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## Human Trafficking in India: Theoretical Perspectives with special reference to the Human Trafficking scenarios in The North Eastern Part of India

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### Abstract:

This article portrays the condition of Indian women and children who are known as the most vulnerable target within the dark world of Trafficking. In this article some contemporary theories, literatures related to the human trafficking in India had also been discussed as the supporting literature review part.

Trafficking of human beings, especially of women and children, is an organized crime, which violates basic human rights and has severe implications on the psycho-social and economic well-being of the victim, highly adverse implications are also seen on the society and the nation. By denying the victims' basic rights to good health, nutrition, education and economic independence, the country loses a large number of women and children as victims to this crime, who otherwise would have contributed productively to its growth. Trafficking as a crime has seen an increasing trend especially in the last two decades globally as well as in India especially in the bordering zone of India, i.e. North Eastern states.

It has also been observed that, not only the women and children from the bordering states but also the from the areas lower wealth quintiles has been sold by their own household members in exchange of some meager amount of money and trafficked by some notorious people from the traffickers' network through various transit points or bordering areas. So in India trafficking of human being is not a single theorized issue, the problem has many branches and roots tangled at multilevel of the society. The article documents the journey traversed by India in addressing the issues of trafficking in women and children from World Congress II (WCII – Yokohama, 2002) to World Congress III on Sexual Exploitation of Children and Adolescents (WCIII – Rio de Janeiro, 2008) It elucidates the good practices in the area of anti-human trafficking within the country which can be exemplary for the future path.

**Key words:** *Human Trafficking, women and children, North Eastern States, India, Theories on human trafficking.*

## **Introduction:**

Human trafficking in India is one of the critical social problems which legal framework and policy interventions are not enough. The dilemma of this social problem is not only affecting the 'Lifeworld' of Indian socio legal systems' framework, but also affecting the very root of the Indian cultural values and 'sanctioned norms'. Trafficking is commonest used methods in 'flesh trade'. It is a violation of Human rights as it attempts to control on other's bodies without their wishes or conscience. The worldwide approved definition of trafficking, defined in the United Nations (UN) protocol illustrates that Trafficking means the recruitment, transportation, transfer, harboring or receipt of persons, by means of threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payment or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. (Article 3, UN Palermo Protocol 2002:2) .The main target segments are women and children, especially, from the economically poor backgrounds who are likely to fall into such traps. The United Nations (UN) estimates that the trafficking of women and children for Commercialised Sexual Exploitation (CSE) in Asia has victimized over 30 million people (International Labour Organisation, 2006). India shares an identified large proportion among the Asian countries with a severe CSE induced trafficking problem. (Joffres, et.al. 2008). The increased vigilance on the human trafficking issues in some Indian regions is forcing traffickers to look for new sources and routes of trafficking vulnerable women and children. The geographical isolation of North Eastern states of India and its diverse ethnic social structures, the internationally permeable borders make this region a hub for human trafficking and child exploitation. Furthermore this issue is coupled with the ethnic violence and armed conflict in these areas which triggers the inequity and poverty and can be the most possible reason of the increased trafficking rates this region and the surrounding countries of this area i.e. Myanmar , Bangladesh , Nepal etc. (Kempadoo, 2005)

## **Understanding the Trafficking of Women and Children in Indian states: A theoretical framework**

To understand the complex situation of trafficking of women and children as vulnerable groups in India, it is necessary to relate various theories that can and have been used to comprehend the Indian trafficking industry. Trafficking of women and children for the CSE has been debated amongst theorists, and full account has been given to find out the reasons behind the trafficking of many women and children. Trafficking has proved to be a highly debatable issue among feminist theorist and human rights activists. The deep rooted theoretical framework can be described according to the contemporary Indian Context which deals with competing arguments, the nature of politics, the consequences of inequality, and the causes of sexual difference in Indian society and the possibility of social and economic change in women and children. The following theories can be used for a better understanding of human trafficking in India. Gender inequalities, social divisions and stratifications and the political disagreements in India, in line with internationally accepted theories i.e. feminist theory, absolutist theory and conflict theory can be used in relation to the human trafficking in India.

### **Feminist Theory: Coercion or Consent?**

The feminist schools of thought generate the majority of the theories related to human trafficking. Since, women all over the globe are culturally, socially, economically, politically and legally being deprived compared to the men, this subjugation and suppression works at different levels in communal, local, national, regional, international and familial. (Charlesworth and Chinkin, 2000) Feminist approaches have been broadly divided into two contrasting ideas. The first camp is represented by the Coalition against Trafficking in Women (CATW). Kathleen Barry, the founder of the contemporary movement generated the first idea for the female prostitution and trafficking in her book, *Female Sexual Slavery*. (Barry, 1984). Her idea about female sexual slavery links both trafficking of women and prostitution. She denies the economic reason behind female trafficking as it leaves the sex and power angle unchallenged, which is very relatable in the Indian context of gender discrimination and subjugation. Her idea about the cause of trafficking is sexual domination and the only way to end it is to stop women's oppression. In this ideology the problem of trafficking has been viewed as a problem of supply and demand with the sex industry (and men) creating the demand to which the traffickers recruit the supply (women). (Hughes, 2000) It has been observed that, in India the victims of trafficking are all from the sexually oppressed segment, i.e. women and children, and more exposed towards sexual exploitation, thus this first feminist view about trafficking can be relatable with the nature and causes of trafficking in India. (The second ideology is represented by the Global Alliance against Trafficking in Women (GAATW) which is inspired by second wave of feminism. In this ideology the feminists view prostitution as a legitimate form of labor and migration and also argued that means of escaping from poverty.

### **The Absolutist theory of Human Trafficking**

The absolutist theory generally defines trafficking of Women in a very broad way. Instead of including specific terms to indicate particular practices, the definition generally includes all surrounding terms such as sexual exploitation to describe an objectionable situation. In this theory Hughes offers the following definition: "trafficking is a practice that involves moving people within and across local or national borders for the purpose of sexual exploitation. Trafficking may be the result of force, coercion, manipulation, deception, abuse of authority, initial consent, family pressure, past and present family and community violence, economic deprivation, or other conditions of inequality for women and children." As prostitution is considered sexual exploitation within this perspective, assisting a woman in her attempts to migrate in order to find work in another country is deemed to be trafficking. (Hughes, 2000) Barry's definition of trafficking is broad and involves the categorization of prostitution of any kind as exploitative. She asserted that "assumption that trafficking in women and children was different from street prostitution was invalid". She continues by saying "female slavery is present in all situations where women or girls cannot change the immediate conditions of their existence where regardless of how they got into these conditions they cannot get out, and where they are subject to sexual violence and exploitation." Prostitution, thus, underpins the trafficking industry.

According to Barry, "trafficking in women is the oldest, most traditional form of procuring for prostitution. It predates sex industrialization and is extensive in primarily rural, poor and pre-industrial societies. Traffickers are traders of human beings who either buy women from their husbands, or buy children from parents, or fraudulently promise them to marry or for well-paying jobs or abduct them. (Barry, 1984) The above mentioned condition in India is very prominent in West Bengal and other surrounding bordering Countries of West Bengal, Southern part of India

especially Karnataka and Tamilnadu and also in the North Eastern States. (Sinha, 2006; Blanchard, 2005; O’Neil, 2004).

### **Conflict Theory: the theoretical construct to describe the Vulnerable Women and Children**

The Marxian Ideology based Conflict theory depicts the sociological fundamental idea that crime is caused by the economic and social drives within society. Conflict theory can help explain the thoughts and reasoning behind human trafficking. It argues that what could better explain the struggle between two classes i.e. the victims versus the traffickers. The Conflict perspective of society stressed upon the existence of different value system and norms that influence the efforts of people to establish rules and to regulate behaviors. Karl Marx’s concept of social conflict theory states that there is a constant conflict between two groups. Here in case of Human Trafficking especially of the women and the children in India, we can easily relate the concept of conflict of a victim at the hands of perpetrator. In all societies, gender has been one of the most important dimension determining people’s chances and control in life. In almost every case, women are markedly inferior to men in their access to wealth, power, autonomy, and other valued resources. Conflict theory explains that the powerful or the ‘haves’ are able to take things from the powerless or the ‘haves-not’ with economic ways or with force. On the contrary, human trafficking is able to do both. In almost all trafficking scenarios the traffickers are the men and the victims are women, and most likely children.

The traffickers, who are the more powerful group, use their power to exploit groups with less power than themselves. In regard to the victims of the trafficking, with the constant separation between the classes, society has only driven a further division between the classes. This theory can be applied upon the Indian context where the poverty and the class struggle are very prominent.

Therefore, by comprehending these theories following factors can be associated as the causal factor behind Human Trafficking in India. **(See Table 1)**

**Table: 1 Factors contributing towards the Increase of Commercial Sexual Exploitation (CSE) induced human trafficking in India**

Economic factors	Poverty, families unable to meet basic needs, female-headed households, families without any assets (e.g., due to long term unemployment, underemployment, sudden economic shocks), indebted families from poor states (e.g., Bihar, Uttar Pradesh, Karnataka, Orissa, Rajasthan, Assam, etc.)  Unemployment and migration, Lack of employment opportunities, particularly in rural areas, force individuals or families to migrate to seemingly better places and make them more vulnerable to trafficking (e.g., Orissa, Bihar)  Income disparities between rural and urban areas, combined with a desire for a better life  Growth of tourism in specific areas (e.g., Goa, Kerala,
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	Rajasthan) and Globalization. (Narayana, 2006)
Environmental factors (resulting in long-term lack of sustainable livelihood)	<p>Drought (e.g., Rajasthan)</p> <p>Cyclones (e.g., in The Sundarbans in Bangladesh) and floods</p> <p>The 2004 tsunami (e.g., coastal Tamil Nadu, Andhra Pradesh, &amp; Orissa were particularly affected)</p> <p>The closure of sick tea gardens and subsequent layoffs around Darjeeling in West Bengal has resulted in starvation deaths, the suicides of women and children, and women and children being forced into exploitative forms of work and trafficking</p> <p>Recent Earthquakes in North Eastern Zones which leads towards long term absence of sustainable livelihood in those areas.</p>
Socio-cultural factors	<p>Tolerance of domestic violence and lack of respect for human rights, particularly women's and children's rights, which push victims to opt out of particularly abusive situations without economic recourses</p> <p>Caste-related discrimination that deprives specific groups (e.g., scheduled castes such as the Dalits) of their basic rights (e.g., access to water or medical care</p> <p>Customary prostitution (e.g. In Nat , Kanjar and Bedia communities of Rajasthan and western Uttar Pradesh)</p>

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	<p>Arranged/coerced early marriages &amp; dowries</p> <p>Gender discrimination (women seen as a burden on families; low education levels for females, and few or no economic opportunities for females).</p> <p>Victimization and stigmatization of divorced, abandoned, and raped women and girls, and/or women and girls who are illegal immigrants in India (e.g., Nepalese and Bangladeshi)</p> <p>Beliefs that sex with virgins will cure STDs and sexual dysfunctions.</p>
Governance issues	<p>Wars, civil conflicts, strong presence of armed forces, drug trafficking ( e.g. the civil conflicts in North-eastern states and Nepalese women and girls are fleeing Nepal to avoid Maoist pressures to join military training or be recruited as child soldiers; Indian States bordering Myanmar: Manipur, Nagaland, and Mizoram)</p> <p>Insufficient pro-poor policies and initiatives</p> <p>Laws which ignore exploitation of children by their own families</p> <p>Unsafe migration, porous borders (Bordering areas of North Eastern parts of India, borders between Nepal and Indian and between Bangladesh and India)</p> <p>Legislation and enforcement procedures that are inadequate to deter trafficking and bring traffickers to justice, coupled with corruption</p>
Micro-domestic factors	<p>Females from indebted, poverty stricken families</p> <p>Single women (unmarried, abandoned, divorced, widowed, rape victims) with or without children</p> <p>Adolescent girls/children, particularly children from families where abuse/neglect is prevalent or families in crisis</p> <p>(caused by war, civil unrest, or environmental catastrophes)</p> <p>Female migrants, alone or with families</p> <p>Females coerced into early marriage (frequent in Chhattisgarh, Haryana, Jharkhand, Bihar, Orissa, and</p>

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	Assam)  Children of trafficked victims, Street children (e.g., Goa, Kerala)
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### **The Magnitude of the Human Trafficking in the North East region of India**

The issue of trafficking in women and children has to be understood from a South Asian perspective along with theoretical aspects relevant to the Indian context. One has to dig deeper to understand the whole business of human trafficking between North-eastern states of India and other countries. A steady increase in the reported cases of girl child being trafficked out of this region and forced into prostitution and other kinds of activities. Problems in Bangladesh and areas which are situated close to the international border with some North East States where girls are sold almost at regular intervals yet to be highlighted. The North East region of India, trafficking of women and children takes place within the states in the region and other states in India, and also across the borders of Myanmar, Bangladesh and Nepal due to poverty and unemployment, declining traditional economy, militarization and armed conflict, urbanization, migration, displacement, proximity to the international border and influx of security personnel, businessmen and others, according to NGOs devoted to educating vulnerable communities and trying to break down the factors which are enabling human trafficking. The problem in the North East is quite discrete from the rest of India. This region shares many international borders, most of which are open and unmanned. These points provide an easy passage in and out of India for organized human trafficking syndicates to operate undetected. People existing below the poverty line, with limited employment opportunities are most vulnerable to human trafficking; but a recent trend has been surfaced whereby young, educated girls from the North East seeking employment outside their local area have also been caught up in trafficking racket and these girls are duped or coerced into the commercial sex trade by ill-intentioned employers. North East India connected with mainland India with a chicken neck secludes the region and makes the region further isolated. Further biased treatment of the central government, there has been growing riots and insurgencies in the region. Solution to end violence with violent acts like AFSPA has added further violence to the disturbed areas. For instance, cases of child trafficking were reported who from the Kuki tribe in Manipur. Reason for this was the tribal clashes that led the human trafficking to prosper. During flood of Assam, many of people are further displaced. Social Conflict, Civil Conflicts and Natural disasters are the biggest causes of these areas becoming supply points.

### **International and National Efforts to Curb Women and Child Trafficking**

The United Nations adopted the Convention against Transnational Organized Crime, also called the Palermo Convention in 2000. This is a comprehensive international convention against organized crime incorporating international laws to address trafficking in women and children, the illicit manufacturing of and trafficking in firearms and, ammunition, and illegal trafficking in and transportation of migrants. The main purpose of this convention is to promote co-operation to prevent and combat transnational organized crime more effectively. The United Nations Protocol to

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Prevent, Suppress, and Punish Trafficking in Persons, especially Women and Children, supplementing the Convention against Transnational Organized Crime, marks the international treaties dating back to the 1800s that seek to combat various aspects of trafficking in persons. Throughout the 19<sup>th</sup> and 20<sup>th</sup> centuries a great range of international treaties emerged which sought to prevent and combat the exploitation of human beings. Five principal areas of international law contributed to the contemporary framework to prevent and combat trafficking in persons, both internationally and domestically. These include-

- International Anti-slavery Conventions
- International Anti-prostitution Conventions
- International Labor Law
- International Human Rights Law
- Rights of the Child

India has committed to prevent and combat trafficking by being a signatory to the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. It has also ratified, other related Conventions such as Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Convention on the Rights of the Child (CRC) and its optional protocols, and the SAARC Convention on Preventing and Combating Trafficking among Women and Children. The Indian government along with some international organizations has taken several anti trafficking measures. The Indian constitution explicitly prohibits trafficking of human beings and forced labor and makes both offences punishable. Article 23(1) provides that: "traffic in human beings and forced labor are prohibited and any contravention of this of this provision shall be an offence punishable in accordance with law." Meanwhile, article 39(f) imposes a duty on the State to direct its policy towards securing "that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment. The Immoral Traffic Prevention Act, 1956 (ITPA) is the main legal instrument addressing the trafficking of human beings in the country. It is supplemented by provisions in certain other domestic laws, including the Indian Penal Code (IPC, 1860). The ITPA is focused on trafficking for the purpose of prostitution. Accordingly, it outlaws the running of a brothel; living on the earning of a prostitute; procuring; including or taking a person for the sake of prostitution; and detaining a person in a place where prostitution is carried on. The act also provides for the rescue and rehabilitation of victims/survivors of trafficking, action against exploiters and increased punishment for trafficking offences involving children. In general, punishment is stringent under the Act, and ranges from seven years to life imprisonment. Various anti-trafficking actions have been taken to tackle child trafficking in India. In 1998, the Indian Prime Minister approved a National Plan of Action to Combat Trafficking and Commercial Sexual Exploitation of Women and Children. The latter is concerned both with implementation of the ITPA and the rescue and rehabilitation of victims. A monitoring mechanism is intended to the central level. The Central Advisory Committee on Child Prostitution monitors state implementation of the Plan of action.

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United Nations office on Drug and Crime, Regional office for South Asia in partnership with the Ministry of Home Affairs, Government of India, is implementing Project IND/316 on “Strengthening Law Enforcement Response to Human Trafficking.” The project aims to intensify efforts to combat trafficking through capacity building of law enforcement personnel in five states- Andhra Pradesh, Bihar, Goa, Maharashtra and West Bengal. One of the components of this project is to develop Integrated Anti Human Trafficking Units (AHTU) at the state level. Another key anti-trafficking intervention is the ‘UJJAWALA’ scheme for trafficked women and children, launched by the Ministry of Women and Child Development in December 2007. ‘UJJAWALA’, which focuses on females trafficked for the purpose of commercial sexual exploitation, is concerned with the following:

- Prevention, including the formation of community vigilance groups/adolescent groups, as well as awareness generation and sensitization of police, community leaders and other relevant actors.
- Rescue and safe withdrawal of victims
- Rehabilitation including the provision of safe shelter, food, clothing, counseling, medical care, legal aid, vocational training and income generation activities
- Reintegration, involving the restoration of victims into families/communities (where they so desire) and payment of accompanying costs
- Repatriation, including the provision of cross border victim for their safe return to their countries of origin.

The ‘Swadhar Scheme’ of Ministry of Women and Child Development also seeks to address the needs of females in difficult circumstances, including victims of sex trafficking. The Indian Parliament recently enacted the Criminal Law (Amendment) Act, 2013(CLA). Although primarily concerned with targeting rape and sexual assault, the Bill incorporates a range of other offences dealing with violence against women many of which the Indian Penal Code, 1860 (IPC) did not envisage. Two such offences relate to trafficking, an area of considerable policy and legal reform internationally. Specifically, the new section 370 defines the offence of trafficking thus replacing the prior Section 370, which dealt with the buying or deposing of any person as a slave. The new criminalizes anyone who recruits, transports, harbors, transfer or receives a person using certain means (including threats, force, coercion, fraud, deception, abduction, abuse of power, or inducement) for purposes of exploitation. In many respect, the CLA simply downloads the definition of trafficking in article 3 of the United Nations Protocol to Prevent, Suppress and Punish Trafficking Against Persons, especially Women and Children supplementing the 2000 United Nations Convention Against Transnational Organized Crime. India signed the UN Protocol on December 12, 2002 and ratified it in May 2011. Besides various Institutional Mechanisms such as , National Commission for women, National Human Rights Commission and The National Commission for the Protection of Child Rights has also been constituted curbing the menace of Human trafficking in India. The long interventional journey from World Congress II (Yokohama, 2002) to World Congress III (Rio de Janeiro, 2008) for India has been one of proactive collaboration and cooperation of all stakeholders in the fight against trafficking and commercial sexual exploitation of women and children. Several NGOs like Sanlaap, Stree , Shakti Vahini , STOP , Save the Children ,

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and UN agencies have also joined hand for putting to an end to this issue. However, more comprehensive Research and documentation which can result in better policy level alteration, Mass awareness along with behavioral change, and more stringent punitive laws can restrain this menace.

### **Conclusion:**

The purpose of this paper was to assemble an integrated framework for illuminating and describing human trafficking of women and children in India context. Variables from existing international theories were drawn to formulate a comprehensive view of the process followed during the commitment of this crime in India. The basic argument is that, since human trafficking involves a high contingent of role players from a variety of backgrounds, a single explanation for its cause cannot exist. Essentially, human trafficking responses should consider the importance of an integrated framework in order to effectively, prevent, prosecute suspects and protect victims of human trafficking of women and girls for involuntary prostitution. For remedial solution many opinion says that, Legalization of prostitution is sometimes thought to be a solution to trafficking in women, but evidence seems to show that legalized sex industries actually result in increased trafficking to meet the demand for women to be used in the legal sex industries. Increased activity of organized crime networks also accompanies increases in trafficking. Since altogether the theories shows that trafficking of women and children is not only a crime but also creates social conflict as well as disequilibrium. Therefore, keeping the present scenario and theoretical basis in mind the Indian political system should initiate some stringent punitive measures for the perpetrators of this crime which can lead towards the complete elimination of this social problem.

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