

**TRAFFICKING IN WOMEN: WITH SPECIAL
REFERENCE TO NEPAL**

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CERTIFICATE

This is to certify that the dissertation entitled "**TRAFFICKING IN WOMEN: WITH SPECIAL REFERENCE TO NEPAL**" submitted by **Binira Kansakar** in partial fulfillment of the requirements for award of the Degree of **Master of Philosophy**, has not been submitted for any degree of this or any other University and this is her original work.

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Dedicated to
Ma and Ba

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List of Abbreviations

- AIDS: Acquired Immune Deficiency Syndrome
- AATWIN: Alliance Against Trafficking in Women and Children in Nepal
- BS: Bikram Samvat (Nepali Calendar)
- CA: Constituent Assembly
- CAC: Community Action Centre
- CATW: Coalition against Trafficking in Women
- CBS: Central Bureau of Statistics
- CEDAW: Convention on the Elimination of All Forms of Discrimination against Women
- CWIN: Child Workers Concerned Centre In Nepal
- CREHPA: Centre For Research on Environment, Health and Population Activities
- FY: Fiscal Year
- GAATW: Global Alliance against Trafficking In Women
- GOs: Government Organizations
- HIV: Human Immunodeficiency Virus
- HRW: Human Rights Watch
- HTT Act: Human Trafficking and Transportation (Control) Act
- IIDS: Institute for Integrated Development Studies
- ILO: International Labour Organization
- IOM: International Organization for Migration
- INGO: International Non-governmental Organization
- LWF: Lutheran World Federation
- LGBT: Lesbian, Gay, Bisexual and Transgender
- MWCSW: Ministry of Women, Children and Social Welfare

NGO: Non-governmental Organization

NHRC: National Human Rights Commission Nepal

NNAGT: National Network Against Girl Trafficking

SAARC: South Asian Association for Regional Cooperation

SLC: School Leaving Certificate

SRVAW: Special Rapporteur on Violence against Women

WCSC: Women and Children Service Centre

UAE: United Arab Emirates

UN: United Nations

UNICEF: United Nations International Children's Emergency Fund

UNIFEM: United Nations Development Fund For Women

Introduction

Introducing the Phenomenon

Trafficking in persons is a serious problem. It is one of the biggest challenges faced by humanity today. Human beings are bought and sold like commodities and forced into labour of different kinds. It is believed to be a modern form of the old slave trade. Recognizing it as a grave global problem, people from all walks of life, organizations and agencies worldwide began to focus on the 'trade in humans' taking different perspectives into consideration. It is viewed mainly as a form of 'violence against women' and a 'human rights violation'. Human trafficking has been ranked by the United Nations as the third largest criminal enterprise in the world in terms of profits made second only to drugs and arms.

The term 'trafficking' has been defined in several ways. A consensus among different nations of the world regarding the definition was reached in the year 2001, after the United Nations Convention against Transnational Organized Crime added the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children. The Protocol defines trafficking as "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". Though the Protocol was subjected to a few criticisms, it was an important development in the laws related to trafficking.

'Trafficking in persons' includes both men and women. However, there is clear evidence of women being the greater proportion of the 'trafficked'. Women are lured, duped and coerced into various forms of labour. Coercive movement of women for purposes such as sex work, domestic work and other forms of forced labour is rampant. However, it is believed that women are mostly pushed into commercial sexual exploitation and are left at the hands of the perpetrators. Sex

trafficking is the most prominent and widely prevalent form of trafficking. The paper hence, focuses largely on this aspect of 'trafficking in women' for mainly commercial sexual exploitation.

Understanding 'women's sexuality' is an important criterion in the process of this study. Academic responses in this field vary from one school of thought to the other. Locating 'women's sexuality', as a contested domain in patriarchy and seeing trafficking as a form of sexual violence emerging from patriarchal domination is one of the key areas explored in the paper.

A gendered analysis of the issue is one of the major lenses through which the phenomenon is viewed. Gender differentiation plays a crucial role in building relations of power between the sexes. It enhances itself in the realm of violence and hence is an important point of investigation to begin with. Gendered division of labour and double standards of sexual morality existent in society are central to the understanding of the gender perspective.¹

It is necessary to clarify here that trafficking is often confused with smuggling. However, the distinctive feature between the two is that trafficking involves exploitation of the trafficked persons whereas smuggling only facilitates the entry of a person into a region of which he/she is not a permanent resident.² The other distinguishing factor between the two lies in movement. Smuggling involves transnational movement of persons but in trafficking the movement can occur even within one's own country. Force/coercion does not figure in smuggling cases as they are free to move around and choose whatever profession they feel like. This liberty does not exist in cases of human trafficking. Today's UN definition of the Trafficking Protocol, consent to leave one country and work in another country does not determine the line between trafficking and smuggling. If the

¹ Sleightholme, Carolyn and Sinha, Indrani (1996): *Guilty without trial: women in the sex trade in Calcutta*, Published by Stree.

² Interpol. (2004). *People Smuggling*. Lyon, France: Interpol, In Kimberly A. McCabe and Samita Manian ed. (2010): *'Sex Trafficking: A Global Perspective'*. Published by Lexington Books.

initial consent to leave one country for another was gained through coercion or fraud, then consent is irrelevant and human trafficking has occurred.³

There are innumerable dimensions and dynamics submerged in the realm of 'trafficking', which are often debatable and varied. The social problem of 'trafficking' cannot be understood in isolation from migration, prostitution and globalization. The three mentioned phenomenon are often inter-linked with trafficking. Trafficking is often confused or paralleled with migration. This has several implications to both trafficking and migration which are explored in this dissertation. Issues related to illegal migration of women and increasing vulnerability to trafficking is one such aspect. Likewise, regardless of attempts to widen the definition of trafficking to include diverse aspects, discourses on trafficking continue to revolve around prostitution which again is a contentious issue in the debates surrounding trafficking. Debates on these issues are still on the rise. Prostitution divides feminists into contrary stands showing the complexity and controversy enthralled in this issue. Globalization on the other hand, is known to have accelerated and promoted this crime. It has provided new avenues for the flourishing of this trade.

Global Scenario

Trafficking has crossed all boundaries and borders and has become a matter of international importance. It has evolved as a grave political issue on the international front.⁴ The clandestine nature of trafficking however explains the degree of variability in the statistics gathered. It's illegal nature and different modes have made it difficult to know the exact extent and growth of the act.

However, statistics gathered so far from various sources clearly show that trafficking is on the rise. According to United States Department of State data,

³ McCabe, K. (2008). *The Trafficking of Persons: National and International Responses*. NY: Peter Lang. In Kimberly A. McCabe and Samita Manian ed. (2010): '*Sex Trafficking: A Global Perspective*'. Published by Lexington Books

⁴ Doezema, Jo (1999). Loose Women or Lost Women? The re-emergence of the myth of 'white slavery' in contemporary discourses of 'trafficking in women', *Gender Issues*, Vol. 18, no. 1, Winter 2000, pp. 23-50.

around 600,000 to 820,000 men, women, and children are trafficked across international borders each year. Out of this, about 80% are women and girls and up to 50 percent are minors. According to this data, most of the transnational victims are trafficked into commercial sexual exploitation. The report also says that “alarming enslavement of people for purposes of labour exploitation, often in their own countries, is a form of human trafficking that can be hard to track from afar.”⁵ Likewise, the IOM states that despite the difficulty in quantifying the exact number of globally trafficked persons as many as 800,000 people may be trafficked across international borders annually and many more trafficked within the borders of their own countries.⁶

Trafficking affects all nations around the world, despite varying socio-economic factors, historical backgrounds, or political arrangements. International markets with large profits and demand for cheap labour and commercial sex have been created. The Polaris Project⁷ states that trafficking is estimated to be \$32 billion industry, affecting 161 countries worldwide with an estimated 12.3 million men, women and children are trafficked for commercial sex or forced labour around the world today. Trafficking occurs both within and across international borders.

In this context it is noted that women normally from lower socio-economic backgrounds, regions of armed conflict and those affected by natural disasters etc. are attacked by traffickers. Displaced women of these situations are looked at as vulnerable and easy targets. Exploitation of them is maximal during these periods. There is increased ‘traffic in women’ mainly to the sex industry. Most women who bear the burden of economic reforms are considered ‘ready prey’. They are often lured with false promises of good jobs abroad.

Trafficking in women has an adverse impact on the lives of women. It leaves them with social and psychological impacts. It has detrimental effects on the

⁵ Trafficking in Persons Report (June 3, 2005) Office to Monitor and Combat Trafficking in Persons, Department of State.

⁶ Counter-Trafficking, International Organization for Migration.

⁷ A leading organization in the United States combating human trafficking serving U.S. citizens and other foreign national victims, including men, women, and children.

health of women. Trafficking in women is not a new phenomenon. However, the global upheaval of this problem clearly depicts the new modus operandi and means used by traffickers, hence resulting in women being increasingly trafficked from all over the world. The ILO estimated, the minimum number of persons in forced labour, including sexual exploitation at a given time as a result of trafficking as 2.45 million.

Some well known trafficking routes are from villages of Nepal to India and Thailand, from urban slums of Rio to mining camps of Brazil, from Mozambique to South Africa, Russia and Poland to Western Europe, and from Romania to Italy, Turkey and Cyprus. These routes also run from Africa to Europe, and Asia to Australia, New Zealand and Europe. Trafficking has also increased in Europe and Africa. United States is one of the major destination countries for sex trafficking. Las Vegas, California, Texas and New York are some of the areas in the U.S. where trafficking is widespread.

The problem however, is acute in South Asia. It is seen as a prominent hub of trafficking. Vulnerable situations in this region make women more prone to trafficking. Poverty and illiteracy being major depreciating factors in the sub-continent with several political unrests and natural disasters also push women to being susceptible to trafficking.

Nepal Scenario

Within South Asia, Nepal is considered to be a prominent hub of trafficking. Infused by poverty, illiteracy and conflict it is mainly recognized as a 'sending' country. Every year thousands are trafficked to various parts of the world. Women and children are the main targets. Most of them are trafficked to brothels in India for purposes of commercial sexual exploitation. Though other purposes are also enforced on women, sexual exploitation seems to be the most widely and prevalent faith of most trafficked victims.

It is important to understand the social, political and economic conditions of the country and analyse the reasons for the growing problem in the nation. Further still, to understand sex trafficking, social systems that exist in the country which

shapes ideologies about the discourse itself need detailed description. The gender and caste/class structure of the country along with the development sector all contribute to a compounded knowledge of this social problem. The existence of legal frameworks and the fast growth of national and international organizations with several interventions and strategies to combat trafficking are evidences of 'trafficking' being a social menace in the country for which efforts are being made to tackle the problem.

Hence, taking the above mentioned dimensions of trafficking into consideration, the main *objectives of the research* would be:

- To delve into theoretical perspectives and explore themes and dynamics surrounding trafficking;
- To understand the nature of inter-play between socio-cultural factors, gender structure and trafficking in Nepal;
- To explore other probable factors that contribute to the growth of the problem in the country;
- To explore the role of developmental organizations in rescue and rehabilitation of trafficked victims and in shaping the discourse on trafficking in women in Nepal;
- And to examine the legal framework that exists in relation to combating trafficking and its effectiveness in dealing with the problem.

Terminology

Specificity of terms used in discussions related to sex trafficking and prostitution is very important. A description of the terminology used in the paper is necessary to gain clarity in the understanding of the different aspects of the issue.

(a) Prostitute and Sex worker

Any person whether an adult or a child, involved in prostitution or the sex trade is known as a prostitute or a sex worker. Both the terms imply the same. However, due to the social stigma and negative meanings attached to the word 'prostitute', in the Nepali society, they are mainly referred to as 'sex workers'

by those working on this issue. There are some who feel the person should be referred to as 'prostitute' as 'sex worker', legalizes prostitution as a profession. However, throughout the dissertation references made to either a 'prostitute' or a 'sex worker', would imply women involved in the trade. Likewise, prostitution and sex work is used synonymously in the paper.

(b) Commercial Sexual Exploitation

A situation where any person is duped, lured or deceived into becoming or remaining a sex worker or has to take up sex work for economic necessity with or without receiving any pay or faces abuse in a commercialized sexual setting.

(c) Sex Trafficking

An act or attempt to move, buy or sell persons into prostitution, or aiding in the process of this act or forcing someone to be a prostitute is what is implied by the term sex trafficking.

(d) Victim

A person who has been commercially sexually exploited or sex trafficked falls under the pretext of a 'victim'.

Methodology

As field work is not permitted in our department at the Master of Philosophy level, primary data has not formed the basis of this study.

The methodology hence, used in the compilation and completion of the current study is based completely on secondary sources. Books, articles, journals, newspaper clippings, reports of several organizations and several internet websites have been used in generating the data for the preparation of this dissertation.

Organization of the study

The current study has been divided into three chapters besides the 'Introduction' and 'Conclusion'. 'Introduction', deals with the phenomenon of trafficking, along

with the present widely accepted definition of trafficking by various nations. Careful attention has been given in noting down the difference between trafficking and smuggling. Description of the global scenario in relation to the nature, extent and growth of trafficking is also stated. The situational background of trafficking in Nepal has been briefly stated to provide an idea of the present scenario of the problem in the country. With the given backdrop, main objectives of the study are listed.

Chapter One, 'Theoretical Perspectives', comprises of theoretical explanations explored in the realm of the topic of interest. Both feminist and sociological theories on sexuality, patriarchy and violence and their linkages to trafficking as a form of violence are explored. As trafficking mainly for commercial sexual exploitation is emphasized upon, feminist and sociological perspectives on it are explored. Feminist social theory comprises a major portion of the discussion as it provides meaningful insights in the understanding of different perspectives to this phenomenon.

Chapter Two, 'Trafficking: An Exploration', substantiates the true meaning of trafficking through the trail of definitions that have emerged in the context of its understanding. Historical and causal explanations, along with purposes of trafficking are also dealt with in the chapter. Important linkages to other closely related phenomenon such as migration, prostitution and globalization are explored through detailed description of all the debates and dynamics submerged under the broader issue of trafficking. International efforts and anti-trafficking interventions existing to tackle the problem have also been mentioned in the chapter. Trafficking in the South Asian context with brief descriptions of certain trafficking prone countries and their scenario in terms of the problem also occupy a significant portion. In this regard, the discussion on Nepal as a country which has been troubled with this burning issue is laid emphasis on, hence giving a backdrop to the beginning of the next chapter of the country as a case study to the understanding of the nature and extent of the problem of trafficking.

Chapter Three, 'Trafficking in Women: A Social Reality in Nepal', begins with a brief backdrop of the situation of the country in relation to trafficking. It makes its

way forward by going into the depths of the historical context of prostitution in Nepal and the discriminatory practices that exist which are responsible for women's subordinate position in the nation. Detailed and focussed explanations of the existing gender and caste structures with strong patriarchal holds, as institutionalized means of discriminating against women and hence making them vulnerable to trafficking occupies a central position in the chapter. Other factors responsible for the growth of trafficking in the country have also been cited. With changes in social, economic and political structures of the country, changes in the trends of trafficking also seems to have occurred clearly depicted through table representation. The dimensions of the trade flourishing both within and across borders have been discussed alongside the tables. Recognizing the gravity of the problem, the laws related to trafficking and NGO responses to it, with consequences of anti-trafficking interventions form the later portion of the chapter.

The work ends with a 'Conclusion' that provides a compounded knowledge of the issue of study, states the relevance and limitations of the study and also provides possible suggestions and recommendations.

CHAPTER I

Theoretical Perspectives

Theory forms an important base in a study. A theory is logically a self consistent model or framework for describing the behaviour of a related set of natural or social phenomena. Theories are constructed in order to explain, predict or master the phenomena. Any theory, in a strict sense, can therefore be a larger framework based on certain assumptions to explain particular phenomena, or it can be a model to describe the existing reality. Research and study carried out, with a definite theoretical framework, is informative.

Various sociological and feminist theories deal with the issue of concern here. Trafficking is a phenomenon, which cannot be studied without taking certain aspects and dimensions, submerged in it, into consideration. The focus of the study being, trafficking mainly for sex trafficking/commercial sexual exploitation, it is important to delve deeply into theories of women's sexuality. Structural factors, such as patriarchy, power, domination and violence also need an in-depth description. The use of different feminist stands and sociological perspectives would enhance the understanding of the subject.

'Human sexuality', is mainly concerned with feelings, ideas and choices, in relation to close and bodily relationships, with oneself and with other men and women. Relations of this kind acquire certain forms and identities in society and hence are not purely personal in nature.¹ Sexuality is not linked merely to bodily sensations and drives. It cannot be looked at in isolation. Stevi Jackson² in 'The Social Construction of Female Sexuality' says that "sexual behaviour is social behaviour; it is not just the consummation of some biological drive". Notions of sexuality differ from one place to the other and from one culture to another, with changes over time. Sociologists argue that sexuality is basically social and political. It denotes relationships of power and exchange. It is an important domain of interest to feminist theory and politics. Ann Oakley³ made a distinction between gender and sex. According to this distinction, 'sex' refers to biological

¹ Geetha, V. (2007): *Patriarchy* In Krishnaraj, Maithreyi (eds) *Theorizing Feminism*, Calcutta.

² Jackson, Stevi. 'The Social Construction of Female Sexuality', In Jackson, Stevi and Scott, Sue ed. (1996): *Feminism and Sexuality: A Reader*, Edinburgh University Press.

³ Oakley, A. (1972): *Sex, Gender and Society*. London: Temple Smith.

differences between males and females and 'gender' refers to the socio-cultural construction of roles appropriate to men and women. One is born with a biological sex. Gender is an identity one learns and acquires through processes of socialisation. However, despite the difference in the concept, feminists argue that the two terms are often interlinked in some way in our experiences in life that it is difficult to actually talk about one without making a reference to the other. In fact, it is "the relationship between the two that makes sexuality a crucial issue for feminists".⁴

As noted by Therborn⁵, 'sex and power' share intimate relations. Power is seen to be a base for acquiring sex, be it in the form of force or buying it with money. Sexuality being embedded in power relations is yet another argument put forward by feminists. They have laid emphasis on the role of sexuality in reinforcing patriarchal power relations, through acts such as sexual violence, prostitution etc. Likewise, contributions in theorising sexuality and the body have also been made by feminists. A linkage between sexuality and patriarchy is evident in the power relations that exist. Hence, a description of the next subject of concern, patriarchy is what follows.

'*Patriarchy*', is a term that originated from the Latin word 'Pater', which means father. It is a type of social organization in which the father or eldest male is the head of the family. It is a society where men hold power in almost fields of life. In other words it implies, 'the absolute rule of the father or the eldest male member over his family'.⁶

Geetha⁷ says that patriarchy is understood in a different way today. It has moved away from its 'descriptive' nature to a more 'analytical' one. This transformation

⁴Jackson, Stevi and Scott, Sue ed. (1996): *Feminism and Sexuality: A Reader*, Edinburgh University Press.

⁵Therborn, G. (2004): *Between Sex and Power: Family in the World 1900–2000*. London: Routledge. In Abbot,P, Wallace, C and Tyler, M. ed. (2005): *An Introduction to Sociology: Feminist Perspectives*, Third Edition, Routledge, London and New York.

⁶ Geetha, V. (2007): Patriarchy In Krishnaraj, Maithreyi (eds) *Theorizing Feminism*, Calcutta.

⁷ Ibid.

took place in the 1970s, with the rising feminist political and intellectual discipline in varied global contexts.

Patriarchy is an important tool in analysing gender relations. Under this, sexuality is an important structure of the patriarchal system. Evidences from early historic times, show that control and regulation of women's reproductive power occupies a central place in this authoritarian system. Means of control were also extended to sexual behaviour.⁸ Patriarchy, as "the rule of the fathers", affirms superiority of males teaching them to be dominant as masculine and women to be dominated as feminine based on the androcentric force of mode of dominance leading to violence.

Expression of physical force against one or more persons, forcing action against a person's will by bringing about harm is known as '*violence*'. In this context, feminists have highlighted the occurrence of violence against women both at home and in public places. Violence against women is universally existent in every country, cutting across boundaries of class, culture, education, income, ethnicity and age. Even though most societies forbid violence against women, the reality is that violations against women's human rights are often sanctioned under the garb of cultural practices and norms, or through misinterpretation of religious tenets.

The United Nations Declaration on the Elimination of Violence against Women (1993) defines violence against women as "any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life." This definition refers to the gender-based roots of violence, recognizing that "violence against women is one of the crucial social mechanisms by which women are forced into a subordinate position compared with men."

⁸ Ibid.

The key focus in this work is a special kind of violence that women face, which is sexual in nature. 'Sexual violence', has been an area of critical concern for feminists. Women of all ages, class and races have been targets of this form of violence. Intersections of violence faced by women may vary in terms of actual experience and the threat involved. Common forms of sexual violence women are subjected to would be: rape, wife battering, mutilation etc. Feminists have mainly looked at sexual violence as an enactment of power.

Before going into the individual strands of studies, it is essential to cite the work of Kate Millet, who wrote extensively on "Sexual Politics". An explanation of this work is necessary as it brings out the true essence of the politics that exists between the sexes, which contributes to the differences that exist between them and provides a theoretical base to explain subjugation of women and their exploitation; in this respect, 'sexual'. 'Politics', according to her is the "power-structured relationships, the entire arrangement whereby one group of people is governed by another, one group is dominant and the other subordinate".

While explaining the politics between the sexes or the "sex role structure", she makes a reference to Max Weber's term "Herrschaft", which implies the "domination and subordination and the birthright control of one group by another; the male to rule and the female to be ruled". Explanations are furthered, by bringing the discussion in the light of the institution of 'patriarchy', where sex is a status category with political implications. Socialisation in patriarchal societies, with the firm belief of male superiority and male domination, push women to domains meant for 'females'. Usage of the word, 'politics', to describe the relation between the sexes according to Millet would outline "the real nature of their relative status, historically and at the present". However, she says that it is the sexual domain that would most clearly bring out the concept of power being exercised.

'Family', according to Millet, is an important institution of Patriarchy. Traditionally, the patriarchal family is seen to be a site, where the father has power and ownership over his wife/wives and his children, in all domains,

including “powers of physical abuse and often even those of murder or sale”. She states that, “Historically most patriarchies have institutionalized force through their legal systems. Patriarchal societies typically link feelings of cruelty with sexuality, the latter often equated both with evil and with power. Patriarchal force also relies on a form of violence particularly sexual in character and realised most completely in the act of rape”. To Millet, Patriarchy is composed of male control over public and private and for women’s liberation this control has to be eradicated. Social conditioning of women is what makes this patriarchal control powerful; failure of which results in forceful subordination of females by males and this ultimately leads to violence.

Feminist and Sociological perspectives

All feminist perspectives address questions of women’s oppression and explanations related to it. They also suggest strategies for overcoming it. However, they differ in their explanations behind the causes of the oppression, in strategies used to overcome this oppression and conclusions reached. Women’s subordination is explained in disparate ways by different strands of feminisms and sociological theories. They deal with different issues of the social world, with their different theories.

The bold declaration of “the personal is political”, by *radical feminists* opened up avenues for the political analysis of women’s sexuality, which had not been viewed in the light of politics earlier, as a domain for explanations regarding power relations between the sexes. Sexuality is a central question for radical feminist analysis as linkages between male dominated forms of sexuality and patriarchy is explained. Prior to this, early nineteenth and twentieth century first wave feminists, dealt with issues related to sex in the form of institutions such as the family, motherhood, chastity etc. Emphasis was laid on the link between the suppression of women and male sexuality; however, subjects pertaining to

women's sexuality were only stressed upon in relation to its effects on institutions like motherhood.⁹

With the publication of "The Second Sex", by Simone de Beauvoir, feminist analysis of sex and power resurfaced in 1949. In her classical work, she insistently pointed out that man has from the beginning named himself the 'Self' and woman as the 'other'. If the 'other' is a threat to the 'self' then it implies that woman is a threat to man. Hence, in order to remove this threat man has to subordinate women to his will.

Betty Friedan's, "The Feminine Mystique", 1963 also heralded another round of organized feminism, where she discussed issues relating to women's sexuality. By late 1967, what was known as the 'sexual revolution' had begun. Discussions of the effects of male supremacy over women in every aspect of their lives were on the rise. Victimization and sexual oppression was seen as a common phenomenon in the lives of women. With the rise of radical feminist groups, these issues came to the forefront.

Radical feminism is based on two central beliefs; that women are of complete positive value as women, against what they claim to be the universal undervaluing of women and that women are subjugated and violently oppressed all around by the system of patriarchy.¹⁰ All existent structures in society are seen as endowed with oppression by domination of some over the others. Gender, the structure of patriarchy is seen to be the most prominent of all systems of domination and subjugation existent. Male control of women (patriarchy) is the main problem according to them. Patriarchy is an intricate system of male domination which permeates all aspects of social and cultural life, and is accorded particular

⁹ Shulman, K. Alix (1980) *Sex and Power: Sexual Bases of Radical Feminism* In Stimpson, R. Catharine and Person, S. Ethel (eds) *Women: Sex and Sexuality*. The University of Chicago Press, Chicago and London, 1980.

¹⁰ Ritzer, George : *Modern Sociological Theory*, Fourth Edition, The McGraw Hill Companies, Inc.

explanatory power within radical feminism. Lerner,¹¹ states that apart from being a historical composition of domination and submission, patriarchy is the most persistent system of inequality and the basic model of domination in society. It is the most prominent structure of social inequality according to Radical Feminists.

As far as biological differences between men and women are concerned, Radical Feminists do not deny that a difference does exist. However, they do not agree with the meanings attached to these differences. They are completely against the view that women's subordination has anything to do with their biological inferiority. Women are not to blame. If at all, biology has to be looked at, they feel that it is the male who is naturally aggressive and pours out this aggression to control women. 'Violence', practiced by men, is central to the structure of patriarchy according to Radical Feminists. Linking patriarchy to violence, Radical Feminists look into issues of rape, sexual abuse, sexual slavery inflicted in prostitution, spouse abuse etc.

Radical Feminist efforts in dismantling the injustice inflicted on women are mainly in the form of political action calling for change. They are mainly done through women's organizations as this group of feminists; do not believe in government interventions as they feel the state itself is patriarchal in nature.¹² Radical Feminists are specifically interested in bringing out the severity of male power in all spheres of life, be it in child-rearing, housework, marriage or in sexual practices including rape, prostitution, pornography, sexual harassment etc. According to this school of thought, women all over the world must fight to free themselves from this control. The main concern of radical feminism is women's rights, rather than gender equality. It lays great stress on the differences between men and women due to which it is sometimes referred to as 'gynocentrism' as it is considered a woman- centred approach.

¹¹ Lerner, Gerda (1986): *The Creation of Patriarchy*. New York: Oxford. In Ritzer, George: *Modern Sociological Theory*, Fourth Edition, The McGraw Hill Companies, Inc.

¹² MacKinnon, C. (1987): *Feminism Unmodified: Discourses on Life and Law*. Cambridge, MA: Harvard University Press In Abbot,P, Wallace, C and Tyler, M. ed. (2005): *An Introduction to Sociology: Feminist Perspectives*, Third Edition, Routledge, London and New York.

Within the patriarchal system of inequality and domination, women's subjugation is disseminated mainly through the control of men on women's bodies and sexuality. Sex and sexuality was equated with power. Institutions of a male-ruled society, had control over women's lives and bodies. Kumkum Roy's ¹³ critical analysis of the *Kamasutra* substantiated this belief further by pointing out that sexuality emerged naturally in relation to male pleasure. 'Kama', meaning passion was associated only with the male and the sexual act was regarded as a right of the male for which women were defined as 'available to men'.

Within this analysis by Radical Feminists, commercial sexual exploitation/prostitution occupies a central place. While certain Radical Feminists do attack the institution of prostitution and pornography as practices that corrupt and devalue the importance of "positive" sex based on love, other anti-prostitution feminists are of the opinion that commercialization of sex is a demystified figure of sex which in turn signifies oppression of all women in general.¹⁴

Radical feminists, clearly see sexuality as a site of exploitation and abuse. "Prostitution remains morally undesirable...because it is one of those most graphic examples of men's domination over women".¹⁵ Radical feminist perspectives on prostitution clearly show that it is a form of harm experienced by women. The pioneering works in this field by Kate Millet, Kathleen Barry, Carole Pateman, Catherine MacKinnon and Andrea Dworkin, show that prostitution is a form of violence against women; violence in the very thought of 'buying sex', which is

¹³ Roy, Kumkum (1998): *Unravelling the Kamasutra*, in Mary, John and Janaki, Nair, eds. *A Question of Silence: The Sexual Economies of Modern India*, Delhi: Kali for Women In Geetha, V. (2007) *Patriarchy* In Krishnaraj, Maithreyi (eds) *Theorizing Feminism*, Calcutta.

¹⁴ Chapkis, Wendy (2002): 'The Meaning of Sex', In Williams. L. Christine and Stein, Arlene, eds. (2002): *Sexuality and Gender*, Blackwell Publishers, USA and UK.

¹⁵ Pateman, C 'Defending Prostitution: Charges Against Ericsson', *Ethics* 93: 561-65 In Scoular, Jane (2004): 'The 'subject' of prostitution: Interpreting the discursive, symbolic and material position of sex/work in feminist theory', *Feminist Theory*, Sage Publications.

considered to be linked to the whole system of heterosexuality and male power that it signifies 'the absolute embodiment of patriarchal male privilege'.¹⁶

Kathleen Barry through the publication of her profound work, "Female Sexual Slavery" in 1979, first coined the word, 'sexual slavery'. In 1995, she came up with another profound work, 'The Prostitution of Sexuality'. Both these works were grounding contributions in radical feminist analysis of female oppression and the global traffic in women. 'The Prostitution of Sexuality', looked at prostitution as an institutionalized and industrialized form of sexual exploitation of women. In her work, oppression of women under patriarchal domination occupies a central place. She talks about trafficking as the "oldest, most traditional form of procuring for prostitution", which involves coercion and often brute force. She says that it is most extensive in countries with prevailing low or moderate economic development with greater segments of its population living in rural areas in feudal family structures. Since, prostitution reduces women to a market commodity; it is here that the foundation of all forms of sexual exploitation of women lies. She notes that 'when sex is not explicitly treated as genuine human interaction, it dehumanizes the experience and thereby dominates women'.¹⁷

Catherine MacKinnon, one of the pioneers of this feminist school of thought, has always been suspicious as far as sexual expression outside the realm of intimate partners is concerned. Sex workers clearly come under the category of victims of male sexuality, since prostitution is highly gendered with women comprising the majority of sex workers and men, the clients. MacKinnon firmly believed that sexual exploitation is fundamental to the sex class system, just as labour exploitation would be to class relations. "Sexuality is to feminism, what work is to

¹⁶ Kesler, K (2002): 'Is a Feminist Stance in Support of Prostitution Possible? An Exploration of Current Trends', *Sexualities* 2: 219-35. In Scoular, Jane (2004): 'The 'subject' of prostitution: Interpreting the discursive, symbolic and material position of sex/work in feminist theory', *Feminist Theory*, Volume 5 (3): 343-355, Sage Publications.

¹⁷ Barry, K (1995): *The Prostitution of Sexuality: The Global Exploitation of Women*, New York: New York University Press.

Marxism: that which is most one's own and yet that which is most taken away".¹⁸ The alienated subject of prostitution is highlighted here. She brings in the question of 'pornography' and says that it is an ideology in the form of violence against women as it serves in providing eroticization of men's power over women. Likewise, discussions relating to sexual objectification of women also come under this realm of belief. Women's vulnerabilities to sexual violence, is also linked to this.

'The Idea of Prostitution' by Sheila Jeffreys¹⁹, is also a work which shows the ultimate reduction of women to positions of a sexual object through which transactions such as buying and selling can take place to sexual slavery which forms the base of women's oppression.

To Carole Pateman²⁰ in 'The Sexual Contract', "when women's bodies are on sale as commodities in the capitalist market, the terms of the original (sexual) contract cannot be forgotten; the law of male sex-right is publically affirmed, and men gain public acknowledgement as women's sexual masters- that is what is wrong with prostitution".

On these lines, feminists have been divided into two camps as far as prostitution is concerned: 'pro-positive sex' feminism and 'anti-sex' feminism. Pro-positive sex feminists are of the view that the subject in prostitution has nothing to do with love in anyway, but is closely related to domination and violence against women that further distances and complicates subject-object dichotomy. Two types of expressions from this perspective emerge as far as sex is concerned- expressions

¹⁸ MacKinnon, C (1982). 'Feminism, Marxism, Method and the State', *Signs* 7 (3): 515-44

¹⁹ Jeffreys, S (1997): *The Idea of Prostitution*. Melbourne: Spinifex Press In Scoular, Jane (2004): 'The 'subject' of prostitution: Interpreting the discursive, symbolic and material position of sex/work in feminist theory', *Feminist Theory*, Volume 5 (3): 343-355, Sage Publications.

²⁰ Pateman, Carole (1988): *The Sexual Contract*. Stanford, CA: Stanford University Press In Chapkis, Wendy (2002): 'The Meaning of Sex', In Williams. L. Christine and Stein, Arlene, eds. (2002): *Sexuality and Gender*, Blackwell Publishers, USA and UK.

of positive sex in passionate love and its violent articulation in objectification.²¹ Kathleen Barry in “Female Sexual Slavery” argues that the foundation for positive sex lies on trust and sharing and it cannot be bought. The practice of prostitution according to her is hence not sex at all but a form of abuse of sex. Commercial sex is accountable for violence against women literally or symbolically.

From the perspective of anti-sex feminists, the very meaning of sex is patriarchal domination. Hence, according to them, sex cannot be looked at a weapon to get rid of patriarchy, as it is created for it, by it and is inherent in it. Hence, they argue in favour of abolition of sex itself.²²

On the whole, radical feminists view women’s oppression as the most fundamental form of oppression which has its roots in patriarchy’s sex/gender system which subordinates and dehumanizes women. According to them, control over women’s bodies and sexuality has been throughout history, in the hands of men who exploit it for their own needs and purposes. The Coalition Against Trafficking in Women (CATW), founded by Kathleen Barry, supported by prominent radical feminists focus on trafficking as sexual slavery women and children are subjected to. For Radical Feminists, prostitution of all forms is considered a serious violation of women’s human rights thus ‘exploding the false distinction between forced and voluntary prostitution’.²³

At this point, it is important to note that there are two polarised stands that exist in the discussions and responses to sex trafficking. The Abolitionists for whom, prostitution is an institution of male domination; it equals trafficking and hence should be eliminated as it leads to objectification of women and their oppression. Equating the two is due to the same reasons binding women in this form of sexual exploitation. Sex trafficking and prostitution are gender based domination which

²¹Chapkis, Wendy (2002): ‘The Meaning of Sex’, In Williams. L. Christine and Stein, Arlene, eds. (2002): *Sexuality and Gender*, Blackwell Publishers, USA and UK.

²² Ibid.

²³ Jeffries, S (1997): *The Idea of Prostitution*. Melbourne: Spinifex Press In Scoular, Jane (2004): ‘The ‘subject’ of prostitution: Interpreting the discursive, symbolic and material position of sex/work in feminist theory’, *Feminist Theory*, Volume 5 (3): 343-355, Sage Publications.

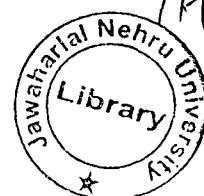
are profited out of violence against women and girls. They both target vulnerable women and girls from vulnerable groups; those suffering from poverty and discrimination. They are even said to suffer the same harm and damages to health.²⁴ The issue of consent is irrelevant and prostitution cannot be seen as a form of work according to them. Radical feminists fall under this category as they are guided by the same principles on which this stand functions.

Neo-Regulationists who comprise the other stand, believe that trafficking is forced prostitution, while sex work is a legitimate and willing form of labour that should be decriminalised or legalised. It can be looked at as work according to them, as it is labour based on women's use of their bodies for generating income with their own consent. They point to the argument that women cannot consent to commercial sexual interactions as one that coincides all too easily with anti-feminist ideas about female sexuality and that threatens women's sexual autonomy. Further discussion regarding the different feminist perspectives and their take on sexuality and violence would clearly demonstrate which of them would fit into this stand.

Explanations of gender inequality and oppression are also rooted in *Marxism*. This perspective brings out the theory of social oppression and in this case, women's oppression by delving into issues of the family, patriarchy and private property. The development of this strand of feminism emerged out of attempts to adopt Marxist understandings of women's oppression and subordination in capitalist societies and incorporate them in feminist theories. Also known as 'materialist feminism', it lays emphasis on social structures of organization such as the role of the family and sexual division of labour.²⁵

²⁴ Leidholdt, Dorchen A (2004): "Demand and the Debate: Coalition against Trafficking in Women". In • Annie George, U Vindhya and Sawmya Ray (2010): "Sex Trafficking and Sex work: Definitions, Debates and Dynamics- A Review of Literature", *Economic and Political Weekly*, April 24-30.

²⁵ Abbot, Pamela, Claire Wallace and Melissa Tyler (2005): *An Introduction to Sociology: Feminist Perspectives*, Routledge, London and New York.



Capitalism is what defines contemporary society according to Marxists. Women are oppressed in such societies with their exclusion from important aspects of production hence representing true features of capitalism. Marxist feminism focuses on Marx's analysis of class and feminist interest in social protest. Though their major concern was oppression of social class, they also focussed on gender oppression. The base of Marxist feminist theory was laid by Marx and Engels through their work 'The Origin of the Family, Private Property and the State', which was written by Engels in 1884, from notes made by Marx prior to his death. It provided social explanations in understanding women's oppression with the growth of the patriarchal family and emergence of private property at a specific time in history.

In this work, Engels argued that oppression faced by women and the development of capitalism was linked. Women were not subordinated as a result of their biological stands, but were subjected to this subordination from certain social arrangements that have a historical existence. By this they meant that, biology was not responsible for their oppression but society was. This claim made the work a feminist text.

The basis for women's subordination according to the text lies in the institution of family. Relations between men and women were primarily located in a family, according to Marx and Engels. Division of labour also seemed to be a natural process in relations among those in a family. However, with production taking a central place, household labour broke down and enslavement of women began. Division of labour now created the notion of 'private property'. Bourgeoisie nuclear families according to Engels clearly show the needs of the capitalist system being fulfilled through the institution of the family. Since men wanted to pass on their property to legitimate rights they had strict control over their wives and their marriages. Women's subordinate positions served the purposes of the capitalist system. Women whether bourgeoisie or proletariat were oppressed.

Families mainly functioned concentrating on the reproduction of an offspring, who would adopt the patrilineal line of descent and property likewise. The

arrangement of sexual relations however, had a double standard meaning attached to it. Men were allowed great freedom in their sexual preferences, women on the other hand were strictly restricted to the household and was 'property' belonging to the husband only. With societies claiming that such an institution was fundamental in nature, families came into existence. However, prior to this, there seems to be no pre-history records of such families existing. In fact, according to Marx and Engels there were kin networks called 'gens', which consisted of people sharing blood relations. These were based on female lines and societies were mainly matriarchal in nature. All power was vested in the hands of women who controlled the means of production such as hunting-gathering economies at that time. Even the choice of sexual partners was not limited to both women and men. However with "the world historic defeat of the female sex" as Engels calls it, mode of production changed and the emergence of the idea of 'property' emerged. Establishment of patriarchy also took place as men began to "overthrow the traditional order of inheritance in favour of his own children". Men took over the means of production and demanded labour force in the form of slaves, women-wives or children. Exploitation of labour was on the rise and there were persistent structures of domination, mainly in the form of class relations. Women faced subordination in all fields of life and were under the control and dominance of men.

It is the dialectical and material explanations of production and reproduction of life that determines the biological and economic element of social life according to Marx and Engels. Materialist explanations of gender relations were provided in this work. By this, they mean, production of basic means of existence such food, shelter along with the tools necessary for that production, as well as the production of human beings themselves. Society hence exists "conditioned by both kinds of production: by the stage of development of labour on the one hand, and of the family on the other". Hence, according to Marxist feminists, it is the 'family', which is a key site of women's oppression on a global scale. Struggle for gender liberation by Marxist feminists is therefore, a fundamental part of the struggle against capitalism.

Marxist feminist world-systems theory also explains women's experiences of class based gender inequality according to their global positions. In this light, explanations regarding the vulnerability of women who are trafficked can also be explained. According to this theory, women in the 'periphery' of global positions, i.e. economically dependent or controlled sites, experience differential class-based inequality in comparison to those women who are located in the core/centre i.e. economically controlling locations. Chapters that follow later, show this phenomenon more clearly.

Therefore, according to this explanation, no structural factors are responsible for women's oppression according to Marxist feminists; rather it is due to the class oppression that arises with issues related to property inequality, exploitation of labour and alienation. Destruction of class oppression is the suggested remedy for existing gender inequality.

In the light of the above description, it is clear that Marxism regards work as a central point around which relations in society are organized. Marxist feminists are against enslavement and oppression of members of a labour force. Prostitution as a form of labour falls under the category of a corruption of wage labour. Marx emphasized that "prostitution is only a specific expression of the general prostitution of the labourer." Seen from a larger economic picture, in Marxist terms prostitutes are oppressed workers though they might feel that they are free, hence continuing the exploitative nature of capitalism.

After delving into a Marxist perspective on the issue, it would be interesting to look into *Functionalism* which works on the premise that everything that exists in society performs a function to bring about social order. It is primarily concerned with social order and hence is seen as being biased and marginalizing issues of social inequality, domination and oppression. Similarly their perspective on prostitution is also constructed on similar lines. Functionalists suggest that it does serve the society in some way or the other. They believe that prostitution brings about social order by providing a sexual outlet for several people (latent function) and it is also a job like any other, hence fulfilling a manifest function.

Dysfunctions regarding prostitution however, are dependent on the social and cultural setting of the location. There are countries where prostitution is illegal and considered as a detriment to health with its spread of the HIV/AIDS. Countries like Thailand on the other hand, feel that prostitution serves a purpose in society and incidences of rape are lessened due to the service it provides to those in need.

In this respect, Parsonian functionalism an analytical multi-faceted tool in the field of gender also needs to be looked at. His concepts of 'expressive versus instrumental roles', family's relationship to other institutions and his model of functional prerequisites are most significant in the field of understanding gender. One of the major proponents of a functional theory of gender, Miriam Johnson²⁶ situates gender inequality as originating in the structure of patriarchal families in almost all societies. Women in these families are supposed to be the providers of all basic essentials and must hence familiarize oneself with the expressive model role. In all functions in different social structures especially the economy, women are supposed to be oriented to this expressiveness.

However, it is the patriarchal family that needs to be examined to understand the system of gender stratification according to Miriam Johnson. Several constraints in these kinds of societies require women to be expressively weak, whereas men with great economic power are said to be instrumentally strong. Instrumentality appears to be stronger and more powerful, hence depicting the weak expressive nature of females which seems to have its roots in culture. Johnson says that, "this valuational stance has no practical basis- except when framed by patriarchal ideology".

²⁶ Johnson, Miriam (1988): *Strong Women, Weak Wives: The Search for Gender Equality*. Berkeley: University of California Press, Johnson, Miriam (1989): "Feminism and the Theories of Talcott Parsons.", In R.A. Wallace (ed.), *Feminism and Sociological Theory*. Newbury Park, Calif: Sage: 101-118, Johnson, Miriam (1993): "Functionalism and Feminism: Is Estrangement Necessary?" In P. England (ed), *Theory on Gender/Feminism on Theory*. New York: Aldine de Gruyter: 115-130, In Ritzer, George. (2007): *Modern Sociological Theory*, Mc Graw Hill Companies, Fourth Edition.

In this context, sexuality of women, under patriarchy is justified. The emergence of commercial sexual exploitation is then a form of violence against women which emerges from this very institution of patriarchy. Feminization of migration, with changes in the usual pattern of economic hold which men have over women, expressive roles of women are being transformed into instrumental roles. Societal and cultural changes hence lead to a revaluation of this model of expressiveness. As Kate Millet explains in "Sexual Politics", males find it necessary to impose force upon females in order to subordinate them, which if not successful are inflicted on them in the form of violence, in this context, 'sexual violence'.

Merton²⁷, another structural functionalist analysed the basic postulates of functionalism and put forward other possibilities to the aforementioned beliefs. Functional unity of the society with all social and cultural beliefs and practices maintaining high levels of integration in society, according to Merton could be true for smaller societies but its generalizations may not be applicable to complex societies. Likewise, he believed that universal functionalism contradicted the happenings of the real world where not every structure, idea, custom etc, had positive functions to perform. He believed that nothing in society was indispensable and alternatives could be found. He developed the idea of dysfunctions as he believed that structures or institutions existing in society can also bring about negative consequences. Yet, though they may be dysfunctional for the system on the whole, it may continue to exist serving as functional for certain other parts of the social system. In this light, Merton explains discrimination of females by males. He says that it is still serving a purpose and is functional for males. However, it comes along with dysfunctions. Males he says, also suffer from the discrimination they are subjecting women to as it increases the possibility of social conflicts.

Like functionalists, even *conflict theorists* studied social structures and institutions. Their theory mainly emphasized "the importance of interest over norms and values, and the ways in which the pursuit of interests generated various

²⁷ Merton, Robert K (1968): *Social Theory and Social Structure*. New York: Free Press.

types of conflict as normal aspects of social life, rather than abnormal or dysfunctional occurrences".²⁸ However, they differed from each other at several points. Order and stability in the society according to conflict theorists were a result of coercion of some members by those above them. "Conflict theorists did not claim to present any general theory of society but emphasized coercion rather than consensus as the cause of social order."²⁹ They emphasize on the role power has in maintaining order in the society.

One of the most influential theorists focussing on gender from an analytic conflict theory is Janet Chafetz.³⁰ Her approach lays emphasis on gender equality and she sees it as 'sex stratification'. To understand the gravity of sex stratification she delves into social structures and conditions that affect this stratification. Women's disadvantaged positions in all different societies and cultures need to take factors such as patriarchy, family, role differentiation etc into consideration while understanding sex stratification.

Conflict theorists understanding of Prostitution is based on this explanation of sex stratification and on the belief that coercion of some by those on top exists in society. Prostitution hence is seen as an act that supports and propagates this inequality between powerful groups and inferior groups; in this case between men and women. Women's lack of access to economic opportunities and hence their reliance on men for economic support; the sexual services women provide in exchange for the support that men have control over; the selling of a woman in terms of prostitution or marriage still involves payment. All of this is supported and propagated by prostitution. Unequal distribution of money further widens the

²⁸ Marshal, Gordon ed. (1998): A Dictionary of Sociology, Oxford University Press, New York. pp 108

²⁹ Ibid., pp 108.

³⁰Chafetz, Janet Saltzman (1984): *Sex and Advantage*. Totowa, N.J.: Rowman and Allanheld, Chafetz, Janet Saltzman (1988): *Feminist Sociology: An Overview of Contemporary Theories*. Itasca, Ill.: Peacock, Chafetz, Janet Saltzman (1990): *Gender Equity: An Integrated Theory of Stability and Change*. Newbury Park, Calif.: Sage In Ritzer, George: *Modern Sociological Theory*, Mc Graw Hill Companies, Fourth Edition.

inequality and hence women continuously have to provide sex for earning their means of income.

To understand conflict theory and prostitution more clearly, feminist understandings of it can also be implied here. Just as Weber focussed on the conflict that existed between class and power, feminist sociologists emphasized gender and power relations. Gendered socialization processes teaching boys to have a dominating attitude over girls throughout their lives and a girl to be compliant in nature is where prostitution emerges from. Patriarchy and prostitution go hand in hand, as women being commodities that can be sold or bought as property of men is what prostitution promotes and propagates.

A *Postmodern* view on the issue would provide a different perspective to our understanding as it encompasses *a new historical epoch, new cultural products, and a new type of theorizing about the social world.*³¹ Postmodernism, is “a reactionary Phenomenon to Young Modernism.” It stands as a challenge to Modernism either by reintroducing pre-modern traditions or even by using modern cultural tools to an extreme extent. Interestingly, although Postmodernism sometimes appears to be justifying Modernism on the surface, in reality, it often contests Modernism both through supplementation and vehement opposition. In ultimate analysis, it may not be over-emphasis to confess that both the processes of Modernism and Postmodernism are the reflections of gradual growth in the history of human civilization. If at all to establish a correlation, it may not also be wrong to assert that sociological analysis, with the help of historicism, shall be a right theoretical paradigm to clearly understand the current phenomena of Modernism and Postmodernism.

As far as sexuality is concerned, postmodernists believe that it is ‘performative’ and devoid of biology or any social essence.³² It is influenced by the works of poststructuralists mostly, Michel Foucault and writings of Judith Butler on sex

³¹ Ritzer, George (1996): *Modern Sociological Theory*, Mc Graw Hill Companies, Fourth Edition.

³² Abbot, Pamela, Claire Wallace and Melissa Tyler (2005): *An Introduction to Sociology: Feminist Perspectives*, Routledge, London and New York.

and gender. Since sexuality is considered to be 'performance' based here, no biological or social essence seems to be existent at all outside of its performance.

Postmodernists believe that social identity and instances are created out of discourses of a particular time. Though Foucault³³ does not stress much upon gender, he saw sexuality as a product of society that had been constructed and deconstructed in a discourse often in a complex manner. The discourse on sex according to Foucault was an approach for exercising power in society. Sexualities emerging in and out of power relations as he contends, has been a 'politically liberating', thought for feminists. Post modern feminism examines the nature of women and tries to gain an understanding of how construction of femininity within a particular society and context takes place. Foucault proposed that focus of the feminist perspective should be on historical perspective and precise practices which are contained in producing and reproducing women's oppression. For postmodernists prostitution is neither a rebellious practice which is sexual in nature, nor oppression. In 'Reading, Writing and Re-Writing the Prostitute Body', Shannon Bell³⁴ expresses this by stating that 'the referent, the flesh and blood female body engaged in some form of sexual interaction in exchange for some kind of payment, has no inherent meaning and is signified differently in different discourses'. Postmodernist reading of prostitutes, according to Bell differs from those of radical theory constructions such as 'victim and subject', 'good and bad' or 'whore and madonna'.

Yet another work, bringing out postmodern insight of prostitution, is that of Maggie O'Neil³⁵ in 'Prostitution and Feminism: Towards a Politics of Feeling'. Along with postmodernist outlook, the book also uses ethnography to look at

³³ Foucault, M. (1979): *The History of Sexuality Volume One: An Introduction*. Harmondsworth: Penguin In Abbot, Pamela, Claire Wallace and Melissa Tyler (2005): *An Introduction to Sociology: Feminist Perspectives*, Routledge, London and New York.

³⁴ Bell, Shannon (1994): *Reading, Writing and Re-Writing the Prostitute Body*, Bloomington: Indiana University Press In Scoular, Jane. (2004): 'The 'subject' of prostitution: Interpreting the discursive, symbolic and material position of sex/work in feminist theory', *Feminist Theory*, Sage publications.

³⁵ Maggie O'Neil (2001): *Prostitution and Feminism: Towards a Politics of Feeling*. Polity Press.

social and economic processes and structures that push women into prostitution and still portrays its contentions that prostitution is not essentially oppressive or an expression of freedom of sexuality.

A study of 'sexuality', devoid of the lenses of psychoanalysis is but incomplete. According to the founder of the discipline of *psychoanalysis*, Sigmund Freud, sexual drives were the chief motivational forces of human life. Sexuality according to him was a problematic domain in the modern world. However, in his understandings he did not take the 'social context', into consideration and focussed mostly on biological aspects.

His theory of sexuality was a highly debated and controversial topic. Freud³⁶ looked at gender as a product of sexual maturation. His view of gender started with human sexuality. He explained the involvement of several stages in the overall development of an individual. He said that bodily satisfaction and pleasure is sought by all infants in some form or the other. Sexual instincts according to Freud progressed through several stages such as the oral stage at the age of 1-2 years, the anal stage at the age of 3-4 years and the phallic stage at the age of 5-6 years. Sexuality becomes gender specific at this stage according to Freud. What occurs next is the Oedipus complex, where the child is socialized into being masculine or feminine.

This Oedipus complex Freud believed was a cultural universal and that all human beings undergo this process at an early point in their lives when the mother is the symbol of love for both girl children and boy children. In the phallic stage girls and boys undergo different kinds of desire for the mother.

For boys, a fear of castration takes over with the sexual desire for the mother. However on realizing his equation with the father, in terms of power, he soon

³⁶ Freud, Sigmund (1933): *New Introductory Lectures on Psychoanalysis* (James Strachey, Trans. And Ed.). New York: W.W. Norton In Adams, N. Bert and Sydie, A. R (2001): *Sociological Theory*, Vistaar Publications, New Delhi.

overcomes his fear and enters into a patriarchal domain of order and control. The Oedipus complex does not exist anymore.

For a girl child, the process however varies. Realizing that she is different from the father and has no penis and can never have it, she falls under the category of what is known as a victim of 'penis envy'. Realization seeps in that it is due to the mother that she cannot develop a penis, she begins to find the love in her father and hence her attention is diverted to him as she feels he will get what she lacks from him (Oedipal complex). The desire also turns into her wanting his child, or baby in place of the penis. Freud says that this desire continues later in life in the form of love for other males. He says that since a girl does not ever get over what she lacks because of her mother, she does not associate so closely with her mother throughout her life.

According to Freud, a girl child's capacity in dealing with the oedipal complex is weak. Her desire for the penis makes her enter the oedipal stage again but unlike boys who get over this complex by overcoming their fear of castration, girl children stay in this fear forever. Superego³⁷ of girls hence is always weak and formed in a different manner as compared to boys. In his own words on a girl's superego, "their super-ego is never so inexorable, so impersonal, so independent of its emotional origins as we require it to be in men...they are often more influenced in their judgements by feelings of affection or hostility".³⁸

Freud later discussed the psychological and physiological differences that existed between men and women and said that ego of women is weak and they always have a strong need to be loved. Overall he validated that women are subordinate than men. His explanations of women's subordinate positions were linked to the whole process of the differences between them in terms of origin. Through this he also justified the need for a patriarchal hold over women mainly to control their

³⁷ It is a part of the psychic apparatus as defined by Freud that has a critical and moralizing role to play. Other parts this psychic apparatus are Id and Ego.

³⁸ Freud, Sigmund. (1977): *On Sexuality*. Harmondsworth, England: Penguin In Adams, N. Bert and Sydie, A. R (2001): *Sociological Theory*, Vistaar Publications, New Delhi. pp 342.

“dangerous sexual libido”. Despite his explanations being “incomplete and fragmentary”, and hence not what women would be pleased with, as he terms it, it has a role to play in psychoanalysis and in the understanding of sexuality in terms of differences between the sexes and also in the social world.

His work was highly criticized by his contemporaries. In the 1970s, Betty Friedan and Kate Millet targeted him on common grounds. According to them, Freud viewed women’s powerlessness and male-female inequity solely in terms of biological differences and not as an outcome of social inequality.

In the “Feminine Mystique”, Friedan³⁹ rejected Freud’s methodology on the ground that more than sexual freedom, it was freedom that women needed in order to grow as a person. Freud’s theory makes women accept that they are defective. Therefore, since Freud makes especially procreative sex as the reason for women’s existence, he should be rejected.

Millet⁴⁰ in “The Sexual Politics” pointed out that ‘penis envy’ is an example of male egocentrism, thus resisting Freud’s biological determinism. It was depicted as women’s desire to a feeble attempt to possess a substitute for penis, instead of rejoicing the power hidden in women’s reproductive capacity

Despite several criticisms, psychoanalysis occupies a remarkable stand in explanations related to women’s lives. Hence, with regard to the category of women, psychoanalytic theories have occupied an ambiguous position.

Taking in different perspectives and theoretical explanations helps in the understanding of an issue in a broader and wider sense. The phenomenon under study is a crucial issue and requires an eclectic source of theories and perspectives in the true understanding of the phenomenon. The following study will be guided on the basis of the above given backdrop of theoretical explanations. The principal aim rests in depicting gender discrimination and the notion of patriarchy existent in all social structures where women’s oppression is prevalent and their

³⁹ Friedan, Betty (1974): *The Feminine Mystique*. Dell Publishing, New York.

⁴⁰ Millet, Kate (1969): *Sexual Politics*. Equinox Books. Published by Avon.

sexuality is looked at as a site of exploitation and hence, subjected to sexual violence. Apart from this, social systems in a gendered society seen working in cognition with each other thereby furthering women's subordination and bringing about gender inequality and placing them in vulnerable situations will be explored.

Studies with an eclectic approach have theoretical explanations of different streams of school and thought and hence is more informative, as it would enhance one's understanding of the subject, by looking at different issues related to the same problem and be fruitful in delivering a good discussion which would not be possible if a theory of only one kind is taken into consideration.

Chapter II

Trafficking: An Exploration

Definition of Trafficking

There has been an array of definitions pertaining to the true meaning of trafficking. Variations over time regarding the concept and the definition of trafficking are still debated till today.

Article 1 of the 1949 Convention on the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, states that persons who resort to the following means for one's own gratification need to be penalized: procures, entices or leads away, for purposes of prostitution, another person, even with the consent of that person; exploits prostitution of another person, even with the consent of that person. This was the first UN convention dealing distinctively with trafficking¹. In addition to defining trafficking regardless of the issue of consent of the victim, prostitution was declared as contrary to the worth and dignity of a human being by the convention.² It was subjected to criticism as it was seen to be "gender neutral" and not in full protection and support of women. The Convention was ratified by only 66 states.³

In 1994, the UN Special Rapporteur on Violence against Women (SRVAW) defined trafficking in the following way: Trafficking in persons means the recruitment, transportation, purchase, sale, transfer, harbouring or receipt of persons: by threat or use of violence, abduction, force, fraud, deception or coercion (including the abuse of authority) or debt bondage, for the purpose of placing or holding such person, whether for pay or not, in forced labour or slavery like practices, in a community other than the one in which such person lived at the

¹ Goodey, Jo. (2008). 'Human trafficking: Sketchy data and policy responses', *Criminology and Criminal Justice*. 8: 421, Sage publications.

² Coomaraswamy, Radhika (2000): Integration of the Human Rights of Women and the Gender Perspective: Violence against Women, Report of the Special Rapporteur on Violence against Women, Its Causes and Consequences, United Nations Economic and Social Council In George, A. Vindhya, U. Ray, S (2010): 'Sex Trafficking and Sex work: Definitions, Debates and Dynamics- A Review of Literature', *Economic and Political Weekly*, April 24-30, pg. 65 and Doezema, Jo (2002): "Who Gets to Choose? Coercion, Consent and the UN Trafficking Protocol", *Gender and Development*, Volume 10 Number 1, pg 20-27.

³ Despite the criticism, most countries in South Asia have accepted this definition.

time of the original act described⁴. This definition aimed at delinking trafficking from prostitution and bringing it in the purview of migration so that it becomes an issue of human rights of trafficked women in the context of anti- trafficking interventions. Coomaraswamy also takes into consideration trafficking as including cross- border and intra country.

Currently, there has been a consensus among nations regarding the definition of trafficking with the adoption of a Protocol added to the United Nations Convention against Transnational Organised Crime in 2000. The United Nations Protocol also known as the 'Palermo Protocol', to 'Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children', defines trafficking as (a) 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 by means described in subsection (a) above (force, coercion, abduction, fraud or abuse/use of power) shall be irrelevant. (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 less than 18 years of age. The definition of human trafficking in the Protocol, though weighty in nature and subjected to criticism was an important development in the laws related to

⁴ Coomaraswamy, Radhika (2000): Integration of the Human Rights of Women and the Gender Perspective: Violence against Women, Report of the Special Rapporteur on Violence against Women, Its Causes and Consequences, United Nations Economic and Social Council In George, A. Vindhya, U. Ray, S (2010) Sex Trafficking and Sex work: Definitions, Debates and Dynamics- A Review of Literature, *Economic and Political Weekly*, April 24-30, pp. 65

trafficking especially as compared to the 1949 Protocol⁵. Two opposing strands of feminists expressed their views regarding the Protocol. Neo- Abolitionists comprised of those who viewed trafficking and prostitution as the same- as other forms of gender-based violence and as violation of women's human rights.⁶ Neo-Regulationist group on the other hand considered prostitution as legitimate labour.⁷ Both feminist groups and their views have been expressed in some form in the earlier chapter. The definition came into effect in 2004 and since then has been serving as a legal point of reference for international definition regarding human trafficking.

In 2002, the South Asian Association for Regional Cooperation (SAARC) Convention on Prevention of Trafficking in Women and Children for Prostitution was adopted by nations in South Asia. This clearly marked the realization of the growing magnitude of the problem in the region by governments of the various regions. The definition was restricted to only sex trafficking and hence was subjected to a lot of criticism⁸. However, this was a huge stride made by South Asian nations in their efforts to deal with the problem of human trafficking as it was the first of its kind to take place within their own governmental bodies.

⁵ Coomaraswamy, Radhika and Rajasingham, P. Nimanthi (2008): *Constellations of Violence: Feminist Interventions in South Asia*. Women Unlimited (an associate of Kali for Women), New Delhi.

⁶ Doezema, Jo (2002): "Who Gets to Choose? Coercion, Consent and the UN Trafficking Protocol", *Gender and Development*, 10, 1:20-27, Gallagher, Anne (2001): "Human Rights and the New UN Protocols on Trafficking and Migrant Smuggling: A Preliminary Analysis", *Human Rights Quarterly*, 23, 4: 975-1004 In George, A. Vindhya, U. Ray, S (2010) *Sex Trafficking and Sex work: Definitions, Debates and Dynamics- A Review of Literature*, *Economic and Political Weekly*, April 24-30, pg. 66.

⁷ Segrave, Marie and Sanja Milivojevic (2005): "Sex Trafficking: A New Agenda", *Social Alternatives*, 24, 2:11-16 In George, A. Vindhya, U. Ray, S (2010) *Sex Trafficking and Sex work: Definitions, Debates and Dynamics- A Review of Literature*, *Economic and Political Weekly*, April 24-30, pg. 66.

⁸ Huda, Sigma (2006): "Sex trafficking in South Asia", *International Journal of Gynaecology and Obstetrics*, 94, 374-81.

Historical Background

The history of evolution of trafficking in persons can be traced back to the early forms of slavery and move to the modern forms of trafficking in persons. It includes men, women and children who are trafficked for a variety of reasons. However, available data and studies clearly show that women form the greater proportion of the 'trafficked'.

The term "traffic" was used for the first time at the turn of the 20th century to refer to movement of persons for immoral purposes e.g. prostitution⁹. Elaine Pearson¹⁰ remarks that until the 1970s, the meaning of trafficking was limited only to prostitution and sexual exploitation. However, current literature clearly shows that trafficking refers to modern slavery in the global economy and several forms of labour exploitation.

Few decades ago, trafficking was mainly associated with the term 'white slavery'. The term refers to the procurement - by use of force, deceit or drugs - of a white woman or a girl against her will for prostitution.¹¹

In the twentieth century, the issue of sexual exploitation of women resurfaced in a new 'industrialized' and 'internalized' form¹². "Trafficking in women", was the new term used in place of the "white slave trade" and women apart from those in western countries and specifically third world/non western women became the centre of attention. The portrayal of the victim, though not restricted to white

⁹ Howard, Neil and Mumtaz, Lalani (2008): 'Editorial Introduction: The Politics of Human Trafficking' In George, A. Vindhya, U. Ray, S (2010) Sex Trafficking and Sex work: Definitions, Debates and Dynamics- A Review of Literature, *Economic and Political Weekly*, April 24-30.pg. 65.

¹⁰ Pearson, Elaine (2000): *Human Rights and Trafficking in Persons: A Handbook*, GAATW, Bangkok In George, A. Vindhya, U. Ray, S (2010) Sex Trafficking and Sex work: Definitions, Debates and Dynamics- A Review of Literature, *Economic and Political Weekly*, April 24-30.

¹¹ Doezema, Jo (1999). Loose Women or Lost Women? The re-emergence of the myth of 'white slavery' in contemporary discourses of 'trafficking in women', *Gender Issues*, Vol. 18, no. 1, Winter 2000, pp. 23-50.

¹² Barry, K (1995): *The Prostitution of Sexuality: The Global Exploitation of Women*, New York: New York University Press.

women only, still perfectly fitted the stereotype; innocent and naive, duped into sexual slavery.

While initial literature on the issue laid emphasis on the 'traffic' from Latin America and Asia to Western Europe, increasingly, now it is women from Russia, the Newly Independent States and Eastern Europe being 'trafficked' to Western Europe, the United States and Asia¹³ who are stressed upon. An increasing focus also exists on 'traffic' between countries such as Nepal and India, Burma and Taiwan¹⁴ and rural to urban 'trafficking' within Asian countries.¹⁵

At this point it is important to note that a look into the history of trafficking shows similar patterns in the methods employed in carrying out this heinous crime, the vulnerabilities that traffickers sought after and the deceptions and false promises involved. Sheila Jeffreys in 'The Industrial Vagina: The political economy of the global sex trade', demonstrates this similarity clearly by stating examples of Jewish women being trafficked through London to Buenos Aires and Russian women being trafficked into and from China. She states that these trafficked women shared similar characteristics to vulnerabilities faced by women today. Likewise, the faith of trafficked women then and now also seems to bear

¹³ Global Survival Network (GSN), 1997. *Crime and Servitude*, Washington, D.C.: GSN, Weijers, M. and Lap-Chew L., 1997. "Trafficking in Women, Forced Labour and Slavery-Like Practices" in *Marriage, Domestic Labour and Prostitution*, Utrecht and Bangkok: The Foundation Against Trafficking in Women (STV)/The Global Alliance Against Trafficking in Women (GAATW) In Doezema, Jo (1999). *Loose Women or Lost Women? The re-emergence of the myth of 'white slavery' in contemporary discourses of 'trafficking in women'*, *Gender Issues*, Vol. 18, no. 1, Winter 2000, pp. 23-50.

¹⁴ Human Rights Watch (1995): *Human Rights Watch Global Report on Women's Human Rights*, New York: Human Rights Watch.

¹⁵ Weijers, M. and Lap-Chew L., 1997. "Trafficking in Women, Forced Labour and Slavery-Like Practices" in *Marriage, Domestic Labour and Prostitution*, Utrecht and Bangkok: The Foundation Against Trafficking in Women (STV)/The Global Alliance Against Trafficking in Women (GAATW) In Doezema, Jo (1999). *Loose Women or Lost Women? The re-emergence of the myth of 'white slavery' in contemporary discourses of 'trafficking in women'*, *Gender Issues*, Vol. 18, no. 1, Winter 2000, pp. 23-50.

similarities. They are usually trapped in debt bondage, made to provide services to men with little mere payments or nothing at all and are under the control of pimps. Jeffreys says that traffickers make most of their profit from debt bondages which are considered as a crucial feature of trafficking.

There has also been historical development in the modes of transport of women from one end of the world to the other. In her book, Sheila talks about the modern day technological advances that have in a way facilitated the easy growth of trafficking. Aeroplanes and the present use of the internet to a great extent have made the process simpler and easier.

Causes of Trafficking

Poverty and Gender Discrimination:

Clubbing poverty and gender discrimination together as a cause of trafficking is intentional. This is so because a combination of the two seems to be renowned as one of the major reasons for trafficking. Both the factors create vulnerable situations.

Poverty/economic deprivation are a major factors contributing towards vulnerable situations of both individuals and communities. Populations stricken by poverty are easy and vulnerable targets for the traffickers. On an individual level, poverty would imply lesser options to acquire survival or improved living standards. These in turn push people into being vulnerable and easily deceived and coerced into dangerous situations.¹⁶ Eager to acquire income, most people without understanding the process and consequences involved, often fall into assurances of employment and a better life.

Though trafficking in humans would include men, women and children, it is mainly the women and underage girls who are exclusively trafficked for prostitution purposes. Having less ease of access to resources and little knowledge

¹⁶ Cameron, Sally; 'Trafficking of women for prostitution', In Cameron, Sally and Newman, Edward (2008): *Trafficking in Humans- Social, Cultural and Political Dimensions*, United Nations University Press, Tokyo.

of their capacities women are shunned from highly gendered industries where performances are judged on the basis of being a man or a woman leaving women far away from high paying jobs. The dreadful consequence is that most women and girls are left desperate to find means of survival.¹⁷

Similarly, both poverty and gender intertwined in situations at homes also land women in vulnerable situations. They are forced to make a choice between educating a boy or a girl of the family. Gender biased societies like those in India, Nepal and also Central and West Africa end up sending the daughters of the house out to earn and support education for their brothers.¹⁸

Vulnerabilities also arise due to wishes of parents and women to attain the goal of marriage. Many women are said to have accepted proposals from unknown men which increases their risk of getting trafficked. Fake marriages have also been recognized as prevalent means of trafficking of women and girls by the ILO in Nepal. Taking undue advantage of the situation, brokers take women from such families to cities by giving parents, false promises of marrying the women. Ultimately, women find themselves in brothels. In *'Immoral Trafficking of Women and Children: Transnational Crime and Legal Process'*, Goenka mentions that, young Bangladeshi girls are in demand for marriage in India and Pakistan. She says that these girls are sold to villages in the name of marriage but are treated like slaves and exploited sexually. Siddharth Kara in *'Sex trafficking: inside the business of modern slavery'*, says false promises of marriage to wealthy men appears to be one of the major reasons leading to trafficking of women especially in the South Asian and East Asian countries. He gives the example of Nepal, where this seems to be the recent trend followed by traffickers. He also says that many victims, especially those pushed into prostitution, are acquired through promises of love.

¹⁷ Ibid.

¹⁸ Human Rights Watch (2003): *Borderline Slavery- Child Trafficking in Togo*, New York: Human Rights Watch In Cameron, Sally and Newman, Edward (2008): *Trafficking in Humans- Social, Cultural and Political Dimensions*, United Nations University Press, Tokyo.

In 2007 the UN Trafficking Rapporteur identified trafficking in women for marriage, in practices such as the 'mail order bride industry' and 'forced marriage', as important aspects of the trafficking in women which needs to be addressed.¹⁹ Modern day technology has facilitated the process of providing brides to those in even the remote parts of the world. 'Mail order brides' as it is referred to, has made huge profits out of the economic hardships of women from Vietnam, Nepal, Pakistan, Thailand, the Philippines, Bangladesh, Indonesia and India²⁰. Most of the women end up facing violence at the hands of the men. Internet facilities with numerous sites have made the task very easy. Purchasing of women and sending them to men can take place with the pressing of a computer button. Since the transactions happen over the internet, there is very little chance of tracking down the culprit. Men do not always intend to buy a bride; they also often use this facility for purposes of sexual exploitation of women such as using them for pornography etc. "The mail order bride industry has integrated the sale of women for sexual and other purposes into the global sex industry and the global economy".²¹

It is clear that dearth of employment opportunities for women, mainly due to culturally and traditionally embedded beliefs regarding specific gender roles make women vulnerable to trafficking. Further, lack of education in poor and orthodox societies, deny prospects for earning, resulting in illiteracy and ignorance especially regarding risks involved in migrating to unfamiliar places. A strong preference for sons over daughters in South Asian countries, with a perception of daughters being an economic liability also put women in vulnerable surroundings. With the presence of several discriminatory laws regarding important aspects of

¹⁹ UNHRC (United Nations Human Rights Council) (2007a). Report of the Special Rapporteur on the Human Rights Aspects of the Victims of Trafficking in Persons, Especially Women and Children. Sigma Huda. United Nations. A/HRC/4/23, 24 January In Cameron, Sally and Newman, Edward (2008): *Trafficking in Humans- Social, Cultural and Political Dimensions*, United Nations University Press, Tokyo.

²⁰ Trafficking in Women and Prostitution in the Asia Pacific: Coalition Against Trafficking of Women.

²¹ Jeffreys, Sheila (2009): *The Industrial Vagina: The political economy of the global sex trade*. Routledge, pp. 38.

women's overall development such as property and landownership rights, women look out for better opportunities which traffickers promise them, thus, falling into the criteria of 'vulnerable persons'²².

Questions of Demand and Supply:

Questions related to demand and supply are often determined by a complex set of political, social and economic factors and hence cannot be separated. Demand for trafficked persons' labour/services is said to be present mainly in sectors where workers inhabit some "twilight zone between market and non-market relations".²³ The supply and demand in most places, seem to be stratified along racial/ethnic and nationality lines of hierarchy, which also make evident the power and privilege distribution in the society as a whole.

Adverse socio-economic processes and political developments in a certain social setting are regarded as responsible for the demand and supply of trafficking. Development processes that are gendered in nature result in marginalization of women. They are faced with discrimination in education and employment. Apart from this, gender inequalities, feminization of poverty, families with prevailing violence against women and the necessity of most young women to escape the brunt of household and family care seem to constitute the supply of trafficking.²⁴ With the desperate need to migrate to sites outside their homelands to gain employment, women and children fall prey to the traffickers. Restrictive policies and legal procedures involved in the streams of migration seem unaffordable by the marginalized. They then resort to agents and brokers who make promises of

²² George, Annie. Vindhya, U and Ray, Sawmya. Sex Trafficking and Sex Work: Definitions, Debates and Dynamics- A Review of Literature. *Economic and Political Weekly*, April 24-30, 2010.

²³ Anderson, Bridget and Davidson, O'Connell Julia. (2004) Trafficking- a demand led problem? Part 1: Review of Evidence and Debates, The Organization.

²⁴ D'Cunha, Jean (2002): Trafficking in persons: a gender and right perspective. EGM/TRAF/2002/EP.8.

helping them out with travel across borders for 'good jobs', hence creating a vulnerable situation. Women and children hence become victims of trafficking.²⁵

As far as the factors creating demand are concerned, it is evident that with the number of sex industries developing globally and more men thriving on this industry with the andocentric belief that sex is a male right and a commodity they can achieve with a mere payment, trafficking gets accelerated. Preference of women from certain ethnic and racial backgrounds varying from their own is also cited as a major factor for sex trafficking of girls from Nepal to India.²⁶

The demand for female labour to meet the rising demand for reproductive services in the newly configuring market economy as well as the rapid growth of many unregulated work ghettos in the informal sector of the economy which prey upon the vulnerable and exploitable labour of women and children to maximize profit in order to compete in the international market economy has fore grounded women and youth as key players in the process of in-country and cross border migration.

Patriarchy:

“Raising a female child is like watering your neighbour’s plants”.²⁷ Families in countries where sons are preferred over daughters, sell their daughters as they are considered an economic burden.²⁸ A patriarchal society firmly believes that man is a supreme being whereas women are subordinates. The social construction of this ideology leads men to view women’s bodies as a domain over which they

²⁵ 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*, UNICEF Regional Office, Save the Children Alliance.

²⁶ Fichtl, Reinhard (2003): “Child Trafficking in Nepal: An Assessment of the Present Situation”, *Terre Des Hommes*, Kathmandu.

²⁷ Sen, M (2001): *Death by fire: Sati, dowry, death and female infanticide in modern India*. London: Weidenfeld and Nicholson In Parrot, A and Cummings, N (2006). *Forsaken Females: The Global Brutalization of Women*. Rowman and Littlefield Publishers, United States.

²⁸ In Parrot, A and Cummings, N (2006). *Forsaken Females: The Global Brutalization of Women*. Rowman and Littlefield Publishers, United States.

have legitimate rights. Sangroula²⁹ says that, “prostitution has traditionally existed as a system and an institution in which patriarchy has a stake”. According to him, patriarchal societies will uphold prostitution regardless of a woman’s consent.

Role of family:

Women and children are often in great danger in the place where they should be safest, i.e., within their families. Moreover, when the violation takes place within the home, as is very often the case, the abuse is effectively condoned by the tacit silence and the passivity displayed by the state and the law-enforcing machinery. Several studies from Nepal and India show that family and community do play a role in trafficking.³⁰ Women face violence in the home and outside. Several are faced with domestic violence by different members of the family.

Apart from means of trafficking women, by being duped into believing that they would gain employment, direct selling of children into prostitution by family members also takes place.³¹ Those women who face discrimination in the home, subjected to violence of different kinds, orphaned, divorced, widows are considered highly vulnerable to traffickers.³²

Armed conflict and natural disasters:

"The breakdown of law and order, police functions and border controls that accompany armed conflicts create an environment in which the trafficking of women has flourished."³³ Investigations made by United Nations studies on the

²⁹ Sangroula, Yubaraj (2001): *Condemned to Exploitation: Trafficking of Girls and Women in Nepal- Building a Community Surveillance System for Prevention*, Kathmandu School of Law, Nepal. pp 50.

³⁰ Fichtl, Reinhard (2003): “Child Trafficking in Nepal: An Assessment of the Present Situation”, *Terre Des Hommes*, Kathmandu.

³¹ George, Annie. Vindhya, U and Ray, Sawmya. Sex Trafficking and Sex Work: Definitions, Debates and Dynamics- A Review of Literature. *Economic and Political Weekly*, April 24-30, 2010.

³² Ibid.

³³ UNIFEM, Women, War and Peace, 2002.

impact of war and armed conflict on women show that armed conflict and trafficking are linked in several ways. Both refugee and displaced women and girls are taken as hostages and later trafficked into slavery, forced prostitution, abduction and forced military recruitment or sold into marriage. Armed conflicts have a huge impact on women. There is displacement of women. Many are widowed. Women are subjected to various kinds of violence³⁴. They are taken as hostages, forced into prostitution, sold into marriage etc. With ongoing armed conflict in areas, women find their way out and flee to escape the existing conditions and live in refugee camps. Finding women in vulnerable situations, traffickers prey on them. Apart from this, women from areas that have been disturbed due to natural calamities like earthquakes, floods, etc are targeted by traffickers who use the medium of offering attractive jobs to them in countries far away from those disturbed by calamities.³⁵

Purposes of Trafficking

Trafficking of women takes places for several different purposes. The treatment of women as commodities to be bought and sold has taken various forms. The most common forms need a description to get a clear picture of the fate of the victims. Women are bought and sold for purposes such as marriage, domestic work, etc. However, the most common and lucrative form prevalent in the trade is trafficking women for commercial sexual exploitation (sex trafficking) and forced labour.

³⁴ Hamal, Babita (2007): Impacts of Armed Conflicts on Women in Nepal. *Gender Technology and Development*, Sage Publications.

³⁵ Manohar, Sujata (2002): "Trafficking in Women and Girls", paper prepared for the expert group meeting on "Trafficking in Women and Girls", November, Glen Cove, New York. In George, Annie. Vindhya, U and Ray, Sawmya. Sex Trafficking and Sex Work: Definitions, Debates and Dynamics- A Review of Literature. *Economic and Political Weekly*, April 24-30, 2010.

Sex Work and Commercial Sexual Exploitation:

Luring women into sex work/prostitution by abduction, kidnapping, coercion and deception is a common pattern adopted by traffickers. Sangroula³⁶ while explaining the nature of the sex market says that this market originates with men's need for sexual activity, to which women have to surrender: "Men, with the help of a patriarchal domination, thus create the basic premise of the sex market". The demand for sex automatically creates a need for supply. To meet the demands, women especially from neighbouring countries are deceived into leaving their homelands. They are usually promised better jobs and a secure future in the destination country, none of which actually happens. They cross borders willingly believing the traffickers and later find themselves sold into sex work/ prostitution. Most of them are sold to brothels, where they are ill-treated and made to live like slaves. They are victims of constant violence and abuse.³⁷

However, a different aspect of this trade also exists. Apart from those who are sold into brothels, there are some women who do cross borders with the intention of getting involved in sex-work. As mentioned in '*Sex Work Matters: Exploring Money Power and Intimacy in the Sex Industry*', it is 'fast money' that attracts people towards the sex industry, as sex work offers a lot of money than any other job that too in lesser hours³⁸. Elaboration on 'voluntary sex work' will be a part of a later discussion in the paper. A mention of this aspect of the sex trade at this juncture of the paper was essential.

³⁶ Sangroula, Yubaraj (2001): *Condemned to Exploitation: Trafficking of Girls and Women in Nepal- Building a Community Surveillance System for Prevention*, Kathmandu School of Law, Nepal.pp 18.

³⁷ Coomaraswamy, Radhika and Rajasingham, P. Nimanthi (2008): *Constellations of Violence: Feminist Interventions in South Asia*. Women Unlimited (an associate of Kali for Women), New Delhi.

³⁸ Wilman, Alys. Let's Talk About Money In Ditmore, H. Melissa, Levy, A & William, A (eds) *Sex Work Matters: Exploring money power and intimacy in the sex industry*.

Domestic Work:

This is another domain where coercion of women to take up work that they do not want to do takes place. Huge demands are made for domestic workers all over the world. However, like in all trafficking acts even here, most women are promised other work but are made to do household work once they reach the new location. Most women are made to work for long durations with nominal payments or no payment at all. They are also subjected to sexual abuse and are left at the hands of the employer.³⁹ Studies and research conducted show a strong bias that exists for women from certain racial backgrounds in the area of domestic work. Women from 'specific nationalities' and with particular skin colour are some of the criteria on the basis of which the hiring agencies function.

At times, women especially from South and South West Asia are hired by private agencies to work as domestic migrant workers. They are mostly sent to the Middle East. However, in some cases, on arrival in the destination country, women who were hired to be domestic workers find out that they were trafficked by deception. They are subjected to physical abuse, isolation and made to live in exploitative situations, leaving them helpless.

Forced Labour:

Forced labour was defined in the original Forced Labour Convention, No. 29 of 1930, as any work or service performed under the menace of any penalty, and for which the said person has not offered himself voluntarily. This definition can be applied to the forced labour dimensions of trafficking⁴⁰. Exploitation of female labour is rampant. Women are brought into countries for purposes other than pushing them into the sex industry. They are made to work in factories and are employed for more reasons than just labour. Carpet industries in Nepal for

³⁹ Coomaraswamy, Radhika and Rajasingham, P. Nimanthi (2008): *Constellations of Violence: Feminist Interventions in South Asia*. Women Unlimited (an associate of Kali for Women), New Delhi.

⁴⁰ Violence against and Trafficking in Women as Symptoms of Discrimination: The Potential of CEDAW as an Antidote. *Gender and Development Discussion Paper*, Series No. 17. December, 2005.

instance, employ women to work in the factories. However, they are said to be sexually abused and raped by other members of the factory.⁴¹ In order to overcome their economic hardships, women all over cross boundaries and borders to find work especially in factories in urban areas. However, they are unaware of the hardships that await them. They mainly end up working for hours without pay and poor living conditions, where they are subjected to sexual harassment and abuse too.

The Important Linkages: Trafficking, Migration, Prostitution and Globalization.

Trafficking and Migration:

Migration has been an ongoing process especially in the South Asian context for centuries. With rapid growth in globalization and liberalization, the process of migration has moved to a higher scale. In the new era, women and girls are the 'new migrants' and 'new workforce'⁴². With little or no opportunities in their homelands, women today venture out to explore better prospects leading to 'feminization of migration'. Some of the major push factors which make women leave their homelands are immense poverty, lesser job opportunities, rising insecurity of food and livelihood. Along with this, economic and political instability creating changes in everyday life and the increasing demand for cheap labour in developed countries also make women migrate to different places. Emek M. Ucarer⁴³ states that the pull factors in the destination areas mainly have to do with factors such as the high level of development and prosperity, the flexibility and ease of immigration policies, good job prospects etc.

⁴¹ Human Rights Watch (1995): *Human Rights Watch Global Report on Women's Human Rights*, New York: Human Rights Watch.

⁴² Baruah, Nandita (2008). *Trafficking in Women and Children: The South Asian Reality In Gender Concerns in South Asia: Some perspectives*, Rawat Publications, Jaipur.

⁴³ Ucarer, M. Emek 'Trafficking in Women: An Alternate Migration or Modern Slave Trade?', In Meyer, K. Mary and Prugl, Elisabeth, ed. (1999): *Gender Politics In Global Governance*, Rowman and Littlefield Publishers, INC, United States of America.

However, the process of migration as seen within the context of trafficking needs detailed investigation. Its linkage with the phenomena of trafficking is widespread today. Questions pertaining to human trafficking cannot be looked into without taking the broader aspect of migration into consideration. According to Radhika Coomaraswamy, United Nations Special Rapporteur on Violence Against Women, “traffickers fish in the stream of migration”.⁴⁴ However, there is a fundamental difference between the two. The common point between the two is that both involve ‘movement of persons’ across borders or from rural to urban areas or vice versa. However, the context in which this movement takes place is what seems like the distinguishing factor between the two processes. It is the element of choice which reflects the difference. Radhika Coomaraswamy states that trafficking is distinguished from migration by coerced transport and coerced end practices. Whereas trafficking is a case where migration is involved, movement for purposes of migration does not necessarily involve trafficking. Specifically, the element of coercion/deception, exploitation and profits made by someone other than the person undergoing the movement makes trafficking distinct from migration. However, many times there are chances of a case of migration turning into a case of trafficking, where promises of certain kinds of jobs etc are made to the migrants, who on reaching their destination areas, find themselves forced to take up jobs other than the ones initially promised. A journey which begins as migration may very often end up as trafficking.⁴⁵ Vulnerable situations in the life of migrants make it easier for traffickers to carry out their job. In many cases, migrant women who have been trafficked do not have access to legal resources so as to bring traffickers to justice. There may be deception involved even in the case of migration, but it is recognizable as a case of trafficking only once the migrant has reached the destination area.

Difficulty in determining the nature of migration as legal or illegal also further complicates the issue. Procuring false documents or passports with great ease has facilitated the act of trafficking. Many a time a person may have a valid passport

⁴⁴ Baruah, Nandita. Trafficking in Women and Children In South Asia- A Regional Perspective

⁴⁵ Jagori (1998): Trafficking in South Asia: A Conceptual Clarity Workshop, New Delhi.

but the traffickers may have confiscated it, as a result of which the person appears to have illegally migrated. In most receiving countries, those with an illegal migrant status are deported immediately, without any protection by the State or nation. In these kinds of cases, the State recognizes illegal migration as a crime before looking at it as a case of trafficking. Hence, the illegal migrant gets criminalized before the trafficker.

Fear of deportation is also a feature of the trafficking and migration nexus. Wijers,⁴⁶ states that several women regard deportation “an even worse prospect than accepting the situation in which they find themselves”. There are various reasons for such a statement. Situations back home compel them to accept their fate. Several times, if women are deported they return home with no money. Another fear that Wijers, states is the stigma attached to involvement in sex work. It has several effects on the victims’ family and at times, they even disown her. Traffickers use several means to establish control over the women; threats to inform the family about her involvement in sex work, inflicting harm on her or the family are some of them. Hence, deportation puts her and her family’s safety at risk.

Traffickers are well-versed with the technicalities involved and can easily manipulate the processes. As a result, it may be ‘legal’ migration but it is still trafficking. The problem of distinguishing between legal and illegal migration becomes even more difficult in a region like South Asia, where borders are porous and in many cases are not even concrete or real like the Indo-Nepal border.⁴⁷

It is essential that the issue of trafficking in women should be considered in the broader context of labour migration. From an economic point of view, trafficking should be considered as a component of labour migration and population mobility.

⁴⁶ Wijers, M (1998). Women, Labour, and Migration: The Position of Trafficked Women and Strategies for Support, In Kamala Kempadoo and Jo Doezema, ed. (1998) *Global Sex Workers: Rights, Resistance and Redefinition*, New York, Routledge.

⁴⁷ Bhattacharya, M (1998). ‘*Trafficking in South Asia: A Conceptual Clarity Workshop*’. Jagori, New Delhi.

With the advent of the 20th century, several changes in supply and demand factors resulted in great increase in numbers of women and children migrating for work.

Trafficking is not opposed to migration but a facet of it. Studies have shown that women who experience trafficking often find themselves resorting to unlawful migration. Deceived and cheated, these women take up work against their will and adopt diverse means for survival. Trafficked women end up in situations where they need to fend for themselves in precarious environments which are beset with risks.

There may be a commonality in the factors responsible for evolving the process of trafficking and migration. However, it is important to note that trafficking is a phenomenon distinct from both migration and illegal migration. Due to the increase in the number of undocumented and irregular migration patterns and increased trafficking in humans, several restrictions on travel especially on women and children have been put by countries. In today's world, women migrate to earn their living and maintain sustainable livelihood. Restrictions on migration in a way serve as a means of controlling mobility. Several anti-trafficking interventions in their efforts to tackle the problem of trafficking end up curbing women's mobility. In their efforts to do away with the social menace of trafficking, they are indirectly putting restrictions on women's free movement.

Women who move in "public spaces" are seen to be disobeying the boundaries of female decorum and are therefore a sexual provocation to be teased, harassed or assaulted. Equating and linking the two phenomena deny women rights to move freely and also reinforces vulnerability among women and their families for whom migration is an essential survival strategy.

Trafficking and Prostitution:

One of the most crucial and controversial topics in the debates and discourses surrounding trafficking is the issue of prostitution. Despite attempts to broaden the definition of trafficking to include diverse end products, the debates and

discussions on trafficking continue to centre on prostitution or sex-work.⁴⁸ Trafficking and prostitution are two distinct but inextricably linked phenomena.

It is important to understand the two concepts clearly before getting into the discussion. Trafficking means all acts involving recruitment and/or transportation, moving, selling and buying of women and children within and/or across borders through coercion and/or deception, for sexual services and/or work, for the purpose of profit. Prostitution is the institution in which (normally) women provide sexual services for economic remuneration. 'Prostitutes are the women who provide these sexual services'⁴⁹. Bhattacharya⁵⁰ says that although the two are inter-linked they must be distinguished from each other, as equating the two would be 'dangerous'.

Although, trafficking of women and children for commercial sexual exploitation and sex trafficking as it is referred to, is one of the most common forms, it is not the end product of trafficking. It is important to note that trafficking has a much wider net and that women and girls can also be trafficked into bonded labour, begging, camel jockeying, organ trade etc. Different countries around the world, feel that trafficking takes place for specific purposes. Countries like Nepal for instance, believe that trafficking mainly takes place for prostitution, whereas in Bangladesh it is believed that trafficking occurs for camel jockeying.⁵¹

Trafficking is the coercive and exploitative process or mechanisms of which prostitution is one of the possible areas to which this process takes the trafficked. It is the element of choice which could bring about a difference in the two. As mentioned above, whereas trafficking involves movement by coercion, deception or any other fraudulent means, prostitution could be looked at as a source of

⁴⁸ Coomaraswamy, R and Satkunanathan, A (2008). 'Trafficking: Crossing borders in an Era of Globalisation' In Coomaraswamy, R and Rajasingham, N (2008) *Constellations of Violence: Feminist Interventions in South Asia*. Women Unlimited, New Delhi.

⁴⁹ Bhattacharya, Manjima (1998). *Trafficking in South Asia: A Conceptual Clarity Workshop*. Jagori. New Delhi.

⁵⁰ Ibid.

⁵¹ Ibid.

livelihood, accepted by choice or without it. However, the question of choice in the act of prostitution is also a debatable issue among feminists. Close linkages between the two, creates debatable issues. If the two are equated 'one ends up criminalizing prostitution'. Trafficking is a criminal activity but prostitution is not considered a criminal activity. Another danger in equating the two, as stated in a report⁵² is that one moves away from the focus on exploitation or profit to coercion and/or deception as the key motive behind the act of trafficking.

Trafficking is without doubt a more violent and cruel form of prostitution, and therefore, requires different treatment of the perpetrators. The question of free choice among environments with scarce resources is one that must be challenged. However, there is a commonality between the two. Regardless of whether the women and girls have been tricked, forced, or consented to being used for satisfying the sexual needs or pleasures of others, they are shunned by society and treated like criminals⁵³.

There have been several debates and dynamics surrounding the issue of trafficking and contemplations regarding its prohibition. One of the most crucial one is "Legalization of prostitution". Legalizing prostitution is proclaimed to be the solution for trafficking as it is said to ensure the rights of women in prostitution or sex work as expressed by supporters of prostitution. However, there seems to be a confusion regarding decriminalization and legalization even among those who seeks to legalize prostitution.⁵⁴ Donna M. Hughes⁵⁵ in 'Legalizing Prostitution Will Not Stop the Harm' puts forward the concept of supply and demand in prostitution. She says that it is a 'demand market' which

⁵² Bhattacharya, M (1998): '*Trafficking in South Asia: A Conceptual Clarity Workshop*'. Jagori, New Delhi.

⁵³ O' Dea, P. (1993): *Gender Exploitation and Violence: The Market in Women, Girls and Sex in Nepal: An Overview of the Situation and a Review of the Literature*. Kathmandu: UNICEF.

⁵⁴ Initiatives: Women in Development (2007). *Legalizing Prostitution and its Implications on Trafficking- Dossier*. Chennai.

⁵⁵ Hughes, M. Donna. 'Legalizing Prostitution Will Not Stop the Harm', In Initiatives: Women In Development (2007): *Legalizing Prostitution and its Implications on Trafficking- Dossier*. Chennai.

has been created by men who buy and sell women's sexuality for their own benefit and satisfaction. She points out that trafficking cannot be controlled as long as there's demand for women's sexuality. She argues that by using the term 'sex work' and trying to show that prostitution is a form of work does not reduce the harm, violence and exploitation women are subjected to. Legalization regulations would benefit only the traffickers and not the women involved in prostitution. She concludes saying "legalization will not end abuse; it will make abuse legal". Mary Sullivan and Sheila Jeffrey in their study on Victoria, Australia⁵⁶ show how legalisation has only resulted in an increase in the number of brothels and perpetuated the nature of violence that is embedded in the act of prostitution. Legalizing prostitution in the area, only led to men being allowed to buy the right to abuse a woman sexually. Even registered brothels were found to be using trafficked women.

Another area of discussion between trafficking and prostitution has been further discussed by Sheila Jeffrey's.⁵⁷ She argues that the distinction between trafficking in women and those in prostitution is a false distinction. She says that though the distinction sought is made on grounds of the need for prostitution being seen as ordinary work and trafficking being looked at a problem only if it involved women being forced into this ordinary work, the end product still results in men's abuse of women in prostitution. Apart from this, she also says that prostitution cannot be looked at as any other form of labour as it includes sexual violence which is more harmful as compared to other forms of trafficking for labour. Situations in which trafficked women land seem worse as compared to women in prostitution as they are bound by several obstacles such as those of language, debt

⁵⁶ Sullivan, Mary and Jeffreys, Sheila. 'Legalizing Prostitution is Not The Answer: The example of Victoria, Australia' In Initiatives: Women In Development (2007): *Legalizing Prostitution and its Implications on Trafficking- Dossier*. Chennai.

⁵⁷Jeffreys, Sheila (2002): 'Trafficking in Women versus Prostitution: A false distinction', In Initiatives: Women In Development (2007): *Legalizing Prostitution and its Implications on Trafficking- Dossier*. Chennai.

bondage and are under constant control of traffickers. However, in terms of everyday happenings they share the same faith as that of prostituted women.⁵⁸

Sangroula⁵⁹ has also elaborated and explained the notion of supply and demand. He says that the sex market is regulated by the economic theory of supply and demand. He delves into the issue and shows how prostitution is a gendered form of violence. He says that “this market for sex would not exist without a patriarchal value system that allows the youth and fairness of girls to be put at the disposal of men for their use and enjoyment”. Prostitution he says is a “market of contempt of women and is derogatory to all women”. All in all, prostitution serves as an incentive for trafficking of girls and women.

Several feminist non-governmental agencies and groups across the world have been making efforts to stop global trafficking. Feminist debates around prostitution also seemed to have a role to play in the formation of these various groups. On one side, Radical feminists and the Abolitionists expressed their views saying, prostitution is an institution of male domination. The other domain, being ‘pro-sex-work’, aimed to distinguish prostitution as ‘forced prostitution’ or as voluntary ‘work’.⁶⁰ Apart from looking at the link between prostitution and trafficking in terms of it being a form of violence against women, the notion of prostitution as a form of income generating profession, serving as a platform for women to express their agency and providing them with empowerment has also been debated in previous studies and literature that is available. Ann Oakley⁶¹ in her study on the distinction between sex and gender says that ‘agency’ refers to the ability of individuals and groups to think, speak and act as knowing subjects

⁵⁸ Jeffreys, Sheila. ‘The Traffic in Women: Human Rights Violation or Migration for Work?’, In Agrawal, Anuja eds. (2006) : *Migrant Women and Work*, Sage Publications, New Delhi.

⁵⁹ Sangroula, Yubaraj (2001): *Condemned to Exploitation: Trafficking of Girls and Women in Nepal- Building a Community Surveillance System for Prevention*, Kathmandu School of Law, Nepal.

⁶⁰ Miriam, Kathy (2005): ‘Stopping the Traffic in Women: Power, Agency and Abolition in Feminist Debates over Sex-Trafficking’, *Journal of Social Philosophy*, Vol. 36 No 1,1-17, Blackwell Publishing.

⁶¹ Oakley, A. (1972): *Sex, Gender and Society*. London: Temple Smith.

who are able to engage and interact with the social world (including social structures) in a purposeful and meaningful way. Geetanjali Gangoli in 'Prostitution, Legalisation and Decriminalisation: Recent Debates'⁶² for instance, talks about how the notion of prostitution when viewed from different groups such as the Calcutta Sex Workers' Union for example, assess patriarchal oppression critically and stress on perceiving their work and lives in a different manner.

It is clear that there are numerous dimensions and debates surrounding the issue of trafficking and prostitution. However, despite efforts of some to completely separate prostitution and sex trafficking, Leidholdt in 'Prostitution and Trafficking in Women: An Intimate Relationship', talks about the evident link between prostitution and sex trafficking. This issue needs a little elaboration and emphasis as both the phenomena share certain commonalities especially in terms of impacts of laws on them.

The population of prostitutes and sex trafficked victims normally comprise of people who share similar backgrounds. Most of them are young people endowed with poverty or having a history of abuse. Leidholdt goes on to say that prostitution like sex trafficking arises from a system of gender based domination and gender based inequality resulting in violence against women. She argues that the two are interrelated and sex trafficking can actually be looked at as "globalized prostitution". Even the impacts it has on the health of prostitutes and victims of sex trafficking has been noted as being similar: post-traumatic stress disorder, beatings, sexual assault, depression and sexually transmitted diseases.

The "intimate relationship", is also seen in terms of policies relating to sex trafficking and prostitution where victims of sex trafficking are often subjected to prostitution law enforcements. In Nepal for example, where the sex trade is partially decriminalized, policies relating to the trade are mostly found in anti-trafficking acts. This in a way is said to provide a basis to explanations regarding the demand and supply of the sex trade, as the profits made from the kind of women prostituted also suggests the kind of women who are mostly trafficked.

⁶² Gangoli, Geetanjali (1998): Prostitution, Legalisation and Decriminalisation: Recent Debates. *Economic and Political Weekly*, March 7.

Its difference in terms of choice prostitutes and victims of trafficking possess have been highlighted in a report prepared by Save the Children.⁶³ Whereas prostitutes who may prefer another form of work have freedom in terms of prostituting as when and where they want, trafficked victims are forced to comply within the boundaries set forth by their traffickers. However, even this is not a clear difference between the two as prostitutes may also be working within the strict and forceful confines of their pimps and madams.

Thus, though the differences that exist cannot be overlooked, Leidholdt says that this difference between them is in terms of degree and not in kind and hence, women in prostitution and those who have been trafficked should be provided care and support and not regarded as criminals.

Some of the consequential aspects of women who are trafficked into prostitution need to be highlighted here. They face harms of several kinds. Though it is only clear by now that women are trafficked for various purposes, it is the women who are pushed into sexual slavery that are faced with the most evident forms of harm as “prostitution is a practice which is carried out directly on and in the bodies of women”.⁶⁴ Their everyday work involves the risks of transmission of diseases and unwanted pregnancies. Along with this, psychological and physical abuses are common. Farley,⁶⁵ states that women experience psychological and physical health problems like post-traumatic stress disorder, reproductive health problems, sexually transmitted diseases, physical violence which also includes disfigurement and disability which are permanent.

⁶³ Hausner, Sonda L (2005): ‘The Movement of Women: Migration, Trafficking and Prostitution in the Context of Nepal’s Armed Conflict’, *Save the Children*, Kathmandu.

⁶⁴ Jeffreys, Sheila (2009): *The Industrial Vagina: The political economy of the global sex trade*. Routledge.

⁶⁵ Farley, Melissa (ed.) (2003). *Prostitution, Trafficking, and Traumatic Stress*. Binghamton, NY: Haworth Maltreatment and Trauma Press and Farley, Melissa (2006). ‘Prostitution, Trafficking, and Cultural Amnesia: What We Must Not Know in Order to Keep the Business of Sexual Exploitation Running Smoothly’. *Yale Journal of Law and Feminism*, 18: 109–44 In Jeffreys, Sheila (2009): *The Industrial Vagina: The political economy of the global sex trade*. Routledge.

Apart from the women in prostitution, the children of prostitutes also have to bear the brunt of being a child of a prostitute. 'Born into Brothels: Calcutta's Red Light Kids'⁶⁶, is a 2004 American documentary film written and directed by Zana Briski and Ross Kauffman on the children of prostitutes in Sonagachi, Kolkata's red light district. The widely acclaimed film clearly depicts the situation and faith of prostitutes and their children. Prostitution is a way of life in the district. The movie shows a grandmother, mother and daughter are all engaged in the trade, with a grand-daughter also destined to join them soon. Though the movie does not imply boys being used as prostitutes, it seems inevitable. Children are said to enter the sex trade as soon as they attain puberty.

The stigmatization of prostitution and prostitutes by the negative attitudes of people also creates difficult situations for women. They are looked down upon by the society.

Trafficking and Globalization:

Globalization is a process in which regional economies, cultures and societies have been integrated through a globally wide network as a result of deregulation and improved communications. A strong parallel between trafficking in women for prostitution and other forms of exploitative conditions and globalization is a well- proven fact especially in the South Asian context⁶⁷. The globalization process puts many lives especially those of women and children at stake due to trafficking. The economic strategy adopted by the business world, seemed to produce ill effects for them.

Poverty seems to be the hazard that results with the unequal development through the process of globalization. It becomes a huge threat to survival especially in developing and underdeveloped economies. In the recent trends of globalization, men and women have been compelled to look for opportunities away from their

⁶⁶ Briski, Zana and Kauffman, Ross (2004): 'Born into Brothels: Calcutta's Red Light Kids', a documentary.

⁶⁷ Sinha, Indrani (2004). Women, Globalization and Trafficking. In Bhattacharya, Malini (eds) *Perspectives in Women's Studies: Globalization*. Tulika Books, New Delhi.

homelands. There has been a breakdown in family structures and traditional rural households as members of households have left and become independent units in the modern labour markets. The gendered nature of poverty seems to be the most evident of all the consequences of globalization. The need for survival strategies emerging from this gendered nature of poverty and economic globalization results in the supply of women and their sexuality.

Women and children seem to be the most affected as they are looked at as 'service providers' of 'personalized, reproductive services in the entertainment and sex industry, domestic work and marriage market'.⁶⁸ In India, for instance women are faced with basic livelihood crisis, food and income insecurity; unemployment/lack of work; environmental degradation; class/caste/racial and gender violence; inadequacy and reprivatisation of public services essential to human production; increased burden and reduced entitlements of resources and legitimacy.⁶⁹ A similar condition arises in Nepal. Poverty, lack of economic opportunities and deteriorating conditions in their homeland force women to migrate to urban areas. Most of them fall prey to traffickers. Others on reaching new areas find adjustment difficult and women especially with little or no education or skills to survive are pushed into vulnerable situations.

Indrani Sinha⁷⁰ says that the pressure that builds up due to poverty makes a woman's body a commodity. Women are pushed into selling their bodies for sex or labour. The poverty of large numbers of people she says acts as an indirect incentive to trafficking in human beings, especially women. She concludes the chapter saying "trafficking in women for commercial sexual exploitation is therefore one of the biggest manifestations of women being marginalized and victimized systematically, and then the formalized relegation of women to sexual exploitation, linking it to economic survival, to perpetuate this system".⁷¹

⁶⁸ 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*, UNICEF Regional Office, Save the Children Alliance.

⁶⁹ Ibid.

⁷⁰ Ibid

⁷¹ Ibid

The proliferation of the sex industry through the illegal trade in women across transnational borders is one of the fastest booming economic enterprises today. It has made contributions in developing other sectors such as the tourism industry, entertainment sector, business and national and international media communications. Several Asian nations and under developing countries in their efforts to meet national development and international trade have also found to be dependent on this flesh trade for their source of foreign exchange. International tourism now includes sex pleasure in its various packages. Regions like Thailand, Russia, Kenya, Goa, Sri Lanka, Brazil, Vietnam, Philippines et al are known as venues for “sexual adventures”.⁷² It is at the expense of the exploitation of the flesh trade of women that capital accumulation under globalisation is taking place.

International Conventions and Efforts in Dealing with Trafficking

The beginning of the twentieth century marked the international recognition of trafficking for purposes of sexual exploitation as an international criminal activity that harmed the human dignity of its victims.⁷³ The first international document on trafficking, titled ‘*International Agreement for the Suppression of the White Slave traffic*’ was adopted in 1904 which defined trafficking as the forceful procurement of women or girls overseas for morally wrong purposes. It addressed the issue of white victims only. Six years later, in 1910, the ‘*International Convention for the Suppression of the White Slave Traffic*’, adopted in Paris expanded the definition of trafficking to include trafficking that occurred within national borders. Force and deception seemed to be necessary conditions in the above two definitions with regard to the victims of trafficking. Both these instruments sought the establishment of a common policy against the prostitution of women and minor girls who were abused. The Paris convention criminalized forced traffic and prostitution of white women and girls.

⁷² Naresh, Newar (December 1998): ‘Trafficking: Globalising Sex Trade’, Kathmandu.

⁷³ Ucarer, Emek (1999). Trafficking in Women: Alternate Migration or Modern Slave Trade? In Meyer, Mary and Prugl, Elisabeth (1999): *Gender Politics in Global Governance*. Rowman and Littlefield Publishers, United States.

A third international instrument was signed in 1921. *'The International Convention for the Suppression of the Traffic in Women and Children'*, as it was called, removed the racial category and added a requirement to prosecute and repatriate persons engaged in trafficking of children of both sexes and women apart from those who are white. In 1933, the *'International Convention for the Suppression of the Traffic in Women'*, defined trafficking without considering notions of women's consent or coercion and mainly seeing women being transferred to other countries for immoral purposes so long as it took place across nation-state borders. The Geneva Convention as it was also called, specified that "[w]hoever, in order to gratify the passions of another person, has procured, enticed or led away *even with her consent*, a woman or girl of full age for immoral purposes to be carried out in another country, shall be punished..".

The UN *'Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others'*, adopted in 1949 broadened the horizon with regard to trafficking. The Convention considered all individuals involved in the trafficking of persons and their exploitation through prostitution to be a criminal liability. This also included punishment for brothel owners and people who rent out property for purposes of prostitution of others.

With the United Nations Decade for Women, the issue of trafficking of women reappeared on the United Nations agenda. The United Nations General Assembly adopted the 1979 United *'Convention on the Elimination of All Forms of Discrimination against Women'* (CEDAW). It called on states to suppress all forms of trafficking in women and the exploitation of prostitution. The creation of CEDAW also included application of human rights dimensions to women's experiences by the 1990s. According to CEDAW, it was obligatory for all states to protect the rights of women and eliminate discrimination of all kinds against women.

The *'Beijing Platform for Action'*, in 1995, a Fourth World conference on Women, sought after raising awareness and generating discussions on trafficking, as another form of violence against women. It identified the "effective

suppression of trafficking in women and girls for the sex trade” as a “matter of pressing international concern.”

A new U.N. ‘*Convention against Transnational Organized Crime*’, was opened for nations’ signatures in December of 2000. Its supplementary Protocol, was added in 2001. The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (“2001 Protocol”), recognizes that trafficked persons are not criminals but victims who should be protected and assisted. The protocol also establishes obligations for state parties to cooperate in preventing and combating trafficking and to criminalize trafficking.

A discussion of these contemporary international documents is essential as they are central to the continuing debate about how trafficking for sexual exploitation is defined and in having knowledge as to which acts of trafficking constitute human rights violations.

Anti-Trafficking Interventions

Apart from the international documents on trafficking discussed above, it is important to know that there are several anti-trafficking interventions being carried out by numerous governmental, nongovernmental and international organizations and sex worker collectives. Efforts and intensions of anti-trafficking legislations on the national and international front are seen to be directed towards detaining groups involved in the process of recruiting, transporting and exploiting individuals. Apart from this, provision of a framework for the support and aid of victims is also included. However, the anti-trafficking interventions made by various organizations are clearly divided along ideological lines regarding perceptions on prostitution.

The first group of interventions comprise of those who firmly believe and follow the Coalition against Trafficking in Women (CATW) founded by Kathleen Barry. It is one of the largest and most influential international anti-trafficking organisations. It is based on the ‘neo –abolitionist’ view which considers prostitution as a form of violence against women and defines it as sexual exploitation; “a practice by which women are sexually subjugated through abuse

of women's sexuality and/or violation of physical integrity as a means of achieving power and domination including gratification, financial gain, advancement.⁷⁴ According to this all prostitution is a violation of human rights, and 'trafficking in women' is taken to mean any migration for prostitution. There can be no distinction between forced and voluntary prostitution according to the CATW.

The other ideological foundation on which anti-trafficking interventions are based is known as the Global Alliance against Trafficking in Women (GAATW). This second position against trafficking makes a distinction between 'trafficking in women' and 'forced prostitution' on one hand, and 'voluntary prostitution' on the other. According to GAATW, traffic in persons and forced prostitution are "manifestations of violence against women and the rejection of these practices, which are a violation of the right to self-determination, must hold within itself the respect for the self-determination of adult persons who are voluntarily engaged in prostitution."

This distinction between 'trafficking in women' and 'forced prostitution' on one hand and 'voluntary prostitution' on the other, acknowledging prostitution as a form of work, by GAATW and other feminists was highly influenced by the sex worker rights' movement, whose contemporary organisation began in the mid 1970s.⁷⁵ Prior to this, sex workers did not partake in the decisions related to prostitution. Most distinctions were made interpreting the issue on the lines of Regulationists; 'innocent girls' need protecting, 'bad women' who chose prostitution deserve all they get.

Apart from this, Nandita Baruah in "Trafficking in Women and Children: The South Asian Reality", brings out the existence of three main legislative policy approaches that have emerged within the anti-trafficking framework to deal with

⁷⁴ CATW: (Draft) Convention on the Elimination of All Forms of Sexual Exploitation of Women, 1993 Art. I.

⁷⁵ Doezeema, Jo (1999). Loose Women or Lost Women? The re-emergence of the myth of 'white slavery' in contemporary discourses of 'trafficking in women', *Gender Issues*, Vol. 18, no. 1, Winter 2000, pp. 23-50..

the contentious issue of the legal status of women involved in sex work. These are: The Criminalization Construct, The Decriminalization Construct and The Legalization Construct.

The Criminalization Construct known to be a 'moralistic approach' comprises of the abolition and toleration form. Both forms perceive sex work as evil to the society. Legislation based on this aims at condemning and eradicating prostitution. Brothel keeping and trafficking are criminalized. However, this construct is said to silence the actual legality or illegality of the act and also seems to give an added power to police officials who may harm or inflict damage upon sex workers. In the current law in Nepal, sale of sexual services in public places, brothel keeping, purchase of sexual services is criminalized.

The Decriminalization Construct on the other hand, is "the outcome of new world feminist construct of female sexuality", according to Baruah. This approach differentiates between voluntary sex work as a choice of adults and trafficking. It aims to protect the rights of sex workers and demands for decriminalization of voluntary sex work and abolition of laws acting as barrier to their activities. Issues related to forced sex work are clubbed under a separate issue stressing on the need to strengthen existing laws relating to trafficking. It remains silent about prostitution and the sex trade but deals with sex trafficking, commercial sexual exploitation, rape etc. under the criminal law.

The Legalization Construct, as the name suggests legalizes sex work and removes it from the realm of a criminal activity. Regulation of sex work by the government in the form of providing licenses to brothels and compulsory health checks for prostitutes etc is provided under this construct. It makes sex work a profession highly regulated and professed only within the confines of registered brothels.

The debate regarding the best construct to be taken into consideration in dealing with combating trafficking is still ongoing. Agencies and organizations all over are still working on adopting the most suitable construct in dealing with the issue.

Trafficking In the Context of South Asia

With the growing trends of trafficking in South Asia, countries in the region have been classified as either 'sending' or 'receiving' countries. Sending countries would comprise of those from where people are trafficked. They are also known as the sites of origin. Countries into which people are trafficked would comprise receiving countries also known as sites of destination. A country such as India however serves as a sending, receiving and transit point. "It is not only a site of destination within the region, but a transit country as well wherefrom women and children are siphoned off to sites within the region as well as to other parts of the world"⁷⁶. In this context, countries like Nepal and Bangladesh are considered to be 'sending' countries or countries of origin. Pakistan on the other hand, is a destination as well as a transit country.

Trafficking of South Asian women and children takes place within and across countries of the region as well as to other regions and continents. The clandestine nature of trafficking in humans makes it difficult to procure any kind of reliable data and statistics on the number of women and children trafficked. The growing magnitude of the problem is however evident.

A brief description of country wise, trends and practices relating to trafficking in various South Asian countries, would highlight the gravity of the situation and give a more vivid picture of this inhuman flesh trade.

Bangladesh:

With an increase in the number of women and children being trafficked each year, the issue of trafficking has been of great concern in the country. Known as a country of origin and transit for women and children trafficking for purposes such as of sexual exploitation, involuntary domestic labour and debt bondage takes place. Several Human Rights groups in Bangladesh, estimate that about 10-20,000

⁷⁶ Sanghera, Jyoti (2000). Trafficking of Women and Children in South Asia: Taking Stock and Moving Ahead. A Review of Anti-Trafficking initiatives in Nepal, Bangladesh and India. Commissioned by: UNICEF and Save the Children.

women and girls are trafficked yearly to India, Pakistan, Bahrain, Kuwait, and the United Arab Emirates (UAE). Women and children from rural areas in Bangladesh are trafficked to urban centers for commercial sexual exploitation and domestic work.⁷⁷ Several political commitments and efforts to strengthen legislative acts have been taken to combat trafficking. However, several NGOs that exist in the country have raised issues and said that the existing laws against trafficking and their implementation are weak. Efforts in dealing with the issue need to be strong and concern regarding repatriation of Bangladeshi women who have been trafficked abroad needs facilitation.⁷⁸

India:

As mentioned earlier, within the general profile of trafficking in South Asia, India is a source, transit, and destination country. There is prevalence of internal trafficking as well as trafficking to the Gulf States and to Southeast Asia. Women from Bangladesh are trafficked to India or transited through India on their way to Pakistan and the Middle East for several different purposes such as sexual exploitation, domestic servitude, and forced labor. Likewise, Nepalese women and girls are trafficked to India for similar purposes. India is also a growing destination for sex tourists from Europe, the United States, and other Western countries.⁷⁹ The most favoured destinations are Mumbai, Kolkata, Delhi and other major metropolitan cities.

Efforts in dealing with the issue in hand have mostly focussed on trafficking into the sex industry. However, state level initiatives are also on the run in the country. West Bengal, Maharashtra, Uttar Pradesh, Bihar as well as states in the south have

⁷⁷ Revisiting the human trafficking paradigm: the Bangladesh experience, International Organization for Migration; 2004. In Huda, S. (2006) "Sex trafficking in South Asia", *International Journal of Gynecology and Obstetrics*, 94, 374—381.

⁷⁸ Baruah, Nandita (2008) " Trafficking in Women and Children: The South Asian Reality", In Bhatia, M. Bhanot, D and Samanta, N (eds). *Gender Concerns in South Asia: Some perspectives*, Rawat publications, Jaipur, 2008.

⁷⁹ Huda, S. (2006) "Sex trafficking in South Asia", *International Journal of Gynecology and Obstetrics*, 94, 374—381.

their own policies on trafficking of women and children especially into the sex industry. Cross border interventions with Nepal and Bangladesh have also been employed by certain states like Uttar Pradesh, West Bengal and Bihar.⁸⁰

Pakistan:

Pakistan is a source, transit, and destination country for trafficked persons. Women and girls are trafficked from Bangladesh, Iran, Burma, Afghanistan, Nepal, and Central Asia for commercial sexual exploitation and other purposes. They are mainly picked up from rural areas and trafficked to urban areas for commercial sexual exploitation and labour. Pakistan also serves as a transit area for women trafficked from East Asian countries and Bangladesh to the Middle East. Pakistan has been reported to have a high rate of trafficking of children to Gulf Countries for camel racing.

Afghanistan:

Afghanistan is both a source and transit country. Women and girls are abducted, lured by false marriage proposals, or sold for forced marriage and prostitution in Pakistan. Internal trafficking also takes place during settlements regarding disputes or debts and also for forced marriage and labour and sexual exploitation. Iranian women transit Afghanistan to Pakistan where they are forced into prostitution.⁸¹ A recent research assessment of the situation of trafficking in persons in Afghanistan conducted by the International Organization for Migration reveals that the key factors responsible behind this are armed conflict, insufficient internal security, effects of drought and socio-economic pressures. Women's

⁸⁰ Sanghera, Jyoti (2000). *Trafficking of Women and Children in South Asia: Taking Stock and Moving Ahead. A Review of Anti-Trafficking initiatives in Nepal, Bangladesh and India.* Commissioned by: UNICEF and Save the Children.

⁸¹ US Department of State S. Trafficking in persons report. 2004 (June) In Huda, S. (2006) "Sex trafficking in South Asia", *International Journal of Gynecology and Obstetrics* , 94, 374—381.

inability to report cases and reach the judiciary for legal help and support has been listed as major obstacles in combating trafficking in the sub region.⁸²

Sri Lanka:

Sri Lanka is seen as a source country for women who are trafficked to Lebanon, Saudi Arabia, Kuwait, the United Arab Emirates, Bahrain, and Qatar. Small populations of women from Thailand, China and Russia have also been trafficked to Sri Lanka for commercial sexual exploitation. Internal trafficking of women and children for domestic and sexual servitude also takes place.

Nepal:

Nepal is a source country for girls and women trafficked to India for purposes of prostitution, domestic servitude, forced labour etc. Victims are mainly lured to India through fraudulent promises of marriages or decent well paying jobs. Certain others are sold off by family members or forcefully abducted by traffickers. Apart from cross border trafficking to India, women from Nepal are trafficked to Saudi Arabia, Malaysia, the United Arab Emirates and other Gulf countries for exploitative purposes. Internal trafficking for forced labour and sexual exploitation is also a prevalent phenomenon there.

In this context, the case of Nepal shall further be stressed upon to show the mounting growth of the problem of human trafficking in the region. It is considered as a prominent hub of trafficking. Known as a 'sending country', the problem seems to be a menace in the country. There has been great concern about the issue in the nation. Efforts to combat trafficking in the country have been taken up by several different agencies, non-governmental organizations and government bodies too. Several laws and conventions to deal with the problem

⁸² International Organization for Migration (IOM) S. Trafficking in persons: an analysis of Afghanistan. 2004 (January) In Huda, S. (2006) "Sex trafficking in South Asia", *International Journal of Gynecology and Obstetrics* , 94, 374—381.

exist in the country. Considered as one of the least developed countries of the world, it lacks adequate resources for the overall development of the nation.

*“Trafficking is an integral offshoot of the need for outmigration in Nepal”.*⁸³ Estimations reveal that trafficking takes place at a large scale with thousands of women and girls being trafficked out of the country each year to neighbouring countries, mostly to India. The open border between Nepal and its neighbour India makes way for easy access into and out of the country, which is an added benefit to the traffickers. As mentioned earlier the clandestine nature of the flesh trade, does not allow easy gathering of figures in tracking down the number of women trafficked. However, there are estimates made of about 200,000 women and girls from Nepal trafficked and living in harsh conditions in red light districts of certain cities in India. The history of migration of Nepali people to India, for employment purposes, as a result of poor economic conditions and low status accorded to women and girls has been serving as a catalyst in accelerating cross border trafficking.

⁸³ 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*, UNICEF regional office, Save the Children Alliance.

Chapter III

Trafficking In Women: A Social Reality in Nepal

With political changes in the country, Nepal today is still facing the challenge of building a new Constitution. The Interim Constitution was adopted on January 15, 2007. Nepal is governed under the Interim Constitution of Nepal, 2007. All issues are being revised and discussed.

One key area of focus is on the issue of sex workers and victims of sex trafficking. Trafficking has been a social menace in Nepal for a very long time now. However, discussions related to it came to the forefront only after 1990.¹ Women and girls are taken across borders and sold in huge numbers into brothels in India and other parts of the world for sex work. 'Cheli- beti', literally meaning daughters, is a term used in the Nepali language to refer to women of all ages, residing and working in India.² The term has so well been broadcasted that trafficking in Nepali is called 'Cheli- beti bech bikhan' (meaning the sale of daughters). The ones sold either have no knowledge of what is happening or are duped into believing assurances of a bright future. Though trafficking of women and girls across national borders and within countries has developed a global sex industry, the problem is acute in Nepal which has around 42% of its population living below poverty line.³

Efforts to deal with this issue are being carried out by several non-governmental organizations and international organizations. Apart from organizations, the media, the state and activists have also been making efforts. Attempts are varied and within one's own capacities. Anti-trafficking campaigns and movements form an integral part of the agenda of these various organizations. Laws of the state to combat the issues have also been developed to a certain extent. Most efforts are

¹ Rajbhandari, Renu: 'Human trafficking in South Asia: A focus on Nepal', In Cameron, Sally and Newman, Edward eds. (2008): *Trafficking in Humans- Social, Cultural and Political Dimensions*, United Nations University Press, Tokyo.

² Joshi, Sushma. (2001): 'Cheli- Beti' discourses of trafficking and constructions of gender, citizenship and Nation in modern Nepal', *South Asia: Journal of South Asian Studies*, 24:1, 157-175.

³ Asia Foundation (2001): 'Trafficking and Human Rights in Nepal: Community Perceptions and Policy and Program Responses, Population Council/Horizons, New Delhi.

built along radical stands, where some support legalization and regulation of prostitution and others are for criminalization. However, there are some who have adopted the in-between approach.

Before going into the depths of the matter, it is important to know that prostitution is a highly stigmatized and criminalized issue in the country. Most trafficked women are looked upon as women who are engaged in sex work making it difficult for trafficking survivors to return to their communities. Equating trafficking with prostitution and hence women's mobility, resulted in the creation of strict laws and policies putting restrictions on women's mobility.⁴ There are currently about 57 NGOs which are currently working on the issue of trafficking and claim to have taken up anti-trafficking as their main area of focus.⁵ Despite several efforts, the numbers are still on the rise.

To grasp a detailed knowledge of the true situation of this lucrative business, it is but necessary to delve deep into the social systems that exist within the nation to understand the reasons for the vulnerable situation of women and girls in Nepal in relation to trafficking. An advocate/gender expert, Sapana Pradhan Malla stated that "there is a structural and historical discrimination against women which contributes to their vulnerability". A description of the interplay of the gender and caste/class structures in the country shaping the discourse would bring out the lines along which power confinement among the masses exists. An insight into the historical, cultural and religious emergence of prostitution and sex work in the country automatically becomes an integral part of the discourse around trafficking.

⁴ Rajbhandari, Renu : 'Human trafficking in South Asia: A focus on Nepal', In Cameron, Sally and Newman, Edward eds. (2008) : *Trafficking in Humans- Social, Cultural and Political Dimensions*, United Nations University Press.

⁵ Crawford, Mary (2010): *Sex Trafficking in South Asia: Telling Maya's Story*. Routledge, London and New York.

Historical Context of Prostitution in Nepal

Sexual exploitation of girls and women in Nepal has a history of its own. Girls and women were subjected to this violence since the Malla regime which continued through the Rana regime (1846-1951 in the Western Calendar).⁶ These were the then rulers of Nepal having a control over all important spheres of the nation. Young girls from different parts of Nepal were often taken to their palaces to either serve as servants or to satisfy their sexual needs. Many others were taken as dancers and singers for luxury as well as sexual pleasures. Most of them belonged to the Tamang⁷ community who inhabited mountain districts like Sindhupalchok and Nuwakot. However, with all power lost and resources exhausted due to the overthrow of the Rana regime in 1951, they lost control over their servants and women too. Most of them migrated to different parts of India and took some of the women with them. However, due to the deterioration in their economic condition they could not maintain their lavish lifestyle. Most of these women who had no alternatives but to return to their native homes were regarded as 'socially unacceptable'. Hence, with the downfall of the Rana rule, demand for hill girls in the Valley reduced significantly.

The people involved in supplying women to the Rana household however, established links with brothels in India and began this lucrative business of trading women for commercial sexual exploitation.⁸ Stranded and helpless most of the women resorted to selling themselves into prostitution in different brothels in India for economic income and survival. Hence, began 'sexual slavery' of Nepalese girls into Indian brothels. Surprisingly, there was a high demand for

⁶ Sangroula, Yubaraj (2001). *Condemned to Exploitation: Trafficking of Girls and Women in Nepal- Building a Community Surveillance System for Prevention*. Kathmandu School of Law, Nepal.

⁷ Tamang is an indigenous group of people who live mostly in the northern mountain and hill regions of Nepal. They are considered most vulnerable to trafficking.

⁸ Sangroula, Yubaraj (2001). *Condemned to Exploitation: Trafficking of Girls and Women in Nepal- Building a Community Surveillance System for Prevention*. Kathmandu School of Law, Nepal.

Nepalese girls in India. Several factors contributed to the rise in the number of Nepalese women and girls being traded into commercial sexual exploitation. The evident reasons were the fairer skin tone of the girls and women and their shy and timid nature.

Most villages and rural areas in the country were under-developed and overall living conditions were deteriorating after the downfall of the Malla regime. Illiteracy, backwardness, lack of economic opportunities overshadowed the people. The women and girls who returned from the cities with certain amount of prosperity earned, seemed to impress the naive girls in the village. Traffickers (also known as gallawals) make use of the naivety and make false guarantees to the girls and women about providing them the same kind of life. Promises of marriage, opportunities to find excellent jobs with a good pay package, assurances of getting into the film industry etc are some of the ways in which they lure the innocent and cajole them into leaving their homelands. Even parents of the girls, are assured that their daughters would find meaning means of income, unaware of the harmful consequences that await them. They are duped into believing that their daughters would be given good jobs and hence would be able to rejuvenate the present poor economic condition of their homes and live the life of city girls.⁹

As mentioned earlier, women are trafficked for several reasons. However, the greater proportions are mainly sold into prostitution. After which, they live under the roof of 'sexual slavery'. Ill-treatment, torture, battering, rape are the initial stages of this slavery victims are subjected to.

Discriminatory Social and Cultural Practices

Certain social and cultural traditions intensify the situation by objectifying girls and women. In this regard, it is important to discuss communities like the 'Badi', in which prostitution was a norm of their society. They were known as sex workers by caste and profession.

⁹ Rajbhandari, Renu and Rajbhandari, Binayak (1997): *Girl Trafficking: The Hidden Grief In Himalayas*, First Edition, WOREC, Nepal.

An untouchable Hindu caste, the Badi also known as a 'prostitute caste', with a population of about 70,000¹⁰ living in areas of far western Nepal were originally entertainers. They are believed to have come to Nepal from India and settled in far western Nepal. Until the 1950's, wealthy landlords living in western Nepal provided them with all the comforts in life in exchange for their entertainment and sexual services. However, with the overthrow of the Rana regime in the 1950's and establishment of a democratic government under King Mahendra, the Badi community no more received any kind of benefits from them. With no other means of covering up for their loss in income they began extending their prostitution facilities to men apart from the earlier rulers and landlords. Hence, they became dependant on sex work for their income generation. The Badi community saw the act as justifiable considering their economic status. In fact, among them the birth of a girl child is celebrated and cherished compared to the rest of the nation where that of a boy is considered a blessing, as girl children are said to be a source of living and hence provider of security for aging parents. Hence, unlike other communities, status of women in the Badi community is higher than that of men. However, when it came to notions of violence that they were subjected to, they had to prove themselves as falling under the true definitions of 'victims' to gain any kind of protection provided by the State.

Cox, in "The Badi: Prostitution as a Social Norm among an Untouchable Caste of West Nepal", says that historically the Badi were entertainers for certain rulers and landlords in western Nepal and had sexual liaisons only with them. They began prostituting over past several decades as a result of political and economic changes after which they were known as a caste which professed prostitution.

Another such practice that put women onto a threshold in the name of religion and culture is the 'Deuki pratha'. The practice is very similar to the 'Devdasi System' of India. Women are offered or married to God and are supposed to live their lives in the temple. The girls who are offered to the local deity are called 'deuki's', literal translation being female servant to God. Marriage of a 'deuki' is not permitted as she is considered married to the God in the temple. She is not

¹⁰ Cox, Thomas. (2006): *The Badi of West Nepal*. Orchid Press, Hong Kong.

accepted back into the society once she has been offered as a 'deuki'. This practice is common in far western Nepal. It is looked at as a kind of sacrifice or 'bhakal' in Nepali, to fulfil certain wishes of theirs. Once in the temple, they are supposed to serve the priests and other inhabitants of the temple. The services regardless of the nature are looked at as service of God. Many get involved in sex work as their conditions of living provided in temple are not sufficed. Situations of helplessness result in women being more vulnerable to such acts. Ghimire, in "Girl Trafficking in Nepal- A Situational Analysis", says that there is some evidence suggesting women and girls of ethnic castes like the 'Tamang' and 'Rai', as mostly at risk apart from those from caste groups like the blacksmiths and tailors. It is important to note that the laws in Nepal strictly forbid this practice to flourish anymore.

Both the above mentioned practices are a form of institutionalized exploitation of women. In the name of tradition, culture and religious sanctions, prostitution of economically and socially helpless women are being encouraged. The existence of such practices in the Nepalese society rooted in its tradition and culture, further make women of Nepal more vulnerable to commercial sexual exploitation.

In order to understand why women from Nepal get involved in prostitution or become victims of trafficking it is important to analyze the social systems in the country. Gender structure, social and cultural context are some of them to begin with. The impingement of gender in various fields of life of a Nepali woman will bring out several reasons behind this phenomenon.

Gender Structure

A social and universal system of classification of the sexes, 'gender', clearly impinges on every aspect of life of an individual in society. It shapes individual thoughts, processes and feelings and thereby influences interactions among individuals making a difference to the formation of social structures and institutions in society. It is a cross-cutting phenomenon which has a bearing on all levels of one's life, be it public, interpersonal or individual. According to Ann

Oakley¹¹, gender refers to the “parallel and socially unequal division into femininity and masculinity”. It “draws attention to the socially constructed aspects of differences between women and men”.¹² In the sociological discourse, sociologists emphasize that the term ‘gender’ should be used in reference to socially constructed divisions of the masculine and the feminine. ‘Male’ and ‘female’ on the other hand, are terms meant for socially appropriate behaviour and temperament traits that have been culturally imposed to the sexes. It is through a continuous process of socialization that these traits have been learned.¹³

Activities attributed to men and women on the basis of perceived differences are known as gender roles. These are classified socially and not biologically. Culturally and socially defined relations between the sexes in terms of rights, responsibilities and identities of men and women relative to each other are known as gender relations. A prerequisite in understanding the true situation of women requires a study of gender relations which include interactions between women and men in different domains and power relations between the sexes. Gender systems are interwoven within larger social formations, like religion, ethnic identity etc. These are reflected in social traditions, but are also dynamic in nature, influenced by forces of social and economic changes.¹⁴

Gender roles which seek justification from biological categorizations of the male and female follow a specific pattern in most patrilineal societies. Men dominate and rule over the family and have powers over decision making in the house and society as a whole. Women on the other hand, are considered subordinate in position. The important roles performed by a woman in reproduction, production and the community are often concealed and undervalued in a society dominated by males.

¹¹ Oakley, A. (1972): *Sex, Gender and Society*. London: Temple Smith In Marshall, Gordon (1998): *Oxford Dictionary of Sociology*, Oxford University Press, England.

¹² Marshall, Gordon (1998): *Oxford Dictionary of Sociology*, Oxford University Press, England.

¹³ Jary, D & Julia, J (1995): *Collins Dictionary of Sociology*, Second Edition, Harper Collins Publishers, Glasgow.

¹⁴ Gurung, D.J. (1998): *Introduction in Searching for Women's Voices in Hindu Kush Himalayas*. ICIMOD, Kathmandu.

Power vested in the hands of men has an impact on social systems existing in the society. The socialization process of women and men in Nepal naturalizes patriarchy. Male domination is said to exist all throughout. Being a patriarchal society, it is but clear that men dominate most social systems of Nepal and women are at the receiving end of its repercussions. They are accorded a low status than men in all domains of life, be it social, economic, cultural or political. Control over her productivity, reproduction and sexuality are also perpetuated with the beliefs of the patriarchal system. The role of tradition, culture and religion in reinforcing inequality is tremendous. Gender discrimination and inequality is an age old phenomenon in the country and has become a norm of life there. It has an incredible impact on the issue of trafficking in the country. The gendered structure clearly seems to be one of the root causes behind trafficking. It is important to discuss the different gendered discriminatory arenas in the nation to be able to see it as an important and major factor contributing towards the increase in trafficking of Nepalese women.

Before going into these realms, it is important to note that the NGO sector of the country dealing with the issue of trafficking mainly comprises of Hindu men and women who have a protective outlook towards the women involved. However, with changing times, more women have gained access to power structures. Though the gender structure of the Nation described is a generalized overview and cannot be applied to the entire population of Nepal, it does provide a platform for understanding the nature of gender relations that exist through which Hindu women find their way to power and autonomy.

a) Gendered Ideology

The process of upbringing and socialization clearly put women onto a margin defining them as naturally incapable of all that men can do. Starting from birth, a girl child faces discrimination and is looked upon as a burden that one has to bear till she enters into matrimony.

Nepal is a country where women make up about more than half of the country's total population. However, they are meted out with differential

treatment at all situations of their life. Nepal is one among other South Asian countries where women are often treated as second class citizens contributing to a more vulnerable situation of trafficking. Common and conclusive ideologies of legitimate power differences also play an important role in forming the gender structure in Nepal. A very important basis on which women are defined in Nepal is on the grounds of their *kinship patterns* and relationships rather than as adult citizens.¹⁵ They are known as wives, mothers, sisters and daughters primarily.

Until very recently, Nepal was the only complete Hindu nation in the world. Its hold and influence in the belief that female sexuality is supposedly harmful in a man's quest for spiritualism is strong among its 'gendered subjects'. Sons are always accorded a higher status as compared to daughters. Major social responsibilities and provision of facilities and services to parents are believed to be rendered only by sons. None of these responsibilities are placed on daughters as they are considered incapable of its provision which clearly explains the *preference of sons* to daughters in the society. Most high class and upper middle class Hindu families do not consider the birth of a daughter as auspicious as that of a son. The girl child will eventually have to leave the natal home and live in her husband's home, which saddens the parents. However, she is also looked upon as an 'economic burden', due to marriage practices like dowry.¹⁶ Common Nepali sayings and proverbs stating this exist in the society. 'Choriko janma, hareko karma' - To be born a daughter is a lost destiny.¹⁷

¹⁵ Joshi, Sushma (2001): 'Cheli-Beti' discourses of trafficking and constructions of gender, citizenship and Nation in modern Nepal. *South Asia: Journal of South Asian Studies*, 24:1, 157-175.

¹⁶ UNICEF (1992): *The Girl Child in Nepal- Situational Analysis*, Kathmandu, UNICEF, 39-58.

¹⁷ Nepali proverbs cited in Kondos, V (2004). *On the ethos of Hindu Women*, Kathmandu, Mandala Press In Crawford, Mary (2010) *Sex Trafficking in South Asia: Telling Maya's Story*, Routledge, London.

b) Division of labour and burden of responsibilities:

Gender inequality exists in economic activities and labour force. Women work for longer hours doing mainly physically exhausting work such as carrying heavy load like rocks and digging fields. Reference here is being made to low caste women as jobs like these were considered 'impure' and 'inappropriate' for high caste women.¹⁸ Along with this, women also do household work. In the same study, Cameron also says that though statistics show that women have more leisure time than men, as they spend lesser time outside doing work, it is women who do more 'productive' and 'reproductive' work than men.

In terms of pay, women are paid lesser in comparison to men for doing the same kind of jobs. In the field of agriculture for example, women are paid only four-fifths of what men are paid. In non-agricultural jobs with an exception to civil societies, women are paid only three-fourth of what men receive, reported Acharya.¹⁹

Cameron's study also shows that women work hard for long durations to bring in more cash and grain income in comparison to the males. They perform numerous tasks inside and outside the household and hence have to bear more of the burden. In situations like these, with double burden most women push themselves into prostitution or join dance bars as they prefer this over difficult labour.

Apart from this, gender inequality in labour force is also institutionalized. The National Census results of Nepal, 2001 showed that though females comprised majority of the country's population, only 9.1 percent jobs in public service were borne by them.²⁰ The actual truth of the matter suggests that women

¹⁸ Cameron, M. Mary (1998): *On the Edge of the Auspicious: Gender and Caste in Nepal*, Urbana: University of Illinois Press.

¹⁹ Acharya, Meena (2003): *Efforts at Promotion of Women in Nepal*: Kathmandu, TPAM foundation

²⁰ Central Bureau of Statistics Nepal, 2003.

worked 47 percent more hours than men in an average in a day. Household work is not considered work though it may involve several hours of day. Proceeds of agriculture are controlled by men. Acharya and Benett in their study on, 'The status of women in Nepal', say that despite women's greater contribution to the economy, they do not have any formal ownership or legal control over productive resources. Women's share in wage employment in the non agricultural sector is only 17.5 percent.²¹

The findings of the study, 'The Status of Women in Nepal', also state that women are most vulnerable during the "hungry months", which is the period from June to August as mountain villages suffer from higher levels of poverty during this time, in their wait for the new harvest. Depletion of grains and hunger push them to money lender and feudal lords for help, with most people even moving to the urban areas for income generation. Women mostly find jobs in carpet and garment factories and some enter into domestic servitude. Pradhan, in 'The Road to Bombay: Forgotten Women', says that a great proportion of these women disappear to India.

(c) Access and control over resources: Exclusion of women from civil rights and education:

Control over productive resources like property, inheritance, civil rights, education etc all seem to be in favour of the men in the society. Despite, the Constitution of Nepal, prohibiting discrimination based on sex; there are several discriminatory laws still prevalent. Women in Nepal were until recently defined in terms of their relations with the men in their lives, their husbands for those who were married and their fathers for those who were not married. *Citizenship* was not regarded a birthright in the Nepali legal system but was considered something that could be sought only through the father. A

²¹ Central Bureau of Statistics Nepal, 2003, 2006.

woman could not transfer citizenship to her children or spouse, whereas a man could.²²

Despite possession of documents related to citizenship, access and rights to inherit *property and land* are still very limited to women. Their access to these means of economic security depends on their status as daughters, wives and mothers²³ and their sexuality. The patriarchal system of inheritance of parental property gives high priority to men despite current legislation of inheritance of property defining women and men as having equal rights to inherit parental property.²⁴ There existed historically discriminatory laws of property and inheritance against women. 'Aungsabanda', was one such law according to which ancestral property was to be divided among its heirs. Women were excluded from this law and only males of the family had the right to inherit ancestral property.²⁵ This discriminatory law required the women to remain sexually chaste and unmarried till the ages of 35, if at all she wanted a share of the property. Any violations would result in her having to forgo the property. Lack of resource control over land which is considered a major form of wealth and farming a major source of livelihood is certainly detrimental to the development of status of women in a country and a clear discrimination against what is usually termed, the 'weaker sex'.

'Educating a daughter is like watering your neighbour's garden'²⁶. Nepali proverbs like this clearly show the attitude of people to education of girls and women in Nepal. A *right to education* is still not meted out to all and the

²² Pradhan-Malla, S (2004): Report on the Laws and Legal Procedures concerning the Commercial Sexual Exploitation of Children in Nepal. Kathmandu: ECPAT/FWLD.

²³ DFID (2006): Unequal citizens: Gender, Caste and Ethnic Exclusion in Nepal. Summary. Kathmandu: World Bank/DFID.

²⁴ National Report (2008-2009): Trafficking in Persons: Especially on Women and Children in Nepal, National Human Rights Commission, Lalitpur, Nepal.

²⁵ Sangroula, Yubaraj and Geetha Pathak (2002): *Gender and Laws: Nepalese Perspective*. Kathmandu: Pairavi Prakashan.

²⁶ Nepali proverbs cited in Kondos, V (2004). *On the ethos of Hindu Women*, Kathmandu, Mandala Press In Crawford, Mary (2010) *Sex Trafficking in South Asia: Telling Maya's Story*, Routledge, London.

Nepali educational system still seems bleak. Girls and women are still disadvantaged in the system of education there. Most government schools show a gender gap in the enrolment number with males being the higher number. Recent studies have shown an improvement in the ratio of girls to boys. Primary school enrolment for girls seems to be coming close to the proportion of boys. The literacy rate of people six years of age and older is 65.5% for males and 42.5% for females.²⁷ 44.1% of people in primary schools, 41.5% in secondary school and 40.6% in higher secondary schools are girls.²⁸ Children from rural and low castes seem to have less access to education as compared to others.

Major gaps in literacy rates between males and females occur in cases of higher education. It is said that only 43.6% women to every 100 men, have their School Leaving Certificate (SLC, which one receives after clearing the tenth grade). Only 22.9% females to every 100 males have graduate degrees or above.

However, illiteracy still rules major portions of the country. Uneducated and illiterate girls are seen to be easy prey for traffickers. Studies have proved a clear correlation between lack of educational opportunities for girls and their vulnerable conditions to trafficking. NGO's characterize the gender gap in education as "one of the major reasons why girls fall into the traffickers' traps".²⁹

Hence due to lesser women acquiring higher education there are fewer women in the political arena. Although the compulsory provision of the 1990 Constitution requires at least five percent women's candidature in the election for House of Representatives, the numbers of women candidates in the last three parliamentary elections held in 1991, 1994 and 1999 were gradually

²⁷ Acharya, Meena (2003): *Efforts at Promotion of Women in Nepal*: Kathmandu, TPAM foundation.

²⁸ Ibid.

²⁹ IIDS/UNIFEM (2004): *Status and Dimensions of Trafficking within Nepalese Context*. Kathmandu: Modern.

increased with a number of 81 (party candidate 73 and 8 independent), 86 (party candidate 74 and 12 independent) and 143 (party candidate 117 and 26 independent) respectively. But out of the total 205 seats only 6 (2.9 %), 7 (3.4 %), and 12 (5.8 %) women were elected (only the party candidates) respectively in 1991, 1994 and 1999. Nepali women's representation in the legislative body (Legislature-Parliament), however, was dramatically increased to 32.8% through the Constituent Assembly (CA) Election held on 2008.

Gender discrimination and hence, the lower status accorded to women in every aspect of social life in the country is a major factor contributing towards the violence they are subjected to. Sex trafficking as gender based sexual violence also takes place due to this discrimination. The notion of women being the 'property of men', in patriarchal societies instigates violence which has its justifications in the cultural domains of that particular society.

Popular conceptions and causes of trafficking in Nepal are related solely to poverty and lack of education. They are no doubt contributors in the creation of vulnerable situations and persons, but a major and most crucial cause is the oppression of women. Socialization plays an important part in the development of thoughts and likewise interactions among individuals. As stated above, the gender structure of Nepal consists of inequity at every point and women are subjugated all the time. Sexism seems to be a profound and deeply engraved problem in the country. Ideologies perpetuating and supporting the unfair gender structure have been internalised and treated as a normal phenomenon by women and girls who feel it is their duty to serve men. Hence, subjectivity created by social and cultural forces propagates the growth of the unequal gender structure.

Caste

Though certain explanations regarding caste have been described above, a detailed description of it as a factor contributing/making a difference to the

discourse of trafficking in Nepal requires it to be listed under a separate sub topic.

Like the caste system in India, even the Nepali caste system is highly complex and seems to be an integral basis on which the social stratification system lies. Both gender and caste are hierarchal structures which are deeply embedded in the society. They serve as guidelines in categorizing men as superior to women along gender lines and as higher and lower castes along caste lines. Brahmins/Bahun, Chhettri, Thakuri, Sanyasi are considered to be castes enjoying a higher status. According to the high castes, it is the Brahmins who rank higher than the Chhettri's, those occupying the middle section are the *Janajati* (non-caste indigenous people of Mongoloid appearances speaking Tibeto Burman languages and practicing mainly Buddhism) and then come the low caste people like the Dalits, Muslims, foreigners and untouchables. Despite the abolition of the caste system in 1963, it still has a strong hold over the happenings of life of a Nepali. Caste and ethnicity still remain strong indicators of status and dividing lines within Nepal. Most daily interactions especially for elite Hindus are guided by the caste system. Caste based restrictions on certain aspects of life such as marriage has a very strong hold. Inter-caste marriages have their own repercussions with a higher caste woman either losing her status by marrying into a lower caste or a woman of low caste being rejected by her high caste in-laws.

Studies in the past have proven that it is mainly the low caste and minority ethnic groups that are more prone to trafficking. Despite caste and class being important factors linked to the trafficking of women and girls in Nepal, there is less of material and resources laying this emphasis. Caste/Class becomes important determinants in the discourse of trafficking as it gives out information on the background of the victims and also the rescuers involved.

Most high caste women are said to look down upon low caste women. The kind of autonomy and freedom enjoyed by the ones lower in the strata seem to be curbed and restricted to those higher in the strata. The numbers of caste based restrictions and norms women of high caste are supposed to comply

with; a woman from a low caste does not need to rethink upon. High caste women view those of low castes as inferior. Efforts made by the low caste women to migrate and earn their living are looked down upon by them as it is seen as immoral. In most cases, high caste Hindu women feel that the low caste women make themselves more vulnerable to traffickers by violating certain restricted mobility patterns and moving around freely without any curbed boundaries.

Women and girls from certain castes were seen to be more prone to trafficking. Most studies conducted easily showed a pattern of women from certain ethnic groups being the vulnerable population. Women from the *Tamang, Magar and Sherpa* are said to be the most vulnerable groups. Another data says that about 80% of girls and young women who are trafficked for commercial sexual exploitation come from Dalit, Janajati, and Madheshi families. However, many studies now reveal that the phenomenon of trafficking has surpassed the boundaries of caste and ethnic groups. Vulnerability has extended to other castes too which were otherwise not targeted.

**Percent Distribution of Trafficking Survivors by
Caste/Ethnic groups in different survey reports**

Caste/ethnic groups of victims	CWIN Balika (1994)	RA ILO/IPEC 2001	Print-Media Reports 1994-2001, IIDS
Brahman/Chhetri	19.3	23.5	15
Janajati	53.4	45.9	22.4
Dalit	22.8	11.8	13.4
Madheshi communities	4.5	11.8	6.5
Caste/ethnic groups not stated	-	-	42.7
Total Number	100.0 (88)	100.0 (85)	100.0 (321)

Source: National Report 2006-2007, NHRC.

Other Important Factors

The serious problem of trafficking of women and girls for sexual exploitation in Nepal has increased over the years. Presence of a booming sex market in India with far reaching underworld networks in several cities and districts in India have furthered the gravity of this serious social problem. Confinement to particular castes and communities are also being ignored and traffickers are spreading their activities regardless of distinct castes or ethnic groups. Luring young girls and women by tempting them of good jobs in carpet factories, domestic services in well to do households in Kathmandu and likewise cities in India are seen to be most common modes used for trafficking. Involvement of relatives and family members in the transaction is also a pattern noticed.

No single factor can be identified as a root cause. The causes are many and they also tend to overlap with each other. They tend to differ from one area to another, one ethnic group to another, one family to another and from one individual to another. The institution of patriarchy which has a strong bearing upon the society in Nepal is seen as root procurement in the act of human trafficking. The three way link between patriarchy, sexuality and violence as described earlier clearly has its implications in the Nepalese society. Other factors responsible also need a detailed look to understand the nature and circumstances under which trafficking takes places at such an alarming rate in the country.

Immense Poverty: Being one of the least developed countries in the world, Nepal has about 24.7% of its citizens living below the poverty line. Deprived of basic needs and employment, extreme poverty has overtaken the lives of many of its citizens. Agriculture is a sole source of livelihood for most of the beings in Nepal. Unequal distribution of land has resulted in poverty ruling over the lives of the farmers. Observations have revealed that trafficking usually occurs from those living in the lowest stratum of society. Poverty stricken people fall easy prey to traffickers. There is increasing feminization of poverty as women are marginalized due to the existence of several discriminatory laws and practices. Women and girls are in search of better opportunities or alternative means of survival. They appear as vulnerable and easy targets. Most studies conducted by

organizations working on the issue of trafficking in Nepal clearly show that it is usually women and girls from poor class or lower economic status that are targeted.

Dearth of Employment Opportunities: Inability to create and carry out all round development through the utilization of resources of the country, including education and human resource development, resulted in low growth rate and high levels of unemployment and underemployment.³⁰ Most young boys and girls move out of their homes in search of better jobs in urban areas of Nepal or cities outside Nepal. Women migrate for labour purposes. They now constitute a significant proportion of Nepalese labour migrants. They run the risk of being migrants and that of being a woman. They are doubly challenged. Industries also serve as hubs from where traffickers lure young girls and dupe them into moving out of the tedious jobs.

Culture and Tradition: As mentioned earlier, certain communities like the Badi, traditionally and culturally approve the sale of girls for purposes of sexual exploitation. Prostitution is a social norm amongst them. Societies which have their basis on culture and tradition encouraging these acts tend to be favourable for traffickers who see no harm in procuring the transaction.

Open Border: Flaccid boundaries between Nepal and India contribute a great deal in the facilitation of trafficking. Supply of young girls to its neighbouring county becomes very easy for middle men involved in committing this heinous crime. Travel between the two countries without a visa or identity proof is an added benefit for the traffickers. This uncontrolled cross border mobility is one of the major factors responsible for increased trafficking of young Nepali girls into brothels in India. This open border has in a way served as a licence to sexual slavery.

³⁰ Rajbhandari, Renu : 'Human trafficking in South Asia: A focus on Nepal', In Cameron, Sally and Newman, Edward eds. (2008) : *Trafficking in Humans- Social, Cultural and Political Dimensions*, United Nations University Press.

Weak Governance and Deficiency of Adequate Political Commitments: Failure of the Nepalese government in protecting the rights of the people especially in the social and economic fields has resulted in fewer employment options and increased livelihood insecurity. Women are largely discriminated against though the constitution (the one written after the popular democratic movement of 1990) guarantees basic human rights to all citizens. Expenditure in the name of security and peace building by the government is tremendous. Despite heavy expenditure on security, more than 12,000 deaths have been reported, thousands disappeared and several hundreds of thousands displaced.³¹ The tourism industry is a powerful source of income for the country. However, inefficient and inadequate regulation of protection of those involved in this sector has resulted in exploitation of various kinds; commercial exploitation, sex tourism and other abusive slavery like practices. This has been stated as part of the corruption within the government sector.³²

A recent case of corruption and misuse of power was brought to notice by Utpal Parashar³³ in the 'Hindustan Times', dated 5th July 2011. A lawmaker from Nepal's ruling party was arrested for misusing his diplomatic passport for human trafficking. A member of Communist Party of Nepal (Unified Marxist Leninist), Baradmani Rana, was the third Nepali lawmaker arrested on the charges of renting his passport to human trafficking racketeers for huge sums of money. Gayatri Shah of Nepali Janata Dal and BP Yadav of Madesh Janadhikar Forum were also arrested in April for their involvement in human trafficking through misuse of their passports.

It is but clear that the political commitments towards this issue are weak. There are insufficient legal provisions and law enforcement is delayed and weak. Limited intervention programmes and lack of effectiveness and coordination of these programmes are other major reasons of contributing to the incidence of trafficking of women and girls in Nepal. Similarly, lack of identification and

³¹ Ibid.

³² Ibid.

³³ Utpal Parashar (2011, July 5): 'Another Nepal MP in passport scam', Hindustan Times, Kathmandu.

security system for migrant workers is also reported to be another major cause of increased vulnerability to trafficking of migrant women and girls.

Changing Trends of Trafficking

With changes in the socio-economic and political arenas in the country, there have been dynamic changes in the process of trafficking. The following box clearly shows the transition.

Changing Trends of Trafficking in Nepal

Period	Socio-economic Context	Trafficking survivors	Forms of trafficking/ Exploitation	Types of trafficking
During Rana Regime (1846-1950)	Feudal social structure	Girls and women (housemaids, concubines)	Servitude, slavery and sexual exploitation	Internal
Post Rana period and Panchayat Regime (1950-1990)	Multi-party but feudal social structure Party less political System	Girls and women who were servitude of Rana families Girls and women from the surrounding hills of the Kathmandu valley	Sex work	Cross-border (India)
Late 1980s mid-1990s	Booming of carpet and garment industry Increase in rural-urban migration	Girls and women Boys Girls and women	Labor and sexual exploitation Labor exploitation Sex work	Internal Internal & cross border (India) Cross-border (India)
Mid-1990s >	Internal armed conflict, displacement Collapse of carpet, garment and <i>pasmina</i> industry	Children Adolescent girls and Women	Labor and sexual exploitation Sex work	Internal (dance, bars, cabin restaurants massage parlors) Cross-border (India)
2000>	Foreign labor migration Post conflict political instability and armed violence in Tarai region	Girls and women And men	Labor and sexual Exploitation	Cross-border (Middle East, South East Asia and other developed countries)

Source: National Report 2008-2009, NHRC

Trafficking continued to grow during the Panchayat³⁴ period (1960-1989). Internal and cross border trafficking is on the rise. Growth of carpet, garment and pashmina industries in the region resulted in a change in the economy. Rural to urban migration especially of women and children increased. Employment rates were high. The carpet industry alone employed more than 300,000 people with half constituting of children aged 5-16 years.³⁵ With poor working conditions and meagre income women were more vulnerable to exploitative conditions. The industries began serving as transit centres for trafficking of girls to India.

Armed conflict between the Maoists and the State forces during 1996 and 2006 also increased situations of vulnerabilities for women. There was mass displacement, abduction and killings. Women in these situations are at the risk of falling into the trap of traffickers who are posing as employment providers. As reported by the Caritas Nepal³⁶, by 2005, the number of internally displaced persons was estimated to be in the range of 180,000 to 231,000. Most left villages to escape abduction, arrest, torture or sexual assault. Fear of forceful recruitment into armed groups also caused many to flee. Women found themselves in vulnerable situations in search of security and livelihood. Lack of resources, skill and education were other factors contributing to their vulnerability.

Post conflict situations also leave women in vulnerable situations. Violence against women is said to be on the rise during these times. Increasing opportunities of foreign labour employment also resulted in the rise of vulnerability of trafficking. The nexus between trafficking and migration resulted in this increase. Women's sexuality and labour are exploited during these situations in their lives.

³⁴ Panchayat system is a dictatorial system. The King held all the powers and political parties were banned.

³⁵ CWIN (1993): Misery Behind the Looms: Child Labourers in Carpet Industry, Kathmandu: CWIN.

³⁶ Caritas Nepal is a social development/relief organization established in 1990 and is a registered NGO.

Sex trafficking Situation

Nepal is known as a 'sending' or a source country for human trafficking in the South Asian region.³⁷ There are varying estimates made regarding sex trafficking of women from Nepal to other areas of the world. The U.S. State Department's 2010 report on Human Trafficking states that women and children from Nepal are trafficked mainly for commercial sexual exploitation within the country and abroad.

Most of the women are sex trafficked to India. Every red light area in the cities in India especially Mumbai, Kolkata and Delhi has Nepali girls in it.³⁸ The open border between the two countries is an added benefit to the traffickers. The U.S. State Department's most recent figures estimated 12,000 Nepali women and children having been trafficked to Indian brothels. Recent evidence³⁹ of large number of Nepali women being sold to Indian brothels was brought forward in a Nepali news website called 'Nepalnews.com'. Dated 6th July, 2011, police in a district called Nuwakot in Nepal arrested a man named Kale Tamang for having sold around 400 Nepali women including minors to Indian brothels. The accused resisted saying he had sold only seven women for commercial sex. However, the locals claimed that Kale Tamang was the man behind the trafficking of as many as 400 women from Ghyangphedi and Shikarbesi VDCs in Nuwakot over the period of 15 years. Several others are stated to be victims of internal trafficking. Apart from India, Nepali women are also sent to Gulf countries, Thailand, Malaysia, Hong Kong, Vietnam etc.

³⁷ Sangroula, Yubaraj (2001): *Condemned to Exploitation: Trafficking of Girls and Women in Nepal- Building a Community Surveillance System for Prevention*, Kathmandu School of Law, Nepal

³⁸ Pradhan, Gauri (1997): *Back Home From Brothels: A Case Study of the Victims of Commercial Sexual Exploitation and Trafficking across Nepal- India Border* (third edition), CWIN, Kathmandu.

³⁹ *Man accused of selling 400 women to Indian brothels arrested*, nepalnews.com, July 6, 2011.

Data and estimations on the exact number of women being trafficked every year vary greatly due to the clandestine nature of the trade. However, based on estimates it is clear that trafficking is a mounting problem in the country. The conditions stated above which make women vulnerable and favour trafficking of women in Nepal provides explanations for the growth of the problem.

Those trafficked to India are said to be sold for about 60,000 Indian rupees or \$1364 by the brokers. Women are made to serve client's interest. For an entire night, a client would have to pay an amount of Rs.1000 equivalent to \$23 to Rs. 2000 equivalent to \$45, for half an hour the price would range from Rs. 150 or \$4 to Rs. 300 or \$7.⁴⁰

Sex trafficking victims are subjected to various kinds of sexual and physical abuses. They are raped, tortured, beaten, burnt with cigarette butts, starved and kept in isolation where they face brutal torture. They are even made to consume alcohol and inhale drugs to get accustomed to prostitution. Most of them are left traumatized and psychologically affected. Many acquire HIV/AIDS, STDs and other diseases.⁴¹

Several NGOs have reported that most victims who are rescued do not willingly go back to Nepal due to the social stigma attached to being involved in sex work, non-acceptance by family members and also due to the predominantly Hindu societal requisitions of viewing women's sexual purity as sacred.⁴²

⁴⁰ Panta, Tanka (2003): The Dark Hell. Nepal Samacharpatra. In Rana, Bandana and Singh, Navin, ed. (2005): *Mother Sister Daughter: Nepal's Press on Women*: Sancharika Samuha, Kathmandu.

⁴¹ Pradhan, Gauri (1997): Back Home From Brothels: A Case Study of the Victims of Commercial Sexual Exploitation and Trafficking Across Nepal- India Border, Kathmandu, CWIN.

⁴² Sangroula, Yubaraj (2001): *Condemned to Exploitation: Trafficking of Girls and Women in Nepal- Building a Community Surveillance System for Prevention*, Kathmandu School of Law, Nepal.

Dimensions of Trafficking

Trafficking can be categorized into *internal trafficking* and *cross-border trafficking*. Women are trafficked for a various purposes; commercial sexual exploitation, labour exploitation and trafficking for entertainment and other purposes. Women are victims of all these forms of trafficking with trafficking especially for sexual exploitation being a most common purpose.

As described earlier, *internal sex trade* in the country, dates back to the time of the Rana regime. Apart from that, it also existed under the pretext of religious and cultural traditions; the Badi and the Deuki. Internal sex trade these days is rampant in massage parlours, cabin and *dohori* restaurants,⁴³ hotels, dance bars and the streets.

The lucrative business of cabin and *dohori* restaurants, dance bars and massage parlours serves as an entertainment hub mainly for males where women and girls are required to fulfil the desires of their clients which may include sex. In 2009 an estimated 1,000-1,200 cabin restaurants, 150-180 dance bars, more than 200 massage parlours and approximately 50 *Dohori* restaurants existed in the Kathmandu valley alone.⁴⁴

There are various reasons for the rise of women and girls in this business. Casual and free outlook of people towards the local sex industry, downfall of industries like the garment, carpet and pashmina along with mass displacement of young people from rural areas during the 1996-2006 armed conflict and an increasing

⁴³ People meet here for food, drinks and traditional Nepal folk songs by male and female folk musicians.

⁴⁴ Terre Des Hommes (2009): *Trafficking and Exploitation in the Entertainment and Sex Industries in Nepal: A Handbook for Decision Makers* (Kathmandu: Terre des hommes).

consumerist culture and steady changes of social norms among young people are the most common reasons behind the inflow of women into this business.⁴⁵

Variations exist in the exact number of women involved. However, the following denotes the estimates according to various sources.

Estimates of Female Workers in Entertainment Industry

Source	Nature and extent of female workers in the entertainment industry
Ramesh Prasad Kharel, DSP and Chief of Kathmandu Municipality Police	20,000 – 25, 000 women including girls in the age range of 13 to 15 are involved in commercial sex work alone in Kathmandu valley
Gorkhapatra, May 13, 2010	There are about 500 places in Kathmandu valley – dance, bars, cabin massage parlors from which commercial sex work is conducted
Terre des hommes, 2009	6,000 to 7,000 women and girls working in cabin restaurants 3,400 to 4,000 in women and girls dance bars 900 to 1,100 in women and girls <i>Dohori</i> restaurants 750 to 850 in women and girls massage parlors 3,500 to 4,000 children in sex work (can be considered as survivors of trafficking as per HTT Act 2007)
MoWCSW, 2008	30,000 to 40,000 female workers in cabin, dance and massage parlors in Kathmandu valley
New Era, 2003	4,000 to 5,000 sex workers in the Kathmandu valley including street sex workers
CREHPA, 2002	2,000 to 3,000 women and girls in the entertainment industry

Source: National Report 2008-2009, NHRC

Internal trafficking in other parts of Nepal were easily identified under certain districts of the country which were known as the ‘trafficking-prone districts/areas’. They were mainly the districts of Nuwakot, Sidhupalchowk and

⁴⁵ Ibid and Subedi, Govind (2009): ‘Trafficking in Girls and Women in Nepal for Commercial Sexual Exploitation: Emerging Concerns and Gaps’ (ed.) Tahera Aftab in Pakistan Journal of Women's Studies, Special Issue, Vol. 16 (1): pp. 121-46

Makwanpur. However, the problem has now become widespread and trafficking is not limited to these districts only. The MoWCSW recognized 26 districts as trafficking prone after examining the registered cases with the Nepal police in 1998. A baseline survey conducted by LFW Nepal and SAATHI in 2006 recognized 10 trafficking prone areas. They are Sindhupalchowk, Sarlahi, Makwanpur, Kanchanpur, Dang, Rupandehi, Banke, Nuwakot, Kavre and Sankhuwasabha districts. Tibetan refugee camps of Jhapa and Morang districts are also seen as trafficking sites according to a recent study.⁴⁶ The following box shows the number of trafficking cases registered in the FY 2008/2009 by development regions and districts in the Directorate of WCSC. According to the box, districts in the central and eastern region are seen to have registered the most number of trafficking cases.

Number of Trafficking Cases in the FY 2008/09

Development Region	District in which trafficking cases registered	Total No. of districts	Number of trafficking cases	%
Eastern	Illam (1), Jhapa (6), Morang (3), Sunsari (16), Terhthum (2), Bhojpur (1), Saptari (1), Siraha (2) and Udayapur (1)	9 out of 16	33	23.7
Central	Sarlahi (2), Sindhuli (1), Ramechhap (2), Rautahat (5), Bara (5), Parsa (5), Makawanpur (2), Chitawan (5), Nuwakot (6), Sindhupalchowk (1)	10 out of 19	34	23.7
West	Kaski (6), Sanjya (1), Tanahu (2), Rupandehi (4), Nawalparasi (5), Kapilbastu (3) and Palpa (3)	7 out of 16	24	18.0
Mid-west	Kaski (6), Sanjya (1), Tanahu (2), Rupandehi (4), Nawalparasi (5), Kapilbastu (3) and Palpa (3)	5 out of 15	21	15.8
Far-west	Kailali (5), Baitadi (1) and Kanchanpur (5)	3 out of 9	11	7.9
Kathmandu valley	Kathmandu (15), Lalitpur (1)	2 out of 3	16	10.8
Total		36 out of 75	139	100.0

Source: National Report 2008-2009, NHRC

Note: figures in the parentheses refer to the number of trafficking cases in the corresponding district.

⁴⁶ Hausner, Sonda L (2005): The Movement of Women: Migration, Trafficking and Prostitution in the Context of Nepal's Armed Conflict, Save the Children, Kathmandu.

Women in this lucrative business suffer immensely, in terms of health and overall working conditions. In most cases, it is some economic necessity that forces women to be in the situation they are in. Women make use of their sexuality to fulfil certain basic needs and take up work in these restaurants etc.

It is important to note that not all workers in this business are sex workers. Likewise, all sex workers are not victims or survivors of trafficking. However, these domains of the entertainment industry serve as destination sites as well as transit sites of trafficking of women for sexual exploitation to places abroad.

As far as *cross-border trafficking* is concerned, Nepal is known as a major source country in South Asia from where human trafficking occurs.⁴⁷ The clandestine nature of the whole act of trafficking makes collection of exact data and statistics difficult to procure. The social stigma attached to trafficking mainly for sexual exploitation also makes tracking the magnitude and process a problem. Data acquired through works of NGOs and other sectors in the country, has helped in the preparation of the following box by the NHRC. It gives us an estimate of the number of persons trafficked from 1997-2009.

Women are said to be taken to India first and later to other possible destinations like the Gulf countries, Thailand, Hong Kong etc. Hence, India either serves as a destination country or a transit point for trafficking women to other locations.

⁴⁷ Sangroula, Yubaraj (2001): *Condemned to Exploitation: Trafficking of Girls and Women in Nepal- Building a Community Surveillance System for Prevention*, Kathmandu School of Law, Nepal.

Estimates of Trafficking in Persons, Nepal

Source	Nature and extent of trafficking
CWIN, 1997	153,000 women and children trafficked to Indian brothels (20% of them below 16 years of age)
ILO-IPEC, 2001	12,000 children under age 18 trafficked to India annually for commercial sexual exploitation
STOP/Maiti Nepal, 2002	5,000-11,000 women and girls trafficked annually for brothel based Prostitution
STOP, 2002	5,000-7,000 girls and women trafficked to India annually for brothel based Prostitution
Population Council, New Delhi, 2002	200,000 girls and women trafficked to India for sex industry
Asmita, 2005	22,600 girls and women trafficked from Nepal to Mumbai, Delhi, Kolkotta, Pune and other cities
Easter Benjamin Trust (EBT), 2007	600 children trafficked to India for circus performance
Directorate of WCSC, 2007	2,216 missing children from various regions in Nepal between July 2007 and June 2008
Directorate WCSC, 2007	3,258 missing women in Kathmandu valley between 1998 and 2007
Different NGOs*, 2008/09	3164 and 322 intercepted and rescued by different national level NGOs in FY 2008/09

Source: National Report 2008-2009, NHRC

Legal Framework

There have been a number of initiatives on the national front.

The *Constitution of Nepal* (2047 BS of 1990 AD), provided special laws to prohibit traffic in human beings, slavery, serfdom, or forced labour in any form, thus seeking to protect women and children.

The *Muluki Ain or National Code* (2020 BS or 1963 AD), a “comprehensive code relating to civil, criminal as well as procedural and substantive laws of the kingdom” (Center for Legal Research and Resource Development, 2002), exists in the country, which prohibits slavery, bonded labour, separating a minor under age 16 from his or her legal guardian and trafficking a person outside the country with the intent to sell.

A similar code was introduced by the *Human trafficking Control Act* (2043 BS or 1986 AD) according to which, transporting a person to a foreign country with the intention of selling and forcing a woman into prostitution are offences punishable with imprisonment for up to 20 years⁴⁸.

The Ministry of Women, Children and Social Welfare drafted the *Trafficking in Human Beings Control Bill* 2057 (the year 2004 according to the English calendar) in an effort to enact provisions to protect the privacy of trafficking survivors.

The latest development in the laws related to trafficking in the country is *the Human Trafficking and Transportation (Control) Act* 2064, which expanded its definition of trafficking to include cases taking place within the country and even made the state responsible for rescuing its citizens sold in other countries. The bill was seen as a progress in laws related to trafficking. Its definition was widened to include sex work. Criminalization of both the sex worker and the client is now included. It allowed those in authority, like to police to search and arrest traffickers without a warrant. Privacy of victims throughout the case happenings is assured and compensation is allocated. It also provides for a Government rehabilitation centre. Maximum punishment revered was imprisonment for a period of 20 years and a fine of 100,000-500,000 Nepali Rupees. Minimum punishment was for a period of 1 month for the client.

There were certain criticisms of this new law; however, it was still seen as a good start to bringing about effective laws related to the issue of trafficking in the count

⁴⁸ Sanghera, Jyoti. (2000). *Trafficking of Women and Children in South Asia: Taking Stock and Moving Ahead- A Review of Anti-trafficking initiatives in Nepal, Bangladesh and India*. Study jointly sponsored by UNICEF-

ROSA and Save the Children Alliance, South Asia.

Implementation of Law

Despite the introduction of several laws in the country in relation to trafficking, their enforcement and execution seems to be a great problem.

Most of the core means of production and politics in Nepal are controlled by the elite party, non-party politicians and bureaucrats. Hence, power being vested mainly in the hands of the rich and corruption resulting from it are some of the major reasons for weak law enforcement and justice denial especially to the poor.⁴⁹ Delivery of justice to victims of sex trafficking and sexual exploitation is a slow and delayed process. Bal Krishna Acharya, the Chairperson of Maiti Nepal, Mumbai says that weak laws and the slow justice system of Nepal, seems to be major factors providing encouragement to traffickers. On the pretext of insufficient evidence, many traffickers are let loose.⁵⁰ The victim is interrogated and sometimes even made to feel like the criminal instead of being provided protection.

Poor conformity with UN conventions and treaties is also stated as push factor for trafficking.⁵¹ Though Nepal is a signatory to various UN conventions, implementation is weak. The Law enforcement agency is not free from corruption or strong values of patriarchy.

The following is a representation of the number of cases registered in the courts of Nepal from the year 2003-2008. The numbers are said to be a lot lower than the actual thousands of cases. 'Poor governance' has also been stated as one of the reasons for cases not being reported.⁵²

⁴⁹ Rajbhandari, Renu : 'Human trafficking in South Asia: A focus on Nepal', In Cameron, Sally and Newman, Edward eds. (2008) : *Trafficking in Humans- Social, Cultural and Political Dimensions*, United Nations University Press.

⁵⁰ Panta, Tanka (2003): *The Dark Hell*. Nepal Samacharpatra. In Rana, Bandana and Singh, Navin, ed. (2005): *Mother Sister Daughter: Nepal's Press on Women: Sancharika Samuha*, Kathmandu

⁵¹ Ibid.

⁵² Ibid.

Number of Trafficking Cases Registered in the Courts of Nepal

Year	The Supreme Court	Appellate Courts	District courts	Total	Index Year 2003/04 = 100.0
2003/04	131	43	173	347	100.0
2004/05	117	73	203	393	113.3
2005/06	102	94	183	379	109.2
2006/07	112	129	245	486	140.1
2007/08	93	97	257	447	128.8
5-year average number	111	87	212	410	

Source: National Report 2008-2009, NHRC

The Development Sector and Anti- Trafficking

Recognizing the gravity of the situation of women and girls in Nepal in relation to trafficking, non-governmental and international organizations began to take up initiatives to combat the issue. The development sector is one of the largest industries in the country with organizations dealing with various issues ranging from those related to women, children, LGBT etc. Anti-trafficking trafficking efforts in the country mainly began, taking HIV/AIDS prevention as its key focus. Subsequently, the issue of trafficking in women and children for prostitution were mainly emphasized upon by regional anti-trafficking debates and programmes.⁵³ The issue of trafficking came to the forefront as it is an issue of national and international concern.

With the advent of the multi-party democracy in 1990, several women's groups began voicing their concerns about violence that women were subjected to. The International Conference on Human Rights held in Vienna in 1992, was an important milestone in an effort to bring the issue of violence against women to International attention. The Fourth World Conference on Women was held in Beijing in 1995. It identified 12 critical areas of concern of women for attaining gender equality and women empowerment. Nepal was one of the 181 members, which participated in this Conference. As a result of this Conference, the Ministry

⁵³ Ibid.

of Women, Children and Social Welfare was established for the development of women.

Soon after, there was a huge increase in the number of NGO's working in the country. It was a recent phenomenon in the nation. The number of NGO's started increasing due to several reasons. The Social Welfare Council that was set up gave new impetus to the NGOs which were registered and coordinated by it. Apart from this, due to the instability of the democratic government most donors began investing and putting their funds into NGOs rather than agencies under the government. Hence, there was a favourable condition created in the nation which resulted in the growth of numerable NGOs. "This policy change created many opportunistic NGOs founded only to attract funds".⁵⁴ The fear of the HIV pandemic spreading all over Asia resulted in flowing funds into the country dealing with HIV interventions, which also geared up the proliferation process of the NGOs. It is said that by the 1990's the Social Welfare Council had about 200 NGOs registered under it. Within a span of another five years there were around 7,000 in total.⁵⁵ Surprisingly, most of these NGOs were based in urban areas rather than the rural areas which needed them the most. Most important positions were also in the hands of the elite class and not grassroots levels. By the year 2000, Nepal had at least 30,000 registered NGOs.⁵⁶

There are currently about 57 NGOs which claim to have taken up anti-trafficking as their main area of focus (Crawford, 2010). Anti-trafficking initiatives in Nepal have been divided into different networks. Namely: Alliance Against Trafficking in Women and Children in Nepal (AATWIN) and National Network Against Girl Trafficking (NNAGT). The most active among these is the NNAGT which was

⁵⁴ Hannum, J. (1997): *AIDS in Nepal: Communities confronting an emerging epidemic*. New York: AmFAR In Crawford, Mary (2010): *Sex Trafficking in South Asia: Telling Maya's story*, Routledge, London and New York. pp 113.

⁵⁵ Crawford, Mary (2010): *Sex Trafficking in South Asia: Telling Maya's story*, Routledge, London and New York.

⁵⁶ Sangroula, Yubaraj (2001): *Condemned to Exploitation: Trafficking of Girls and Women in Nepal- Building a Community Surveillance System for Prevention*, Kathmandu School of Law, Nepal.

established in 1990. The different networks vary in their viewpoints. The NNAGT perceive women as kin who have been victimized by poverty and evil criminals, and prostitution as sex slavery, AATWIN on the other hand, also take labour and migration questions into consideration. NGOs present in the country fall into these categories and carry out their intervening and strategic anti-trafficking plans accordingly.

Organizations in Nepal working on this burning issue receive funds from several agencies and organizations abroad. Efforts to spread awareness and rescue and rehabilitation programmes of sex workers are widespread. However, before listing down the names of few important NGO's and their efforts in dealing with this issue, it is necessary to understand in what context the anti-trafficking interventions began and how the developmental sector is responsible in shaping the whole discourse on trafficking in Nepal.

Most of the NGO's and INGO's that exist in the country work on grass-root, district and national levels to prevent trafficking of girls and women using various methods of awareness raising campaigns and activities. Interventions in the form of women leadership training, counselling, care and support of survivors and rehabilitation and legal aid service for victims, savings and credit programs and income generation activities are being made. Apart from these efforts, awareness creating programs such as street drama, publishing of books, posters, audio and video cassette, case studies, story books and news bulletins are also made available by organizations. Law enforcement and legislative anti-trafficking efforts are also included. Anti-trafficking interventions such as these according to Mary Crawford⁵⁷ could be divided into 'indirect and direct prevention programs, remediation and advocacy'. There have also been governmental efforts with increased commitment made regarding this issue. However, the current programs and efforts by NGO's and INGO's to combat trafficking need a detailed description. Organizations dealing with anti-trafficking form a long list. Some of the most significant ones among many others are 'Maiti Nepal, WOREC, ABC

⁵⁷ Crawford, Mary. (2010). *Sex Trafficking in South Asia: Telling Maya's Story*. London. Routledge

Nepal, CWIN, Stri Shakti, Shakti Samuha, Saathi, Asia Foundation' etc. It is important to note that the mentioned NGOs do not share similar political views.⁵⁸

Maiti Nepal, founded in 1993 by Anuradha Koirala, is perhaps the most prominent NGO working to prevent trafficking of girls and women. The word 'Maiti', in Nepali means natal home. Joshi⁵⁹ in her work has brought out the significance of the word 'Maiti'. She says the usage of this term 'Maiti', has certain connotations in the way the discourse of trafficking and its implications on gender creations in the country have been shaped. The organization received international acclamation when Prince Charles referred to its founder as an 'Angel of Mercy'⁶⁰. A significant figure both nationally and internationally received world fame, acknowledgement and appraisal recently when CNN awarded her the Hero of the year 2010 through an online voting poll that lasted for eight weeks for her tremendous efforts in her struggle against sex slavery.⁶¹

A former Minister for Women, Children and Social Welfare, Anuradha Koirala's efforts in fighting against this heinous crime has been endless. With its main motive being advocacy of women and children, specifically those who have been trafficked or exploited, the organization has reportedly prevented the trafficking of more than 12,000 girls and women. The organization also has facilities like 'prevention homes' for those women who are at risk. Here women are counselled, trained for certain skills; education regarding health and information about trafficking and HIV are imparted. Maiti Nepal has about eight of these prevention homes located in Nepal and border areas with India. Apart from this, the organization has rehabilitation facilities, where care and support is provided to the victims.

⁵⁸ Joshi, Sushma (2001). 'Cheli-Beti' discourses of trafficking and constructions of gender, citizenship and Nation in modern Nepal', *South Asia: Journal of South Asian Studies*, 24:1, 157-175.

⁵⁹ Ibid.

⁶⁰ Ibid.

⁶¹ Woman fighting sex slavery named CNN Hero of the Year November 22, 2010. Retrieved from <http://www.cnn.com/2010/LIVING/11/21/cnnheroes.hero.of.year/index.html> on 5th March, 2011.

Anti-trafficking programmes also lay major emphasis on 'preventive actions'. Awareness raising, provision of basic education and women's literacy are some of the activities undertaken. Most programmes focus on providing women with adequate knowledge so that the information they are provided with helps them in recognizing the creeping danger and lessen situations of vulnerability. The preventive activities are presently guided by two ideologies: prohibitionist and rights-based. The former deals with trafficking mainly for prostitution purposes and fights for its abolition in order to put an end to trafficking. Since there are chances of women being trafficked during the process of migration, this approach views free mobility of women as detrimental to their safety and hence restricts their movement.⁶²

The rights-based ideology on the other hand, looks at trafficking and prostitution as two separate issues and at the same time works towards protecting human rights of every person as a means to prevent trafficking. Their activities are focussed around trafficking in different work areas and they maintain rights of women to move about freely. Some of the programmes under this ideology are provision of safe migration, right to mobility and empowerment of women. Information and education on the rights of workers are also undertaken. Other than this, community based poverty reduction programmes are also encouraged which is based on the hypothesis that areas with better economic opportunities prevent the need for migration and hence the risk of being trafficked.⁶³

Interception is another preventive strategy mainly employed by groups following prohibitionist approach. This step is mainly carried out at cross-border trafficking zones, especially between Nepal and India and also India and Bangladesh. It restricts movement of persons during trafficking which includes return of trafficked persons, rescue at the border and rescue from exploitative conditions and in the handling of trafficked persons after and at the time of trafficking. Under

⁶² Rajbhandari, Renu. 'Human Trafficking in South Asia: A Focus on Nepal', In Cameron, Sally and Newman, Edward (2008): *Trafficking in Humans- Social, Cultural and Political Dimensions*, United Nations University Press, Tokyo. pp 244-245.

⁶³ Ibid., pp 245.

this, programmes like community based surveillance and interception at borders are carried out. However, these are considered to be laden with values of patriarchy according to which women and girls should not move around alone. It is also assumed that all women in the sex trade are trafficked and their situations before and after trafficking are ignored. Trafficking of women for prostitution is stressed on and those of boys and men are not taken into consideration.⁶⁴

Most NGOs dealing with anti-trafficking in Nepal focus on 'rehabilitation' of the victims and survivors of trafficking. The anti-trafficking programmes likewise are implemented based on two approaches by different groups; welfare approach and rights-based approach. The first approach is based on the ideology that all women who are in the sex trade have been trafficked and hence, need to be rescued and rehabilitated. According to this notion, it is the girls/women who are to blame and they need to learn to become 'good' girls/women. This view does not recognize the fact that every person has a right over her body, should be given the freedom to make decisions and live life according to the way one wants. This approach fails to acknowledge the fact that rescued victims face several challenges that must be taken into consideration. The rights based approach on the other hand, emphasizes on basic human rights of an individual and recognizes that those who have been trafficked should be given the right to decide what they want for themselves. Hence, even the decision to be 'rescued' or not should be left onto them, as not all women who are in their present circumstances want to be rescued. Those who want to be rescued should be provided support and means of reintegration into the society should be discussed with them. Most of the activities provided by organizations are focussed on empowerment.

Rehabilitation has been adopted as a priority intervention step. Major activities of rehabilitation centres are provision of non-formal education, medical care, skill development training and counselling. The anti-trafficking NGO Maiti Nepal, also added 'marriage' as part of their rehabilitation programme. In their website, they stated that "in Maiti Nepal we believe that marriage is also a part of our

⁶⁴ Ibid., pp 245.

rehabilitation programme since our girls/women are getting socially accepted”.⁶⁵ A marriage ceremony of three trafficked and rescued girls was held. These girls had been in the rehabilitation centre of the organization and gained employment later. Most programs have had positive effects on the rescued victims. A common feature of most NGOs is their ability to reintegrate victims back to their homes and families. However, results and effects of reintegrating victims back into their communities have raised several questions that will be dealt with in the next section.

The HIV/AIDS crisis has also increased attention to this matter. Sex-trafficking is considered to be one of the factors responsible in the furthering of the spread of HIV/AIDS. Hence, health programs and interventions that have come up target those in the sex industry in order to tackle the issue of transmission of HIV/AIDS to allow them safer sexual contacts. However, in practice how much of it is carried out is a crucial area debated today.

Consequences of Anti-Trafficking Interventions

Several anti-trafficking interventions undertaken by NGOs in the country have been successful in their aims. Rescue and Rehabilitation programmes are widespread and measures to keep a check on the phenomenon of trafficking are being carried out.

However, interventions guided by gendered ideology do not have consequences beneficial for tackling the problem. Crawford⁶⁶ states that, “if interventions are saturated with ideologies of gender and caste and devised to meet the demands of the development industry rather than the needs of the recipients, there is a very real possibility that they can be counter-productive. The harm done by misguided interventions can be subtle or overt”.

⁶⁵ Cited in Cameron, Sally: ‘Trafficking of Women for Prostitution’ In Cameron, Sally and Newman, Edward (2008): *Trafficking in Humans- Social, Cultural and Political Dimensions*, United Nations University Press, Tokyo.

⁶⁶ Crawford, Mary (2010): *Sex Trafficking in South Asia: Telling Maya’s story*, Routledge, London and New York.

With most of the NGOs run by high caste Hindu women, the measures taken are on the protectionist lines. Anti-trafficking interventions do not see the victims as individuals capable of making choices and hence club them under the category of 'naive, ignorant, innocent victims'. Certain anti-trafficking NGOs also claim that women from rural areas do not migrate voluntarily. However studies prove that many women are in fact moving out of their villages to new ventures. It is also assumed that women would not choose sex work as their profession by choice, but the existence of the 'Badi community' suggest otherwise. However, debates on whether prostitution is "forced" or "voluntary", is an ongoing debate among feminists. ABC Nepal expressed that with the kind of social and economic setting of most women in the country, the question of choice does not seem to figure clear cut in Nepal.

In their efforts to rescue and repatriate victims of trafficking, those women who do not wish to return to their homelands considering their adverse situations are ignored. As mentioned earlier, many do not want to return to their homelands empty handed or even because of the fear of the social stigma attached to the notion of sex work. There are many more complications involved in a case of trafficking. Cases where a trafficked person had a part to play in her own volition due to dire situations (desperate need for money for themselves and their families) are hardly reported even though the trafficked persons are facing hardships or are subjected to physical violence. Hence there are women who do not wish to be rescued as they would be sent back to their countries of origin or may even run the risk of being re-trafficked. Those who have been sold by their families feel they have no reason to go back.

The Human Rights Watch report⁶⁷ stated that women also resist these efforts being made for them due to shame, fear of being subjected to violence by owners of brothels and lack of resources and support of family in Nepal. Apart from this, women in their efforts to travel and migrate out of the country have been stopped especially if they are not accompanied by a male member. This restricts women's

⁶⁷ Human Rights Watch (1995): *Human Rights Watch Global Report on Women's Human Rights*, New York: Human Rights Watch.

free mobility and is a violation of basic human rights. It also symbolizes reinforcement of patriarchal control of females by male kin.⁶⁸ Border surveillance despite being a measure to protect women, reveals the high caste ideology that women who move freely in public spaces are defying the confined boundaries of women. Migration of women in Nepal is still a matter of scrutiny, judgement and stigmatization.⁶⁹

Joshi⁷⁰ also expresses that despite efforts to protect victims, rehabilitation and reintegration programmes can also push them into darker corners. She states that “rehabilitation is interpreted as a kind of moral re-education for the survivor, in which she is re-formed into a compliant daughter”. In “reintegration”, a woman is sent back to her family where she has to be “disciplined, regulated and brought within the confines of normal social behaviour”.

“Evidence based interventions” and “systematic evaluation”, is essential to tackle the problem in the country, without which efforts and effectiveness of anti-trafficking interventions will not be known and the crisis will persist.⁷¹

⁶⁸ Joshi, Sushma (2001): 'Cheli-Beti' discourses of trafficking and constructions of gender, citizenship and Nation in modern Nepal. *South Asia: Journal of South Asian Studies*, 24:1, 157-175.

⁶⁹ Hennick, M and Simkhada, P (2004). 'Sex trafficking in Nepal: Context and process.' *Asian and Pacific Migration Journal*, 13. 305-338 In Crawford, M (2010) *Sex trafficking in South Asia: Telling Maya's Story*, Routledge, London.

⁷⁰ Joshi, Sushma (2001): 'Cheli-Beti' discourses of trafficking and constructions of gender, citizenship and Nation in modern Nepal. *South Asia: Journal of South Asian Studies*, 24:1, 157-175.

⁷¹ Crawford, Mary (2010): *Sex Trafficking in South Asia: Telling Maya's story*, Routledge, London and New York.

Conclusion

The current study on 'trafficking in women' unravelled various dimensions and dynamics immersed in it. Trafficking has been an ongoing phenomenon. Its formal existence was marked with its relations and linkages to the practice of 'white slavery'. Commodification of women for various purposes such as sex work, commercial sexual exploitation, domestic work and other forms of forced labour has been going on for a very long time now. Trafficking transcends all boundaries and goes beyond its limitations to people of various social and ethnic backgrounds. Women found in most common vulnerable situations are looked at as easy prey. Trafficking is most commonly seen as a form of violence against women, violation of basic human rights, a growth of an organized crime etc. It is considered to be one of the most profitable business existent today. The lucrative business has flourished with time despite efforts made by several national and international agencies and organizations.

'Nepal', has particularly been focussed on as it is but a known fact that it is one of the most prominent hubs of trafficking in South Asia. Violence against women in the form of trafficking dates back to the colonial period in the country and has been furthered and potentiated with religious and traditional discriminatory norms and social practices. Trafficking occurring within the nation itself for purposes such as domestic work and commercial sexual exploitation is common. Several districts like Jhapa, Makwanpur, Sindhupalchowk are known as districts prone to trafficking. Women are brought from poor areas in Nepal to other areas especially to the capital and coerced into labour of different types. Women find themselves doing work which they were unaware they would have to do. Awareness regarding the issue of trafficking, the means employed in the process and the end results of it, is low among the masses especially those living in remote areas and hence many fall prey to the false promises made by the traffickers.

The 'Family' plays a huge role in this act. They are duped into believing that their daughters will have a better life in the city and will also send back remittances to their family in the village to provide for them. Several others knowingly send their daughters off as they are seen as an 'economic burden' to them. The middlemen involved in the act mostly pay the family a particular amount which leaves the

daughters in debt till they serve the purpose for which they are trafficked. Debt bondage and several threats to life keep women silent and bonded. Several others, who are rescued by NGOs etc with fear of societal stigmatization of being involved in sex work and bringing dishonour to the families do not wish to go back to their homelands hence counter acting the efforts of the organizations. Patriarchy has a strong hold over the happenings of the society as is evident from the descriptions in the chapter on Nepal. Women are discriminated at all points of their life. The social, economic and political situation of the country and women's precarious positions in it further adds to the vulnerability of victims of trafficking. Within this purview, theoretical underpinnings to the issue substantiate the basic idea behind the paper. The Radical feminists' idea behind violence against women having its roots in male authority, supremacy and control over women and their perception of women's bodies as a site of control for them explains the social structure in the country which functions on this pretext and hence the continuing sexual violence women are subjected to. The strong patriarchal hold in Nepal and gender discrimination puts women in situations where they become vulnerable to trafficking.

Likewise, Marxist notions of locating women's oppression within the context of the origin of family and private property also validate itself in the Nepalese society. Its explanations regarding women's oppression and subjugation with the growth of the patriarchal family and emergence of private property truly fit into the nature of society in Nepal. Women's subordination begins in the institution of family where gender based division of labour and burden of responsibilities takes place pushing women into positions where they are dependent on men for their basic means of survival. Lower status accorded to women in families is then extended to larger socio-economic and political systems of the society.

The functionalist, conflict, postmodern and psychoanalytic views further enhanced the understanding of the issue of trafficking by delving into domains of sexuality, patriarchy and violence and locating prostitution (the most common form of forced labour women are pushed into) within these paradigms.

Investigating the different phenomenon inter-linked with trafficking unravelled the dynamics underlying the concept. Debates and discussions pertaining to these phenomena in relation to trafficking were explored. Going into the debates and discourses surrounding the issue of trafficking also becomes important as the linkages it has with phenomena such as migration, prostitution and globalization have several impacts on the trafficking discourse in the country.

Issues of migration and trafficking in Nepal have had several repercussions. Women are not allowed to migrate without having a male guardian with them mainly promoting patriarchal notions of women needing male protection and being the weaker sex. A restriction in women's mobility is another consequence of the regulated system of migration. Women's mobility is restricted under the pretext of protecting women's sexuality without keeping in mind the negative consequences it can have in the lives of women. Equal access to opportunities and benefits of development are denied to them. In this light the trafficking migration nexus has been discussed.

Prostitution being a very crucial issue in the subtext of trafficking plays a major role in understanding the nature of trafficking in Nepal. It is believed that most of the women are pushed into sex work or other forms of commercial sexual exploitation within the country and across borders. The link between prostitution and sex trafficking is something that seems hard to nullify. Academic responses discussed in this work clearly show the contentious nature of prostitution. It is a highly debatable and difficult issue for feminists. It has been looked at from various different perspectives: as violence against women, as 'work' like any other form of work. Within this, the question of force or voluntary choice in the acceptance of prostitution as a profession is also discussed. Legalization, decriminalization and criminalization the three main legislative approaches to prostitution policy and its impact on trafficking have also been looked at. Reviewing earlier works on the issue of prostitution and its effects on trafficking provided a broader sense of direction towards understanding the phenomenon. However, in the context of Nepal, it is clear that prostitution though exists in an

unregulated manner in several parts of the country is still a highly stigmatized issue. Legalization however, does not seem possible in the country at present.

A parallel between globalization and trafficking in women for prostitution is a reality in the South Asian context. In the context of the case of Nepal also, the process of globalization through unequal development has created the hazard of poverty and breakdown of family structures and traditional households. Poverty and lack of economic opportunities force women to migrate to urban areas, most of who are caught in the trap of traffickers who then supply the women from rural to urban areas and push them into the sex industry. The sex industry in the country has starting gaining momentum with traffickers having links from regional to the transnational sex traders.

With respect to the nature of problems that are submerged in trafficking efforts of several GOs, NGOs and INGOs have been fruitful to a certain extent. Rescue, rehabilitation and repatriation activities form a major agenda of organizations. However, the indirect consequences of it as discussed in the chapter should also be taken into consideration for a more meaningful way of combating trafficking. Despite various efforts made by national and international organizations and the implementation of several anti-trafficking interventions the problem of trafficking still exists and has seen no decrease in its rate. The condition of the country of Nepal in terms of trafficking is still the same. There are several areas that need critical concern and analysis. Development interventions should be universally inclusive of all caste, class, ethnicity, race, language, religion etc.

Nepal is a country constantly undergoing several changes in law and social policy. A holistic understanding to the issue of prostitution and sex trafficking is essential so as to deal with the problem. Stigmatization of prostitutes or those who get involved in sex work by force is not the answer to any problems of this issue. Policies to stop trafficking and protect and safeguard victims of trafficking are needed.

Acknowledging the existence of numerous sex workers in the country, decriminalization of the sex trade, seems like a possible option for Nepal. This

would make prostitution legal but not regulated differently like other business endeavours. It would also criminalize pimps and other middlemen who are engaged in coercive prostitution of persons. The policies that are enforced in the country should aim at protecting the rights of sex workers and not harming them or the victims of sex trafficking. Policies must enforce and assure to provide aid to those who have been trafficked and sexually exploited apart from efforts in trying to stop trafficking. Regulations on police officials should also be made strict so that they do not inflict harm on sex workers or the victims of trafficking. Those assisting in the act and involved in taking bribes etc should be penalized.

Unjust migration laws and policies against women should be eradicated. Women should be able to migrate as and when they want to, wherever they want to as freely as men do. Apart from this, job opportunities for women in the country should be expanded making them independent and able to take decisions regarding the kind of work they want to engage in or migrate to lands without any male consent. This would lead to the empowerment of women and lessen their dependence on men.

Structural changes like bringing about gender equality, providing education to women from all different backgrounds, increasing their participation in political fields and providing job opportunities to women are important steps to tackle the problem. Awareness raising and sensitivity to the issue should be highly stressed upon. A human rights based approach should be ensured to address the issue of trafficking. Enforcing the policies and punishing those involved in committing this heinous crime would be important strides that would reduce the problem devastating numerous lives in the country.

Being a theoretical work, the emphasis of the dissertation mainly lies in seeking understanding and explanations on the issue of trafficking in women. Based entirely on secondary sources, the work does have its limitations. The research does not cover the entire range of social science material. However, careful attention has been given to carry out the research with an attempt to include selective relevant materials that pertains to the topic of interest. Sociological research using primary and secondary sources in order to incorporate perspectives

of trafficked victims is beyond the reach of this work but, would make a favourable area of research in this field. Being a controversial and highly debatable topic of research, it is hoped that interpretations and understanding on the subject are in consistence and accordance to the dynamics surrounding the discourse of trafficking in women today.

This dissertation is an attempt to go deep into the layers of complexity surrounding the issue so as to have a broad all round knowledge of the factors muddled in the phenomenon. There have been studies carried out in this field highlighting vulnerabilities of women in relation to trafficking. However, in the context of Nepal, there have not been many studies conducted taking theoretical perspectives into consideration along with a reality picture of trafficking in women in Nepal. This work would help substantiate and provide varying perceptions for a clearer and nuanced understanding of the subject not only in the field of academics but also in policy making. This dissertation is an effort to broaden one's vision in understanding trafficking, provide meaningful insights to understanding the causes behind this heinous crime and highlight the overall subjugation of women and atrocities faced by them.

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