



Women Trafficking Legislation in SAARC: A Cross-Country Comparative Study

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Abstract. Human trafficking, defined by actions involving recruitment, transportation, harboring, and exploitation through force, deception, or coercion, has seen a significant surge in women trafficking across Asia in recent years. This escalation in women trafficking has resulted in adverse physical and psychological health conditions for victims, often leading to social disadvantages. Given the substantial representation of women in a nation's population, injustices against them can hinder a nation's development. Within the South Asian Association for Regional Cooperation (SAARC) region, member states while sharing similarities, exhibit significant variations in their anti-women trafficking policies. This disparity prompts questions regarding the relative strength of each country's anti-women trafficking laws. Focusing on Bangladesh as a SAARC member state, this paper conducts a comparative study of Bangladesh's anti-women trafficking laws with those of other SAARC countries to assess the impact and effectiveness of existing laws in combating women trafficking.

Keywords: Women Trafficking, Anti-Trafficking Laws, SAARC, Bangladesh, Victims.

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Abstrak. Perdagangan manusia, yang didefinisikan sebagai tindakan yang melibatkan perekrutan, pengangkutan, penampungan, dan eksploitasi melalui pemaksaan, penipuan, atau pemaksaan, telah menyebabkan peningkatan signifikan dalam perdagangan perempuan di seluruh Asia dalam beberapa tahun terakhir. Meningkatnya perdagangan perempuan telah mengakibatkan kondisi kesehatan fisik dan psikologis yang buruk bagi para korban, dan sering kali menimbulkan kerugian sosial. Mengingat ketervakilan perempuan yang besar dalam populasi suatu negara, ketidakadilan terhadap mereka dapat menghambat pembangunan suatu negara. Di kawasan Asosiasi Kerja Sama Regional Asia Selatan (SAARC), negara-negara anggotanya, meskipun memiliki kesamaan, menunjukkan variasi yang signifikan dalam kebijakan anti perdagangan perempuan mereka. Kesenjangan ini menimbulkan pertanyaan mengenai kekuatan relatif dari undang-undang anti perdagangan perempuan di masing-masing negara. Berfokus pada Bangladesh sebagai negara anggota SAARC, makalah ini melakukan studi perbandingan undang-undang anti perdagangan perempuan di Bangladesh dengan undang-undang negara SAARC lainnya untuk menilai dampak dan efektivitas undang-undang yang ada dalam memerangi perdagangan perempuan.

Kata kunci: Perdagangan Perempuan, Undang-Undang Anti-Perdagangan Manusia, SAARC, Bangladesh, Korban

1. Introduction

The UN “Protocol to Prevent, Suppress and Punish Trafficking in Person,” defines human trafficking as by force, threats, and coercion, often coupled with fraud, deception, and the abuse of power, for the purpose of exploitation.¹ Legally, human trafficking comprises recruitment, transportation, harboring, coercion, and exploitation.² Asia has witnessed alarming trends in human trafficking, demanding immediate attention.³ The region has experienced a high rate of trafficking, with over 85 percent of victims originating from within.⁴ Among the most affected by women trafficking are the member countries of the South Asian Association for

¹ Marta Bivand Erdal, *Forced Migration*. In *International Encyclopedia of Human Geography*, 2nd ed, (Amsterdam: Elsevier, 2020), 135.

² Human trafficking involves the deceptive or forceful recruitment and holding of individuals for exploitation. This modern form of slavery entails the use of coercion, fraud, or violence to transport and exploit people for labor or sex. It stands as one of the largest illegal industries globally. To address this issue, countries have tasked criminal justice professionals with crucial responsibilities, including detecting, investigating, and prosecuting traffickers, as well as identifying and protecting victims. The trafficking process consists of several stages: recruitment, crossing borders, transportation, matchmaking, transfer, and transaction. See, Fallon Isabella Cooper et al., “Factors that influence the criminal justice response to human trafficking: a systematic review of North American and European studies,” *Crime, Law and Social Change* 82, no. 3 (2024): 635. See also, Shuqin Mei, “Trafficking North Korean Women into China for Forced Marriage: Evidence from Court Judgments,” *Crime, Law and Social Change* 81, no. 3 (2024): 329; Jean-Pierre Gauci, “Relationship Between Asylum and Trafficking,” *Selected Topics in Migration Studies* 45, no. 2 (2023): 62; Kezban Yagci Sokat, “Understanding the Role of Transportation in Combating Human Trafficking in California,” *Transportation Research Interdisciplinary Perspectives* 15, no. 1 (2022): 100673; Shqipe Kastrati, “Trafficking human beings and organized crime,” *Technium Soc. Sci. J.* 38, no. 3 (2022): 862.

³ For instance, a study in South Asian countries revealed that 80% percent of trafficked individuals are forced into sex work, with India being a key player in this crisis. Trafficking for commercial sexual exploitation has reached critical levels in the country, which experiences significant internal trafficking and also serves as a source of trafficked women and children for the Gulf States and Southeast Asia. Additionally, India is a destination for women and girls trafficked from Nepal and Bangladesh. This growing issue has contributed to rising HIV infections in South Asia, threatening public health and human development. Despite the SAARC Convention on Trafficking in Women and Children, many regional countries lack effective anti-trafficking laws and victim protection measures. See, Sigma Huda, “Sex Trafficking in South Asia,” *International Journal of Gynecology and Obstetrics* 94, no. 3 (2006): 378. See also, Christine Joffres et al., “Sexual Slavery Without Borders: Trafficking for Commercial Sexual Exploitation in India,” *International Journal for Equity in Health* 7, no. 4 (2008): 22; Zeeshan Khan et al., “Prevalence, causes and impacts of human trafficking in Asian countries: A scoping review,” *F1000Research* 11, no. 2 (2023): 1021.

⁴ Simon Mackenzie, *Human Trafficking*. In *Transnational Criminology* (Bristol: Bristol University Press, 2020), 45.

Regional Cooperation (SAARC),⁵ where this violation of women's rights has reached critical proportions.

Table 1. Anti-Women Trafficking Laws in SAARC countries

No.	Countries	Constitution/ Act	Bills/Convention/Ordinance /Others
1.	Bangladesh	The Constitution of People's Republic of Bangladesh. The Panel Code, 1860 The Suppression of Immoral Traffic Act, 1993 Women and Children Repression Prevention Act, 2000	
2.	India	The Suppression of Immoral Traffic in Women and Girls Act, 1956	
3.	Pakistan		The Prevention and Control of Human Trafficking Ordinance 2002
4.	Bhutan	The Labour and Employment Act, 2007	Woman and Child Protection Units
5.	Nepal	The Constitution of Nepal National Code (Muluki Ain) 2020 (1963) The Human Trafficking and Transportation (Control) Act	
6.	Maldives	Constitution of the Republic of Maldives, 2008	The Anti-Human Trafficking Bill, 2013
7.	Sri Lanka	Panel Code, 1991	The Convention on Preventing and Combating Trafficking in Women and Children for Prostitution, 2005
8.	Afghanistan	Anti-Human Trafficking and Migrant Smuggling Act, 2017	

⁵ The South Asian Association for Regional Cooperation (SAARC) is a regional intergovernmental organization comprising eight member states: Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan, and Sri Lanka. Founded in Dhaka on December 8, 1985, SAARC covers 3% of the world's land area and is home to 21% of the global population, contributing 5.21% (US\$4.47 trillion) to the world economy as of 2021. The organization's secretariat is located in Kathmandu, Nepal, and it focuses on promoting economic development and regional integration among its member states.

Organized crime syndicates reap billions of dollars annually from women trafficking, ranking it as the third-largest source of illicit profit.⁶ While many SAARC countries have laws with applicable provisions to combat trafficking, including India, Nepal, and Bangladesh, the majority have found such provisions insufficient.⁷ Consequently, they have adopted specialized legislation targeting trafficking, incorporating these measures into their constitutions and legal frameworks. Notably, SAARC countries possess various legislations addressing distinct forms of trafficking rather than a singular comprehensive code. This diversity raises a fundamental question: To what extent do the legislative efforts of SAARC countries effectively address women's trafficking?

As shown in Table 1, the anti-women trafficking laws in SAARC countries reveal several outdated regulations that fail to address the complexities of modern human trafficking. In Bangladesh, the Suppression of Immoral Traffic Act of 1993 and the Women and Children Repression Prevention Act of 2000 are inadequate for current challenges. India's law from 1956 similarly does not reflect contemporary issues, while Pakistan's 2002 ordinance lacks necessary updates. Bhutan's Labour and Employment Act of 2007 and Nepal's National Code from 1963 are also in need of revision to effectively combat trafficking. The Maldives' 2013 Anti-Human Trafficking Bill may not be comprehensive enough, and Sri Lanka's Panel Code from 1991 highlights significant gaps in legislative responses. Afghanistan's 2017 Anti Human Trafficking and Migrant Smuggling Act, though more recent, still requires strengthening for effective enforcement.

The increase in women trafficking has led to serious physical and psychological health issues for victims, contributing to their social marginalization. Since women make up a significant portion of a country's population, injustices against them can

⁶ Biswajit Ghosh, "Trafficking in women and children in India: nature, dimensions and strategies for prevention," *The International Journal of Human Rights* 13, no. 5 (2009): 720.

⁷ Human trafficking is both a criminal offense and a crime against humanity, representing a significant global issue, not limited to SAARC countries. This illicit trade generates billions of dollars, exploiting millions of victims, particularly young girls and children, who suffer the loss of their dignity and freedom. The porous borders between India, Bhutan, Nepal, and Bangladesh, coupled with inadequate laws to combat trafficking for sexual exploitation, have contributed to rising trafficking rates. Despite the establishment of SAARC decades ago, effective anti-trafficking legislation remains absent. Neighboring countries with similar demographics and cultural ties exacerbate the challenge of controlling cross-border trafficking. See, Mudasir Bhat, Shruti Bedi, and Mainaaz Qadir, "Human Rights in Abeyance in the Trade of Trafficking Human Beings: A Focus on the Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill, 2018," *Indian Journal of Law and Justice* 13, no. 1 (2022): 151. See also, Nirmal Kanti Chakrabarti, "NGOs Combating the Problem of Human Trafficking in South Asian Countries: A Review of Legal and Administrative Measures with Special Reference to India," *The Palgrave International Handbook of Human Trafficking* 2, no. 2 (2019): 1474; Joyjit Choudhury, "Role of Central Armed Forces in Combating Cross Border Crimes: A Study of Indian Legal Framework," *Indian Journal of Law and Justice* 10, no. 2 (2019): 255.

impede national progress. In the South Asian Association for Regional Cooperation (SAARC) region, despite shared cultural traits, member states demonstrate notable differences in their policies addressing women trafficking. This paper endeavors to provide insights by scrutinizing and comparing the anti-women trafficking policies of SAARC countries, offering recommendations for policy enhancements that, if implemented within existing legal frameworks, may contribute to the prevention and control of trafficking. While many studies have greatly contributed to our understanding of the concept and underlying causes of women trafficking,⁸ one crucial aspect has remained relatively unexplored: the reform of existing laws. Thus, this research endeavor seeks to address this critical gap by conducting a comparative analysis of anti-women trafficking laws in Bangladesh and other SAARC countries. Such an examination is imperative to shed light on the legal frameworks in place to combat this grave issue and identify areas in need of reform and improvement.

2. Research Methods

The research is a doctrinal study that relies on desk work. A comparative study has been conducted among the Anti-Women trafficking laws of SAARC countries to assess the effectiveness of the anti-trafficking legislation in present society.⁹ Secondary sources were used to collect most of the data which included research reports and publications of various organizations working in the area of women trafficking, as well as journals, reports, booklets, newsletters, photographs, and newspaper clippings. To provide readers with a deeper understanding of the problems of women trafficking, existing information was extracted from a variety of sources. All the countries under SAARC region (Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan, and Sri Lanka) have adopted the SAARC convention to combat and prevent trafficking in women and children. Countries

⁸ For example, Méndez, Mónica. "Globalization and Human Trafficking." In *International Encyclopedia of the Social & Behavioral Sciences*, 2nd ed., (Amsterdam: Elsevier), 2015; Waite, Louise. "Human Trafficking." In *International Encyclopedia of Human Geography*, 2nd ed. 2020. See also, Geri L. Dimas et al., "Operations Research and Analytics to Combat Human Trafficking: A Systematic Review of Academic Literature," *PloS One* 17, no. 8 (2022): e0273708; Heidi Stöckl et al., "Human Trafficking and Violence: Findings from the Largest Global Dataset of Trafficking Survivors," *Journal of Migration and Health* 4, no. 3 (2021): 100073; Bello, Paul Oluwatosin, and Adewale A. Olutola, "Effective Response to Human Trafficking in South Africa: Law as a Toothless Bulldog," *SAGE Open* 12, no. 1 (2022): 21582440211069379; Katharine Bryant, and Todd Landman, "Combating Human Trafficking Since Palermo: What Do We Know About What Works?," *Journal of Human Trafficking* 6, no. 2 (2020): 131.

⁹ Tahira Attia Fariha, and Mohammad Belayet Hossain, "Laws Relating to Women Trafficking in Bangladesh: A Comparative Study with SAARC Countries," *Research Horizon* 4, no. 2 (2024): 26.

under SAARC region being vulnerable to crime took this initial step to point out trafficking of women and to protect the half of the population from exploitation. The data analysis used in this study is qualitative descriptive, focusing on SAARC legislation aimed at preventing and combating trafficking in women and children for prostitution.

3. Results and Discussion

3.1. The Escalating Trafficking of Women in SAARC Countries: Socioeconomic Factors and Legal Reforms

Recent reports have underscored a significant increase in the trafficking of Bangladeshi women to other countries.¹⁰ This alarming trend can be attributed to various complex factors that require thorough examination.¹¹ While prior research has delved into numerous aspects of women trafficking in Bangladesh and other

¹⁰ As a main form of human trafficking, sexual exploitation constitutes approximately 80% of human trafficking cases, according to the UNODC. For instance, West Bengal, sharing borders with Nepal, Bhutan, and Bangladesh, serves as both a source and destination for trafficked women. For decades, India has targeted its eastern border with Bangladesh for anti-trafficking efforts to combat the influx of trafficking victims and prevent local girls from being trafficked within the country. The sex trafficking of women and girls is particularly rampant and lucrative in India, Pakistan, and Bangladesh, where various forms of exploitation disproportionately affect young females. See, Md Nazmul Huda et al., “The Involvement of Bangladeshi Girls and Women in Sex Work: Sex Trafficking, Victimhood, and Agency,” *International Journal of Environmental Research and Public Health* 19, no. 12 (2022): 7458. See also, Skylab Sahu, “Gender and Invisible Migration: Understanding Sex Trafficking in India,” *Gender, Identity and Migration in India* 12, no.1 (2022): 198; Cathy Zimmerman et al., “Human Trafficking: Results of a 5-Year Theory-Based Evaluation of Interventions to Prevent Trafficking of Women from South Asia,” *Frontiers in Public Health* 9, no. 2 (2021): 645059; Mohsen Rezaeian, “The Frequency of Burns Among the Victims of Sex Trafficking in Some Lower-Middle-Income Countries,” *Burns* 43, no. 1 (2017): 246; Sahana Ghosh, “Anti-Trafficking and Its Discontents: Women's Migrations and Work in an Indian Borderland,” *Gender, Place and Culture* 22, no. 9 (2015): 1227; Cristine Joffres et al., “Sexual Slavery Without Borders: Trafficking for Commercial Sexual Exploitation in India,” *International Journal for Equity in Health* 7, no.3 (2008): 22.

¹¹ Human trafficking is driven by several interrelated factors, including poverty, inadequate border security, unemployment, and underdevelopment. Poverty compels individuals to seek better opportunities, making them more vulnerable to exploitation. Inadequate border security allows traffickers to operate with relative ease, facilitating the movement of both victims and perpetrators. Additionally, high unemployment rates push individuals to accept risky offers, further heightening their susceptibility to trafficking. Underdevelopment contributes to a lack of resources and support systems, creating conditions that foster exploitation. Together, these factors create an environment where individuals are at greater risk of becoming victims of human trafficking. For more discussion, See, Bristy Kalita, and Ramesh Sahani, “An Anthropological Investigation of Assam—the Human Trafficking Hub of India?,” *Human Rights Review* 24, no. 4 (2023): 556.

SAARC countries,¹² certain critical issues remain unaddressed. Moreover, it is well-documented for South Asian nations, that poverty serves as a driving force behind women trafficking, posing a grave threat to the dignity and well-being of trafficked women.¹³ Across SAARC countries, a prevalent misconception equates women trafficking solely with prostitution, erroneously assuming that all trafficked individuals are subjected to sexual exploitation.

Previous studies have analyzed the contemporary landscape of women trafficking, elucidating the root causes and the harrowing processes that force women and children into various forms of exploitation, including sex trade, domestic servitude, coerced begging, forced labor, and even organ harvesting, all under the guise of false employment opportunities.¹⁴ In the case of Bangladesh, the trafficking of women and children is intricately linked to the prevailing socio-economic conditions, geographical factors, and cultural backgrounds.¹⁵ In Bangladesh, traffickers exploit marginalized girls and women, forcing many into sex work. Economic issues such as poverty and limited job opportunities, alongside sociocultural challenges like rape, harassment, exploitation, divorce, and insufficient support from family and friends, contribute to women's decision to

¹² Mudasir Bhat, Shruti Bedi, and Mainaaz Qadir, "Human Rights in Abeyance in the Trade of Trafficking Human Beings: A Focus on the Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill, 2018," *Indian Journal of Law and Justice* 13, no. 1 (2022): 146. See also, Nirmal Kanti Chakrabarti, "NGOs Combating the Problem of Human Trafficking in South Asian Countries: A Review of Legal and Administrative Measures with Special Reference to India," *The Palgrave International Handbook of Human Trafficking* 2, no. 2 (2019): 1472; Amena Mohsin, "Regional Cooperation for Human Security: Reflections from Bangladesh," *South Asian Survey* 13, no. 2 (2006): 335; Sigma Huda, "Sex Trafficking in South Asia," *International Journal of Gynecology and Obstetrics* 94, no. 3 (2006): 376; Reena Kukreja, "Trafficked or Married? Unpacking Dispossession of Matrimonial Choice in Cross-Region Marriage Migration in India," *Journal of Asian and African Studies* 59, no. 7 (2024): 2177; Claire E. Helpingstine et al., "Anti-Human Trafficking Service Professionals in India: Challenges and Barriers to Service Provision," *Journal of Human Trafficking* 10, no. 4 (2024): 627.

¹³ Cathy Zimmerman et al., "Human trafficking: results of a 5-year theory-based evaluation of interventions to prevent trafficking of women from South Asia," *Frontiers in public health* 9, no.3 (2021): 645059.

¹⁴ Jun Wen et al., "A systematic review of the sex trafficking-related literature: Lessons for tourism and hospitality research," *Journal of hospitality and tourism management* 45, no. 1 (2020): 374. See also, Ardhana Yadav, S.N.S. Yadav, and Sheeba Khalid, "Development of Organ Transplantation in Light of Criminal and Constitutional Laws in India," *Indian Journal of Transplantation* 18, no. 3 (2024): 278; Siddhartha Sarkar, "Rethinking Human Trafficking in India: Nature, Extent and Identification of Survivors," *Round Table* 103, no. 5 (2014): 489; Tameshnie Deane, "Cross-Border Trafficking in Nepal and India—Violating Women's Rights," *Human Rights Review* 11, no. 4 (2010): 506; Jay G. Silverman et al., "HIV Prevalence and Predictors of Infection in Sex-Trafficked Nepalese Girls and Women," *JAMA* 298, no. 5 (2007): 540.

¹⁵ Md Nahidul Islam, "The impact of human rights violation concerning the status of women and children in Bangladesh: a critical review," *Br. J. Arts Humanit* 2, no. 1 (2020): 8.

engage in sex work. It has been argued that formal and informal social services play a pivotal role in promoting social development. These services are instrumental in enhancing the standard of living and overall quality of life for marginalized women.¹⁶

A recent observation has highlighted the growing concern that women trafficking facilitated through social media platforms may see a significant rise in the future.¹⁷ Notably, the lax privacy policies of platforms like Facebook have made them attractive tools for traffickers seeking potential victims.¹⁸ Some pointed out in their research, Facebook users are susceptible to disclosing personal information due to the absence of stringent encryption policies. This vulnerability has made it exceedingly convenient for traffickers to gather extensive information about potential victims, thereby exploiting their vulnerabilities more effectively.¹⁹

In this context, Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan, and Sri Lanka are members of SAARC, a regional intergovernmental organization in South Asia. An agreement was signed by SAARC in 2002 on preventing and combating trafficking of women and children, namely the “SAARC Convention on preventing and combating trafficking in women and children for prostitution.”²⁰ Human trafficking is one of the issues addressed by the South Asian Association for Regional Cooperation (SAARC). In order to effectively combat trafficking in women and children, Member States must cooperate in order to achieve a variety of goals. It is important to prevent the use of children and women in international prostitution networks, especially when SAARC countries are the source, transit, and destination countries, as well as to repatriate and rehabilitate trafficked victims.²¹

Article 1 of the South Asian Association for Regional Cooperation (SAARC) Convention on Preventing and Combating Trafficking in Women and Children for Prostitution is a definitive article that defines child, trafficking, trafficker,

¹⁶ Md Nazmul Huda et al., “The Involvement of Bangladeshi Girls and Women in Sex Work: Sex Trafficking, Victimhood, and Agency,” *International Journal of Environmental Research and Public Health* 19, no. 12 (2022): 7458.

¹⁷ Shoaib Salman, *Social Media and Trafficking Nexus: The contribution of social media in accelerating women and children trafficking in Bangladesh*, Tampere: Tampere University (Master's Thesis), 2022.

¹⁸ R.T. Gopalan, “Social Networks and Human Trafficking,” In *Analyzing New Forms of Social Disorders in Modern Virtual Environments* 14, no. 4 (2023): 81.

¹⁹ V. Bruno et al., “What has to be pointed out in unexplained recurrent pregnancy loss research in the unsolved fields: lessons from clinic. An Italian RPL Unit experience,” *Italian Journal of Gynaecology & Obstetrics* 31, no. 2 (2019): 59.

²⁰ SAARC Secretariat. *SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution*. 2002. Retrieved from <https://www.saarc-sec.org/index.php/resources/agreements-conventions/50-saarc-convention-on-preventing-and-combating-trafficking-in-women-and-children-for-prostitution/file>.

²¹ E. Kelly Hyland, “The impact of the protocol to prevent, suppress and punish trafficking in persons, especially women and children,” *Human Rights Brief* 8, no. 2 (2001): 12.

reparation, and so on.²² Under clause 3 of Article 1, “Trafficking” means the moving, selling, or buying of women and children for prostitution within and outside a country for monetary or other considerations with or without the consent of the person subjected to trafficking.²³ In order to prevent and reduce human trafficking, the SAARC convention aims to provide inspiration and standard-setting among the SAARC countries.²⁴ The SAARC Convention stipulates certain requirements that states must follow in order to prevent, suppress, and rehabilitate and repatriate victims of human trafficking. Those are:

- Traffickers, managers, or financiers of brothels or people who rent properties for such purposes should be punished according to the laws of their respective states. (Article 3(1) & (2))
- To ensure the confidentiality of victims’ appropriate counseling and legal assistance is to be provided. (Article 5)
- State parties to this convention will provide care, treatment, rehabilitation and repatriation of the victims. (Article 9) Member states will take measures to prevent and interdict trafficking in women and children by establishing a Regional Task Force consisting of officials of the Member States to facilitate implementation of the provisions of this Convention and to undertake periodic reviews. (Article 8)

After the countries under SAARC region have ratified the SAARC convention, member countries chose to enact specific laws and regulations to protect the rights and safety of individuals within their own territory. These laws and regulations mentioned under Table 1 are developed and implemented by the respective national governments, and may vary from country to country depending on their legal and political systems, cultural norms, and societal values.

3.2. Implementation Strategies of Anti-Trafficking Laws Across SAARC Countries

In Bangladesh, significant steps have been taken to combat human trafficking through robust legal provisions outlined in both the Constitution and the Penal Code. The Constitution of the People's Republic of Bangladesh includes several key articles aimed at protecting citizens' rights and addressing trafficking issues. Article 27 ensures that all citizens receive equal protection under the law, regardless

²² Helen Canton, “South Asian Association for Regional Cooperation—SAARC,” *The Europa Directory of International Organizations* 2021 2, no. 1 (2021): 745.

²³ Chanchal Kumar, “Human trafficking in the South Asian Region: SAARC’s response and initiatives,” *Journal of Social sciences and Humanities* 1, no. 1 (2015): 26.

²⁴ E. Kelly Hyland, “The impact of the protocol to prevent, suppress and punish trafficking in persons, especially women and children,” *Human Rights Brief* 8, no. 2 (2001): 12.

of race, sex, or religion. This fundamental principle underscores the commitment to combating trafficking and protecting the rights of every citizen. Furthermore, Article 18 holds the state responsible for preventing prostitution, emphasizing the need to address issues related to human trafficking for forced sexual exploitation. Article 19 commits to removing social and economic inequalities between men and women, which is crucial in the context of trafficking, where women and girls are often the most vulnerable. Article 31 of the Constitution guarantees the right to protection under the law for every citizen, emphasizing the importance of legal safeguards against trafficking and related offenses.

The Penal Code of 1860 further strengthens Bangladesh's legal framework against human trafficking by detailing specific offenses and corresponding punishments.²⁵ Moreover, the Suppression of Immoral Traffic Act, 1933 includes somewhat lesser penalties for detaining a girl under 18 years in a place of prostitution, it still reflects Bangladesh's commitment to safeguarding minors from sexual exploitation. In Women and Children Repression Prevention Act, 2000, severe penalties for various offenses against women and children, including trafficking, was established. The rigorous punishment underscores Bangladesh's dedication to combatting trafficking and protecting vulnerable populations.²⁶

In India, India's legal framework includes several key provisions aimed at combatting human trafficking. For instance, Article 23 (1) of the Indian Constitution explicitly prohibits forced labor and human trafficking, setting a strong foundation for addressing trafficking-related issues.²⁷ Specific sections of

²⁵ Bangladesh's Penal Code contains specific provisions that address various offenses related to human trafficking, such as wrongful confinement, abduction, slavery, forced labor, rape, and the buying and selling of minors for prostitution. For instance, Section 364 prescribes life imprisonment or rigorous imprisonment for up to ten years for kidnapping or abducting with the intent to murder. Section 365 stipulates imprisonment for abducting with the intent to secretly and wrongfully confine a person, emphasizing the protection of individuals from trafficking and unlawful confinement. Section 366A addresses the procurement of minor girls, imposing imprisonment for up to ten years, focusing on protecting minors from exploitation. Section 370 criminalizes the buying or disposing of any person as a slave, with imprisonment of up to seven years. For habitual dealing in slaves, the Penal Code prescribes imprisonment for life or up to ten years, reinforcing a strong stance against human trafficking. See, Tahira Attia Fariha, and Mohammad Belayet Hossain, "Laws Relating to Women Trafficking," 27.

²⁶ The Prevention of Women and Children Repression Act, 2000 in Bangladesh addresses various offenses against women and children, imposing stringent penalties. It includes provisions for trafficking in women, with penalties ranging from 10 years to a death sentence, and life imprisonment for trafficking in children. Abduction of women and children carries a minimum of 14 years' imprisonment. Other serious offenses, such as rape and causing death for dowry, also attract severe punishments, including the death penalty. See, Afroza Anwar, "Anti-sex trafficking movement of Bangladesh and the theories of transnational social movements," *Social thought & research* 64, no.1 (2007): 124.

²⁷ Article 23 of the Indian Constitution prohibits forced labor in various forms, including both physical coercion and legal compulsion. This framework reflects India's commitment to combat

the Indian Penal Code, such as Section 366A (pertaining to the transfer of minor girls), Section 366B (regarding the importation of girls below 22 years), and Section 374 (dealing with compelling labor against one's will), address trafficking-related offenses. These provisions focus on various aspects of human trafficking, including recruitment, transportation, and exploitation.

The Immoral Traffic (Prevention) Act, 1956, is a specialized legislation dealing exclusively with trafficking. It empowers authorities to rescue and rehabilitate victims while imposing stringent penalties on exploiters, reinforcing India's commitment to eradicating trafficking and ensuring the protection of women and children. These legal measures demonstrate India's comprehensive approach to addressing trafficking and ensuring justice for survivors.

Moreover, Pakistan has enacted the Prevention and Control of Human Trafficking Ordinance, 2002, a comprehensive law that defines human trafficking to include prostitution, forced labor, and services. This law recognizes both physical and mental harm as forms of exploitation, and individuals convicted of serious violations may receive harsh sentences. The legislation also targets organized trafficking groups and includes provisions for victim compensation, reflecting Pakistan's commitment to combating human trafficking in all its forms. Bhutan also has taken proactive steps to protect its citizens from human trafficking. The Constitution of Bhutan includes provisions to safeguard against trafficking and exploitation. The Labour and Employment Act, 2007, regulates employment conditions, setting minimum age standards, and ensuring suitable working conditions. This measure helps prevent the exploitation of labor, especially child labor. The Child Care and Protection Act, 2011, specifically addresses child trafficking comprehensively, providing a robust legal framework for safeguarding children from trafficking. Despite not ratifying the UN Convention against Transnational Organized Crime, Bhutan has made commendable efforts to counter human trafficking. A specialized Woman and Child Protection Unit within the Royal Bhutan Police offers support and counseling to survivors, ensuring their well-being.

Nepal's legal framework includes various provisions to combat human trafficking. The Nepalese Constitution upholds principles of equality and justice for all citizens, ensuring protection against trafficking and related abuses. The Muluki Ain (Code of Law) 1963 addresses both inter-state and domestic

trafficking through intersecting criminal, labor, and developmental laws. Following independence, Article 23 specifically outlawed traditional practices like "begar," which involved unpaid labor. This legal provision serves as a foundational element in India's efforts to address and prevent different manifestations of forced labor and trafficking. See, Prabha Kotiswaran, "Vulnerability in domestic discourses on trafficking: Lessons from the Indian experience," *Feminist Legal Studies* 20, no. 1 (2012): 259. See also, Prabha Kotiswaran, "Trafficking: A development approach," *Current Legal Problems* 72, no. 1 (2019): 393.

trafficking. It imposes stringent penalties, including a 20-year prison sentence for international trafficking and a 10-year prison sentence for attempted sale, in addition to fines. The Human Trafficking (Control) Act of 1986 extends the jurisdiction of Nepali courts to offenses committed outside Nepal, emphasizing accountability for crimes against Nepali citizens abroad.²⁸

Furthermore, the Maldives has introduced significant legal measures to combat human trafficking. Article 25(a) of the Constitution of Maldives and Article 3(a) of the Employment Act (2008) expressly prohibit slavery, servitude, and forced labor, setting clear standards for labor rights and worker protection. The Anti-Trafficking Bill, 2013 criminalizes sexual exploitation and forced labor, although it requires the transportation of a victim, aligning with international definitions of trafficking.²⁹ The Maldives National Action Plan 2020-2022 demonstrates a proactive approach to eliminating Trafficking in Persons (TIP), emphasizing law enforcement capacity building and victim support.³⁰

As a member state of SAARC, Sri Lanka's legal framework addresses human trafficking with specific provisions. For example, Section 360A of the Sri Lankan Penal Code defines trafficking, encompassing acts like buying, selling, bartering, or providing consideration for a person, establishing a robust definition of trafficking. The Code further criminalizes various acts related to trafficking, including assisting, arranging travel, recruiting, falsifying records, impersonation, and child exploitation, reinforcing Sri Lanka's commitment to protecting vulnerable populations. Amendments in 1988 extended legal protection by adding child begging, sexual intercourse with children, and hiring children for sexual purposes to the Penal Code. This shows Sri Lanka's legal provisions demonstrate a comprehensive approach to addressing human trafficking, encompassing prevention, prosecution, and victim support.

Lastly, Afghanistan's legal framework reflects its commitment to combatting human trafficking. The Law Prohibiting Human Trafficking and Migrant Smuggling criminalizes the use of force, coercion, or deceit for exploitation. The law covers various forms of exploitation, including medical experiments, armed fighting, and the sexual and social exploitation of young boys. It prescribes punishments for exploitation in armed fighting, with aggravating factors potentially increasing sentences. In severe cases resulting in the victim's death, the death

²⁸ Tahira Attia Fariha, and Mohammad Belayet Hossain, "Laws Relating to Women Trafficking," 25.

²⁹ Nirmal Kanti Chakrabarti, "NGOs Combating the Problem of Human Trafficking in South Asian Countries: A Review of Legal and Administrative Measures with Special Reference to India," *The Palgrave International Handbook of Human Trafficking* 31, no. 4 (2020): 1477.

³⁰ Mondira Dutta, and Mondira Dutta, "Links Between Disaster and Human Trafficking," *Disaster and Human Trafficking* 14, no.3 (2021): 51.

penalty may be imposed.³¹ Overall, SAARC countries have adopted various legal provisions to combat human trafficking, reflecting their commitment to safeguarding citizens and eradicating this heinous crime. These measures promote social and economic development and contribute to building peaceful and stable societies within the region.

3.3. Punitive Measures for Human Trafficking in SAARC: An Impetus for Further Reform

Across SAARC countries, there exists a varying and often inadequate legal framework to combat human trafficking.³² While some countries have adopted more comprehensive legislation, others lag behind. It is essential to establish a standardized legal framework that incorporates the most recent provisions for combating trafficking, including definitions, penalties, and protective measures. Table 2 outlines the punishment policies and precise provisions of law that have been discussed in theory thus far in relation to member countries of the SAARC region.

³¹ Several studies have revealed Afghanistan's efforts and the development of legislation in Afghanistan to tackle human trafficking. For instance, Khalid Koser, "Why Migrant Smuggling Pays," *International Migration* 46, no. 2 (2008): 15. See also, Farhan Navid Yousaf, "Forced Migration, Human Trafficking, and Human Security," *Current Sociology* 66, no. 2 (2018): 218; Claire Brolan, "An Analysis of the Human Smuggling Trade and the Protocol Against the Smuggling of Migrants by Land, Air and Sea (2000) from a Refugee Protection Perspective," *International Journal of Refugee Law* 14, no. 4 (2002): 577.

³² Across SAARC countries, the legal frameworks for combating human trafficking are often inadequate and inconsistent. The shift from traditional to non-traditional security highlights how human trafficking undermines the dignity and security of victims, particularly in economically disadvantaged states. Vulnerable populations, lacking proper livelihoods and basic amenities, become susceptible to trafficking, a situation exacerbated by globalization and open borders that facilitate both legal and illegal movements. Insufficient legal responses fail to address the complexities of trafficking, leaving many victims without adequate protection or support. To effectively combat this issue, previous research highlights a critical need for comprehensive legal reforms across SAARC nations, focusing on unified and effective anti-trafficking measures that prioritize victim rehabilitation and prevention while addressing the socio-economic factors contributing to trafficking. See, Manjula Batra, "A Legal Framework to Prevent Trafficking of Women and Young Girls During Disasters in India," *Routledge Readings on Law and Social Justice: Disposessions, Marginalities, Rights* 22 no. 3 (2022): 223. See also, Bibas Darjee, "Paradigm Shift in Security Discourses: A Case Study of Cross-Border Human Trafficking Between Nepal and India," *Governance and Security Issues in South Asia* 45, no. 2 (2021): 71; Pankhuri Agarwal, "What Happens After 'Modern Slavery' Rescues? A Case of Rescued Bonded Labourers in 'Waiting' in India," *Sociological Review* 21, no. 3 (2024): 32; Dolly Mishra, and S. Sharma, "Human Trafficking: A Non-Traditional Security Threat to India," *Nontraditional Security Concerns in India: Issues and Challenges* 31, no. 3 (2022): 132; Rohan Kumar, Niharranjan Mishra, and Pooja Shrez Mishra, "Human Trafficking: A Review of the Crime in Odisha, India," *Children and Youth Services Review* 119, no. 2 (2020): 105532.

The effectiveness of anti-trafficking laws is hindered by challenges in the investigation and enforcement processes.³³ Many cases remain unsolved due to the lack of efficient investigative teams and delayed relief for victims.³⁴ To improve enforcement, countries should invest in specialized law enforcement units dedicated to trafficking cases. Different SAARC countries have diverse definitions of trafficking, often failing to differentiate between trafficking in women and children. In this regard, clarity is essential to address the specific vulnerabilities and challenges faced by each group, necessitating separate definitions for women and children trafficking.

Existing laws primarily focus on punitive measures against traffickers but lack provisions for comprehensive victim support and rehabilitation.³⁵ This neglects the crucial aspect of helping survivors reintegrate into society.³⁶ Policymakers should prioritize the development of holistic victim support programs, including shelter, legal aid, and counseling services. Human trafficking is a transnational issue, and regional cooperation is vital. SAARC countries should enhance collaboration through agreements like the SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution. Such cooperation can facilitate information sharing and coordinated efforts to combat trafficking effectively.

SAARC countries should work towards standardizing their anti-trafficking laws by adopting a common set of definitions, penalties, and protective measures.³⁷ This approach would ensure consistency and facilitate cross-border cooperation.³⁸ Countries should establish specialized law enforcement units dedicated to

³³ Nilanjana Ray, "Covid-19 and Child Trafficking in India: Mapping the Crisis Through Media Coverage," *Trends in Organized Crime* 12, no. 4 (2024): 321. See also, Priyanka Patel, "Sex Trafficking in India," In *Human Trafficking: A Global Health Emergency: Perspectives from Nursing, Criminal Justice, and the Social Sciences* 21, no. 1 (2023): 336.

³⁴ Vibhuti Ramachandran, "These Girls Never Give Statements": Anti-Trafficking Interventions and "Victim-Witness Testimony" in India," *Social Sciences* 11, no. 9 (2022): 405.

³⁵ Ajailiu Niumai, "Current Trends in Human Trafficking, Modus Operandi, and Law in India," *Gender, Law and Social Transformation in India* 43, no. 3 (2022): 43.

³⁶ Klea Ramaj, "The aftermath of human trafficking: Exploring the Albanian victims' return, rehabilitation, and reintegration challenges," *Journal of human trafficking* 9, no. 3 (2023): 419. See also, Uwafiokun Idemudia et al., "Life after trafficking: reintegration experiences of human trafficking survivors in Nigeria," *International Journal of Migration, Health and Social Care* 17, no. 4 (2021): 456.

³⁷ Dutta, Mondira, and Mondira Dutta, "Laws, Policies and Protocols," *Disaster and Human Trafficking* 38, no. 2 (2021): 129.

³⁸ Wong Villanueva et al., "Cross-border integration, cooperation and governance: A systems approach for evaluating "good" governance in cross-border regions," *Journal of Borderlands Studies* 37, no. 5 (2022): 1064. See also, Diana Kim, and Yuhki Tajima. "Smuggling and border enforcement," *International Organization* 76, no. 4 (2022): 847.

trafficking cases.³⁹ These units should receive specialized training to handle the complexity of such cases effectively, ensuring timely resolution and prosecution of traffickers. Moreover, developing and implementing comprehensive victim support programs that encompass shelter, medical and psychological services, legal aid, vocational training, and educational assistance. These programs should be tailored to the specific needs of women and children's survivors.⁴⁰

³⁹ Frederike Ambagtsheer, "Understanding the challenges to investigating and prosecuting organ trafficking: a comparative analysis of two cases," *Trends in Organized Crime* 43, no.4 (2021): 14.

⁴⁰ Cathy L. Miller, Gloria Duke, and Sally Northam, "Child sex-trafficking recognition, intervention, and referral: an educational framework for the development of health-care-provider education programs," *Journal of Human Trafficking* 2, no. 3 (2016): 187. See also, Deborah A. Gibbs et al., "Services to domestic minor victims of sex trafficking: Opportunities for engagement and support," *Children and youth services review* 54, no. 3 (2015): 4.

Table 2. Punishment for Trafficking under Laws in SAARC Member States

State	Law	Provision	Subject	Punishment
Bangladesh	The Prevention & Suppression of Human Trafficking Act, 2012	6	Human trafficking	Rigorous imprisonment not less than 5years and with fine not less than taka 50,000
		7	Organized offence of human trafficking	Death or lifelong imprisonment or rigorous imprisonment for a term not less than 7 years and with fine not less than taka 5 lac.
		8	Instigating, conspiring or attempting to commit human trafficking	Rigorous imprisonment not exceeding 7 years and not less than 3years and with fine not less than taka 20,000
		9	Forced or- bonded labor	Rigorous imprisonment not exceeding 12 years and not less than 5years and with fine not less than taka 50,000
		10	Kidnapping, stealing and confining with intent to commit the offence of human trafficking	Rigorous imprisonment not exceeding 10 years and not less than 5years and with fine not less than taka 20,000
		11	Importing or transferring for prostitution or any other form of sexual exploitation	Rigorous imprisonment not exceeding 7 years and not less than 5 years and with fine not less than taka 50,000
India	The Immoral Traffic (Prevention) Act, 1956	3	Keeping a brothel or allowing premises to be used as a brothel	1 st time offender: Rigorous imprisonment not exceeding 3 years and not less than 1years and with fine not less than 2000 rupees
				2 nd /subsequent offender: Rigorous imprisonment not exceeding 5 years and not less than 2years and with fine not less than 2000 rupees
		5	Procuring, inducing or taking person for the sake of prostitution	With consent: Rigorous imprisonment not exceeding 7 years and not less than 3 years and with fine not less than 2000 rupees
				Without consent: Imprisonment for a term of 7 years shall extend to imprisonment for a term of 14 years
		6	Detaining a person in premises where prostitution is carried on	Imprisonment not less than 7 years but which may be for life or for a term which may extend to 10 years and shall also be liable to fine
		8	Seducing or soliciting for purpose of prostitution	Imprisonment extending up to 1year and fine up to 500 rupees
Pakistan		3	Human trafficking	Imprisonment which may extend to seven years and shall also be liable to fine

	Prevention and Control of Human Trafficking Ordinance, 2002	4	Offences committed by organized criminal groups	Imprisonment not less than 10 years may extend to 14 years and shall also be liable to fine
		5	Repetition of commission of offences	Imprisonment may extend to 14 years and shall also be liable to fine
Bhutan	Penal Code of Bhutan, 2004	154	Trafficking a person	‘A defendant shall be guilty of the offence of trafficking a person, if the defendant transports, sells or buys a person within, into or outside of Bhutan for any purpose.’
Nepal	Human Trafficking and Transportation Act, 2007	15(1)(a)	Selling or buying a human being	20 years imprisonment and a fine of 200000 Rupees
		15(1)(b)	Forcing into prostitution	10 years to 5 years imprisonment and a fine of 50000 Rupees to 100000 Rupees
		15(1)(c)(1)	Transportation of human being (outside country)	10 years to 15 years imprisonment and a fine of 50000 Rupees to 100000 Rupees
		15(1)(c)(2)	Transportation of human being (within country)	10 years imprisonment and a fine of 50000-100000 Rupees
Maldives	Prevention of Human Trafficking Act, 2013	17(c)	Human trafficking	Imprisonment for 10 (ten) years
		19(b)	Aiding trafficking or abetting trafficking	Imprisonment for 7 (seven) years
Sri-Lanka	Convention on Preventing and Combating Trafficking in Women and Children for Prostitution, 2005	1(3)(a)	Trafficking of women and children for prostitution	Imprisonment not less than 3 years and not exceeding 15 years and be liable to a fine.
		1(3)(b)		Court may impose liability to pay compensation and failure to do so may extend imprisonment to 5 years.
Afghanistan	Law Prohibiting Human Trafficking and Migrant Smuggling, 2017		Human trafficking	‘The law prescribes maximum penalties of eight years imprisonment; aggravating factors increase the maximum sentence to between 10 and 15 years and the imposition of the death penalty if exploitation for armed fighting resulted in the victim’s death.’

Source: Fariha & Hossain (2024)⁴¹

⁴¹ Tahira Attia Fariha and Mohammad Belayet Hossain, “Laws Relating to Women Trafficking,” 27.

In legislation, revising existing laws is crucial to differentiate between trafficking in women and children. This differentiation allows for tailored legal responses and support systems, addressing the unique vulnerabilities and challenges faced by each group. Thus, SAARC countries are encouraged to establish a regional information-sharing platform dedicated to trafficking. This platform can facilitate the exchange of data, case information, and best practices, contributing to more effective cross-border cooperation.⁴²

In this context, raising awareness about human trafficking among communities and law enforcement agencies. As an example, implementing educational programs to inform potential victims about the risks and signs of trafficking, empowering them to seek help and support.⁴³ SAARC countries should commit to regular reviews and updates of their anti-trafficking laws to ensure they remain relevant and effective in addressing emerging challenges and changing trafficking patterns. In general, trafficking is a phenomenon that primarily affects women of a particular age and gender. The result is that they end up being forced into prostitution, forced marriages, forced work, forced begging, camel jockeying, adoption trades, organ harvesting, etc.⁴⁴ Most trafficked women come from poor and vulnerable rural and urban families. Numerous organizations participate individually or jointly in anti-trafficking activities. Women from third-world countries are especially vulnerable to trafficking activities because both nationally and globally this activity is increasing.⁴⁵ Thus, efforts from all parties are needed to stop this. As a global phenomenon, the Government of Bangladesh along with NGOs, International non-governmental organization (INGOs), and Civil Society Organizations should take steps to eliminate this curse from the society.

4. Conclusion

The increase in the trafficking of Bangladeshi women to other countries highlights a pressing issue that demands immediate attention. Complex socio-economic factors, including pervasive poverty, play a significant role in driving this alarming trend. This oversimplification on various dimensions of women

⁴² Natalia Ollus, and Matti Joutsen, "International policies to combat human trafficking," *Routledge International Handbook of Human Trafficking* 31, no. 2 (2019): 88.

⁴³ Roy Ahn et al., "Human trafficking: review of educational resources for health professionals," *American journal of preventive medicine* 44, no. 3 (2013): 286.

⁴⁴ Mondira Dutta, *Disaster and Human Trafficking*, Springer, 2021.

⁴⁵ Barbara Sullivan, "Trafficking in women," *International Feminist Journal of Politics* 5, no. 1 (2003): 79. See also, Andrea Marie Bertone, "Sexual trafficking in women: International political economy and the politics of sex," *Gender Issues* 18, no. 1 (1999): 16; Prabha Kotiswaran, "Vulnerability in domestic discourses on trafficking: Lessons from the Indian experience," *Feminist Legal Studies* 20, no. 4 (2012): 251.

trafficking especially in SAARC countries neglects the diverse forms of exploitation, including forced labor and domestic servitude, that trafficked women may endure. The existing legal frameworks across SAARC countries, while commendable in their intent, often fall short in effectiveness and uniformity. While some nations have made strides in developing robust anti-trafficking laws, others still lag behind, creating gaps that traffickers exploit. The SAARC Convention on Preventing and Combating Trafficking in Women and Children provides a foundation for regional cooperation, but the implementation of its provisions remains inconsistent. As suggestions, a comprehensive, coordinated approach is essential to combat human trafficking. This involves not only stricter enforcement of existing laws but also the establishment of victim support systems, awareness campaigns, and international collaboration to create a holistic response. Ultimately, a coordinated effort across various sectors is vital for protecting vulnerable populations across the region and dismantling the networks that facilitate trafficking.

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