

CHALLENGES IN COMBATING TRAFFICKING IN HUMAN BEINGS IN SOUTH ASIA: NEED FOR A RIGHT-BASED APPROACH

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Abstract

Trafficking in human beings has become a major issue in south Asia. The paper looks into the situation of trafficking particularly in Bangladesh and India and discusses the various factors that act as catalyst in the process of trafficking. Recognizing trafficking as a threat to state security raises the vulnerability of trafficked victims, hence, the paper argues that emphasis should be given to recognize trafficking as a crime so as to secure the rights of the victims of trafficking. Accordingly, the paper focuses on the causes of human insecurity in trafficking and the broader consequences of the crime over societies and communities. It looks at international and regional policies adopted by Bangladesh and India and their respective stand to combat this issue. It also inquires, as to how national legal systems take into consideration the concept of human security in designing the appropriate legal responses to trafficking. The challenges faced by both the countries to counter the occurrences of trafficking in principle and effectiveness is also examined. Finally, means to strongly implement the existing system in a more effective manner are identified.

I Introduction

TRAFFICKING IN persons, the dark side of population mobility, has been a cause of deep anxiety and concern for individuals, societies and economies alike. Human trafficking is widely recognized as one of the fastest increasing criminal industry worldwide, and therefore, poses a universal threat to individual human beings. Trafficking in persons separates families, erodes social bonds, support networks and undermines the economic prosperity of communities.¹ It also affects communities across the border. The pattern of trafficking for victims usually starts with their abduction or recruitment from the country of origin, being transferred through transit regions and then exploited in the destination country. Human trafficking exists in every region of the world and in every type of economy, whether a country is industrialized, developing or in transition. The scope of this global problem is

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1 United Nations, "Trafficking in Persons-An Affront to Human Dignity" 6 *UN Trust Fund for Human Security Newsletter* 1(Winter, 2009/2010), available at: http://www.un.org/publications/human_security (last visited on Jan. 10, 2017)

exponentially increasing and its transnational nature requires global as well as regional action.

There is little doubt that trafficking is a hybrid threat to a country's national security with major impact on citizens and society. However, in this modern age of globalization, leaving apart the traditional notion of state security, trafficking in persons has become a major concern of human security due to the unprecedented scale of this phenomenon. Traffickers breach individual's right to liberty, dignity and security and severely violate their human rights.² Hence, combating trafficking needs to be addressed from a human right based strategy, which requires analysis of the ways in which human rights violation arise throughout the trafficking cycle. It seeks to both identify and redress the discriminatory practices and unjust distribution of power that underlie trafficking, that maintains impunity for trafficker, and that denies justice to the victim.³ This paper tries to emphasize that fighting the root causes of the trafficking enhances human security of trafficked victims and strengthens the opportunity for development of all human beings.

Human trafficking in south Asia is not a new phenomenon. The region suffers from multiple types of trafficking of men, women and children, internally from rural to urban areas and internationally across national boundaries. In this region, human trafficking occurs in the context of high levels of people movement, mostly undocumented, primarily driven by the desire for greater economic opportunity and a better quality of life. Countries in south Asia are experiencing rapid changes in economic, political, demographic and labor trend due to globalization and consequently there is an increase in the demand for cheap labor. Heavy population growth in the region also encourages migration.⁴ At times of hardship, they start out as illegal migrants and end up being trafficked.

Despite the prevalence of human trafficking, international legal instruments to aid trafficking victims and to combat this worldwide epidemic are relatively recent. The issues of compliance and enforcement of anti-trafficking laws are problematic, but not impossible to overcome. Combating trafficking requires combined efforts as trafficking is a transnational crime and continued efforts are essential to target the sources of trafficking and convict the traffickers. Trafficking continues to negatively

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- 2 Roza Pati, "Human Trafficking: An Issue of Human and National Security" IV *UMNSACLR* 30-42 (2014).
 - 3 Ryszard Piotrowicz, "The Legal Nature of Trafficking in Human Beings" 4 *Intercultural Human Rights Law Review* 175 (2009).
 - 4 Md. Bashir Uddin, "Human Trafficking in South Asia: Issues of Corruption and Human Security" 2(1) *International Journal of Social Work and Human Services Practice* 19 (2014).

impact millions of people in south Asian countries and therefore, this paper addresses the current situation of trafficking as well as the nature and extent of trafficking in south Asia, particularly in Bangladesh and India. Trafficking in these countries takes place for various purposes and exploitation, which in general could be categorized as sex-based and non-sex based, like domestic labour, industrial labour, organ transplant, adoption, camel racing *etc.* Whatever may be the purpose of exploitation, trafficking in any form seriously undermines human rights and fundamental freedoms of the victim. Despite having undertaken many initiatives over the last two decades to tackle the problem, the causes and impact of trafficking on human security remains an under explored area in terms of research. Hence, this paper argues that trafficking in persons must be considered as a crime against the individual, a real threat to individual's rights and security and must be prosecuted as a serious offence with aggressive enforcement of laws.

Aggressive enforcement is important because the best disincentive for traffickers is the apprehension of prosecution and conviction. Unfortunately, legislation to address trafficking is inadequate (as in India) or not implemented properly (as in Bangladesh), making the prosecution of traffickers very difficult and often impossible. Despite the enactment of a recent counter trafficking legislation, the Government of Bangladesh did not demonstrate evidence of increased efforts to prosecute and convict offenders, particularly those responsible for fraudulent recruitment of workers for forced labour overseas. Trafficking victims cannot always effectively participate in the justice system due to fear or intimidation by the organized network of trafficking. Trafficking convictions are often based on witness and victim testimony. Such testimonies are hard to obtain as trafficking victims are either deported as illegal migrants or if identified as victims, are often too frightened to testify. Often individuals are reluctant or unable to report trafficking or to serve as witnesses because they lack confidence in the police and the judicial system and/or the absence of any effective protection mechanism.

Existing counter trafficking legal framework of Bangladesh is predominantly based on the philosophy of crime control method rather than a human rights based approach. The concept of restorative justice is ignored and role of victim is restricted to that of a mere informant or witness for the prosecution, forgetting the fact that the victim has suffered physical or mental injury as well as financial loss. This approach seriously discourages the victims of trafficking to actively participate in the investigation and trial prosecution which ultimately results in very low conviction rate in trafficking cases. Therefore, it is essential to provide an appropriate prosecutorial and judicial response to trafficking through a victim-centered approach. National and regional initiatives, including legislative changes or increased law enforcement activity in line with recognized international best practices can better regulate the flow of people across borders and their potential vulnerability of being exploited. Hence, this paper intends to describe in brief the international legal framework applicable to trafficking and the reflection of those norms in domestic arena.

This paper also provides a comparative picture of the anti-trafficking interventions and mechanisms in India and Bangladesh and inquires into how national legal systems take into consideration the concept of human security in designing the appropriate legal response to human trafficking. It will be argued that understanding the real threat in case of trafficking in persons would affect the rules that a legal system must incorporate to combat the problem. It goes on to examine the most pressing challenges in the existing counter trafficking initiatives in these countries, while tailoring their enforcement and monitoring methods to the needs of these region. The paper concludes with some suggestions or possible solutions.

II Nature and extent of trafficking in south Asia

Human trafficking is clandestine in nature and shrouded in secrecy, making data collection and empirical studies very difficult. Nevertheless, it is estimated by International Labour Organization (ILO) that 20.9 million people around the world are ensnared in the web of modern day slavery.⁵ In south Asia, available estimates reveal that around 1.5 lakh people are trafficked from this region annually.⁶ Another report by United Nations Office on Drugs and Crimes (hereinafter UNODC)⁷ reveals that in south Asia, a significant majority (85%) of trafficking victims are exploited in forced labour, while only (15%) are exploited in sexual exploitation.⁸ However, the report does not provide an estimate regarding the gender profile of the victims in this region due to the hidden and illegal nature of trafficking. Nonetheless, it reveals that around 40% of the victims are children, while the rest (60%) are adults.⁹ These official figures represent only the visible or reported part of the trafficking phenomenon and the actual figures are likely to be far higher.

5 International Labour Organization, *ILO Global Estimate of Forced Labour: Executive Fact Sheet* (2012).

6 United Nations, Report of the UN.GIFT Regional Event for South Asia on Responding to Trafficking for Sexual Exploitation in South Asia (The United Nations Office on Drugs and Crimes, Vienna, 2008). In Mar. 2007, the United Nations Office on Drugs and Crimes (UNODC), together with five other international organizations (ILO, IOM, UNICEF, UNHCR, OSCE), has launched a Global Initiative to Fight Human Trafficking (also known by its acronym UN.GIFT) to study and report on the state of world's response to the crime of human trafficking.

7 United Nations Office on Drugs and Crimes (UNODC) was established in 1997 through a merger between the United Nations Drug Control Programme and the Centre for International Crime Prevention. UNODC helps countries to develop effective law enforcement and criminal justice institutions but has no power to enforce the UN Trafficking Protocol. The report referred to in this footnote is a comprehensive overview of human trafficking patterns across different regions of the world.

8 United Nations, Global Report on Trafficking in Persons 109 (United Nations Office on Drugs and Crime, 2016)

9 *Id.* at 110.

There are various factors that contribute in making Bangladesh a hotbed for human trafficking. For instance, poverty or lack of viable sources of livelihood forces people to seek employment elsewhere which turns them into pawns in the hands of traffickers. Limited natural resources, underdeveloped industrialization along with natural disasters such as floods, droughts and cyclones often results in population mobility and human trafficking is one of the inadvertent consequence thereof.¹⁰ Besides these, illiteracy, unstable social and political condition, structural inequality, economic insecurity are some of the key drivers that contribute to vulnerability in becoming a victim of trafficking within south Asia.¹¹ As these issues are not sufficiently addressed, trafficking continues to thrive as potential victims become more desperate to escape their unfavourable situations. In case of women, vindictive social structure that devalues women, domestic violence, abuse, less employment prospects are major causes of trafficking in this region.

As a destination of trafficking, south Asian countries are affected by domestic trafficking as well as trafficking from the neighboring countries. The pattern of cross-border trafficking for victims usually starts with their abduction or recruitment from the country of origin, being transferred through transit regions and then exploited in the destination country. India and Pakistan are two major destination countries and transit countries to other regions, like gulf states or south east Asia for persons trafficked from Bangladesh, Nepal and Sri Lanka, which are primarily source countries.¹² Traffickers take advantage of the porous border conditions between countries to carry on illegal activities and Bangladeshi touts build up powerful bases in the border districts, which are now favourite transit points for the traffickers.

A core feature of the human trafficking process within south Asia is the use of fraud or deception by the traffickers and the abuse of power over his victim.¹³ A significant share of male victims, recruited by fraudulent employment offers for work overseas are subsequently exploited under conditions of forced labour or debt bondage. Being lured, deceived, deprived of freedom and income, and compelled to work against

10 Md. Muhibbur Rahman, "Human Trafficking A security Concern for Bangladesh" 9 *Issue Brief* 2 (August 2011).

11 Amrita Biswas, "Human Trafficking Scenario in Bangladesh: Some Concerns" 1(IV) *International Journal of Humanities & Social Science Studies* 85-90 (2015).

12 *Supra* note 10 at 3.

13 Joy Ngozi Ezeilo, Report submitted by the special rapporteur on Trafficking in Persons, especially Women and Children 4 (Human Rights Council, 14th Session, A/HRC/14/32, 2010).

their will, victims who are trafficked painfully generally have no way to return home.¹⁴ Accordingly, traffickers use a variety of methods such as threats, use of force, intimidation, detention and withholding of personal documents to prevent the escape of female victim engaged in prostitution.

III Trafficking and human security

Till the early 90s, the concept of national security was limited to securing borders against external aggression and defense of national interests. With the end of the cold war, older debates on the protection of individuals as a priority, in relation to state security strategy were re-opened. It was noted that often state security causes the insecurity of citizens and fails to correlate with the needs of individual security. Such issues have led the international community to combine economic development with military security and fundamental rights of individuals, creating a new political concept of human security.

‘Human security’, as it was defined for the first time in the Human Development Report 1994, conducted by United Nations Development Program, articulates that human security is about the legitimate concerns of ordinary people in their normal lives.¹⁵ Human security is understood as safety from threats such as hunger, unemployment, disease, repression, civil and political unrest and protection from harmful disruption into the patterns of daily life.¹⁶ In essence, human security encompasses almost anything related to life of the people.

In the traditional notion of state security, military and defense survival tools (to avoid war and to protect sovereignty) were prioritized over individual security. However, the recent notion of security requires shifting the focus from territorial security to human security *i.e.*, from ensuring state security through military power to achieving security through sustainable human development. In this way of thinking, the policy implications move beyond defense capacities to address the root causes of threats to individuals. As pointed out by the UNDP Report 1994, one of such major threats to individuals is human trafficking, along with excessive migration, environmental

14 Therese Blanchet, *A Critical Look at Women Labour Migration, and the Trafficking Within* (Drishti Research Centre, Dhaka and USAID, 2002). This report has been prepared and presented for the USAID, Dhaka, *available at*: http://www.childtrafficking.com/Docs/blanchet_2002_beyond_bound.pdf, (last visited on Jan. 10, 2017).

15 United Nations Development Programme, *Human Development Report* (UNDP, 1994).

16 *Ibid.* The report explains that human security underlies seven categories including food, health, economic, personal, environmental, community, and political security. These seven categories emphasize the notion of individuals’ security, which is the basic of this concept.

degradation and others.¹⁷ Most of the states perceive human trafficking as a problem of state security and try to securitize their borders through border enforcement to prevent illegal migration including human trafficking. Jennifer K. Lobasz argues that destination states treat human trafficking primarily as a security threat to their borders and deportation of trafficked persons is often taken as anti-trafficking measures.¹⁸ This notion of state security neither addresses the root causes of trafficking nor helps to raise the issue of human rights abuse of the trafficked persons in the destination countries. Rather, by neglecting the victims, they contribute to human trafficking and human insecurity. On the other hand, some states consider trafficking as a violation of human rights and as such protection of individual security gets utmost priority. As Thomas argues, human security focuses on the realization of human dignity, including emancipation from the oppressive power structures; it is not only about protecting people from violent threats but also empowering them to cope with situations such as to meet their basic needs of food, shelter, healthcare, education *etc.*¹⁹ Hence, securing and promoting the human rights of trafficked victims in destination countries is the focal point of human security concept. Therefore, according to Gerald, combating trafficking needs a human security framework that removes victims from the categorization of threats to state security and places them in the proper context of individuals in need for state protection.²⁰ The responsibility of states must be directed on the prevention, protection and prosecution necessary to achieve security of the trafficked victims as well as the underlying reasons that push people across the border and force them to become victimized. Unfortunately, in south Asian countries, particularly in India, state security is given more emphasis than individual security which is evident from government's apathy to enact specific counter trafficking legislation till date.

Recently, Bangladesh has shifted its focus on the protection and implementation of the rights of the trafficked victims by enacting the Prevention and Suppression of Human Trafficking Act in 2012, (hereinafter PSHTA).²¹ Hence, there is a pressing

17 *Ibid.*

18 Jennifer K. Lobasz, "Beyond Border Security: Feminist Approaches to Human Trafficking" 18(2) *Security Studies* 319-344 (2009).

19 Caroline Thomas, *Global Governance and Human Security* (Pluto Press, London, 2000).

20 Gerald Sr. Witherspoon, "Human Security: IR Theories and Human Trafficking" *Online Journal of International Relations*, 2014, available at: <http://geraldwitherspoonsr.worldpress.com> (last visited on Feb. 5, 2017).

21 The Prevention and Suppression of Human Trafficking Act, 2012 (Act 3 of 2012), Bangladesh. The Act prohibits and punishes all forms of human trafficking as well as prescribes measures for protection, rehabilitation and social integration of trafficking victims

need that these countries, especially India should be more concerned to uphold the security and dignity of the trafficked individual to cope up with international questions such as: what are the underlying reasons of taking the risk of going abroad which turns people into victims of trafficking? How human security is shaken by trafficking? The following section will focus on what exactly are the root causes of trafficking and how does trafficking exuberate human insecurity.

Causes of human insecurity in trafficking

In the context of human trafficking, as Mattar points out, the primary causes of insecurity of the trafficked persons may be of various types, such as economic, social, cultural, legal political insecurities *etc.*²² Economic insecurity is addressed directly in article 9.4 of the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (hereinafter UN Trafficking Protocol), which mentions poverty, underdevelopment and lack of equal opportunities as being among the root causes of trafficking.²³ Such insecurities may also be extended to include unemployment, over population, rapid urbanization and economic losses caused by various reasons. Natural disasters and organ trade are other important causes of trafficking, especially in Bangladesh.

Social insecurity is associated with the social conditions of individuals in society such as, higher insecurity of poor than rich. This also involves gender based violence, sexual abuse and sex inequality in education, employment, access to legal support *etc.* In many societies, social insecurity is associated with cultural insecurity. Existence of harmful socio-cultural practices, such as early marriage of girls, dowry demand, easy divorce, marriage for debt bondage, polygamy, misrepresentation of religion regarding women *etc.* are very common in south Asian countries, which contribute to the trafficking infrastructure.²⁴

Legal insecurity is manifested in poor law enforcement, inefficiency of the law enforcing agency, lack of access to criminal justice system which occurs either because

22 Mohamed Y. Mattar, "Human Security or State Security? The Overriding Threat in Trafficking in Persons" 1 *Intercultural Human Rights Law Review* 249-279 (2006).

23 The Protocol to Prevent, Suppress and Punish Trafficking in Persons was adopted by the General Assembly resolution 55/25, supplementing the United Nations Convention against Transnational Organized Crime. The trafficking protocol entered into force on Dec. 25, 2003. It seeks to prevent trafficking in persons, paying particular attention to the protection of women and children, and to promote cooperation to this end among State Parties. The protocol is available at: http://www.uncjin.org/Documents/conventions/dcatoc/final_documents_2/convention_%20traff_eng.pdf (last visited on Feb. 12, 2017).

24 Asian Development Bank, *Combating Trafficking of Women and Children in South Asia* (ADB, April, 2003).

the trafficked person is a foreigner or the system itself does not offer an appropriate remedy for him *etc.* Weak governance and corruption amongst law enforcement officials, border guards and some recruitment agencies continue to facilitate the movement of trafficked victims. In addition, sometimes political insecurities, such as war, armed conflict, civil unrest, political instability, loss of national identity may create a favorable environment for trafficking.

Unfortunately, human trafficking is proportionately fed by a pool of voluntarily interested candidates. Sometimes the initial cooperation of a victim of trafficking is secured by fraud or deception. It is also compounded by victim's low understanding of the consequences of trafficking, their high expectation of better life elsewhere and shifting economic disparities within the region.²⁵ Direct and indirect factors such as the culture of greed and consumerism, growing demand for exploitive services, cheap labour and the demand for adult entertainment industry further exacerbates the problem.²⁶ These factors create an insecure environment for vulnerable people and perpetuate the process of trafficking. By increasing the personal, economic, political, community health and food security that poor people lack, the desire or interest to voluntarily submit to trafficking would be minimized or mortified. Otherwise, the lack of these elements of human security will produce a consistent supply of interested candidates for trafficking.

Impact of trafficking on human security

The individual victims of trafficking endure atrocious living and working condition that physically injure, psychologically traumatize and, in some cases, cost victims their lives. Although trafficking most directly affects individuals, it also has broader consequences over the societies from which victims are removed, resulting in psychological, cultural, economic losses and threatening public health.

A large number of trafficking victims from Bangladesh, especially women and young girls are compelled to engage in commercial sex industry in Indian brothels, and left to face severe maltreatment and complete loss of their freedom and choice. A combination of physical torture, sexual abuse and various threats compounded by fear of arrest in turn leads to mental paranoia, trauma and depression in them.²⁷ As a result of emotional stress and fear of further victimization, traffickers can increase

25 *Supra* note 19.

26 Asian Development Bank, *Combating Trafficking of Women and Children in South Asia: Country Paper: Bangladesh* (Agriteam Canada Consulting Ltd., 2002), *available at*: http://www.childtrafficking.com/Docs/adb_2002_trafficking_bangl.pdf (last visited on Feb. 7, 2017).

27 Government of Bangladesh, *Country Paper on Combating Trafficking in Women and Children in Bangladesh* (Ministry of Home Affairs, 2004).

their control over their victims. Trafficked children suffer enormously as they are deprived of parental love and affection and have to compromise with their language and culture. Often they are forced into heavy physical labour or taught using weapons and recruited as 'soldiers' in armed conflicts. They suffer from lack of self-esteem, emotional disturbance, disorientation and are scarred for life. Even if they have been rescued, they struggle with deep psychological disorders for the rest of their lives.

Exploitation of women in sex industry increases their susceptibilities/risks of contracting chronic and sexually transmitted diseases (STDs) and HIV/AIDS. Improper supply of meals, the lack of nutritious foods and poor living conditions contribute to malnutrition, tuberculosis and other diseases in them. Victims recruited in chemical factories are treated like slaves and often succumb to occupational diseases. Millions of children are exploited in hazardous environments in the glass bangle factories, brick kilns and circus industry. Bangladeshi children trafficked for camel jockeying in the middle-east, had sustained irreversible damage to both kidneys, probably from being deprived of water in order to make them lose weight.²⁸

People with limited income are usually more prone to go abroad to earn a better livelihood. They have to sell or mortgage their property to manage the cost of travel, visa, work permit and the share of the brokers in the hope of a better tomorrow. But in most of the cases, they face deception resulting in losses of both the present means of income and the future livelihood options. As a result, the dependant family becomes largely impoverished due to loss of their means of income, burden of loans and discriminated wages. The illegal trafficking often intermingles with other crimes such as smuggling of drugs and ammunitions and money laundering.²⁹ Victims used as bonded labourers are often charged as collaborators of the crimes rather than as victims. Trafficking negatively impacts local and national labour markets due to the loss of human resources.

Trafficked victims often face serious legal consequences when they are detained or deported for violating immigration law in the destination countries. They may also face prosecution for other criminal offences not committed by them but by the traffickers. So many victims refrain from going to the authorities to report abuse. This situation not only presents a serious danger for the victims but also impedes the ability of law enforcement authorities to address the problem.

28 United Nations, Report to the 34th Session of the United Nations Committee on the Rights of the Child on Information on Bangladesh (Geneva, September 2003).

29 Alexis A. Aronowitz, *Human Trafficking and Human Misery* 13 (London Preager, London, 2009).

The aforementioned instances present some situations of how people become physically, socio-economically and politically insecure and lose control over their lives as direct consequences of trafficking. Trafficking fuels organized crime groups, spreads corruption and creates an insecure environment for citizens. Trafficking and human security are inextricably related to each other. Emphasizing on rights and dignity of trafficked victims is very vital for a country to save its people from this criminal activity. Focusing on state security will not help any state to ensure rights of citizens. The following section will focus on the anti-trafficking interventions in Bangladesh and India and inquire how international standards are reflected in domestic laws of these countries.

IV International legal regime on prevention of trafficking

The last decade has witnessed various efforts at both international and national scale to fight the menace. In 2000, as an outcome of previous international efforts, the United Nations Convention against Transnational Organized Crime was adopted in Palermo, Italy.³⁰ The convention is supplemented by three protocols. Among these, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children contains a comprehensive definition of trafficking in persons.³¹

In south Asia, India is the only country to have ratified the UN Trafficking Protocol in 2011,³² although Bangladesh in the same year had acceded to the UN Convention against Transnational Organized Crime of 2000,³³ and the process for the ratification of the UN Trafficking Protocol is currently underway. However, it is urgent for Bangladesh to ratify the UN Protocol to set international measures in its domestic legislation and to develop a bilateral mechanism on fast repatriation. Although both the countries are making significant efforts recently to combat trafficking, they do not fully comply with the international agreed standards for the elimination of trafficking. For example, a core requirement of the UN Trafficking Protocol is that member states must criminalize, investigate and punish trafficking.³⁴ Bangladesh has criminalized trafficking in their domestic law,³⁵ but India has not yet criminalized all kinds of

30 The United Nations Convention against Transnational Organized Crime was adopted by the UN General Assembly by GA resolution 55/25 of Nov. 15, 2000. It was opened for signature by member states at a high level political conference convened for that purpose in Palermo, Italy, on Dec. 12-15, 2000 and entered into force on Sep. 29, 2003. The purpose of this convention is to promote cooperation to prevent and combat organized crime more effectively.

31 *Supra* note 22.

32 India ratified the UN Trafficking Protocol on May 5, 2011.

33 Bangladesh has accessed the UN Trafficking Protocol on July 13, 2011.

34 *Supra* note 23, art 2.

35 *Supra* note 21, s. 6-15 .

trafficking.³⁶ Another core requirement of the protocol is that state parties are required under article 7 to allow victims of trafficking to remain in its territory, temporarily or permanently. Yet neither government has taken any necessary steps towards this. It is urgent for both the governments to respect the human rights of the trafficked persons and to rectify their own obligations under the UN Trafficking Protocol.

While the UN Trafficking Protocol is the primary international instrument in this area, there exist other international instruments that will have relevance in preventing human rights breaches caused by trafficking. Two of the major human rights treaties, the Convention on Elimination Discrimination against Women³⁷ and the Convention on the Rights of Children³⁸ contain substantive references to trafficking. Both India and Bangladesh have ratified these conventions. Yet women and children remain the most targeted victims of trafficking in this region. Despite the existence of international instruments, the primary tool used by governments of these countries to combat cross-border trafficking is their own domestic legislations. However, this does not mean international laws or treaty obligations have no role to play. But the domestic criminal justice system tends to rely heavily on domestic law. This is because the legislations are set in the criminal justice mode and have clearly identifiable crimes with their consequential punishments. Most cases on trafficking are dealt with by the local police, local public prosecutor and local judges. At the trial court stage, the judge is concerned primarily with the determination of guilt and the sentencing of convicted persons, if there is any. Leave alone international standards, constitutional standards on trafficking contained in the Constitution of a country are seldom looked at. Discussions on the international standards of protection to be accorded to citizens and non-citizens in case of domestic or cross-border trafficking are generally dealt with only at the level of higher courts on an appeal. Thus, primacy accorded to domestic law makes it difficult to have a strong legal framework to tackle cross-border trafficking. For example, the UN Trafficking Protocol in its article 8 guarantees the right of trafficked victims to be repatriated to their country of origin. But currently there is no legal provision in Bangladesh on how such repatriation and rehabilitation of trafficked victims should take place. The PSHTA of Bangladesh merely imposes a duty under section 33 on the

36 IPC, s. 370 provides punishment for those committing the offence of trafficking, although it does not criminalize the acts of those who engage victims of labour trafficking.

37 The Convention on Elimination of All Forms of Discrimination Against Women (CEDAW), art 6. The Convention was adopted by the UN General Assembly on Dec. 18, 1979 and entered into force on Sep. 3, 1981.

38 The Convention on the Rights of the Child (CRC), art 35. The convention was adopted by the UN General Assembly on Nov. 20, 1989 and entered into force on Sep. 2, 1990.

government to repatriate its citizens through proper diplomatic channel. So, even when a trafficking case is prosecuted, the court can simply give a direction regarding such repatriation of victims, although the actual process of repatriation depends on the will of government.

Regional legal framework

At the regional level, in 2002, after years of discussion, the South Asian Association for Regional Cooperation (SAARC), a regional body bringing together seven governments³⁹ agreed on a convention on trafficking. Although the South Asian Association for Regional Cooperation Trafficking Convention⁴⁰ (hereinafter SAARC Convention) is being treated as a landmark for combined efforts to eradicate trafficking, the definition of trafficking provided in the convention does not address trafficking from a general perspective, rather defines trafficking solely as the enforced movement of women and children for the purpose of prostitution or commercial sexual exploitation.⁴¹ This focus draws attention away from women and children who are trafficked for other forms of exploitation including domestic servitude, begging, forced marriage, debt release *etc.*, and also neglect trafficking of men and boys for different purposes. This definition has little practical significance where the punitive laws of member states continue to follow different definitions of trafficking. SAARC Convention is thus far limited in scope than the UN Trafficking Protocol and it needs to be revised since trafficking does not occur only for prostitution.

The SAARC Convention outlines the obligations of the member states with regard to the care, treatment, rehabilitation of trafficked persons as well as making legal assistance available to them.⁴² The convention does not elaborate on the procedures of accessing and availing such legal assistance by victims and witnesses, nor does it mention issues such as closed court for hearing of cases or for providing evidence in camera. However, the new anti-trafficking law of Bangladesh provides in section 17 for filing of complaints regarding trafficking to a tribunal for the purpose of speedy trial of cases. The tribunal is accorded with wide power of taking evidence and other necessary tools to establish judicial accomplishment.⁴³

39 SAARC is formed with the countries of Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka. Now Afghanistan is the eighth member of SAARC.

40 SAARC Convention on Preventing and Combating Trafficking of Women and Children for Prostitution, 2002, *available at*: <http://www.saarc-sec.org/userfiles/conv-trafficking.pdf> (last visited on Jan.15, 2017).

41 *Id.*, art 1.

42 *Id.*, art 9.

43 The Prevention and Suppression of Human Trafficking Act, 2012, ss. 17, 21.

With a view to develop bilateral mechanism, Bangladesh and India have developed a series of plan of actions and road maps to strengthen mechanisms and expedite the rescue-to-reintegration process during 2007-2010. In 2015, both the governments signed a memorandum of understanding (hereinafter MOU) on bilateral cooperation for prevention of human trafficking, emphasizing on rescue, recovery and repatriation of the trafficked victims.⁴⁴ Along with these issues, the MOU stresses on exchange of information and data concerning trafficking routes, places, network and methodologies,⁴⁵ strengthening of law enforcement agencies, immigration and border controls to detect trafficking in persons.⁴⁶ Still there is clear need of transition from statements of principles to operational reality.

National legal framework

Constitutional protections against trafficking are not uniform in India and Bangladesh. The Constitution of India prohibits trafficking in any form as well as forced labour.⁴⁷ But the Constitution of Bangladesh prohibits forced labour without having any reference to trafficking.⁴⁸ As such there is no uniform constitutional definition or protection of trafficking in these countries.

Domestic laws in these countries lack a shared understanding of trafficking. PSHTA of Bangladesh complying with the international standards, categorically defined various terms related to trafficking like forced labour, exploitation, consent *etc.*,⁴⁹ criminalized all forms of trafficking, both internal and cross-border,⁵⁰ and stressed on the protection and implementation of the rights of the victims of human trafficking.⁵¹ The PSHTA secured more significance than any other law, at least in letter, while addressing the protective measures for the victims of trafficking, which include the identification, rescue, repatriation, rehabilitation *etc.* However, the Act only talks about

44 Memorandum of Association on Bilateral Co-operation for Prevention of Human Trafficking in Women and Children between India and Bangladesh (published on Aug 8, 2015), *available at*: <http://www.mofa.gov.bd/sites/default/files> (last visited on Feb. 6, 2017)

45 *Id.*, art. 10.

46 *Id.*, art. 9.

47 The Constitution of India, 1950, art. 23. According to art. 23, trafficking in human beings, begar and other similar forms of forced labour are prohibited, and any contravention of this provision shall be an offence punishable in accordance with law.

48 The Constitution of Bangladesh, 1972, art. 34(1) states that all kinds of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.

49 *Supra* note 43, s. 2.

50 *Id.*, ch. II

51 *Id.*, ch. V

the post occurrence measures that will be applied only when the offences of trafficking have taken place. It does not focus on the preventive measures that are essential to make both potential victims and the general public aware of the terrible experiences, fraudulent and deceptive means and the possible loss of life inherent in trafficking.

Although India had ratified the UN Protocol in 2011, it needs to amend its domestic laws to cope up with international standards. Existing Indian law, the Immoral Traffic Prevention Act, 1956 (hereinafter ITPA) fails to provide a definition for the basic, important term of trafficking, although it defines other terms such as, prostitution, forced labour employment *etc.*⁵² Thus, due to lack of a comprehensive definition for trafficking, a common platform for Indian states and other bodies to address trafficking has not been established yet. Recently, in 2013, India enacted the Criminal Law (Amendment) Act⁵³ which redefined the offence of human trafficking under section 370 of Indian Penal Code (IPC) to closely parallel the definition in the UN Trafficking Protocol. But the definition of human trafficking contained in the newly amended section⁵⁴ excludes forced labour from its definition. India prohibits many forms of forced labour through the Child Labour (Prohibition and Regulation) Act, 1986, the Juvenile Justice (Care and Protection of Children) Act, 2015 and other provisions of the IPC, however, these provisions are unevenly enforced and their prescribed penalties are not sufficiently stringent. Therefore, an amendment to incorporate the definition of trafficking complying with the UN Trafficking Protocol and provision of criminalization of trafficking related offences are yet to be put into effect as a proper law in India.

UN Trafficking Protocol obliges the state parties to provide assistance and protection to victims of trafficking.⁵⁵ To secure this end, ITPA directs state governments to establish protective homes and corrective facilities for rescued victims.⁵⁶ But at the same time, the Act lays down in section 10(b) that any female found guilty of carrying prostitution or seducing or soliciting for the purpose of prostitution, whose ‘character’, ‘state of health’ and ‘mental condition’ requires corrective treatment shall be placed in

52 The Immoral Traffic Prevention Act, 1956 (Act no. 104 of 1956). The definitions are provided in s. 2 of the Act.

53 The Criminal law (Amendment) Act (Act No. 13 of 2013), *available at*: <http://indiacode.nic.in/act-in-pdf/132013.pdf>. (last visited on Feb. 7, 2017).

54 IPC, 1860, s. 370 provides that whoever for the purpose of exploitation recruits, transports, harbors, transfers or receives a person or persons by using threat or force or coercion, or fraud, deception, abuse of power or by inducement commits the offence of trafficking.

55 *Supra* note 23, art 6.

56 *Supra* note 43, s. 21

a corrective institution, regardless of her option to be placed in such an organization. Along with these seemingly gender biased provision it is interesting that the terms stated above have not been defined anywhere in the Act which would surely lead to discrepancy and confusion in assessment of different situations, such as whether she is a victim of trafficking or of prostitution. Thus, Indian law does not provide an effective system for the safety, recovery of trafficked victims as required by the UN Trafficking Protocol. India must establish accessible safety procedures for protection of rescued victims to bring the country into alignment with its obligations under the protocol.

Regarding the status of the trafficked victims in receiving state, the UN Trafficking Protocol asks for allowing them temporary residence in that state.⁵⁷ Currently no such provision is present either in the Indian or Bangladeshi legislation which permits victims temporary residence, although they may be kept at correctional facilities of the government and other agencies. On the contrary, victims have a right to be repatriated to their countries of origin. This is a right, not a compulsion, guaranteed under the UN Trafficking Protocol.⁵⁸ If the victim wants to return home, the state party must accept the victim back. In this regard, the Bangladesh Act merely imposes a duty on the government to repatriate its own citizens through proper diplomatic channel.⁵⁹ Unfortunately, nothing is provided about repatriation in the Indian law.

In order to fight against trafficking, enacting appropriate criminal laws is just the first step. Greater challenges lie in giving full effect to these laws while recognizing the special rights and needs of victims of trafficking. Unless and until the anti trafficking laws are enforced vigorously, no state shall be able to mitigate the trafficking problem.

V Challenges

India and Bangladesh have individually and collectively expressed their commitment to address the issue of human trafficking. But the absence of a common understanding about trafficking obstructed the development and implementation of effective responses. To realize this commitment, powerful involvement, political will of the government and a well focused human rights approach to address trafficking is required. A comprehensive right-based approach to tackle trafficking generally encompasses three phases: prevention of trafficking, protection of trafficked victims and prosecution of traffickers. The major challenges faced by these countries in these phases are discussed below.

57 *Supra* note 23, art 7.

58 *Id.*, art. 8.

59 *Supra* note 43, s. 33.

Prevention of trafficking in persons

In the prevention phase, both Indian and Bangladesh government with co-operation from NGOs and donor agencies, have undertaken several projects to raise awareness among people about trafficking horrors.⁶⁰ Under the auspices of Government of Bangladesh, skills training have been provided for different officials through seminars, workshops, conferences as well as programs such as, campaigns, posters, publications, leaflets are carried on to disseminate information about the new anti-trafficking Act.⁶¹ Also, government has developed a mandatory 21 day pre-departure training course for Bangladeshi women going abroad to work as domestic servants.⁶² Nonetheless, there is strong need for providing specialized training for border officials, as they play an active role in identifying victims and catering to their needs.

In the absence of any specialized legislation dealing with trafficking, India fulfills its approach of prevention mainly through awareness efforts which are done with the assistance of NGOs like “the Campaign against Child Trafficking Network” (CACT), international organizations, the corporate sector as well as the media. The government initiated Ujjawala scheme,⁶³ with the aim to prevent trafficking through social mobilization, involvement of local communities and other innovative activities. Unfortunately, some efforts have been criticized as not being effective in practice in the TIP Report of 2012 which states that corruption is rampant among law enforcement officials who continue to facilitate the movement of trafficking victims, and protect alleged traffickers and brothel keepers by receiving bribes from them.⁶⁴ Apart from that, bribing police officers to avoid arrest or to seek advance information about raid are common tactics applied by the brothel owners to continue their trade uninterrupted. Preventive efforts such as regular checkups on brothels to scan for recently trafficked

60 United Nations, Responses to Human Trafficking in Bangladesh, India, Nepal and Sri Lanka: Legal and Policy Review (United Nations Office on Drugs and Crimes, 2011).

61 Government of Bangladesh, National Plan of Action for Combating Human Trafficking for 2012-2014, (Ministry of Home Affairs, Jan. 2012).

62 The Government of Bangladesh, Guidelines for Social Integration Practice: A Manual for Social Welfare (Ministry of Social Welfare, Department of Social Service, 2008).

63 Government of India, Ujjawala: A Comprehensive Scheme for Prevention of Trafficking and Rescue, Rehabilitation and Re-integration of Victims of Trafficking for Commercial Sexual Exploitation, (Ministry of Women And Child Development, 2007), *available at*: <http://wed.nic.in/schemes/ujjawala.pdf> (last visited on Feb. 26, 2017).

64 The US Department of State, Trafficking in Persons Report (The US Department of State, 2012), *available at*: <http://www.stste.gov/g/tip/rls/tiprpt/2012/142759.html> (last visited on Feb. 26, 2017)

or under aged girls are unsupported by police for non-payment of regular money.⁶⁵ Thus, trafficking cannot be stopped as long as corrupt officials assist the criminals by their acts of omission and commission.

In case of Bangladesh, the TIP Report of 2016 mentions that alleged complicity of some Bangladeshi government officials and police officers in human trafficking remains a major challenge for the government.⁶⁶ The report goes on to say that corrupt police and border security forces on both sides of India-Bangladesh border reportedly recognized a token used by traffickers to evade arrest if caught at the border. Thus, transportation of victims are facilitated through corruption across borders with fake papers and without strong border controls.⁶⁷ Illegal bondage of the security service providers, custom authorities, border guards and recruiting agencies add more strength to the trafficking process. Both the governments must take remarkable measures to check undocumented migration at cross-border points.

Protection of trafficking victims

As for the protection phase, rescue and rehabilitation are some of the persisting challenges that both governments are experiencing. Shelters in both the countries of origin and destination are always full, and assistance programs fail to meet victim's need. This is reiterated in the TIP Report of 2016 which found that government-run shelter homes of India were overcrowded and unhygienic, offered below average food and provided only limited services.⁶⁸ The report reflects the same picture in case of Bangladesh. In some shelters, moreover, victims are not permitted to leave, in violation of international law. The legal process of repatriation is often too long and traumatic, forcing them to remain idle in shelters instead of receiving training or engaging in income-generation projects.⁶⁹ Thus, the raid, rescue and repatriate approach to removing girls and women from brothels and sending them 'home' often simply disrupts their lives and adds to their sufferings. Male victims of trafficking face double sufferings as they are less easily identified and less likely to be rescued. Moreover, after they have been rescued from traffickers they are left without any recourse. Recovery, shelter homes and related programs, though far from ideal, are not available to men and boys at all.

65 B. Ghosh, "Trafficking in Women and Children in India: Nature, Dimensions and Strategies for Prevention" *International Journal of Human Rights* 716-38 (2009).

66 The US Department of State, Trafficking in Persons Report (The US Department of State, 2016).

67 *Id.* at 89.

68 *Id.* at 201.

69 International Organization for Migration, IOM Press Briefing Notes (IOM, 2014).

Often the law enforcement officials erroneously conflate sex workers with sex trafficking victims while conducting a raid or rescue operation. They ought to remember that not all women engaged in sex work are victims of trafficking. This has resulted in improper detention of sex workers who are mistakenly identified as victims. This mistaken conflation of legal sex work and human trafficking has led to ineffective and misguided anti-trafficking efforts.⁷⁰ In most cases the brothel owners pay bribes to the authorities for returning the girls to the brothel. Thus, rescue and raid action often worsen the situations of trafficked girls and women indebted to traffickers and brothel owners.

Prosecution of trafficking offences

Prosecution of trafficking offences, especially registration of trafficking cases and conviction of traffickers is considerably low in these countries. The Bangladeshi government reported investigating 181 sex and 265 labour trafficking cases, prosecuting 481 traffickers and convicting 4 traffickers in 2015 under the PSHTA.⁷¹ If one looks at India, prosecutions and convictions were very low for the scale of trafficking. The 2014 crime in India report, issued by National Crimes Record Bureau reveals investigation of 3056 trafficking cases and conviction of 577 traffickers during 2014.⁷² One of the reasons behind this low rate is that the law enforcement officials confront many challenges in their efforts to identify victims and to prosecute the offenders successfully. Very often victims do not report or get chance to report their experiences to law enforcement agencies. Some victims refrain from reporting their experiences out of fear of deportation, reprisals from traffickers, the pressure against undocumented and sex workers reporting abuse, and fear that authorities act in collusion with traffickers. Others simply are not aware of the laws and protection mechanism available to them, or hesitate to tell their stories to complete strangers, particularly when they are in custody of foreign police officials.⁷³ This scenario presents law enforcement with practical difficulties in prosecuting traffickers.

Most of the trafficking offences are committed by an organized group with the involvement of public officials, who either facilitate the act of trafficking or refrain from prosecuting such an offence. In such cases, public corruption, abuse of power as

70 Wendy Chapkis, "Trafficking, Migration and the Law: Protecting Innocents, Punishing Immigrants" 17(6) *Gender and Society Journal* 923-37 (2003).

71 *Supra* note 65 at 89.

72 The National Crimes Record Bureau, Crime in India 2014 (Ministry of Home Affairs, 2014). The information of the bureau has been reported in the Trafficking in Persons Report, 2016 of the US Department of State.

73 Ruksana Gazi, Z. H. Chowdhury, *et al. Trafficking in Women and Children in Bangladesh: An Overview* (ICDDR, Centre for Health and Population Research, Dhaka, Bangladesh, 2001).

an illegal means gives rise to the offences of trafficking and as such warrant an enhanced penalty. But hardly any government officials suspected of trafficking related complicity faced any investigation or prosecution. The Government of Bangladesh reported that it charged one public official in 2014 with visa fraud to facilitate human trafficking; however, no additional details were provided on any other efforts to address allegation of government officials' complicity in trafficking offences by India or Bangladesh.⁷⁴

As human trafficking involves borders, criminals involved manage to avoid detection, arrest or conviction by taking advantage of the miscommunication between law enforcement agencies and their lack of reaching a consensus.⁷⁵ In cross-border trafficking, investigations may need to be conducted in destination country where the exploitation is perpetrated and important evidence about deceptive recruitment practices may be located in the country of origin or transit. So, in order to secure evidence, extradite offenders and to carry out investigation, mutual co-operation regarding exchange of information and data is very much required. But the most significant obstacle to exchange of data is probably the lack of the necessary legal framework at national level. Both the governments need to recognize this form of cooperation in their legal system and abide by it henceforth. Unfortunately, there is no such provision in the Indian legal system and thus legal directions for law enforcement agencies to cooperate with Bangladesh are lacking. However, provision for mutual legal assistance and cooperation exists in new anti-trafficking law of Bangladesh⁷⁶ and in the MOU signed between these countries to develop and share database on traffickers, victims and regular exchange of information through the Ministry of Home Affairs of respective countries. It is imperative for these countries to increase joint efforts in terms of investigation, exchange of materials, statements of victims, identifying witnesses and suspects, effective service of judicial documents *etc.*, and thus build a sense of security and trust in each other.

Repatriation of trafficked persons

Another critical challenge is the repatriation of trafficked persons, particularly from India to Bangladesh. Cross-national victims in India are treated as violators and not as victims.⁷⁷ Although in May 2012, the Ministry of Home Affairs of India issued a non-binding directive restricting state governments from detaining and prosecuting

74 *Supra* note 65 at 90.

75 John Winterdyk, Benjamin Perria, *et. al* (eds.), *Human Trafficking: Exploring the International Nature, Concern and Complexities* 318 (CRC Press, New York, 2011) .

76 *Supra* note 43, s. 41.

77 Gunjan Kinnu, *An Analysis of International Legal Regime on Human Trafficking* (National Human Rights Commission, New Delhi, 2006).

foreign female sex trafficking victims, NGOs reported that such conduct continues to occur and that many law enforcement officials are unaware of this directive.⁷⁸ As a result, many Bangladeshi girls are targeted by Indian police for abuse as they do not have identification proofs, necessary papers and thus, have to spend their whole lives in shelter homes. Neither India nor Bangladesh have any laws or policies in place that would provide an avenue for permanent or even temporary residential status for cross-national victims of human trafficking. The SAARC Convention also does not require governments to grant temporary visas or permanent residency to victims. Nor does the convention require the consent or willingness of the victim prior to their repatriation. Trafficked persons often are afraid to return home because of debts, fear of public humiliation and possible further victimization and as such do not want to return home. If trafficking is considered as a threat to human security, SAARC Convention should be revised to include granting trafficking victims temporary or permanent immigration status considering the willingness of the victim to return to their country of origin, along with due regard for their safety.

In addition, such victims confront several legal barriers en route to repatriation. A report by the UNODC in 2011 reveals that, in India repatriation of human trafficking victims is done where the other country acknowledges citizenship but cannot be officially done otherwise.⁷⁹ This implies that if a victim does not have any proper document of being a citizen of a particular country in his/her possession, it is very difficult for the country of origin to acknowledge citizenship as the law requires. Being the receiving country, India needs to reduce the identification requirements so as to facilitate the repatriation process of cross-border trafficking victims who voluntarily choose to return to their countries of origin. Even when repatriation procedure begins, the slow bureaucratic measures and lengthy court procedures make the lives of the victims miserable in shelter homes. States should create coordinated procedures and infrastructure to facilitate repatriation; at the same time it must be borne in mind that no trafficked victim should be forcibly repatriated, it should be optional for the victim. Repatriation becomes a difficult problem when the victims of trafficking, especially women who are not willing to return to their home country because of fear of rejection by their family members. The rescued trafficking victims being repatriated should be provided with financial assistance, counseled and prepared to return home with basic life skill training so that he or she can be reintegrated in mainstream life.

78 Government of India, Directions for Detention and Prosecution of Female Sex Trafficking Victims (Ministry of Home Affairs, May 2012).

79 *Supra* note 59.

VI Conclusion and suggestions

In the absence of a common legal framework and understanding, elimination of trafficking at the regional level becomes very difficult. Poor implementation of the existing laws hampers the purpose for which these laws were enacted. Lack of political will of the government coupled with weak law enforcement, widespread corruption at all levels of public officials and lack of resources make it very difficult for India and Bangladesh to fight trafficking effectively. Since India approaches the problem as one of illegal migration and as a national security problem, it aggravates the situation for Bangladesh, because nationals of Bangladesh are treated as violators of immigration laws rather than as victims. Approaches to trafficking from a human security perspective must be the prior concern for these countries. Unless and until the issues of human security, for instance, how trafficking persons are victimized and how they are worthy of protection are reconsidered, reducing or eliminating trafficking will not be possible in reality. Below are some suggestions which can be meaningful to deal with trafficking crisis:

Poverty coupled with illiteracy is the root cause of trafficking in this region. Therefore, state policy should be revitalized and emphasis should be given on anti-poverty schemes, job creation, education opportunities which would help to redress social upheavals and trafficking crisis. There is a strong need to research more on protection measures as the current models of protection too often prioritize the needs of law enforcement over the rights of trafficked persons.

Ensuring access to justice can combat trafficking crisis effectively which requires substantive and procedural fairness in criminal justice system, and accountability of law enforcers. Corruption among public officials must be investigated to repose public confidence on public officials. Rehabilitation and reintegration of rescued victims being a long-term process, efforts should be made to consider specific short-term needs of each individual victim. Necessary legal, medical and counseling services as well as gender sensitive vocational training should be a part of the reintegration process so as to restore their self-confidence and self-esteem.

Voluntary repatriation process should be expedited through bilateral agreements with provisions of a commonly agreed modality on speedy repatriation and bilateral cost sharing at regional level. SAARC countries should come forward to establish a regional voluntary fund for the rehabilitation and repatriation of trafficked victims.

To curb trafficking, co-operation across borders is not a luxury but an operational necessity. Mutual co-operation can effectively interrupt the supply and thereby stem the exploitation, which is a must in this region. An effective response to combat trafficking requires leadership from all governments in south Asia to implement victim-focused strategies to address the problems that go beyond trafficking law enforcement to confronting the supply and demand factors that perpetuate this damaging and dangerous crime.