regional level. Especially in the South Asian region, the problem of child trafficking is a very complicated problem, as the region faces problems of under-development, poverty, illiteracy and unemployment. Thus it requires special treatment to solve the problem of child trafficking in this region.

4.1 Response by the United Nations

The response of the United Nations to trafficking of women and children at regional level is of recent origin. UN and regional level coordination about anti-trafficking initiatives started in 1999 (Sanghera 1999: 20). UN agencies have the expertise in the field and they enjoy a status of credibility with governments and networks. They have links with government organisations as well as NGOs (Non Governmental Organisations). Thus UN agencies could address the problem of child trafficking more effectively. UN has also created some task forces in South Asian countries to combat the problem of human trafficking.

4.2 UN Task force in Nepal and Bangladesh

This task force was set up in 1998 by United Nations Development Programme (UNDP). It was a project aimed at combating the problem of women and girl trafficking in Nepal. In Bangladesh, the task force was coordinated by UNESCO and steered by UNAIDS. Their aim was to promote ownership of various project activities

by governments and NGOs. It also develops coordination amongst the various UN agencies to combat trafficking in respective countries (Sanghera 1999: 21).

The Office of the High Commissioner for Human Rights (OHCHR) is also recently involved in the issue of trafficking of persons. OHCHR's special focus is on trafficking in children. The OHCHR Trafficking Programme was established in March 1999. Its objective was to work towards national anti-trafficking initiatives. It gave special emphasis on legal and policy development. OHCHR has devised a system for intra-office coordination on the problem of trafficking since 1998. Its aim is to ensure that necessary links are made between these various mechanisms as well as between the officers who are working with them. The Programme is administered by a specialist adviser, who also supports the High Commissioner on issues relating to both trafficking and migrant smuggling. The main objectives of the programme are as follows: (a) to enhance and ensure the capacity of the High Commissioner to provide policy guidance and leadership on the issue of trafficking; (b) to strengthen the capacity of OHCHR and the UN human rights system to deal with the human rights dimensions of trafficking; (c) to ensure the integration of a human rights perspective into the anti-trafficking work of other UN agencies and programmes; and (d) to raise awareness and knowledge of trafficking as a human rights issue throughout the UN system; (e) to encourage external organizations (IGOs, INGOs, national NGOs, and National Human Rights Institutions) to take up the issue of trafficking and to adopt a human rights perspective to trafficking in their policies and activities (OHCHR 2001).

The High Commission is also examining the SAARC convention on trafficking. It would evaluate this convention from the stand point of human rights.

4.3 United Nations Children's Fund (UNICEF)

UNICEF is playing an important role in awareness raising on the issue of child trafficking in the South Asian region. UNICEF is guided by the CRC. UNICEF is sponsoring many research programmes for situation analysis on human trafficking in South Asia. It has supported many child protection and reintegration programmes for children. UNICEF's programmes to control child trafficking focus on poverty reduction, education, strengthening laws and implementation and monitoring of

international conventions. It also helps the trafficked children to re-enters the society by providing them life skills.

UNICEF has an independent research agency called 'UNICEF Innocenti Research Centre', which is dedicated to promotion of child rights. It is basically a research organization which has a vision to fill knowledge gaps in issues related to children. The Innocenti Research centre has been working on child trafficking from many years. This branch of the organization is known as "*Child Trafficking Research Hub*". It has collaboration with the UNICEF Regional and Country Offices. It started its research in 1998 in West Africa in Collaboration with UNICEF West and Central Africa Regional office. In May 2002, the result of this research "Child Trafficking in West Africa: Policy Responses" was presented at the UN Special session on Children (UNICEF 2002) . UNICEF is actively involved in research on child trafficking in different parts of the world. It is supporting many programmes in South Asian countries. In Nepal, it is helping in revising the Anti-Trafficking laws. In Bangladesh, it has been active in promoting anti trafficking interventions. UNICEF has undertaken some responsibilities related to documentation of trafficking of children and their increased vulnerability.

In India, UNICEF is supporting government and NGOs in developing programmes to combat child trafficking. It is working with the cooperation of department of women and child development. In 1996, they jointly sponsored six major meetings in different parts of the country to formulate policy guidelines (Sanghera 1999: 23). UNICEF is also supporting a programme, which is developing a database on trafficking of children. It is an important programme. To date, there is no exact figure of how many children are trafficked in South Asia each year. UNICEF has also sponsored a cross border police workshop on the issue of child trafficking. In this workshop, they trained police officers to identify trafficked children.

4.4 International Labour Organization (ILO) and International Programme for the Elimination of Child Labour (IPEC)

The International Labour Organization (ILO) has addressed the trafficking of children through its C29 'Forced Labour Convention' (FLC 1930). Sometime people work or provide their services under some kind of threat or compulsion. These kinds of

situations come under “bondage labour” and “forced labour”. FLC convention aims to remove all such work or service. This convention confirms child trafficking as a practice similar to slavery. It also asks states to take action to eliminate the worst form of child labour. Since 1992 International Programme for the Elimination of Child Labour (IPEC) has undertaken the ILO’s programme against the trafficking of children. IPEC is working under the guidelines of the CRC and the ILO convention 182. The main aim of IPEC is to eliminate child trafficking by addressing its root causes (Sanghera 1999: 25).

ILO-IPEC supports workshops for legal experts and prosecutors on legislation regarding trafficking. They also support NGOs that are working for prevention programmes, awareness raising, rescue and rehabilitation of trafficking victims. It establishes prevention camps in trafficking prone areas. ILO conducts rigorous advocacy on issue of child labour. ILO works with the collaboration of ministries of labour and social welfare in concerned countries.

4.5 International Organisation of Migration (IOM)

IOM is a major organization which has the expertise in implementing counter-trafficking activities. It has provided assistance to thousands of trafficking victims throughout the world. It helps in protecting the human rights of migrants. It also cooperates with its member states to deal with problems related to migration. One of the core challenges for IOM and its member states is to combat trafficking in persons, which is an abusive form of irregular migration. It involves the violation of the migrants’ human rights.

IOM has placed trafficking on its regional agenda. IOM is particularly concerned about the distinctions between migration and trafficking. It focuses primarily on cross border trafficking. It seeks to strengthen organisations and programmes which provide support to survivors of trafficking. IOM’s counter-trafficking activities consider trafficking as a coercive and exploitative process. In general, trafficking involves crossing at least one international border, it can also occur within a single country. IOM conducts information campaigns in countries of origin to inform the people, who are in a danger of being subjected to trafficking and

irregular migration. It also does some awareness raising activities in schools, urban and rural community groups and families.

4.6 The UN High Commissioner for Human Rights (UNHCHR) and Recommended Principles and Guidelines on Human Rights and Human Trafficking

The United Nations High Commissioner for Human Rights adopted *Recommended Principles and Guidelines on Human Rights and Human Trafficking* in May 2002 in an effort to emphasise the need to protect and assist trafficking victims instead of merely trying to fight the traffickers. Whilst primarily addressed to States, the seventeen principles and eleven guidelines seek to have national, regional and international actors adopt a human rights perspective for dealing with trafficking. Thus, they emphasise the primacy of trafficked persons' human rights.

Recommended Principle 10 and Guideline 8 deal specifically with children. The former states that children who are victims of trafficking shall be identified as such. Their best interests shall be considered paramount at all times. Child victims of trafficking shall be provided with appropriate assistance and protection. Full account shall be taken of their special vulnerabilities, rights and needs (UN Economic AND Social Council 2002: E/2002/68/Add. 1).

4.7 UNODC (United Nations Office of Drugs and Crime)

The UN office on drugs and crime (UNODC) is responsible for crime prevention, criminal justice and criminal law reform. It pays special attention to combating transnational organized crime, corruption and the illicit trafficking of human beings. Nine resolutions relating to UNODC were adopted by General Assembly at its 55th session (United Nations Millennium Declaration 2000: GA/Res/55/2).

The UNODC crime programme cooperates with a network of international and regional institutions, allowing for a more comprehensive approach and exchange of expertise. UNODC works with member states to strengthen the rule of the law, promote a stable and viable criminal justice system and to combat the growing threat

of transnational organised crime through better cooperation. The programme assists countries in the elaboration, ratification and implementation of international criminal law conventions and protocols, such as the United Nations Convention against Transnational Organised Crime.

Gaps in the Efforts of International Organizations

International organizations have done considerably good work in the field of child trafficking. But still there are some gaps. South Asia is different from rest of the world. It has different requirements to tackle the problem of child trafficking. One cannot generalize the same rules for whole world. Present conventions and treaties of UN, are not binding on states. Many countries have not even ratified them. Thus it is very difficult for international organization to operate in these countries. UNICEF and other organisations are helpless in those countries, which are not a part of these conventions and treaties. These trafficking protocols do not contain an obligation for States Parties to protect the human rights of child trafficking victims. That is why the work of international organizations is challenging.

Conventions related to children are very new. So it is not easy to speculate the impact of these instruments on victims of child trafficking. It is clear that in recent years there has been an increased focus on the issue and states are pressurised to take action. The UN Trafficking Protocol involved some regional actions. Thus the focus has moved towards more specific questions such as the rights of victims. In international organisations, the issue of forced labour and the link between trafficking and migration is being discussed. Nowadays, there are many new forms of trafficking which are also in practice like organ trafficking. This type of trafficking is a new challenge that faces international organisations. Therefore, there is an urgent need for specific conventions or treaties to address these new forms of trafficking.

Globalization has also been a cause of human trafficking. It has encouraged men and women to seek employment opportunities elsewhere. Moreover, women and children have been severely affected by the processes of globalisation owing to a decline in governmental food subsidies and the increase in prices of basic

commodities (Joshi 2002: 24). In this way they are forced to leave their homes in search of employment to fulfil their basic necessities.

Trafficking in human beings is a new form of slavery. It is a serious violation of human rights. The exact number of people trafficked annually through international borders is unknown. According to the International Organization for Migration (IOM), the lack of anti-trafficking legislation in many countries is because of the low priority given by governments to research activities and data collection in this field (IOM 2001).

Conclusion

The aim of this chapter was to analyse the various international treaties, special mechanisms and instruments dealing with trafficking in persons and in particular with children. Trafficking in persons has a long history of evolution from the early forms of slavery to the modern forms of trafficking in persons. Trafficking still exists in the world in spite of so many efforts to control it. According to the United States Department of State, 1 to 2 million people are trafficked worldwide, including 150,000 from South Asia and 225,000 from Southeast Asia (ADB 2003). No doubt, international organisations have been responding to the problem of child trafficking in a major way. However, the effectiveness of their responses needs to be enhanced for combating child trafficking in a thorough manner.

This problem is more complex in the case of South Asian region as compared to other parts of the world. Child trafficking is a human rights violation indeed. In the South Asian region, it is important to consider dimensions of gender, age, class and caste as they have clear roles to play in defining vulnerabilities. With regard to the South Asian region, these factors play an important role in trafficking of children. It is important to analyse as to how a regional organisation is responding to the problem of child trafficking. South Asian Association for Regional Cooperation (SAARC) is an important organisation in this region; its role in combating child trafficking will be discussed in the ensuing chapter.

Country	Protocol to prevent Suppress and Punish Trafficking in Person		ILO Convention 182, Elimination of Worst Forms of Child Labour	Optional Protocol to the Convention on the Rights of then Child on the sale of Children, Child Prostitution and Child Pornography		Optional Protocol to the Convention on the Rights of the Child in Armed Conflict		ILO Convention 29, Forced Labour	ILO Convention 105, Abolition of Forced Labour
	Signature	Ratification, Accession(a), or Acceptance(A)		Ratification	Signature	Ratification, Accession(a)	Signature		
Afghanistan			X		X(a)		X(a)		X
Bangladesh			X	X	X	X	X	X	X
Bhutan									
India	X			X	X	X	X	X	X
Maldives				X	X	X	X		
Nepal			X	X	X	X	X	X	X
Pakistan			X	X		X		X	X
Sri Lanka	X		X	X	X	X	X	X	X

Source: USDS 2010: 361-364 TRAFFICKING IN PERSON REPORT

Chapter Four

South Asian Association of Regional Co-operation (SAARC) and Child Trafficking

In the previous chapter, the international responses towards child trafficking were discussed. As the focus of this research is on child trafficking in the South Asian region, it is important to also evaluate the regional institutional response to the problem. The South Asian Association for Regional Cooperation (SAARC) is the central regional organization in South Asia. This chapter seeks to examine the role of SAARC in combating the problem of child trafficking in the region.

The argument being advanced is that SAARC countries and SAARC as a regional institution are not effectively combating the problem of child trafficking in this region. Although they have adopted a convention on trafficking, there are many loopholes in this convention. This chapter has been structured into four parts. The first part will provide a general idea about SAARC and its *Convention on Preventing and Combating Trafficking in Women and Children for Prostitution* (2002). The second part will critically analyse the response of SAARC – as a regional institution in South Asia – to the problem of child trafficking. The third part will analyse the current situation in South Asia as gravity and patterns of the problem of child trafficking in South Asian region, and finally part four would evaluate the country-wise response to child trafficking. This will include the responses of all the countries in SAARC *i.e.* India, Pakistan, Nepal, Bangladesh, Bhutan, Sri Lanka, Afghanistan and Maldives. Before examining the role of SAARC in combating child trafficking in the region, a brief examination of the nature of the institution is worthwhile.

1. South Asian Association for Regional Cooperation (SAARC)

The South Asian Association for Regional Cooperation (SAARC) was established on 8 December, 1985, with India, Bangladesh, Nepal, Bhutan, Pakistan, Maldives and Sri Lanka as the founding members. In the 14th SAARC summit held in 2007, Afghanistan also became a member of SAARC. Its secretariat was established in

Kathmandu in 1987. SAARC is committed to the South Asian region's development and its focus of work includes social issues like 'human trafficking'. Many initiatives have been undertaken to address trafficking in human beings in South Asia, the most important of which is the adoption of the *Convention on Preventing and Combating Trafficking of Women and Children in Prostitution* in 2002.

The process of SAARC Trafficking Convention (2002) was started in the Male summit (1997), where member states agreed to work together to eliminate trafficking, and towards this end create a regional Convention on trafficking. The year 1990 was declared 'Year of the Girl Child' by the SAARC and the UNICEF India Office. Two main themes of the year were prevention of child marriages and rehabilitation of child prostitutes. In 1992, SAARC countries proposed many resolutions in Colombo Summit. The Colombo Resolution states in Paragraph 5 under the heading, 'Challenges', that child trafficking is one of the most urgent challenges in the region and that 'child trafficking particularly urgently calls for both bilateral as well as regional cooperation'. In 1996 in Rawalpindi, Pakistan, the Rawalpindi Resolution was adopted. It calls for commitment from member States in the issues affecting children in the region {Declaration of ninth SAARC Summit Male (1997)}.

In January 2002, SAARC governments agreed that the issue of trafficking of women and children cannot be neglected any more. Moreover, it was also felt that there is a lack of regional cooperation and partnership initiatives to address problems of regional concern such as trafficking in women and children. Thus the representatives of the seven member states of SAARC signed two conventions;

1. Convention on Preventing and Combating Trafficking in Women and Children for Prostitution, and
2. Convention on Regional Arrangements for the Promotion of Child Welfare in South Asia and

1.1 The SAARC Convention on Preventing and Combating the Trafficking in Women and Children for Prostitution (2002a)

This Convention focuses on promoting cooperation amongst member States to effectively deal with various aspects of prevention, interdiction and suppression of

trafficking in women and children. It also deals with repatriation and rehabilitation of victims of trafficking, and preventing the use of women and children in international prostitution networks, particularly where the SAARC member countries are the countries of origin, transit and destination.

The aim of SAARC Convention was to create cooperation among member states in fighting such a serious common problem. The SAARC Convention encourages member states to prevent and suppress the trafficking in women and children in the South Asian Region.

SAARC Convention defines 'child' as "Any person who has not attained the age of 18" in its Article 1 (1), it further defines trafficking in its Article 1 (3) as:

"Trafficking" means the moving, selling or buying of women and children for prostitution within and outside a country for monetary or other considerations with or without the consent of the person subjected to trafficking" {SAARC Convention on trafficking 2002 Article1(3)}

This definition given to "trafficking" by SAARC Convention is not as broad as that given by the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. The Convention defines trafficking as "moving, selling or buying... women and children...." , thus the definition limits "trafficking" to prostitution only.

SAARC Trafficking Convention promotes the rehabilitation of victims of trafficking; it prevents the use of women and children in international prostitution. The Convention requires parties to make trafficking a criminal offence and to regard the offence as an extraditable one (Articles II and VII). In Article III, it is clear that the countries, who have signed the Convention, shall provide for punishment of any person who maintains or takes part in the financing of a place used for the purpose of trafficking. The parties are also required to give one another legal assistance in inquires, trials and other matters and to exchange information on agencies and persons involved in trafficking (Article VI).

The SAARC Convention not only provokes states to take action but it also asks judicial authorities in Member States to ensure that the privacy of the child and

women victims is respected and to provide them appropriate counselling and legal assistance.

Article 8 of the SAARC Convention provides prevention and rehabilitation measures. It directs states to promote awareness about child and women trafficking through the use of the media. The Convention's Article 9 is basically about providing care, treatment, rehabilitation and repatriation to the victims of trafficking (SAARC Convention: 2002: 1)

1.2 The SAARC Convention on Regional Arrangements for the Promotion of Child Welfare in South Asia (2002b)

The purposes and objectives of the Convention are to 'unite the SAARC member countries in their determination of redeeming the promises made by them to the south Asian child at the World Summit for Children and various other national, regional and international conferences and successive SAARC summits; to facilitate and help in the development and protection of the full potential of the South Asian child, promote understanding and awareness of the rights, duties and responsibilities of the children and others, and to set up appropriate regional arrangements to assist the member States in fulfilling the rights of the child, taking into account the changing needs of the child'.

At the 12th Summit in Islamabad in 2004, the member states declared that they should ratify the convention as early as possible. In the end of the summit a landmark agreement on a social charter was signed by member states. The aim of the Social charter was to improve the socio-economic conditions of the region's poor population. Charter particularly focused at protecting human rights, gender equality, women empowerment and social security. All four areas in the signed charter describe concerns directly or indirectly that relate to the challenges in combating women and child trafficking in South Asia for prostitution (Tumlin 2000: 5). Article 5 of the Social Charter clearly supports the SAARC Trafficking Convention, as it says ;

“States Parties re-affirm their commitment to effectively implement the SAARC Convention on Combating the Trafficking of Women and Children for Prostitution through the cooperation of appropriate sections of the civil society”(SAARC Social Charter 2004: Article 5).

The Social Charter can only operate when SAARC Convention on trafficking is ratified and implemented. Thus it was important to ratify the SAARC Convention on Trafficking by all member countries, because the convention cannot come into force until there is full ratification by all the SAARC countries (ADB 2003: 60). Till now seven countries i.e India, Pakistan, Bangladesh, Sri Lanka, Nepal, Bhutan and Maldives have rectify the convention. SAARC Social Charter, SAARC Trafficking Convention and SAARC Convention on Child Welfare is a positive step by member nations.

2. Debate on SAARC Convention on Trafficking

SAARC Trafficking Convention represents a significant development. It is the first sub-regional treaty addressing trafficking in persons. The SAARC Trafficking Convention had been the subject of strong debate by women’s and human rights groups in the SAARC countries. When it was in draft form, then also this convention attracted the notice of the UN Special Rapporteur on Violence Against Women, Radhika Coomaraswamy raised several concerns. In particular, she cautioned that the convention should recognize the conceptual distinctions between trafficking and prostitution, and trafficking and migration, and the different status of women and children

(Coomaraswamy: 2001:87).

Repatriation is another controversial issue with regard to trafficked person in SAARC Convention. Repatriation has improperly dealt with by the convention. “Repatriation” means return to the country of origin of the person subjected to trafficking across international frontiers. Convention just states the parties should work out modalities for repatriation of the victims to the country of origin {Article 1 (7) SAARC Convention on Trafficking}. There is no provision which makes it mandatory for the state to ensure the safety of the trafficked person. Many SAARC members repatriate the victims without any regard for their safety. In this regard it is

important to mention Trafficking in Person Protocol (2000), which stress that repatriation should preferably be voluntary and should consider the safety of the victim (USDS 2010:18).

SAARC Trafficking Convention defines “trafficking” very narrowly. It follows the early approach to trafficking, which was linked only to sexual exploitation and prostitution. It does not follow the Trafficking in Person Protocol (2000). SAARC Protocol only focus on moving, buying or selling of women and children for prostitution, it does not include the “means” like coercion, fraud or abuse of vulnerability for the purpose of exploitation that takes many forms, forced labour and Organ trafficking .

2.1 Loopholes in the Convention

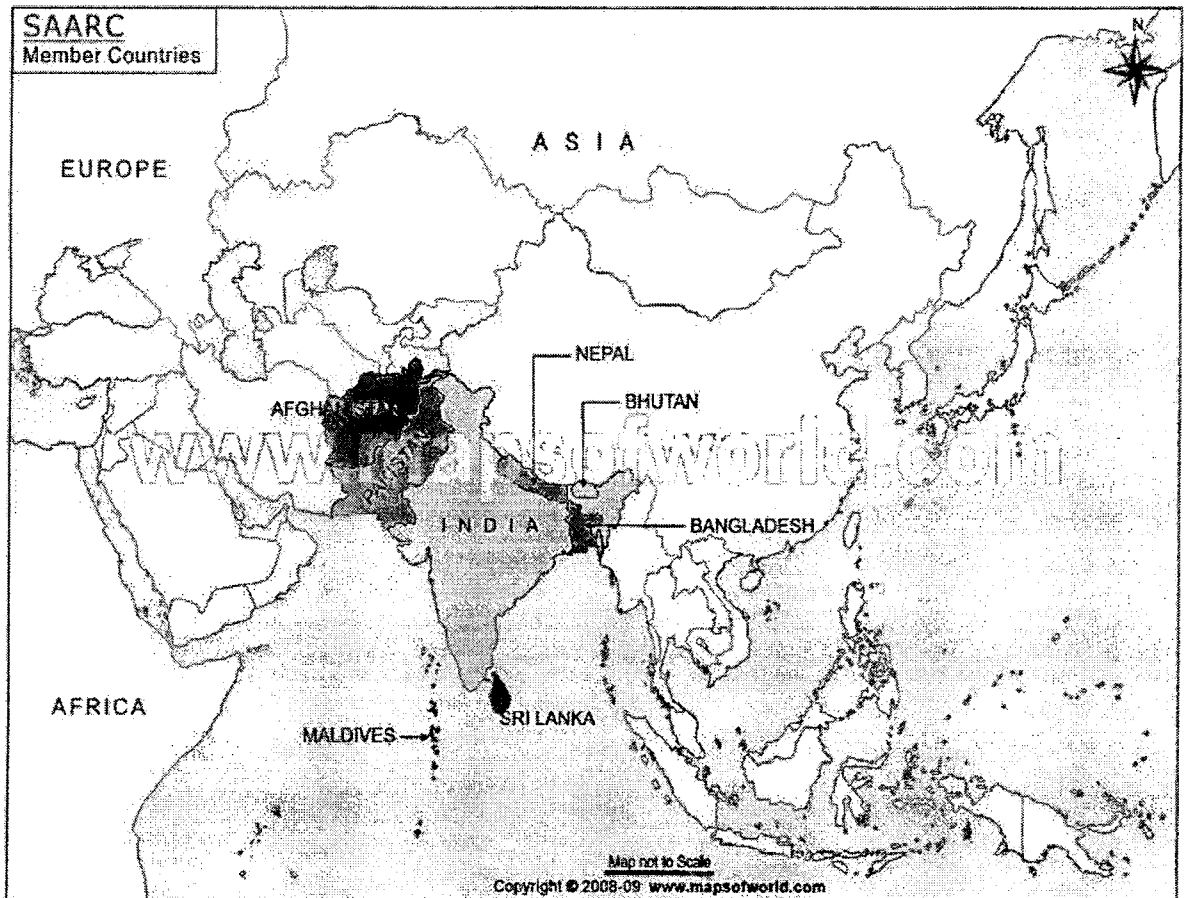
Bangladesh, India, Pakistan, Bhutan , Sri Lanka , and Maldives have ratified the convention. Nepal was not been able to ratify the Convention due to domestic political exigencies in 2002. Thus, it ratified the convention on November 15, 2005. Now, only Afghanistan is left, because it became a member of SAARC in 2007. Without its ratification, the convention cannot come into full force. Thus SAARC member nations are not obliged to enforce the convention.

The Convention is being criticized on a number of points .The most important point is that, this Convention is only limited to the trafficking for prostitution purposes. It does not address other reasons like exploitative labour. All other forms of trafficking are studiously avoided in SAARC convention on trafficking. The SAARC Convention seems to favour the limited agenda of destination and transit countries. It is limited in scope as it addresses only those matters, which are related to prostitution. The Convention somehow protects other exploitative industries from being subject to international inspection. It allows the forced labour of women and children to be located in a legal dividing line and removed from view of international scrutiny. The SAARC convention uses a definition of trafficking tied to prostitution that was opposed by various civil society groups in South Asia since 1998. The definition has

been superseded by the trafficking protocol of the UN Convention against Transnational Organised Crime.

Many people who are vulnerable to trafficking are offered no protection by SAARC. This could be considered a crucial and serious exclusion. While the Convention was still being formulated, groups involved in anti-trafficking work started pointing out their opposition to the Convention. They argued that the draft Convention needs to broaden the scope and notion of trafficking. They said that draft convention did not adequately address the problem of trafficking from South Asia to other regions.

South Asian Region (SAARC Countries)



Source: www.mapsoftheworld.com/saarc-member-countries.htm

3 Situation of Child Trafficking in South Asia

The countries in the South Asian Region do not have a uniform definition of the legal age of majority or other age limits that define a 'child' in different contexts. National legislation often addresses trafficking within the context of sexual exploitation of women and girls. This focus has drawn attention away from children who are trafficked for other forms of exploitation, and neglects trafficking of boys for sexual exploitation. Almost all the countries of South Asia focuses are on criminalization of prostitution, they see child trafficking as a law enforcement issue rather than a human right problem. Legal protection for children who have been trafficked remains weak. Victims of trafficking are not always recognised as such. Sometimes, they may be held accountable for offences they committed as a result of being trafficked. Thus there are many loopholes in the legislation of South Asian countries; this is one of the reasons as to why this problem is not properly addressed in this region.

3.1 Problems in Data collection

South Asian countries do not have proper mechanisms for data collection on child trafficking. Statistics are often collected only on cases of cross-border trafficking of women and girls for sexual exploitation. Thus there is no data available for trafficking for other purposes like internal trafficking and the trafficking of boys for sexual exploitation. Bangladesh, India and Nepal have compiled limited data; a lack of data in Bhutan and the Maldives makes it difficult to analyse patterns of trafficking (UNICEF 2008: 5). This type of data variation does not reflect the problem of the trafficking of children in the respective countries. National data are rarely disaggregated by age, gender, national origin or forms of exploitation. The lack of knowledge about trafficking is due to the absence of both quantitative and qualitative data. This includes information on children's experiences of recovery and integration following the trafficking situation. Also lacking is information on the root causes of trafficking. Mostly international and regional institutions focus on adult trafficking. The result is that child trafficking is often addressed as a sub-issue of trafficking in human beings rather than as a distinct concern requiring special attention to ensure the protection of the human rights of children. The same approach is generally seen at the

national level in regions around the world, South Asia can also be seen in the same pattern.

3.2 Trafficking Patterns in South Asia

Trafficking occurs in almost every country in South Asia, in which many countries are countries of origin, destination and transit in the chain of trafficking. At global level, South Asia is considered as a region of origin. Children are trafficked in South Asia for various purposes. Internal trafficking (*i.e.* trafficking within national borders) is also an issue in most countries of South Asia. Trafficking is reported to have occurred both within the region and also between South Asia and other regions, including East Asia, Europe and the Gulf states (Islam 2001).

Table 2. Patterns of trafficking in Asia

Source	Intermediate	End point
Nepal	→ India	→ India
	→ India	→ Middle East
India	→ India	→ Middle East
Bangladesh	→ India	→ India
	→ India	→ Pakistan
	→ India	→ Middle East
	→ India	→ Pakistan
	→ India	→ Middle East
Pakistan	→ India	→ Middle East

Note: This table is prepared with the help of Matt Friedman, USAID, Bangladesh who has extensively researched on trafficking in the region.

Sources: Samshul Islam (2001) *Trafficking of Women and Children in Bangladesh: An Overview*

3.3 Legal Issues of Child Trafficking in South Asia

South Asia is one of the world's most densely populated landmasses with a substantial concentration of the world's poor (Abbassi 2002: 2). In South Asia, child trafficking is often defined narrowly, for example as referring only to the sale or recruitment of children into exploitation, or having a single focus on sexual exploitation. Trafficking and other forms of exploitation and abuse of children are receiving increasing attention in the region. Almost all the countries have laws that address some issues related to child trafficking. Particularly relevant is legislation regarding child labour and forced or bonded labour, sexual exploitation, violence and

abuse, adoption, marriage and kidnapping. Some laws refer directly to trafficking, while others can be used to address situations of exploitation. Five of the eight countries in the South Asian region, viz. Bhutan, India, Nepal, Pakistan and Sri Lanka, have adopted laws that criminalise trafficking in human beings. In Bangladesh, the *Women and Children Repression Act 2000* criminalises trafficking in women and children (Project PARIVARTAN 2006: 26).

Five countries, Bangladesh, Bhutan, India, Pakistan and Sri Lanka, have adopted laws that criminalize trafficking in children specifically. Only Bangladesh and Sri Lanka have national legislation that specifically defines child trafficking; in India, child trafficking is defined only in one state law – the Goa Children’s Act, 2003. Legal definitions of human trafficking exist in Nepal, Pakistan and Sri Lanka. Still none of these definitions is fully consistent with the comprehensive definition of child trafficking provided in the ‘Palermo Protocol’. In Pakistan, the definition of trafficking does not include internal trafficking (Jalalzai 2003: 37). Two countries in South Asia, Afghanistan and the Maldives, have not yet developed laws on child trafficking. Many national laws on trafficking and sexual exploitation in these countries address women and children, without adequately distinguishing between their different concerns. For example, the texts of the laws may contain a definition of child trafficking but no distinction is made regarding the provision of legal assistance to children (UNICEF 2008: 16).

Child trafficking is approached from different perspectives in the region. For example, it is considered in the context of sexual exploitation, or labour exploitation, or both. It is also considered in the context of smuggling of migrants or cross-border migration. National definitions on the issue are different. Trafficking often falls under the responsibilities of different government ministries. They do not give much importance to child trafficking as well as regional and international cooperation.

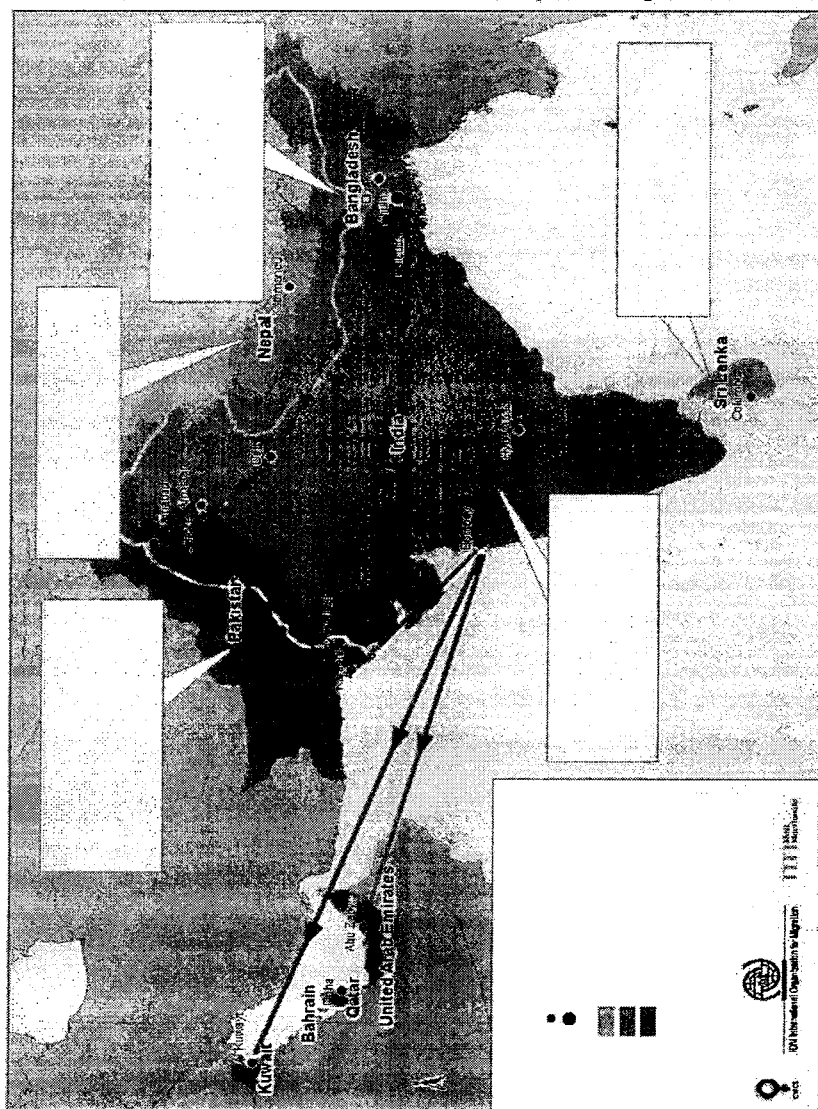
3.4 Child Trafficking: An Ignored Issue in South Asia

Countries of South Asian region have developed national plans of action and some countries have adopted laws that criminalize trafficking in human beings. But the

legal framework needs to be strengthened further to protect children from all forms of trafficking. So far only two countries in South Asia, India and Sri Lanka, have signed the Palermo Protocol, the first legal instrument to provide international definition of trafficking in human beings and specifically addresses children. Still not even one South Asian country has ratified the Palermo Protocol. Child trafficking across the region is not only committed by organized criminal networks. It may also involve friends, relatives and even parents of children (Terre des Hommes 2004: 13)

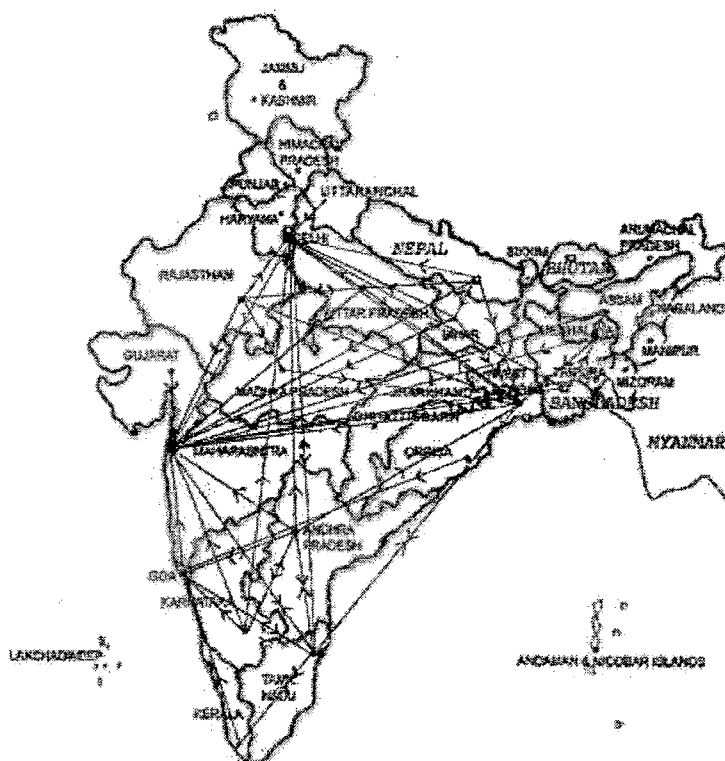
Source: Asian Development Bank (2003: 57) Combating trafficking of women and children in South Asia; Regional Synthesis paper for Bangladesh, India and Nepal (based on Shamin, I. 2001. Mapping of Missing, Kidnapped and Trafficked Children and Women: Bangladesh Perspective, International Organization for Migration, Dhaka.

FIGURE 2.2
Major Trafficking Routes in South Asia



4. Regional Country-wise Response to the Problem

4.1 India



Source: P. M Nair (2005 :43) Trafficking in women and children in India.

Nearly 150,000 women and children are trafficked from South Asia every year, “most of them from, via and to India” (Igovernment 2009). India is a source, transit, and destination country for women, children, and men trafficked for the purposes of sexual and labour exploitation. Bangladeshi women and children are trafficked to India or transit through India en route to Pakistan and the Middle East for purposes of sexual exploitation, domestic servitude, and forced labour (Scarpa 2005:8).

There are three important laws in India that address trafficking: a. Constitution of India, b. *Immoral Trafficking Protection Act (ITPA)* and c. Provisions of the *Indian Penal Code*. A joint program of the U.S. and Indian Government has provided \$40

million for programs to move child trafficked labourers to schools. The state of Goa has passed the *Children's Act* of 2003. This act criminalizes child labour, child prostitution, child abuse, and child trafficking (USDS 2004: 1).

(a) THE CONSTITUTION OF INDIA

It clearly states that the Right against Exploitation is a fundamental right. Under Article 23, traffic in human beings and 'beggar' (bonded labour) and other forms of forced labour are prohibited (Reddy 2009). Any contravention of this provision is a punishable offence.

(b) THE IMMORAL TRAFFIC (PREVENTION) ACT 1956 (ITPA)

The Government of India had adopted the "Suppression of Immoral Traffic in Women and Girls Act" in 1956 (SITA). The Act was amended in 1986 and re-titled as the "Immoral Traffic (Prevention) Act"(ITPA), 1956. This amendment widened the scope of the law, as before it covers only for women and girls but now it covers both the sexes. In ITPA, there are now enhanced penalties for sexually exploited children. ITPA continued to prohibit prostitution in its commercialized as it does in SITA, but now the Act lays down penalties for keeping a brothel or allowing premises to be used as a brothel. ITPA criminalize living on earnings of prostitution, procuring, detaining a person in the premises, where prostitution is carried on and inducing and inducing person for the sake of prostitution.

The Immoral Traffic (Prevention) Act, 1956 prescribes strict action against those inducing children (below 16 years) and minors (16 to 18 years) in the offence of procuring, inducing or taking a person for the sake of prostitution. If the offence has been committed against a child, the punishment is rigorous imprisonment for a term of not less than 7 years, which may extend to life. If the victim is a minor, the punishment is from 7-14 years (ITPA 1956).

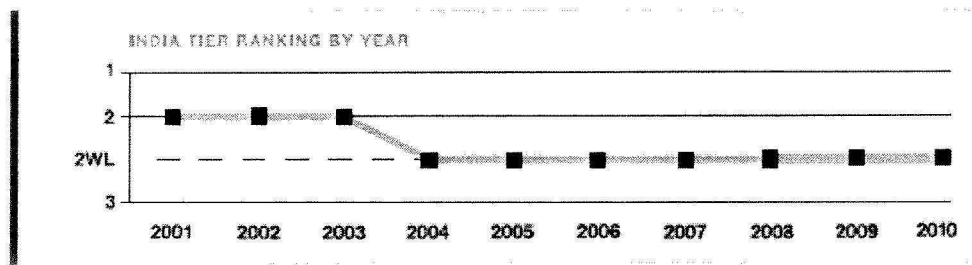
(c) THE INDIAN PENAL CODE

The Indian Penal Code includes offences relating to exposure and abandonment of child under 12 years by parent or person having care. It includes wrongful restraint or wrongful kidnapping, abduction, slavery and forced labour and sexual offences under

savoir criminal activity (IPC Section 361). Its Article 360 deals with trafficking as it criminalize kidnapping and/or abduction for export (i.e. kidnapping out of India. Sec. 360 IPC). Human trafficking, and buying or disposing of any person as a slave (Sec. 370 IPC), are punishable under the Indian Penal Code but there is no data compilation under these separately(IPC 1860: Act no.45).

Under section 13(4) of ITPA it was recommended that the Central government appoints a number of police officers and they shall discharge such functions and exercises such powers in the entire country. One reason for the low level of prosecutions in cases of cross-border trafficking is that the women and children who could testify against the perpetrators are deported because of their irregular residential status.

India is suffering from the problem of child trafficking. Every year US Department of State produces a report ranking all countries based on United States “Trafficking Victims Protection Act (TVPA)”, which was adopted by the United States in 2000. This report is very important in the field of human trafficking as it provides a clear picture of the status of human trafficking in the world. The report gives a Tier ranking to the countries as Tier 1, Tier 2, Tier 2 watch list and Tier 3. Tier 1 countries are those countries whose governments fully comply with the TVPA’s minimum standards for the elimination of trafficking. Tier 2 countries are those countries whose governments do not fully comply with the TVPA’s minimum standards but are making significant efforts to bring themselves into compliance with those standards. Tier watch list countries are those whose governments do not fully comply with the TVPA’s minimum standards, but they are making significant efforts to bring themselves into compliance with those standards. Tier 3 countries are those countries whose governments do not fully comply with the minimum standards and are not making significant efforts to do so (USDS 2010: 22).The following chart shows that till 2003, India was a Tier 2 country, but after that continuously it is in the TIER 2 watch list.



Source: USDS 2010: 172 Trafficking In Person Report

4.2 Bangladesh



Sources: Alamgir (2004:13) Country Paper on "Combating Trafficking in Women and Children in Bangladesh"

Bangladesh is a country of origin and transit for women and children trafficked for the purposes of sexual exploitation, involuntary domestic servitude, and debt bondage. An estimated 10-20,000 women and girls are trafficked annually to India, Pakistan, Bahrain, Kuwait, and the United Arab Emirates (U.A.E.) (Gazi 2001: 14). Bangladeshi boys are also trafficked into the U.A.E. and Qatar and forced to work as camel jockeys and beggars. Women and children from rural areas in Bangladesh are trafficked to urban centres for commercial sexual exploitation and domestic work.

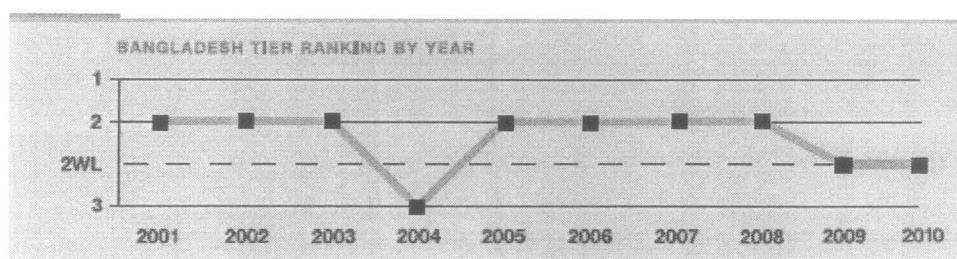
The government refers victims to NGOs such as the *Bangladeshi Women Lawyers Association* for shelter, medical care, and counselling.

Table 3: Trafficked Bangladeshi Children by Gender

Year	Boy Child	Girl Child	Total
1990	20	17	37
1991	75	127	202
1992	97	147	244
1993	88	118	206
1994	113	104	217
1995	240	185	425
1996	197	181	378
1997	490	437	927
1998	331	354	685
1999	32	44	76
Total	1,683	1,714	3,397

Sources : Asian Development Bank (2003 :25) Combating trafficking of women and children in South Asia.

The Government of Bangladesh is not making considerable efforts to eliminate the problem of child trafficking. Public corruption is rampant in Bangladesh. Thus it is difficult to deal with child trafficking. The Bangladeshi Government works in close cooperation with the various NGOs fighting trafficking. But still Bangladesh government has not get success in eliminating human trafficking from the country. Bangladesh is also a Tier 2 watch list country since 2009 according to the latest report on Human trafficking by US department of states. According to the following chart it was in Tier 3 in 2004.

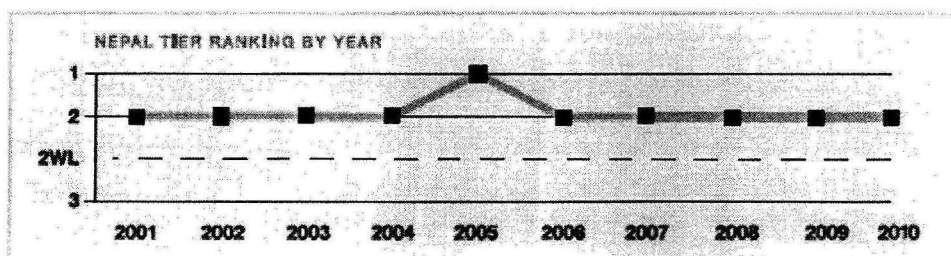


Source: USDS 2010:76, Trafficking In Person Report

4.3 NEPAL

Nepal is a source country for trafficking in children. They are trafficked to India for the purposes of forced prostitution, domestic servitude, forced labour, and work in circuses. Many victims trafficked to India are lured with promises of decent work or marriage. Other victims are sold by family members or kidnapped by traffickers. The Maoist insurgency continues to abduct and forcibly conscript children. There are no reliable data on how many women and children are trafficked every year.

Nepal's law enforcement efforts against trafficking are limited due to continuing political instability. Nepal has severe lack of resources to combat the problem. The *Nepal Human Trafficking Control Act* of 1986 criminalizes trafficking in persons, but there is no national legislature on child trafficking in particular. Political instability and the armed Maoist insurgency prevented government efforts to combat trafficking in some areas of Nepal. Several government coalitions have been unable to retain power. Passage of the draft legislation would further Nepal's fight against child trafficking. Nepal's condition is better than India and Bangladesh in Trafficking in Persons report 2010. It falls under Tier 2 countries. It is also important to note that Nepal was a Tier 1 country in 2005. So now when there is democracy in Nepal one can hope that government will take the issue of child trafficking seriously and would make special laws to deal with the problem.



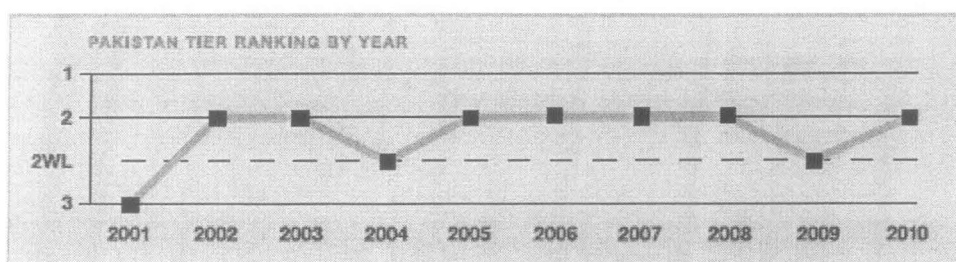
Source: USDS (2010:247) Trafficking in Person Report

4.4 Pakistan

Pakistan is a source, transit, and destination country for trafficked persons. Women and girls are trafficked to Pakistan from Bangladesh, Afghanistan, Iran, Burma, Nepal, and Central Asia for forced commercial sexual exploitation and bonded labour. Adolescent boys are vulnerable to forced recruitments from local Madrasas (Islamic

schools) by armed groups fighting in Afghanistan and in Kashmir. Men, women, and children are trafficked to the Middle East to work as bonded labourers or in domestic servitude (Jalalzai 2003:15).

The government does not support specific anti-trafficking prevention programs. It just provides funding for poverty alleviation. Pakistan organized an *Inter-Ministerial Committee on Human Trafficking, Smuggling and Illegal Immigration* to decide its policies to combat trafficking. Pakistan has now put a ban on child camel jockeys in the United Arab Emirates, which has reduced the numbers of boys trafficked through Pakistan for that purpose. The Pakistan government does not distinguish between trafficking and smuggling. Thus it is very difficult to identify the real victims of trafficking. Pakistan has raised its profile this year as in 2010 it falls under Tier 2 countries. It shows that Pakistan government is taking this issue seriously and making efforts to control it.



Source: USDS 2010:261, Trafficking in Person report

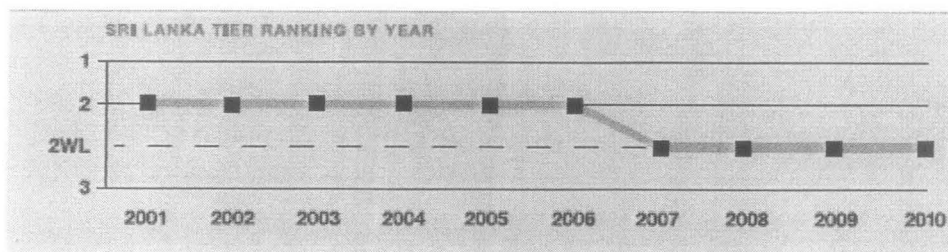
4.5 SRI LANKA

In the north and east of the country, the government was engaged in armed conflict for over 25 years with the Liberation Tigers of Tamil Eelam (LTTE) (Global Coalition Against Child Soldiers 2008: 8). Sri Lanka is a better country in South Asia in terms of social services provided by its government. It has a very good education system and media access is also high throughout the country. In Sri Lanka women and children are trafficked internally for domestic and sexual servitude. Boys and girls are victims of commercial sexual exploitation by paedophiles in the sex tourism industry. The Liberation Tigers of Tamil Eelam (LTTE) forcibly recruited children for the

purposes of military conscription. But now with the end of LTTE there is a possibility that child trafficking will get reduced in this region.

Sri Lanka has introduced a computerized immigration system. It has improved the law enforcement against trafficking. The *National Child Protection Authority* (NCPA) has started a Cyber Watch Project to monitor suspicious chat rooms, which leads to several trafficking arrests. The Penal Code specifically criminalizes trafficking in persons. The government runs rehabilitation camps, which offer medical and counselling services for victims of internal trafficking. The NCPA provides similar assistance to victims of commercial sexual exploitation and former child soldiers. The NCPA includes child trafficking and commercial sexual exploitation of children in their information and public awareness campaigns. The Penal Code of Sri Lanka originally enacted in 1883, was amended in 1995 by the Penal Code (Amendment) Act No. 22. It enhanced punishment for procurement and introduced the offence of "trafficking" (Article 2.4.1). The Amendment Act provides that, "a person commits the offence of "procurement", if the person procures or attempts to procure another, with or without consent" (Squire, Jason and Wijeratne 2008:15).

The North and east territories were controlled by LTTE. Thus in these areas the government was unable to investigate or prosecute traffickers. With the end of LTTE in 2009, now government can start their programmes in these areas. Sri Lanka is increasing its cooperation with foreign governments. But still there is a need to take greater steps to investigate and prosecute labour trafficking. The problem of child soldiers would also get reduced after the end of LTTE. Sri Lanka falls in tier 3 countries, which means that the government of Sri Lanka do not fully comply with the minimum standards and is not making significant efforts to do so.



Source: USDS (2010: 302) Trafficking in Persons Report

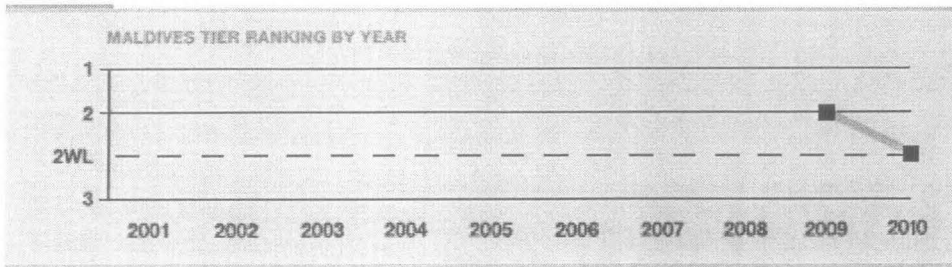
4.6 Bhutan

Child Trafficking is a new issue for Bhutan. Only in recent years awareness on the issue of trafficking in children is growing in Bhutan. Rapid urbanization and poverty have increased the number of Bhutanese children and women vulnerable to exploitation and violence. These factors would increase the chances of the vulnerability for the country to become a source of trafficking. Bhutan government has passed many laws that include the protection of children and women from trafficking. Bhutan has also ratified the SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution.

In 2007, the National Commission for Women and Children filed the first case of child trafficking in the country (protection project 2002:5), which was submitted to the Women and Child Protection Unit of the Royal Bhutan Police. This case involved a child who had been trafficked for domestic work. It generated widespread media coverage and intense public discussion. Although the sentence could have been more severe, the case was nevertheless a wake-up call for Bhutan to intensify mechanisms to prevent and address the trafficking of women and children. Trafficking in children is a new issue in Bhutan. People are not much aware about it. Thus it has not got any ranking in Trafficking in Person Report 2010 by US Department of States.

4.7 Maldives

The Maldives is primarily a destination country for migrant workers from Bangladesh, and India. Maldives does not have laws prohibiting human trafficking offenses, its constitution prohibits forced labour and slavery. The only prescribed penalty for labour trafficking offenses is a fine. The government did not investigate or prosecute any trafficking cases (USDS 2010: 226). The Labour Tribunal was created as part of the 2008 *Employment Act* in Maldives. It tackles issues related to forced labour, but it lacks the legal authority to enforce its decision. In addition, employment tribunal members and employees expressed not sure about resolving the cases, where foreign workers are involved, because all the proceedings in these tribunals are conduct in the local language. The Government of the Maldives undertook limited anti-human trafficking law enforcement efforts during 2009. In Maldives USDS TIP ranking has started since 2009, before that there is no ranking available.



Source: USDS (2010:226) Trafficking in person report

4.8 Afghanistan

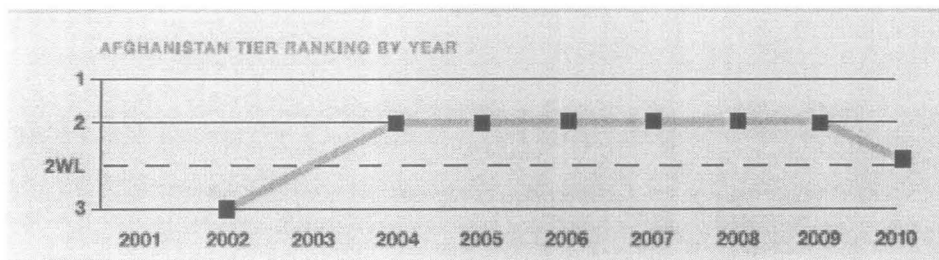
Afghanistan is a source and transit country for women and children trafficked for the purposes of sexual exploitation and labour. Children are trafficked to Pakistan, Iran, and Saudi Arabia for begging, labour, and prostitution. Children are often trafficked with the consent of their parents who are told they will have better educational and job opportunities abroad. Over 200 Afghan children were repatriated from Saudi Arabia in early 2004 (Daily Times 2007). Young boys are trafficked internally mainly for labour and sexual exploitation.

Afghanistan’s law enforcement actions against trafficking improved during 2003, as police arrested suspected traffickers and for the first time rescued victims. The judiciary currently applies a mix of legal codes, Shari’a law, and customary law (Esfandiari 2004: 1). Traffickers may be prosecuted under a number of statutes prohibiting kidnapping, rape, forced labour, transportation of minors, and child endangerment. The Ministry of Labour and Social Affairs and UNICEF established a transit centre and a family verification system to assist in reuniting trafficked children with their parents. Representatives from the Ministry of Labour and Social Affairs and the Afghan Independent Human Rights Commission monitor each child’s reintegration at the local level.

The Transitional Islamic State of Afghanistan established an inter-ministerial Child Trafficking Commission that includes representatives from international organizations to develop coordination between ministries. UNICEF and the Afghan Independent Human Rights Commission conducted a workshop on child trafficking for police officers, officials, and representatives from the Ministries of Justice, Women’s Affairs, and the Kabul Juvenile Court in 2004. Afghanistan is suffering

from armed conflict for more than 20 years. United Nation and many other countries are helping in the rebuilding if Afghanistan.

The country has still not established its first anti-trafficking law. Afghanistan has made less progress in protecting victims of trafficking. It did not have a formal procedure to identify victims of trafficking. The MOI identified 360 victims of sex trafficking including 44 women, 211 men, 13 girls, and 70 boys (USDS 2010: 57) Thus Afghanistan is placed on Tier 2 Watch List countries, in Trafficking in Person 2010 Report.



Source: USDS (2010:57) Trafficking in Person Report

Countries in the South Asian region are mostly developing countries. They have their own internal conflicts and problems with neighbour countries. Some have good relations like India and Nepal, They have mutual free mobility. India and Bhutan have a similar but slightly lesser arrangement. On the other hand some countries are already fighting for border related problems so they have strict rules for movement like India and Bangladesh have a visa regulated and restrictive regime. India and Pakistan have a severely restricted movement regime. Therefore SAARC agreements regarding free movement are subjected to the benevolent consideration of India, as post-colonial divisions in the sub-continent now prevent any regional free movement regime being operated without the involvement of India, because each of the other South Asian mainland nations is separated from every other nation by a part of India (Abbasi 2002: 5).

Conclusion

“Morality” is the main issue which distinguishes South Asia from the rest of the world. In South Asia, it is almost impossible for a trafficked person to come back in the main stream because he/she is considered to have lost their character. Authors like Abbasi argue that it is important to regulate irregular migration and to increase the capacity of civic society. So the trafficked women and children would be able to get opportunities and benefits of migration, without the fear of trafficking. SAARC countries should be guaranteed by bilateral or regional agreements on the free movement of people (Abbasi 2002:12). Child trafficking in South Asia is commonly perceived as sexual exploitation. But in real sense it includes labour exploitation, domestic servitude and begging, exploitation in armed conflict, forced marriage and debt release etc. UNICEF has pointed out poverty as being the single most important reason for child trafficking in South Asia (Child labour news 2008).

Concluding observations of the Committee on the Rights of the Child in 2004 encouraged the ratification of the South Asian Association for Regional Cooperation (SAARC) Convention on Preventing and Combating Trafficking in Women and Children for Prostitution. In addition, the Committee expresses its concern at the increasing number of child victims of sexual exploitation (Committee on the Rights of the Child 2004 CRC/C/15/Add.228). In the year 2000 the then UN Special Rapporteur on Trafficking Dr. Radhika Coomaraswamy visited South Asia to do an assessment of the problem and evaluate the response of state and non state partners to combat the problem of Human Trafficking. She proposed a report to General Assembly on the basis of her visit. In this report she suggested that bilateral collaboration is important towards addressing cross-border trafficking (Committee on the Rights Of the Child 2004: CRC/C/15/Add.228). SAARC Convention on trafficking is important because first time there is a regional treaty addressing human trafficking. Moreover, it provides an official acceptance of the regional nature of the problem.

SAARC nations are so much engrossed with their internal problems that they are not able to come together on a single platform to address the problem of child trafficking. Thus this problem is still a big challenge for SAARC. SAARC as an institution also is not very strong. It is not able to force countries to follow its own

conventions on trafficking. SAARC is also suffering from “Big brother syndrome” thus many SAARC countries do not want to trust India and they are always fearful in signing any new convention. SAARC convention on trafficking is an important step towards combating the problem of child trafficking in South Asian region, but still it is a very small step in term of the huge size of the problem. In this scenario the role of Nongovernmental Organization (NGOs) is worth considering. NGO not only help national governments in implementing program but they also reach to victims and provide direct help to them. The next chapter analyzes the work done by NGOs in the South Asian region.

Chapter Five

Non Governmental Organisations and Child Trafficking

This chapter addresses the following question: to what extent have Non Governmental Organisations (NGOs) played a role in combating child trafficking in South Asia? It focuses on the following questions: (a) What are the initiatives taken by NGOs - international and local in combating child trafficking in South Asia (b) To what extent are these initiatives effective in combating the problem of trafficking? The chapter argues that nongovernmental organisations have played an effective role in combating child trafficking as they are able to address the underlying causes of trafficking, highlight the significance of the issue and influence governments in taking necessary steps. Therefore they are more effective than intergovernmental initiatives.

The chapter is structured into three parts. The first part elaborates on the efforts taken by international NGOs that are involved in combating child trafficking in South Asian region. The second part enumerates and evaluates the measures taken by local South Asian NGOs in combating child trafficking. The third part compares the efficacy of NGO response and inter-governmental initiatives in dealing with the problem of child trafficking. It also highlights the counter trafficking efforts undertaken by NGOs.

NGOs play a very critical role in highlighting issues of societal importance; this proposition is valid in the case of child trafficking as well. NGOs have taken active participation in anti-trafficking initiatives. Child trafficking is a human right issue as well as a social issue. Thus it is important to understand that how NGOs are responding to such serious global problems. Child trafficking has a direct impact on the society. For this reason, NGOs have been highlighting the issue. It is pointed out that NGOs and International Non Governmental Organisations (INGOs) have been responsible for the initiatives that are targeted towards the care and rehabilitation of trafficking victims (Crawford 2010: 125). Child trafficking causes serious social problems. It has an adverse impact on the deprived sections of society. No doubt, NGOs are working for the oppressed and vulnerable sections of society. However, they have to bargain with those in power and authority for providing justice to the

victims of child trafficking. Child trafficking should not be considered as just a matter of crime or a law and order problem. It is a far deeper problem reflecting a fundamental flaw in human society. It traumatises children and leaves them with a stigma, indignity and contempt. It is primarily related to human security. States in South Asia demonstrate their concern for matters of human security only theoretically. They have not internalised the significance of human security. Issues such as child trafficking are not given priority in policy making. Initiatives taken by states, in recent years, seek to address the problem from the vantage point of the state, where the problem is seen as a threat, which is to be tackled. It is here that the role of NGOs becomes important. They fill the gap that states seem to ignore. They try to address the issue from the point of view of the victims. NGOs are more appropriate for issues related to human security as they work closely with the local population and are often willing to change the status quo (Michael 2002: 2).

The problem of child trafficking is a major problem in South Asia. There are many international and national NGOs that are working on the issue of child trafficking in this region. NGOs have taken up the task of protecting children as states do not seem to have the will or the resources (Briain September 2001:3). International NGOs have the expertise on trafficking issues because they have been working on this issue in different parts of the world. In the context of South Asia, each state has a dominant form of child trafficking. The country specific forms of child trafficking are given as follows: Sri Lanka - child soldiers; Nepal -child labour; Pakistan - child camel jockey. International NGOs are aware about all possible forms of child trafficking and they also know the ways and means for combating trafficking. Almost all the international NGOs consider the *Convention on the Rights of the Child (CRC)* as their basic guideline. Moreover, the definition of child trafficking by *UN Trafficking Protocol* is considered as the acceptable definition by most of the NGOs.

Efforts taken by international NGOs

There are many international independent organisations which are involved in combating child trafficking in South Asia. One of them is ECPAT (End Child

Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes) International. ECPAT is a network consisting of 76 groups that works in 70 countries. It coordinates with civil society, governments and international agencies for eliminating Commercial Sexual Exploitation of Children (CSEC). ECPAT has partnership with local NGOs in various states in South Asia. Examples of partnerships include collaboration with APARAJEYO (Bangladesh), MAITI (Nepal) and SANLAAP (India) (ECPAT International 2009).

ECPAT is engaged in supporting and strengthening youth participation in fight against CSES in Nepal, Bangladesh and India. It has launched a project, Youth Partnership Against Commercial Exploitation of Children and Youth (YPP). The key objective of the project is to offer support to child victims of trafficking. In this way, ECPAT has been able to influence local and national policy makers for prevention, protection and rehabilitation of CSEC victims. The positive role played by ECPAT is duly acknowledged. It is underlined that organisations such as ECPAT are committed in combating commercial sexual exploitation of children (Flowers 2001: 155).

In Nepal, the ECPAT member group Maiti Nepal is involved in processing the draft of Alternative Report on the *Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography*. ECPAT is functioning in collaboration with local NGOs in countries in South Asia. For instance, STOP, a NGO in India that is affiliated to ECPAT International has been working with the police in rescuing victims of trafficking from the red light districts of New Delhi (ECPAT International 2009).

The Asia Foundation is yet another NGO that is engaged in anti-trafficking initiatives across Asia. This organisation helps governments and local NGOs in implementing the anti-trafficking programmes. It has launched various programmes in Nepal, Pakistan, Bangladesh, Sri Lanka and India. The foundation launched a three year project with the assistance of United States Agency for International Development (USAID) for preventing trafficking in Nepal in 2002. The main objective of the project is to strengthen prevention, rehabilitation and reintegration services by both government and NGOs (Nair 2005: 261).

Plan International is an independent organisation, which pledges to work for children; its functioning is based on CRC working principles. Plan International, which works in 12 states in Asia, operates in South Asia. It considers child

trafficking as a serious issue. It has been taking several steps for the recovery and rehabilitation of victims of trafficking from brothels (William 2008:121).

Population Council, an international non profit organization is engaged in pursuing research on basically health related issue such as HIV/ AIDS, population and social policy etc. Population council conducts research on the prevalence of HIV in South Asia. The inference drawn is that trafficking drives the spread of HIV. Therefore, Population Council focuses on trafficking. In fact, one of the research activities includes providing care and support for trafficked people (Nair 2005; Sanghera 1999).

Save the Children works for the rights of children at global level. This organisation has prioritised trafficking as one of its main activities. The key objective of this organisation is to find and formulate effective strategies for preventing, protection and reintegration of trafficked children. In South Asia, the organisation is concentrating on partnership and capacity building. It is also conducting research on the theme of trafficking and collaborating with local NGOs (Save the Children 2008: 13). Other notable organisations include Action Aid, which works in areas prone to trafficking and Red Barna/Red Barnet, which supports anti-trafficking programmes as a part of its mandate.

In Bangladesh, Red Barnet plays a significant role in ATSEC (Alliance Against Trafficking and Sexual Abuse in Children). INGOs and donor organisations such as CIDA, DANIDA, SIDA, OXFAM CEDPA also deserve mention for their role in anti-trafficking programmes in the region. USAID also has been active on the issue of trafficking in the region. It has developed special programmes for South Asia for the purpose of supporting national and regional anti-trafficking initiatives (Sanghera 1999). There are many NGOs working on child trafficking in India, Pakistan, Sri Lanka, Nepal and Bangladesh. Child trafficking is an emerging problem in Bhutan and Maldives. Thus these countries do not have any prominent NGOs as such that work on child trafficking. Afghanistan is also facing the problem of child trafficking; the interference of the *Taliban* in the functioning of NGOs is a major obstacle in anti-trafficking efforts.

NGOs and their role in combating child trafficking

Sometimes a dysfunctional family is the cause of child trafficking. Thus it is very difficult to move trafficked children into rehabilitation and then back into society. In this regard, NGOs play an important role. The arenas in which NGOs perform their function are given as follows.

1. Prevention

NGOs focus on preventing trafficking in children. There are several NGOs in Bangladesh, Nepal and India, who have been actively involved in preventing children from trafficking. An important intervention was made by Bangladesh Women Lawyer Association (BNWLA). BWLA rescued a group of little boys who were in the process of being trafficked to the Middle East for camel jockeying (William 2008:112). Similarly, many victims of trafficking have been rescued and repatriated under difficult and challenging circumstances by the NGO sector. The country report by Asian Development Bank (ADB) acknowledges the effective work done by NGOs (ADB 2002).

2. Rehabilitation

The prime purpose of rehabilitation is rejuvenation of children with parents. The institutional placement is considered only if the family environment is not conducive for the welfare of children. The institutional placement implies the care homes of NGOs. Many rehabilitation homes are run by government as well. However, the government placements have been criticised for a number of reasons like corruption, poor infrastructure, meagre budgets, inadequate provisions etc. It is emphasised that it is important for the states in South Asia to re-examine the concept as well as the conditions in the government-run homes, where these victims of trafficking are accommodated (United Nations Economic and Social Council 2003).

3. Reintegration

The most important responsibility of these NGOs involved in rehabilitation programmes is to successfully accomplish the reintegration programme for

each child. This is a long and time consuming process that requires lot of resources and personnel. Although NGOs like Maiti Nepal and SANLAAP (India) are actively involved in reintegration of trafficked children, it is noted that there is also a shortage of comprehensive reintegration programmes and support mechanisms (Nair 2005).

NGOs Working in South Asia

States in South Asia are mostly developing countries; they are afflicted with problems such as poverty, hunger, unemployment, illiteracy and many more. These countries are also caught up in disputes with neighbouring countries. As a consequence, they are fixated with military security. Issues such as child trafficking are not given sufficient importance. In reality, human security is not taken seriously. Thus the role of NGOs is very crucial in this region. Rina Sen Gupta and Durga Ghimire (2002) reveal that many NGOs in the South Asian region are working in the areas of prevention, rescue, care and support. They work either at the grassroots level or through development projects. Gupta and Ghimire (2002) further argue that NGOs in the South Asian region are also implementing programmes that directly address the vulnerability of children to trafficking (Population Council 2002: 20).

NGOs in Bangladesh like Bangladesh National Women Lawyers' Association (BNWLA) have been working in close collaboration with the government. BNWLA has organised research, rehabilitation and prevention, with respect to trans-border trafficking.

Many NGOs are specialised in addressing the problem of human trafficking in South Asia. NGOs promote awareness-raising programmes through workshops, street plays, seminars, and community shows for addressing the vulnerability of individuals to trafficking. However, these NGOs focus on rescue and reintegration of trafficked persons. In addition, they have developed network within each country. They even cooperate on issues like policy and legislative change with countries. Some of these kinds of NGOs are Action against Trafficking and Sexual Exploitation of Children (ATSEC), which is active in India, Bangladesh, and Nepal; South Asia Federation Against Human Trafficking (SAFAHT) and SAARC People's Forum. These NGOs

are committed to the cause of counter-trafficking. These networks have initiated several programmes and projects aimed at prevention, protection and prosecution.

The Campaign Against Child Trafficking (CACT) is a national network of several agencies. These agencies are working against the trafficking of children for different types of exploitation. The main priorities of these agencies are to make intervention in trafficking and providing training to combat the problem of child trafficking. CACT network facilitates several action programmes for preventing and combating child trafficking. In the same way, Campaign Against Child Labour (CACL) is working exclusively against child labour. CACL is actively involved in the rescue and rehabilitation of trafficked children. It also provides advocacy services to trafficked children.

The South Asia Professionals Against Trafficking (SAPAT) and South Asia Federation Against Human Trafficking (SAFAHT) are two international organisations, which are sponsored by United Nations Development Fund for Women (UNIFEM). The South Asia Professionals against Trafficking (SAPAT) is a forum of professionals, including law enforcement officials, medical and legal professionals, counsellors and international agencies. Similarly, South Asia Forum Against Human Trafficking (SAFAHT) is a forum which includes activists, NGOs and community workers. These members work together for the cause of anti-trafficking. The United Nations Development Fund for Women (UNIFEM) is assisting these forums. Thus they are working to increase awareness in the South Asian region (Sanghera 1999:33).

Maiti Nepal, ABC Nepal, CWIN, Saathi, BNWLA, CWCS and *Aino-Sailesh Kendra* (ASK) are some of the organisations that are active in the recovery and reintegration of trafficking victims. However, the issue of reintegration and recovery has not received the concerted and joint attention. These issues need to be taken seriously by anti-trafficking movements at the conceptual and at the operational level (William 2008:113).

2.1. India

Globalization has a direct effect on India as there is a huge gap between poor and rich, it has affected large number of children in below poverty line. Indian children are being transported all over the world for prostitution and unpaid labour. A large

number of children are being trafficked within in India. According to Ebbe & Das in India is the third largest labour force of child workers as there are 155 million child workers aged 5-14 years (Ebbe and Das 2008: 67). Another estimate by National Human Rights Commission says that around 45,000 children in India go missing every year. The majority of these children were forced into prostitution, forced to work at homes and factories, pushed into begging, drug peddling and even in illegal organ trade (Asian Centre for Human Rights 2008: 140).

In India there are many NGOs, who are active by their efforts in the spheres of public mobilisation and social development. This issue of child trafficking was also come in forefront by some volunteer people. Vishal Jeet, Gaurav Jain and others filed a public interest litigation (PIL) in the Supreme Court against trafficking of women and children. Thus anti-trafficking laws are the results of discussions held in the Supreme Court of India. It also provides directions to state as how they should tackle with the situation of women and child trafficking (Nair 2005: 249). Thus role of such social/human rights activists, public-spirited persons, NGOs and international agencies are very important. The Constitution of India has an express provision under Article 23, which prohibits the trafficking of human beings for all types of exploitation (Reddy 2009: 50).

Non-governmental organizations are highly active in addressing child trafficking in India. STOP has a good record of prosecuting trafficking cases among NGOs working against trafficking and CSEC and it has established links with the Central and State Governments in India, serving on their Advisory Committees against Trafficking. STOP is also one of only two NGOs that are represented in the SAARC's Regional Task Force on Trafficking. On 17-18 April 2009, the India Alliance for Child Rights and Joint Women's Programme organised a meeting entitled 'Measuring Progress for Children in India: Child Rights Review and reporting Optional Protocols to the UN CRC' in Delhi. NGOs like Prajwala in Hyderabad and Prerna in Mumbai, have empowered child victims of trafficking. They have raised their hopes and chances for positive future (Nair 2005:265) Indrani Sinha and Roop Sen (2002) address the theme of coordination between different actors working on child trafficking in India. They stress that local coordination between law enforcement and NGOs is necessary for effective child trafficking programs. While the rescue of trafficked children is a primarily a state responsibility, but in India NGOs can play an

important role in identifying and reporting cases where children are held in servitude. It is perceived that NGOs are better capable than governments to provide care and shelter to children.

Some NGOs focus on rescue and rehabilitation while others work on prevention in border areas. For instance, SANLAAP is working on 'Counter Trafficking Measures' to child trafficking. It means that only rescue and rehabilitation of victims of trafficking is not enough, efforts should also be made preventive measures. Thus, SANLAAP campaigns, advocate and sensitize the various stakeholders on the issue of trafficking. It was established in 1987 in Kolkata. Its main aim is to protect children from trafficking. The rehabilitation programme is the core programme of SANLAAP. It basically focuses on Sexual abuse, forced prostitution and sexual exploitation. SANLAAP runs four shelter homes, Sneha, in and around Kolkata(ECPAT 2007: 163).

SANLAAP is working in districts, which are the source area for trafficked women and children. SANLAAP's in-depth approach to combating trafficking provide the force to continue fighting for the cause and working constructively to bring about change.

In Kolkata SANLAAP had organized a public-awareness activities and promoted community participation to address the problem of trafficking. SANLAAP's special programs include rehabilitation of cross-border victims, counselling, and drop-in canters.

Some NGOs are working on counter trafficking efforts like Child line foundation. ChildLine India Foundation is leading NGO which focus on issues like missing children and their rescue. It was established in 1996. It has launched many initiatives to combat child trafficking. For instance, Childline is India's first 24-hour toll free emergency phone outreach service. It provides help to the children in need of care and protection linking them to long term services for their care and rehabilitation. Childline helpline is working in 81 cities of India. Moreover, Childline has launched the National Initiative for Child Protection (NICP) campaign, which involves the police, teachers, doctor and lawyers to help in its rescue programs. Childline has made collaboration with police on issues like restoring missing children.

Another NGO which is working on counter trafficking is Shakti vahini. Shakti Vahini is working in the field of women and child trafficking. It provide legal help to child victim of trafficking. A study by Shakti Vahini (2004) found that 378 of India's 600 districts are affected by human trafficking. Shakti vahini is working with close collaboration of National Commission for Women, National Human Rights Commission, Ministry of Social Justice and Empowerment and Department of Women and Child. *Prajwala*, 'the eternal flame' is an NGO which is working in Andhra Pradesh especially for the victims of trafficking. *Prajwala* had a partnership with Amul parlour in 2002 for anti-trafficking interventions. The rationale the venture was that survivors of trafficking will be absorbed as workers in an Amul Pizza parlour. There are five partners in the venture, which are as follows: (a) Amul India (b) International Organization for Migration (c) Government of Andhra Pradesh (India) (d) *Prajwala* and (e) Survivors (UNODC 2008: 4).

Jabala Charitable trust, an NGO working on anti-human trafficking, has established a partnership with "C3 Market place". C3 market place is a retail chain. Jabala has helped trafficking survivor victims to get jobs in these retail stores in Kolkata and other places (UNODC 2008: 6). In what could be seen an illustration of corporate social responsibility, Microsoft has also developed the Child trafficking Exploitation Tracking System (CETS), an application that enables law enforcement officers from different departments, in different countries, to collaborate in the pursuit of paedophiles and rescue trafficked children (UNODC 2008: 26; Microsoft 2010).

Prayas Juvenile Aid Centre is a national level non profit organization founded in 1988. It focuses on anti-trafficking initiatives and issues related to rescue, repatriation, rehabilitation and reintegration of child victims of trafficking. Yet another organisation is *Prayas* SANLAAP, which is based in West Bengal. This organisation has collaboration with *Café Coffee Day* and NIFT (National Institute of Fashion and Technology) to provide jobs to trafficking survivors (UNODC 2008). There are many such NGOs working in the field of child trafficking but it is not possible to provide details about all the NGOs. India is still in the watch list country in US department of states list, which means laws in India about child trafficking do not match with international standards. Thus the role of NGOs in the field of child trafficking is very crucial in India.

2.2 Bangladesh

Bangladesh is also suffering from the problem of Child trafficking. Unlike the other countries of South Asia Bangladesh is also fighting with problems like poverty, weak government structures, and corruption. In Bangladesh women and children are trafficked from rural areas to urban centres. Moreover some young boys are trafficked into forced servitude in the fishing industry. Many NGOs are working in Bangladesh to fight the problem of child trafficking. The most active and relevant organization is Against Trafficking and Sexual Exploitation of Children (ATSEC). It has two chapters, one in Bangladesh and the other in West Bengal. ATSEC was formed in June 1998 after a one-day workshop on “Working Strategies to Combat Child Trafficking and Child Prostitution” (Nair 2005). This workshop was organised by an NGO in Bangladesh named Red Barnet. Red Barnet is a helping organization to ATSEC Bangladesh, it provide financial management and help in preparing projects. ATSEC works to control cross border trafficking. It is engaged in research, social mobilisation and technical assistance to the trafficking victims at national and regional levels.

ATSEC provides shelter for victims of trafficking. ATSEC India’s Plan of Action is to prevent trafficking. It includes advocacy and lobbying, training and development of resource centres at the state level. It also provides help to the NGOs, which are working in the field of trafficking and reintegration and rehabilitation of child victims (Heissler 2001: 61).

Mizanur Rahman (2001) describes the usefulness of broad based national coalition or NGOs working on child trafficking in Bangladesh. He also discusses about work by The Action against Trafficking and Sexual Exploitation of Children (ATSEC) (Population Council 2002: 26). ATSEC hosts the National Anti-Trafficking Information Resource Center (NATIRC) and provides information on organisations involved in trafficking and CSEC in Bangladesh. ATSEC members have made good use of trafficking mapping surveys to identify areas prone to trafficking (ECPAT International 2006:18).

Local governments have also been included in anti-trafficking efforts. Moreover community and local officials have also been included in various programmes. One of the most important NGO, which is working in Bangladesh for

trafficking, is BNWLA (Bangladesh National Women Lawyers Association). BNWLA is the pioneer national NGO that works in the field of rescuing trafficked victims and providing them with legal assistance. It takes legal action against traffickers and works with India to help trafficked victims return to Bangladesh. It currently runs one of the largest shelter homes in Bangladesh. For cross-border trafficking cases it organizes repatriation of survivors with the assistance of partner organizations and government departments concerned of both Bangladesh and India (ADB 2003: 91). BNWLA not only provides shelter to the trafficked victims but it also provides medical treatment, counselling, education and vocational training to the children. BNWLA is a legal aid organization that has been implementing its anti-trafficking projects since 1993. It also conducts meetings with social leaders, and law-enforcement agencies to prevent trafficking in children and women. It provides support for investigation of specific incidents. BNWLA has published booklets, fact sheets, and posters on anti-trafficking issue (Sanghera 1999).

2.3 Nepal

NGO group was established in Nepal in 2001. The aim of this group was to prepare a situation assessment report on commercial sexual exploitation children. A national consultation was also organised by the NGO group with support by ILO/IPEC and UNICEF, involved the Government, NGOs, INGOs and children. Many NGOs are working at the grass-roots level on anti-trafficking issues in Nepal (ADB 2003: 105). The major organizations, which are working on child trafficking issues are Maiti Nepal, Child Workers in Nepal Concerned Centre (both affiliates of the ECPAT network), ABC Nepal, the Women's Rehabilitation Centre (WOREC), Saathi, Him Rights (Himalayan Human Rights Monitors), the Centre for Legal Research and Resource Development, Shakti Samuha and the Legal Aid and Consultancy Centre. There are two important networks in NGO sector in Nepal first is "National Alliance against Girl Trafficking (NAGT)", and the second is "Alliance against Trafficking in Women in Nepal". Most of the NGOs are members of any one of these organizations. These networks work to promote awareness about the issue in the country. NGOs in Nepal also have been active in preventing trafficking to India

from Nepal. According to Crawford (2010) the “most visible and influential” NGO working in prevention of trafficking is **Maiti Nepal**. This organisation was founded in 1993. It has received international attention from Prince Charles and Oprah Winfrey (Joshi 2004).

Maiti Rescue Foundation has exposed trafficking rackets under the guise of migration. Still the rate of child trafficking is increasing in India and the whole south Asian region (One world South Asia: 2009). The mission of Maiti Nepal is to advocate for women and children, who have been trafficked. Organization has 22 offices, many of them with transit homes. Maiti Nepal sponsors direct prevention efforts such as safe migration programs and awareness camps in districts where risk of trafficking is high. In South Asia, the programs of NGOs are mostly related to rehabilitation. Some NGOs like Maiti Nepal, ABC/ Nepal and LACC (Legal aid and Consultancy Center), provide legal support directly by helping survivors negotiate the process of filling case (Crawford 2010: 129).

Maiti Nepal plays an important role in awareness campaigns. It highlights the issue of trafficking of children. It has deputed its volunteers for aggressive interception at 14 different crossing points on the Indo-Nepal border. That is how this organization is bringing the issue of cross-border trafficking to the public’s attention. Maiti Nepal has established formal partnerships with various organizations in India and other countries for tracing trafficked person.

Another NGO named ABC Nepal was the first organization in Nepal to publicize the issue of trafficking. It provides direct services to trafficking survivors. It administers transit homes that provide shelter, counselling, basic medical care education and employment to trafficking victims. One such transit home is in “Jadibuti” and another is located in “Biratnagar” district of Nepal. ABC Nepal also had run a transit home in Delhi for its Nepali victims of trafficking (Crawford 2010)

2.4 Pakistan

The Pakistan government provides limited funding to local NGOs to provide assistance with rehabilitation, medical care, and legal services. Directly and through district-level task forces, the Ministry of Women, Children and Social Welfare (MWCSW) coordinates NGO provision of victim rehabilitation and assistance. Non-governmental organizations have also conducted research on sexual violence and

related issues although the accuracy of the information they provide has been questioned.

The government does refer a few victims to NGOs to provide assistance. Cases brought by government attorneys have been far less successful. Prevention and Control of Human Trafficking Ordinance calls for the government to provide victims, relief from deportation, and access to medical care, shelter, and food. Victims may also be granted monetary compensation by the courts under this ordinance, but a severe lack of resources precludes the government from providing many of these services.

2.5 Sri Lanka

In Sri Lanka a national consultation was organised prior to the South Asia Consultation led by the National Child Protection Authority of the Government of Sri Lanka. The discussion ended with consensus for concerted efforts to address the growing problem of trafficking and sexual abuse of children in Southern India. In Sri Lanka the main problem is about child soldiers. There are many NGOs, which are working on the issue of trafficked children. The main focus of these NGOs is to rehabilitate these child soldiers in the main stream. One of the prominent NGO that is working in this field is PEACE. The Protecting Environment and Children Everywhere (P.E.A.C.E.) campaign was launched in 1991 (ECPAT 2009: 177). It was strongly focused and primarily directed at ending the commercial sexual exploitation of children in Sri Lanka. Its strategies and methodologies are all preventive. The main work of P.E.A.C.E. focus on the legal monitoring and and medical clinics and camps.

P.E.A.C.E. has provided lawyers with collected data and has interacted closely with the police, Special Police Branch of the NCPA and the Attorney General's Department, together with the families and children themselves. PEACE also conducts research and provides free medical aid to children. A major achievement of the P.E.A.C.E. is the publication of a book entitled "CSEC: The Crime against Children" in early 2006. Other P.E.A.C.E. programmes include non-formal education for children, vocational training, counselling for mothers and children (ECPAT 2009: 170). The Protecting Environment and Children Everywhere (P.E.A.C.E.) campaign, launched in 1991, is primarily directed at ending the commercial sexual exploitation

of children in Sri Lanka. Its strategies and methodologies are all preventive. The work of P.E.A.C.E. focuses on two main areas for potential victims of CSEC: legal monitoring and paedophile investigation; and medical clinics and camps.

Research conducted highlighted the need to provide free medical aid to children and families in the areas where P.E.A.C.E. works. With funds received from two donors, P.E.A.C.E. has been able to set up medical clinics in Kandy, Bandarawela, Colombo South and Colombo North.

2.6 Bhutan and Maldives

These countries were not the participants at the First World Congress against Commercial Sexual Exploitation of Children. Still they have taken several initiatives to follow up on their ratification of the CRC. Child Trafficking is a new issue in these countries, thus there are not much NGOs working on it. There are only international NGOs like UNICEF and UNIFEM working on the issue. The aim of their programs is that these countries should not get affected by the other major neighbour countries, suffering from child trafficking.

2.7 Afghanistan

Afghanistan is affected by conflict. Thus the government has less resources to provide victims of trafficking the protective services. Mostly children trafficked to Afghanistan are from Pakistan. There are lots of NGOs working in the field of child cross-border trafficking. Although NGOs are active in Afghanistan but still some NGOs faced problems due to threats from the local community. One NGO-run shelter in Kabul is specifically for trafficking victims. Some NGOs running care facilities for trafficking victims are working under government guidelines. It is unclear how many people served were victims of trafficking. There are no facilities in Afghanistan to provide shelter or specific protective services to male child trafficking victims. Although an NGO run shelter for boy victims is suppose to be open in 2010. Thus some trafficked boys are being placed in government-run orphanages. (USDS 2010: 57).

The government of Afghanistan has very less resources to serve the victims of trafficking directly; thus NGOs operated the country's 18 shelters. These NGOs serve

a vast majority of trafficking victims. Some of these NGOs face hardships also due to threats from the local community.(UNODC 2009: 59) In October 2009, provincial government officials, representatives from the Ministry of Justice, police, and local NGOs attended workshops on abduction and child trafficking in the northern provinces of Kunduz and Takhar. The Afghan Independent Human Rights Commission conducted workshops on trafficking and disseminated posters on child rights and trafficking to schools and government departments. A referral agreement was signed in 2007 among the Ministry of Interiors MOI, the Ministry of Woman's Affairs (MOWA), and local NGOs about the various shelters, and two government-run referral centers. Under this new procedure, police refer women victimized by violence to MOWA. Then MOWA will send these trafficking victims, to appropriate NGO facilities. Thus now NGOs are feeling decrease in the arbitrary detention by government (UNODC 2009: 60).

The SAARC Convention, which focused on trafficking for commercial sexual exploitation, also suggests a larger involvement of civil society in taking up preventive measures. The UN Trafficking Protocol envisages a major role and responsibility for the community in countering trafficking. Thus the work done by these NGOs is worth acknowledgement. Still there is a need to expand the scope for NGOs to work in a freer environment.

Trafficking is rampant in places where a 'culture of silence' prevails. The crime is abetted by the family and community's passivity and their inability to respond to the situation (Nair 2005: 251). There are many international NGOs working in developing countries, but their headquarters are in developed countries. The main problem with these kinds of NGOs is that they not well versed with local conditions. So their programmes and actions are sometimes not suitable to the local conditions. There are several international models of community response to anti-trafficking. Some are working independently and some are working with collaboration with government.

Challenges before NGOs

There are many challenges facing NGOs in the South Asian region, one of them is demand/supply problem. It will remain a challenge as long as poverty and economic disparities are there in the region. There are several problems that the NGOs face in the repatriation process; courts take a long time to give the release order for children's

repatriation. Repatriation is a lengthy and rigorous process. For example if a Bangladeshi trafficked child is identified in India, permission of the ministry of Home Affairs, Government of India, is required for his/her repatriation. Ministry first get the identity (nationality) of the victim examined by the special branch of police. Only after establishing the identity it grants permission. All these processes take a lot of time. Thus the children are bound to stay in Juvenile jail for long periods in very unhealthy and inhuman conditions (Nair 2005:656).

The second problem which NGOs face is the absence of clear cut laws and rules regarding cross-border trafficked victims. According to Sanlaap, when court issues the release order the government officials normally follow “push back” process, which usually entails further violation of the rights of trafficked victims(Nair 2005:657). The main problems occur with the NGOs who are working on cross border trafficking. There are no defined laws or bilateral protocol about these trafficked victims. Law enforcement agencies are law bound and cannot act beyond the provision of law, thus, the lack of appropriate legal Protocols block the coordination of NGOs with Police and BSF.

Third problem which NGOs face is about funding. NGOs run lack of funding, specially local NGOs are mostly dependent on INGOs or government funding. This affects their capacity to work for rehabilitation of trafficked children. Some NGOs work on minimum standards for care homes in the hope that Government will grant funds to them so that they can provide more humane treatment for the children (Coomaraswamy and Satkunanathan 2006:4).

Role of NGOs in Anti-trafficking: A Critique

A major criticism that is often levelled against NGOs is that they become more individualized in delivering the rehabilitation and reintegration services. Moreover, the benefits of their programmes do not have a wider reach; they are cornered by a small circle of the target group. It is felt that rehabilitation programme models that could provide individualised attention to a wider group of victims need to be developed (Population Council 2002: 22). It is true that the datasets available in the field are contributed by NGOs. It is difficult to make a precise estimate of the number

of trafficking victims. It is recommended that NGOs refine their data collection techniques and resort to multiple methods of data collection (Asha Nepal 2006:49).

Victims of trafficking, who happen to be children, are profoundly traumatised. Understandably, they require counselling and sustained psychological support. It is not that NGOs do not have counsellors in their staff; they do. It is just that most of these counsellors do not have anything more than rudimentary training in counselling. They are therefore not adept in providing the necessary services that victims so desperately seek. The practice wherein NGOs are being run by a particular family is a disturbing trend that is seen in developing countries such as India and Nepal (Asha Nepal 2006:38). Deficiencies like mismanagement, inappropriate training and failure in providing appear to cripple the functioning of NGOs.

Conclusion

NGOs are so diverse that it is not possible to generalise the impact of their work. They may claim to be the voice of the people thereby having greater legitimacy than governments (Willets 2001: 5). The problem of child trafficking is so serious that the former president of the United States, George W. Bush stated at the UN that it has become a top priority for his administration. The Secretary of State, Colin Powell was leading the administration's efforts and had a special office dedicated to the problem (NBC NEWS 2005). Even though NGOs are taking initiatives for combating child trafficking in South Asia, there are a number of hurdles that impede their functioning in anti-trafficking initiatives. First, most of the international NGOs are not familiar with the social fabric of states in South Asia. For example, in a poor family, parents sell their own children for money. Thus he/she become the earning member of a family. Thus it is very difficult to rescue him/her and provide them a normal child's life. Second, most international NGOs are dependent on foreign aid; their involvement in the field of anti-trafficking will vary in proportion to their finances. Third, there are a few NGOs who focus exclusively on child trafficking. Most of them are working for women and girl trafficking. As a result, anti-child trafficking programmes suffer. Four, political instability could also hamper the work of NGOs. For example, *ABC Nepal* was increasingly interrupted by insurgency.

Some NGOs have been accused of using coercive tactics such as keeping girls in shelters against their will. A few case studies in *Sex Trafficking in South Asia: Telling Maya's Story* reveals that some girls who were “rescued” were not actually the trafficking victims. Actually they have left their home with their will (Crawford 2010: 86). These cases raise apprehensions about the sincerity and efficiency of NGOs. In brief, NGOs are engaged in rescuing, repatriating and reintegrating victims. NGOs also include the trafficking issue in their awareness-raising programmes to build public opinion and encourage community involvement. NGOs work together with the government and try to develop national and regional policies and programmes to prevent trafficking. It is clear that NGOs are well placed, in spite of their limitations, to engage actively in combating child trafficking. However, not much can be done without the cooperation of the states concerned. NGOs do face a lot of constraints in the domain of prosecution. It is here that the role of the states becomes critical. Given a favourable political milieu that prioritises issues such as trafficking, NGOs will be able to perform better.

Chapter 6

Conclusion

Child trafficking is a human rights threat, which needs to be addressed urgently. Child trafficking is the sale and purchase of children and it includes their movement from one place to another. Therefore, it is important to examine what are the basic problems in combating this issue. The problem of trafficking of children was always a concern of the international community. Although, efforts have been made to combat the problem at the international and regional levels, but these efforts are not enough. In South Asia, states are the victims of poverty, illiteracy and terrorism. Their main concerns are with economic growth, thus child protection is taken up on a secondary basis

There are many international treaties, special mechanisms and instruments dealing with trafficking in persons. The main objective of these organizations is to suppress trafficking for every purpose. The United Nations has taken many initiatives to eliminate slavery-like practices in their different forms. Human Trafficking still exists in spite of the increased efforts to reduce it. In human trafficking, child trafficking is probably the worst; adults can be asked for consent but in child trafficking consent does not matter at all.

The study is aimed at addressing the following question: what is it that makes the task of eliminating child trafficking particularly difficult in the South Asian context in spite of the role played by international organisations and the provision of institutional mechanisms and the existence of a regional convention?

At the beginning of the study, the following hypotheses were proposed:

- (a) The issue of child trafficking suffers as it is clubbed in the same category as women trafficking, leading to its being overshadowed.
- (b) Existing laws – both at the UN and the SAARC – are inadequate to address the severity of the situation in the South Asian region.
- (c) NGOs have proved more effective in combating the problem of child trafficking in the South Asian Region than inter-governmental initiatives.

Towards the end of the study, the hypotheses seem to have been proven. The following section elaborates on the inferences that are drawn during this study.

One of the major inferences is that although international organisations have done admirable work in the field of human trafficking, they have not been successful in combating child trafficking in the South Asian region. First, there is no specific Convention that focuses exclusively on the problem of child trafficking. The existing conventions are not proportionate to deal with the gravity of the problem, for instance the UN Trafficking Protocol (2000) does not separate the issue of child trafficking from the larger problem; rather it clubs trafficking of women and children to the point of ignoring the rights of children. Specific reference to the rights of children finds a mention just in Article 6.4 of the Protocol. This article merely states that “...in granting assistance and protection to trafficking victims, special attention should be paid to children, especially for housing, education and care”. This is a classic illustration of how the rights of children are being ignored in international instruments that are aimed at combating the problem of child trafficking. This is not to suggest that no efforts have been taken to address the problem of child trafficking at international level. The legislative guide to UN trafficking protocol does pay attention to child trafficking victims. It recommends that children who agree to testify should be accorded special protection.

In May 2002 yet another international instrument came into effect that dealt with protection and assistance to trafficking victims. UN High Commissioner for Human Rights to the Economic and Social Council formulated “Recommended Principles and Guidelines on Human Rights and Human trafficking” This instrument is considered as an ‘international soft law instrument’ (Scarpa 2006: 437). The Recommended Principles constitutes a reference for the Special Rapporteur on trafficking in persons. Recommended principle 10 and Guideline eight do address the problem of child trafficking. Principle 10 emphasises on the protection of children who are victims of trafficking; guideline 8 advises states as to how to practically deal with victims of child trafficking. Other international instruments include “Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), Convention on the Rights of the Child (CRC) and its Protocols, UN special

mechanisms and the ILO Convention 182. Amongst the UN special mechanisms, the Special Rapporteur on the Sale of Children and the Special Rapporteur on Trafficking in Persons deserve mention.

The *United Nations Global Initiative to Fight Human Trafficking* (UN.GIFT) is the latest instrument that was enacted to promote the global fight on human trafficking. UN.GIFT is designed on the basis of international agreements reached at the UN. This initiative is based on the principle that a global problem such as human trafficking necessitates a global strategy, which could be built on efforts by states in the international system. Despite a number of above-mentioned international instruments, the problem of child trafficking continues to persist. It cannot be denied that global problems require global strategies for the purpose of arriving at global solutions. Nevertheless, international organisations prescribe global solutions that are probably irrelevant and insufficient in a particular regional or a local setting. They generalise the problem and make them universal, whereas every region has its own culture. They are too universal to be sensitive to the problems that exist in developing states. They do not contextualize the problem of child trafficking in the South Asian Region. It is most often the case that universal/global solutions reflect the value systems of the West and utter disregard for the peculiarities of non-Western societies.

In the study, many forms of child trafficking as sexual exploitation, labour purpose, sports, organs and entertainment have been discussed. There is ample literature in the form of reports and books which defines 'adoption' (Smolin 2005), organ trafficking (Morehouse 2009: 157) etc. as the forms of trafficking but according to the recent report by US Department of State trafficking does not include these forms as trafficking. This report says that unlawful buying/selling of an infant or child, and showing it as adoption is a serious criminal offence but it does not treat this as child trafficking. It argues that this action of adoption does not necessarily involve the use of force, fraud, or coercion. This report quotes Palermo Protocol to prove its point as the Protocol says that only "where illegal adoption amounts to a practice similar to slavery it will also fall within the scope of the Protocol" (USDS 2010: 8). In the same way, it says that trade in human organs is also not a form of human trafficking. It accepts that the international trade in organs is substantial and demand

is growing; it quotes Palermo Protocol and says that organ trafficking would only fall under human trafficking when traffickers use coercive means as force or threat. It appears that the report on Trafficking in Person is somehow biased. First, it is not based on any International Convention or Protocol instead of that it is based on TVPA (USDS 2000) which is a domestic law of United States. That is why it is less concerned about the victims in developing countries, who are being exploited as their kidneys are purchased for low prices for developed countries like United States. An article published by *Newsweek* reveals that organ trafficking is a growing problem in America as well (Interlandi 2009). Even the Tier rating of all the countries is also based on TVPA, without considering the particular needs and situations of that country.

Most of the laws in South Asia merge women trafficking and child trafficking, whereas child trafficking needs to be treated separately because children have different requirements than adults. The causes of trafficking are rooted in the social and economic structures in the South Asian region. Most states in South Asia are affected by poverty and economic and social deprivation. Globalisation may have had a positive impact on the privileged sections of the societies in these states. The Indian economy is a case in point, wherein the middle class seems to be benefiting from the process of globalisation. Nonetheless, the living condition of the vast majority of the population in South Asia is very bad. The poor remain as vulnerable as before. Globalisation has probably rendered the marginalised section of society more vulnerable than what was a case before. Thus there is a need of long term initiatives to confront these structural causes. It is true that protection of children from trafficking is becoming a matter of international concern. However, mere identification and recognition of the problem is not sufficient. Concrete steps need to be taken at the international, regional and national level. It is also important that the specificities of the problem in a regional setting are taken into account, in other words solutions need not be as global as to be irrelevant in the local context.

The South Asian region poses a number of challenges in the context of combating child trafficking. The problem of trafficking gets conflated with criminalisation of prostitution. For instance, the SAARC Convention on trafficking named as *Convention on Preventing and Combating Trafficking in Women and Children for*

Prostitution (2002) limits the problem of trafficking to controlling prostitution. It only takes into account the trafficking of women and children for the purpose of prostitution, but trafficking is not always linked to sexual exploitation (SAARC convention 2002). There are also other forms of exploitation, for which children are being trafficked. In some countries of South Asia such as India, anti-trafficking laws focus on controlling prostitution. These laws are enacted on the assumption that controlling prostitution would eventually eliminate child trafficking. For example, The Immoral Trafficking (Prevention) Act (ITPA) 1956 which was significantly amended in 1978 and renamed as the Immoral Trafficking Prevention Act (ITPA) is the primary legislation in India (UNODC 2009). ITPA deals with the problem in the following manner. This act says that if ‘any person is found with a child in a brothel, it shall be presumed, unless the contrary is proved, that he has committed an offence of detaining a person in premises where prostitution is carried on’ { ITPA 1956: 6(2)}

These laws also focus on the immorality of the sexual activity rather than as a child rights violation. A major obstacle in the task of combating child trafficking is a tendency to conflate notions of morality with addressing the problem. It is difficult to address a problem of child trafficking if it is viewed as a unidimensional problem. Child trafficking needs to be seen beyond prostitution and conservative notions of morality. In other words, the problem of trafficking has to be dealt at a deeper level. It is therefore important to address issues like poverty and gender disparity, livelihood and unsafe migration. There is a need to change and make new laws to combat the problem of child trafficking in the South Asian region, for example in India there is a National Policy on Child Labour (1986), and there are National policies on Health, Education and Nutrition (adopted in the years 1983, 1986 and 1993 respectively), but there is no National Policy to combat Child Trafficking as such. There is only one National Policy on Children (1974) which deals with protection of children in general, but it does not contain anything specifically for child victims of trafficking. However, “The Protection of Children from Sexual Assault Bill (2010) is a step forward in combating child trafficking.

In the South Asian region, there are limitations in terms of enforcement of existing laws and mechanisms. In spite of a convention at the regional level, not much progress has been made in the effort towards eliminating child trafficking. The

SAARC convention seems to favour the limited agenda of destination and transit countries. It is characterised by a narrow focus on matters relating to prostitution. It also protects other exploitative industries from being subject to international scrutiny (ADB 2003: 65). In this regard, South Asian Peoples Assembly in Colombo (2008) demanded a review of the definition of child trafficking in SAARC Convention for trafficking. It was proposed that the definition of trafficking should be reformulated from human rights perspective by broadening its criteria. It should include trafficking for all purposes. Moreover, demands were also made to add provisions, which can protect rights of trafficked persons to have access to justice, voluntary return home and fund for appropriate support and care (Asian Centre for Human Rights 2008: 8).

Once the SAARC nations have ratified the convention, it becomes the duty of the states to implement the action points of the convention by strengthening the national laws and policies. Seven countries have ratified this convention to date (IOM 2010) The problem with SAARC countries is that they have so many internal disputes regarding land and water etc., that are often unwilling to come together for initiating an action plan against the problem. Thus, the problem of child trafficking is still a major challenge for SAARC. SAARC as an institution also is not very robust. It is not able to persuade countries to follow its own conventions on trafficking. SAARC convention on trafficking is a noticeable step towards eliminating the problem of child trafficking in South Asian region, but still there is a need to go deeper into the causes of problem. NGOs could do that work more effectively because they have more reach to people than government. They work at grass root level with the help of community based organizations.

NGOs are taking several initiatives to combat child trafficking in South Asia. However, there are several obstacles in their smooth working. First, South Asian states do not prioritise the problem of child trafficking. They do not support the initiatives taken by NGOs. Second, many international NGOs are alien to the South Asian context. Based in developed states, they are not aware of the situation in south Asian countries. For example, in a poor family, parents themselves sell their child for money. Thus he/she becomes the earning member of a family. Thus it is very difficult to rescue him/her and provide him/her, a normal child's life. Most South Asian NGOs

are dependent on foreign aid. Thus they have to act according to their financiers. It is a problematic situation.

International organizations are also supporting NGOs in their programmes. For example, ILO supports NGOs in over 60 countries of South Asia and South East Asia to combat child labour including trafficking of children. The UN Economic and Social Commission for Asia and the Pacific (ESCAP) is also working on a regional level to address the issue of child trafficking. The ESCAP project focuses on sexual abuse and exploitation of children thereby addressing trafficking pertaining to prostitution only. Trafficking can be tackled only when communities are made aware of the problem and organise themselves to protect their children. Among recent developments, Thailand's Memorandum of Understanding (MoU) may be considered as a model in community response. The first MoU is between the government departments that play a part in addressing trafficking. The second MoU is between the government and NGOs. This has highlighted the complementary roles of the government and voluntary sectors. It has also institutionalised community intervention in anti-trafficking. The third MoU is between NGOs, for the purpose of achieving better cooperation and specialised functioning. The Thai model is seen as a successful institutionalisation of community partnership with government systems. To some extent, the Thai model gets replicated in South Asia. In the case of Nepal, the last decade has witnessed a momentum in the task of curbing child trafficking. The increase in momentum may be attributed to the reality of NGOs working closely with the government (Coomaraswamy, Radhika and Ambika Satkunanathan 2006).

It is clear that NGOs have proved to be more effective in combating the problem of child trafficking in South Asia as they are working on grassroots level. In fact, they are far better than intergovernmental initiatives. The initial hypothesis that was proposed at the beginning of the study is proved. The relative success of NGOs in the field of combating child trafficking could be attributed to the manner in which they address the issue and the style that they pursue. As it has been pointed out in chapter five, NGOs are engaged in implementing programmes at a much deeper level than what states do. Instead of dealing with the problem at superficial level, NGOs address the vulnerability of children to trafficking. NGOs also seem to be innovative and imaginative in their style and functioning. They frame the issue in such a way so

as to influence the state and also make them realize their role as supply, transit and/or destination countries of Child Trafficking (Keck and Sikkink 1999). It seems that NGOs fill the void created by states. Unlike states that tend to securitise the problem of child trafficking, NGOs locate the problem in a larger social- economic milieu.

The persistence of the problem of child trafficking in South Asia is rooted in the socio-economic deprivation that affects states in the region. International organisations have taken a number of initiatives towards the objective of combating child trafficking. However, these initiatives have not yielded the desired results. The reasons are not difficult to understand. The clubbing together of the issue of child trafficking with women trafficking thereby leading to an absence of an exclusive framework for child trafficking victims demonstrates a naive understanding of the gravity of the problem. In addition, existing legal mechanisms are hardly sufficient; they are not reflective of social reality and the needs of the society. Most importantly, individual states in the South Asian region seem to have deprioritised the problem of child trafficking; they are much more preoccupied with matters of traditional security than anything else. NGOs do generate a lot of hope. They have been more successful than governments in building and sustaining the momentum against trafficking. It is time that issues such as child trafficking are considered more seriously and addressed far more deeply in the discipline of International Relations than what seems to be the case right now where the subject privileges the state to the exclusion of pressing problems that affect the vast majority of the international community.

References

Abbasi, Ahmad S. and John Davies (2002), *Anti-Trafficking activities: a danger to the mobility of the Bangladeshi poor*, Brighton: University of Sussex.

ADB (Asian Development Bank) (2003), *Combating Trafficking of Women and Children in South Asia: Regional Synthesis Paper for Bangladesh, India, and Nepal*, Manila: Asian Development Bank publication.

Agbu, Osita (2003), "Corruption and Human Trafficking: The Nigerian Case", *The West African review*, 4(1): 1-10.

Alamgir, Md (2004), "Country Paper on 'Combating Trafficking in Women and Children in Bangladesh'", Government of the People's Republic of Bangladesh: 1-13 [Online:web] Accessed 2 April 2010, URL: http://www.lrti.go.kr/repository/eng/data/flaw/.../CR_Bangladesh02.doc

Anwar, M. (2004), *Child trafficking for camel race: A perspective from Pakistan*, Islamabad: Centre for Research and Social Development.

Aradau, Claudia (2004), "The Perverse Politics of Four-Letter Words: Risk and Pity in the Securitisation of Human Trafficking", *Millennium*, 33(2): 251-277.

Asha-Nepal (2006), *A Report on the Trafficking of Women and Children in Nepal*, Dhaka: Asha-Nepal publication.

Asian Centre for Human Rights (2008), *South Asia: Human Rights Index 2008*, New Delhi: Asian Centre for Human Rights.

Bales, Kevin, et al. (2009), *Modern Slavery: The Secret World of 27 Million People*, Oxford: One World Publications.

Bechard, Raymond (2006), *Unspeakable: The Hidden Truth Behind the World's Fastest Growing Crime*, New York: Compel Publishing.

Briain, O. Muireann (2001), "Trafficked Minors: The Special Case of Children", Paper presented at the Technical Consultative Meeting, Kathmandu. September 2001.

Bueren, Van Geraldine (1998), *International Documents on Children: Second Edition*, Amsterdam: Martinus Nijhoff Publishers.

*CEDAW (1979), The Convention on the Elimination of All Forms of Discrimination against Women, [Online: web], Accessed 24 March 2010, URL: <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>

Child Labour News (2008), "Poverty leads to child trafficking in South Asia: UNICEF", 27 August, URL: <http://childlabournews.org/?p=221>

Coalition to stop the use of child soldiers (2008), "Sri Lanka", [Online: web] Accessed 6 November 2009, URL: http://www.childsoldiersglobalreport.org/files/country_pdfs/FINAL_2008_Global_Report.pdf

Cogen, Patty (2008), *Parenting Your Internationally Adopted Child: From your First Hours Together Through the Teen Years*, Massachusetts: Harvard Common Press.

Commission on Human Security (2003), *Human Security Now*, New York: Commission on Human Security.

*Committee on the Rights of the Child (2004), Concluding Observations of the Committee on the Rights of the Child, India, U.N. Doc. CRC/C/15/Add.228.

*Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Other (1949), GA Res. 317(IV), UN Doc. A/RES/317(IV).

*Convention on Intercountry Adoption (1993), Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption 1993, Accessed 20 April 2010, URL: <http://www.hcch.net/upload/conventions/txt33en.pdf>

*Convention on the Rights of the Child (CRC) (1989), GA Res. 44/25, UN Doc. A/Res/44/25.

Coomaraswami, R. and Ambika S. (2006), "Anti-trafficking Legislation in Asia: a six country Review (Bangladesh, Nepal, Pakistan, Sri Lanka, Thailand, Indonesia)", Bangkok: International Labour Organization.

Crawford, Mary (2010), *Sex Trafficking in South Asia: Telling Maya's Story*, Oxon: Routledge.

Daily Times Monitor (2007), "Sex trafficking in South Asia", *Daily Times Monitor*, Karachi, 27 January 2007.

Derks, Annuska (2000), *Combating Trafficking in South-East Asia: A Review of Policy and Programme Responses*, Geneva: International Organization for Migration.

Doezema, Jo (2002), "Who gets to choose? Coercion, consent and the UN Trafficking Protocol," *Gender and Development*, 10(1): 15-37.

Ebbe, Obi N.I and Dilip, K. Das (eds.) (2008), *Global Trafficking in Women and Children*, Boca Raton: CRC Press.

ECPAT International (2006), *ECPAT Information Booklet*, Bangkok: ECPAT International.

ECPAT (2007), *ECPAT Annual report (July 2005- June 2006)*, Bangkok: ECPAT International.

ECPAT International (2009), *Their Protection is in our Hands: The State of Global Child Trafficking for Sexual Purposes*, Bangkok: ECPAT International.

http://www.ecpat.net/EI/Publications/Trafficking/Summary_Global_Child_Trafficking_for_Sexual_Purposes.pdf

Esfandiari, Golnaz (2004), "Afghanistan: Child Trafficking A Mounting Problem", Radio Free Europe Radio Liberty, 3 May, [Online: web] Accessed 5 April 2010, URL:

<http://www.rferl.org/content/article/1052605.html>

Fergus, Lara (2005), "Trafficking in women for sexual exploitation", Briefing by the Australian centre for study of sexual assault, no. 5, June 2005: 1-42.

Flowers, Barri R.(2001), "The Sex Trade Industry's Worldwide Exploitation of Children", *The ANNALS of the American Academy of Political and Social Science*, 575(1): 147-157.

Friesendorf, Cornelius (2009), "Strategies against Human Trafficking: the role of security sector", Geneva: Study Group Information.

Gallagher, A. (2002), "Trafficking, Smuggling and Human Rights: Tricks and Treaties", *Forced Migration Review*, 12(4): 23-47.

Gazi, R. (2001), *Trafficking of women and children in Bangladesh: An overview*, Dhaka: Centre for health and population research.

Gilada, I. S. (1989), "Trafficking in children for sexual purpose: An analytical Review", *Times of India*, 2 January 1989, New Delhi.

Goonesekre, Savitri (1993), *Child Labour in Sri Lanka: learning from the past*, Geneva: International Labour Organization.

Gupta, Prakiriti (2007), "The deadly trade of child organ trafficking", [Online Web]: Accessed 20 March 2010, URL:

<http://www.aawsat.com/english/news.asp?section=3&id=7723>

Gupta, Ruchira (2008), *Trafficking of children for prostitution and the UNICEF Response*, New York: Asia Society.

Hameed, Sadika et al. (2010), *Human Trafficking in India: Dynamics, Current Efforts, and Intervention Opportunities for the Asia foundation*, California: Leland Stanford Junior University Publication.

Heissler, Karin (2001), "Background paper on Good Practices and Priorities to Combat Sexual Abuse and Exploitation of Children in Bangladesh", Dhaka: UNICEF Regional Office.

iGovernment (2009), "India hub of child trafficking in South Asia", 19 August, URL: <http://igovernment.in/site/India-hub-of-child-trafficking-in-South-Asia>

*ILO (1999), Convention Concerning Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, Convention No. 182, Accessed 22 April 2010, URL: <http://www.ilo.org/public/english/standards/relm/ilc/ilc87/com-chic.htm>

ILO (2006), *The End of Child Labour: Within Reach*, Global Report under the follow up to the ILO declaration on Fundamental Principles and Rights at Work, Report 1(b) of the 95th session of the International Labour Conference, International Labour Office: Geneva.

ILO (2009), *Training Manual to Fight Trafficking in Children for Labour, Sexual and other Forms of Exploitation*, Geneva: International Labour Organization.

Interlandi, Jeneen (2009), "Nobody cares about human trafficking", *Newsweek*, 24 July 2009, [Online: web], Accessed 2 April 2010, URL: <http://www.newsweek.com/blogs/the-human-condition/2009/07/24/jeneen-interlandi-nobody-cares-about-organ-trafficking.html>

*International Convention for Migrant Workers (1990), *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*, GA Res. 45/158, UN Doc. A/RES/45/158, Accessed 12 April 2010, URL: <http://www2.ohchr.org/english/law/cmw.htm>

**International Convention for the Suppression of the Traffic in Women and Children* (1921), [Online: web], Accessed 12 January 2010, URL: <http://www.vilp.de/Enpdf/e158.pdf>

IOM (International Organization for Migration) (2001), "New IOM Figures on the Global Scale of Trafficking", *Trafficking in Migrants Quarterly Bulletin*, 23, [Online: web] Accessed 4 January 2010, URL: <http://usinfo.org/wf-archive/2001/010425/epf305.htm>

IOM (International Organization for Migration) (2010), "IOM Conducts Review of South Asian Association for Regional Cooperation (SAARC) Convention on Human Trafficking", Press briefing note, 23 April 2010 [Online: web], Accessed 15 June 2010, <http://www.iom.int/jahia/Jahia/media/press-briefing-notes/pbnAS/cache/offonce?entryId=27358>

*IPC (Indian Penal Code) (1860), *Indian Penal Code: Section 370*, [Online: web] Accessed 16 May 2010, URL: <http://www.vakilno1.com/bareacts/IndianPenalCode/S370.htm>

*ITPA (Immoral Traffic Prevention Act) (1956), [Online: web], Accessed 21 April 2010, URL:
http://ncpcr.gov.in/Acts/Immoral_Traffic_Prevention_Act_%28ITPA%29_1956.pdf

Jalalzai, Musa Khan (2003), *Children Trafficking in Pakistan*, Karachi: Royal Book Company.

Johnson, D. Jean, (2008), *Through Indian Eyes*, New York: Apex Press.

Joshi, Aiko (2002), "The face of Human Trafficking", *Hastings women's law journal*, 13(1): 17-36.

Joshi, S. (2004), "Cheli Beti: discourses on trafficking and constructions of gender, citizenship and nation in modern Nepal", in S. Srivastava and H. Brasted (eds.) *Sexual sites, Seminal attitudes: Sexualities and culture in South Asia*, New Delhi: Sage.

Kangaspunta, Kristiina (2010), "A short history of Trafficking in Persons", *Freedom from fear magazine*, [Online: web], Accessed 13 March 2010, URL:
http://www.freedomfromfearmagazine.org/index.php?option=com_content&view=article&id=99:a-short-history-of-trafficking-in-persons&catid=37:issue-1&Itemid=159

Keck, Margaret E. and Kathryn Sikkink (1999), *Transnational advocacy networks in transnational and regional politics*, Oxford: Blackwell Publishers.

Khan, Abdullah, (2009) "Human Trafficking in India: Hillary to hold Meeting in Delhi", *Merinews: Power to People*, [Online: web] Accessed 4 April 2010, URL:
www.merinews.com.

Kumar, Sanjay (2001), "Despite Ban, Organs Still sold in India", *Reuters Health*, [Online: web], Accessed 25 January 2010, URL:
www.vachss.com/help_text/archive/despite_ban.html

Leppanen, Katarina (2007), "Movement of women human trafficking in the interwar era", *Women's Studies International Forum*, 30: 523 – 533.

Leventhal, Todd (1994), *The Child Organ Trafficking Rumor: A Modern 'Urban Legend'*, A Report Submitted to The United Nations Special Rapporteur On The Sale Of Children, Child Prostitution, And Child Pornography, Washington D.C.: United States Information Agency.

Logan, Mark (2009), "The Anti-Slavery Crusade", *Harvard International Review*, 31 (2): 114-173.

Meier, Patricia J. (2008), "Small Commodities: How Child Traffickers Exploit Children and Families in Intercountry Adoption and What the United States Must do to stop them", *Journal of Gender, Race & Justice*, 12(4): 57-113.

Michael, Sarah (2002), "The Role of NGOs in Human Security", Working paper # 12, November, The Hauser Center for Nonprofit Organizations and The Kennedy School of Government, Harvard University: Cambridge.

Microsoft (2010), "Child Exploitation Tracking System (CETS)", [Online: web] Accessed 21 June 2010, URL: <http://www.microsoft.com/industry/publicsector/government/programs/CETSabout.mspx>

Miller, John R. (2006), "Slave trade: Combating Human trafficking", *Harvard International Review*, 27(4): 70-73.

Morehouse, Christal (2009), *Combating human trafficking: policy gaps and hidden potential agendas in the United States and Germany*, Berlin: VS Research.

Nair, P.M (2005), *Trafficking in women and children in India*, New Delhi: Orient Longman.

NBC News (2005), "Children for Sale: Dateline goes undercover with a human rights group to expose sex trafficking in Cambodia", NBC News, 9 January 2005 [Online: web] Accessed 5 May 2010, URL: <http://www.msnbc.msn.com/id/4038249/>

OHCHR (Office of the High Commissioner for Human Rights) (2001), Trafficking in Persons Information Note, [Online: Web], Accessed 24 February 2010, URL: <http://www.2008.december18.net/web/general/UNHCHRtraffic.pdf>

OneWorld South Asia (2009), "India hub for child trafficking in South Asia", 20 August 2009 [Online: web] Accessed 7 May 2010, URL: <http://southasia.oneworld.net/todayshadlines/india-hub-of-child-trafficking-in-south-asia>

*Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (2000), GA Res. 54/263, UN Doc. A/RES/54/263.

Pattanaik, Bandana (2006), "Perceptions, Responses and Challenges in South Asia", Population Council (2002), *Anti-Trafficking Programs in South Asia: Appropriate Activities, Indicators And Evaluation Methodologies*, New Delhi: Population Council.

Project Parivartan (2006), "Trafficking in Women and Children in South Asia: An Annotated Bibliography and Review of the Grey Literature", [Online: web] Accessed 21 December 2009, URL: http://cira.med.yale.edu/parivartan/resources/reports/traffickingsa_0306%20.pdf

Protection project (2002), *Bhutan: A human rights report on trafficking of person especially women and children*, Baltimore: John Hopkins University.

Rao, Jyoti (2007), "Assessing child labour in India : domestic child labour in India", [Online: web], Accessed 13 February 2010, URL: http://www.unicef.org/india/child_protection_2053.htm

Reddy, G.B. and Suhaib, M. (2009), *Constitution of India and Professional Ethics*, New Delhi: I.K. International.

Richards, Kathy (2004), "The Trafficking of Migrant Workers: What are the links between Labour Trafficking and corruption", *International Migration*, 42 (5): 79-123.

Romer, Kate (2006), "Environmental" Refugees?", *Forced Migration Review*, 25: 61.

*SAARC (1997), Declaration of the Ninth SAARC Summit, Male, 12-14 May 1997, SAARC/Summit.9/11, [Online: web] Accessed 12 January 2010, URL: <http://www.saarc-sec.org/userfiles/Summit%20Declarations/09%20-%20Maldives%20-%20209th%20Summit%201997.pdf>

*SAARC Convention (2002a), *SAARC Convention on Preventing and Combating Trafficking in Women and Children for prostitution* [Online: Web], Accessed 5 June 2010, URL: http://www.humantrafficking.org/uploads/publications/SAARC_Convention_on_Trafficking_Prostitution.pdf

*SAARC Convention (2002b), *SAARC Convention on Regional Arrangements for the Promotion of Child Welfare in South Asia*, [Online: web] Accessed 3 March 2010, URL <http://www.saarc-sec.org/userfiles/conv-children.pdf>

Samshul, Islam (2001), "*Trafficking of women and Children in Bangladesh: An Overview*", Dhaka: Centre for Health and Population Research.

Sanghera, Jyoti (1999), *Trafficking of Women And Children In South Asia: Taking Stock And Moving Ahead: A Broad Assessment of Anti trafficking Initiatives In Nepal Bangladesh And India*, New Delhi: Save the Children Alliance.

Save the Children (2008), *Child Rights Situation Analysis*, Sweden: Save the Children Regional Office for Southeast Asia and Pacific

Scarpa, Silvia (2005) "Child trafficking: the worst face of the world", *Global Migration Perspectives*, 40: 1-34.

----- (2006), "Child Trafficking: International instruments to protect the most vulnerable victims", *Family Court Review*, 44 (3): 429-447.

Shakti Vahni (2004), *Trafficking in India Report-2004*, Faridabad: Shakti Vahini publication.

Shrivastava, Deepti (2007), "Child Trafficking- A Human Right Abuse", *The Police Journal*, 1(3): 23-29.

Silvia, Queen (2005), *State of world children*, New York: UNICEF publication.

Smolin, M David (2005), "Inter-country Adoption as Child Trafficking", *Valparaiso University law review*, 39(2): 281-325.

Squire, Jason and Sarasi Wijeratne (2008), *Sri Lanka Research Report: The sexual abuse, commercial sexual exploitation and trafficking of children in Sri Lanka*, [Online: web] Accessed 11 February 2010, URL: http://www.childtrafficking.com/Docs/tdh_08_tra_report_0309.pdf

Terre Des Homes (2004), "Kids as Commodities? Child Trafficking and what to do about it", Lausanne: Terre des Hommes foundation.

Tumlin, Karen C. (2000), "Trafficking in children in Asia: A regional overview", An ILO-OPEC paper, Bangkok: Chulalongkom University, Institute for Asian Studies.

*United Nations (1995), GA Res. 49/166, UN Doc. A/RES/49/166.

*United Nations (2010), GA Res. 64/178, UN Doc. A/RES/64/178.

*UN Convention on Slave Trade (1956), United Nations Supplementary Convention on the Abolition of Slavery and the Slave Trade (1956), GA Res. 51/492, UN Doc. A/51/492 URL: <http://www2.ohchr.org/english/law/slavetrade.htm>

*UN Economic and Social Council (2002), *Recommended Principles and Guidelines on Human Rights and Human Trafficking: Report of the United Nations High Commissioner for Human Rights to the Economic and Social Council*, E/2002/68/Add.1, [Online: web], Accessed 12 November 2009, URL: [http://www.unhchr.ch/huridocda/huridoca.nsf/e06a5300f90fa0238025668700518ca4caf3deb2b05d4f35c1256bf30051a003/\\$FILE/N0240168.pdf](http://www.unhchr.ch/huridocda/huridoca.nsf/e06a5300f90fa0238025668700518ca4caf3deb2b05d4f35c1256bf30051a003/$FILE/N0240168.pdf)

UNDP (United Nations Development Programme) (1994), *Human Development Report 1994*, New York: UNDP publication.

UNDP (United Nations Development Programme) (2009), *Human Development Report 2009*, New York: UNDP publication.

UNICEF (2001), "UNICEF calls for eradication of commercial sexual exploitation of children: New Report Says Millions of Children are Sexually Exploited", *UNICEF Press Release*, 12 December 2001.

UNICEF (2002), *Child Trafficking in West Africa: Policy Responses*, Florence: UNICEF Innocent Research Centre.

UNICEF (2008), *Adopting the rights of the child: A study on Inter country Adoption and its influence on child protection in Nepal*, Kathmandu: Terres des homes.

*United Nations Convention against Transnational Organized Crime (2000), GA Res. 55/25, UN Doc. A/RES/55/25.

*United Nations Economic and Social Council (2003) *Integration of Human Rights of the Women and Gender Perspective: Violence against women*, UN Doc. E/CN.42/2003/75/Add.1, 27 February 2003, [Online: web] Accessed 5 January 2010, URL: <http://www.unhchr.ch/Huridocda/Huridoca.nsf/0/a9c6321593428acfc1256cef0038513e?Opendocument>

*United Nations Millennium Declaration (2000), GA Res. 55/2, UN Doc. A/RES/55/2. *University law review*, 39(2): 281-325.

UNODC (United Nations Office On Drugs and Crime) (2008), *Compendium of Best Practices On Anti Human Trafficking by Non Governmental Organizations*, New Delhi: United Nations Office on Drugs and Crime, Regional Office for South Asia.

UNODC (United Nations Office on Drugs and Crime) (2009), *Global Report on Trafficking in Persons*, New York: UNODC publication. URL <http://www.saarc-sec.org/userfiles/conv-children.pdf>

*UN Trafficking Protocol (2000), "Protocol to Prevent, Suppress and Punish Trafficking in persons Especially Women and Children, Supplementing the United Nations Convention Against Transnational organized Crime", GA Res. 55/25, UN Doc. A/RES/55/25.

US.DHHS (US Department of Health and Human Services) (2004), *Human Service Provider Manual for certified Domestic Violence centres*, Washington, D.C.

*USDS (United States Department of State) (2000), *Trafficking Victims Protection Act – Minimum Standards for the Elimination of Persons in Trafficking*, [Online: web] Accessed 12 March 2010, URL: <http://www.state.gov/g/tip/rls/tiprpt/2007/86205.htm>

USDS (United States Department of State) (2004), *Trafficking in Persons Report*, Washington, DC: United States Department of State Publication.

----- (2005) *Trafficking in Persons Report*, Washington, DC: United States Department of State Publication.

----- (2010) *Trafficking in Persons Report*, Washington, DC: United States Department of State Publication.

*White Slave Traffic (1910), International Convention for the Suppression of the "White Slave Traffic," 4 May 1910, 211 Consol. T.S. 45, 1912 GR. Brit. T.S. No. 20, *as amended by* Protocol Amending the International Agreement for the Suppression of the White Slave Traffic, and Amending the International Convention for the Suppression of the White Slave Traffic, 4 May 1949, 2 U.S.T. 1999, 30 U.N.T.S. 23, *entered into force*, 21 June 1951.

Willetts, Peter (2001), "Non-Governmental Organizations", *UNESCO Encyclopaedia of Life Support Systems*, Section 1, Institutional and Infrastructure Resource Issues, Article 1.44.3.7 [Online: web] Accessed 15 June 2010, URL: <http://www.staff.city.ac.uk/p.willetts/PUBS/INDEX.HTM>

William, Thomas (2008), *Child Trafficking: An Unconscious Phenomenon*, New Delhi: Kanishka Publishers.

Yousaf, Faisal (2006), "Civil Society Response to Human Trafficking in South Asia", *Forced Migration Review*, 25: 16.

ANNEXURE-1

PROTOCOL TO PREVENT, SUPPRESS AND PUNISH TRAFFICKING IN PERSONS, ESPECIALLY WOMEN AND CHILDREN, SUPPLEMENTING THE UNITED NATIONS CONVENTION AGAINST TRANSNATIONAL ORGANIZED CRIME (Palermo Protocol) (2000)

Preamble

The States Parties to this Protocol,

Declaring that effective action to prevent and combat trafficking in persons, especially women and children, requires a comprehensive international approach in the countries of origin, transit and destination that includes measures to prevent such trafficking, to punish the traffickers and to protect the victims of such trafficking, including by protecting their internationally recognized human rights,

Taking into account the fact that, despite the existence of a variety of international instruments containing rules and practical measures to combat the exploitation of persons, especially women and children, there is no universal instrument that addresses all aspects of trafficking in persons,

Concerned that, in the absence of such an instrument, persons who are vulnerable to trafficking will not be sufficiently protected,

Recalling General Assembly resolution 53/111 of 9 December 1998, in which the Assembly decided to establish an open-ended intergovernmental ad hoc committee for the purpose of elaborating a comprehensive international convention against transnational organized crime and of discussing the elaboration of, inter alia, an international instrument addressing trafficking in women and children,

Convinced that supplementing the United Nations Convention against Transnational Organized Crime with an international instrument for the prevention, suppression and punishment of trafficking in persons, especially women and children, will be useful in preventing and combating that crime,

Have agreed as follows:

I. General provisions

Article 1

Relation with the United Nations Convention against Transnational Organized Crime

1. This Protocol supplements the United Nations Convention against Transnational Organized Crime. It shall be interpreted together with the Convention.
2. The provisions of the Convention shall apply, mutatis mutandis, to this Protocol unless otherwise provided herein.

3. The offences established in accordance with article 5 of this Protocol shall be regarded as offences established in accordance with the Convention.

Article 2

Statement of purpose

The purposes of this Protocol are:

- (a) To prevent and combat trafficking in persons, paying particular attention to women and children;
- (b) To protect and assist the victims of such trafficking, with full respect for their human rights; and
- (c) To promote cooperation among States Parties in order to meet those objectives.

Article 3

Use of terms

For the purposes of this Protocol:

- (a) “Trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring 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 labour 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.

Article 4

Scope of application

This Protocol shall apply, except as otherwise stated herein, to the prevention, investigation and prosecution of the offences established in accordance with article 5 of this Protocol, where those offences are transnational in nature and involve an organized criminal group, as well as to the protection of victims of such offences.

Article 5

Criminalization

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences the conduct set forth in article 3 of this Protocol, when committed intentionally.

2. Each State Party shall also adopt such legislative and other measures as may be necessary to establish as criminal offences:

(a) Subject to the basic concepts of its legal system, attempting to commit an offence established in accordance with paragraph 1 of this article;

(b) Participating as an accomplice in an offence established in accordance with paragraph 1 of this article; and

(c) Organizing or directing other persons to commit an offence established in accordance with paragraph 1 of this article.

II. Protection of victims of trafficking in persons

Article 6

Assistance to and protection of victims of trafficking in persons

1. In appropriate cases and to the extent possible under its domestic law, each State Party shall protect the privacy and identity of victims of trafficking in persons, including, inter alia, by making legal proceedings relating to such trafficking confidential.

2. Each State Party shall ensure that its domestic legal or administrative system contains measures that provide to victims of trafficking in persons, in appropriate cases:

(a) Information on relevant court and administrative proceedings;

(b) Assistance to enable their views and concerns to be presented and considered at appropriate stages of criminal proceedings against offenders, in a manner not prejudicial to the rights of the defense.

3. Each State Party shall consider implementing measures to provide for the physical, psychological and social recovery of victims of trafficking in persons, including, in appropriate cases, in cooperation with non-governmental organizations, other relevant organizations and other elements of civil society, and, in particular, the provision of:

(a) Appropriate housing;

(b) Counseling and information, in particular as regards their legal rights, in a language that the victims of trafficking in persons can understand;

(c) Medical, psychological and material assistance; and

(d) Employment, educational and training opportunities.

4. Each State Party shall take into account, in applying the provisions of this article, the age, gender and special needs of victims of trafficking in persons, in particular the special needs of children, including appropriate housing, education and care.
5. Each State Party shall endeavor to provide for the physical safety of victims of trafficking in persons while they are within its territory.
6. Each State Party shall ensure that its domestic legal system contains measures that offer victims of trafficking in persons the possibility of obtaining compensation for damage suffered.

Article 7

Status of victims of trafficking in persons in receiving States

1. In addition to taking measures pursuant to article 6 of this Protocol, each State Party shall consider adopting legislative or other appropriate measures that permit victims of trafficking in persons to remain in its territory, temporarily or permanently, in appropriate cases.
2. In implementing the provision contained in paragraph 1 of this article, each State Party shall give appropriate consideration to humanitarian and compassionate factors.

Article 8

Repatriation of victims of trafficking in persons

1. The State Party of which a victim of trafficking in persons is a national or in which the person had the right of permanent residence at the time of entry into the territory of the receiving State Party shall facilitate and accept, with due regard for the safety of that person, the return of that person without undue or unreasonable delay.
2. When a State Party returns a victim of trafficking in persons to a State Party of which that person is a national or in which he or she had, at the time of entry into the territory of the receiving State Party, the right of permanent residence, such return shall be with due regard for the safety of that person and for the status of any legal proceedings related to the fact that the person is a victim of trafficking and shall preferably be voluntary.
3. At the request of a receiving State Party, a requested State Party shall, without undue or unreasonable delay, verify whether a person who is a victim of trafficking in persons is its national or had the right of permanent residence in its territory at the time of entry into the territory of the receiving State Party.
4. In order to facilitate the return of a victim of trafficking in persons who is without proper documentation, the State Party of which that person is a national or in which he or she had the right of permanent residence at the time of entry into the territory of the receiving State Party shall agree to issue, at the request of the receiving State Party, such travel documents or other authorization as may be necessary to enable the person to travel to and re-enter its territory.
5. This article shall be without prejudice to any right afforded to victims of trafficking in persons by any domestic law of the receiving State Party.

6. This article shall be without prejudice to any applicable bilateral or multilateral agreement or arrangement that governs, in whole or in part, the return of victims of trafficking in persons.

III. Prevention, cooperation and other measures

Article 9

Prevention of trafficking in persons

1. States Parties shall establish comprehensive policies, programmes and other measures:

(a) To prevent and combat trafficking in persons; and

(b) To protect victims of trafficking in persons, especially women and children, from re-victimization.

2. States Parties shall endeavour to undertake measures such as research, information and mass media campaigns and social and economic initiatives to prevent and combat trafficking in persons.

3. Policies, programmes and other measures established in accordance with this article shall, as appropriate, include cooperation with non-governmental organizations, other relevant organizations and other elements of civil society.

4. States Parties shall take or strengthen measures, including through bilateral or multilateral cooperation, to alleviate the factors that make persons, especially women and children, vulnerable to trafficking, such as poverty, underdevelopment and lack of equal opportunity.

5. States Parties shall adopt or strengthen legislative or other measures, such as educational, social or cultural measures, including through bilateral and multilateral cooperation, to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking.

Article 10

Information exchange and training

1. Law enforcement, immigration or other relevant authorities of States Parties shall, as appropriate, cooperate with one another by exchanging information, in accordance with their domestic law, to enable them to determine:

(a) Whether individuals crossing or attempting to cross an international border with travel documents belonging to other persons or without travel documents are perpetrators or victims of trafficking in persons;

(b) The types of travel document that individuals have used or attempted to use to cross an international border for the purpose of trafficking in persons; and

(c) The means and methods used by organized criminal groups for the purpose of trafficking in persons, including the recruitment and transportation of victims, routes and links between

and among individuals and groups engaged in such trafficking, and possible measures for detecting them.

2. States Parties shall provide or strengthen training for law enforcement, immigration and other relevant officials in the prevention of trafficking in persons. The training should focus on methods used in preventing such trafficking, prosecuting the traffickers and protecting the rights of the victims, including protecting the victims from the traffickers.

The training should also take into account the need to consider human rights and child- and gender-sensitive issues and it should encourage cooperation with non-governmental organizations, other relevant organizations and other elements of civil society.

3. A State Party that receives information shall comply with any request by the State Party that transmitted the information that places restrictions on its use.

Article 11

Border measures

1. Without prejudice to international commitments in relation to the free movement of people, States Parties shall strengthen, to the extent possible, such border controls as may be necessary to prevent and detect trafficking in persons.

2. Each State Party shall adopt legislative or other appropriate measures to prevent, to the extent possible, means of transport operated by commercial carriers from being used in the commission of offences established in accordance with article 5 of this Protocol.

3. Where appropriate, and without prejudice to applicable international conventions, such measures shall include establishing the obligation of commercial carriers, including any transportation company or the owner or operator of any means of transport, to ascertain that all passengers are in possession of the travel documents required for entry into the receiving State.

4. Each State Party shall take the necessary measures, in accordance with its domestic law, to provide for sanctions in cases of violation of the obligation set forth in paragraph 3 of this article.

5. Each State Party shall consider taking measures that permit, in accordance with its domestic law, the denial of entry or revocation of visas of persons implicated in the commission of offences established in accordance with this Protocol.

6. Without prejudice to article 27 of the Convention, States Parties shall consider strengthening cooperation among border control agencies by, inter alia, establishing and maintaining direct channels of communication.

Article 12

Security and control of documents

Each State Party shall take such measures as may be necessary, within available means:

(a) To ensure that travel or identity documents issued by it are of such quality that they cannot easily be misused and cannot readily be falsified or unlawfully altered, replicated or issued; and

(b) To ensure the integrity and security of travel or identity documents issued by or on behalf of the State Party and to prevent their unlawful creation, issuance and use.

Article 13

Legitimacy and validity of documents

At the request of another State Party, a State Party shall, in accordance with its domestic law, verify within a reasonable time the legitimacy and validity of travel or identity documents issued or purported to have been issued in its name and suspected of being used for trafficking in persons.

IV. Final provisions

Article 14

Saving clause

1. Nothing in this Protocol shall affect the rights, obligations and responsibilities of States and individuals under international law, including international humanitarian law and international human rights law and, in particular, where applicable, the 1951 Convention and the 1967 Protocol relating to the Status of Refugees and the principle of non-refoulement as contained therein.

2. The measures set forth in this Protocol shall be interpreted and applied in a way that is not discriminatory to persons on the ground that they are victims of trafficking in persons. The interpretation and application of those measures shall be consistent with internationally recognized principles of non-discrimination.

Article 15

Settlement of disputes

1. States Parties shall endeavour to settle disputes concerning the interpretation or application of this Protocol through negotiation.

2. Any dispute between two or more States Parties concerning the interpretation or application of this Protocol that cannot be settled through negotiation within a reasonable time shall, at the request of one of those States Parties, be submitted to arbitration. If, six months after the date of the request for arbitration, those States Parties are unable to agree on the organization of the arbitration, any one of those States Parties may refer the dispute to the International Court of Justice by request in accordance with the Statute of the Court.

3. Each State Party may, at the time of signature, ratification, acceptance or approval of or accession to this Protocol, declare that it does not consider itself bound by paragraph 2 of this article. The other States Parties shall not be bound by paragraph 2 of this article with respect to any State Party that has made such a reservation.

4. Any State Party that has made a reservation in accordance with paragraph 3 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

Article 16

Signature, ratification, acceptance, approval and accession

1. This Protocol shall be open to all States for signature from 12 to 15 December 2000 in Palermo, Italy, and thereafter at United Nations Headquarters in New York until 12 December 2002.

2. This Protocol shall also be open for signature by regional economic integration organizations provided that at least one Member State of such organization has signed this Protocol in accordance with paragraph 1 of this article.

3. This Protocol is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the United Nations. A regional economic integration organization may deposit its instrument of ratification, acceptance or approval if at least one of its member States has done likewise. In that instrument of ratification, acceptance or approval, such organization shall declare the extent of its competence with respect to the matters governed by this Protocol. Such organization shall also inform the depositary of any relevant modification in the extent of its competence.

4. This Protocol is open for accession by any State or any regional economic integration organization of which at least one member State is a Party to this Protocol. Instruments of accession shall be deposited with the Secretary-General of the United Nations. At the time of its accession, a regional economic integration organization shall declare the extent of its competence with respect to matters governed by this Protocol. Such organization shall also inform the depositary of any relevant modification in the extent of its competence.

Article 17

Entry into force

1. This Protocol shall enter into force on the ninetieth day after the date of deposit of the fortieth instrument of ratification, acceptance, approval or accession, except that it shall not enter into force before the entry into force of the Convention. For the purpose of this paragraph, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by member States of such organization.

2. For each State or regional economic integration organization ratifying, accepting, approving or acceding to this Protocol after the deposit of the fortieth instrument of such action, this Protocol shall enter into force on the thirtieth day after the date of deposit by such State or organization of the relevant instrument or on the date this Protocol enters into force pursuant to paragraph 1 of this article, whichever is the later.

Article 18

Amendment

1. After the expiry of five years from the entry into force of this Protocol, a State Party to the Protocol may propose an amendment and file it with the Secretary-General of the United Nations, who shall thereupon communicate the proposed amendment to the States Parties and to the Conference of the Parties to the Convention for the purpose of considering and deciding on the proposal. The States Parties to this Protocol meeting at the Conference of the Parties shall make every effort to achieve consensus on each amendment. If all efforts at consensus have been exhausted and no agreement has been reached, the amendment shall, as a last resort, require for its adoption a two-thirds majority vote of the States Parties to this Protocol present and voting at the meeting of the Conference of the Parties.

2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote under this article with a number of votes equal to the number of their member States that are Parties to this Protocol. Such organizations shall not exercise their right to vote if their member States exercise theirs and vice versa.

3. An amendment adopted in accordance with paragraph 1 of this article is subject to ratification, acceptance or approval by States Parties.

4. An amendment adopted in accordance with paragraph 1 of this article shall enter into force in respect of a State Party ninety days after the date of the deposit with the Secretary-General of the United Nations of an instrument of ratification, acceptance or approval of such amendment.

5. When an amendment enters into force, it shall be binding on those States Parties which have expressed their consent to be bound by it. Other States Parties shall still be bound by the provisions of this Protocol and any earlier amendments that they have ratified, accepted or approved.

Article 19

Denunciation

1. A State Party may denounce this Protocol by written notification to the Secretary-General of the United Nations. Such denunciation shall become effective one year after the date of receipt of the notification by the Secretary-General.

2. A regional economic integration organization shall cease to be a Party to this Protocol when all of its member States have denounced it.

Article 20

Depositary and languages

1. The Secretary-General of the United Nations is designated depositary of this Protocol.

2. The original of this Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF, the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed this Protocol.

ANNEXURE-2

SAARC CONVENTION ON PREVENTING AND COMBATING TRAFFICKING IN WOMEN AND CHILDREN FOR PROSTITUTION THE MEMBER STATES OF THE SOUTH ASIAN ASSOCIATION FOR REGIONAL COOPERATION (SAARC) (2002)

PARTIES TO THE PRESENT CONVENTION

EMPHASISING that the evil of trafficking in women and children for the purpose of prostitution is incompatible with the dignity and honour of human beings and is a violation of basic human rights;

RECALLING the decision of the Ninth SAARC Summit (May, 1997) that the feasibility of a regional Convention to combat the grave crime of trafficking in women and children for prostitution should be explored;

RECALLING ALSO the relevant international legal instruments relating to prevention of trafficking in women and children, including the Convention for the Suppression of Trafficking in Persons and of the Exploitation of Prostitution of Others, 1949; Convention on the Elimination of all Forms of Discrimination against Women,

1979; International Covenant on Civil and Political Rights, 1966; and the Convention on the Rights of the Child, 1989;

GIVING due regard to the implementation of the recommendations of the various pertinent International Bodies and Conferences including the Fourth World Conference on Women at Beijing (1995);

NOTING with concern the increasing exploitation by traffickers of women and children from SAARC countries and their increasing use of these countries as sending, receiving and transit points;

RECOGNISING in this regard the importance of establishing effective regional cooperation for preventing trafficking for prostitution and for investigation, detection, interdiction, prosecution and punishment of those responsible for such trafficking;

EMPHASISING the need to strengthen cooperation in providing assistance, rehabilitation and repatriation to victims of trafficking for prostitution;

HAVE AGREED as follows:

ARTICLE I

DEFINITIONS

For the purpose of this Convention:

- 1) "Child" means a person who has not attained the age of 18 years;
- 2) "Prostitution" means the sexual exploitation or abuse of persons for commercial purposes;
- 3) "Trafficking" means the moving, selling or buying of women and children for prostitution within and outside a country for monetary or other considerations with or without the consent of the person subjected to trafficking;
- 4) "Traffickers" means persons, agencies or institutions engaged in any form of trafficking;
- 5) "Persons subjected to trafficking" means women and children victimised or forced into prostitution by the traffickers by deception, threat, coercion, kidnapping, sale, fraudulent marriage, child marriage, or any other unlawful means;
- 6) "Protective home" means a home established or recognised by a Government of a Member State for the reception, care, treatment and rehabilitation of rescued or arrested persons subjected to trafficking.
- 7) "Repatriation" means return to the country of origin of the person subjected to trafficking across international frontiers.

ARTICLE II

SCOPE OF THE CONVENTION

The purpose of this Convention is to promote cooperation amongst Member States so that they may effectively deal with the various aspects of prevention, interdiction and suppression of trafficking in women and children; the repatriation and rehabilitation of victims of trafficking and prevent the use of women and children in international prostitution networks, particularly where the countries of the SAARC region are the countries of origin, transit and destination.

ARTICLE III

OFFENCES

1. The State Parties to the Convention shall take effective measures to ensure that trafficking in any form is an offence under their respective criminal law and shall make such an offence punishable by appropriate penalties which take into account its grave nature.
2. The State Parties to the Convention, in their respective territories, shall provide for punishment of any person who keeps, maintains or manages or knowingly finances or takes part in the financing of a place used for the purpose of trafficking and knowingly lets or rents a building or other place or any part thereof for the purpose of trafficking.
3. Any attempt or abetment to commit any crime mentioned in paras 1 and 2 above or their financing shall also be punishable.

ARTICLE IV

AGGRAVATING CIRCUMSTANCES

1. The State Parties to the Convention shall ensure that their courts having jurisdiction over the offences committed under this Convention, can take into account factual circumstances which make the commission of such offences particularly grave, viz.

- a) the involvement in the offences of an organized criminal group to which the offender belongs;
- b) the involvement of the offender in other international organized criminal activities;
- c) the use of violence or arms by the offender;
- d) the fact that the offender holds a public office and that the offence is committed in misuse of that office;
- e) the victimisation or trafficking of children;
- f) the fact that the offence is committed in a custodial institution or in an educational institution or social facility or in their immediate vicinity or in other places to which children and students visit for educational, sports, social and cultural activities;
- g) previous conviction, particularly for similar offences, whether in a Member State or any other country.

ARTICLE V

JUDICIAL PROCEEDINGS

In trying offences under this Convention, judicial authorities in Member States shall ensure that the confidentiality of the child and women victims is maintained and that they are provided appropriate counseling and legal assistance.

ARTICLE VI

MUTUAL LEGAL ASSISTANCE

1. The State Parties to the Convention shall grant to each other the widest measure of mutual legal assistance in respect of investigations, inquiries, trials or other proceedings in the requesting State in respect of offences under this Convention. Such assistance shall include:

- a) taking of evidence and obtaining of statements of persons;
- b) provision of information, documents and other records including criminal and judicial records;
- c) location of persons and objects including their identification;
- d) search and seizures;
- e) delivery of property including lending of exhibits;
- f) making detained persons and others available to give evidence or assist investigations;

g) service of documents including documents seeking attendance of persons; and

h) any other assistance consistent with the objectives of this Convention.

2. Requests for assistance shall be executed promptly in accordance with their national laws and in the manner requested by the Requesting State. In the event that the Requested State is not able to comply in whole or in part with a request for assistance or decides to postpone execution it shall promptly inform the Requesting State and shall give reasons for the same.

ARTICLE VII

EXTRADITION OR PROSECUTION

1. The offences referred to in the present Convention shall be regarded as extraditable offences in any extradition treaty which has been or may hereinafter be concluded, between any of the Parties to the Convention.

2. If a State Party which makes extradition conditional on the existence of a treaty, receives a request for extradition from another State Party with which it has no extradition treaty, the Requested State shall, if so permitted by its laws, consider this Convention as the basis for extradition in respect of the offences set forth in Article III.

3. Extradition shall be granted in accordance with the laws of the State to which the request is made.

4. The State Party in whose territory the alleged offender is present shall, if it does not extradite him or her, submit, without exception whatsoever and without undue delay, the case to its competent authorities for the purpose of prosecution in accordance with the laws of that State.

5. In States where extradition of their nationals is not permitted under their law, nationals who have committed offences under the present Convention shall be prosecuted and punished by their courts.

ARTICLE VIII

MEASURES TO PREVENT AND INTERDICT TRAFFICKING IN WOMEN AND CHILDREN

1. The State Parties to the Convention shall provide sufficient means, training and assistance to their respective authorities to enable them to effectively conduct inquiries, investigations and prosecution of offences under this Convention.

2. The State Parties to the Convention shall sensitize their law enforcement agencies and the judiciary in respect of the offences under this Convention and other related factors that encourage trafficking in women and children.

3. The State Parties to the Convention shall establish a Regional Task Force consisting of officials of the Member States to facilitate implementation of the provisions of this Convention and to undertake periodic reviews.

4. The State Parties to the Convention may also, by mutual agreement, set up bilateral mechanisms to effectively implement the provisions of the Convention, including appropriate mechanisms for cooperation to interdict trafficking in women and children for prostitution.

5. The State Parties to the Convention shall exchange, on a regular basis, information in respect of agencies, institutions and individuals who are involved in trafficking in the region and also identify methods and routes used by the traffickers through land, water or air. The information so furnished shall include information of the offenders, their fingerprints, photographs, methods of operation, police records and records of conviction.

6. The State Parties to the Convention may consider taking necessary measures for the supervision of employment agencies in order to prevent trafficking in women and children under the guise of recruitment.

7. The State Parties to the Convention shall endeavor to focus preventive and development efforts on areas which are known to be source areas for trafficking.

8. The State Parties to the Convention shall promote awareness, inter-alia, through the use of the media, of the problem of trafficking in Women and Children and its underlying causes including the projection of negative images of women.

ARTICLE IX

CARE, TREATMENT, REHABILITATION AND REPATRIATION OF THE VICTIMS

1. The State Parties to the Convention shall work out modalities for repatriation of the victims to the country of origin.

2. Pending the completion of arrangements for the repatriation of victims of cross-border trafficking, the State Parties to the Convention shall make suitable provisions for their care and maintenance. The provision of legal advice and health care facilities shall also be made available to such victims.

3. The State Parties to the Convention shall establish protective homes or shelters for rehabilitation of victims of trafficking. Suitable provisions shall also be made for granting legal advice, counseling, job training and health care facilities for the victims.

4. The State Parties to the Convention may also authorize the recognized non-governmental organizations to establish such protective homes or shelters for providing suitable care and maintenance for the victims of trafficking.

5. The State Parties to the Convention shall encourage recognized non-governmental organizations in efforts aimed at prevention, intervention and rehabilitation, including through the establishment of such protective homes or shelters for providing suitable care and maintenance for the victims of trafficking.

ARTICLE X

IMPLEMENTATION

The State Parties to the Convention shall adopt, in accordance with their respective Constitutions, the legislative and other measures necessary to ensure the implementation of the Convention.

ARTICLE XI

HIGHER MEASURES

The measures provided for in the Convention are without prejudice to higher measures of enforcement and protection accorded by relevant national laws and international agreements.

ARTICLE XII

SIGNATURE AND RATIFICATION

The Convention shall be open for signature by the Member States of SAARC at the Eleventh SAARC Summit at Kathmandu and thereafter, at the SAARC Secretariat at Kathmandu. It shall be subject to ratification. The instruments of Ratification shall be deposited with the Secretary General.

ARTICLE XIII

ENTRY INTO FORCE

This Convention shall enter into force on the fifteenth day following the day of the deposit of the seventh Instrument of Ratification with the Secretary General.

ARTICLE XIV

DEPOSITORY

The Secretary-General shall be the depository of this Convention and shall notify the Member States of signatures to this Convention and all deposits of Instruments of Ratification. The Secretary-General shall transmit certified copies of such instruments to each Member-State. The Secretary-General shall also inform Member States of the date on which this Convention will have entered into force in accordance with

Article XIII.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto by their respective Governments, have signed this Convention.

DONE at Kathmandu on this Fifth Day of January Two Thousand and Two, in nine originals, in the English Language, all texts being equally authentic.

M. MORSHED KHAN JIGMI Y. THINLEY

Minister for Foreign Affairs Minister of Foreign Affairs

People's Republic of Bangladesh Kingdom of Bhutan

JASWANT SINGH FATHULLA JAMEEL

Minister of External Affairs Minister of Foreign Affairs
Republic of India Republic of Maldives

RAM SHARAN MAHAT ABDUL SATTAR

Minister of Finance and Leader Minister of Foreign Affairs
of the Delegation of Nepal Islamic Republic of Pakistan
Kingdom of Nepal

TYRONNE FERNANDO

Minister of Foreign Affairs
Democratic Socialist Republic of Sri Lanka
