

Human Trafficking as A Transnational Crime: Legal Perspectives

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Abstract

Human trafficking is a transnational crime that involves the exploitation of people for profit. It is a multi-billion-dollar criminal enterprise that is found in every corner of the world. Transnational human trafficking is particularly insidious because it often involves the movement of victims across international borders, making it more difficult to track and prosecute the criminals involved.

Transnational human trafficking can take many forms, including forced labour, sexual exploitation, and organ trafficking. Victims are often lured by false promises of employment or a better life and then forced into slavery-like conditions, be subjected to physical and sexual abuse, forced drug use, and forced participation in criminal activities.

The complexity and transnational nature of human trafficking make it difficult to combat. It requires the cooperation and coordination of law enforcement agencies across borders, as well as international organizations and governments. There is a need for greater awareness and education about the issue, as well as increased efforts to identify and assist victims of trafficking.

Transnational human trafficking is fuelled by demand for cheap labour, commercial sex, and organs. Criminal networks take advantage of vulnerable populations, including women and children, refugees, and migrants, to meet this demand. They use a variety of tactics to control their victims, including physical and psychological abuse, debt bondage, and threats against their families.

To address this issue, countries must have strong laws and policies to prevent and combat human trafficking. They must also work together to share information and resources, coordinate investigations and prosecutions, and provide support to victims. Additionally, efforts must be made to raise public awareness about the issue, to promote responsible consumption practices, and to hold businesses accountable for their supply chains.

The fight against human trafficking is a complex and ongoing challenge that requires the participation of governments, civil society organizations, the private sector, and individuals around the world. By working together, we can bring an end to this egregious violation of human rights and ensure that those who perpetrate these crimes are brought to justice.

CHAPTER – 1

INTRODUCTION

1.1. Background

Today, human trafficking is one of the most serious offences being carried out globally. It is a global issue that affects nearly every country in the world. It is a complex and multi-faceted crime that involves the movement of people across borders, often with the use of deception, coercion, and violence. Countries can be affected in different ways, as a point of origin, transit, or destination. Victims of human trafficking

come from a wide range of countries, and are exploited in different forms of labour and sex trafficking in various countries.

According to the International Labour Organization (ILO), forced labour alone affects at least 24.9 million people globally. Moreover, the United Nations Office on Drugs and Crime (UNODC) reported that in 2016, victims from at least 127 countries were exploited in 137 different countries. This highlights the transnational nature of human trafficking, and the need for international cooperation and coordination in addressing this crime.

As a significant facet of transnational organised crime and one of the most lucrative criminal enterprises globally, human trafficking was ranked in 2006 as the world's third largest crime. However, in 2010 the United Nations (UN) cited trafficking in humans as the second most profitable crime around the world next to the drug trade, making it the fastest-growing source of revenue for organised criminal operations internationally. As of 2022, it is believed to have become a global criminal business of \$150 billion per year. Human trafficking includes sex trafficking, labour trafficking, forced labour to pay debts, trafficking for marriage and child trafficking. Trafficking in children has especially boomed over the last few decades and is worldwide a major concern. Globally, one in five victims of human trafficking are children, although in poorer regions and sub-regions, such as Africa and Greater Mekong, they make up the majority of trafficked persons. Women, meanwhile, make up two thirds of the world's human trafficking victims. Human trafficking is a transnational crime in which people are recruited, transported, transferred, harboured, or received for the purpose of exploitation. This can include forced labour, sexual exploitation, and other forms of abuse. Traffickers often use violence, deception, and coercion to control and exploit their victims. The crime is often difficult to detect and prosecute due to the hidden nature of the activity, the vulnerability of the victims and lack of clarity in the laws. It is considered a serious violation of human rights and is punishable by law in many countries. The international legal framework for human trafficking is largely articulated in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime, also known as the Palermo Protocol. It was adopted by the United Nations General Assembly in 2000 and has been ratified by over 180 countries.

The Palermo Protocol defines human trafficking as the recruitment, transportation, transfer, harbouring or receipt of persons by means of threat, use of force or other forms of coercion, abduction, fraud, deception, the abuse of power or of a position of vulnerability, or 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.

According to the Palermo Convention, a criminal offence is transnational if it satisfies one or more of the following criterion –

- a. It is committed in more than one State.
- b. It is committed in one State but a substantial part of its planning, direction or control takes place in another State.
- c. It is committed in one State but involves an organized criminal group engaged in criminal activities in more than one State.
- d. It is committed in one State but has substantial effects in another State.

Human trafficking affects individuals from all backgrounds, genders, and ages. However, the majority of identified victims are women and girls, and the most common form of human trafficking is sexual exploitation. Many female victims are lured with false promises of employment, and then subjected to

physical and emotional abuse, debt bondage, and have their identification documents confiscated. They are often threatened with violence, and blackmailed by traffickers.

Men and boys can be victims of human trafficking too, although their percentage is lower than that of women. They may be forced into labour, forced begging, or sexual exploitation. Also, there are cases of child soldiers who are forced to be part of armed groups. The fact that anti-human trafficking legislation around the world has traditionally focused on trafficking in women and children or trafficking for the purpose of sexual exploitation has contributed to the low numbers of identified male victims.

The many different forms of human trafficking mean that there is no single, typical victim profile. Cases of human trafficking are seen in all parts of the world, and victims are targeted regardless of their gender, age, or background. Children may be trafficked for begging or as pick-pockets. Young girls may be deceived with promises of modelling or au pair jobs, and then forced into sexual exploitation. Women from Asia are tricked with promises of legitimate work and then trapped in a world of abuse. Men and women may be forced to work in gruelling conditions on farms, and so on.

It's important to remember that every case of human trafficking is unique and requires an individualized approach in order to effectively address the needs of the victims. The legal frameworks around the world need to be questioned and appropriate changes should be brought forth so as to be able to prevent human trafficking.

Objectives of the Study

The object of studying the legal perspectives of human trafficking as a transnational crime is to understand and analyze the laws, policies, and practices that are used to combat human trafficking globally. This will help –

1. To scrutinize the definitions and concept of human trafficking as a transnational crime.
2. To study the Indian framework dealing with human trafficking.
3. To study the international frameworks dealing with human trafficking.
4. To compare and identify the gaps and inconsistencies in the Indian legal framework.
5. To analyze the steps taken for cooperation and coordination by India and her neighbouring countries.
6. To suggest measures for prevention of human trafficking and efficient execution of existing policies.

By studying the legal perspectives of human trafficking as a transnational crime, researchers can help to identify the problems and challenges faced by countries in combating human trafficking, and assist in the development of more effective policies and laws.

Significance and Utility of the Study

Despite the existence of international and national laws aimed at combating human trafficking, this crime continues to affect millions of people worldwide. There are significant gaps and weaknesses in existing laws, which make it difficult to effectively prevent human trafficking and protect victims. Furthermore, the role of non-state actors in human trafficking is not fully understood and there is a lack of knowledge about the legal rights of victims and the effectiveness of legal support and protection services. The study is focused to understand the legal aspects of human trafficking, including the gaps and weaknesses in existing laws, the role of non-state actors, the legal rights of victims, and the effectiveness of legal support and protection services, in order to inform the development of more effective laws and policies to combat this transnational crime.

The fact that anti-human trafficking legislation around the world has traditionally focused on trafficking in women and children or trafficking for the purpose of sexual exploitation has contributed to the low numbers of identified male victims. This is because for many years, the majority of the attention and

resources were directed towards trafficking in women and children, and trafficking for the purpose of sexual exploitation, which are more visible forms of trafficking. This narrow focus on certain forms of trafficking has led to a lack of awareness and understanding of the ways in which men and boys can be victimized by human trafficking. For example, men and boys can be victims of forced labour, forced begging, and sexual exploitation, as well as being used as child soldiers. This lack of awareness and understanding can lead to a lack of identification and services for male victims, which in turn can make it more difficult for them to access the support and protection they need. Additionally, the traditional focus on women and children as victims of trafficking may also discourage men and boys from reporting their experiences, and make it more difficult for them to be recognized as victims. It's important to note that in recent years, the understanding of human trafficking has evolved and the approach to it has become more holistic. Many countries have adopted laws and policies that address all forms of human trafficking, regardless of the gender of the victim. This study aims to ensure that all victims of human trafficking, including men and boys, are able to understand their rights and get the support and protection they need. There is a lack of consistency in the definitions and laws used to criminalize human trafficking among different countries. This makes it difficult to effectively prosecute traffickers and protect victims, as well as to compare and coordinate efforts among different countries. Many countries lack the capacity and resources to effectively enforce their laws against human trafficking. This can include a lack of trained personnel, inadequate funding for investigations and prosecutions, and poor cooperation among law enforcement agencies. Furthermore, proving human trafficking crimes can be difficult, as it often involves complex and transnational criminal networks, and victims may be reluctant to testify due to fear of retaliation or mistrust of the legal system. This results in low conviction rates for traffickers. Cooperation between countries is crucial in addressing human trafficking as it is a transnational crime. However, many countries lack the necessary mechanisms and resources to effectively cooperate with one another in investigating and prosecuting traffickers, and protecting and supporting victims. Overall, the world is faced with various challenges that include a lack of consistency in laws and definitions, weak law enforcement, limited protection and support for victims, difficulty in prosecuting cases, lack of attention to certain forms of human trafficking, and limited cooperation among countries.

1.2.Hypothesis

I intend to test the following hypothesis during the course of this study –

- The current international and national laws and policies used to combat human trafficking are inadequate and do not effectively address the problem.
- The effectiveness of law enforcement in preventing and combating human trafficking is limited due to a lack of resources and inadequate training.
- The cooperation and coordination among countries in combating human trafficking is limited, resulting in fragmented efforts to address the problem.
- The protection and support provided to victims of human trafficking is inadequate and there is a lack of specialized services to meet their needs.

1.3.Scope of the Study

The scope of studying the legal perspectives of human trafficking as a transnational crime refers to the specific areas or aspects of the topic that will be covered in the study so as to keep this research focused. This includes the following –

1. National framework: The study will examine the international legal framework for human trafficking.
2. International regulations: The study will analyze the national legal framework for human trafficking.

3. Protection of rights of trafficked persons: The study can examine the measures that countries are taking to protect and assist victims of human trafficking.
4. International cooperation: The study can analyze the level of international cooperation and coordination among countries in the prevention, protection, and prosecution of human trafficking.
5. Laws and policies of various countries: The study can also include analysis of specific countries or regions to examine the implementation and effectiveness of legal perspectives on human trafficking.

Human trafficking is a diverse and dynamic offence that gives rise to further many other crimes as well. The study of each such aspect is not possible in the given time frame and it is doomed to become bulky and fail. Hence, I find it wise to rather limit the scope of the study to the extent wherein –

- The study will focus on the legal perspectives of human trafficking as a transnational crime and will not cover other aspects such as social and economic perspectives.
- The study will focus on human trafficking laws and policies in specific countries only due to the limitation on the length of this dissertation.
- The study will only focus on specific forms of human trafficking such as sex trafficking and labour trafficking.

1.4. Basic Concepts

Some basic concepts related to human trafficking that are pertinent to the understanding of this study are mentioned here.

- a. Human trafficking – It means the recruitment, transportation, transfer, harbouring, or receipt of persons by means of threat, use of force or other forms of coercion, abduction, fraud, deception, abuse of power or vulnerability, or 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.
- b. Exploitation – Exploitation is a key concept in human trafficking, as it refers to the abusive and illegal use of individuals for the benefit of others. It is defined as the act of taking advantage of someone for one's own gain, often at the expense of the person being exploited. In the context of human trafficking, exploitation refers to the act of subjecting a person to forced labour, sexual exploitation, or other forms of abuse, such as organ removal.

Exploitation can take many forms and can occur in various settings, including in the workplace, in the home, or in the community. Examples of exploitation in human trafficking include, but not limited to:

- Forced labour: the use of force, threats of force, or deception to make a person work against their will, often in substandard conditions, for little or no pay.
- Sexual exploitation: the use of force, threats of force, or deception to make a person engage in sexual activities, such as prostitution, pornography, or sexual performance, often in exchange for money or other benefits.
- Organ removal: the illegal removal of organs from a person, often through deception, for the purpose of transplantation.
- Domestic servitude: forcing a person to work in a private household without pay or with very little pay, and subjecting them to physical, emotional, and sexual abuse.
- Forced begging: forcing a person to beg in the street, often by threatening or exploiting them and their families.
- Child labour: forcing a child to work under conditions that are harmful to their health, education, or overall well-being.

Exploitation can have severe and long-lasting effects on the physical, emotional, and mental health of the victim, and it is crucial to identify and help those who have been exploited.

- c. **Coercion** – This refers to the use of force or threats to make a person do something against their will. It is one of the means by which human traffickers recruit, transport, transfer, harbor, and receive individuals for the purpose of exploitation.

Coercion can take many forms, including physical, psychological, and economic, and it can be used to control and manipulate individuals. Examples of coercion in human trafficking include:

- **Physical force:** using violence or threats of violence to make a person comply with the trafficker's demands.
 - **Psychological manipulation:** using fear, intimidation, or false promises to control a person's behaviour or decisions.
 - **Isolation:** separating a person from their family and friends, or restricting their access to information and communication, to increase their dependence on the trafficker.
 - **Debt bondage:** imposing a debt on a person that they cannot repay and using that debt to control and exploit them.
 - **Blackmail:** threatening to reveal embarrassing or damaging information about a person, or to harm their family members, to make them comply with the trafficker's demands.
 - **Use of drugs:** administering drugs or other substances to a person without their consent, or coercing them to use drugs, to control and exploit them.
- d. **Trafficked persons** – Any person who is subject to human trafficking, regardless of whether the person has been induced to participate in the illicit activity. These persons are often vulnerable individuals, such as individuals living in poverty, women, children, and migrants, who are lured with false promises of a better life or employment opportunities and then subjected to abuse, exploitation, and often held against their will. They may be trafficked for a variety of reasons, including sexual exploitation, forced labour, forced begging, or organ removal.

Trafficked persons may have been moved across national borders or within the same country, and they may have been moved multiple times during their trafficking experience. They may have been subjected to various forms of exploitation, including forced labour, sexual exploitation, or organ removal. They may also have experienced a range of physical, psychological, and emotional harms as a result of their trafficking experience.

- e. **Demand** – refers to the driving force behind human trafficking, it is the desire or need for goods or services that creates the market for them. In the case of human trafficking, it refers to the demand for the services or labour provided by trafficked persons, such as forced labour, sexual exploitation, or organ removal. Demand for human trafficking can take many forms, and it can be generated by various factors including individuals, businesses, and governments. Examples of demand in human trafficking include:
- **The demand for cheap labour:** Businesses or individuals who seek to profit from the exploitation of trafficked persons by paying them low wages or no wages at all, for example, in agriculture, construction, or domestic work.
 - **The demand for sexual services:** individuals or organizations that seek to profit from the exploitation of trafficked persons by offering them for sexual services, such as prostitution, pornography, or exotic dancing.

- The demand for forced labour: individuals or organizations that seek to profit from the exploitation of trafficked persons by making them work in substandard conditions, often in the informal economy or illegal activities.
- The demand for forced begging: individuals or organizations that seek to profit from the exploitation of trafficked persons by making them beg in the street or in other public places.
- The demand for organ removal: individuals or organizations that seek to profit from the exploitation of trafficked persons by making them undergo illegal organ removal or transplantation.

The demand for human trafficking is driven by the desire for profit and it is crucial to target and reduce it by raising awareness about the consequences of human trafficking, and by holding the demand-side actors accountable.

- f. Vulnerability – This refers to the susceptibility of an individual or group to harm or exploitation. In the context of human trafficking, vulnerability refers to the factors that make an individual or group more likely to be targeted and exploited by traffickers. Vulnerability can be caused by a range of factors, including poverty, lack of education, lack of employment opportunities, lack of legal status, and social marginalization. These factors make it more difficult for individuals to access basic needs such as food, shelter, and healthcare, and can also make them more likely to fall prey to traffickers' false promises of a better life or employment opportunities.

Other factors that can contribute to vulnerability include –

- Gender: women, children, and transgender individuals are often targeted for trafficking due to their gender.
- Displacement and migration: refugees, asylum seekers, and migrants are often vulnerable to trafficking due to their lack of legal status and social isolation.
- Lack of access to information and services: individuals who lack access to information about their rights and services available to them are more vulnerable to traffickers.
- Physical or mental disabilities: individuals with disabilities may be more vulnerable to trafficking due to their increased dependence on others.
- History of abuse: individuals who have experienced abuse or exploitation in the past may be more vulnerable to trafficking in the future.

Identifying and addressing vulnerability is important for preventing human trafficking and protecting potential victims.

- g. Transnational crime – A criminal activity that occurs across national borders. Human trafficking is considered a transnational crime because it involves the movement of victims across national borders, and often involves multiple countries in the recruitment, transportation, and exploitation of victims.

Human trafficking is considered a transnational crime as it often involves the recruitment, transportation, transfer, harbouring, or receipt of persons across national borders, by means of threat, use of force or other forms of coercion, abduction, fraud, deception, abuse of power or vulnerability, or 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. The exploitation can take many forms, including forced labour, sexual exploitation and organ removal.

Transnational crimes often involve complex networks of criminal organizations and individuals who operate across multiple countries, making them difficult to investigate and prosecute. They also often involve a range of criminal activities such as money laundering, document fraud, and corruption, which can further complicate efforts to combat them.

Transnational crimes pose significant challenges to law enforcement and judicial authorities as they require international cooperation and coordination among different countries and agencies. The United Nations and its specialized agencies, as well as other international organizations play an important role in addressing transnational crimes.

1.5. Scheme of the Study

A scheme for studying legal perspectives of human trafficking as a transnational crime could involve the following steps:

1. Introduction
2. Understanding Human Trafficking as A Transnational Crime
3. Legislature on Human Trafficking in India
4. International Instruments on Human Trafficking
5. Cooperative Action Against Human Trafficking – India & Her Neighbours
6. Conclusion and Suggestions

1.6. Research Methodology

The nature of this topic is one that warrants a qualitative research. To accomplish the objectives of the study, it was difficult to pick and stick to one approach. Hence, this study uses the Triangulation method with a combination of approaches in order to address the research questions. This includes a critical analysis approach by dealing with the process of determining how the law applies to the problem and whether or not it is effective'; a doctrinal approach by asking 'what the existing laws are in the direction of this topic'; and, to some extent, a comparative approach by comparing several 'more or less distinct legal systems or the laws of those systems on the same'.

With the use of this Triangulation method, I intend to answer all the questions raised in this study as well as those that might arise out of a reader's curiosity to the best of my abilities.

1.7 Literature Review

To conduct this study, several databases, books, published papers and scholarly articles were searched to identify information regarding the past and current trends concerning the trafficking of humans. The main databases used are Shodhganga, National Digital Library, Google Scholar and Google Play Books. Some of the works that have been read during the course of this study are as follows –

- ***“Combating Transnational Crime: The Role of Learning and Norm Diffusion in the Current Rule of Law Wave” – Paulette Lloyd, Beth Simmons, and Brandon Stewart¹***

In this chapter, the authors focus on the global diffusion of norms and policies to address transnational crime, especially on human trafficking. They make three major contentions –

1. Countries that have a strong commitment to the rule of law and human rights are typically at the forefront of efforts to combat human trafficking. These countries have established laws and policies to criminalize human trafficking, provide protection and assistance to victims, and prevent trafficking from happening in the first place. Furthermore, countries that evidence a commitment to the rule of law domestically also lead the international campaign and set the example for how to counter transnational human trafficking. They often work closely with other countries to share information and best practices, and provide training and technical assistance to help other countries improve their own anti-trafficking efforts. Additionally, they may provide financial and other forms of support to international organizations that are working to combat human trafficking, and may participate in international anti-trafficking task forces and other initiatives.

2. The United States has been a leader in the global efforts to combat human trafficking. The United States has been at the forefront of efforts to combat human trafficking for many years, and has played a key role in driving the international agenda on this issue. The U.S. government has invested significant resources to combat human trafficking both domestically and internationally, and has been a strong advocate for the rights of victims.
7. 'Andre Nolkaemper, Michael Zurn and Randy Peerenboom' (eds.), Chapter 7 in 'The Dynamics of the Rule of Law', pp. 153-180, Cambridge University Press (2012)

One of the key ways the United States has been leading the fight against human trafficking is through the annual release of the "Trafficking in Persons Report" by the U.S. Department of State. The report provides an in-depth analysis of the efforts of governments around the world to combat human trafficking and ranks countries based on their level of compliance with the minimum standards for the elimination of trafficking as outlined in the U.S. Trafficking Victims Protection Act of 2000. The report has been widely recognized as an important tool to raise awareness about human trafficking and to encourage countries to take action to combat this crime.

3. Countries that are affected by human trafficking as origin, transit or destination can take different measures to counter it. Origin countries may focus on prevention measures such as education, awareness campaigns and poverty reduction, while destination countries focus on criminalization and protection measures. Transit countries may focus on detection and interdiction measures. Such countries that experience the negative externalities of human trafficking may not always have the resources or capacity to effectively address the issue, despite the pressure to do so. In such cases, international cooperation and assistance can be crucial in helping to address the problem.
- ***"Human Trafficking: Challenges and Opportunities for the 21st Century" – Jackie Jones, John Winterdyk²***

The authors have focused this paper at the lack of criminal prosecutions and convictions under (criminal) human trafficking legislation. They have also discussed in detail the question of whether the EU regime of remedies is the best place to deal with this aspect or if the focus should remain with alleviating the pain and suffering of those who have been trafficked regardless of the method employed. Traditional notions of the state and its role in the international legal system are changing, and non-state actors are increasingly being recognized as subjects of international legal obligations. This includes being held liable for human rights offenses, including those related to human trafficking.

Non-state actors such as transnational corporations, armed groups, and individuals can be involved in human trafficking in various ways.

For a number of countries, this does not sit well with the traditional international legal rights regime. Often non-state actors are not being held liable for abuses for two main reasons. The authors come up with two responses –

8. Jones, Jackie and Winterdyk, John, Introduction: Human Trafficking: Challenges and Opportunities for the 21st Century, Oñati Socio-Legal Series, Vol. 8, No. 1(2018)

First, international law requires a link between the non-state actor and the state before a conviction can be secured. This is difficult in many circumstances and cannot often be proven to the legal standard that international law requires. Secondly, domestic laws do not always cover the specific offence that law enforcement seeks to pursue; for example, forced or compulsory labour. Law, therefore, can be a barrier to justice. If private actors are the major culprits (and domestic criminal laws are not working) a new approach is needed.

John Winterdyk's article adopts a broader approach to combating child trafficking and human trafficking in general. He emphasizes the importance of building capacity through sustainable partnerships at a local, regional, and international level. The article explores the challenges and necessity of building capacity through building sustainable partnerships at local, regional and international levels.

- ***"Pornography: Driving the Demand in International Sex Trafficking" – David E. Guinn³***

The book was inspired by a conference that aimed to address the institutions and individuals that exploit sex trafficking victims. The conference focused on the role of pornography and its consumers in driving the demand for sexual exploitation.

The book brings to the reader's attention the immediate realm of the ultimate creators of demand, the individuals who consume pornography and engage in prostitution. By understanding and addressing the role of these individuals in driving the demand for sexual exploitation, the book aims to create a more effective response to human trafficking and sexual exploitation.

- ***"Protectors of Predators or Prey: Bystanders and Upstanders Amid Sexual Crimes" – Zachary D. Kaufman⁴***

In recent years, there have been numerous high-profile revelations of sexual abuse by powerful men in the United States, such as Harvey Weinstein and Larry Nassar. These cases have brought the issue of sexual misconduct to the forefront of public attention and have led to a national conversation about the need to prevent and punish such offenses in the future.

9. David E. Guinn, "Pornography: Driving the Demand in International Sex Trafficking", Captive Daughters Media /XLibris, (2007) ISBN: 978-1-4257-5890-5 978-1-4257-5885-1

10. Zachary D. Kaufman, "Protectors of Predators or Prey: Bystanders and Upstanders Amid Sexual Crimes". pp. 1317-1406, Southern California Law Review, Volume 92, (2019)

The author draws attention to the fact that sexual crimes are not limited to instances perpetrated by powerful men, but are rampant throughout the country, affecting individuals from all backgrounds and walks of life. This type of misconduct is a pervasive problem that affects many individuals and communities.

In some cases, third parties, such as co-workers, friends, or family members, have knowledge of the abuse and have failed to intervene. Scrutiny of this type of bystander-ism is increasing, both in the public sphere and in the legal world.

The legal system is starting to hold individuals accountable not only for committing the crime but also for failing to report or stop it. He emphasizes that changing cultural attitudes, laws and policies alone is not enough to eradicate the issue of sexual misconduct. It requires a multifaceted approach that includes education, awareness-raising and prevention, as well as more robust systems for reporting and responding to sexual misconduct. Stronger legal and policy frameworks, coupled with effective enforcement mechanisms and support for survivors are essential in the fight against sexual misconduct.

- ***"Human Trafficking in South Asia (Special Preferences on Bangladesh, India and Nepal): A Human Rights Perspective" – Md. Rahaman⁵***

The author discusses the forms, modes and routes of Human trafficking in South East Asian countries. He also lays emphasis on the differences between human trafficking and human smuggling w.r.t. cases of Bangladesh, India and Nepal. He also discusses the plight of the many men, women and children being trafficked in 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. The author reiterates that the Middle-East countries are slowly becoming a hub of exploitation for South Asian people who are lured in for job prospects. The employers withhold their passports and force them to work more than fifteen hours in a day without any rest. Sometimes they are physically and sexually abused too. Later in the paper, he discusses preventive measures against human trafficking.

11. Md Rahaman, “Human Trafficking in South Asia (Special Preferences on Bangladesh, India and Nepal): A Human Rights Perspective”, IOSR Journal of Humanities and Social Science, Vol. 20, Issue 3 (2015)

- **“(Not) Found Chained to a Bed in a Brothel: Conceptual, Legal, and Procedural Failures to Fulfill the Promise of the Trafficking Victims Protection Act” – Dina Francesca Haynes⁶**

The article majorly outlines the myriad of problems that need be addressed to carry out the promise of the Trafficking Victim Protection Act in the USA. The author suggests where procedurally and as a matter of policy, the government has gone wrong, employing a case study as a device to point to the particular problems of trafficking victims in accessing the law. Even though the author presents the approach the United States has taken to combating human trafficking and details the meta-problems that continue to undermine its effectiveness. It sets forth an interesting perspective of the ways in which the root causes of trafficking have been obscured, in service to a preferred focus on sex and victimhood.

It reviews the misapplication of the law both by those tasked to interpret it, and by politicians who have tacked their own political agendas onto anti-trafficking initiatives, leading the nation away from a hardnosed and honest look at the problems of causation in trafficking, and discussed the distortions that result from the issue conflation. A reading of this article provides a third party view of the state of all the things that could have been done by a government but weren't.

- **“Human Trafficking and Its Prosecution: Challenges of the ICC” – Dr. Joshua N. Aston and Vinay N. Paranjape⁷**

This article talks about the jurisdictions of the International Criminal Court and discusses the challenges and limitations of the ICC in the prosecution of crimes against humanity, especially the trafficking cases. The International Criminal Court (ICC) is an independent and permanent international tribunal established to prosecute individuals for the most serious international crimes, such as genocide, war crimes, and crimes against humanity. Article 7 of the Rome Statute, which established the ICC, defines crimes against humanity as "a widespread or systematic attack directed against any civilian population, with knowledge of the attack."

12. Dina Francesca Haynes, “(Not) Found Chained to a Bed in a Brothel: Conceptual, Legal, and Procedural Failures to Fulfill the Promise of the Trafficking Victims Protection Act”, Georgetown Immigration Law Journal (2007)

13. Dr. Joshua Nathan Aston and Vinay N. Paranjape, ‘Human Trafficking and Its Prosecution: Challenges of the ICC, (2012) <http://dx.doi.org/10.2139/ssrn.2203711>

Trafficking in persons, including human trafficking, can be considered a crime against humanity, as it often involves a widespread or systematic attack on civilian populations, with the knowledge of the attack, through the use of force or other forms of coercion. The ICC has the jurisdiction to prosecute individuals for crimes against humanity committed on the territory of a State Party to the Rome Statute or by a national of a State Party. However, the ICC has yet to prosecute a case specifically related to human trafficking.

Despite the applicability of the ICC in the prosecution of trafficking cases, there are several challenges and limitations that the ICC faces in the prosecution of crimes against humanity, especially trafficking cases. These include:

1. Lack of jurisdiction: The ICC only has jurisdiction over crimes committed on the territory of a State Party or by a national of a State Party, which limits its ability to prosecute trafficking cases that occur in non-State Party countries.
2. Limited resources: The ICC has limited resources, which can limit its ability to investigate and prosecute complex and widespread crimes such as trafficking.
3. Difficulty in proving elements of the crime: Proving the elements of crimes against humanity, such as the widespread or systematic nature of the attack and the knowledge of the attack, can be difficult in trafficking cases.
4. Lack of cooperation: The ICC relies on cooperation from States Parties and other actors to investigate and prosecute crimes, which can be limited in trafficking cases, due to the sensitive nature of the crime, and the involvement of criminal organizations and networks.

Despite these challenges, the ICC can play an important role in the fight against human trafficking, by providing a legal framework for the prosecution of traffickers and holding them accountable for their crimes.

- ***“Human Trafficking Origin: A Cross-Country Empirical Analysis” – Smriti Rao & Christina Presenti***⁸

The authors evaluate the concept of human trafficking and migration with UNODC data on high trafficking origin countries. They attempt to draw out the inconsistencies in the definition of trafficking and migration all over the world. The authors have studied parallel factors of both trafficking and migration and insist that one cannot be studied without referring to the other.

14. Smriti Rao & Christina Presenti, “Understanding Human Trafficking Origin: A Cross-Country Empirical Analysis, *Feminist Economics* – (2012), Vol.18(2), p.231-263

- ***“Sixty fourth Law Commission Report on The Suppression of Immoral Traffic in Women and Girls Act, 1956”***

The report was submitted in 1975, and it made several recommendations for amending the act to better protect the rights of sex workers and to address emerging issues related to prostitution and trafficking. It noted that while the act had been effective in reducing trafficking and prostitution in some areas, it had also led to the stigmatization and marginalization of sex workers, and had failed to adequately address the root causes of prostitution, such as poverty and lack of opportunities for women.

The report also recommended decriminalizing certain aspects of prostitution, such as soliciting and brothel keeping, in order to reduce the stigma and discrimination faced by sex workers and to allow them to access legal protections and services. However, the report acknowledged that this was a controversial issue, and that there were differing views on the most appropriate approach to addressing prostitution and trafficking in India.

It suggested several amendments to the act to better protect the rights of sex workers and to address emerging issues related to prostitution and trafficking. These included expanding the definition of trafficking to include new forms of exploitation, such as forced labour and slavery, and providing greater protection to women and girls who were at risk of being trafficked.

This report remains an important resource for policymakers, activists, and researchers seeking to understand and address the complex challenges of prostitution and trafficking in India.

CHAPTER – II

UNDERSTANDING HUMAN TRAFFICKING AS A TRANSNATIONAL CRIME

Human trafficking is a crime that involves the exploitation of individuals for the purposes of forced labour, sexual exploitation, or other forms of exploitation. It can involve the use of force, fraud, or coercion to control and exploit victims, and often involves the movement or transportation of individuals across national or international borders. Human trafficking can take many different forms, including forced labour in a range of industries such as agriculture, construction, and domestic work, as well as sexual exploitation in the form of prostitution, pornography, or forced marriages. Trafficking can affect people of all ages, genders, and nationalities, and can involve both adults and children. Victims of trafficking may be recruited through false promises, such as offers of employment or education opportunities, or may be abducted or coerced into trafficking situations. They may be subjected to physical and emotional abuse, forced to work long hours in dangerous or unsanitary conditions, and may be deprived of food, water, or medical care.

Human trafficking is recognized as a grave human rights violation and a form of modern-day slavery. It is considered a transnational crime that generates billions of dollars in illegal profits each year, making it one of the most profitable criminal activities in the world. It is estimated that millions of people around the world are victims of trafficking, with women and children being particularly vulnerable. Trafficking is often closely linked to other forms of criminal activity, such as drug trafficking, money laundering, and organized crime. It can also be influenced by a range of factors, including poverty, inequality, armed conflict, and political instability.

The history of human trafficking as a transnational crime can be traced back to the 19th century, when the transatlantic slave trade was at its peak. Slaves were forcibly transported from Africa to the Americas and sold into forced labour, including agriculture and mining. While slavery was abolished in the 19th century, human trafficking continued to be a problem, particularly in the form of forced labour. In the late 20th century, as globalization increased, human trafficking began to take on a transnational character. Advancements in transportation and communication made it easier for traffickers to move victims across borders, and demand for cheap labour and commercial sex grew around the world.

The international community began to take notice of human trafficking as a transnational crime in the late 1990s. Since then, there has been increased awareness and action to combat human trafficking as a transnational crime. Governments, NGOs, and civil society organizations around the world are working together to prevent human trafficking, protect victims, and hold traffickers accountable. However, the problem remains a persistent challenge because as much as we are trying to fight the crime of trafficking, there are other underlying issues that are yet to be resolved. Human trafficking is a complex and multifaceted phenomenon that can involve a wide range of activities and circumstances. As a result, there can be inconsistencies in how human trafficking is defined and understood across different countries, organizations, and legal systems.

2.1. Definitions of Trafficking & Its Inconsistencies

The United Nations “Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime” (otherwise known as the Palermo Protocol) constituted in 2000 has been widely and internationally accepted Convention.

According to Article 3 of the UN Protocol, trafficking in persons is defined 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 here shall include, at a minimum, the exploitation of the prostitution of others or other form of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs. Thus trafficking can be conceptualised in, first, the transportation of a person; second, force, fraud, or coercion; and, finally, exploitation. By this concept, the “consent” of a person, either to be trafficked or smuggled, is irrelevant. The legal violation under human smuggling pertains to the illicit crossing of nation-state borders, and it is assumed that individuals do this consensually. It is argued that a smuggled person would fall under the broader category of “migrant,” as migration generally refers to the voluntary movement of individuals. Yet, like human trafficking, migration does not necessarily involve the crossing of national borders, as smuggling does.

15. United Nations Office on Drugs and Crime, “Trafficking of Persons: Global Patterns” (2006).

https://www.unodc.org/pdf/traffickinginpersons_report_2006ver2.pdf

The definition of Palermo Protocol gives more emphasis on coercion as well as exploitation and it thus provides activists as well as states a leeway to prosecute human traffickers and to work against human trafficking in a very wide scope. However, at the same time, Palermo Protocol has been subject to certain critics as it subsumes almost every kind of illegal migration under trafficking and thus is subject to anti-trafficking laws. Almost every illegal migrant who engages in sex work could be considered trafficked under this definition though some of them are engaged in sex work that may be considered “consensual”. Thus the considerable feminist literature on trafficking is centred upon these tricky issues of consent versus coercion in sex work and the fine line between trafficking and migration.

If human smuggling is only “largely voluntary” or of “consensual” nature then the difference between trafficking and illegal migration facilitated by human smugglers is only one of the degree of abuse. Available literatures show that “even legal migration sometimes involves deception and legal violations on the part of both migrants and those who serve as migration agents”. The literature on trafficking in persons suggests that in the case of migration, any abuse and exploitation is expected once the migrant has arrived at the destination, while in the case of human trafficking it begins from the origin till the destination. Here, the distinction is that it is tenuous, and, more importantly, it may not always be useful to preserve from a migrant rights perspective.

One of the key areas where definitions of human trafficking can vary is in the types of actions and circumstances that are considered to constitute trafficking. For example, some definitions may focus specifically on the movement or transport of individuals for the purposes of exploitation, while others may include a wider range of activities such as forced labour, sexual exploitation, or the sale of organs.

Additionally, different definitions of human trafficking may vary in terms of the specific elements required to establish that trafficking has occurred. For example, some definitions may require evidence of force, fraud, or coercion in order to establish that trafficking has taken place, while others may focus on the exploitation itself as the key indicator of trafficking.

Overall, these inconsistencies in definitions can make it challenging to effectively combat human trafficking, as different actors may be using different definitions and criteria to identify a victim to trafficking situations. In addition to differences in the types of activities and circumstances that are considered to be human trafficking, there can also be variations in the specific legal definitions of

trafficking across different jurisdictions. For example, some countries may define trafficking in a way that includes both labour and sex trafficking, while others may distinguish between the two. Another factor that can contribute to inconsistencies in the definition of human trafficking is the way in which the term is used in public discourse and media coverage. Some critics argue that the term has been overused or misapplied in certain contexts, which can lead to confusion and misconceptions about what trafficking actually entails.

Furthermore, let's not forget about the difficulty in identifying and prosecuting trafficking cases. Due to the often clandestine nature of trafficking operations, it can be challenging to obtain evidence and secure convictions for trafficking offenses. This challenge is further compounded by the fact that trafficking victims may be reluctant or unable to come forward to report their experiences, often due to fear of retribution, shame, or a lack of trust in law enforcement authorities. This can lead to under-reporting of trafficking cases and difficulties in accurately assessing the scope and scale of the problem. For example, in some cases, victims may not be identified as trafficking victims due to narrow legal definitions, which can result in inadequate protection and support for victims. In other cases, trafficking may be conflated with other forms of exploitation, such as smuggling or irregular migration, which can result in inadequate responses to trafficking cases.

Moreover, cultural and linguistic differences can also contribute to inconsistencies in the definition of trafficking, particularly in cases where victims may be from different countries or regions. Differences in social norms and attitudes towards issues such as prostitution, forced labour, or migration can make it challenging to identify and respond to trafficking cases in a consistent and effective manner.

The lack of consistent definitions can also hamper efforts to collect reliable data on the extent and nature of trafficking. Without accurate data, it can be challenging to develop effective policies and responses to the problem, as well as to monitor progress towards combating trafficking. This lack of data can also make it difficult to secure funding for anti-trafficking programs and initiatives.

Another implication of the inconsistencies in the definition of trafficking is that they can create gaps in protection and support for victims. Different legal definitions can result in different levels of protection and support being provided to victims, depending on the specific circumstances of their case. This can result in inequitable treatment of trafficking victims, with some victims receiving inadequate support or being excluded from services altogether.

Furthermore, the inconsistencies in the definition of trafficking can also create challenges in cross-border cooperation and coordination in anti-trafficking efforts. It is important to note that these inconsistencies can lead to gaps in legal frameworks, inadequate responses from law enforcement, and a failure to adequately address the human rights abuses inherent in human trafficking.

2.2. Challenges

While there is widespread recognition of the serious harm caused by human trafficking, it remains a difficult issue to address effectively. One of the main challenges in understanding human trafficking as a transnational crime is the complexity of the phenomenon.

Then there's the difficulty in accurately identifying victims of trafficking. Human trafficking is often a hidden and covert crime, making it difficult to identify victims and perpetrators. Victims of trafficking may not recognize their situation as trafficking or may be too afraid to come forward and seek help. Many victims are afraid to come forward, either because of the risk of retaliation from traffickers or because they fear they will be punished by law enforcement or immigration authorities. This is especially true for victims who have been trafficked across borders, as they may not have legal status in the country they are

in and may be at risk of being deported if they come forward. Many a times, traffickers may use various tactics to evade detection, including changing their modus operandi, using false identities, and using violence and coercion to keep their victims silent. Furthermore, the lack of trust between law enforcement and trafficking victims can also be a significant barrier to victim identification and protection. Victims of trafficking may be reluctant to cooperate with law enforcement due to fears of retaliation or deportation, or they may have negative experiences with law enforcement in their home countries. The identification of victims of trafficking requires specialized training and expertise, which may not be available to law enforcement and other front-line responders. In some cases, victims may be misidentified or overlooked, leading to a failure to provide appropriate support and protection.

Another challenge is the the dynamic and ever-evolving nature of trafficking patterns and trends. There are many different types of human trafficking, including labour trafficking, sex trafficking, and forced marriage. These different types of trafficking often involve different actors, including organized criminal groups, corrupt officials, and individuals acting alone. This makes it difficult to develop effective strategies to combat human trafficking. Trafficking routes and destinations can change rapidly in response to law enforcement and other interventions, making it difficult to anticipate and prevent trafficking. Moreover, traffickers are constantly adapting their tactics and methods to evade detection and avoid law enforcement, making it challenging to keep up with their activities. The increasing use of technology and social media has facilitated the recruitment and exploitation of victims, creating new challenges for law enforcement and other front-line responders.

A further challenge is the lack of reliable data on human trafficking. There are no standardized methods for collecting data on trafficking, and different countries have different definitions and criteria for identifying trafficking victims. There is a huge lack of consistent and accurate data on the prevalence and patterns of trafficking. Reliable data is essential for understanding the scope and nature of the problem, identifying vulnerable populations, and developing effective interventions. However, obtaining accurate data can be difficult due to the underground and hidden nature of trafficking. This makes it difficult to get a clear picture of the extent and nature of trafficking in different regions. Accurate and comprehensive data on the scale and scope of trafficking is critical for developing effective policies and programs to combat trafficking. Many countries lack effective mechanisms for collecting and analyzing data on trafficking, and data that is available may be incomplete or unreliable. Moreover, there is often a lack of standardized definitions and methodologies for collecting data on trafficking, making it difficult to compare and analyze data across countries and regions. Comprehensive data on the extent and nature of trafficking is critical for developing effective policies and interventions, as well as for monitoring trends and evaluating the impact of anti-trafficking efforts.

Furthermore, the demand for cheap labour and sexual services is a contributing factor to the continuation of human trafficking. Addressing this demand requires a multi-faceted approach that involves addressing economic inequalities, promoting gender equality, and providing education and awareness-raising initiatives. The complexity of the global supply chain and the role it plays in facilitating trafficking is also somewhat responsible. Many goods are produced through the exploitation of trafficked labour, and it can be difficult to trace the origin of these goods and the extent to which they have been produced using forced labour. The complexity of the supply chain also makes it challenging to hold companies and corporations accountable for the use of forced labour in their operations. The issue of trafficking is closely linked to broader issues of migration and mobility, particularly in the context of labour migration. Many migrants

are vulnerable to exploitation and abuse, and may be subjected to trafficking as they seek better economic opportunities and escape poverty and conflict.

Public awareness and education about the issue is also lacking. Many people are unaware of what trafficking is and how it occurs, which can make it difficult to identify victims and prevent trafficking from occurring in the first place.

Additionally, the lack of resources and political will to address trafficking effectively is very relevant here as corruption can also be a significant obstacle in efforts to combat human trafficking. Corrupt officials may turn a blind eye to trafficking activities, or they may actively facilitate trafficking in exchange for bribes or other forms of payment. Many countries lack the necessary financial, human, and technical resources to effectively combat trafficking. Political will can be undermined by corruption, conflicting priorities, and competing interests, which can impede efforts to combat trafficking and protect victims.

The lack of accountability for traffickers is also a significant problem. Many traffickers operate with impunity, and even when they are caught, they may receive lenient sentences or be released due to a lack of evidence or legal loopholes.

Another obstacle is the lack of coordination among different agencies and organizations involved in anti-trafficking efforts. Many different groups are involved in efforts to combat human trafficking, including law enforcement, immigration officials, non-governmental organizations (NGOs), and international organizations. However, these groups often have different mandates, priorities, and approaches, which can make it difficult to coordinate efforts effectively. Coordination and cooperation can be challenging, particularly in regions where there are different legal systems and cultural norms, and where there may be limited trust between different actors. Moreover, coordination and cooperation may be hindered by competing interests and priorities, limited resources, and political tensions.

Addressing these challenges requires sustained investment and commitment, including efforts to strengthen legal frameworks and law enforcement, improve data collection and analysis, and tackle corruption and other forms of organized crime. It also requires addressing the root causes of trafficking, including poverty and inequality, social and cultural norms, and weak governance and rule of law.

CHAPTER – III

LEGISLATURE ON HUMAN TRAFFICKING IN INDIA

India has a long and complex history of human trafficking, with legislative measures being introduced to address different forms of trafficking over time. In this chapter, we will analyze the legislative developments related to human trafficking for sex and labour in India.

3.1. The Suppression of Immoral Traffic in Women and Girls Act, 1956

The Suppression of Immoral Traffic in Women and Girls Act (SITA) was enacted on 30th day of December 1956, in response to the **United Nations Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others** of 1949. India ratified this convention in 1950 and became a signatory to subsequent international instruments that aimed to address trafficking in persons.

The Suppression of Immoral Traffic in Women and Girls Act, 1956 is a legal framework in India that provides for the prevention of sexual exploitation of women and girls. The act was enacted to address the issue of prostitution, which was seen as a social evil that exploited vulnerable women and girls.

This act was the first step toward criminalizing the sexual exploitation of females in Independent India.

The act defines trafficking in women and girls as the recruitment, transportation, transfer, or harbouring of women and girls for the purpose of sexual exploitation, including prostitution. It provides for the punishment of those found guilty of trafficking and related offenses, including soliciting or inducing a woman for prostitution, living off the earnings of prostitution, or keeping a brothel. The Act deals with trafficking only with respect to prostitution, leaving the other intentions of trafficking such as child labour, slavery, bonded labourers, organ trading out of the legislative ambit.

The act provides for the confiscation of property used for the purpose of sexual exploitation, including brothels and other establishments. It requires the appointment of special police officers to investigate offenses under the act and provides for the protection of witnesses and victims.

It recognizes the vulnerability of women and girls who are victims of sexual exploitation and also that they may face social stigma and discrimination and provides for measures to ensure their confidentiality and privacy.

While The Suppression of Immoral Traffic in Women and Girls Act, 1956 has been instrumental in preventing the sexual exploitation of women and girls, it has also faced criticisms from various quarters. Some of the major criticisms of the act are –

1. Use of the term ‘Immoral’: The use of the term ‘immoral’ in the title of the Act creates doubt in one’s mind that there could be something known as ‘moral trafficking’.
2. Stigmatization of sex workers: One of the major criticisms of the act is that it stigmatizes sex workers and fails to recognize prostitution as a form of work. The act treats prostitution as a criminal offence and punishes sex workers, which drives them further into the shadows and makes them vulnerable to exploitation.
3. Failure to address demand: Another criticism of the act is that it fails to address the demand for prostitution. The act focuses primarily on punishing sex workers and their clients, but does little to address the root cause of the problem - the demand for commercial sex.
4. Non-exhaustive definition of prostitution: Blind exclusion of victims of trafficking who are forced to work as entertainers for singing and mujra dancing who do not exactly qualify as prostitutes.
5. Lack of focus on rehabilitation: The act provides for the establishment of protective homes for the rehabilitation of victims of trafficking, but critics argue that these homes are often overcrowded and

lack proper facilities. Moreover, the act does not provide for the rehabilitation of sex workers who wish to leave the profession.

6. Lack of clarity on consent: The act does not provide a clear definition of consent in the context of prostitution. This lack of clarity has led to confusion and inconsistencies in the implementation of the act.
7. Criminalization of activities related to prostitution: The act criminalizes activities related to prostitution, such as soliciting, living on the earnings of prostitution, and procuring. Critics argue that these activities should be decriminalized in order to provide sex workers with legal protection and reduce their vulnerability to exploitation.
8. Lack of emphasis on prevention: The act mainly focuses on punishment and rehabilitation, but fails to address prevention. Critics argue that there is a need for greater emphasis on prevention measures such as education, awareness-raising, and job training to reduce the vulnerability of women and girls to trafficking and sexual exploitation.
9. Discriminatory provisions: The act contains provisions that discriminate against transgender persons and male sex workers, who are often left out of its purview. This leaves them without legal protection and makes them more vulnerable to exploitation and abuse.
10. Inadequate punishment: Critics argue that the punishment prescribed under the act for offences related to trafficking and sexual exploitation is inadequate and fails to act as a deterrent. They argue that there is a need for stricter punishment to deter offenders and protect victims.
11. Lack of implementation: One of the major criticisms of the act is that it is poorly implemented. The act requires the cooperation of multiple agencies, including law enforcement, social welfare, and health authorities, but often these agencies do not work together effectively to implement the provisions of the act.
12. Lack of accountability: The act does not provide for adequate accountability measures to ensure that the provisions of the act are being implemented effectively. Critics argue that there is a need for greater transparency and accountability to ensure that the act is being implemented effectively and that the offenders are being punished.

3.2. The Bonded Labour System (Abolition) Act, 1976

The Bonded Labour System (Abolition) Act, 1976 was enacted by the Indian government to abolish the practice of bonded labour, which was a widespread problem in India. The practice of bonded labour, also known as debt bondage, involved a person being forced to work for a creditor or employer in order to pay off a debt or loan. The creditor or employer often exploited the worker by forcing them to work in harsh conditions, providing little or no pay and denying them basic human rights.

The practice of bonded labour or 'Bandhua Mazdoori' had its roots in India's feudal past, where landlords and moneylenders held power over poor peasants and labourers. These powerful landlords and moneylenders often advanced loans to poor peasants and labourers, and then forced them to work as bonded labourers to repay the debt. The debt bondage system was perpetuated by a lack of education and awareness among the poor, who often lacked the means to pay off their debts and were left with no other option but to work as bonded labourers. The practice of bonded labour continued to thrive even after India gained independence from British rule in 1947. In the 1960s and 1970s, various social reformers, human rights activists, and NGOs began to raise awareness about the issue of bonded labour and campaigned for its abolition. In response to these efforts, the Indian government introduced several laws to protect the rights of bonded labourers, including the Bonded Labour System (Abolition) Act, 1976.

The Bonded Labour System (Abolition) Act, 1976 was not the first law passed in India to address the issue of bonded labour. Prior to its enactment, various other laws were introduced, such as the Bonded Labour System (Abolition) Ordinance in 1975, the Minimum Wages Act in 1948, and the Contract Labour (Regulation and Abolition) Act in 1970. However, these laws failed to adequately address the issue of bonded labour and were largely ineffective in curbing its prevalence.

The Bonded Labour System (Abolition) Act, 1976 made bonded labour illegal and punishable by law. The act defined bonded labour as any labour or service provided by a person under the bondage of a creditor, and made it a criminal offense for anyone to use bonded labour or to force another person into bonded labour.

One of the most important features of the act is the immediate release of any person who is found to be in bondage. The act provides for the identification of bonded labourers by the appropriate authorities and their release from bondage. This provision helps to ensure that no person is forced to work in exploitative conditions against their will.

The act also provides for the rehabilitation of released bonded labourers. This is an important provision as many bonded labourers are often left without any means of livelihood after their release. The act provides for the provision of financial and other forms of assistance to help them reintegrate into society. It provides for the establishment of a Bonded Labour Rehabilitation Fund. This fund is used to provide financial assistance to released bonded labourers for their rehabilitation. The fund is financed through a levy on certain specified industries, making it self-sustaining and ensuring that it has adequate resources to support the rehabilitation of released bonded labourers.

Another important feature of the act is the prohibition of the employment of bonded labour in any form, whether directly or indirectly. This provision helps to prevent the exploitation of vulnerable individuals and ensures that employers cannot use bonded labourers to gain an unfair advantage over their competitors. The act also provides for stringent punishment for those who use, abet or promote bonded labour, including imprisonment and fines. This includes not only employers and creditors but also middlemen and other intermediaries who facilitate the exploitation of vulnerable individuals. The act provides for imprisonment and fines for those found guilty of such offenses. This is an important provision as it helps to deter employers and creditors from using bonded labourers and ensures that those who do so are held accountable for their actions.

The Act demands the creation of Vigilance Committees at the district, sub-divisional and block levels. These committees are responsible for identifying cases of bonded labour and monitoring the implementation of the act. They also have the power to order the release of bonded labourers and provide for their rehabilitation. The act also mandates that any person who has been forced into bonded labour is entitled to a certificate of release from the bonded labourer. This certificate is issued by a district magistrate or a sub-divisional magistrate and serves as proof of the person's release from bonded labour. It is an important document for released bonded labourers as it allows them to access government welfare schemes and financial assistance for rehabilitation.

It includes provisions for the protection of the rights of released bonded labourers. These include the right to adequate compensation for the work done during their period of bondage, the right to access education and vocational training, and the right to live in dignity and freedom.

The act raised awareness about the issue and provided a legal framework for combating the practice, which helped to reduce its prevalence.

Despite the positive impact of the Bonded Labour System (Abolition) Act, 1976, there have been some criticisms of the act. Some of the major criticisms include –

1. **Weak implementation:** One of the primary criticisms of the act is that it has not been effectively implemented in many parts of the country. Many bonded labourers continue to work in conditions of slavery, often in remote areas where they are isolated and difficult to reach.
2. **Limited coverage:** Another criticism of the act is that it only covers bonded labourers who are working in specific industries, such as mining, agriculture, and brick kilns. Many other forms of bonded labour, such as domestic servitude, are not covered by the act.
3. **Inadequate penalties:** Some critics argue that the penalties for violating the act are not severe enough to deter employers and creditors from engaging in bonded labour. The act provides for imprisonment and fines, but some argue that these penalties are not sufficient to address the severity of the offense.
4. **Lack of rehabilitation:** Although the act provides for the establishment of a Bonded Labour Rehabilitation Fund, some critics argue that the fund is not adequate to provide for the rehabilitation of all released bonded labourers. There is a lack of vocational training programs and other resources to help released bonded labourers reintegrate into society.
5. **Failure to address root causes:** Some critics argue that the act does not address the root causes of bonded labour, such as poverty, lack of education, and social exclusion. Without addressing these underlying issues, it may be difficult to completely eradicate bonded labour.
6. **Inadequate compensation:** While the act provides for compensation to be paid to bonded labourers, the process for determining and disbursing compensation can be slow and bureaucratic. As a result, many bonded labourers do not receive the compensation they are entitled to, which can leave them in a precarious financial situation.
7. **Inadequate protection for women and children:** Bonded labour often disproportionately affects women and children, who are particularly vulnerable to exploitation and abuse. However, some critics argue that the act does not provide adequate protections for these groups and that they continue to be at risk of bonded labour.
8. **Lack of awareness:** Another criticism of the act is that many bonded labourers are not aware of their rights under the act, which makes it difficult for them to seek legal protection. Even some employers and creditors are not aware of the provisions of the act and continue to engage in bonded labour.
9. **Corruption:** Some employers and creditors bribe government officials to avoid penalties and continue engaging in bonded labour. This undermines the effectiveness of the act and makes it difficult to hold violators accountable.
10. **Exclusion of certain communities:** The act only covers bonded labourers who are Indian citizens, which means that migrant workers and others who are not citizens are not covered by the act. This exclusion leaves these vulnerable groups at risk of exploitation and abuse.
11. **Lack of resources:** The enforcement agencies responsible for implementing the act often lack the resources and capacity to effectively carry out their duties. This includes a lack of personnel, training, and equipment, which makes it difficult to identify and prosecute violators.
12. **Limited monitoring and reporting:** There is a lack of monitoring and reporting mechanisms to track the implementation of the act and identify areas where it is not being effectively implemented. This makes it difficult to address the challenges and gaps in the implementation of the act.

Overall, while the Bonded Labour System (Abolition) Act, 1976 represents an important step towards addressing the issue of bonded labour in India. Dealing with the criticisms however, will require a

sustained effort to strengthen the legal framework for addressing bonded labour, improve monitoring and enforcement mechanisms, raise awareness of the issue among bonded labourers and employers, and provide adequate resources to support the rehabilitation and reintegration of bonded labourers.

3.3. The Immoral Traffic (Prevention) Act, 1986

The Immoral Traffic (Prevention) Act, 1986 was enacted by the Indian Parliament to combat the trafficking of human beings for the purpose of prostitution and other forms of sexual exploitation. It replaced the earlier Suppression of Immoral Traffic in Women and Girls Act of 1956, which was considered inadequate in addressing the issue of trafficking.

The Immoral Traffic (Prevention) Act, 1986, is an important legislation aimed at preventing the trafficking of human beings, especially women and children, for commercial sexual exploitation. The Act has been enacted to combat the menace of prostitution, trafficking and other related offences, and provides for stringent punishment to those involved in such activities.

defines various terms such as "prostitution", "trafficking", "brothel", "commercial sex worker" etc., and lays down provisions to prohibit these activities. It makes the act of trafficking punishable with imprisonment of not less than 7 years and up to life imprisonment, along with a fine. The Act also punishes those who promote or facilitate trafficking with imprisonment of not less than 5 years and up to 7 years, along with a fine.

The Act provides for the establishment of Anti-Trafficking Units (ATUs) at the district level, which are responsible for the prevention, investigation and prosecution of trafficking cases. It also empowers the police to rescue victims of trafficking and provide them with shelter, medical aid, and legal assistance. The Act also makes it mandatory for the state government to provide rehabilitation and reintegration services to the rescued victims.

The ITPA Act criminalizes the solicitation of prostitution, making it punishable with imprisonment of up to 6 months or a fine or both. The Act also prohibits the running of brothels and makes it an offence punishable with imprisonment of up to 3 years and a fine.

The Act also contains provisions for the protection of the identity of the victims and witnesses, and provides for their security during the trial. It also has provisions for the forfeiture of property derived from the proceeds of trafficking or prostitution.

It empowers the police to conduct raids and rescue operations to free women and children from trafficking. The police are required to follow due process while conducting these operations and ensure that the human rights of the victims are not violated.

The Act also provides for the establishment of special courts to hear cases related to trafficking. These courts are required to expedite the hearing of such cases and ensure that justice is delivered quickly.

The Act makes it an offence to force or induce a person into prostitution or to buy or sell a person for prostitution. The punishment for such offenses can range from imprisonment for up to 7 years to life imprisonment depending on the severity of the offense.

The Act also provides for the rehabilitation of victims of trafficking. The government is required to provide such victims with medical and psychological care as well as vocational training and other forms of support to help them reintegrate into society. It requires the government to establish a fund to support the rehabilitation of trafficking victims. This fund is financed through fines levied on those convicted of trafficking offenses. It also requires the government to undertake measures to prevent trafficking. These measures include public awareness campaigns, the promotion of alternative livelihoods, and the establishment of anti-trafficking units within the police force.

In 2006, the Immoral Traffic (Prevention) Act was amended to include several new offenses related to trafficking, such as trafficking of minors for any purpose, and trafficking for the purpose of forced labour or marriage. The amendments also provided for stronger penalties for offenders, including the possibility of life imprisonment.

The Immoral Traffic (Prevention) Act, 1986 has been criticized on several grounds. Some of the major criticisms are –

1. Failure to address demand: The Act focuses primarily on punishing traffickers and does not address the issue of demand for prostitution. Many critics argue that this is a significant weakness, as long as there is demand, there will always be traffickers willing to supply.
2. Lack of victim protection: While the Act criminalizes trafficking, it does not provide adequate protection for victims of trafficking. Victims often face social stigma and legal challenges when trying to rebuild their lives and the Act does not address these issues adequately.
3. Limited scope: The Act has a narrow definition of trafficking that does not include other forms of exploitation such as forced labour, domestic servitude, and child labour.
4. Implementation challenges: The Act has faced significant challenges in implementation due to issues such as corruption, lack of resources, and inadequate training for law enforcement personnel.
5. Focus on criminalization rather than prevention: The Act primarily focuses on criminalizing trafficking and punishing offenders, rather than addressing the underlying factors that contribute to trafficking in the first place. This may limit its effectiveness in preventing trafficking and protecting victims.
6. Lack of awareness and education: There may be a lack of awareness and education about the Act among law enforcement officials, victims, and the public at large. This can limit its effectiveness in preventing trafficking and ensuring that victims receive the protection and support they need.
7. Challenges in identifying and prosecuting offenders: Identifying and prosecuting traffickers can be challenging, particularly in cases where victims are reluctant to come forward or where trafficking networks are complex and difficult to unravel. This can limit the effectiveness of the Act in holding offenders accountable and preventing future trafficking.
8. Limited focus on labour trafficking: While the Act covers both sex trafficking and labour trafficking, the Act places too much emphasis on sex trafficking and does not adequately address the unique challenges and complexities of labour trafficking.
9. Inadequate victim compensation: The Act provides for victim compensation, but some critics argue that this compensation is inadequate and does not provide victims with the support they need to rebuild their lives after being trafficked.
10. Lack of coordination and resources: There may be a lack of coordination and resources among government agencies responsible for implementing the Act, as well as a lack of resources for victim support services and rehabilitation programs.
11. Limited protection for victims: While the Act provides for the protection of victims, some critics argue that it does not go far enough in ensuring their safety and well-being. There are challenges in providing secure housing and ensuring that victims are not re-trafficked.
12. Inadequate training for law enforcement officials: Law enforcement officials may not have adequate training in identifying and responding to trafficking cases, which can limit the effectiveness of the Act in holding traffickers accountable and protecting victims.

13. Challenges in cross-border trafficking cases: Trafficking often involves cross-border movement, which can pose unique challenges for law enforcement and victim protection efforts. The Act may not provide adequate provisions for addressing these challenges.
14. Stigma and discrimination against victims: Victims of trafficking may face stigma and discrimination from their families, communities, and law enforcement officials, which can make it difficult for them to come forward and receive the support they need.
15. Lack of transparency and accountability: Some critics argue that the Act suffers from a lack of transparency and accountability. For example, it may be difficult to determine how many cases have been successfully prosecuted under the Act, or how effective the Act has been at preventing trafficking.
16. Limited impact: Finally, some critics argue that the Act may have limited impact in combating trafficking, particularly given the scale and complexity of the problem. While the Act is an important tool in the fight against trafficking, it may need to be supplemented with other measures, such as addressing the root causes of trafficking or improving international cooperation.

3.4. The Child Labour (Prohibition and Regulation) Act, 1986

The Child Labour (Prohibition and Regulation) Act, 1986 was enacted by the Indian government as a response to the growing concern over the exploitation of children in various industries and the need to protect their rights. The Act aimed to prohibit the employment of children in certain specified hazardous occupations and to regulate the conditions of work of children in other non-hazardous occupations.

Before the enactment of this law, there were other attempts made to regulate child labour in India. For example, the Factories Act, 1948 prohibited the employment of children below the age of 14 in factories. However, this law did not apply to other sectors such as agriculture, domestic work, and small-scale industries, where a large number of children were employed.

Moreover, there was a lack of clarity in terms of what constituted hazardous work, and children were often employed in industries that were not considered hazardous by law. Additionally, there were few mechanisms in place to enforce the laws and ensure that they were being followed.

Therefore, the Indian government felt the need for a comprehensive law that would cover all sectors, clearly define hazardous work, and provide for stricter enforcement mechanisms to protect the rights of children. The issue of child labour was not a new one in India. The exploitation of children in various industries had been a widespread problem for many years, and several attempts were made to regulate it through laws and policies. However, these attempts were often inadequate and failed to address the root causes of the problem.

In the 1970s, there was a growing awareness of the issue of child labour in India, and several non-governmental organizations and civil society groups began to campaign for stronger laws and policies to protect the rights of children. The movement gained momentum in the 1980s, with several high-profile cases of child labour exploitation coming to light.

The Indian government responded to these demands by enacting The Child Labour (Prohibition and Regulation) Act, 1986. The law was intended to provide a comprehensive framework for the prohibition and regulation of child labour in India. It aimed to protect children from exploitation and to ensure that they received education and other opportunities for their development.

The Act defines a child as any person below the age of 14 years and lays down strict provisions for the employment of children in hazardous occupations and processes. It identifies hazardous occupations and processes that were considered unsuitable for children and prohibits the employment of children in certain occupations such as work in factories, mines, explosives and hazardous processes, and cleaning of

chimneys. It also specified the conditions of work for children in non-hazardous occupations, such as the maximum number of hours they could work, the type of work they could perform, interval for rest, and the provision of basic amenities such as drinking water, first aid facilities, and so on.

The Act also provides for the establishment of special courts for the speedy trial of offences and imposes penalties for violations such as imprisonment, fines or both. It also prohibits the employment of children in household industries or enterprises.

The Act provides for the right to education of children and mandates that any child employed in an occupation should be provided with education till he or she completes the age of 14 years.

It also requires that a Child Labour Technical Advisory Committee be appointed which advises the government on various issues relating to child labour.

The law also established a mechanism for the identification and rehabilitation of child labourers, as well as a system for the monitoring and enforcement of the law. It made it the responsibility of the state government to implement the law and provided for the appointment of inspectors to ensure compliance with the provisions of the Act.

In 2016, the Child Labour (Prohibition and Regulation) Act was amended to strengthen protections for children and increase penalties for those who engage in child trafficking. The amendments prohibit the employment of children in all forms of hazardous labour and increase the penalties for employers who violate the law.

The Child Labour (Prohibition and Regulation) Act, 1986 has faced criticisms from various quarters over the years. Some of the major criticisms are:

1. **Limited Scope:** The Act only prohibits the employment of children in certain hazardous occupations and processes, leaving out several other sectors where children are still being employed. The definition of hazardous occupations and processes is also not comprehensive enough, leading to the exploitation of children in other areas.
2. **Weak Enforcement:** The Act has been criticized for its weak enforcement, with many cases of child labour going unnoticed and unreported. The lack of resources and manpower as well as corruption, have been cited as major reasons for the poor enforcement of the Act.
3. **Inadequate Penalties:** The penalties for violating the Act are not strong enough to act as a deterrent, with fines and imprisonment terms being minimal. This has led to a lack of fear among employers, who continue to employ children in contravention of the Act.
4. **Lack of Rehabilitation Measures:** The Act does not provide for adequate rehabilitation measures for rescued child labourers. Many rescued children are sent back to their families without any support or guidance, making them vulnerable to being employed again.
5. **Lack of Awareness:** The Act has been criticized for its limited reach in terms of creating awareness about child labour and its negative impacts. There is a need for more comprehensive and sustained awareness programs to ensure that people understand the importance of eradicating child labour.

Overall, while the Child Labour (Prohibition and Regulation) Act, 1986 has been a step towards the protection of children, there is still a long way to go to ensure that all children are safe from exploitation and abuse.

3.5. The Juvenile Justice (Care and Protection of Children) Act, 2000

The Juvenile Justice (Care and Protection of Children) Act, 2000 is an Indian law that deals with the care and protection of children. The act recognizes that children are vulnerable to trafficking and exploitation, and has provisions to protect them from such crimes.

Under the Act, trafficking of children is treated as a heinous crime, and perpetrators of such crimes are punished severely. The act also provides for the protection, care, and rehabilitation of children who have been trafficked or exploited. It recognizes the importance of the child's best interests and the need to ensure their physical, emotional, and social well-being.

The act establishes Juvenile Justice Boards at the district level to deal with cases of child trafficking and exploitation. These boards are responsible for the care and protection of children who have been trafficked or exploited, and for ensuring that they receive appropriate medical care, education, and vocational training.

The act also provides for the establishment of Child Welfare Committees at the district level, which are responsible for the care and protection of children in need of care and protection. These committees work closely with the Juvenile Justice Boards to ensure that children who have been trafficked or exploited receive the necessary care and support.

The act further provides for the appointment of Child Welfare Officers who are responsible for ensuring the implementation of the provisions of the act. They are responsible for identifying and rescuing children who have been trafficked or exploited, and for ensuring that they receive the necessary care and support. The Act defines trafficking as the recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation. The exploitation can be in the form of prostitution, forced labour, or other forms of exploitation.

The Act provides for the establishment of Juvenile Justice Boards (JJBs) in every district, which are responsible for the care, protection, treatment, development and rehabilitation of children who are victims of trafficking. The JJBs are also responsible for conducting inquiries and determining the appropriate measures for the care and protection of such children.

The Act also establishes Child Welfare Committees (CWCs) in every district, which are responsible for the care and protection of children who are in need of care and protection. The CWCs can order the removal of a child from a situation of trafficking and provide for the care and protection of the child.

The Act includes provisions for the appointment of Special Juvenile Police Units (SJPU) in every district to deal with cases of child trafficking. The SJPU is responsible for the prevention, detection and investigation of offenses related to child trafficking.

The Act provides for the establishment of a Rehabilitation and Reintegration Fund, which is used to provide financial assistance for the rehabilitation and reintegration of children who are victims of trafficking.

It also provides for the punishment of those involved in child trafficking, including imprisonment and fines. The punishment can be increased if the trafficking involves a child below the age of 12 years or if the offender is a public servant or a person in a position of authority.

Some criticisms of the Juvenile Justice (Care and Protection of Children) Act, 2000 in dealing with human trafficking include:

1. Limited focus: The Act primarily focuses on the care and protection of children in need of care and protection, and while it addresses child trafficking, it does not provide a comprehensive framework for addressing human trafficking as a whole.
2. Weak legal provisions: The Act provides weak legal provisions for prosecuting traffickers and does not provide stringent punishments for those involved in human trafficking.
3. Lack of coordination: The Act lacks coordination between different government agencies and NGOs, resulting in fragmented efforts in dealing with human trafficking.

4. Inadequate rehabilitation and reintegration: The Act does not provide adequate rehabilitation and reintegration programs for victims of trafficking, particularly for children who are often traumatized and require specialized care.
5. Limited victim protection: The Act provides limited protection to victims of trafficking, particularly adult victims who are often treated as criminals and deported without adequate support.

Overall, while the Juvenile Justice (Care and Protection of Children) Act, 2000 provides some provisions for addressing human trafficking, it falls short in providing a comprehensive and robust framework for tackling this complex issue.

3.6. The Protection of Children from Sexual Offences Act, 2012 (POCSO)

The Protection of Children from Sexual Offences Act, 2012 (POCSO) deals with sexual offences against children. The act provides protection to children from sexual offences and provides for a legal framework to investigate, prosecute, and punish sexual offences against children. Human trafficking is also considered a sexual offence under the act and is dealt with accordingly.

The act defines human trafficking as "the recruitment, transportation, transfer, harbouring or receipt of persons by means of threat or use of force or other forms of coercion, abduction, fraud, deception, 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."

The act provides for the protection of children who have been trafficked. It provides for the appointment of a special public prosecutor who will represent the child victim in court. The act also provides for the establishment of Special Courts for the trial of cases related to sexual offences against children, including human trafficking.

It provides for stringent punishment for those who are involved in human trafficking. The punishment can range from 10 years to life imprisonment, depending on the severity of the offence. The act also provides for fines to be imposed on the offender.

Apart from punishing the offender, it also focuses on rehabilitation of child victims of human trafficking. The state is responsible for providing medical, legal, and psychological support to the victim.

The act aims to prevent human trafficking by increasing awareness and sensitization about the issue. It provides for the establishment of a National Commission for the Protection of Child Rights, which will monitor the implementation of the act and take necessary steps to prevent human trafficking.

It provides for the establishment of fast-track courts to deal with cases related to sexual offences against children, including human trafficking. These courts are mandated to dispose of cases within a period of one year.

The POCSO Act also requires the establishment of a national database for the registration and monitoring of offenders and the creation of a child helpline for reporting of offences and seeking assistance for child victims.

The Protection of Children from Sexual Offences Act (POCSO) Act, 2012, primarily aims to protect children from sexual offences, including trafficking. However, there have some backlogs in the Act's effectiveness in dealing with human trafficking.

The Act does not adequately address the issue of child trafficking as a separate and distinct crime. Instead, it treats trafficking as one of many sexual offences against children. This approach fails to recognize the unique circumstances and complexities of human trafficking and may hinder efforts to combat it effectively.

Another criticism is that the Act places too much emphasis on punishment rather than prevention and rehabilitation. While it provides for certain preventive measures such as mandatory reporting of sexual offenses against children, there is little emphasis on preventing children from being trafficked in the first place. While the Act provides for harsh penalties for offenders, it does not allocate sufficient resources towards prevention and rehabilitation measures for survivors of trafficking.

Additionally, there have been concerns about the slow pace of trials under the POCSO Act, which can lead to delayed justice for survivors and their families. Moreover, there are reports of underreporting of sexual offences against children due to societal stigma and lack of awareness about the Act.

The POCSO Act provides for the protection of child victims during the trial process, there are concerns that it does not do enough to ensure their long-term safety and rehabilitation. Children who have been trafficked are often in need of significant support, including access to education, healthcare, and psychosocial services, but these are not always readily available.

The Act applies only to sexual offenses against children and does not cover other forms of exploitation, such as forced labour or organ trafficking. This means that many children who have been trafficked for non-sexual purposes may not receive the protection and support they need.

Like many other laws related to human trafficking, the effectiveness of the POCSO Act depends on its proper implementation. There are concerns that the act is not being enforced consistently across all parts of the country, and that many cases of child sexual abuse and trafficking go unreported and unprosecuted.

3.7. The Criminal Law (Amendment) Act, 2018

The Act amends Section 370 and 370A of the Indian Penal Code, which deals with trafficking of persons. It expands the definition of trafficking to include not just physical transportation of a person, but also the act of buying, selling, or exchanging a person for any purpose, including exploitation. The punishment for trafficking has been increased from a maximum of seven years to a minimum of ten years and a maximum of life imprisonment, along with a fine.

The Act also introduces new offences related to trafficking, such as trafficking for the purpose of forced labour, trafficking for the purpose of bearing a child, and trafficking of a person with a disability. It provides for the confiscation of property derived from or used in the commission of trafficking.

Another significant provision of the Act is the establishment of Special Courts in each district to try cases related to offences against women and children, including trafficking. These courts are required to dispose of such cases within two months of the filing of the charge sheet.

3.8. Labour Code on Occupational Safety, Health and Working Conditions

The Labour Code on Occupational Safety, Health and Working Conditions (OSHC) is a comprehensive legislation that consolidates and rationalizes the laws regulating the working conditions and welfare of workers in India. The code came into effect on September 28, 2020, and covers various aspects such as working conditions, safety and health, social security, wages, and industrial relations.

While the OSHWC primarily deals with the working conditions and welfare of workers, it also has provisions to prevent and address human trafficking in the workplace. The code recognizes that human trafficking is a grave violation of human rights and has a negative impact on the physical, emotional, and mental health of workers. To prevent and combat human trafficking, the OSHWC has the following provisions:

1. Definition of forced labour: The OSHWC defines forced labour as work or service that is exacted from a person under the threat of punishment or has been induced by deception or coercion. This definition

encompasses situations where workers are subjected to debt bondage, slavery, and other forms of forced labour, which are common in the context of human trafficking.

2. Protection against forced labour: The OSHWC prohibits the use of forced labour and ensures that workers are protected against any form of coercion, deception, or exploitation. Employers are required to provide workers with safe and healthy working conditions, and any violation of this provision is punishable by law.
3. Prohibition of child labour: The OSHWC also prohibits the employment of children under the age of 18 years in hazardous or harmful work, which can make them vulnerable to human trafficking.
4. Welfare measures: The OSHWC mandates that employers provide basic welfare measures such as drinking water, first aid, and sanitation facilities to workers. These measures are essential to prevent and address human trafficking in the workplace.
5. Grievance redressal mechanisms: The OSHWC provides for the establishment of grievance redressal mechanisms at the workplace, which can address complaints related to human trafficking and forced labour.

Overall, the Labour Code on Occupational Safety, Health and Working Conditions is a comprehensive legislation that recognizes the importance of preventing and addressing human trafficking in the workplace. The code provides a strong framework for protecting the rights and welfare of workers, which is essential to combat human trafficking and forced labour.

3.9. The Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill, 2021

The Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill, 2021 is a proposed legislation in India that seeks to comprehensively address the issue of human trafficking in the country. The bill was introduced in the Lok Sabha, the lower house of the Indian Parliament, on February 13, 2021, and is currently under review.

The proposed bill is an improved version of the The Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill, 2018 which lapsed in 2019 due to general elections. It seeks to replace the existing Immoral Traffic (Prevention) Act, 1986, and is aimed at providing a more victim-centric approach towards addressing the issue of human trafficking. It seeks to address the shortcomings of the earlier legislation and align with the international best practices in the field.

The key features of the proposed bill are as follows:

1. Inclusive in nature: The 2021 Bill improved upon the 2018 Bill by widening the scope of 'victims' to include transgenders and other persons while also extending its reach to cover offences with cross border implications. It also put forth specific mechanisms for prevention and rehabilitation.
2. Definition of Exploitation: The bill defines exploitation of the prostitution of others or other forms of sexual exploitation including pornography, any act of physical exploitation, forced labour or services, slavery or practices similar to slavery, servitude or forced removal of organs, illegal clinical drug trials or illegal bio-medical research.
3. Establishment of National Anti-Trafficking Bureau: The proposed bill seeks to establish a National Anti-Trafficking Bureau, which will be responsible for coordinating and monitoring all aspects of anti-trafficking measures in the country. The bureau will also be responsible for maintaining a national database of traffickers and victims.
4. Punishment for Trafficking: The bill proposes stringent punishment for trafficking offenses, including imprisonment for up to 10 years and a fine of up to Rs 1 lakh. The punishment for repeat offenders

will be even more severe. Offenders will also include defence personnel and government servants, doctors and paramedical staff or anyone in a position of authority.

5. Protection and Rehabilitation of Victims: The proposed bill provides for the protection and rehabilitation of victims of trafficking. It seeks to create a comprehensive rehabilitation and repatriation scheme for victims, which will include medical care, legal aid, education, and vocational training.
6. Special Courts: The proposed bill seeks to establish special courts for the speedy trial of trafficking cases. It also provides for the appointment of special public prosecutors to handle trafficking cases.
7. Prevention of Trafficking: The proposed bill emphasizes the need for prevention of trafficking through various measures, including awareness campaigns, capacity building of law enforcement agencies, and collaboration with international organizations.
8. The National Investigation Agency (NIA) shall act as the national investigating and coordinating agency responsible for prevention and combating of trafficking in persons.
9. Once the law is enacted, the Centre will notify and establish a National Anti-Human Trafficking Committee, for ensuring overall effective implementation of the provisions of this law. This committee will have representation from various ministries with the home secretary as the chairperson and secretary of the women and child development ministry as co-chair. State and district level anti-human trafficking committees will also be constituted.
10. Also, cases such as forced labour, in which people lured with jobs end up in other countries where their passports and documentation is taken away and they are made to work, will also be covered by this new law.

The proposed bill has been welcomed by several stakeholders, including civil society organizations working in the field of anti-trafficking. However, some experts have raised concerns over certain provisions of the bill, including the lack of clarity on the role of state governments in the implementation of the legislation, and the potential for misuse of the provision on the freezing of assets of traffickers. The bill is currently under review, and it remains to be seen how these concerns will be addressed in the final version of the legislation.

CHAPTER – IV

INTERNATIONAL INSTRUMENTS ON HUMAN TRAFFICKING

4.1. The United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (the Palermo Protocol)

The United Nations Convention against Transnational Organized Crime includes a specific Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. This Protocol is often referred to as the Palermo Protocol, after the city in Italy where it was adopted in 2000. It is an international legal instrument aimed at combating human trafficking. The Palermo Protocol is intended to complement and reinforce other international legal instruments related to human rights, organized crime, and corruption. India signed the protocol in 2000 and ratified it in 2011.

Some of the key features of the protocol include:

1. Definition of Trafficking: The Palermo Protocol provides a common definition of "trafficking in persons" which includes the recruitment, transportation, transfer, harbouring or receipt of persons by means of threat or use of force, coercion, deception, or other forms of exploitation for the purpose of exploitation.

2. **Scope and Application:** The protocol applies to all forms of trafficking in persons, including for the purposes of sexual exploitation, forced labour, slavery, or other forms of exploitation. The protocol also applies to both domestic and transnational trafficking, and requires states parties to criminalize and prosecute all forms of trafficking in accordance with the principles and obligations set out in the protocol.
3. **Protection and Assistance to Victims:** The Palermo Protocol recognizes the importance of protecting the rights and interests of victims of trafficking. The protocol requires states parties to provide appropriate protection, assistance, and support to victims, including medical, psychological, and social assistance.
4. **Prevention Measures:** The protocol requires states parties to take measures to prevent and combat trafficking in persons, including through public awareness campaigns, the strengthening of law enforcement and judicial systems, and the promotion of international cooperation.
5. **Cross-Border cooperation:** The protocol recognizes that trafficking in persons is often a transnational crime, and requires states parties to cooperate with one another to prevent and combat trafficking across borders. The protocol provides for the exchange of information, cooperation in investigations and prosecutions, and other forms of mutual assistance.
6. **Non-Punishment of Victims:** The protocol recognizes that victims of trafficking should not be punished for crimes that they have been forced to commit as a result of their exploitation. The protocol requires states parties to take measures to ensure that victims are not penalized or prosecuted for such offenses.
7. **Extraterritorial Jurisdiction:** The protocol allows states parties to establish jurisdiction over trafficking offenses committed outside their territory, under certain conditions, such as when the offender is a national of the state party or the offense has an impact on the state party.
8. **Repatriation of Victims:** The Palermo Protocol recognizes the importance of repatriating victims of trafficking to their countries of origin, with due regard for their safety and well-being. The protocol requires states parties to cooperate in facilitating the return of victims, and to provide appropriate protection and assistance to them upon their return.
9. **Gender and Child-Sensitive Approaches:** The protocol recognizes the particular vulnerability of women and children to trafficking, and calls for gender and child-sensitive approaches in preventing and combating trafficking in persons. The protocol also recognizes the need to address the root causes of trafficking, such as poverty, inequality, and discrimination.
10. **Reporting and Monitoring:** The Palermo Protocol requires states parties to submit periodic reports to the United Nations on the measures they have taken to implement the protocol, and to participate in a system of review and monitoring. The protocol also provides for a conference of states parties to review the implementation of the protocol and to promote international cooperation in the fight against trafficking in persons.
11. **Emphasis on Prosecution:** The Palermo Protocol places a strong emphasis on the prosecution of traffickers and the punishment of trafficking offenses. The protocol requires states parties to ensure that trafficking offenses are punishable by appropriate penalties, taking into account the gravity of the offense.
12. **Training and Capacity Building:** The protocol recognizes the importance of training and capacity building for law enforcement officials, prosecutors, and other relevant actors in preventing and combating trafficking in persons. The protocol requires states parties to provide appropriate training

and technical assistance to these actors to enhance their ability to detect, investigate, and prosecute trafficking offenses.

13. **Civil Society Engagement:** The Palermo Protocol recognizes the important role of civil society organizations in preventing and combating trafficking in persons. The protocol calls for the involvement of civil society in the development and implementation of policies and programs to prevent and combat trafficking, and to provide assistance and support to victims.
14. **Protection of Human Rights:** The protocol recognizes the importance of protecting and promoting human rights in preventing and combating trafficking in persons. The protocol requires states parties to respect and protect the human rights of all persons, including victims of trafficking, and to ensure that their actions in preventing and combating trafficking are consistent with international human rights law.
15. **Victim Identification:** The Palermo Protocol recognizes the importance of identifying victims of trafficking, especially women and children who are particularly vulnerable. The protocol requires states parties to take measures to identify and protect victims, and to ensure that their identification does not result in their detention or prosecution.
16. **Compensation and Remedies:** The protocol recognizes the right of victims of trafficking to seek compensation and other forms of remedial assistance for the harm they have suffered. The protocol requires states parties to provide access to effective remedies for victims, including restitution, compensation, and rehabilitation.
17. **Protection of Privacy and Confidentiality:** The Palermo Protocol recognizes the importance of protecting the privacy and confidentiality of victims of trafficking, especially during legal proceedings. The protocol requires states parties to ensure that the privacy and identity of victims are protected, and that their participation in legal proceedings does not expose them to further harm or stigmatization.
18. **Cooperation with NGOs and International Organizations:** The protocol recognizes the important role of NGOs and international organizations in preventing and combating trafficking in persons. The protocol calls for cooperation and coordination between states parties, NGOs, and international organizations to enhance the effectiveness of measures to prevent and combat trafficking.

Overall, the Palermo Protocol is a comprehensive and multi-faceted instrument that seeks to address trafficking in persons from multiple angles, including prevention, protection, prosecution, and cooperation. The protocol recognizes the complexity of the issue and the need for a coordinated and collaborative response from all relevant actors, and provides a framework for states parties to work together to combat trafficking in persons.

4.2. International Labour Organization Convention No. 29 on Forced Labour

The International Labour Organization (ILO) Convention No. 29 on Forced Labour is a treaty that prohibits all forms of forced labour, including trafficking for labour exploitation. India ratified this convention in 1958, which requires states to take measures to suppress forced labour, including trafficking for forced labour.

The Convention defines forced labour as "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily."

Convention No. 29 requires member states to take measures to prevent and eliminate forced labour, including trafficking for labour exploitation. The Convention also requires member states to provide for penalties for the use of forced labour and to take measures to ensure the effective enforcement of such penalties.

Furthermore, Convention No. 29 requires member states to take measures to protect the rights of workers who have been subjected to forced labour, including trafficking for labour exploitation. This includes measures to provide for their rehabilitation and compensation.

Moreover, Convention No. 29 requires member states to take measures to promote public awareness of the risks of forced labour, including trafficking for labour exploitation, and to promote international cooperation in the prevention and elimination of forced labour.

Therefore, Convention No. 29 is relevant to human trafficking for labour exploitation as it prohibits and aims to eliminate all forms of forced labour, including trafficking for labour exploitation. It also requires member states to take measures to protect the rights of workers who have been subjected to forced labour, including trafficking for labour exploitation, and to provide for effective penalties and enforcement measures.

In addition to Convention No. 29, the ILO has also adopted Convention No. 105 on the Abolition of Forced Labour, which aims to eradicate forced labour by requiring member states to take measures to prevent and eliminate all forms of forced or compulsory labour, including trafficking for forced labour.

Convention No. 105 defines forced labour as "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily." The Convention also requires member states to take measures to provide for penalties for the use of forced labour and to ensure effective enforcement of such penalties.

Furthermore, the ILO has adopted the Protocol of 2014 to the Forced Labour Convention, which strengthens the legal framework for combating forced labour, including trafficking for forced labour. The Protocol requires member states to take measures to prevent and eliminate forced labour, including trafficking for forced labour, and to provide for effective remedies and protection to victims.

The ILO has also developed a specific protocol to address human trafficking for labour exploitation, known as the Protocol of 2014 to the Forced Labour Convention. This protocol aims to strengthen the prevention, protection, and remedy measures related to human trafficking for labour exploitation.

The Protocol of 2014 requires member states to take measures to prevent and eliminate human trafficking for labour exploitation, including through the development and implementation of national strategies and action plans. The Protocol also requires member states to provide for effective remedies, protection, and assistance to victims of human trafficking for labour exploitation, including through access to justice, compensation, and social services.

Furthermore, the Protocol requires member states to promote international cooperation and coordination in preventing and addressing human trafficking for labour exploitation, including through the exchange of information, cooperation between law enforcement agencies, and collaboration with civil society organizations.

In addition to the Protocol of 2014, the ILO has also developed a range of initiatives to support member states in preventing and addressing human trafficking for labour exploitation. This includes the development of international labour standards, technical assistance, research, and capacity building programs.

Moreover, the ILO works in partnership with other organizations, such as the United Nations Office on Drugs and Crime (UNODC), to strengthen international cooperation and coordination in preventing and addressing human trafficking for labour exploitation. The ILO has developed a range of tools and initiatives to support member states in preventing and addressing forced labour and human trafficking,

including through the development of international labour standards, technical assistance, research, and capacity building programs.

4.3. The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) is an international treaty adopted by the United Nations General Assembly in 1979. India signed the convention in 1980 and ratified it in 1993. The Convention aims to eliminate all forms of discrimination against women and to promote gender equality in all areas of life. CEDAW also includes provisions that are relevant to human trafficking, specifically trafficking in women and girls.

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) recognizes that trafficking in women and girls is a form of gender-based discrimination and a violation of their human rights. CEDAW requires member states to take measures to prevent and eliminate trafficking in women and girls, to protect and assist victims of trafficking, and to prosecute and punish traffickers.

Some of the key provisions of CEDAW related to human trafficking include:

1. **Prevention of trafficking:** CEDAW requires member states to take measures to prevent trafficking in women and girls, including by addressing the root causes of trafficking, such as poverty, gender inequality, and discrimination. Member states are also required to take measures to raise awareness about the dangers of trafficking and to promote respect for the human rights of women and girls.
2. **Protection and assistance for victims:** CEDAW requires member states to provide appropriate and effective protection and assistance to victims of trafficking, including access to medical care, legal assistance, and social services. Member states are also required to ensure that victims of trafficking are not punished for crimes that they have been forced to commit, such as prostitution.
3. **Prosecution of traffickers:** CEDAW requires member states to adopt legislation and other measures to prosecute and punish traffickers, and to cooperate with other countries to prevent and combat trafficking in women and girls.
4. **Empowerment of women and girls:** CEDAW recognizes the importance of empowering women and girls as a means of preventing trafficking and protecting the human rights of victims. Member states are required to take measures to promote the economic and social rights of women and girls, including access to education, employment, and healthcare.

CEDAW addresses the issue of trafficking in the context of labour exploitation as well. The Convention requires member states to take measures to eliminate discrimination against women in employment and to ensure that women have access to decent work and safe working conditions. This includes measures to prevent and eliminate forced labour and other forms of labour exploitation.

CEDAW also recognizes the importance of international cooperation in addressing trafficking in women and girls. The Convention calls on member states to cooperate with each other and with international organizations to prevent and combat trafficking, and to provide assistance and protection to victims of trafficking.

One important aspect of CEDAW's approach to trafficking is the emphasis on the human rights of women and girls who are affected by this crime. The Convention recognizes that trafficking is a serious violation of the human rights of women and girls, and requires member states to take a victim-centered approach in their response to this crime. This means that member states must prioritize the needs and rights of victims, and ensure that their human rights are respected and protected throughout the entire process, from prevention and prosecution to recovery and reintegration.

CEDAW also recognizes that trafficking in women and girls is often linked to other forms of gender-based violence, such as sexual and domestic violence. The Convention calls on member states to take a comprehensive approach to preventing and eliminating all forms of violence against women and girls, and to address the root causes of these forms of violence, including discrimination and inequality.

recognizes that trafficking in women and girls is often a complex and multidimensional phenomenon, and requires a coordinated and holistic response. The Convention calls on member states to take a comprehensive approach to addressing trafficking, which includes prevention, protection, and prosecution measures, as well as measures to promote the human rights and empowerment of women and girls.

One key aspect of CEDAW's approach to trafficking is the importance of addressing the root causes of trafficking, such as poverty, gender inequality, and discrimination. The Convention recognizes that these factors contribute to the vulnerability of women and girls to trafficking, and calls on member states to take measures to address these underlying factors.

CEDAW also recognizes that trafficking in women and girls often involves the violation of multiple human rights, including the right to life, liberty, and security of person, the right to freedom from torture and cruel, inhuman or degrading treatment or punishment, and the right to health, education, and work. The Convention calls on member states to ensure that victims of trafficking have access to effective remedies for these violations, including access to justice, compensation, and rehabilitation.

In addition to its provisions on trafficking, CEDAW also addresses a wide range of other issues related to gender equality and the empowerment of women and girls, including political participation, education, healthcare, and economic rights. CEDAW provides a comprehensive framework for addressing trafficking in women and girls, and for promoting gender equality and the empowerment of women and girls. The Convention recognizes that trafficking is a serious human rights abuse that requires a multifaceted and victim-centred response, and calls on member states to take action to prevent and combat this crime. The Convention is widely regarded as one of the most important international human rights treaties, and has been ratified by 189 countries.

4.4. SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution

The SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution is an international treaty that was signed by the members of the South Asian Association for Regional Cooperation (SAARC) in 2002. India signed this convention in 2002 and ratified it in 2005. The Convention aims to prevent and combat the trafficking of women and children for prostitution within the SAARC region, which includes Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan, and Sri Lanka.

The Convention requires member states to take a range of measures to prevent and combat trafficking, including strengthening their legal frameworks, enhancing law enforcement efforts, and promoting regional cooperation and information sharing. The Convention also requires member states to take measures to protect and assist victims of trafficking, including providing medical care, legal assistance, and rehabilitation services.

One key feature of the SAARC Convention is its recognition of the importance of addressing the root causes of trafficking, such as poverty, gender inequality, and discrimination. The Convention calls on member states to take measures to address these underlying factors, and to promote the human rights and empowerment of women and children.

Another important feature of the Convention is its focus on regional cooperation and information sharing. The Convention recognizes that trafficking in women and children is a transnational crime that requires a coordinated and collaborative response, and calls on member states to work together to prevent and combat trafficking, and to share information and best practices.

The SAARC Convention also calls on member states to take measures to prevent the demand for commercial sexual exploitation, recognizing that demand fuels trafficking. This includes measures such as criminalizing the purchase of sexual services, promoting gender equality, and addressing the root causes of gender-based violence and exploitation.

The Convention also emphasizes the importance of protecting the rights and dignity of trafficking victims, particularly women and children, and calls on member states to ensure that they have access to legal, medical, and psychosocial services. Member states are also required to take measures to prevent the re-victimization of trafficking survivors, and to provide them with support to rebuild their lives and reintegrate into society.

One notable feature of the SAARC Convention is its recognition of the need to address trafficking in the context of migration. The Convention recognizes that many women and children who are trafficked for prostitution are migrants or refugees, and calls on member states to take measures to protect their rights and prevent their exploitation.

The SAARC Convention also recognizes the importance of addressing the specific vulnerabilities of women and children to trafficking for the purpose of prostitution. Women and children are often targeted by traffickers due to their socio-economic status, gender, and lack of access to education and employment opportunities. The Convention recognizes that trafficking in women and children for prostitution is a form of violence against women and girls, and calls on member states to take measures to prevent and combat this form of trafficking.

One key provision of the Convention is its recognition of the importance of victim-centered approaches to addressing trafficking. The Convention emphasizes the importance of providing comprehensive support to trafficking victims, including access to legal assistance, health care, and social services. It also calls on member states to adopt measures to protect the rights and dignity of trafficking victims, and to ensure that they are not criminalized or otherwise punished for crimes committed as a direct result of their trafficking. Another important provision of the Convention is its emphasis on the need for prevention. Member states are encouraged to take measures to address the root causes of trafficking, including poverty, lack of education and employment opportunities, gender discrimination, and social exclusion. This includes measures such as promoting gender equality, providing education and skills training, and addressing the demand for commercial sexual exploitation.

The Convention also recognizes the importance of addressing the role of intermediaries, such as recruiters and transporters, in facilitating trafficking. Member states are encouraged to take measures to prevent and combat the activities of intermediaries, including by strengthening their legal frameworks, increasing penalties for trafficking offenses, and enhancing international cooperation to identify and disrupt trafficking networks.

Finally, the Convention recognizes the importance of engaging civil society and other stakeholders in preventing and combating trafficking. Member states are encouraged to work closely with civil society organizations, including those representing women and children, to develop and implement strategies to prevent and combat trafficking, and to ensure that the needs of trafficking victims are effectively addressed.

The SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution also calls for member states to establish and strengthen their legal frameworks to prevent and combat trafficking. Member states are encouraged to adopt comprehensive anti-trafficking legislation, and to ensure that their laws provide for the effective prosecution and punishment of trafficking offenses.

The Convention also emphasizes the importance of protecting the rights of children who are victims of trafficking. Member states are called upon to take measures to prevent the abduction, sale, or trafficking of children, and to provide protection and assistance to child victims of trafficking. The Convention also calls on member states to take measures to prevent the use of children in armed conflicts and to protect the rights of children in conflict situations.

Finally, the Convention recognizes the importance of providing assistance and support to trafficked persons who are repatriated to their country of origin. Member states are called upon to establish effective reintegration and rehabilitation programs for trafficking victims, including provision of health care, education, and vocational training. Member states are also encouraged to work together to ensure the safe and voluntary repatriation of trafficking victims, and to establish mechanisms for sharing information on repatriation and reintegration programs.

Overall, the SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution provides a comprehensive framework for member states to prevent and combat trafficking in the South Asia region. The Convention calls for member states to work together to exchange information, coordinate investigations and prosecutions, and strengthen their capacities to prevent and combat trafficking.

The SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution is an important legal instrument in the fight against trafficking in persons in the South Asian region. However, like other international and regional instruments, its effectiveness depends on its implementation and enforcement by member states.

While challenges remain in terms of implementation and enforcement, the Convention reflects a growing recognition of the importance of addressing this critical issue and provides a basis for member states to work together to protect the rights and dignity of trafficking victims and prevent trafficking in all its forms.

4.5. The Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime

It is a regional initiative aimed at addressing the challenges posed by people smuggling, trafficking in persons, and related transnational crime in the Asia-Pacific region. The process was established in 2002, following the Bali bombings in Indonesia, and has since become a leading forum for regional cooperation on these issues.

One of the key objectives of the Bali Process is to strengthen the capacity of member states to prevent and combat people smuggling and trafficking in persons. To achieve this, the process focuses on a range of areas, including:

1. **Prevention:** The Bali Process promotes initiatives to address the root causes of people smuggling and trafficking in persons, such as poverty, lack of education, and social exclusion. It also works to raise awareness about the risks and consequences of these crimes, and to empower vulnerable communities to resist exploitation.
2. **Law enforcement:** The Bali Process supports efforts to strengthen the legal and law enforcement frameworks for combating people smuggling and trafficking in persons. This includes initiatives to

improve coordination and cooperation among law enforcement agencies, and to enhance the capacity of front-line officials to detect, investigate, and prosecute these crimes.

3. **Protection:** The Bali Process promotes measures to protect and assist victims of people smuggling and trafficking in persons, including through the provision of appropriate care and support, access to justice and remedies, and safe and sustainable reintegration into their communities.
4. **Regional cooperation:** The Bali Process fosters regional cooperation and coordination among member states, as well as with international organizations and other stakeholders. It also seeks to promote best practices and knowledge-sharing on effective strategies and approaches for combating people smuggling and trafficking in persons.
5. **Membership:** The Bali Process currently includes 48 member countries, along with a number of international organizations and civil society partners. The member countries span across Asia, the Pacific, the Middle East, and North Africa.
6. **Leadership:** The Bali Process is co-chaired by Australia and Indonesia, and supported by a range of technical working groups and task forces.

Priority areas: In addition to the four key areas mentioned earlier, the Bali Process has identified a number of priority areas for action, including –

- Enhanced data collection and analysis to improve understanding of the scale and nature of people smuggling and trafficking in persons in the region
- Strengthening border management and migration governance to prevent irregular migration and reduce vulnerability to exploitation
- Addressing the exploitation of migrant workers, particularly in sectors such as fishing, agriculture, and domestic work
- Strengthening efforts to combat the trafficking of children, including through the implementation of child-sensitive procedures and services
- Promoting greater cooperation and engagement with the private sector and civil society to address the drivers and impacts of people smuggling and trafficking in persons.

Accomplishments: Over the years, the Bali Process has achieved a number of significant accomplishments, including:

- The development of regional frameworks and agreements, such as the Bali Process Regional Support Office (RSO) and the Bali Process Government and Business Forum (GBF)
- The adoption of a range of best practices and standards for preventing and combating people smuggling and trafficking in persons, such as the Bali Process Guidelines on the Protection of Victims of Trafficking in Persons and the Bali Process Border Management Roundtable Principles
- The provision of technical assistance and capacity building to member states to improve their ability to prevent and combat people smuggling and trafficking in persons
- The establishment of partnerships and networks with international organizations, civil society groups, and other stakeholders to support regional cooperation and knowledge-sharing on these issues.

The Bali Process is supported by a range of forums and mechanisms that allow member countries to share information, coordinate action, and develop common approaches to addressing people smuggling and trafficking in persons. These forums include the Senior Officials' Meeting (SOM), the Ministerial Conference, the Regional Ministerial Conferences on People Smuggling, Trafficking in Persons and Related Transnational Crime, and the Bali Process Business Forum.

The Bali Process has launched a number of key initiatives to support its priorities and objectives, including:

- The Regional Support Office (RSO): Established in 2011, the RSO is a key mechanism for supporting the Bali Process through the provision of research, training, technical assistance, and coordination services to member countries and other stakeholders. The RSO also plays a critical role in promoting dialogue and cooperation on people smuggling and trafficking in persons issues across the region.
- The Bali Process Government and Business Forum (GBF): Launched in 2017, the GBF is a platform for promoting greater engagement between governments and the private sector in addressing people smuggling and trafficking in persons. The GBF aims to foster cooperation, dialogue, and innovation in addressing these issues, and to encourage responsible business practices and ethical recruitment in industries that are vulnerable to exploitation.
- The Bali Process Education and Training Series (BPETS): The BPETS is a comprehensive training program designed to enhance the capacity of law enforcement officials, government officials, and other stakeholders to prevent, investigate, and prosecute people smuggling and trafficking in persons. The program covers a range of topics, including victim identification, legal frameworks, intelligence gathering, and inter-agency cooperation.

Challenges: Despite its accomplishments, the Bali Process faces a number of challenges in its efforts to combat people smuggling and trafficking in persons. These include:

- Limited resources and funding: Many member countries of the Bali Process face resource constraints that limit their ability to implement effective policies and programs to combat people smuggling and trafficking in persons. This can make it difficult to sustain progress over the long term.
- Political sensitivities and lack of trust: Some member countries of the Bali Process may be reluctant to share information or engage in joint action on people smuggling and trafficking in persons due to political sensitivities or lack of trust. This can hamper efforts to develop effective regional responses to these issues.
- Evolving nature of the threat: People smuggling and trafficking in persons are constantly evolving, with traffickers and smugglers adapting their tactics and techniques to evade detection and prosecution. This requires ongoing vigilance and adaptation by law enforcement officials and other stakeholders to keep pace with these changes.

Despite these challenges, the Bali Process remains a critical platform for promoting regional cooperation and action on people smuggling and trafficking in persons, and has contributed to significant progress in addressing these crimes in the Asia-Pacific region over the past two decades.

4.6. The Global Plan of Action to Combat Trafficking in Persons

The Global Plan of Action to Combat Trafficking in Persons is a framework developed by the United Nations to guide global efforts to prevent and combat human trafficking. It was adopted by the United Nations General Assembly in 2010 and is based on four pillars: prevention, protection, prosecution, and partnerships.

The prevention pillar aims to reduce the vulnerability of individuals to trafficking and to address the root causes of trafficking, such as poverty, inequality, and discrimination. It emphasizes the need for education, awareness-raising, and social and economic empowerment programs.

The protection pillar seeks to ensure that victims of trafficking receive adequate and appropriate assistance, support, and protection. It recognizes the importance of victim-centered approaches and the need to address the specific needs of women and children, who are particularly vulnerable to trafficking.

The prosecution pillar aims to strengthen the criminal justice response to trafficking, including the investigation, prosecution, and punishment of traffickers. It emphasizes the need for effective laws and legal frameworks, as well as cooperation among law enforcement agencies and between countries.

The partnerships pillar highlights the importance of cooperation and coordination among various stakeholders, including governments, civil society organizations, the private sector, and international organizations. It emphasizes the need for a coordinated and integrated approach to combat trafficking and for the mobilization of resources to support anti-trafficking efforts.

In addition to the four pillars, the Global Plan of Action includes specific recommendations and actions that governments and other stakeholders can take to address trafficking in persons. Some of these include Strengthening laws and policies to prevent and combat trafficking in persons, including measures to criminalize all forms of trafficking, protect victims and witnesses, and ensure that perpetrators are held accountable.

- Improving data collection, research, and analysis to better understand the nature and extent of trafficking, as well as the effectiveness of anti-trafficking interventions.
- Enhancing cross-border cooperation and coordination among countries to prevent trafficking, investigate and prosecute traffickers, and protect victims.
- Strengthening partnerships between governments, civil society organizations, the private sector, and other stakeholders to prevent and combat trafficking in persons.
- Providing comprehensive assistance and support to victims of trafficking, including access to legal, medical, and social services.
- Increasing public awareness of the dangers of trafficking and the importance of prevention efforts.
- Focus on the needs and rights of victims: The plan recognizes that trafficking in persons is a serious human rights violation, and places a strong emphasis on protecting and supporting victims. This includes ensuring that victims have access to appropriate services and support, such as medical care, legal assistance, and safe housing.
- A multi-faceted approach: The plan recognizes that addressing trafficking in persons requires a coordinated, multi-faceted response that involves government agencies, civil society organizations, the private sector, and other stakeholders. It calls for increased cooperation and collaboration among these stakeholders to prevent trafficking, protect victims, and bring traffickers to justice.
- Focus on prevention: The plan emphasizes the importance of preventing trafficking in persons before it occurs, through measures such as awareness-raising campaigns, education and training, and targeted interventions to address the root causes of trafficking, such as poverty and discrimination.
- Commitment to international cooperation: The plan recognizes that trafficking in persons is a global problem that requires international cooperation and coordination. It calls on countries to work together to share information, best practices, and resources to prevent trafficking and protect victims.
- Gender equality: The plan recognizes that trafficking in persons disproportionately affects women and girls, and places a strong emphasis on promoting gender equality and women's empowerment as a key element of efforts to prevent and combat trafficking.
- Recognition of the role of the private sector: The plan recognizes that the private sector can play an important role in preventing trafficking in persons and supporting victims. It calls on businesses to adopt responsible business practices and to work with governments and civil society organizations to prevent trafficking in their supply chains.

The Global Plan of Action is a comprehensive and ambitious framework for addressing trafficking in persons. While it is not legally binding, it represents a strong commitment by the international community to work together to prevent trafficking, protect victims, and bring traffickers to justice.

4.7. Convention on the Rights of the Child (CRC)

The Convention on the Rights of the Child (CRC) is a United Nations treaty that sets out the civil, political, economic, social, and cultural rights of children. India signed the convention in 1990 and ratified it in 1992. While the CRC does not specifically address human trafficking, it includes provisions that are relevant to preventing and addressing trafficking of children.

Article 34 of the CRC recognizes that children have the right to protection from sexual exploitation and abuse, including prostitution and pornography. This provision also requires states parties to take measures to prevent the use of children in all forms of exploitation, including in the production of pornography and other related activities.

Furthermore, Article 35 of the CRC recognizes the obligation of states parties to 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.

Additionally, Article 36 of the CRC recognizes the obligation of states parties to protect children from all forms of exploitation that may affect their physical, mental, or social development. This provision requires states parties to take measures to prevent the abduction, sale, or trafficking of children, and to provide assistance to child victims of such practices.

Moreover, Article 39 of the CRC requires states parties to take measures to promote the physical and psychological recovery and social reintegration of a child victim of any form of neglect, exploitation, or abuse, which includes children who have been trafficked.

In summary, while the CRC does not specifically address human trafficking, it includes provisions that can be used to prevent and address trafficking of children. The CRC emphasizes the need to protect children from all forms of exploitation and abuse, and requires states parties to take measures to prevent and respond to trafficking of children.

4.8. Convention concerning Decent Work for Domestic Workers

The Convention concerning Decent Work for Domestic Workers, also known as the Domestic Workers Convention, is an international treaty adopted by the International Labour Organization (ILO) in 2011. The convention aims to promote and protect the rights of domestic workers around the world, who often work in vulnerable and exploitative conditions. India ratified this convention in 2013, which sets out standards and guidelines for the protection of domestic workers, who are often vulnerable to exploitation and abuse, including trafficking.

The convention outlines several key rights and protections for domestic workers, including:

1. The right to a written employment contract that specifies terms and conditions of employment, including working hours, wages, and rest periods.
2. The right to a safe and healthy working environment.
3. The right to freedom of association and collective bargaining.
4. The right to access to social protection, including health care, maternity protection, and unemployment insurance.
5. The right to protection against all forms of abuse, harassment, and violence.

As of March 2023, the convention has been ratified by 32 countries, including Argentina, Bolivia, Chile, Costa Rica, Ecuador, Germany, Ireland, Italy, Mauritius, Paraguay, Philippines, South Africa, Spain, and

Uruguay, among others.

In addition to the rights and protections outlined in the convention, the Domestic Workers Convention also requires ratifying countries to take several steps to ensure that domestic workers are able to access and enjoy these rights. These steps include:

1. Ensuring that domestic workers are covered by national labour laws and regulations, and that these laws provide for the rights and protections outlined in the convention.
2. Taking measures to promote decent working conditions for domestic workers, and to prevent and combat abusive and exploitative practices.
3. Providing for effective monitoring and enforcement of labour laws and regulations, including by establishing inspection systems and mechanisms for receiving and addressing complaints.
4. Encouraging social dialogue between employers and domestic workers' organizations to promote the protection of domestic workers' rights and to address issues of concern.

The Domestic Workers Convention also recognizes the important role that domestic workers play in providing care and support to families and individuals, and highlights the need to ensure that domestic workers are able to access social protection and other benefits that are available to other workers. Specifically, the convention requires ratifying countries to take steps to ensure that domestic workers are able to access:

1. Adequate social security coverage, including coverage for work-related injury and illness, maternity, and old age.
2. Access to health care, including preventative and curative services, as well as occupational health services.
3. Access to education and training to support their professional development and to help them to advance in their careers.
4. Protection against discrimination, harassment, and violence, including through the implementation of effective measures to prevent and address such behavior.
5. The right to organize and collectively bargain to promote their interests and to negotiate better working conditions and terms of employment.

In addition to these specific provisions, the Domestic Workers Convention also recognizes the importance of raising awareness about the rights and needs of domestic workers, and of taking steps to promote respect for their work and to combat stereotypes and discrimination. By ratifying and implementing the convention, countries can help to ensure that domestic workers are able to access the same rights and protections as other workers, and can help to promote greater recognition and respect for the important work that domestic workers do.

4.9. Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

The Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families is a human rights treaty adopted by the United Nations General Assembly in 1990. The Convention aims to protect the rights of migrant workers and their families, regardless of their legal status, and to ensure that they are not subject to exploitation or discrimination.

With regards to human trafficking, the Convention requires State Parties to take measures to prevent and combat trafficking in persons, especially women and children, who are particularly vulnerable to exploitation and abuse. The Convention recognizes that trafficking in persons is a serious violation of human rights and calls for the protection of victims and the prosecution of perpetrators.

Additionally, the Convention obliges State Parties to take measures to ensure that migrant workers and their families are not subjected to forced labour or any other form of exploitation or slavery-like practices, which are often associated with human trafficking. The Convention also requires State Parties to take appropriate measures to identify and protect victims of trafficking and to provide them with access to legal assistance, medical care, and other support services.

The Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families is an international treaty that was adopted by the United Nations General Assembly in 1990. It is designed to protect the rights of all migrant workers and their families, regardless of their legal status or the reasons for their migration.

The Convention outlines a number of protections for migrant workers, including:

1. Equal treatment: Migrant workers are entitled to the same rights and protections as citizens of the country where they are working, including social security, health care, and access to education.
2. Fair and ethical recruitment practices: The Convention prohibits the use of any form of forced labour or trafficking in persons in the recruitment of migrant workers.
3. Decent working conditions: Migrant workers must be provided with safe and healthy working conditions, and must be protected against exploitation, abuse, and harassment.
4. Access to justice: Migrant workers must be able to access the justice system in the country where they are working, and must be provided with legal assistance and representation if necessary.
5. Protection of the family: Migrant workers' families must be protected from discrimination and must be able to join them in the country where they are working.

The Convention also establishes a committee to monitor the implementation of its provisions, and calls on countries to cooperate with one another to promote the protection of the rights of migrant workers and their families.

CHAPTER – V

COOPERATIVE ACTION AGAINST HUMAN TRAFFICKING – INDIA & HER NEIGHBOURS

5.1. India and Bangladesh

On October 5, 2015, India and Bangladesh signed a Memorandum of Understanding (MoU) to prevent and combat human trafficking and to protect the rights of victims. The MoU was signed during the visit of the Indian Home Minister, Rajnath Singh, to Bangladesh.

The key provisions of the MoU include:

1. Strengthening border management and cooperation between the law enforcement agencies of the two countries to prevent human trafficking.
2. Sharing of information and intelligence related to human trafficking between the concerned agencies of the two countries.
3. Strengthening the existing mechanisms for the repatriation and rehabilitation of victims of human trafficking.
4. Promoting awareness and sensitization on issues related to human trafficking among the general public and vulnerable groups.
5. Cooperation in capacity-building and training programs for law enforcement agencies, immigration officials, and other stakeholders involved in combating human trafficking.
6. Establishment of a joint task force to monitor the implementation of the MoU and to take necessary steps for the prevention and suppression of human trafficking.

The MoU is significant as it reflects the commitment of the governments of India and Bangladesh to work together to prevent and combat human trafficking, which is a serious problem in the region. The MoU also recognizes the need to protect the rights of victims and to provide them with necessary support and rehabilitation.

The MoU between India and Bangladesh also recognizes that human trafficking is a transnational crime that requires cooperation and coordination between countries. The MoU is a step towards addressing the challenges posed by human trafficking, such as the movement of traffickers and victims across borders and the involvement of organized criminal networks.

The MoU also acknowledges the importance of addressing the root causes of human trafficking, such as poverty, lack of education, and social inequality. It recognizes that prevention efforts should include measures to address these underlying issues.

India and Bangladesh have a shared border of approximately 4,000 km, and human trafficking is a major concern in the region. Traffickers often use the porous borders between the two countries to transport victims. The MoU aims to strengthen border management and cooperation between the law enforcement agencies of the two countries to prevent human trafficking.

The MoU also recognizes that women and children are particularly vulnerable to trafficking and exploitation. It acknowledges the need to ensure that victims of trafficking are treated with dignity and respect, and that they have access to legal and other forms of assistance.

In addition to the MoU, India and Bangladesh have also taken other measures to address human trafficking, such as the establishment of anti-human trafficking units and the enactment of legislation to strengthen the legal framework for combating trafficking.

Since the signing of the MoU between India and Bangladesh, several initiatives have been taken to implement its provisions. For instance, in 2016, India and Bangladesh conducted a joint anti-human trafficking operation, which resulted in the arrest of several traffickers and the rescue of several victims. In addition, India and Bangladesh have also established a Joint Task Force on Human Trafficking, which meets regularly to discuss issues related to human trafficking and to coordinate efforts to combat the problem. The task force also conducts joint capacity-building programs for law enforcement agencies and other stakeholders.

Both countries have also taken steps to increase awareness about human trafficking among the public, particularly among vulnerable groups. For instance, in India, the Ministry of Women and Child Development has launched a national campaign to prevent and combat trafficking of women and children. Similarly, in Bangladesh, the government has launched several initiatives to raise awareness about trafficking, including through mass media campaigns.

Despite these efforts, human trafficking continues to be a major problem in the region, and much remains to be done to effectively prevent and combat the problem. Factors such as poverty, lack of education, and social inequality continue to contribute to the vulnerability of people to trafficking, and addressing these underlying issues remains a challenge.

In recent years, India and Bangladesh have taken several other measures to prevent and combat human trafficking, in addition to the MoU. For example, in 2018, India launched the National Anti-Trafficking Bureau (NATB), which is responsible for investigating and prosecuting cases of human trafficking. The NATB also coordinates with law enforcement agencies in other countries, including Bangladesh, to combat human trafficking.

Similarly, Bangladesh has enacted the Prevention and Suppression of Human Trafficking Act, which provides for harsh penalties for traffickers and also provides for the protection and rehabilitation of victims of trafficking. The government has also established several shelters for victims of trafficking, which provide them with shelter, food, medical care, and other forms of support.

Both countries have also taken steps to strengthen border management and to increase cooperation between law enforcement agencies. For example, India and Bangladesh have set up joint border outposts and have also increased patrols along the border to prevent trafficking.

In addition, both countries have also increased efforts to raise awareness about human trafficking and to prevent the trafficking of vulnerable groups. For example, India has launched a program to train youth leaders to identify and prevent trafficking in their communities. Bangladesh has also launched several initiatives, including a hotline for reporting cases of trafficking and awareness campaigns targeted at high-risk groups such as migrant workers.

Both India and Bangladesh have also taken steps to strengthen their legal frameworks for combating human trafficking. For example, in 2018, India amended its anti-trafficking law, the Immoral Traffic (Prevention) Act, to provide for stronger penalties for traffickers and to provide for the protection and rehabilitation of victims of trafficking. The amended law also provides for the establishment of special courts to fast-track trafficking cases.

Similarly, in Bangladesh, the government has recently amended its Prevention and Suppression of Human Trafficking Act to provide for harsher penalties for traffickers and to provide for the protection and rehabilitation of victims of trafficking. The government has also established a specialized court to try trafficking cases.

Both countries have also taken steps to increase international cooperation to combat human trafficking. For example, India is a member of the United Nations Global Plan of Action to Combat Trafficking in Persons and is also a party to several international conventions on trafficking, including the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.

Similarly, Bangladesh is a party to several international conventions on trafficking, including the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and the South Asian Association for Regional Cooperation (SAARC) Convention on Preventing and Combating Trafficking in Women and Children for Prostitution.

Both India and Bangladesh have also prioritized victim protection and rehabilitation in their efforts to combat human trafficking. In India, the Ministry of Women and Child Development has launched several programs to provide support and rehabilitation services to victims of trafficking, including shelter homes, counselling, legal aid, and vocational training. The National Anti-Trafficking Bureau also provides support and assistance to victims of trafficking.

Similarly, in Bangladesh, the government has established several shelters for victims of trafficking, which provide them with temporary accommodation, food, medical care, and other forms of support. The government has also launched a program to provide vocational training to victims of trafficking, aimed at helping them to reintegrate into society and become self-sufficient.

In addition, both countries have also taken steps to address the demand for trafficking. For example, in India, the government has launched a program to raise awareness among buyers of sex about the harms of trafficking and the importance of responsible consumption. Similarly, in Bangladesh, the government has launched several initiatives aimed at reducing the demand for trafficking, including awareness campaigns targeted at potential buyers.

One significant challenge to combating human trafficking in the region is the lack of reliable data on the extent of the problem. Both India and Bangladesh have taken steps to improve data collection on trafficking, including through the establishment of specialized units within law enforcement agencies to monitor trafficking patterns and trends.

In addition, both countries have also taken steps to address the issue of cross-border trafficking, which is a major challenge in the region. For example, India and Bangladesh have set up joint task forces to investigate cases of cross-border trafficking and to facilitate the repatriation of victims. The two countries have also signed agreements to streamline the process for repatriation of victims and to improve coordination between law enforcement agencies.

Another challenge is the lack of awareness among vulnerable communities about the risks of trafficking. Both India and Bangladesh have launched several initiatives aimed at raising awareness about the dangers of trafficking and empowering communities to prevent trafficking. For example, India has launched a program to train community leaders to identify and prevent trafficking in their communities, while Bangladesh has launched several awareness campaigns targeted at high-risk groups, such as migrant workers.

Another challenge to combating human trafficking in the region is the involvement of organized crime groups in trafficking operations. These groups are often highly organized and have significant resources at their disposal, which makes it difficult for law enforcement agencies to effectively combat them. Both India and Bangladesh have taken steps to address this issue by strengthening their law enforcement capabilities and increasing cooperation with other countries.

For example, India has established specialized anti-trafficking units within its law enforcement agencies, which are responsible for investigating and prosecuting trafficking cases. The government has also launched several initiatives to strengthen the capacity of law enforcement agencies, including training programs and the provision of equipment and technology.

Similarly, Bangladesh has also established specialized units within its law enforcement agencies to investigate trafficking cases, and has increased cooperation with other countries to combat cross-border trafficking. The government has also launched several initiatives to strengthen the capacity of law enforcement agencies, including the provision of training and equipment.

Another challenge is the lack of effective prosecution and punishment of traffickers. In many cases, traffickers are able to escape punishment due to a lack of evidence or corruption within the justice system. Both India and Bangladesh have taken steps to address this issue by strengthening their legal frameworks for combating trafficking and establishing specialized courts to fast-track trafficking cases.

In addition, both countries have also taken steps to strengthen the social and economic empowerment of women and girls, who are particularly vulnerable to trafficking. For example, India has launched several initiatives to improve access to education and healthcare for girls, while Bangladesh has launched several initiatives aimed at increasing the participation of women in the workforce and improving their economic opportunities.

Another important aspect of combating human trafficking is the involvement of civil society organizations and NGOs. These organizations play a critical role in raising awareness about the risks of trafficking, providing support and services to victims, and advocating for policies and programs to prevent trafficking. Both India and Bangladesh have a vibrant civil society sector, with many organizations working on issues related to human trafficking. These organizations provide a range of services to victims, including shelter,

counselling, legal aid, and vocational training. They also work closely with communities to raise awareness about the risks of trafficking and to empower vulnerable individuals to protect themselves.

In addition, civil society organizations also play a critical role in advocating for policies and programs to prevent trafficking and to protect the rights of victims. They work closely with government agencies and other stakeholders to develop and implement strategies for combating trafficking, and provide important feedback on the effectiveness of these efforts.

Overall, the involvement of civil society organizations and NGOs is critical to effectively combating human trafficking in the region. Both India and Bangladesh have recognized the important role of these organizations, and have taken steps to engage with them and to provide support for their work.

In conclusion, the memorandum of understanding between India and Bangladesh to prevent and combat human trafficking and to protect the rights of victims is an important step towards addressing this critical issue in the region. Both countries have made significant efforts to prevent trafficking, to prosecute and punish traffickers, and to provide support and services to victims. However, much more needs to be done to effectively address the root causes of trafficking and to address the demand for trafficking. Sustained and coordinated efforts by both countries, as well as increased international cooperation, will be critical to effectively combat human trafficking in the region.

5.2. India and Nepal

India and Nepal signed a Memorandum of Understanding (MoU) on 20th February 2021 to prevent human trafficking and provide protection and rehabilitation to victims. The MoU was signed between the Ministry of Women, Children and Senior Citizens of Nepal and the Ministry of Women and Child Development of India.

The main objective of the MoU is to strengthen the cooperation between India and Nepal in preventing human trafficking, protecting and rehabilitating victims, and prosecuting traffickers. The MoU also seeks to ensure the effective implementation of existing bilateral and international agreements related to human trafficking.

Under the MoU, India and Nepal will establish a Joint Task Force to oversee the implementation of the agreement. The Task Force will meet regularly to exchange information on the prevention of human trafficking, rescue and repatriation of victims, and the prosecution of traffickers. It will also work towards developing joint strategies and programs to address the root causes of trafficking and to enhance the capacities of law enforcement agencies and civil society organizations.

The MoU also provides for the establishment of a Joint Working Group to oversee the implementation of specific programs and projects. The Working Group will develop and implement joint programs to prevent human trafficking, protect and rehabilitate victims, and prosecute traffickers. It will also monitor and evaluate the effectiveness of these programs.

India and Nepal have a long history of cooperation in the fight against human trafficking. The signing of this MoU is expected to further strengthen this cooperation and help to reduce the incidence of trafficking in persons in the region.

In addition to the establishment of a Joint Task Force and Joint Working Group, the MoU also outlines various other provisions to prevent human trafficking and provide protection and rehabilitation to victims. These include:

1. **Strengthening border management:** India and Nepal will work towards strengthening border management by increasing surveillance, enhancing cooperation between border security agencies, and sharing intelligence on human trafficking.

2. Capacity building: The MoU provides for capacity building of law enforcement agencies, civil society organizations, and other stakeholders to enable them to prevent human trafficking, protect and rehabilitate victims, and prosecute traffickers effectively.
3. Exchange of best practices: India and Nepal will share best practices, experiences, and lessons learned in preventing human trafficking, protecting and rehabilitating victims, and prosecuting traffickers.
4. Awareness-raising campaigns: The MoU provides for the development and implementation of awareness-raising campaigns to sensitize communities and stakeholders about the dangers of human trafficking and to encourage them to report cases of trafficking.
5. Protection and rehabilitation of victims: The MoU emphasizes the need to provide protection and rehabilitation to victims of human trafficking, including medical and psychological support, legal assistance, and reintegration into society.
6. Exchange of information: The MoU provides for the exchange of information between India and Nepal on the prevention of human trafficking, rescue and repatriation of victims, and the prosecution of traffickers.

India and Nepal share a long and porous border, which makes the region vulnerable to human trafficking, especially of women and children. According to the US State Department's 2020 Trafficking in Persons report, Nepal is a source, transit, and destination country for human trafficking, while India is a source, transit, and destination country for forced labour and sex trafficking.

The signing of the MoU is, therefore, a crucial step in addressing this issue, as it provides a framework for joint action and cooperation between the two countries. The establishment of a Joint Task Force and Joint Working Group will help to coordinate efforts, share information, and develop joint strategies to combat human trafficking in the region.

Moreover, the MoU's emphasis on capacity building and awareness-raising campaigns is particularly important, as it can help to equip law enforcement agencies, civil society organizations, and other stakeholders with the knowledge and skills needed to prevent human trafficking, protect and rehabilitate victims, and prosecute traffickers.

It is worth noting that the MoU builds on existing bilateral and international agreements between India and Nepal related to human trafficking. For instance, in 2009, the two countries signed a Memorandum of Understanding on Bilateral Cooperation for Prevention of Human Trafficking. The new MoU expands on this agreement by providing for the establishment of a Joint Task Force and Joint Working Group and outlining specific measures to prevent human trafficking and provide protection and rehabilitation to victims.

The MoU between India and Nepal on preventing human trafficking and providing protection and rehabilitation to victims is also significant in the context of the COVID-19 pandemic. The pandemic has increased the vulnerability of people to human trafficking due to economic hardship, job losses, and disruption in social services.

According to the 2022 report by the United Nations Office on Drugs and Crime (UNODC), the pandemic has led to an increase in online exploitation of children and an increased demand for forced labour in certain sectors. The report also highlights the importance of international cooperation in addressing the issue of human trafficking during the pandemic.

In this regard, the India-Nepal MoU is a timely initiative as it seeks to strengthen cooperation between the two countries in preventing human trafficking and providing protection and rehabilitation to victims during the pandemic.

Furthermore, the MoU recognizes the need to address the root causes of human trafficking, including poverty, gender inequality, and lack of opportunities. It emphasizes the need for joint efforts to create economic and social opportunities for vulnerable communities, especially women and children.

The India-Nepal MoU on preventing human trafficking and providing protection and rehabilitation to victims is also in line with the global Sustainable Development Goals (SDGs) adopted by the United Nations General Assembly in 2015. Goal 8 of the SDGs aims to promote sustained, inclusive, and sustainable economic growth, full and productive employment, and decent work for all. Target 8.7 of Goal 8 specifically calls for the eradication of forced labour, modern slavery, and human trafficking.

The MoU between India and Nepal is a significant step towards achieving Target 8.7 of the SDGs. By strengthening cooperation between the two countries, the MoU can help to prevent human trafficking, protect and rehabilitate victims, and prosecute traffickers. The MoU also recognizes the importance of addressing the root causes of human trafficking, such as poverty and lack of opportunities, which is in line with the broader objective of promoting sustained, inclusive, and sustainable economic growth.

Moreover, the MoU is aligned with the United Nations Convention on Transnational Organized Crime (UNTOC) and its protocol on human trafficking. UNTOC is a global legal framework that aims to prevent and combat transnational organized crime, including human trafficking. The India-Nepal MoU builds on the principles and provisions of UNTOC and its protocol on human trafficking to strengthen cooperation between the two countries in preventing human trafficking and providing protection and rehabilitation to victims.

The India-Nepal MoU on preventing human trafficking and providing protection and rehabilitation to victims also highlights the importance of a victim-centred approach to combating human trafficking. The MoU recognizes that victims of human trafficking are often subjected to physical and psychological harm and may require specialized services and support for their recovery and reintegration.

Therefore, the MoU emphasizes the need for the development and implementation of victim-centred protection and rehabilitation programs, including access to legal aid, medical and psychosocial support, and safe and supportive housing. The MoU also recognizes the importance of providing opportunities for education and vocational training to empower victims and help them reintegrate into society.

Moreover, the MoU highlights the need to ensure that victims are not criminalized or punished for crimes committed as a result of being trafficked. This is in line with the international legal framework on human trafficking, which recognizes that victims of human trafficking are not criminals but rather survivors of a crime.

By emphasizing a victim-centred approach to combating human trafficking, the India-Nepal MoU recognizes the rights and needs of victims and prioritizes their protection and rehabilitation. This approach can help to address the trauma and harm suffered by victims of human trafficking and enables them to rebuild their lives.

The India-Nepal MoU on preventing human trafficking and providing protection and rehabilitation to victims also emphasizes the importance of cooperation and coordination between various stakeholders, including law enforcement agencies, government departments, civil society organizations, and international organizations.

The MoU recognizes that preventing and combating human trafficking is a complex and multifaceted issue that requires a comprehensive and coordinated response. Therefore, the MoU emphasizes the need for joint efforts and cooperation among stakeholders to address the root causes of human trafficking, prevent it from happening, protect victims, and prosecute traffickers.

The MoU also highlights the importance of capacity building and training for law enforcement agencies and other stakeholders to enhance their skills and knowledge in preventing and combating human trafficking. This includes training on identifying and supporting victims, conducting investigations, and prosecuting traffickers.

Furthermore, the MoU recognizes the importance of raising public awareness and promoting community participation in preventing and combating human trafficking. This includes awareness-raising campaigns, community mobilization, and the involvement of civil society organizations in prevention and response efforts.

In conclusion, the India-Nepal MoU on preventing human trafficking and providing protection and rehabilitation to victims emphasizes the importance of cooperation and coordination among various stakeholders in addressing this issue. By working together and implementing the provisions of the MoU effectively, India and Nepal can strengthen their efforts to prevent human trafficking, protect and rehabilitate victims, and prosecute traffickers.

5.3. India and Myanmar

On October 25, 2011, India and Myanmar signed a Memorandum of Understanding (MoU) to prevent human trafficking and to provide assistance and protection to victims. The MoU was signed during the visit of Myanmar President Thein Sein to India.

The MoU aims to strengthen the existing cooperation between the two countries in preventing human trafficking, protecting the rights of victims, and prosecuting traffickers. It also aims to establish a framework for cooperation and exchange of information between the two countries on issues related to human trafficking.

Under the MoU, both countries agree to cooperate in the following areas:

1. Prevention of human trafficking: Both countries will take measures to prevent human trafficking, including the strengthening of border controls and the exchange of information on trafficking trends and patterns.
2. Protection and assistance to victims: Both countries will provide assistance and protection to victims of human trafficking, including medical assistance, counseling, and rehabilitation.
3. Repatriation and reintegration: Both countries will work together to repatriate and reintegrate victims of human trafficking, including the provision of temporary shelter and other necessary support.
4. Capacity building: Both countries will undertake capacity building initiatives, including training programs for law enforcement officials and other relevant stakeholders.

The MoU also establishes a Joint Task Force on Human Trafficking, which will be responsible for coordinating the implementation of the MoU and monitoring its progress.

The MoU between India and Myanmar is part of a broader effort to combat human trafficking in the region. Both countries have been identified as source, transit, and destination countries for trafficking in persons, with women and children being particularly vulnerable.

India and Myanmar have already been working together on anti-trafficking efforts, including through the India-Myanmar Border Liaison Committee, which was established in 1994 to promote cooperation and security along the shared border.

The MoU builds on these existing efforts and provides a more comprehensive framework for cooperation between the two countries. It is also in line with international commitments, including the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, which both India and Myanmar have ratified.

In recent years, India and Myanmar have taken several steps to combat human trafficking. India has enacted the Immoral Traffic (Prevention) Act, 1956, which criminalizes trafficking for the purposes of prostitution and related activities. Myanmar has also enacted a law on prevention of trafficking in persons, which includes provisions for the protection and rehabilitation of victims.

Both countries have also established national anti-trafficking agencies and task forces to coordinate efforts to combat trafficking. India has the National Anti-Trafficking Bureau and Myanmar has the Anti-Trafficking in Persons Division.

However, there are still challenges that need to be addressed in the fight against human trafficking in the region. These include a lack of resources, weak law enforcement, corruption, and inadequate protection and support for victims.

The MoU between India and Myanmar is an important step towards addressing these challenges and strengthening cooperation between the two countries. It is hoped that it will lead to greater collaboration and sharing of best practices, as well as increased resources for anti-trafficking efforts.

In addition to the MoU between India and Myanmar, both countries have also engaged in bilateral and regional initiatives to combat human trafficking. For example, they have participated in the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime, which is a regional forum that aims to enhance cooperation and dialogue on issues related to people smuggling and human trafficking.

India has also launched several initiatives to combat human trafficking, including the Ujjawala Scheme, which provides support and rehabilitation to victims of trafficking for commercial sexual exploitation. Similarly, Myanmar has launched the National Strategic Plan on Prevention and Response to Violence against Women (2019-2022), which includes measures to prevent and respond to human trafficking.

The role of civil society and non-governmental organizations (NGOs) is also critical in the fight against human trafficking. In both India and Myanmar, NGOs and community-based organizations (CBOs) have been working to raise awareness about human trafficking, provide support and services to victims, and advocate for stronger anti-trafficking laws and policies.

While the MoU between India and Myanmar is a positive development in the fight against human trafficking, there are still challenges that need to be addressed. One of the main challenges is the lack of data and research on the extent and nature of human trafficking in the region. This makes it difficult to develop evidence-based policies and programs to combat trafficking and support victims.

Another challenge is the lack of coordination and communication between different government agencies and stakeholders involved in anti-trafficking efforts. Effective collaboration and sharing of information is crucial to identify trafficking patterns and trends, and to ensure that victims receive the support and protection they need.

Furthermore, the COVID-19 pandemic has increased the vulnerability of marginalized groups, including women and children, to exploitation and trafficking. Lockdowns and travel restrictions have disrupted anti-trafficking efforts, and economic hardship has forced many people to take greater risks to earn a livelihood, including migrating for work or engaging in prostitution.

To address these challenges, it is important to strengthen anti-trafficking laws and policies, increase resources for anti-trafficking efforts, and improve coordination and collaboration between different stakeholders. It is also important to prioritize the protection and support of victims, including through access to legal services, healthcare, education, and employment opportunities.

In addition to the challenges mentioned earlier, there are other factors that contribute to the prevalence of human trafficking in the region. These include poverty, discrimination, conflict, and weak governance. Poverty and lack of economic opportunities are key drivers of human trafficking. Many people in the region are vulnerable to exploitation because they lack access to education, healthcare, and decent work. This makes them more susceptible to false promises of employment or better lives in other countries.

Discrimination, particularly against women and marginalized communities, also increases vulnerability to trafficking. Discrimination limits access to education, healthcare, and economic opportunities, making it harder for people to escape poverty and exploitation.

Conflict and instability also contribute to the prevalence of human trafficking in the region. Displacement and the breakdown of social and economic systems increase vulnerability to exploitation, and conflict zones can become hotspots for trafficking.

Weak governance, corruption, and lack of law enforcement also contribute to the prevalence of human trafficking. Traffickers often operate with impunity, taking advantage of weak or corrupt law enforcement and judicial systems.

To address these underlying factors, it is important to promote sustainable economic development, address discrimination and inequality, promote peace and stability, and strengthen governance and the rule of law. These are long-term solutions that require political will, resources, and a commitment to human rights and social justice.

Another important factor contributing to human trafficking in the region is the lack of awareness and education about the risks of trafficking. Many people, especially those in rural and remote areas, may not be aware of the dangers of trafficking and may be more susceptible to false promises of work or better lives.

To address this, it is important to raise awareness about the risks of trafficking and to promote education and empowerment. This can include providing information to communities about the signs of trafficking, organizing awareness campaigns and training sessions for community members, and promoting access to education and vocational training.

Another important aspect is to strengthen border controls and monitoring to prevent cross-border trafficking. This includes increasing the capacity of law enforcement agencies to detect and investigate trafficking, as well as enhancing cooperation and information-sharing between countries.

It is also important to address the demand side of trafficking. This involves targeting those who purchase services or products that are the result of trafficking, such as forced labour or sexual exploitation. This can be done through public awareness campaigns and through the enforcement of laws and regulations that prohibit the use of such services and products.

Finally, it is crucial to provide support and assistance to victims of trafficking. This includes access to healthcare, legal services, and safe and supportive housing. It also involves addressing the physical and psychological trauma that victims may have experienced, and providing opportunities for rehabilitation and reintegration into society.

The MoU between India and Myanmar is an important step towards this goal, and it is hoped that it will lead to greater cooperation and collaboration in the fight against this heinous crime.

5.4. India and Bhutan

India and Bhutan signed a Memorandum of Understanding (MoU) on February 28, 2020, to prevent and combat human trafficking and to protect the rights of victims. The MoU was signed by the Indian Ambassador to Bhutan, Ruchira Kamboj, and the Bhutanese Foreign Secretary, Sonam Tshong.

The MoU aims to strengthen cooperation between the two countries in preventing and combating all forms of human trafficking, especially the trafficking of women and children. The MoU also seeks to ensure the protection and rehabilitation of victims of trafficking, and to promote awareness and sensitization programs on trafficking.

Under the MoU, India and Bhutan will exchange information and intelligence related to human trafficking, and will provide assistance to each other in investigations and prosecutions of trafficking cases. The MoU also provides for the repatriation of victims of trafficking to their country of origin, and for the provision of legal, medical, and psychological assistance to victims.

The MoU also establishes a Joint Task Force (JTF) to monitor and oversee the implementation of the MoU. The JTF will meet regularly to exchange information and to review progress made in preventing and combating human trafficking.

India and Bhutan have been working together to combat human trafficking for several years, and this MoU builds on their existing cooperation. Both countries have recognized the need for a coordinated and collaborative approach to address the complex issue of human trafficking.

The MoU emphasizes the importance of prevention, protection, and prosecution in the fight against human trafficking. It recognizes the need for a multi-faceted approach that involves law enforcement agencies, government bodies, civil society organizations, and international partners.

The MoU also provides for the development of joint training programs and capacity building initiatives to enhance the skills and knowledge of law enforcement agencies, government officials, and civil society organizations in both countries.

India and Bhutan have been facing similar challenges when it comes to human trafficking. Women and children are often the most vulnerable to trafficking, and the two countries have been working to address the root causes of trafficking, such as poverty, lack of education, and social inequality.

The MoU also recognizes the importance of cross-border cooperation, as trafficking often involves movement across international borders. India and Bhutan share a 699 km long border, and the MoU will help to strengthen border management and prevent trafficking across this border.

In addition to the provisions outlined in the MoU, India and Bhutan have also been taking other steps to combat human trafficking. For example, both countries have established specialized police units to investigate trafficking cases and provide support to victims. They have also implemented awareness-raising campaigns and training programs for law enforcement officials, social workers, and community members.

India and Bhutan are also part of regional and international initiatives to combat human trafficking, such as the South Asian Association for Regional Cooperation (SAARC) Convention on Preventing and Combating Trafficking in Women and Children for Prostitution and the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.

It is important to note that despite these efforts, human trafficking remains a significant challenge in the region. There are still gaps in prevention, protection, and prosecution efforts, and victims of trafficking often face stigma and discrimination.

It is also important to note that the COVID-19 pandemic has created new challenges in the fight against human trafficking. The pandemic has led to increased vulnerability, as people lose their jobs and face economic hardship, and the closure of borders has made it more difficult to monitor and prevent trafficking.

India and Bhutan have adapted their approaches to address these new challenges. They have implemented measures to provide support to vulnerable populations, such as migrant workers and women and children, and have continued to conduct awareness-raising campaigns and training programs virtually.

The MoU between India and Bhutan also recognizes the importance of addressing the root causes of trafficking, such as poverty and social inequality. By addressing these underlying issues, the two countries can help to prevent people from becoming vulnerable to trafficking in the first place.

India and Bhutan's efforts to combat human trafficking are an important part of the global effort to end this crime. Human trafficking is a serious human rights violation that affects millions of people around the world, and it requires a coordinated and collaborative response from governments, civil society organizations, and the international community.

India and Bhutan's efforts to combat human trafficking are also significant because of their geographic location. Both countries are located in a region that is known to be a source, transit, and destination for human trafficking.

India is a source, transit, and destination country for men, women, and children subjected to forced labour and sex trafficking. Bhutan, on the other hand, is primarily a transit country for trafficking victims, with women and girls being trafficked to India for sexual exploitation.

The MoU between India and Bhutan recognizes the need for cross-border cooperation in addressing human trafficking. It establishes a Joint Task Force (JTF) to monitor and oversee the implementation of the MoU and to exchange information and intelligence related to trafficking. This cooperation is essential in addressing the transnational nature of trafficking, and in preventing trafficking across the India-Bhutan border.

India and Bhutan's efforts to combat human trafficking are also aligned with the global Sustainable Development Goals (SDGs), specifically SDG 8 on decent work and economic growth, SDG 16 on peace, justice, and strong institutions and SDG 5 on gender equality. The MoU supports the achievement of these goals by addressing the exploitation of vulnerable populations and promoting the protection of human rights.

It is worth noting that the MoU between India and Bhutan to prevent and combat human trafficking is part of a broader effort to strengthen bilateral relations between the two countries. India and Bhutan have a long history of close ties, with India providing significant economic, military, and technical assistance to Bhutan.

The MoU on trafficking is one example of the many areas where India and Bhutan are cooperating. Other areas of cooperation include economic development, education, health, and infrastructure. India has been a major partner in Bhutan's development, and has helped the country make significant progress in areas such as healthcare, education, and connectivity.

In recent years, India and Bhutan have also been working together to strengthen their strategic partnership, with a focus on regional stability and security. India has played an important role in Bhutan's efforts to maintain its independence and sovereignty, and has helped to ensure the country's security through military and intelligence cooperation.

The cooperation between India and Bhutan on human trafficking is an important component of this broader relationship. By working together to address this issue, India and Bhutan are demonstrating their commitment to promoting human rights and protecting vulnerable populations, while also strengthening their partnership and friendship.

In conclusion, the MoU between India and Bhutan to prevent and combat human trafficking is a significant step towards addressing a complex and serious issue. It reflects the commitment of both countries to promoting human rights, protecting vulnerable populations, and strengthening their bilateral relationship. While there is still much work to be done to end human trafficking, the cooperation between India and Bhutan provides a model for other countries to follow in the fight against this heinous crime.

5.5. India and the UAE

India and the UAE signed a Memorandum of Understanding (MoU) on February 11, 2021, to strengthen cooperation and coordination to prevent and combat human trafficking. Here are some details about the MoU:

1. The MoU between India and the UAE aims to establish a framework of cooperation between India and the UAE to prevent and combat human trafficking, particularly trafficking in women and children.
2. This MoU provides for the establishment of a joint task force, which will be responsible for monitoring, preventing, and controlling human trafficking.
3. The joint task force will be comprised of representatives from the relevant authorities and agencies of both countries and will meet periodically to exchange information, expertise, and best practices.
4. The MoU also provides for the development of joint training programs, capacity-building initiatives, and the exchange of expertise to enhance the effectiveness of efforts to prevent and combat human trafficking.
5. It also focuses on the protection and rehabilitation of victims of trafficking and the repatriation of victims to their home countries.
6. The India-UAE MoU also recognizes the importance of addressing the root causes of human trafficking, including poverty, lack of education, and unemployment.
7. It aims to strengthen information sharing mechanisms between the two countries to facilitate the exchange of information on human trafficking, including trafficking patterns and trends, and the identification of potential victims.
8. The MoU provides for joint initiatives to prevent the exploitation of workers, including measures to regulate recruitment agencies, protect the rights of workers, and promote fair recruitment practices.
9. The MoU between India and the UAE also aims to enhance cooperation in investigations and prosecutions related to human trafficking, including the extradition of offenders.
10. It recognizes the importance of international cooperation in combating human trafficking and affirms the commitment of both countries to work together in this regard.
11. The MoU also provides for the establishment of a mechanism for periodic review of the cooperation and the effectiveness of the measures taken to prevent and combat human trafficking.
12. The MoU recognizes the importance of a victim-centered approach in preventing and combating human trafficking. It provides for the establishment of mechanisms to protect and assist victims of trafficking, including providing them with safe and secure accommodation, medical and psychological assistance, and legal aid.
13. The MoU also provides for the development of joint awareness-raising campaigns to raise public awareness about the risks and consequences of human trafficking, as well as measures to prevent it.
14. The India-UAE MoU recognizes the importance of capacity building in preventing and combating human trafficking. It provides for the exchange of expertise, knowledge, and training programs to enhance the capacity of law enforcement agencies, social workers, and other relevant stakeholders to prevent and combat human trafficking.

15. The MoU also affirms the commitment of both countries to cooperate in the development of international policies and initiatives to prevent and combat human trafficking, including the implementation of the United Nations Convention against Transnational Organized Crime and its protocols on trafficking in persons.

Overall, the MoU between India and the UAE on preventing and combating human trafficking is a comprehensive agreement that recognizes the need for cooperation at various levels to effectively address the problem. Its provisions are expected to contribute to the prevention and prosecution of human trafficking offenses, as well as the protection and assistance of victims.

CHAPTER VI CONCLUSION AND SUGGESTIONS

Having studied the various laws enacted by India as well as the bilateral agreements, I've reached the conclusion that the legislature and the law enforcement agencies do have the capabilities of enforcing strong enactments, but the absence of political will holds them back. The Trafficking in Persons (Prevention, Care and Rehabilitation) Bill, 2018 and now 2021 is an excellent example of this. I have been able to prove my hypothesis during the course of the previous 5 chapters. Hence, I'll go straight to the suggestions –

6.1. India

Human trafficking is a serious problem in India, and it requires a comprehensive approach to combat it effectively. To conclude, here are some suggestions that could help in fighting human trafficking in India

- Law enforcement agencies need to be strengthened with better training, resources, and technology to effectively identify, investigate and prosecute human trafficking cases.
- Address the demand side of trafficking by prosecuting buyers and consumers of trafficking victims. Conduct awareness campaigns to discourage people from engaging in commercial sexual exploitation and forced labour.
- Raising awareness among vulnerable communities, such as women and children, about the dangers of trafficking can help prevent it. Schools, colleges, and NGOs can conduct awareness campaigns and provide vocational training to empower individuals and reduce their vulnerability.
- Increase investigations, prosecutions, and convictions of all forms of trafficking, including bonded labour.
- Investigate allegations of official complicity in human trafficking and sentence perpetrators to significant prison terms.
- Significantly increase efforts to identify and refer trafficking victims, including disseminating standard operating procedures (SOPs) and training officials on their use.
- Addressing the root causes of trafficking, such as poverty, unemployment, and lack of education, is crucial. The government needs to implement policies that promote sustainable development, reduce poverty and improve the socio-economic conditions of vulnerable communities.
- Develop and implement regular monitoring and auditing mechanisms of government- run and -funded shelters to ensure adequate care, and promptly disburse funding to shelters that meet official standards for care.
- Provide legal aid and routinely inform trafficking victims of available compensation mechanisms.
- Eliminate the condition of a trafficking conviction as a pre-requisite for bonded labour victim compensation.

- Harmonize central and state government mandates for and implementation of protection programs and compensation programs for trafficking victims, especially children, and ensure immediate access to care.
- Cease detention of adult trafficking victims in government- run and government-funded shelters.
- Strengthen existing AHTUs through increased funding and trainings of staff and ensure newly created AHTUs are fully operational.
- Establish fast-track courts to address human trafficking cases.
- Implement and consistently enforce regulations and oversight of labour recruitment companies, including by eliminating recruitment fees charged to migrant workers and holding fraudulent labour recruiters criminally accountable.
- Increase oversight of, and protections for, workers in the informal sector, including home-based workers.
- Increase surveillance and monitoring at borders and ports to prevent trafficking of people and goods. Work with customs and immigration authorities to establish protocols for identifying and intercepting traffickers and their victims.

6.2. Bangladesh

Bangladesh has been making significant progress in dealing with human trafficking. However, some areas where they could improve are –

- Adopt formal victim identification procedures and screening processes to prevent penalization of potential victims and improve case registration.
- Disseminate and implement standard guidelines for provision of adequate victim care referral to protective services and build the capacity of service providers.
- Expand services for trafficking victims, especially adult male victims, foreign victims, and victims exploited abroad.
- Allow NGOs improved access to trafficking victims in government shelters to provide services without a court order and improve overall collaboration with such organizations for more effective partnership on anti-trafficking efforts.
- Increase investigations and prosecutions of credible allegations of trafficking of Rohingya, including cases that do not involve movement.
- Continue collaboration with the Inter-Sector Coordination Group to implement measures protecting Rohingya from traffickers.
- Strengthen the capacity of Anti-Trafficking Tribunal personnel to prosecute and adjudicate human trafficking cases and expand tribunals to heavy caseload areas to improve services for trafficking victims.
- Improve inter-ministerial coordination and increase monitoring to prevent commercial sexual exploitation of children, particularly children who are experiencing homelessness or use the streets as a source of livelihood, as well as the children of adults engaged in commercial sex in brothels.
- Adopt a revised and resourced 2018-2025 National Plan of Action that incorporates greater attention to prosecution and protection efforts, including dedicating resources to enhance victim care.
- Establish standard guidelines for investigating transnational trafficking cases.
- Ensure potential labour trafficking victims have the right to file complaints under the Prevention and Suppression of Human Trafficking Act (PSHTA) and seek adjudication for criminal offenses rather than restricting cases to labour dispute issues.

- Enable labour inspectors to file cases in labour or criminal courts as appropriate.
- Establish clear procedures for Rohingya to file complaints in the legal system and train law enforcement and camp management on the procedures.
- Enhance training for officials, including law enforcement, labour inspectors, immigration officers, and health care providers, on identification of trafficking cases and victim referrals to services.
- Fully implement and monitor for compliance the registration requirements for recruitment agents, dalals, and brokers who supply labour to recruiting agencies.
- Improve quality of pre-departure trainings for migrant workers, including sessions on labour rights, labour laws, and access to justice and overseas assistance.

6.3. Nepal

Being a land-locked country, Nepal has suffered as a source and transit for human trafficking for years now. The government can take the following measures to deal with this problem in an efficient manner.

- Amend the Human Trafficking and Transportation (Control) Act (HTTCA) to criminalize all forms of sex trafficking and labour trafficking, in line with the 2000 UN TIP Protocol.
- Remove the HTTCA provision that allows the judiciary to fine victims if they fail to appear in court and hold them criminally liable for providing contradictory testimony.
- Establish Standard Operating Procedures (SOPs) for law enforcement to investigate human trafficking cases, including referrals between agencies.
- Expand availability and capacity of victim care, including shelter and repatriation, for all victims, especially men and boys and workers exploited overseas.
- Significantly increase monitoring of children's homes and orphanages and hold accountable those that do not meet the government's minimum standards of care.

6.4 Myanmar

Myanmar has been in a crisis for a long time now. The military intervention in politics is doing harm to the country in more ways than one.

- Cease the unlawful recruitment and use of children by the military and demobilize children from all armed groups with adequate protection and reintegration support.
- Recognize and use existing anti-trafficking laws to combat human trafficking.
- Ensure the re-opening of victim shelters throughout the country.

6.5. Bhutan

Bhutan is primarily a transit country for human trafficking, with women and girls being trafficked to India for sexual exploitation. There have also been cases of Bhutanese nationals being subjected to forced labour in countries such as Kuwait and the United Arab Emirates.

The factors that contribute to human trafficking in Bhutan include poverty, lack of education and economic opportunities, social and cultural norms, and the vulnerability of certain groups, such as women and children. In addition, Bhutan's location as a small landlocked country between India and China makes it vulnerable to trafficking, as it is a transit point for traffickers who are seeking to transport victims to other destinations.

- Amend anti-trafficking laws to ensure that a demonstration of force, fraud, or coercion is not required to constitute a child sex trafficking offense, consistent with international law.
- Increase identification of trafficking victims.
- Disseminate information and train officials on the amended Penal Code Section 154 and the implementation of anti-trafficking laws.

6.6. UAE

The United Arab Emirates (UAE) is a destination and transit country for men, women, and children who are subjected to trafficking for the purposes of forced labour and sex trafficking. The UAE is a destination for men and women primarily from South and Southeast Asia and East Africa, who are subjected to forced labour in the construction, domestic, and hospitality sectors, as well as in forced begging and street vending. Women from Eastern Europe, Central Asia, and East Africa are also subjected to sex trafficking in the UAE.

- Increase efforts to identify and provide protective services for labour trafficking victims.
- Expand trainings to officials across all emirates to better identify potential trafficking cases that originate as labour violations.
- Strengthen efforts to punish potential forced labour crimes criminally instead of administratively and refer cases with trafficking indicators, such as complaints of non-payment of wages, passport confiscation, and restriction of movement, for investigation as potential trafficking crimes.
- Regularly employ standard procedures for victim identification and referral to quality care among foreign workers, particularly women in commercial sex, domestic workers who have fled their employers, and other vulnerable documented and undocumented migrants, to ensure authorities do not penalize victims.
- Report the number of labour law violations—such as passport retention, withholding of wages, and other complaints of abuse reported by workers, employers, and recruitment agencies, and identified from inspections.
- Strictly enforce prohibitions on withholding workers' passports.

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