

Laws Relating to Women Trafficking in Bangladesh: A Comparative Study with SAARC Countries

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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.

1. Introduction

Legally, human trafficking comprises recruitment, transportation, harboring, coercion, and exploitation. Asia has witnessed alarming trends in human trafficking, demanding immediate attention. The region has experienced a high rate of trafficking, with over 85 percent of victims originating from within (Rashida, 2021). Among the most affected by women trafficking are the member countries of the South Asian Association for Regional Cooperation (SAARC), where this violation of women's rights has reached critical proportions. Organized crime syndicates reap billions of dollars annually from women trafficking, ranking it as the third-largest source of illicit profit (Ghosh, 2009). While many SAARC countries have laws with applicable provisions to combat trafficking, including India, Nepal, and Bangladesh, the majority have found such provisions insufficient. 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

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comprehensive code. This diversity raises a fundamental question: To what extent do the legislative efforts of SAARC countries effectively address women's 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.

A list of the laws that will be compared is given below:

Table - 01: Anti-Women Trafficking Laws in SAARC Countries

Countries	Constitution/ Act	Bills/Convention/Ordinance/Others
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	
India	The Suppression of Immoral Traffic in Women and Girls Act, 1956	
Pakistan		The Prevention and Control of Human Trafficking Ordinance, 2002
Bhutan	The Labour and Employment Act, 2007	Woman and Child Protection Units
Nepal	The Constitution of Nepal	
	National Code (Muluki Ain) 2020 (1963)	
	The Human Trafficking and Transportation (Control) Act	
Maldives	Constitution of the Republic of Maldives, 2008	The Anti-Human Trafficking Bill, 2013
Sri Lanka	Panel Code, 1991	The Convention on Preventing and Combating Trafficking in Women and Children for Prostitution, 2005
Afghanistan	Anti-Human Trafficking and Migrant Smuggling Act, 2017	

2. Literature Review

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

In South Asian nations, it is well-documented that poverty serves as a driving force behind women trafficking, posing a grave threat to the dignity and well-being of trafficked women (Nuzhat and Arif, 2019). Across SAARC countries, a prevalent misconception equates women trafficking solely with prostitution, erroneously assuming that all trafficked individuals are subjected to sexual exploitation.

Another study conducted by Rashidul and Ruhul (2011) comprehensively 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.

The trafficking of women and children in Bangladesh is intricately linked to the prevailing socio-economic conditions, geographical factors, and cultural backgrounds (Profulla and Pranab, 2006). 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.

A recent observation by Salman (2022) has highlighted the growing concern that women trafficking facilitated through social media platforms may see a significant rise in the future. Notably, the lax privacy policies of platforms like Facebook have made them attractive tools for traffickers seeking potential victims. As Jones and Soltren (2005) 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.

While the aforementioned research has greatly contributed to our understanding of the concept and underlying causes of women trafficking, one crucial aspect has remained relatively unexplored—the reform of existing laws. 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.

3. Research Methodology

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. 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 mentioned in Table-01 have adopted the SAARC convention to combat and prevent trafficking in women and children. Countries 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.

SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution (SAARC Convention)

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”.

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 (SAARC, 2002).

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, reparation, and so on. 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 (SAARC, 2002). In order to prevent and reduce human trafficking, the SAARC convention aims to provide inspiration and standard-setting among the SAARC countries (SAARC, 2002). 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-01 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.

1. Bangladesh

Bangladesh has taken significant steps to combat human trafficking, with legal provisions encompassed in its Constitution and Penal Code:

1.1 The Constitution of the People's Republic of Bangladesh

- Article 27 ensures that all citizens receive equal protection under the law, regardless of race, sex, or religion. This fundamental principle underscores the commitment to combating trafficking and protecting the rights of every citizen.
- 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 guarantees the right to protection under the law for every citizen, emphasizing the importance of legal safeguards against trafficking and related offenses.

1.2 The Penal Code, 1860

- 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.
- 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.

1.3 The Suppression of Immoral Traffic Act, 1933

- While this Act 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.

1.4 Women and Children Repression Prevention Act, 2000

- This Act establishes severe penalties for various offenses against women and children, including trafficking. The rigorous punishment underscores Bangladesh's dedication to combatting trafficking and protecting vulnerable populations.

2. India

India's legal framework includes several key provisions aimed at combatting human trafficking:

- Article 23 (1) of the Indian Constitution explicitly prohibits forced labor and human trafficking, setting a strong foundation for addressing trafficking-related issues.
- Specific sections of 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.

3. Pakistan

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.

4. Bhutan

Bhutan 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.

These multifaceted legal measures underscore Bhutan's commitment to preventing trafficking and protecting the rights of its citizens.

5. Nepal

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. 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.
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These legal provisions and stringent penalties reflect Nepal's unwavering commitment to combating trafficking and ensuring justice for victims.

6. Maldives

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.
- 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.

While there may be room for refining definitions and provisions, these legal measures show the Maldives' commitment to addressing human trafficking and improving conditions for workers.

7. Sri Lanka

Sri Lanka's legal framework addresses human trafficking with specific provisions:

- 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.

Sri Lanka's legal provisions demonstrate a comprehensive approach to addressing human trafficking, encompassing prevention, prosecution, and victim support.

8. Afghanistan

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 penalty may be imposed.

These legal measures demonstrate Afghanistan's dedication to preventing, suppressing, and punishing trafficking in persons, particularly women and children.

In summary, 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.

Below is Table 02 which 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.

Table – 02: Punishment for Trafficking under Different Laws

Country	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 5years 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 2 years 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 1 year and fine up to 500 rupees
Pakistan	Prevention and Control of Human Trafficking Ordinance, 2002	3	Human trafficking	Imprisonment which may extend to seven years and shall also be liable to fine
		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)(e)(1)	Transportation of human being	10 years to 15 years imprisonment and a fine of

			(Outside country)	50000 Rupees to 100000 Rupees
		15(1)(e)(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.’

4. Findings

1. Inadequate Legal Framework

Across SAARC countries, there exists a varying and often inadequate legal framework to combat human trafficking. 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.

2. Challenges in Investigation and Enforcement

The effectiveness of anti-trafficking laws is hindered by challenges in the investigation and enforcement processes. Many cases remain unsolved due to the lack of efficient investigative teams and delayed relief for victims. To improve enforcement, countries should invest in specialized law enforcement units dedicated to trafficking cases.

3. Inconsistent Definitions of Trafficking

Different SAARC countries have diverse definitions of trafficking, often failing to differentiate between trafficking in women and children. Clarity is essential to address the specific vulnerabilities and challenges faced by each group, necessitating separate definitions for women and children trafficking.

4. Lack of Comprehensive Victim Support

Existing laws primarily focus on punitive measures against traffickers but lack provisions for comprehensive victim support and rehabilitation. This neglects the crucial aspect of helping survivors reintegrate into society. Policymakers should prioritize the development of holistic victim support programs, including shelter, legal aid, and counseling services.

5. Regional Cooperation

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.

5. Recommendations

- 1. Standardized Legal Framework:** SAARC countries should work towards standardizing their anti-trafficking laws by adopting a common set of definitions, penalties, and protective measures. This approach would ensure consistency and facilitate cross-border cooperation.
- 2. Efficient Investigation Teams:** Countries should establish specialized law enforcement units dedicated to trafficking cases. These units should receive specialized training to handle the complexity of such cases effectively, ensuring timely resolution and prosecution of traffickers.
- 3. Strengthen Victim Support:** Develop and implement 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.
- 4. Differentiated Definitions:** Revise existing laws 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.
- 5. Regional Information Sharing:** Encourage SAARC countries 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.
- 6. Increased Awareness and Education:** Raise awareness about human trafficking among communities and law enforcement agencies. Implement educational programs to inform potential victims about the risks and signs of trafficking, empowering them to seek help and support.
- 7. Regular Review and Updates:** 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.

6. Conclusion

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. 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. Efforts from all parties are needed to stop this. As a global phenomenon, the Government of Bangladesh along with NGOs, INGOs, and Civil Society Organizations should take steps to eliminate this curse from our society.

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