

HUMAN TRAFFICKING: THE GREATEST  
ETHICAL CHALLENGE BY CHAITALI SADAYET  
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**Introduction**

My life is not a commodity, no one can control it...

Because of condition of poverty, I am subjugated.

I am a product for this buying and selling...

Let's just put an end to this Human Trafficking.

When Elaina Kujar was 14, she was trafficked to Delhi from the Lakhimpur district of Assam and spent four years as a sex slave. The *Guardian* newspaper reports that her owner "would sit next to her watching porn in the living room of his Delhi house, while she waited to sleep on floor. "Then he raped me," she says, looking down at her hands, then out of the door."<sup>1</sup> It is believed there exist hundreds of thousands of girls, some as immature as 12 year old, being wholesaled into slavery of such kind in the heart of the country i.e. Delhi. It is a cruel picture recurring more or less all over India, where there are primary signs that the "economic sensation", which has fuelled extensively, is beginning to unravel. Human trafficking is a global sensation that manifests in the form of sex trafficking, bonded labour and organ trafficking. In sex trafficking, women and children are merely abridged to the status of a heart-warming sexual commodity. Victims end devastated, demoralized and defeated. Those that suffer corporeal and emotional mistreatment and rape may under no circumstances be able to breathe normal lives again. Those that are vulnerable, they live in constant fear and end being psychologically bargained. Human trafficking has received growing global attention over the preceding decade. Primarily, trafficking of women and girls for involuntary sex work and domestic enslavement were the only focus of activism and assistance. Today, there is recognition that women, children and men are trafficked into many diverse forms of labour and for sexual abuse. It has become an unorganised billion dollar industry and has its core, stakeholders, corrupt recruiters and crooked public officials as chief participants.

Human trafficking is the third leading organized global criminal industry in the world after arms and drug dealing. It is however *the fastest emerging criminal activity*. The most widely cited definition of human trafficking is in the **United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons**: 'The recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use

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<sup>1</sup> Graham Peebles, "Trafficking of children and women in India", <<https://www.redressonline.com/2013/09/trafficking-of-children-and-women-in-india/>> accessed at 08/14/2014.

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.<sup>2</sup> The widely held child- trafficking cases are in Asia, even though it's a global problem. **India is the transit and poisonous hub for Asia** for estimated millions, victim to human trafficking. Every single year billions of women and children are trafficked in India which according to US State Department is “**a source, destination and transit**” country for “**men, women and children subjected to forced labour and sex trafficking.**” Trafficking in India is time and again masked as migration, commercial sex or nauseatingly even marriage. It is assessed that 90% of the India's sex trafficking is insider trading. Women and girls are trafficked internally for commercial sex. Children are substance to involuntary slavery as factory workers, inland servants, beggars, agrarian workers and many a time they are even sexually battered by their owners. No misconduct can be worse than this. The child is intellectually handicapped for his or her remaining life. Prostitution in Kamathipura, India's largest red- light district, breeds \$400 million with 1 lac prostitutes who have been abducted and trafficked from India's rural areas. Trafficked children are exposed to bodily and sexual abuse treated as slaves, by means of debt bondage being one of the numerous tools employed to deceive children into perpetual bondage. Trafficking in India is a violent, complex issue fuelled by a range of factors: economic injustice and social inequality, harmful cultural attitudes and regional gender imbalances with corruption among government officials and police allowing trafficking of children and women to continue and expand, illicit brothels to flourish and traffickers to go scot-free. Now the next section in the article deals with the roots of human trafficking.

### **Roots of Human Trafficking**

A substantial number of people consider that slavery was concluded in 1863, when in fact contemporary slavery is still in existence at every junction of the sphere. Not just in secluded portions of Southeast Asia, but in your backyard, in your own square. There are estimated 21 million people enslaved today, 4.5 million of which are in the sex industry. In every part of the world, men, women and children are forced against their will to engage in sexual acts as a result of being trafficked both within their own country and across international borders. Sex trafficking is believed to be the most common form of human trafficking with estimates of 70% of human trafficking victims being sexually exploited.<sup>3</sup> In determining what makes a country more likely to act as a “feeder” that produces victims of human trafficking, it is essential to focus on societal factors that affect women in that country, rendering them more susceptible to being victimized. It is widely acknowledged that in nearly every country worldwide women are subjected to second- class citizen status. Women in well developed nations still earn significantly less than their male counterparts. While there may be innumerable

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<sup>2</sup>“Understanding and addressing violence against women”, (2012),World Health Organisation

<sup>3</sup>Robyn L. White (2013), “*Invisible Women: Examining the Political, Economic, Cultural, and Social Factors that lead to Human Trafficking and Sex Slavery of Young Girls and Women*”, University of New Orleans Theses and Dissertations, p.p. 8

explanations for why this is so, much of it can be attributed to the various cultural, economic and political factors in a country. Moreover, much of the human trafficking can be attributed to the ways that these aforementioned factors create gender biases against women. Females are trafficked because of lack of economic opportunities and low levels of empowerment. It is not only the outcome of too few means or a shattered civil society, but also of belief system passed on from generation to generation. Even in the present times women and girls are time and again taught to be outranked, lack accessibility to education, and more probable to agonise from the effects of poverty. Male propagate internal violence as their principal approach for conflict resolution. Trafficking of children and women is a plague of the poor.

Sexual exploitation through sex tourism, child sex tourism, paedophilia and prostitution in places of sacred visit and other tourist purposes are all on growth. Sometimes parents, anxious to pay off their debts, sell their daughters to brothel owners in lieu of a petty sum. This is predominantly seen in 'Dalit' families or untouchable community in India. The tribal community of the lower caste of Bedia that resides along the Jaipur Highway outside Bharatpur takes pride in their family business which is 'prostitution' as it is their major and primary source of income. They are customarily residents in the part of Rajasthan and MP<sup>4</sup>. Under the pretext of religion, the primitive Devadasi system is still rampant in India where undeveloped girls are trafficked and wedded to a 'temple deity.' They are over and over again forced to deliver sexual services to pastors and upper caste 'devotees' with false hopes of a real marriage. The ritualized prostitution followed in the form of 'Devadasis' in some parts of Maharashtra, draws a fair amount of background of their living traditions where the girl child when born is treated as boon for the family because after a certain age she'll work as a prostitute, selling her body for the survival of her family. This shows the ground reality where the economic compulsions have made the girls forced to become sex workers as they have no independence of their own and very few choices. The dual standards of people are loathsome. Men who worsen the poorer caste Dalit's do not dither to have sexual intercourse with their women. The damaging aspect of human trafficking is the transformation of female victims into exploitative traffickers themselves as their conscience is marred by the luxuries provided by instant cash. Traumatized and humiliated by this kind of life, these women sooner or later cast off their name and identity. In Belgaum, adolescents are brought in for the purpose of trafficking in the name of marriage and comfort in after married life. Their parents are also trapped in the play of marriage, unaware about the latent danger which destroys them completely. In Belize, school- aged minors are forced by their own parents to provide sexual favours to wealthy older men called sugar daddies, in exchange for school fees.<sup>5</sup> Daughters in Afghanistan are wholesaled as brides to reimburse the opium debts of their dads. The most cruel form of sex trafficking is the marketable exploitation of children. Sadists suckle on the widely held belief that having sexual intercourse with a virgin would work as a therapy for them of sexually transmitted diseases. Little girls are raped and tortured to such an extent that their reproductive system is permanently damaged depriving them of their natural right to motherhood.<sup>6</sup> People who are trafficked, health

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<sup>4</sup>"*Child Prostitution in India: Awareness can help*", (2013), India Today

<sup>5</sup>Supra note 2

<sup>6</sup>Supra note 2

effects are often collective, making it essential to take into consideration of each stage of the dealing process. At each juncture victims bump into psychological and sexual exploitation; coerced usage of alcohol and drugs; social restrictions and emotional manipulation; economic misuse; unavoidable debts and legal safeties. Poor mental condition is a foremost and obstinate adverse health effect linked with human trafficking. Psychological significances include depression, thoughts of suicide and somatic conditions as well as disabling physical pain. Coerced use of alcohol and drugs is frequent in sex trafficking as they are used to as a means to control individuals as a coping method to increase profits. Social isolation is also imposed as victims are emotionally manipulated by the use of threats and false promises. They seldom have decision- making authority over what they receive and may be charged by traffickers for 'services' that they arrange for such as housing, clothes, food, etc. these usurious does often lead to 'debt bondage'. And those people who travel cross- borders suffer with legal insecurities particularly when traffickers seize their identity documents and provide false facts about rights. This leads to unjust deportation of the trafficked victims. Trafficked people may not be acknowledged as victims of crime but instead treated as violators of migration, labour or prostitution laws and held in detention centres or imprisoned as illegal immigrants.<sup>7</sup> Trafficked people who go back to their homes may fall into the same difficulties they left behind but with new-fangled health complications and other encounters such as humiliation. Now the next section of the article deals with the issue of prostitution and the legal framework through which human trafficking can be curtailed in the current scenario.

### **Rise of Prostitution**

The crucial impact of human trafficking is seen in the form of prostitution. Young girls and women who are trafficked are abused and exploited to such a great extent that they fail to fit into their former lifestyle and the victims who are liberated are often cold-shouldered by the conventional society. The victim is exposed completely of rights, freedom and humanity. **Prostitution** is defined as 'the sexual exploitation or abuse of person for the commercial purposes or for consideration or in any other kind.'<sup>8</sup> In the present era, the politics on the term 'prostitution' is troubled with an acute understanding of this concept which has been canvassed as another debatable social aspect. The elite class goes on to formulate such dimensions where some believe that by legalizing prostitution the nation could get a hold on the recent increase in the crime rates while others are of the opinion that this commercial sexual exploitation is a form of slavery, which cannot be legalized. In this tussle the debate shifts the discursive field of prostitution from moral to economic terms and seeks to challenge the characterization of prostitution as inherently gendered and oppressive.<sup>9</sup> The commercial sex work is rarely a preferred option for women but often it is a consequence of their social, cultural and economic vulnerabilities.<sup>10</sup> Their health status is affected by a wide

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<sup>7</sup>Supra note 3

<sup>8</sup>Chapter 43: Public Indecency, Subchapter A- Sec 43(2), "Offences Against Public Order and Decency"

<sup>9</sup>AnaghaTambe (2008), "Different Issues/ Different Voices- Organization of women in prostitution in India.: Prostitution and Beyond", Sage Publications, p.p. 82

<sup>10</sup>Vikrant Sahasrabuddhe and Sanjay Mehendale (2008), "Female Sex workers and the HIV/AIDS epidemic in India: Prostitution and Beyond, Sage Publications, p.p. 239

range of social and personal factors including poverty, discrimination, illiteracy and forced servitude. These female sex workers through their obvious behavioural patterns get infected from HIV infections and then transmitting of such infection is accentuated because there is minimal societal support and far less advocacy for the problems faced by these women in sex trade. In addition to trafficking for prostitution, girls and women are bought and sold into forced marriages in areas where there is a deficit of women because of female infanticide. The happenings of sexual exploitation amongst young guys are occasionally heard of because of the supposition that there can on no occasion be male victims. The practice of *bachcabaazi* in Afghanistan and *laundanach* in India where boys dress up as girls and entertain men, provides an insight into the world of male sex slavery and prostitution.<sup>11</sup>

In India nearly 1.2 million sex workers are below the age of 18 with about 40 underage girls being forced into prostitution on a daily basis. With 8% increase in the flesh trade, India has become one of the prominent names in the child prostitution<sup>12</sup>. There has been an increase in demand for child prostitutes from the people belonging to advanced countries who have a simultaneous interest for sex with young partners within the increasing AIDS scare. It is now acknowledged as the commercial sexual exploitation of children, which seeks to remove the shame attached herein to the identity of a 'child prostitute'. In the light of prostitution, children are further duped and harassed as unpaid labourers. These children are physically, mentally and sexually abused which is pretty much evident from the experiences shared by the sex workers. In response to this an initiative funded by Action Aid address' the issue of prostitution and trafficking where they seek to keep vigilance on the trafficking of the under-age girls into the prostitution. They primarily emphasize on the education, prevention and rehabilitation of these female commercial sex workers to recognize the oppression that comes with these traditional practices. Instead of such checks and balances the trafficking of these girl children have been witnessed in many parts of the country for the sole purpose of prostitution. The big talks of providing them with the facilities and education which would nurture them to lead a life of their own are far from being achieved practically. It is witnessed in the pluralist society that an increased opposition from the sections of the feminists conferring such practices to be culturally sub-standard and ethically wrong. In contrast to this, the women from those sections of society indulged in such practices vehemently rejected their arguments and gave a conditional welcome to it as they claim their families are dependent on it and they have no other alternative livelihood option. The report prepared by the National Commission for Women regarding the health care concerns for the women in prostitution states- 'The health care is a major concern for the women in prostitution and it is very difficult to get good medical treatment having in them the fear of the medical establishments rendering them open to exploitation and extortion of money and resources.'<sup>13</sup>

The legal interpretation of prostitution can be done through the Immoral Trafficking (Prevention) Act, 2006 wherein its powers are derived from the Constitution of India

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<sup>11</sup>Supra note 2

<sup>12</sup>Supra note 8

<sup>13</sup>National Commission for Women (1997), '*Societal Violence against Women and Children in Prostitution*', NCW, New Delhi.

under Article 23(1)<sup>14</sup> which prohibits human trafficking and forced labour. The Indian Courts depicts wide-ranging judicial attitude on the issue and as a result certain judicial pronouncements have been passed on the cases relating to prostitution and immoral trafficking. In the case of *Khushi Harkishan Malhotra vs. State of Maharashtra*<sup>15</sup> the Bombay High Court was conferred with the case where a woman caught in hotel room was further remanded to Women's Reform Home and unduly detained there. The court relying on the report of the reform home stating that the woman would possibly return to immoral trafficking if set free, denied her liberty. In the case of *Vishal Jeet vs. Union of India*<sup>16</sup> Supreme Court of India advised setting up of various Advisory Committees in each state so as to provide suggestions regarding eradication of such devastating menace. This rationale act as a guiding tool in the light of which certain rules can be framed but the ground reality required these legal actions to be considerate to victims' future prospects or to rehabilitate them. The judicial interpretations of such social issues are far from the actual scenario where women are still coerced into material trading and confined in it in a similar way like those of bonded labourers. Another revelation in context of this kind of sex practice has posed out prostitution to be a caste based sexual exploitation. There are instances where people indulged in such practices belonging to upper strata of society, compel women of lower strata to forcefully engage with them in such heinous practice. The increase in criminalization with inevitable enforcement from law machinery has resulted in the increase of brutality in prostitution. There is an essence of negativity that these women in prostitution are made to believe that they are working in an illegal business which poses a situation where the criminal elements of the society use such sites to practice their criminal activities. This creates a sort of uneasy alliance or friction between the state machinery and the sex workers because they are being portrayed as part of the illegal activities practised under the umbrella of prostitution.

Prostitution and Homosexuality have consistently been considered as areas beyond revitalisation, through stringent laws and swift enforcement. The linkage between trafficking, which is a criminal offence with prostitution, which is not an offence per se, and that of homosexuality with paedophilia has been repeatedly aired as a reason for the moral policing of these presumed 'offences'<sup>17</sup>. The debate over these issues have put the interpreters of law in a great dilemma as there has been a binary understanding of prostitution in terms of modern form of slavery or as the exercise of the right to work. So it becomes a tedious task to overturn the conceptual understanding of this practice from the minds of those people as for them they have no other alternative to feed the mouths who are dependent on them.

### **Government's Role in Preventing Human Trafficking**

Law and statute have been legislated in many different countries dealing straight away with the prevention of human trafficking. These laws vary from making prostitution

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<sup>14</sup>Prohibition of traffic in human beings and forced labour.

<sup>15</sup> 2006 Cri. LJ 612.

<sup>16</sup> AIR 1990 SC 1412.

<sup>17</sup>MeenaSaraswathiSeshu (2008), "*Surfacing voices from the underground: Prostitution and Beyond*", Sage Publications, p.p. 196

unlawful or accusing those who are caught red-handed trafficking social beings and for guarding those individuals who have been trafficked. Trying to regulate and curb this rapid movement many countries have framed and established governmental and non-governmental organizations to aid in combatting trafficking. These laws are springing up globally to prevent trafficking. According to Article 6(3)<sup>18</sup> 'Each State Party shall consider implementing measures to provide for the physical, psychological and social recovery of victims of trafficking in persons... in particular, the provision of: (a) Medical, psychological and national assistance.' In India Odanandi Seva Trust, founded in 2007 is a community base organization that endeavours to fight against human trafficking. The organization is based in Mysore, South India and it challenges to put an end to human trafficking by rescue operations, restorations and education. Contemporary positive advances include the 2011 implementation of the Convention on Domestic Workers which consists of special processes to protect exposed members of this service group. Government should dictate serious and long-term provision of well-being to trafficked victims. This could be accomplished by granting such entities instantaneous rights to state-supported health amenities, irrespective of their ability to reimburse or willingness to contribute in a criminal deed against traffickers and pledging the essential financial and human resources. The statute that deals with this sex work in India is the Immoral Traffic (Prevention) Act, 1956<sup>19</sup>. Prostitution in India, is not a criminal offence, though both soliciting for prostitution and engaging in sexual act in public place are illegal i.e. the law intends to punish acts of facilitating prostitution like brothel keeping, living off earnings and procuring by third parties. Further, the crime of inducing, procuring or taking away the persons for the purpose of prostitution may result in imprisonment ranging from the minimum period of 3 years to maximum period of 7 years of rigorous imprisonment. The law also provides such engagement of special police officers or non-official advisory bodies to stop the trafficking and has the power to establish Special Courts to deal with cases under this Act. The Act that has been formulated for the purpose of curbing prostitution has though failed in preventing and intercepting the women trafficking but has become the source of repression for the sex workers who face such routine harassment and repeated arrests. The State needs to lay out certain norms for the beneficiary purpose of such practitioners that may include providing them with adequate space, hygienic atmosphere and proper medical facilities. It shall be mandatory to possess a proper health certificate for every such individual in its personal capacity indulged in this profession and for this the State may make available periodical medical check-ups on a regular basis. There have also been some notified steps in this direction as the issue relating to the child prostitution in the eyes of law no longer exists a trivial issue as the age of such consent has been raised from 16 years to 18 years.<sup>20</sup> There are certain provisions which provides for the establishment of the protective homes for the rescued girls who can stay there for a period not exceeding more than 3 years. Further if any information regarding illegal indulgence in such practices has been provided to Police, they have the authority to enter and search any premises on suspicion. The women who are resented by the police during such raids will be questioned only by lady police officers and if none lady police officer is available then from the female representative

<sup>18</sup>The United Nations Protocol to Prevent, Suppress and Punish trafficking in Persons.

<sup>19</sup> The amended version of Suppression of Immoral Traffic in Women & Girls Act, 1956.

<sup>20</sup> Criminal Law Amendment Act, 2013

of any recognized welfare organization. These above mentioned provisions implies that provisions exists for the purpose of curbing this social problem but due to lack of any stringent provisions it might be put on hold. The claims made by the rehabilitation authorities still lacks behind in the actual amount of the girls being forced into this profession on a regular basis which needs to be brought under control otherwise countless young bodies would eventually end up being part of this evil practice. There is requirement of social awareness programmes and educational insights which could outrun this menace from its root cause.

### **Conclusion and Suggestions**

Human trafficking is more or less an organized industry in co- relation with both, demand and supply sides. Controlling demand, i.e. those investing in such illegal actions, will help in restricting human trafficking. Countries can co-operate to form an even database for facts and figures on human trafficking. Embassies should convert as victim friendly. Safe keeping at international boundaries should be constricted to counter transnational trafficking. Training sessions should be provided to law enforcement organisations in conducting rescue operations and dealing with sufferers of sex trafficking. Lack of political determination to closely report the root causes of human trafficking has led to its expansion. Governments must comprehend that every single being has right to life, which comprises right to food, education and occupation and hence create provision for the same. In India and other developing countries, to battle against slavery, it is critical to have a deep understanding of the financial, political and cultural power constructions in society. States can set up directives, along with NGOs, to conduct widespread surveys and recognize people tangled in all practices of human trafficking. This will benefit in the rescue and rehabilitation practice. Each and every person can contribute to this cause by being observant in his vicinity and reporting distrustful activities to authorities on hotline numbers. Standing on the pedestals, created by our own self- righteous minds, we judge trafficked sex-workers with disgust and contempt as we fail to realize that most of them were sold into the flesh trade by their families and friends. This social isolation is one of the reasons that drive victims back into the flesh trade. It is imperative to realize that prostitutes are not criminals, but victims of the society that has allowed prostitution. End trafficking in India and the worldwide epidemic in human suffering caused by this crime will be greatly reduced. Human trafficking must end. A step should be taken to empower these women and girls, to provide them with solutions, to give them a voice and a choice in their lives- and to ultimately end slavery and exploitation. Only when researchers started researching, they realized the entire seriousness of the problem of human trafficking. It is indispensable to create consciousness among students through conferences and workshops. Undoubtedly we live in a realm that specializes in creating shattered and ruined people every day. We've reached at a level where eliminating human trafficking is no longer circumscribed to few enthusiastic individuals and organizations. Any person, in any manner, can support in curtailing this condemnable ailment. It just comes down to whether we are ready to take that initiative or not?