

"Human Trafficking in South Asia (Special preferences on Bangladesh, India and Nepal): A Human Rights perspective"

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Abstract: *Human trafficking is not the recent issue. Since the early history of the world the trafficking was there. The South Asia is most vulnerable in position in the world to human trafficking. In South Asia, Bangladesh, India and Nepal are most vulnerable in relation to human trafficking. The international community considered that the human trafficking is a grave violation of human rights. There are many reason for the trafficking including poverty, illiteracy, globalization etc. The main purpose of the human trafficking is the forced labour, debt bondage, child labour and sexual exploitations. There are some international laws which directly prohibits the human trafficking. Some regional instrument including the "SAARC Convention On Prevention And Combating Trafficking in Women and Children for Prostitution", also there which directly prohibits the human trafficking. The states should prohibits the human trafficking by incorporating the national legislation. The States can not deny it's international obligation also. States should ensure the safe return of the trafficked persons in the home country.*

Keywords: *Human Trafficking, Human Rights, States Obligations, Sexual Exploitation.*

I. Introduction

Human trafficking is a global issue. It' is also a transnational organized crime. No state can not claim that it's borders are not affected by in some way of trafficking.² Human trafficking is a grave violation of human rights. Human trafficking is an inter-state criminal activity. It also can be happen within a single state. The crossing of the international border is not mandatory for human trafficking. Many of the peoples argues that the "human trafficking" and the "human smuggling" are same thing. But is it really same? I think these two terms are not providing same meaning. The main difference between this two term is that, "human trafficking" is a crime against the person, it can be held internationally and also within a single state whereas "human smuggling" is a crime against a state and the mandatory requirement is the cross of the international border. "Human smuggling" occurs by the voluntary requests of the smuggled person to the smuggler to transport him/her across the international border and they give money to the smuggler as fee. They also may be called illegal economic migrant. In the case of "human trafficking", a victim of human trafficking is bring under control to exploit. The main purpose of human trafficking is forced labour, sexual exploitation, Illicit adoption; begging and criminal activity, forced or arranged marriage, forced military recruitment.

Bangladesh and Nepal are most vulnerable in position in South Asia in this regard. Many men, women and children are trafficking in the neighbouring country India and all over the world including Pakistan, Bahrain, Kuwait, and the United Arab Emirates mainly for the forced labour and sexual exploitation. The men are recruited by the various companies on the basis of fraudulent employment offer to work abroad and subsequently they are exploited under conditions of debt bondage or forced labour. Sometimes they do not get any remuneration for their job by the employers. Many South Asian peoples trafficking in the middle--East countries. The employers withholding their passport and force them to work more than fifteen hours in a day without any rest. Sometimes they physically and sexually abused. The primary purpose of trafficking of the Women and female children is sexual exploitation. In South Asia the women trafficking rate is very high comparative to the other countries in the world. Some estimates has shown that every year 1 million to 2 million women, men and children are trafficked worldwide, around 225,000 of them are from South Asia (India, Nepal, Pakistan, Bangladesh, Sri Lanka, Afghanistan, Maldives, and Bhutan).³ There are some national legislations and also regional instrument in South Asia to stop the human trafficking. The core human rights are violated as a result of the human trafficking. All South Asian countries prohibits the human trafficking. This paper will discuss who are the traffickers and who are the victims of this crime. This paper will also examine that what are

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² Monica Esquibel, "Human Trafficking: A Violation of Human Rights, A Universal Issue", Honors diss, College of Social Science, Florida State University, 2005.

³ S. Huda, "Sex Trafficking in South Asia", International Journal of Gynecology and Obstetrics, Volume 94, issue-3, pp 374-375. [<http://www.ijgo.org>].

causes and impacts of human trafficking and the violations of the national and international human rights laws. This paper will also be discussing the preventive mechanisms of the human trafficking in South Asia.

Definition Of Human Trafficking

Human trafficking is a grave violation of human rights. Until 2000 there was no internationally recognised definition of human trafficking. The definition of the human trafficking under different legal system is given below: In 2000, **Article 3 of the "UN. Protocol to prevent, suppress and punish trafficking in persons"** defined the human 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.⁴ According to the U.S. law called the **"Trafficking Victims Protection Act, 2000"** trafficking in persons is defined as: All acts involved in the transport, harbouring, or sale of persons within national or across international borders through coercion, force, kidnapping, deception or fraud, for purpose of placing persons in situations of forced labour or services, such as forced prostitution, domestic servitude, debt bondage or other slavery-like practice.⁵ According to the **"SAARC Convention On Prevention And Combating Trafficking in Women and Children for Prostitution"**, "Trafficking" means the moving, selling or buying of women and children for prostitution within and outside a country for monetary or other considerations with or without the consent of the person subjected to trafficking".⁶

So this is clear that the human trafficking means any person transferred, recruited fraudulently or abducted, kidnapped by other persons for exploitations.

Elements Of Human Trafficking

The United Nations Office on Drugs and Crimes mentioned three important element of human trafficking.⁷ These are given below:

- i. The act (What is done) : Recruitment, transportation, transfer, harbouring or receipt of persons.
- ii. The Means (How it is done) : Threat or use of force, coercion, abduction, fraud, deception, abuse of power or vulnerability, or giving payments or benefits to a person in control of the victim
- iii. The Purpose (Why it is done) : For the purpose of exploitation, which includes exploiting the prostitution of others, sexual exploitation, forced labour, slavery or similar practices and the removal of organs.

Forms Of Human Trafficking In South Asia

Human trafficking in South Asia is mostly for the sexual exploitation and forced labour. The women and girls are traffics mainly for the sexual activities within the South Asian countries and also abroad. The men are traffics mainly the labour. After receiving the employers forced them to work more than 15 hours in a day without any rest. Most of the times they do not get any remuneration for their work. Commercial sex industries has been growing in the Asian countries. Sadig Rasheed, UNICEF regional director in Sri Lanka said, "The trade in women and children for sex is spiralling out of control in South Asia, It is one of the blights of South Asia. The situation is getting out of hand".⁸ He also said that "rising tide of commercial sexual exploitation" in the region numbers being trafficked in Asia represented nearly half the world total - and South Asia was bearing the brunt.⁹ UNICEF estimates South Asia provides most of the 500,000 women and children trafficked each year in Asia.¹⁰ There are incidences of boys being traded for sex, as in Sri Lanka where foreign paedophiles lure beach boys with money.¹¹ In 2005, International Labour Organization estimates that whereas 43% of all victims are trafficked for sexual exploitation, another 32% are victims of economic exploitation, the rest being undetermined.¹²

⁴ Article 3 of the UN. Protocol to prevent, suppress and punish trafficking in persons.

⁵ Section 102 of the "Trafficking Victims Protection Act, 2000, U.S"

⁶ Article 1(3) of the "SAARC Convention On Prevention And Combating Trafficking in Women and Children for Prostitution".

⁷ "Human Trafficking and Migrant Smuggling", United Nations Office on Drugs and Crimes [http://www.unodc.org], accessed date-05.03.2015

⁸ U.N Warns on South Asia Child Sex, BBC News, 29 September 2004.

⁹ ibid

¹⁰ ibid

¹¹ S. Huda, "Sex Trafficking in South Asia", International Journal of Gynecology and Obstetrics, Volume 94, issue-3, pp 375. [http://www.ijgo.org].

¹² S. Huda, "Sex Trafficking in South Asia", International Journal of Gynecology and Obstetrics, Volume 94, issue-3, pp 376, [http://www.ijgo.org].

Modes Of Human Trafficking And Procurement Process

Traffickers adopt different strategies and tricks to allure and enrol young children and women (and their families) into the trafficking process. Sex industries in Bangladesh selling the women in national brothels and also many of them are selling in the neighbouring country India. In Bangladesh, the traffickers hunt for their clients at the river ports, especially the Sadar Ghat area of Dhaka, bus stations, and the railway stations across the country. At these locations, the traffickers look for migrants who come from the rural areas for jobs or for poor young people abandoned by their families and allure them with false promises of better life. The victims collected from these spots are usually sold to Bangladeshi brothels. Procurement of victims in villages and towns in the border areas of the country is more frequently associated with the purpose of supplying sex workers for the sex industry in India and the Middle East. The following case studies provide examples of strategies adopted by the traffickers involved in the national and international human trade in Bangladesh. Traffickers look for girls from poorer and vulnerable families in villages and tempt them and their parents with offers of lucrative jobs and a comfortable life in neighbouring countries, such as India and Pakistan. The girls are so motivated by promises of the trafficker and they leave their home without consulting their parents. Sometimes the parents also gives consent to go with traffickers to work outside the home. A study from Nepal on the factors that influence victims of trafficking in deciding to migrate from their place of origin concluded that the majority of trafficked people were deceived by relatives and village men. Another review on trafficking of the Nepalese women and girls found that the women and girls who were victims of trafficking were deceived by someone they trusted. That the pimps and brokers persuaded them with alluring assurances of happy and married life, a secure and better income job, the life of an actress and other false promises. In addition to economic vulnerability of the family, the traffickers also look for families in which factors, such as domestic abuse and violence, are occurring.

Routs Of Human Trafficking In South Asia

Human trafficking is reported in nearly all countries in South Asia. The data of human trafficking is available in South Asian Countries. In South Asia, Bangladesh, India and Nepal, human trafficking is more than the other countries in this region. Moreover, statistics are often collected only for cases of cross-border trafficking of women and girls for sexual exploitation. The majority of South Asian countries serve as destination, origin and transit countries for cross-border trafficking. Trafficking takes place both within the region and between South Asia and other regions, including South East Asia, Europe and the Gulf States. Also in the inter-state trafficking in the South Asian region. Bangladesh is a country of origin for trafficking in men, women and girl children. Human rights groups in Bangladesh estimate that between 10,000 and 20,000 women and girls are trafficked annually to India, Pakistan, Bahrain, Kuwait, and the United Arab Emirates. In Bangladesh, it is not only women and girls that are trafficked but also a large number of boys and men are trafficked internally and internationally for sexual exploitations. The Report on Trafficking in Persons presented by the United Nations Office on Drugs and Crime in 2009 has given the percentage break up of annually trafficked males, females and children as follows - men=12%, women=66% and children=22%. In April 2006, UNODC published the report Trafficking in Persons: Global Patterns identifying 127 countries of origin, 98 transit countries and 137 destination countries.

Current Situation Of Human Trafficking In South Asia

Human trafficking is the most serious forms of transnational organized crime and it's also the violation of human rights laws under national and also in International law. This human rights violation happening all over the world. In South Asia a large number of men, women and children are trafficked in the various countries of the world and also inter-state of the South Asia. It is estimated that in South Asia alone 150,000 persons are trafficked every year.¹³ Since 2003, the world counts with a powerful instrument, the United Nations Convention on Transnational Organized Crime, which includes specific protocols on how to prevent and control human trafficking and migrant smuggling. In this context, the United Nations Office on Drugs and Crime in association with ATSEC India (Action Against Trafficking and Sexual Exploitation of Children) a network of NGOs working on prevention of human trafficking organized for the first time in South Asia a three-day regional workshop on "International Cooperation in Trafficking in Persons/Smuggling of Migrants Cases" in Kolkata, India from 6 to 8 March 2010.¹⁴ The workshop brought together 27 officers and representatives from the executive and the judiciary power from Bangladesh, Bhutan, India, Maldives, Nepal and Sri Lanka, including police officers, prosecutors, judges and senior government officials, representatives from the International

¹³ UNODC: South Asia: six countries meet to increase international cooperation against human trafficking and smuggling of migrants. (<http://www.unodc.org/southasia/en/frontpage/2010/March/international-cooperation.html>)

¹⁴ South Asia: six countries meet to increase international cooperation against human trafficking and smuggling of migrants. (<http://www.unodc.org/southasia/en/frontpage/2010/March/international-cooperation.html>)

Justice Mission, International Organization for Migration (IOM), UNIFEM, ATSEC and UNODC experts in legal and criminal justice matters.¹⁵

All South Asian countries prohibits the human trafficking by incorporating the national legislations and also by the various international and regional conventions. In the South Asian law human trafficking is a punishable offence. For stopping the human trafficking the South Asian countries incorporated special Act against such kind of trafficking. The South Asian Association for Regional cooperation (SAARC) has taken some steps to stop the human trafficking; specially women and children. In 2007 and 2008, UNODC gathered information concerning 155 countries and territories. Human trafficking is not only national problems but also an international problem. "Because it involves transnational movement of people, one important related area of debate is migration policy. Another concerns human rights aspects. The relevance of increased border control is noted, as is the status attributed to those who do not enter a State legally. An unintended consequence of efforts directed principally at illegal migration can be the non-identification and victimization of trafficked persons. The specific migration issues faced by countries of origin and destination that can have a direct impact on trafficking in persons are outlined, as also the systemic challenges to be met in the case of the identification in one State of a trafficked person from another State."¹⁶ Another important impact is that the human trafficking is the violations of the rule of law. The human trafficking is an criminal act. The human trafficking is an transnational organized crime. "Organized crime is one of the most important mechanisms for unlawful redistribution of national wealth, unduly influencing markets, political power and societal relations. These effects may be acute in countries responding to civil unrest, natural disasters or post-conflict situations. The corresponding challenges faced by Governments are in stark contrast to the opportunities created for human traffickers. The underlying threat posed by trafficking in persons is why the issue is increasingly recognized as one of global security."¹⁷

Causes Of Human Trafficking In South Asia

South Asia is the most vulnerable country for human trafficking in Asia. Human trafficking has become a fast growing epidemic not only in the South Asia but also all over the world. In South Asia, Bangladesh and Nepal is the most vulnerable country for human trafficking. The large number of population, poverty and the natural disasters and the gender inequality is responsible for the human trafficking in Bangladesh. To find a 'cure' to this rising 'epidemic' people must be educated, government response must rise up and society must always be aware, but the United Nations' (UN) Resident Co-ordinator Michelle Gyles-McDonnough said: "We have go beyond by addressing the push and pull factors of human trafficking."¹⁸ The push factors includes economic insolvency, migration, gender discrimination, Illiteracy, Dowry, natural disaster etc and the pull factors includes the economic solvency, better employment, influential power media etc. There are many others reasons to human trafficking. These are given below:

- **Economic Insolvency**, South Asian Countries including Bangladesh, India and Nepal are developing country. Most of the population of Bangladesh, India and Nepal are illiterate and unemployed. In Bangladesh 80% of the total population involving with farming. A large number of population in these country are unemployed. As a result they are economically insolvent. The traffickers takes this chance to traffics. The traffickers tells them to give better opportunity of work and trafficked the economic insolvent population.
- **Social and Economic vulnerability of women and female children:** In South Asia, the women and female children are most vulnerable in the societies. In South Asia, men are the driving power of the family as well as in the societies. In most of the cases the men are the only earning member in the family and women are whose role is related to biological reproduction. This creates specific gender roles with strong values and norms attached to each. The girls grow up in family and work in the house. So one kind of dependency grow from their childhood. Early marriage and polygamy is very common in the rural areas of the South Asian Countries. Women are the victim of the polygamy, dowry etc. Sometimes the husband cheats with the wife by leaving. In South Asia, women are the victim of gender oppression because of their low status. Since last three decades women are started to work outside the home though the situation is now changing. There are 4 million peoples working in the garment industries in Bangladesh among them 80% are women.¹⁹The women entering the highly competitive labour markets to compete with men but comparatively with low remuneration in most of the areas.

¹⁵South Asia: six countries meet to increase international cooperation against human trafficking and smuggling of migrants. (<http://www.unodc.org/southasia/en/frontpage/2010/March/international-cooperation.html>)

¹⁶ An Introduction to Human Trafficking: Vulnerability, Impact and Action; United Nations Office on Drugs and crimes

¹⁷ An Introduction to Human Trafficking: Vulnerability, Impact and Action; United Nations Office on Drugs and crimes

¹⁸ Fadzli and others, "Addressing the Push and Pull Factors of Human Trafficking", The Malaysian Times, September 8 2013, [<http://www.themalaysiantimes.com.my>], accessed date-3.03.2015

¹⁹ Bangladesh Garment Manufacturer and Exporter Association.

- The another reasons for the human trafficking are the religious fundamentalism, Polygamy and child marriage, negligible decision-making status of women in financial matters, frustration in love, globalization and export-oriented growth model and consumerism, natural disasters making families homeless and disintegrated, seeking for better life (e.g. job and prospect of marriage, Increased dependency of guardians on the income of their female children), Inadequate government policies, Lack of social security and safety, Corruption amongst the members of law enforcing agencies in domestically and in international borders. In several south Asian countries (India; Bangladesh), the victims may have been abducted, deceived or even sometimes the victims bought from their family members. For the human trafficking the sexual exploitation is increasing. There are various effects of the human trafficking in the society, individuals life, economic, psychological effects, health, political implications and also it impacts on the rule of law and many others effects happens. Psychological and health impact is very much increasing on the trafficking victims. The traffickers mainly traffics the age between 6 to 24 years of men and women because a young victim will easily succumb to force and give in.²⁰
- Negative attitude toward women and female children and Social stigma against single, unwed, or widowed women.
- Physical and mental illness, and contagious diseases turning women as outcastes.
- Frustration in love and failure in conjugal life.
- Enticements for better life, e.g. job and prospect of marriage.
- Corruption amongst the members of law-enforcing agencies.

Human Trafficking And The Violation Of Human Rights

International human rights law are very much concern about the fundamental rights of the human beings. The international human rights laws has prohibited the discrimination against the persons on the basis of race, colour, sex, religion etc. It also prohibits the forced labour, forced marriage, child labour, debt bondage, and the sexual exploitation of the women and children.²¹ Human trafficking is the grave violation of human rights. If we analyse the purpose of human trafficking we see that the main purpose is the slavery, forced labour, forced marriage, child labour, debt bondage and sexual exploitations. Debt bondage is prohibited under international law. The reason is as a result of debt bondage is used as a means of controlling and exploiting them.²² Forced labour is the violation against the will of the human. The forced or compulsory labour also prohibits by the Forced labour convention 1930. It provides that "forced or compulsory labour shall mean all work or service which is exacted from any person under the menace of any penalty and for which the person has not offered himself voluntarily."²³ Human trafficking is the violation against human being, so state responsibility comes automatically with this issue. But problem is that there is no direct provisions of state responsibility in relation to human trafficking except "The Convention on the Elimination of All Forms of Discrimination against Women and the "Convention on the Rights of the Child(CRC). According to CEDAW, "States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women."²⁴ Most of the South Asian Countries is the member of the CEDAW including Bangladesh, India and Nepal. So, the South Asian countries have the obligation to protect the human trafficking. The Convention on the Rights of the Child (CRC) also describes that "States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form"²⁵ and "States Parties shall protect the child against all other forms of exploitation prejudicial to any aspects of the child's welfare."²⁶

The international community is very much concern in relation to human trafficking. The Regional instruments has concentrated to human trafficking. Both the "Council of Europe Convention on Action against Trafficking in Human Beings" and the "EU Directive on preventing and combating trafficking in human beings" deals with the human trafficking. The principle 1 of the EU Directive on preventing and combating trafficking in human beings" provides that "trafficking in human beings is a serious crime, often committed within the framework of organised crime, a gross violation of fundamental rights and explicitly prohibited by the Charter of Fundamental Rights of the European Union. Preventing and combating trafficking in human beings is a priority for the Union and the Member States." The United Nations General Assembly and the Human Rights Council have repeatedly affirmed that trafficking violates and impairs fundamental human rights, as have many

²⁰ Buzzle, Effects of human trafficking, accessed date 5.03.2015 <http://www.buzzle.com/articles/effects-of-human-trafficking.html>

²¹ "Human Rights and Human Trafficking", Fact sheet no-36 of 2014, Office of the U.N High Commissioner for Human Rights (OHCHR), PP-4.

²² "Human Rights and Human Trafficking", Fact sheet no-36 of 2014, Office of the U.N High Commissioner for Human Rights (OHCHR), PP-5

²³ Article 2 of the ILO Forced Labour Convention,1930.

²⁴ Article 6 of the CEDAW

²⁵ Article 35 of the Convention on the Rights of the Child.

²⁶ Article 36 of the Convention on the Rights of the Child.

of the international human rights mechanisms.²⁷In 2002 the SAARC adopted the "SAARC Convention On Preventing And Combating Trafficking in Women and Children for Prostitution". It declared that that the feasibility of a regional Convention to combat the grave crime of trafficking in women and children for prostitution should be explored. South Asian countries are playing very active role to eliminate the human trafficking. Victims might be in need of protection in the form of remaining in the territory of the receiving state.²⁸The human rights are also guaranteed by the U.N Charter and also by the Universal Declaration of Human Rights (UDHR) without any discrimination on the basis of race, colour, sex, ethnicity and other forms. In the case of trafficking, if the trafficked person are not the national of a trafficking country, the residing country can not deny it's international obligation to protect the trafficked persons because of the universality of human rights. **"Women and girls** are trafficked into gender-specific situations of exploitation such as exploitative prostitution and sex tourism, and forced labour in domestic and service industries. They also suffer gender-specific forms of harm and consequences of being trafficked (for example, rape, forced marriage, unwanted or forced pregnancy, forced termination of pregnancy, and sexually transmitted diseases, including HIV/AIDS)."²⁹

South Asian And The International Laws To Eradicate Human Trafficking

The constitutional protections are very important for every sector. The constitution of most of the South Asian countries don't give the protection against human trafficking. While the constitution of India and Nepal prohibit trafficking in any form, and forced labour, as a fundamental right or basic human right,³⁰ in that time the constitution of Bangladesh only prohibits forced labour and prostitution but not included the trafficking.³¹ In the same time Srilankan Constitution is totally silent on the point beyond invoking a general obligation on the State to protect children.³²The United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons only came into effect in December 2003, but it has inspired widespread legislative response. As of November 2008, 63% of the 155 countries and territories this report had passed laws against trafficking in persons addressing the major forms of trafficking. Another 16% had passed anti-trafficking laws that cover only certain elements of the Protocol definition. In 2003, only one third of the countries covered by this report had legislation against human trafficking; at the end of 2008, four-fifths did. The number of countries having anti-trafficking legislation more than doubled between 2003 and 2008 in response to the passage of the Protocol. Human trafficking violates the basic rights of the persons," the freedom from coercion at work, the freedom to set up associations and bargain collectively, and the freedom from discrimination at work. Trafficking of children has been defined by the ILO as one of the worst forms of child labour, which seriously harms the development of the child. These four core principles are enshrined in the ILO Declaration on Fundamental Principles and Rights at Work that was adopted by ILO members in 1998. The Declaration is based on eight core Conventions, two of which are most closely related to the Palermo Protocol (No. 29 on Forced Labour and No. 182 on the Worst Forms of Child Labour)."³³ The member States of the ILO which ratify the ILO Forced Labour Convention, 1930 undertake "to suppress the use of forced labour or compulsory labour in all its forms within the shortest possible period"³⁴ The term "forced or compulsory labour" is defined as "all work or service which is exacted from any person under the menace of any penalty and for which the person has not offered himself voluntarily".³⁵ The States Parties to the Convention must ensure that "the illegal exaction of forced or compulsory labour shall be punishable as a penal offence" and "that the penalties imposed by law are really adequate and are strictly enforced".³⁶Convention Concerning the prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999, requires that each ratifying State take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency. Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1949) This convention ratified by south Asian countries also. Afghanistan (1985), Bangladesh (1985), India (1953), Pakistan (1952),SriLanka (1958) ratified this convention. So, these countries should implement the provisions of this convention into their national laws to end of the human trafficking.

In Indian national law , the human trafficking idea is not exist. But the State of Goa of India has defined the human trafficking in the "Goa Children's Act, 2003". This act prohibits the child exploitation and

²⁷ Human Rights and Human Trafficking", Fact sheet no-36 of 2014, Office of the U.N High Commissioner for Human Rights (OHCHR), PP-5

²⁸ Preamble of the "SAARC Convention On Preventing And Combating Trafficking in Women and Children for Prostitution".

²⁹ Human Rights and Human Trafficking", Fact sheet no-36 of 2014, Office of the U.N High Commissioner for Human Rights (OHCHR), PP-7

³⁰ Article 23 of the constitution of India and Article 20 of the Interim constitution of Nepal.

³¹ Article 18(2) and 34(1) of the constitution of Bangladesh

³² Article 12(4) and article 27(13) of the constitution of Srilanka.

³³ ILO action Human trafficking , 2008

³⁴ (Art. 1, para. 1, of the Forced Labour Convention, 1930).

³⁵ Article 2, para. 1, of the Forced Labour Convention, 1930

³⁶ Article 25 of Forced Labour Convention, 1930).

abuse and has a comprehensive focus³⁷, particularly on commercial sexual exploitation.³⁸ The act provides a definition of "grave sexual assault" that is designed to incorporate every type of sexual assault, including making children pose for pornographic photographs and films.³⁹ The Penal Code of Bhutan and the Labour and Employment Act, 2007 both incorporate a comprehensive range of provisions for such offences. Bhutan has also ratified the SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution. In 2007, the National Commission for Women and Children filed the first case of child trafficking in the country. Submitted to the Women and Child Protection Unit of the Royal Bhutan Police, the case involved a child who had been trafficked for domestic work. It generated widespread media coverage and intense public discussion.

In addition, 54% of responding countries have established a special anti-human trafficking police unit, and more than half have developed a national action plan to deal with this issue.⁴⁰ Given that this legislative framework is very new, it is remarkable that 91 countries (57% of the reporting countries) reported at least one human trafficking prosecution, and 73 countries reported at least one conviction. A core of 47 countries reported making at least 10 convictions per year, with 15 making at least five times this number.⁴¹ Bangladesh passed some special law to give special protection to women and children; such as "Women and Children Repression Prevention Act, 2000". Under this Act trafficking is punishable by death or life imprisonments which can be extend ten to twenty years.⁴² Buying or disposing any person as slave or Habitual dealing in slaves⁴³ Kidnapping or abducting of a person to slavery⁴⁴ is also punishable offence under the Bangladeshi law. Procuring or trafficking in women or young persons is an extraditable offence.⁴⁵ There is some case in Bangladesh in relation to human trafficking. One of the case is **ABDUL GAFUR Vs. Secretary, Ministry Of Foreign Affairs, Govt. Of Bangladesh.**⁴⁶ The fact of this case in brief was- a Fifteen years old girl was abducted by the traffickers and had been sold in India. Her father wrote an application to the government of Bangladesh asking authorities to take steps for her repatriation but the government remained unmoved. Finally he filed a writ petition in the Court to direct the concerned authority of Bangladesh government to doing the said act. In the writ petition it was stated that the girl was entitled to protection under article 27,31 and 32 of the Bangladesh Constitution. The court gave a land mark decision in this case. The Court directed to the Bangladesh government to take necessary steps to repatriation of the victim. In this case the court recognized the repatriation as fundamental rights of the citizens of Bangladesh.

Preventive Measures To End Of The Human Trafficking In South Asia

To prevent the human trafficking the government, society, and individuals should take many measures. Some of the preventive measures are given below:

- 1) Raise awareness of the general people as well as specific targeted groups in the South Asian region. This would be play a very important role to eradicate the human trafficking from south asian region as well as from the world. The government and the non-government organizations may take part an important role to create awareness to the people by taking rally, advertisement in the television channels, disseminate information through bill-board, poster, leaflets etc.
- 2). The government should take some step to give financial help to the vulnerable peoples. to prevent human trafficking. This is the another important issue to prevent the human trafficking. One of the main reason for human trafficking is poverty. So, if the rural poor people get some financial assistance to financially establish themselves, it would be very helpful for them. Provide support to the survivors of trafficking for their reintegration in the society or families through capacity building of public, private and NGO services.
- 3) Develop the capacity of government officials for sustainability of integrated approach to address trafficking in children, adolescent girls and women.
- 4) The government should strengthen the capacity of the Judicial and law enforcement agencies officials to manage trafficking cases through number of trainings. In South Asian countries there is no such kind of training centre in the national level as well as in the regional level. The South Asian Association For Regional Cooperation (SAARC) may take some initiative for arrange this kind of training mechanism for the law enforcement agencies of the member states.

³⁷Section 2(z) of the GOA Children 's Act,2003,India

³⁸Sections 3 (1), 3 (6), 8 (12), 9 (4). of the Goa Children's Act, 2003,India

³⁹Sections 2 (y) i, 2(y) ii and 2(y) iii. of the Goa Children's Act, 2003, India.

⁴⁰United Nations Office On Drugs and Crimes: Global Report on Trafficking in Persons: page 8.

⁴¹ ibid.

⁴² Section 5 of the "Women and Children Repression Prevention Act,2000".

⁴³Section 370 and 371 of the Bangladesh Penal Code,1860

⁴⁴ Section 367 of the Bangladesh penal code,1860

⁴⁵ Para 4,schedule to the Extradition Act 1974, Bangladesh.

⁴⁶ 17(1997), BLD (High Court Division)560

- 4). The national laws are not much strict in the south Asian region. So, the south Asian countries should implement some special laws for ending the human trafficking. States should also take some measure to protect victims of human trafficking and to prevent them from being re-victimized. Because sometimes it's noticed that when the victims able to come back in their own country or to their family, they neglected by the family members and also by the society. In that situation the victims again go back their past activities. If they got proper mental support from their family and also from the society they never return to their past job. In this situation state can take some initiative to prevent re-victimized of the trafficked persons.⁴⁷ The protections may vary in the case of women, children and others. All the South Asian countries do have some certain protections falling within the ambit of this provision except Srilanka.
- 5). The countries should create anti-trafficking organization to prevent the human trafficking. In this anti-trafficking organization, the enforcement agency also should be highly trained in relation to the human trafficking. There should be a national human trafficking hot line such as mobile or telephone numbers. In this case the SAARC can take the initiatives and also encourage to its member states.
- 6). The general people should contact with the law enforcement agencies when they see any kind of human trafficking in his/her community or anywhere in his/her country.
- 7). South Asian countries should make proper laws in relation to education to all citizens. The government should make laws that compulsory education up to minimum secondary education to all citizens. This would be very helpful to end the human trafficking.
- 8). Advocate for serious penalties that are enforced for traffickers along with services to Assist the rescued victims.
- 9). Developing cooperation arrangements to facilitate the rapid identification of trafficked persons including the sharing and exchange of information in relation to their nationality and right of residence.
- 10). Encouraging law enforcement authorities to work in partnership with non-governmental agencies in order to ensure that trafficked persons receive necessary support and assistance.

II. Conclusion

The human trafficking is a dangerous virus in the society now a day. The South Asian countries should implement the international laws related to the human trafficking in its national legislation. The peoples must aware about this problem. The SAARC can take place a very important role in this regard. The SAARC can arrange the regional instrument in South Asia to prevent the human trafficking. Trafficking in person is a grave breach of human rights. The forced labour and the sexual exploitation are main motive of the traffickers. Many girls and women are suffering HIV/AIDS because of the sexual exploitations. There is no human dignity of the trafficked persons. Life is in danger in every moment. The states should make Bilateral, Multilateral agreements between them to end of the human trafficking. The UN Office of the High Commissioner for Human Rights should take necessary measures and can play an influential role among the member states of the United Nations to incorporate special legislation in relation to the human trafficking. The countries can make awareness programmes in the national televisions. The family members also can make an influential role to eradicate the trafficking. The family members should not discriminate in any opportunity between men and women. The government can make the online marriage registration system because some people hide their first marriage to do another marriage. Dowry should be prohibited by incorporating the national legislation. In South Asia, the dowry is an open secret matter. The South Asian countries can take initiatives to prohibit the dowry system. Because the dowry is also responsible for human trafficking in the rural areas in South Asia. Bangladesh⁴⁸, India⁴⁹ has already taken the step and it prohibits the dowry in its territory.⁵⁰ But the problem is the enforcement of this legislation. The concern law enforcement agencies are negligence in this matter. The individual should also aware about the human trafficking. The States have to ensure the protection of the trafficked persons from any kind of harm, threats by the traffickers. "To this end, there should be no public disclosure of the identity of trafficking victims and their privacy should be respected and protected to the extent possible, while taking into account the right of any accused persons to a fair trial. Trafficked persons should be given full warning, in advance, of the difficulties inherent in protecting identities and should not be given false or unrealistic expectations regarding the capacities of law enforcement agencies in this regard."⁵¹

⁴⁷ Article 9 of the UNTOC Protocol

⁴⁸ The Dowry prohibition Act, 1980, Bangladesh

⁴⁹ The Dowry prohibition Act, 1961, India

⁵¹ "Recommended Principles and Guidelines on Human Rights and Human Trafficking Commentary"2010, Office of the United Nations High Commissioner for Human Rights.