

Perceptions, responses and challenges in South Asia

by Bandana Pattanaik

Amidst the hype of globalisation-driven South Asian prosperity, the plight of the landless, illiterate and chronically poor remains forgotten. Among the most vulnerable losers are those who migrate in search of better livelihoods.

The problem of human trafficking in the region is not new. Millions of South Asian indentured labourers moved to European colonies – some as far flung as Fiji – in a way which would today be labelled as trafficking. In the colonial era, ‘trafficking’ referred exclusively to the movement of white women to the colonies to provide sexual services. In 1949 the earliest UN convention on trafficking did not define it but instead relied on this previous understanding as it sought to eliminate ‘immoral trafficking in women’. None of the South Asian countries signed or ratified this convention but their laws have maintained this moral fervour. Persistent failure to clarify the law has often served to legitimise police brutality against women working in the sex trade.

In the 1970s initial concern about trafficking was linked exclusively with prostitution and sexual exploitation. Feminists spearheaded the anti-trafficking movement, driven by concerns about sex tourism in South-East Asia, the stationing of large numbers of US military personnel, mail order brides and women crossing borders for prostitution and/or work in the entertainment industry. When South Asian activists started to analyse the situation in their region it was cross-border prostitution – particularly of Nepali and Bangladeshi women and girls lured to Indian brothels – and child sexual exploitation by tourists in Sri Lanka which were cited. Women’s rights and child rights groups in the region started networking, providing assistance to trafficked women and girls and pressing for action to address the problem.

In the 1990s, as more women migrated for work and found themselves trapped in debt bondage or slavery-like conditions, the need to unambiguously define trafficking as a prerequisite to ending it became clear. Some feminists still wanted to focus only on prostitution – arguing that its abolition would stop trafficking – but most analysts and activists began to conceptualise trafficking as a broader phenomenon linked to globalisation, unequal terms of trade, migration and labour. Researchers have drawn attention to three main confusions in the literature on trafficking in South Asia – the conflation of trafficking with prostitution, trafficking with migration and women with children – and consequent implications for programmes.

Among the many South Asian groups making a concerted effort to broaden understanding of trafficking among the public and policymakers is the Bangladesh Thematic Group.¹ Several sex workers’ rights agencies have also challenged the mainstream understanding of ‘exploitation’ and argued that not all women in prostitution are ‘trafficked’. Some have called for legalisation or decriminalisation of prostitution. Some organisations have consistently used the UN protocol definition of trafficking in their own initiatives. These include programmes with the camel jockeys of Bangladesh and Pakistan, the interstate brick kiln workers of India, the internally displaced women of Nepal forced into prostitution and women forced into marriages in India. However, much of the anti-trafficking initiatives in the region still remain limited to trafficking into prostitution.

The last decade has seen an increased number of programmes and projects in the region although their impact on the lives of women and their families has yet to be studied. Shelters in both the countries of origin and destination are always full to capacity and assistance programmes fail to meet women’s needs. The legal process of repatriation is often long and traumatic, forcing women to remain idly in shelters when they could be receiving training or engaging in income-generation projects. Upon return the women face rejection from families, stigma from communities and difficulty in finding employment.

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 suffering. There are disturbing reports of human rights violations in many shelters. Several cases of women returning to the same brothels or taking up prostitution elsewhere have also been reported. Very few trafficking cases ever reach South Asian law courts and in no cases have trafficked victims received any compensation. Simplistic measures to prevent trafficking have sometimes resulted in repressive practices to ‘intercept’ women at national borders, thus preventing their lawful migration.

In 2002, after years of discussion, the South Asian Association for Regional Cooperation (SAARC) – a regional body bringing together the governments of Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka – agreed a convention on trafficking. Ignoring civil society representations, it defined trafficking solely as the enforced movement of women and children for the purposes of commercial sexual exploitation. The SAARC Convention² is thus far more limited in scope than the UN’s Palermo Protocol.³ No South Asian countries have ratified the Palermo Protocol (although India and Sri Lanka have signed it).

In the absence of comprehensive national or regional initiatives, innovative and empowering programmes have been launched by civil society activists. South Asia has a vibrant civil society, a long tradition of people-centred advocacy and articulate women's rights movements. Among the many initiatives which deserve mention are:

- India's National Domestic Workers Movement. Since domestic work is not recognised as work under India's labour laws, and national legislation does not include trafficking for domestic work, the movement uses other available legal measures to provide some redress to those affected.⁴
- Shakti Samuha - an organisation created by young women trafficked into India and deported back to their home country. Working against all odds, the small group now has several programmes including a shelter for trafficked girls in Nepal.⁵
- Prostitutes' rights groups, some of whom have taken up the issue of trafficking. Durbar

- Mahila Samanwaya Committee in Calcutta, for example, is a holistic initiative led by the affected community. DMSC is working to stop forced prostitution and entry of children into prostitution and runs a gamut of health, education and cultural programmes.⁶
- Durjoy Nari Sangha in Bangladesh runs similar schemes and, like other NGOs, challenges simplistic understandings of 'exploitation' and stands up in dignity against human rights violations.⁷
- The Jainaseni anti-trafficking network in the eastern Indian state of Orissa is combating the growing problem of women being trafficked for forced or bogus marriages, urging official action and assisting women who have returned to their parental homes following abuse and exploitation.

US State Department shrinks space for debate

The issue of prostitution is a thorny one which has caused bitter

divisions among feminists world wide. HIV/AIDS and trafficking have made prostitution a topic for public debate but opinion remains divided. The emergence of prostitutes' rights groups in South Asia has brought new voices into the discussion. Many civil society agencies see this as a positive development and evidence of democracy and empowerment. However, in the last few years, the role of the US State Department's Trafficking in Persons Report⁸ has impacted negatively on this discussion. Although in its domestic law the US recognises the broad definition of human trafficking and has adequate legislation to address it, internationally its policies show a bias against efforts to encourage or listen to the voices of prostitutes' rights groups. The 2005 TIP report is blatantly biased in its reporting of efforts by the government of Maharashtra state to close dance bars in Mumbai. It endorses government misrepresentation of these bars as 'dens for trafficking and other criminal activities.' In fact, an independent women-led study found that

'Repatriation' of unaccompanied Cambodian children who had been trafficked to Thailand to beg on the street.



women who worked as dancers in the bars were not trafficked into the profession. None of the 500 women they interviewed said they were forced to dance or otherwise lured into the work. The women talked about the opportunities the bars provided to escape from poverty and were proud of their ability to earn a living. Only six of the women turned out to be non-Indian but, as Nepalis, they did not need permission to enter and work in India.

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However, despite the facts, moral outrage generated by populist politicians has led to over 50,000 women losing their livelihoods. Human rights groups have expressed concern at this example of how the anti-trafficking framework can be deployed by powerful states to push their own ideological agenda. The TIP report, which grades countries into four tiers according to US evaluation of their anti-trafficking measures, allows the US government to impose sanctions against those who are placed in tier three. Such 'defaulters' are given a six-month grace period prior to imposition of US sanctions. It appears that the grading is often affected by political considerations and support given to US foreign policy objectives. In many countries it is apparent that at the end of the six-month warning period governments launch hastily organised and well-publicised schemes which do hardly anything to improve the lives of trafficked persons or migrants.

Complexities of approach

Anti-trafficking approaches need to acknowledge the complexities involved. Some of the points made in the preceding article by Faisal Yousaf invite further debate:

- In referring to trafficking in persons as a criminal justice issue, it must be remembered that the criminal justice framework is, in most countries, still being developed and people are unable to seek legal redress.
- Repatriation is not a magic

bullet, however sensitively it is implemented (and it rarely is). Rejection by families and communities and lack of opportunities lead to a high rate of return of so-called victims to the places of 'exploitation'. Civil society advocacy for the right of the trafficked persons to stay in the country of destination if they want to – and most do want to – should be heeded.

- It is important to distinguish between adults and children and also between those who have been trafficked and those who might have made a decision to work in the sex industry.
- Many programmes which claim to be gender-sensitive are only so on paper.
- Many of the organisations cited by Faisal Yousaf have indeed done good work but in some cases this has been undone by recent political pressures or insensitive external support.

Challenges

Many researchers have pointed to the practical difficulties of determining who is a trafficked person and who is an economic migrant. Some elements of trafficking have been found in the lives of many internal and cross-border migrant workers but in the absence of adequate laws to protect the rights of migrants and trafficked persons, anti-trafficking measures would only result in deportation and unwanted media interest.

SAARC has recently appointed a task force on trafficking which is supported by the International Organization for Migration and Western donors. SAARC's emphasis remains on law enforcement, creating a regional police force to apprehend human smugglers and improving extradition procedures. Unless the SAARC convention is amended little can be done to improve the lives of those affected by trafficking or by measures to respond to it.

Migration and labour policies in South Asia must be developed from the perspective of those who

migrate. Immediate steps should be taken to reduce the number of people forced to migrate by misguided development policies. Bilateral labour agreements within the region and with destination countries should be created with a view to protecting the rights of migrant workers. It is time to end gender inequality and the attitude that girls, women and working-class people are dispensable commodities. Women's legal rights to property should be recognised and implemented. Women's citizenship should not be dependent on the endorsement of their male guardians.

In a recent consultation meeting all the South Asian member organisations of the Global Alliance Against Traffic in Women agreed to work to expose the development policies of governments which are rendering many people homeless and jobless, to address the crises in governance which are allowing manipulation and muzzling of national human rights commissions and to urgently address the rise in divisive religious fundamentalism which threatens to further restrict women's freedom. GAATW members argue that trafficking is a consequence of many factors and unless the root causes are urgently addressed, many anti-trafficking schemes will only pay lip service to human and gender rights.

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1. See Aftab Ahmed, 'Using a dynamic, interactive and participatory process to develop and redefine the human trafficking paradigm in Bangladesh' in *Trafficking and prostitution reconsidered: new perspectives on migration, sex work and human rights* by Kamala Kempadoo with Jyoti Sanghera and Bandana Pattanaik, Paradigm Publishers, 2005. Online at: www.iom.int//DOCUMENTS/PUBLICATION/EN/Full_BangladeshTrafficking.Rpt.pdf
2. www.saarc-sec.org/old/freepubs/conv-trafficking.pdf
3. www.ohchr.org/english/law/protocoltraffic.htm
4. For more information email Jeanne Devos: jeanne@bom8.vsnl.net.in
5. www.shaktisamuha.org
6. www.durbar.org
7. www.care.org/getinvolved/iampowerful/stories/story.asp?story=2
8. www.state.gov/g/tip/rls/tiprpt/2005