

THE EXPLOITIVE NATURE OF PROSTITUTION
AND SEX TRAFFICKING IN INDIA

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THE EXPLOITIVE NATURE OF PROSTITUTION
AND SEX TRAFFICKING IN INDIA

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ABSTRACT

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In this thesis, the emphasis of examination will be placed upon the exploitation of vulnerable women and children into prostitution and sex trafficking in India. By utilizing the term ‘vulnerable,’ I am specifically referring to individuals who are socially and/or economically disadvantaged in society. These individuals are poor and generally have little or no education. India has been referred to as the “world hub in human trafficking” and the world’s hub in prostitution related human trafficking (Digal, 2010). I have chosen to specifically focus upon the sexual exploitation of both women and children in

this thesis because these individuals are most vulnerable to and the most exploited within the sex industry in India. In this thesis, I will seek to argue that despite taking social, political and legal initiatives, India has failed to achieve effective social, political and legal changes for vulnerable peoples. India has violated both national and international law in regards to exploiting women and children in the sex industry. The lives of the vulnerable and exploited victims must be protected and cared for.

Foremost this thesis discusses and examines the phenomenon of prostitution and how it is related to sex trafficking. Secondly, it examines the history of prostitution in India. Third, the sexual exploitation of children and women into prostitution and sex trafficking in current India will be discussed. Forth, it discusses how sexual exploitation can be classified as modern-day slavery. This will be followed with a discussion on why one should see the exploitation of both women and children into prostitution and, or sex trafficking as a great area of concern for the international community. This discussion will then lead into the examination of how India as a nation has dealt with the issue of exploitation of prostitution and sex trafficking. The application of International Law in regards to prostitution and sex trafficking will be examined. Last, but not least the thesis concludes with a discussion on how India can better prevent and protect children and women from being exploited into the sex industry.

CHAPTER 1

WHAT IS PROSTITUTION AND HOW IS IT RELATED TO SEX TRAFFICKING?

First we take the question of prostitution. Karen Peterson-Iyer argues that “prostitution typically refers to a wide variety of sex-for-payment arrangements” (Peterson-Iyer 1998, 20). A prostitute may range from a street prostitute to an upscale ‘call girl’ (Peterson-Iyer 1998, 20). One will generally find that prostitution is viewed to be “perhaps the most stigmatized line of work in which women engage” (Peterson-Iyer 1998, 19). It is women who work as prostitutes. The majority of prostitutes are female, while the majority of their customers are male (Peterson-Iyer 1998, 19). Prostitution is not just a profession divided by gender; it is “largely an illegal profession and one with exploitation, harassment, and violence against women” (Peterson-Iyer 1998, 19).

It is important to introduce and examine some of the many views and beliefs that exist in regards to the prostitution of women. These views either tend to support this line of work, or they simply do not for ethical, moral and humane reasons. I will now discuss and examine some of the pro-prostitution beliefs in regards to prostitution. There exist pro-prostitution arguments which claim to find in “prostitution a practice of women’s resistance to and sexual liberation from norms and traditional moral precepts of sexuality that has served to control and subordinate women” (Every Woman Has a Right: Not to be Prostituted 2001, 7). It is true that there may be women who choose to work as prostitutes

owing to the fact that this realm provides them with sexual liberation and freedom from norms and traditional moral precepts of sexuality. A woman may simply choose to work as a prostitute based upon her personal choice and free will. I argue that the realm of prostitution is like a coin which has two faces to it. On the one side of this coin there lies freedom, this is where women have the choice of working as prostitutes based upon free will. The other side of the coin is where there does not lie any freedom for women to choose whether or not they wish to work as prostitutes. On this particular side, women are either forced, abducted or deceived into prostitution. When I utilize the term, ‘force’ in this context, I am not only referring to the force that is implemented upon women by exploiters or traffickers. This ‘force’ into prostitution also includes economic and social factors which potentially lead women into this realm.

Questions can be raised in regards to the pro-prostitution advocate’s argument. Do women simply choose to work as prostitutes so that they can escape the traditional moral precepts of sexuality and for sexual liberation? Are there not any underlying social and economic factors which would force or deceive women into this line of work? Would women choose to embrace prostitution as their full time career if they were able to fulfill their economic needs through other means in society? There exists no simple answers to these questions, but I will attempt to provide some answers to these questions through the lens of Indian women, throughout this thesis.

For the pro-prostitution advocates, among the human rights principles invoked in order to defend the right to prostitute is the right to self-determination. This right to self-determination is understood as the “person’s right to make autonomous choices and decisions which can include participating in consensual commercial sex as well as setting

the terms of the sexual exchange” (Every Woman Has A Right: Not to be Prostituted 2001, 7). There are problems with this position. This position fails to “acknowledge the social, economic and political structural imbalances and the context within which these choices and decisions are being made” (Every Woman Has a Right: Not to be Prostituted 2001, 7). Vulnerable women and children who are being exploited into prostitution and are trafficked do not essentially possess the right to self-determination. These individuals are not questioned to whether or not they wish to have their bodies prostituted, they are simply forced to prostitute by exploiters or traffickers. Women and children who are exploited into the sex industry are those who are socially, economically and politically disadvantaged in society. It is crucial to think critically and to examine the reality beyond the principle of right to self-determination. Not every individual possesses the choice to apply this principle to his or her life, specifically the ones who are forced, abducted or deceived into the sex industry.

Furthermore, pro-prostitution advocates with their view on the right to self-determination often fail to question the critical question of, “whether prostitution can lead to social and sexual equality for women or will in fact continue to reinforce gender disparities of rights and status”? (Every Woman Has A Right: Not to be Prostituted 2001, 7). When women and children in prostitution are seen as human merchandise for men to purchase and utilize for their disposal, is this fact not reinforcing gender disparity and the ‘low’ status of women in society? When women are being degraded as sexual objects in prostitution, what does this imply about the status of women? In the realm of prostitution, there is a great amount of gender disparity taking place. Women are not being viewed as subjects with rights, but rather as sexual objects that can be sold and bought.

Human rights advocates have pointed out that by “failing to take the phenomenon of male domination of women in both the public and private worlds into account, the right to self-determination can in fact reinforce oppression against women through its complicity in systemic male oppression and violence” (Every Woman Has a Right: Not to be Prostituted 2001, 7). Even worse, the right to self-determination as applied in the sex trade arena trivializes the vast phenomenon of the deception, abduction, and trafficking into prostitution of women and girls; most of these women and girls are from nations in the south where economic and class consideration are at play (Every Woman Has a Right: Not to be Prostituted 2001, 7). Women and children who are exploited or trafficked into prostitution cannot utilize their right to self-determination because their consent does not matter to the exploiters or traffickers. Therefore, in this context, prostitution cannot be defended for by utilizing the principle of right to self-determination specifically in the southern hemisphere of the world. In a nation such as India, millions of young children and women are forced, deceived or abducted into prostitution. This type of force, deception and abduction within the sex industry in India will be discussed in greater detail within this thesis.

It is also crucial to understand the fact that alongside sexually exploited women and children not having the right to self-determination, the male users of prostitution do not ask or even care if the human merchandise they purchase consent to being put at their sexual disposal (Every Woman Has A Right: Not to be Prostituted 2001, 7). One can argue that when men go to a prostitute to have their sexual needs fulfilled by paying a woman, these men are not going to portray any type of caring emotion towards them. They solely visualize prostitutes as sexual objects. This fact can be demonstrated by a

statement stated by a young girl named Ayesha, who was exploited into the sex industry and was working as a prostitute in India. Ayesha states that, “it was typical for me to have ten to twelve buyers every night. They were usually abusive, treating me as if they owned my body. I have a deep scar on my neck from a knife blade, which I got trying to save a young girl from being gang raped. It almost killed me, says Ayesha” (Rescuing victims of sex-trafficking as child pornography rises in India, 2013). This statement exemplifies the fact that when girls and women work as prostitutes, their physical safety is never guaranteed. Violent acts are committed against most and are common.

When pro-prostitution advocates state that prostitution is “work that does no harm because the two parties most directly involved agree to what will happen in the prostitution exchange,” is a highly debatable statement (Every Woman Has a Right: Not to be Prostituted 2001, 8). It may apply to women who choose to embrace prostitution work based upon their personal choice and will. But, even if a woman chooses to work as a prostitute on her will, this does not imply that no mental or physical harm will not be committed against the woman. Violent acts can be committed even if there is consent from the two individuals on what will happen in the prostitution exchange. Violence and degradation against women are inherent conditions of prostitution sex (Every Woman Has A Right: Not to be Prostituted 2001, 8). The possibility of violence is always present in the work of prostitution; sex that is mediated by money implies power to control what kind of sex will happen (Every Woman Has a Right: Not to be Prostituted 2001, 8). If a client encounters refusal of a particular type of sex act, or even if the prostitute suggests the client to utilize a condom, the client will more than likely hire another woman who may be economically needier and will accept his demands due to her extreme poverty

(Every Woman Has A Right: Not to be Prostituted 2001, 8). In this context, one can sense how a woman's poverty is taken full advantage of. If a woman is extremely poor, a man can utilize her body to fulfill his wants with the types of sexual acts that he would like to engage in; these acts can physically and mentally damage women.

Prostitution has also been referred to as a 'victimless crime,' because in many cases it is assumed that the women have provided consent and therefore no crime or harm has been done (Every Woman Has A Right: Not to be Prostituted 2001, 8). This belief is based upon the notion of consent, but this value of consent is not always applicable to prostitution in many parts of the world. The belief that prostitution is a 'victimless crime' is far from the reality. When women are sexually exploited or trafficked into prostitution against their will, then what the pro-prostitution advocates are proposing holds no value. Their belief fails to acknowledge the fact that there are victims of crime because violent acts are often committed against women in prostitution not only because laws are not protecting women, or that their working conditions are not proper, but also because men's use of women and sexual acts carried out are also because of a culture of subordination of women (Every Woman Has a Right: Not to be Prostituted 2001, 8).

When one examines the issue of choice and consent as an analytical tool, it is pointless to understand prostitution as an institution (Every Woman Has a Right: Not to be Prostituted 2001, 7). Rather, it is important to understand that prostitution pre-exists as a "system that requires a supply of female bodies and therefore, women and girls will be kidnapped, deceived, enticed, or persuaded to ensure that supply" (Every Woman Has a Right: Not to be Prostituted 2001, 7). It is important to acknowledge that how women get into prostitution is irrelevant to the functioning of the prostitution system, rather

“prostitution maintains itself as a system by what is and can be done to women in prostitution, and what sexual privileges prostitution allows the male clientele” (Every Woman Has a Right: Not to be Prostituted 2001, 7). The issue of consent, of “personal choice politics rests on a western liberal understanding of human rights that elevates individual will and choice above all other human values and above notions of common good” (Every Woman Has a Right: Not to be Prostituted 2001, 7). The principle of consent in prostitution simply cannot be applied towards the millions of young children and women who are being sexually exploited into the sex industry in India.

Advocates of prostitution also tend to promote the idea of the right to work (Every Woman Has A Right: Not to be Prostituted 2001, 8). The view on the ‘right to work,’ further holds the view that where there are “inadequate, poor or outright bad economic options for women, prostitution may be the best option and that in any case, it is work that does no harm because the two parties most directly involved agree to what will happen in the prostitution exchange” (Every Woman Has a Right: Not to be Prostituted 2001, 8). This particular argument is neither reasonable, or just. It is unreasonable because if one simply accepts the fact that at times there are no better work options for women, apart from working as a prostitute, then this “acceptance is to give up political battle for women’s non-prostitution economic empowerment and also to tolerate the constant expanding operations of vast sex businesses that utilize women as the ‘raw material’ for their business” (Every Woman Has a Right: Not to be Prostituted 2001, 8). The goal in society should be to economically empower women so that they do not resort to prostituting their bodies for survival. If we as a global society continue to accept this perspective proposed by the pro-prostitution advocates, then it may be safe to state

that the sex industry will continue to grow vast in its size and the vulnerable will continue to be sexually exploited.

This argument on the right to work is also unjust because why should economically disadvantaged women have to live with the belief that there may not be better economic options for them to engage and work in, apart from prostituting their bodies? In every society, what is the sole purpose of having a government? We live with the belief that governments exist so that they can provide their citizens with social, political and economic opportunities in order for their citizens to survive and thrive within their societies. It is the government's responsibility to promote its citizens, regardless of one's sex, gender, race or social class with economic opportunities. This includes the opportunity to be able to search for employment where peoples mental and physical safety is ensured. Prostituting bodies as a means of survival is nowhere the best choice or option for women to live with. Inadequate or bad economic options should not imply that the only best survival strategy for poor women is to prostitute their bodies as a source of their economic survival. This is simply unacceptable in the twentieth first century.

It is crucial to look beyond the idea that prostitution is the 'right to work' for women. In reality, prostitution is more than 'work' (Every Woman Has a Right: Not to be Prostituted 2001, 9). Prostitution is "the most systematic institutionalized reduction of women to sex" (Every Woman Has A Right: Not to be Prostituted 2001, 9). In a 1992 UN document, the impact of prostitution on women as a class has been recognized:

by reducing women to commodity to be bought, sold, appropriated, exchanged or acquired, prostitution affected women as a group. It reinforced the societal equation of women to sex which reduced women to being less than human and contributed to sustaining women's second class status throughout the world (Every Woman Has A Right: Not to be Prostituted 2001, 9).

Whether women are choosing to work as prostitutes or they are not, this type of ‘work’ is degrading to women as human beings. This is degrading to women because human bodies should not be seen as commodities which can be sold and bought by peoples for sexual pleasure. Women’s bodies should not be marketed for others to purchase. This buying and selling of women’s bodies exemplifies women’s second class status in many countries. In opposition to the pro-prostitution advocate’s arguments, radical feminists have analyzed prostitution as a:

cornerstone of patriarchal control and sexual subjugation of women that impacts them negatively not just on the women and girls in prostitution, but on all women as a group because prostitution continually affirms and reinforces patriarchal definitions of women as having a primary function to serve men sexually (Every Woman Has A Right: Not to be Prostituted 2001, 7).

This analysis on prostitution can be applied towards the population of India because patriarchal control and sexual subjugation of women continues to exist and thrive within this particular nation. This will be further examined within this thesis. In the realm of human rights, all women have the right to non-discrimination on the basis of sex which is enshrined in all major human rights laws. Prostitution violates this human right of women because prostitution is “a system of extreme discrimination of one group of human beings put in sexual servitude by and for the benefit of another group of human beings” (Every Woman Has a Right: Not to be Prostituted 2001, 9). Prostitution also violates one’s right to physical and moral integrity by the alienation of women’s sexuality by the fact that it is debased and turned into a thing to be bought and sold (Every Woman Has a Right: Not to be Prostituted 2001, 9).

Prostitution violates the “right to liberty and security and the prohibition of slavery, of forced labor, and of trafficking” because millions of girls and women are held in sexual

slavery to meet the demand of even more male buyers of sex and to generate monetary gains for the capitalists of sex (Every Woman Has a Right: Not to be Prostituted 2001, 9). Prostitution itself violates the right to enjoy the “highest standard of physical and mental health because violence, disease, unwanted pregnancies, unsafe abortions, and AIDS stalk present grave risks for women and girls in prostitution” (Every Woman Has a Right: Not to be Prostituted 2001, 9). The incompatibility of prostitution with a conception of true self-determination and freedom is articulated in the platform for action: “the human rights of women include their right to have control over and decide freely and responsibly on matters related to their sexuality, including sexual and reproductive health, free of coercion, discrimination and violence” (Every Woman Has A Right: Not to be Prostituted 2001, 9). It is important for prostitution to be recognized and acknowledged not only as a part, but as a foundation of the larger system of patriarchal subordination of women (Every Woman Has a Right: Not to be Prostituted 2001, 9).

“Gender relations must be reconstructed so that sexuality can once again be an experience of human intimacy and not a commodity to be bought or sold” (Every Woman Has a Right: Not to be Prostituted 2001, 9). Young girls, women and children should not be viewed or be seen as commodities which can be bought and sold. Their socially and, or economically disadvantaged backgrounds should not by any means have them sexually exploited by exploiters or traffickers in society.

After examining the pro-prostitution and feminist perspectives on ‘prostitution,’ one may pose the question of, how is prostitution related to sex trafficking of the human persons? The answer to this question will now be examined. Foremost, the general definition of human trafficking includes the:

recruitment, transportation, transfer, harboring or receipt of persons, by means of the 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 payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation (Batsyukovam 2007, 47).

Sex trafficking, like enforced prostitution also involves exploitation of human beings. It has been argued that trafficking does not mean prostitution (Nair 2007, 1). Rather, in understanding trafficking, one should separate it from prostitution (Nair 2007, 1). Under India's existing law, which is the Immoral Traffic (Prevention) Act (ITPA); prostitution becomes an offense when there is commercial exploitation of a person (Nair 2007, 1). If a woman or a child is sexually exploited where there exists any personal monetary gains of a person, it amounts to commercial sexual exploitation (CSE), which is a legally punishable offense wherein the culpability lies against all exploiters (Nair 2007, 1). Trafficking for CSE is seen to be a demand-driven phenomenon, this phenomenon is facilitated by traffickers, who find trafficking to be highly profitable, low risk and the availability of vulnerable individuals (Joffres et al. 2008). Traffickers are making economical profits by sexually exploiting vulnerable people's bodies for sexual use. The vulnerability of individuals results from factors such as economic, social, political and familial factors and this creates the supply needed by traffickers to meet the nature of the demand (Joffres et al. 2008).

Trafficking is a "process of recruiting, contracting, procuring or hiring a person for CSE. Therefore, trafficking is a process, and CSE is the result" (Nair 2007, 1). The demand in CSE is what essentially perpetuates and promotes trafficking of both women and children (Nair 2007, 1). Human trafficking, which includes the trafficking of women and children for sexual exploitation is a basket of crimes (Nair 2007, 3). In this vicious

basket, one can dig out the elements of, “abduction, kidnapping, grievous hurt, sexual assault, rape, selling and buying of human beings” (Nair 2007, 3). Various types of human rights are violated, such as, “denial of privacy, justice, denial of access to justice, deprivation of basic rights and dignity constitute parts of exploitation” (Nair 2007, 3). Trafficking is an organized crime (Nair 2007, 3). Sexual exploitation dominates the discussion on human trafficking (Batsyukova 2007, 46). This discussion dominates because the “sex industry is more visible than domestic servitude, or organ trafficking and it is also less economically less important than other industries which use trafficked workers” (Batsyukova 2007, 46). Many have argued that it is not prostitution itself that fuels sex trafficking, but the exploitation of prostitution (Batsyukova 2007, 47). Within this context, exploitation includes, at minimum, the exploitation of the “prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs” (Batsyukova 2007, 47).

When vulnerable women and children are forced into prostitution because of their poverty, illiteracy and a lack of awareness, then it is safe to say that this group of people are at a much higher risk in being exploited into the sex trafficking industry, at home and abroad. When individuals prostitute themselves (prostitution) or somebody else forces individuals to sell their bodies for sexual purposes (trafficking), these are exploitative by their nature (Batsyukova 2007, 47). The difference between these two lies in the fact that in the case of prostitution there is the possibility at least that women, young girls and men may choose their path voluntarily. But, in the case of exploited prostitution and human trafficking, these people are usually forced into prostitution and other sex services (Batsyukova 2007, 47). Depending upon the type of services, this includes but is not

limited to, “escort sector, street prostitution, in-door prostitution, lap dancing etc., these are all paid differently, but the prostitutes typically receive material compensation for their services” (Batsyukova 2007, 47). When poor, unaware and illiterate human beings are exploited and trapped into this sex industry, it then becomes very difficult for these people to escape it and rehabilitate back into society in a healthy manner.

CHAPTER II

THE HISTORY OF PROSTITUTION IN INDIA

Prostitution is an “age-old institution in India” (Nag 2001, 4026). The socio-political treatise, *Arthashastra*, which is written by Kautilya sometime between 300 BC and 150 AD, states that, “providing sexual entertainment to the public using trained ‘ganikas’ was an activity strictly controlled by the state and was also, for the most part, carried on by state-owned establishments” (Nag 2001, 4026). The chief controller of this entertainment was responsible for maintaining the accounts in regards to the state expenses for ganikas and also for the payments made to them (Nag 2001, 4026). Since the early days of human history, an Indian woman’s sexuality has been controlled by her nation state. The Indian state has supported the idea of providing sexual entertainment to the public using trained ‘ganikas’ (Nag 2001, 4026). Therefore, the control over the female’s sexuality is rooted in the state of India throughout the Indian history.

As a profession, prostitution has appeared in the literature of a few centuries after the *Vedas* (Bhattacharji 1987, 32). After the earliest Vedic literature between the twelfth and the ninth centuries B.C, there has been a large amount of literature based upon prostitution that covers the period between the eighth and the fifth centuries B.C (Bhattacharji 1987, 32). It has been argued that there is no way to find out the exact time when prostitution in India arose as a recognizable profession, or how much payment the prostitute received for her services (Bhattacharji 1987, 33). The emergence and the

recognition of prostitution as a profession was concomitant with the institution of strict marriage rules, especially the wife being regarded as the private property of her husband (Bhattacharji 1987, 33). The terms “*sadharani or samanya* (common), synonyms for prostitute, distinguish her as a woman possessed by not one man; this is the desideratum” (Bhattacharji 1987, 33). When an Indian woman does not belong to one man, but to many; since she is not seen to be the responsibility of one man, she has to look after her own social and economic well-being (Bhattacharji 1987, 33).

Throughout time within Indian history, gradually, there arose a group of women who:

either because they could not find suitable husbands, or because of early widowhood, unsatisfactory married life or other social pressures especially if they had been violated, abducted or forcibly enjoyed and so denied an honorable status in society, or had been given away as gifts in religious or secular events- such women were frequently forced to take up prostitution as a profession (Bhattacharji 1987, 32-33).

Within this context, it is important to acknowledge the fact that most Indian women who chose to become a part of prostitution were essentially forced to join this profession due to their social or cultural environment, as demonstrated above. Indian women who were seen to be ‘undesirable’ within society due to their social, political and economic status were given no choice, but to join this profession in order to survive. When an economically poor woman is neglected and is not socially accepted within society, she may or may not have been provided with many choices to choose from in regards to making an earning, apart from joining the sex industry in order to survive.

Since the very beginning of Indian history, an Indian woman’s potential social and economic status has depended a lot upon her chastity. For an example, a raped woman had little chance of an honorable marriage and social rehabilitation; so she was “reduced

to prostitution, she had to accept whatever came her way” (Bhattacharji 1987, 33). This phenomenon may seem unreasonable to someone who resides in the western part of the world, but the Indian culture and society places great significance on a woman’s chastity. The prostitution of the women’s bodies in ancient India has existed both overtly and covertly (Bhattacharji 1987, 40). Besides brothels and, or other open establishments run for prostitutes, ancient literature gives a list of many professions for girls where she could be enjoyed by her employer (Bhattacharji 1987, 40). This includes the fact that a young girl or a woman could also act as a substitute for a man’s wife (Bhattacharji 1987, 40).

Women who have been fortunate enough to reside under the desirable social conditions, have been those who have enjoyed the economic and social protection of their husband, father, brother and or son (Bhattacharji 1987, 33). Having economic and social protection of a male over the life of a female is what has essentially determined the Indian female’s potential life style and fate within society. In some parts of India, culture continues to exemplify the belief that young females should be “relegated to a societal status beneath that of men” (Robinson 1997, 246). It was believed in the ancient days that a female is only allowed to acquire status based upon her “sexual prowess, body and sexuality” (Robinson 1997, 246). If people within the Indian culture continue to live with this belief in society, then girls and women will not possess the equal social, political and economic opportunities as men for living a fulfilling life because girls and women will not be given the same opportunities as men since they will continue to be seen as sexual objects and second class citizens within society. Not only is this belief of the Indian people dangerous for girls and women, people have and continue to politicize the sexual exploitation of young girls and women in the name of religion. Religion is still

being used in some parts of India as a means to exploit. For an example, the Devadasi system, is a traditional religious custom that is still prevalent in the southern part of India, particularly in the city of Mumbai (Robinson 1997, 246). The Devadasi system is an ancient cultural practice which essentially encourages young girls to engage in the sexual exploitation of their bodies (Robinson 1997, 246). In a city like Mumbai, thousands of young girls have been and are still participating in a religious practice that requires them to “serve the sex goddess Yelamma” (Robinson 1997, 246).

In ancient India, prostitutes had been referred to as *devadasi* (Sinha 2008, 1). Originally, *devadasi* were celibate dancing girls used in temple ceremonies and they entertained members of the ruling class (Sinha 2008, 1). From the sixth century onwards, the practice of dedicating girls to Hindu gods became prevalent within a practice that eventually developed into prostitution (Sinha 2008, 1). The term *devadasi* literally means “God’s (Dev) female servant (Dasi), where according to this ancient Indian practice, young pre-pubertal girls are married off, given away in matrimony to god or local religious deity of the temple” (Sinha 2008, 1). It is also believed that the devadasi’s were the Buddhist nuns who were degraded to the level of prostitutes after their temples had been taken over by the Brahmins during the times of their resurgence after the fall of Buddhism (Sinha 2008, 1).

Once these young girls reach the age of puberty, a temple ceremony is held for a crowd of men (Robinson 1997, 246). From this crowd, the highest bidder is rewarded with the female child; who will now serve as his mistress or concubine for life (Robinson 1997, 246). When a female child is forced to serve as a man’s mistress for life in the name of religion or culture, this violates human rights as a form of slavery. Not only is

this a form of slavery, but it is also degrading to the child's human dignity. In this context, a female child's body is treated as an object which will be sold dependent upon how much a man is willing to pay. The female child is being sexually exploited in the name of religion. Religion is being used as a tool to sexually exploit female children into prostitution in India. As the child grows into her adolescence, she is sent to a brothel to continue her life as a prostitute (Robinson 1997, 246). It is difficult to comprehend why a young female child should serve as a man's sexual disposal and then after he is finished with utilizing her body, she is sent to a brothel to continue living this way of life. What is even more astonishing is the fact that all of this is being said and done in the name of religion. I question, is it not disrespectful to every religion around the globe to sexually exploit a young child's body and then encourage and lead her to live her entire life as a prostitute in the name of religion? By having girls participate within this religious or cultural practice, for many young girls, prostitution becomes her only purpose in life (Robinson 1997, 246).

Some have argued that the Devadasi system is an:

institutionalized exploitation of women, an exploitation of Dalits (the lower class of untouchables) and also a religious sanction given to prostitution of helpless economically and socially deprived women. It is also the glorification of humiliation of women (Varghese 2010, 1).

I argue that the Devadasi system is an institutionalized exploitation of women because socially and economically disadvantaged women have been sexually exploited in the name of religion for the sexual entertainment of men since the very beginning of human history. Religion has been used as a tool to exploit women. The Devadasi system of giving young girls to temples has been present in some parts of India as early as 300 AD

(Nag 2001, 4026). The Devadasi system had become an established institution by the Hindu population in India by 700 AD (Nag 2001, 4026). The Devadasi's were supposed to "attend to the temple god, to dance and sing before him, and likely the servants of an earthly king, to provide sexual entertainment to temple priests and to others whom god favored- in this case, male worshippers who paid generous donations to the temple" (Nag 2001, 4026). As time went on, the lower class devadasi's provided "sexual favors to common visitors to the temple in exchange of money" (Nag 2001, 4026). This shows one that socially and economically disadvantaged women have been sexually exploited by foremost being exploited by the priests in the name of religion and then as time went on, women started being exploited to the general public.

It is believed that by the beginning of the twentieth century, the Devadasi system in India was being "exploited for recruiting large number of young girls from poor families for prostitution"(Nag 2001, 4026). Despite the fact that various states in India enacted legislation during the 1920's and 1930's in regards to prohibiting the dedication of young girls as Devadasi's, there was no success (Nag 2001, 4026). According to a report published by the "National Human Rights Commission of the Government of India, in modern times this tradition has become associated with money-making and sexual exploitation of women in India (Varghese 2010, 1). Women who are from lower economic and social classes are the ones who are being exploited into prostitution, in the name of religion and, or culture.

The *Devadasi* system was and has been the most prevalent in southern India and it had initially reached its height during the Chola Empire (Sinha 2008, 1). The Indian government has attempted to combat this issue of the devadasi system. Unfortunately the

‘Devadasi Prohibition Act’ has not been successful in solving this problem in India (Sinha 2008, 1). It has been argued that the most important reasons which have led this practice to continue in some parts of India include poverty, ignorance and hunger, which are all essentially forcing women into this type of exploitation (Sinha 2008, 1).

According to the ‘1934 Devadasi Security Act’, this practice has been banned in India (Sinha 2008, 1). This ban was reinforced again in the year of 1980, but this law continues to be broken every day throughout India (Sinha 2008, 1).

The Devadasi system is still prevalent and is still flourishing, particularly in the states of Maharashtra, Andhra Pradesh, Tamil Nadu and Karnataka (Varghese 2010, 1). At the present, it is believed that approximately 450,000 Devadasi’s have been trapped in this form of prostitution, “deified and glorified by the heinous religious sanctions” (Varghese 2010, 1). The practice of devadasis was declared illegal by the government of the states of Karnataka, and the government of Andhra Pradesh in 1988 (Sinha 2008, 1). However, this practice is still intact around the 10 districts around the north of Karnataka and 14 districts in Andhra Pradesh (Sinha 2008, 1). Districts that border the states of Maharashtra and Karnataka are known as the ‘devadasi belt’ (Sinha 2008, 1). This devadasi belt consists of trafficking structures which operate at various levels (Sinha 2008, 1). It is important to acknowledge that the majority of women who are within this area are there mainly either because their husbands have deserted them, or because they have been trafficked through coercion and or deception (Sinha 2008, 1).

In conclusion to the basic history of prostitution in India, prostitution itself has been a part of India for many centuries. During the Mughal era from 1526-1857, prostitution had a strong nexus with the performing arts (Sinha 2008, 1). The Mughals had

patronized prostitution, which had raised the status of singers and dancers to higher levels of prostitution (Sinha 2008, 1). For an example, King Jahangir's harem had 6,000 mistresses who denoted authority, wealth and power (Sinha 2008, 1). During the British era in India, prostitution had flourished the popular, *kamathipura*, a red light district in Mumbai, this was built for the 'refreshment' of British troops (Sinha 2008, 1). This was later taken over by Indian sex workers (Sinha, 2008, 1).

CHAPTER III

PROSTITUTION AND SEX TRAFFICKING OF VULNERABLE WOMEN AND CHILDREN IN CURRENT INDIA

India has been referred to as the “world hub in human trafficking” and India is the world’s hub in prostitution related human trafficking (Digal 2010, 1). According to Santosh Digal, each year, nearly 1.2 million children are victims of human trafficking and prostitution. As many as 100 million people in India, soon to be the world’s most populous country, are involved in trafficking related activities. Individuals are being forced to work in slave-like conditions. Authorities believe that 90 percent of human trafficking in India is intra-country and it is centered in the poorest states of India such as Orissa, Jharkhand, Madhya Pradesh and Chhattisgarh. Sex tourism in India has proven to be highly profitable. It is abominable and shameless that a “fair skinned, eight year old child can fetch US \$2,500 a night” (Digal 2010, 1). Underage, female prostitution in India is a billion dollar industry and it has arisen approximately 30 percent from the previous years. Having underage children work within the sex industry is not just a legal issue, but it also an issue of one’s natural human rights. It is not acceptable under humane terms to have a child sexually exploited and have his or her body used for the daily income of exploiters and, or traffickers.

It is unfortunate that human trafficking in India is becoming more and more rampant (Digal 2010, 1). Jose Vetticattil and Sunitha Krishnan report that in 2002, the United Nations has reported that up to 700, 000 children were trafficked in Asia each year and about 100,000 of them were from India. According to another report, there are approximately 2.3 million women in prostitution, in which a quarter of them are underage. There are well over 1,000 red light districts all over India, where most working prostitutes are underage girls. Many studies in India have also pointed out the extreme magnitude of this problem and its impact specifically upon both women and children. India has been classified as one of the Asian nations where trafficking for commercial sexual exploitation (CSE) has reached alarming levels (Joffres et al. 2008). In India, there is a considerable amount of internal trafficking from one state to another or within states. According to Joffres and other scholars, India has emerged as an international supplier of trafficked women and children to South East Asia, the Gulf States and as well serves as the destination nation for girls and women trafficked for CSE from Nepal and Bangladesh. The trafficking for CSE is a highly profitable and low risk business that preys on vulnerable populations.

India is the source, destination and transit nation for women, men and children subjected to sex trafficking and forced labor (India Country Report: To Prevent and Combat Trafficking and Commercial Sexual Exploitation of Children and Women 2008, 4). Ninety percent of India's trafficking is internal and those who are from India's most disadvantaged social economic class, including the lowest castes are the most vulnerable to forced or bonded labor and sex trafficking (Trafficking in Persons Report-India 2011,

1). According to one study, approximately seventy to eighty per cent of all prostitutes in India have been forced into this life by trickery and violence (Peterson-Iyer 1998, 23). When individuals are forced into prostitution; this coercion essentially damages the mental, emotional and the physical well-being of people, especially women from disadvantaged social and, or economic backgrounds. This argument has been demonstrated by an international expert meeting which was organized by the United Nations Educational, Scientific, and Cultural Organization (UNESCO). The experts found that the majority of female prostitutes had been victims of rape, incest and violence which had resulted “in the destruction of a woman’s identity, an essential step in subsequently transforming the human body into a sexual item of merchandise for commercial purposes” (Reanda 1991, 204). Within this context, if a woman’s body is solely being degraded as a sexual item of merchandise for commercial purposes, one can only imagine the consequences and the impact of this degradation upon the woman’s life and her identity.

India as a nation is a “source, transit, and destination country for women and girls trafficked for CSE” (Joffres et al. 2008). According to Joffres and others, interstate trafficking represents eighty nine percent of trafficking for CSE in India. This percentage is vast in regards to the trafficking of girls and women for CSE in India. The largest supply states in India include: “Andhra Pradesh (16/23 districts affected by trafficking for CSE), Bihar (24/38 districts affected by trafficking), Madhya Pradesh, West Bengal, Karnataka (16/27 districts affected by CSE), Tamil Nadu, Maharashtra and Uttar Pradesh” The largest buyers of minor girls include the states of West Bengal and Maharashtra. Main destinations include, “Delhi, West Bengal (Kolkata), Maharashtra

(Mumbai), Gujarat, Punjab, and Haryana.” (Joffres et al. 2008). Cities in India such as Mumbai, Delhi, Kolkata, Bangalore, Hyderabad, and Chennai have the largest concentration of prostitutes.

It is believed that trafficking from the neighboring nations into India account for about ten percent of trafficking for CSE (India South Asia Regional Conference: (Responding to Trafficking for Sexual Exploitation in South Asia) 2007, 5). Bangladesh and Nepal are the largest suppliers, accounting for 2.17 percent and 2.6 percent of the international traffic for CSE into India (Responding to Trafficking for Sexual Exploitation in South Asia 2007, 5). Approximately 10,000- 20,000 Bangladeshi women and girls are trafficked every year into India (Joffres et al. 2008). Bangladeshi individuals who are specifically trafficked for CSE in India range anywhere between 200,000- 300,000 (Joffres et al. 2008). One can sense how the numbers for individuals trafficked specifically for CSE into India is significantly much higher. One can argue that these vast numbers demonstrate how vast the demand for girls and women into the sex industry in India may be. These trafficked victims are generally kept in the Indian states of West Bengal, Assam, Orissa, or Tripura (Joffres et al. 2008).

These young girls are ‘graded’ according to their “age, beauty (e.g., light or dark skin), and sexual status (e.g., virgin) and are then initiated into commercial sexual customs, and are sent to new destinations, including New Delhi, Agra, Mumbai, Kolkata, Goa, or Pakistan (Karachi and Lahore)” (Joffres et al. 2008). One can sense how these young girls are being seen as commodities and how they are being purchased. This purchase is dependent upon the girl’s physical beauty and their sexual status. By degrading girls and women as commodities which can be bought at a low or high price

depending upon their physical beauty, the Indian society and culture is exemplifying the subordination of women by degrading them as objects which are classified and ranked according to beauty and sexual status.

In India, it is believed that Nepali peoples who are trafficked range anywhere between from 100,000 to 200,000 (Joffres et al. 2008). It has been estimated that each year, between 5,000-10,000 Nepalese girls and women are being trafficked into India for the purposes of commercial sexual exploitation (Responding to Trafficking for Sexual Exploitation in South Asia 2007, 6). It is also estimated that between 40,000 and 200,000 girls and women from Nepal are working in brothels in various cities in India (Responding to Trafficking for Sexual Exploitation in South Asia 2007, 6). Seventy per cent of the trafficked victims, most who are under the age of 16 originate from ethnic minority groups such as the Tamang, Gurung, Magar and Sherpa who often live in remote hill villages or poor border communities (Joffres et al. 2008). Victims who are trafficked are often sold to brokers as small as 200 Nepali Rupees, which is approximately 4 dollars in the United States (Joffres et al. 2008). These victims are then delivered to Indian brothels for amounts ranging anywhere between 15,999 to 40,000 Rupees, which is between US \$500-1300 (Joffres et al. 2008).

India is also a transit nation for “Nepalese and Bangladeshi women trafficked to Pakistan, Western Asia, and the Middle East and for women trafficked from the Russian Federation to Thailand” (Joffres et al. 2008). It is said that data on India as an international supply nation are scarce, however, evidence shows that children from the Indian states of Karnataka, Andhra Pradesh, and Madhya Pradesh are trafficked to the Gulf States, England, Korea and the Philippines for CSE (Joffres et al. 2008). The United

Nations has also reported the “trafficking for CSE from India to Western Asia (the most prevalent), Kenya, The United Arab Emirates, The United States of America, and to a lesser extent to Bahrain, Bhutan, Canada, France, Germany, Kuwait, Malaysia, Netherlands, Pakistan, Saudi Arabia, Singapore, Thailand, Turkey, The United Kingdom, and the United Republic of Tanzania” (Joffres et al. 2008). This demonstrates to one that India has not only expanded trafficking for CSE within India’s borders, but also all around the world.

The figures of children in prostitution in India range from 300,000 to 500,000 (Responding to Trafficking for Sexual Exploitation in South Asia 2007, 5). There exist no exact total numbers of the magnitude and extent of commercial sexual exploitation and trafficking in India (Responding to Trafficking for Sexual Exploitation in South Asia 2007, 5). Children and women are trafficked from neighboring nations such as Bangladesh and Nepal to India and in many other cases, individuals are being trafficked to nations in the Persian Gulf area, Middle East and to Europe (Responding to Trafficking for Sexual Exploitation in South Asia 2007, 5). It is widely argued that people become victims of trafficking due to poverty and the absence of sources of income (Responding to Trafficking for Sexual Exploitation in South Asia 2007, 11). Factors such as “unemployment, poverty, discrimination, corruption, conflict and some cultural practices” all exacerbate the vulnerability of women and children to forced labor (Responding to Trafficking for Sexual Exploitation in South Asia 2007, 21).

Unfortunately, many poor families often have few assets and their incomes are inadequate to support a family and added to this fact is that there may also be so called ‘push’ factors of natural and man-made disasters such as floods, war and terrorism

(Responding to Trafficking for Sexual Exploitation in South Asia 2007, 11). In these types of circumstances, both women and children are compelled to contribute in regards to economically support their families (Responding to Trafficking for Sexual Exploitation in South Asia 2007, 11). With very little options at home, these individuals become vulnerable to trafficking, either from home or as they migrate to other places in search of work (Responding to Trafficking for Sexual Exploitation in South Asia 2007, 11). It is believed that within well-knit communities, families which are known to have financial hardships are directly targeted by sex recruiters and agents (Robinson 1997, 244). Once the target has been set, the exploiter promises the family who is in much needed cash in exchange for the female child's services (Robinson 1997, 244).

Poverty, alongside with high unemployment rates in a nation such as India is the major contributing factor towards a person's vulnerability of being trafficked (Deane 2010, 495). Due to high and ongoing unemployment, poverty or a lack of economic opportunities, traffickers often use promises of higher wages and better working conditions in foreign countries in order to tempt individuals (Deane 2010, 495). Families that do not envision economic opportunities within their communities will sometimes place their children with families and friends where they believe that the prospects for employment may be greater (Deane 2010, 495). Many of these parents are naïve and unaware in that their children are easy prey for traffickers who promise them trade and work opportunities (Deane 2010, 495). Traffickers often lure innocent women from Nepal with false promises of a job or marriage and then sell them in different brothels within India (Deane 2010, 495). These conditions and, or circumstances provide an "easy passage in and out of India for organized human trafficking syndicates to operate

undetected” (Deane 2010, 495). Parents who have been struck with extreme poverty have also sold their children to traffickers to get out of debt and the poverty that they have to face on a daily basis (Deane 2010, 495). Unfortunately, hunger and poverty place both women and children in situations where they are forced to exchange sex for food, shelter and survival (Deane 2010, 495).

Trafficking can arise out of a variety of situations such as “commercial sexual exploitation, forced labor under the pretext of false marriages, adoption and crime and the direct selling of children into prostitution by their families” (Deane 2010, 495). Different groups of traffickers include, “gang members, police, pimps and even politicians all working as a nexus” (Rescuing victims of sex-trafficking as child pornography rises in India, 2013). It is also important to be aware that trafficking networks are well organized and they have linkages both within the nation and in the neighboring nations (Rescuing victims of sex-trafficking as child pornography rises in India, 2013). Most traffickers are men and the role of women in this sex industry in India is restricted to recruitment at the brothels (Rescuing victims of sex-trafficking as child pornography rises in India, 2013). One may pose the general question of, why is the nation of India allowing sex trafficking as an organized crime to continue to operate so vast in size in this country? Child prostitution and exploited prostitution is illegal in the nation of India (Rescuing victims of sex-trafficking as child pornography rises in India, 2013). Indeed it is astonishing and unbelievable that despite India’s national laws and its obligations to International law, brothels that sell children continue to be largely unchecked, even as with the rise in public concern in recent child rape cases (Rescuing victims of sex-trafficking as child pornography rises in India, 2013). The answer is complicated.

There are a variety of reasons to explain why India is particularly a nation that is prone to human trafficking (Deane 2010, 496). Foremost, it is believed that one of the many reasons for the high rate of trafficking can be attributed to the fact that in Nepal and India, child marriage is considered the way best way for acquiring girls for prostitution (Deane 2010, 495). Parents who are extremely poor and illiterate may choose to marry their female children to someone so that they do not carry the economic burden of the child anymore. Traffickers may take advantage of these parents poverty and illiteracy by sexually exploiting their female child in the name of marriage. As mentioned earlier, India's sex industry makes young Nepalese women susceptible to trafficking (Deane 2010, 496). Traffickers, especially those in the commercial sex industry, capitalize and use the lure of more profitable opportunities to trick women into the profession.

Another major reason for the high rate of trafficking can be attributed to the open border that Nepal shares with India. The national border between Nepal and India remains to be open. This national border should be closed because the closing of this border could prove to serve as a prevention mechanism of the trafficking of the vulnerable young women of Nepal into the Indian soil to serve as prostitutes. Many of the women and girls of India are trafficked within the nation for the purposes of forced prostitution (Trafficking in Persons Report- India 2011, 1).

Young girls and women in India are often being tricked or deceived into prostitution by traffickers either by luring them into false employment opportunities in cities, or by making false promises. One of the many examples in ways in which young girls are deceived into prostitution by traffickers is by pretending to love and wanting to marry these girls. An example of this is demonstrated by the unfortunate story of a 13 year old

girl named Ayesha, who naively believed that her boyfriend loved and wanted to marry her (Rescuing victims of sex-trafficking as child pornography rises in India, 2013). Instead, this man betrayed this young child's trust by selling her to a brothel, after taking her away from her home in Calcutta with the false promise of settling down together as a couple (Rescuing victims of sex-trafficking as child pornography rises in India, 2013). This child's innocence was stolen from her right from the moment she was deceived by the man who she thought loved her. Ayesha explains, "I still remember that moment when my whole world shattered into pieces. I've been tortured and abused, and survived serious injuries inflicted by buyers and pimps, but nothing hurts as much as the pain of being deceived by the man I loved" (Rescuing victims of sex-trafficking as child pornography rises in India, 2013). This experience of being sold into prostitution by a person who is known and trusted is unfortunately very common around the world (Rescuing victims of sex-trafficking as child pornography rises in India, 2013). Like Ayesha, "most women are coerced, manipulated, tricked or forced into prostitution" (Rescuing victims of sex-trafficking as child pornography rises in India, 2013).

Just like many other millions of young girls in India, Ayesha's innocence was further exploited once she was sold to a brothel and could not escape this traumatizing environment by any means (Rescuing victims of sex-trafficking as child pornography rises in India, 2013). Ayesha explains that she "tried to leave the dungeon many times. Memories still flash of my hair being pulled, of being dragged through the dirt streets by the brothel owner after a failed escape" (Rescuing victims of sex-trafficking as child pornography rises in India, 2013). This is not the only type of physical abuse which Ayesha had suffered with. Ayesha explains that right from the beginning, she was raped

by the owner of the brothel and she was beat up with a leather belt every day by the brothel madam for resisting this new environment (Rescuing victims of sex-trafficking as child pornography rises in India, 2013). Ayesha mentions that body marks from these beatings still exist on her body and she also states that she was kept locked inside a room with no food or water for days (Rescuing victims of sex-trafficking as child pornography rises in India, 2013).

It is critical to acknowledge that despite the fact that millions of children and women are suffering with abuse in exploited prostitution on a daily basis in India, arrest rates for people accused of “kidnapping, and abduction of girls and women stands today at an incredibly low 3.7 per cent” (Rescuing victims of sex-trafficking as child pornography rises in India, 2013). This low percentage of arrest is unjust to the children and women who are facing unjust mental and physical abuse on a daily basis. Without enforced legal protections or resources, teen girls in India who are trapped in brothels live with danger at all times (Rescuing victims of sex-trafficking as child pornography rises in India, 2013). With the current rise in local acts of sexual aggression, regional advocates fear that women and children who are working within brothels have no other choice than to be a subject of increased levels of torture and exploitation (Rescuing victims of sex-trafficking as child pornography rises in India, 2013). Religious pilgrimage centers and cities for tourism prove to be a dangerous place for children to be in because these centers and cities continue to be vulnerable to child sex tourism (2011 Trafficking in Persons Report, 2011). Sex trafficking in some of the larger cities in India has moved from the red light areas to road side small hotels and also private apartments (2011 Trafficking in Persons Report- 2011). Street children are particularly vulnerable in being exploited in these types

of environments.

It is also necessary to acknowledge the fact that in India, there exists social and economic imperialism of the man over the woman. The male establishes and maintains his power through the patriarchal devaluation of the female (Robinson 1997, 245). The man establishes and maintains his power by keeping the female both economically and educationally marginalized (Robinson 1997, 245). If the men in India continue to apply and live with the patriarchal devaluation of the female, then it is difficult to economically and educationally empower women so that they can socially and economically thrive within society by making their own social and economic choices. In many cases in India, sometimes women are forced to work as prostitutes because they have no other choice. For an example, a woman with the name of Darpana Rana had to turn to prostitution because her husband left her with three children (Rivers, 2011). Darpana explains that, “insufficient income or ‘bad’ husbands- those with a second family, an addiction, or an abusive nature are some of the reasons women slowly, slowly, get involved in the profession” (Rivers, 2011). Oppression and abuse at home can make women feel ‘worthless,’ and unloved which can also lead them towards prostituting their bodies (Rivers, 2011). Therefore, it is crucial for men in India to value the women in their lives and also to empower them and not to leave them with the only choice of prostituting their bodies for their and their children’s survival.

As demonstrated earlier by the Devadasi system, an Indian woman acquires her status based upon her sexual prowess, sexuality and body in some parts of India (Robinson 1997, 247). This cultural practice compels young females to engage and participate in the sexual exploitation of their bodies (Robinson 1997, 246). This cultural

practice is a dangerous phenomenon for the mental, emotional and physical well-being of the female. I utilize the term, ‘dangerous’ within this context because if a culture is encouraging and compelling a young child or female to earn her societal status through the exploitation of her sexuality and body, then the culture is degrading the female’s human dignity and her potential as a human being. If a female is being educated on exploiting her body for men right from an early age, she is not being provided with the opportunity to live her life the way she wishes to do so. By utilizing the mechanism of ‘culture’ people are able to exploit and use not only the female’s body, but also her human dignity. I say human dignity because the female’s right to live life with dignity is also being stolen from her by the ‘culture.’

The Devadasi system, which is seen to be a religious custom still prevalent in Mumbai, which is one of India’s most socially and economically advanced cities (Robinson 1997, 246). Rather than utilizing the name of religion or culture to exploit young girls and women into prostitution, on the contrary, religion can be used to divert women away from it. The following is a brief story of an ex-prostitute whose life has been changed for the better in the name of religion, rather than being sexually exploited in the name of religion. A young, widowed 20 year old woman named Ajanta Gupta had turned to prostitution after her husband had passed away due to the AIDS/HIV virus (Rivers, 2011). Ajanta turned to prostitution because she had no other means to feed and support her two young children (Rivers, 2011). Ajanta joined India’s “fly-prostitutes,” which is where middle-class women and students sell their bodies to earn money, feed their children and pay their rent (Rivers, 2011).

Some women join ‘fly-prostitutes’ due to their existing economic problems and a lack of alternatives (Rivers, 2011). Before Ajanta’s husband had passed away, she worked with Indian pastor, Rabindra Bhat on how best to minister to HIV patients (Rivers, 2011). Ajanta had confessed to the pastor about her involvement with prostitution. Bhat shared the Gospel with Ajanta and a small group of believers began to meet regularly at Ajanta’s home (Rivers, 2011). After some time, Ajanta was baptized by Bhat and after this baptism; Ajanta started to turn customers away from her (Rivers, 2011). Today, Ajanta is socially and economically empowered. Ajanta is now empowered because she now works as a teacher’s assistant at a small pre-school and a local church supplies her with her salary (Rivers, 2011). Ajanta continues to meet with other women and urges them to follow god and explains about the happiness that she has found through Jesus Christ (Rivers, 2011). This brief story portrays to one how a prostitute’s life can be changed for the better by religion, rather than being exploited by it.

It is also critical to acknowledge the fact that the susceptibility of a trafficked woman to HIV/AIDS virus is higher than a woman who chooses to do sex work (India South Asia Regional Conference:(Responding to Trafficking for Sexual Exploitation in South Asia 2007, 27). The reason to this lies in the fact that in addition to being exposed to unsafe and forced sex with multiple partners, victims can also be injected with drugs to increase their compliance, or the victims themselves may choose to inject drugs into themselves as a coping mechanism (Responding to Trafficking for Sexual Exploitation in South Asia 2007, 27). Victims may also contract this deadly virus by receiving medical and, or surgical treatment that may have included forced or voluntary pregnancy

terminations in unsanitary environments and also by unqualified practitioners utilizing contaminated instruments (Responding to Trafficking for Sexual Exploitation in South Asia 2007, 27).

There is a major risk of trafficking victims becoming carriers of the HIV virus and other STD's as they move back into their communities or as they move into new destinations without knowing about their HIV/AIDS status (Responding to Trafficking for Sexual Exploitation in South Asia 2007, 27). It is believed that women who are living with the HIV virus have less access to health care than men (Responding to Trafficking for Sexual Exploitation in South Asia 2007, 27). The reasons for this is that women generally have less free time to access facilities that are available and they also tend to have less money at their disposal and simply cannot afford the medical care (Responding to Trafficking for Sexual Exploitation in South Asia 2007, 27).

Furthermore, it is even more unfortunate that the status of trafficking victims makes them further invisible and reduce their access to health services, mainly those that focus on HIV/AIDS (Responding to Trafficking for Sexual Exploitation in South Asia 2007, 27). More often than not, most victims of trafficking are poorly educated, therefore due to the lack of knowledge about these viruses, they are not looking after their own health. I argue that rather than reducing the status of trafficked peoples as 'invisible,' health professionals must look at these peoples as their priority. Victims of sexual exploitation require the most care and attention in regards to their health. I question, why are victims being labeled as 'invisible' in society when in reality they have committed no crime, rather crime has been committed against their bodies. I argue that trafficking victims must be provided with full health services by health professionals without any type of

discrimination against these victims. If this type of discrimination continues to take place, diseases and viruses will continue to infect peoples and lives will be lost.

One would assume that in a democratic nation such as India, law and justice would be available for those who are being forced, deceived, or abducted into exploited prostitution and sex trafficking. When one has no other to turn to for justice, one seeks to turn to the government, political or the judicial officials for justice. In some parts of India, having corrupt officials and or police do no good to anyone. For an example, it has been argued that in the city of Mumbai, top politicians and police officers are in league with the mafia who control the sex industry, exchanging protection for cash payoffs and donations to campaign war chests (Hughes et al. 1998). Underage girls are rarely found within these brothels because the owners and the pimps receive tips from police about impeding raids (Hughes et al. 1998). In one particular brothel in the city of Mumbai, the police receive weekly bribes called *haftas* from the ‘madams’ (Hughes et al. 2008). It is unfortunate that where the police is supposed to be just by assisting and helping those in need are the ones who prove to be the most unjust. The police contribute in harassing the girls, taking their money and demanding free sexual services (Hughes et al. 2008).

It is very unfortunate that victims are often seen to be wary of law enforcement and this plays a role in leading them to become dependent upon their traffickers and other employees (Responding to Trafficking for Sexual Exploitation in South Asia 2007, 21). Children are denied the right and access to education in these types of environments, this reinforces the cycle of poverty and illiteracy (Responding to Trafficking for Sexual Exploitation in South Asia 2007, 21). Not only do children suffer in regards to their personal development by a lack of education, but communities and countries also suffer

with the loss of their human capital (Responding to Trafficking for Sexual Exploitation in South Asia 2007, 21). If millions of children in India are being sexually exploited and are being denied their right to education, how will India's future capital as a nation grow? Children are every nation's future. If millions of children are not earning an education to socially and economically grow in a nation such as India, then India's future economy is also in danger. Corporations are also running the risk of having their reputations tainted if they are not vigilant against forced labor permeating their supply chains (Responding to Trafficking for Sexual Exploitation in South Asia 2007, 22). Therefore, it is imperative that further effective action is taken to finally put an end to this inhumane practice. It is not only India's responsibility to bring this inhumane practice to an end. There should be an increasing global commitment to do so (Responding to Trafficking for Sexual Exploitation in South Asia 2007, 22).

CHAPTER IV

IS THE SEXUAL EXPLOITATION OF BOTH WOMEN AND CHILDREN CLASSIFIED AS MODERN-DAY SLAVERY?

When people consider slavery, they more than likely assume that it was abolished during the 19th century (Kapsetin 2006, 103). Unfortunately, this is far from the truth (Kapsetin 2006, 103). The truth is that slavery and the global slave trade continues to flourish up until this day (Kapstein 2006, 103). In fact, it is more likely that “people are being trafficked across borders now than any point in the past” (Kapstein 2006, 103). Contemporary slavery “involves women and children being forced into servitude through violence and deprivation” (Kapstein 2006, 103). Enforced prostitution is considered to be slavery-like practice (Reanda 1991, 202). This distinction has been formalized under International Law (Reanda 1991, 202). The exploitation of prostitution was equated with slavery and an international convention was drawn under the United Nations (Reanda 1991, 202). These instruments regard prostitution as human rights violation only if it involves exploitation and coercion (Reanda 1991, 202).

For the Special Rapporteur of the United Nations Economic and Social Council, prostitution is a “form of slavery in which the alienation of the person is far more-reaching than with slavery in its usual sense, where what is alienated is labor, not intimacy” (Reanda 1991, 204). Once entered, prostitution results in a “state of servitude

which may be maintained through overt coercion and physical abuse but is more frequently the result of emotional blackmail, economic deprivation, marginalization and the loss of identity" (Reanda 1991, 205). This demonstrates that coerced prostitution is not something which the prostitute can easily leave, rather coerced prostitution is maintained by enforcing abuse upon the victim. Under International Law, coerced prostitution is slavery. The UNESCO experts concluded that enforced:

prostitution is a violation of Article 1 of the Universal Declaration of Human Rights ("All human beings are born free and equal in dignity and rights"), of Article 4 ("No one shall be held in slavery or servitude"), and of Article 5 ("No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment") (Reanda 1991, 205).

Therefore, when a human being is enforced into prostitution, one is not only being deprived of their basic human rights, but they are also degraded to slaves in society.

Approximately 800, 000 women and children are trafficked each year across the international borders and 80 per cent of these individuals end up in forced sex work (Joffres et al. 2008). Human trafficking for CSE is a gross violation of human rights and has been described as a modern form of slavery (Joffres et al. 2008). The United Nations estimates that the trafficking of women and children in relation to CSE in Asia has victimized over 30 million people (Joffres et al. 2008). India has been identified as one of the Asian nations with a severe CSE trafficking problem (Joffres et al. 2008). The U.S Department of State has placed India on the Tier 2 Watch List for the fourth consecutive year (Joffres et al. 2008). The U.S has warned India that it may be downgraded to a Tier 3 category, exposing itself to international sanctions, unless there are improvements and changes on its record of trafficking (Joffres et al. 2008).

The Department of Women and Child Development (India) has estimated the number

of persons specifically for the purpose of commercial sexual exploitation in India to be around 2.8 million, an increase of 22% from the past (Joffres et al. 2008). The vast majority of trafficked persons in India are young women or children who have been forced into the sex trade as a result of poverty, often before the age of 18 (Joffres et al. 2008). There exists literature demonstrating an increasing demand for younger children and virgins in India, partly due by the fear of contracting the HIV/AIDS virus from girls and women who are not virgins (Joffres et al. 2008). When the fear of contracting HIV/AIDS is leading to the sexual exploitation of young children and virgins in India, not only is this painfully absurd, but also unjust. Young children should not have to sacrifice their human dignity and respect to feed the needs and desires of peoples who are utilizing and exploiting their bodies.

The globalization of economic forces is one of the major elements that contributes to female child prostitution (Robinson 1997, 242). Child prostitution is a multi-billion dollar industry where greed outweighs the best interests of the child (Robinson 1997, 242). Another form of sexual exploitation in India which can be seen as slavery includes Sex Tourism (ST) (Joffres et al. 2008). ST includes the sexual exploitation of young girls by international and Indian tourists; street children are the most vulnerable to this type of sexual exploitation (Joffres et al. 2008). It is said that sex tourism is more prevalent in the ‘pink triangle,’ this includes the “Agra-Delhi-Jaipur belt, as well as south and south-west India; Goa, Maharashtra (Mumbai), Karnataka, Kerala, Tamil Nadu and in Orissa” (Joffres et al. 2008). Himachal Pradesh and Rajasthan are also Indian states where sex tourism is emerging (Joffres et al. 2008). In India, sex tourism can be facilitated by travel agencies, hotels, associated business and tour operators (Joffres et al. 2008). It is believed

that within the last 15 years, CSE has been recognized by two major changes. Women from upper castes are more so becoming victims of CSE and also prostitution is no longer confined to traditional brothels and can be found in new avenues such as dance bars, massage parlors, friendship clubs and huts or bath establishments along the national highways such as the, “Kolkata,-Siliguri-Guwahati-Shillong highway, the Delhi-Kolkata-Chennai-Mumbai highway, the Sholapur-Hyderabad highway; the Grand Trunk Road between Bangladesh and Pakistan” (Joffres et al. 2008).

Sex tourism is a key element to the sexual exploitation of the child (Robinson 1997, 242). Nations in Asia have highly populated child prostitution industry (Robinson 1997, 243). The consumers of this industry include patrons who are American, German, Swedish, European, Australian and also Japanese men (Robinson 1997, 243). Men from the western, industrialized nations are the ones who are contributing in exploiting children in prostitution. This is not only unfortunate, but also disgusting because it is argued that sex tourism remains so popular among these peoples because it “allows patrons to engage in illegal acts and escape without punishment” (Robinson 1997, 243). I question, why should these individuals be allowed to escape without punishment? Why should the innocence of a child be put on the line for a western man to sexually exploit? Why should the child have to place its human dignity in the hands of a potentially psychologically disturbed individual. I use the term ‘psychologically disturbed’ in this context because I believe that a mentally and a psychologically healthy individual will not think of, or support the idea of sexually exploiting such young, innocent human beings. These exploited children are helpless because there is no one in the sex industry to look after their mental and physical well-being, while their bodies are constantly being

sexually utilized by individuals.

In a just society, there should be concern about punishing criminals who commit crimes. Even for minor traffic violation; one receives a fine which must be paid, otherwise there will be consequences for not abiding by the law for the committed crime. Yet people are traveling to Asian countries to sexually exploit the bodies of young innocent persons. The consumers are not punished for sexually exploiting these children. Rather, one can argue that the patrons are given the permission to do whatever they wish to do with someone's body, as long as the body has been paid for. Where is the justice for the young children, girls and women in this context? In cases like these, what happens to law and justice? If someone commits a minor traffic violation and does not pay his or her fine; one will suffer with legal consequences. Yet, when peoples are sexually exploiting the bodies of young children on the southern side of our globe, there are no legal consequences for these peoples. This lack of justice is unjust for the millions of children who are being sexually exploited against their will on a daily basis.

In all forms of slavery, girls and women are subject to physical and mental abuse because of their gender (Herzfeld 2002, 51). Exploitive employers often prefer children in contrast to adults because children are more vulnerable, easier to control, cheaper and less likely to demand higher wages and better working conditions (Herzfeld 2002, 52). Millions of children all around the globe are forced into 'work' that is extremely exploitative and damaging (Herzfeld 2002, 51). These children are being denied their basic right to education and their mental and physical health and their lives are being placed in great risk (Herzfeld 2002, 51). Despite the scale of slavery today, in the 21st century, change is possible (Herzfeld 2002, 53). Anti-Slavery International, which is a human

rights organization, works at the local, national and international levels to eliminate different forms of slavery around the world (Herzfeld 2002, 53). This organization presses and encourages governments that are not enforcing anti-slavery existing legislation to implement it (Herzfeld 2002, 53).

One of the many major reasons why it is difficult to eliminate practices similar to slavery is the lack of political will of governments to enforce laws and their lack of motivation in developing or implementing domestic legislations, allowing slavery to continue (Herzfeld 2002, 54). If the elimination of sexual slavery is to be effective in the near future, alternatives must be made to freed slaves and the issue of poverty must be seriously addressed by governments (Herzfeld 2002, 54). Slaves need to be empowered to free themselves and this is particularly relevant in the case of girls and women who are enslaved and who reside in societies where women have low societal status (Herzfeld 2002, 54). In situations like these, it can prove to be powerful to challenge society's views on girls and women and as well provide training programs and poverty alleviation schemes to empower women and for women to develop and gain their confidence in themselves (Herzfeld 2002, 54). In nations where young girls and women are constantly being reminded that they cannot socially or economically be empowered in society due to their gender, women will not be confident enough about themselves and their capabilities. Therefore, it is imperative to socially, economically and politically empower women. If women are further empowered within a society, one can argue that the nation as a whole will also grow and prosper with the participation of women in the real work force.

Factors such as, "poverty, greed, marginalization, particularly of women and girls

and of minority groups, social complicity, and the lack of political will to address this issue are central to slavery's existence" (Herzfeld 2002, 50). The forces of poverty, marginalization, and social complicity which lead to the exploitation of the vulnerable must be addressed if slavery is to be eliminated (Herzfeld 2002, 54). Who should address these factors for slavery to be eliminated? I argue that this movement starts with the nation's government. It is the government's responsibility to address these critical factors so that its citizens can thrive in society. If governments are not serious enough in initiating change for its citizens, it will be very difficult to bring slavery to an end. Solutions to this social issue must take into account the 'super exploitation' of women, "particularly where families are enslaved and also the underlying low status of women in many countries, which helps to provide the conditions in which slavery can flourish" (Herzfeld 2002, 54). A nation's government can help in eliminating conditions in which slavery can flourish. If a nation's sex industry keeps growing in its size, then it can be assumed that the national government of the nation is not serious enough in regards to bringing change about this social issue.

In regards to India, it has been argued that the most common form of sex work involves girls and young women who are from disadvantaged economically and marginalized groups (e.g. Dalits) who are generally recruited by brokers, sold to pimps or brothel owners (most of whom are ex-prostitutes), and forced into prostitution (Joffres et al. 2008). These brokers could be community members who are known to the victims or the victim's families pretending to help families (Joffres et al. 2008). The recruitment strategies of these individuals include: "false promises of employment; approaching debt-bonded families and persuading them to part with their children to pay for their debts;

abduction; and arranged marriages whereby young women and underage girls are ‘married’ to grooms willing to pay poverty-stricken parents a dowry” (Joffres et al. 2008). Once these young girls are married, marriage makes this form of trafficking difficult to challenge under the law, these wives are forced into prostitution by their husbands and are sold to a broker who resells them to a brothel (Joffres et al. 2008). This practice has been documented in Indian states such as Bihar, West Bengal, Chhattisgarh, Orissa, Uttaranchal and Hyderabad (Joffres et al. 2008). Destinations for girls and women forced into ‘arranged’ marriages include the Indian states of Punjab, Haryana, Uttar Pradesh and the nation of United Arab Emirates (Joffres et al. 2008).

It has been argued that the advanced industrial countries have failed to take much action to address the issue of the slave trade (Kapstein 2006, 103). The problem lies in “political will, not capability, for the rich countries have at their disposal numerous instruments that, if their leaders had the courage to use them, could greatly curtail the global slave trade” (Kapstein 2006, 103). It is tragic that even though the strongest western states have the greatest capacity to suppress the slave trade, they have not done so and key opportunities have been lost in the past (Kapstein 2006, 104). For an example, the “European Union should have used accession talks with potential new members to pressure them to limit the trafficking of their female citizens to the west” (Kapstein 2006, 104). In the past, President George W. Bush and Secretary of State Condoleezza Rice may have initiated some bold pronouncements about eliminating slavery, but the U.S administration has been so focused on war and terror that Bush and Rice have rarely pressed the matter of slavery at meetings with other governments (Kapstein 2006, 104).

Questions can be raised. Why hasn't the US government pressed the matter of slavery at meetings with other governments, despite knowing how vast of a problem sexual slavery is for people, particularly for the victims on the global level? There lies no simple answer to this type of question, but one can argue that there is a lack of political will to bring the change that is much needed and required in the lives of the vulnerable peoples on the global level because this change does not directly have an impact on the governments, nor the lives of peoples residing in western nations.

The United Nations estimates that human traffickers earn "around 10 billion per year and that the average sale price for a slave is around \$12, 500" (Kapstein 2006, 107). In order for this business to thrive, the slave trade requires the direct or indirect involvement of national governments at both the source and the destination (Kapstein 2006, 107). Since the profits from the contemporary slave trade are high; the slavers have plenty of money to pay off government officials and the local police (Kapstein 2006, 107). In some nations, these criminal links go to the very top (Kapstein 2006, 107). For an example, in a September 2005 memorandum to the United States Secretary of State Rice, titled:

"Presidential Determination with respect to Foreign Governments Efforts Regarding Trafficking in Persons," President Bush stated that the Cambodian government had failed to address the trafficking complicity of senior law enforcement officials in that country and that the Myanmar military was directly involved in forced labor (Kapstein 2006, 107).

This provides one with an example of how governments of nations play a major role in the ways in which they are indirectly supporting the sexual exploitation of both women and children. Ever since the abolition of the Atlantic slave trade, slavery has been recognized as "the most abhorrent violation of a person's liberty. This practice runs counter to the entire modern history of human rights" (Kapstein 2006, 108).

The United States has sought to cooperate with foreign governments in combating the slave trade, but it is believed that the United States has rarely punished a nation for failing to act against human trafficking (Kapstein 2006, 110). The list of noncompliant countries include important oil producers such as Kuwait and Saudi Arabia and also great powers such as India, China and Russia (Kapstein 2006, 110). Under the United States law, the President possesses the authority to impose economic sanctions on nations that fail to combat the slave trade by blocking foreign aid and military assistance (Kapstein 2006, 111). Unfortunately, this specific tool has not yet proven to be useful because the countries in question either do not receive US aid, or they are of compelling importance to national security that the President is unwilling to crack down on these certain governments (Kapstein 2006, 111). Politics plays a major role amongst national governments and if the self-interests of these governments collide with one another, then a problem such as human trafficking of vulnerable women and children into prostitution is a difficult issue to tackle and solve. It is not only citizens of a nation who are to be blamed for exploiting the vulnerable into the sex trade, the government also plays its role. In order to complement sanctions, the western nations should empower their intelligence, military forces and their police forces to act more aggressively against those who participate in traffic in human trafficking (Kapstein 2006, 114).

Force was much needed to halt the slave trade in the 19th century and force is necessary in cases today as well (Kapstein 2006, 114). As the social, political and economic hegemony of our globe, if the United States and also some of its European partners wish to half modern day slavery, they will have to use their powers to do so, just as the royal navy halted the Atlantic slave trade on the high seas in the 19th century

(Kapstein 2006, 115). There exists no ‘natural’ way to abolish slavery and any productive policy must start by acknowledging this fact (Kapstein 2006, 115). When it comes to politics, Abraham Lincoln said it best: “in giving freedom to the slave, we ensure freedom to the free” (Kapstein 2006, 115). I argue that whether it be in an indirect or direct manner, the Indian government must be supporting the sexual exploitation of the vulnerable women and children on a global level because if in reality it was not supporting this, India’s sex industry, which includes the sex trafficking of women and children would not be one of the largest in the world.

CHAPTER V

WHY IS PROSTITUTION AND SEX TRAFFICKING OF BOTH WOMEN AND CHILDREN A MAJOR AREA OF CONCERN?

I argue that vulnerable women and children who are exploited into prostitution and, or sex trafficking is a major area of concern within our international community. The identification of women with their physical bodies is the root cause of their oppression in a patriarchal culture and society like India (Mathur 2008, 54). The exploitation of the vulnerable into the sex industry is a great area of concern because the sex industry in India is a highly profitable business due to the involvement and the demand of underage girls (Digal 2010). It is morally wrong for the exploiters and traffickers to be making economic profits off of selling young girls and women's bodies. In cases of exploitation and trafficking, the exploiters continue to gain monetarily, while the victim continues to be harmed and exploited (Nair 2007, 35). The fact is that the "younger the girl, higher the level of exploitation and consequently more 'earning' for the exploiter" (Nair 2007, 35). No one should have the right to forcefully own another human being's body and have the permission to sell it to other peoples without any legal penalties. The nation of India should not be allowing such practices to continue in its nation. India is in violation not only under its national law in regards to the rights of the child, but also under international law. This will be discussed in greater detail throughout this paper. The

exploitation of prostitution itself is wrong in itself due to the following.

The harms and injustices of prostitution are numerous in prostitution, for the client to buy an objectified female body, the prostitute must sell herself in a different and a much more personal sense than that which is required by any other occupation (Davidson 2002, 87). This damages the prostitute. To contract to sexually use the body requires the woman to severe integrity of body and the self, something that carries psychological consequences throughout one's life (Davidson 2002, 87). The trafficking of women and children for sexual exploitation is potentially accompanied by lifelong or life threatening health consequences. Whether a woman or a child is a sex worker or a sex slave, the conditions in which these individuals live in while engaged in sex work is generally hazardous (Wickham 2009, 6). Many sex workers lack adequate sleeping conditions and often sleep and provide sexual services in the same bed (Wickham 2009, 6). Facilities for bathing, washing clothes, and personal hygiene, if available are poorly maintained (Wickham 2009, 6). Sex workers are typically denied or they are unable to acquire proper nutrition and health care (Wickham, 2009, p. 6). As a result, women and children can suffer from a range of adverse health conditions (Wickham, 2009, p. 6).

Survivors of sex trafficking have reported health concerns such as “frequent headaches, skin disease, fatigue, stomach pain, body itching and lower abdomen pain” (Wickham 2009, 6). For both women and children to engage in sexual activity with a vast amount of partners, especially without the use of a condom, results in a high probability of contracting sexually transmitted diseases, including HIV/AIDS (Wickham 2009, 6). Individuals are also highly susceptible to other genital tract infections and pelvic inflammatory diseases due to frequent violent sexual activity (Wickham 2009, 6). For a

woman or a young girl, recurring pregnancy resulting in abortion or delivery, especially after sexual activity can overwhelm a female's body and can cause permanent damage, including future infertility (Wickham 2009, 6). In situations where women and girls have some or no control over their bodies during sexual activity, they are more prone to disease, infection and pregnancy because they are unable to negotiate safe sex practices (Wickham 2009, 6). Adolescent girls experience a greater risk of infection and long term damage because their reproductive tracts are still in the process of maturing (Wickham 2009, 6).

Physical, mental and emotional violence against women and children is highly prevalent within the sex industry (Wickham 2009, 6). Due to a large amount of control and exploitation involved in sex trafficking, almost all of the victims have experienced various forms of violence by their captors (Wickham 2009, 6). The physical form of violence includes, but is not limited to rape, gang rape, burning of breasts and genitals with cigarettes, beating and chaining with fetters (Wickham 2009, 6). Furthermore, of the 200 sex workers interviewed from their drop-in clinics in Tamil Nadu, India over 90% had reported that they had experienced violence by their clients, street criminals and the police (Wickham 2009, 7). The forms of violence which had been reported by these victims includes, but is not limited to "beatings, acid attacks, stabbing or cutting with knives, breaking arms or legs, sexual harassment, rape, hitting with hard objects, throwing stones, shaving heads, putting chili powder in the eyes, beating the soles of the feet and then forcing them to jump up and down and murder" (Wickham 2009, 7). All of these forms of violence are inhumane. People such as clients, street criminals and the police should not have any right to perform any type of violence against these women.

As Wickham has shown frequent acts of physical, mental and sexual violence and exploitation have substantial repercussions for the mental health of both children and women, who have been incorporated into the sex trade. Counselors who have worked and dealt with sex trafficking victims have reported that victims portray an array of emotional problems including, “impatience, irritability, short-temper and violence, lack of obedience, distrust towards others, lack of self-confidence, depression, shame and guilt, negative attitudes, post-traumatic stress disorder and self-mutilation.” It is believed that 40 percent of the sex workers going to the clinics in Tamil Nadu have or are suffering from “depression, anxiety, post-traumatic stress disorder (PTS), mood disorders and schizophrenia.” It was noted that it is also common for sex workers to attempt suicide and engage in deliberate self-harm by “cutting their veins, taking poison and burning themselves.”

The physical and the psychological trauma which both women and children encounter and deal with during their lifetime is not necessarily short term. Rather, this trauma may alter short and long term behavior. In one particular study, youth survivors and children of sex trafficking had reported the following behavioral problems: “inability to express feelings, poor communications skills, inability to make friendships, frightened of adults and or strangers, addiction to drugs and substances, sexual activeness, difficulty with sleeping or nightmares, commitment of suicide and difficulty with adjustments” (Wickham 2009, 7). The unfortunate news is that some of the survivors had reported an inability to “dream and hope and a lack of aspiration and vision for the future” (Wickham 2009, 7). It is apparent that sex workers cannot live a mentally, emotionally and physically fulfilling life even once they have the opportunity to leave this industry. The

mental and physical trauma remains with the victims for life. Everyone deserves the right to live their life with social, economic and political freedom, regardless of one's gender, age or social status. No exploiter, trafficker or government has the inherent right of exploiting someone's life and then leaving them with trauma to suffer with in their remaining years of life. This is simply not just, nor humane.

CHAPTER VI

HOW HAS INDIA DEALT WITH THE ISSUE OF SEXUAL EXPLOITATION OF VULNERABLE WOMEN AND CHILDREN?

Like many other governments in the world, the nation of India utilizes the instrument of law to deal with prostitution (D'Cunha 1987, 1919). India embraces the tolerationist system of law which was initially embodied in the Suppression of Immoral Traffic in Women and Girls Act, (SITA), in 1956 (D'Cunha 1987, 1919). This SITA Act was passed in 1956 and was enforced in India in 1958 (D'Cunha 1987, 1919). The passage of this act was the “result of India being a signatory to the United Nations International Convention for the Suppression of Traffic in Persons passed in 1950” (D'Cunha 1987, 1919). The SITA Act was aimed at abolishing traffic in women and girls for prostitution (D'Cunha 1987, 1919). This act, therefore, “penalized brothel keeping, pimping, procuring, detention of a woman or girl for prostitution and seduction of a woman in custody” (D'Cunha 1987, 1919). I argue that the implementation of this act has greatly failed in India because India has not been effective in penalizing the people who exploit women and girls into prostitution. If India had been effective in penalizing the peoples who are trafficking and exploiting women and children into the sex industry, it would not have the highest rate of women and children who are sexually trafficked or exploited.

Trafficking is prohibited in the Constitution of India (Thomas 2011, 26). As a fundamental right in Article 23, trafficking in human beings is prohibited as are all forms of forced labor. Despite this prohibition, India is a “source, destination and transit country for human trafficking primarily for commercial sexual exploitation and forced labor, and with the falling sex ratio, trafficking for marriage is becoming another pull factor for trafficking of women and girls” (Thomas 2011, 26). In many cases, men are marrying women and are then selling their wives to brothel owners or traffickers in exchange of money. In this context, people are essentially taking the institution of marriage as a joke in order to fulfill their monetary gains. India has addressed in its written constitution, which specifically mentions trafficking in human beings as well as forced labor and also indicates the special protection to be provided to vulnerable groups in society (Thomas 2011, 27).

India has failed in living up to its constitution since millions of vulnerable citizens are being trafficked and exploited on a daily basis. If protecting the vulnerable had been one of the priorities in India, would there be fewer women and children who are sexually exploited today? Despite the fact that it has been explicitly written in the Indian constitution that vulnerable groups in society must be provided with special protection, I argue that this is not the case in reality. If India was serious, further awareness and educational programs would have been implemented to educate the vulnerable peoples. At the present time, vulnerable peoples who are residing in places such as the villages are still not informed or aware enough of how traffickers and exploiters lure and deceive their daughters into the sex industry. The size of the sex industry continues to grow in India due to many various reasons, but one of the many factors that is contributing to

this growth is the fact that people are still not aware or educated enough on how peoples daughters and children are being deceived and tricked into the sex industry. This is a major issue which needs governmental attention.

The Constitution of India discusses provisions on trafficking at different levels. At the level of Fundamental Rights there are “basic rights available to all, irrespective of caste, creed, sex, place of birth etc” (Thomas 2011, 27). When women and children are exploited on a daily basis due to their ‘low caste’ status in India, these peoples basic rights are being violated. As discussed earlier, women from the *Daltis* caste are exploited into prostitution in India because they are seen to be the women of low caste in India. One’s caste should not be determining whether or not they should be exploited. When exploiters and traffickers are choosing this social factor to exploit women, they are clearly violating the basic rights of women. The question in this context is, why is India allowing women of low caste to continue in being sexually exploited? The Indian government has not yet taken serious enough initiatives to prosecute these exploiters so that there can be a decrease, slowly bringing an end to women and children being sexually exploited in the name of their caste, outside and inside of India. If more traffickers and exploiters had been prosecuted for committing the crime of sexually exploiting women and children into the sex industry, then perhaps this social issue would have decreased in its size in India.

It is argued that the government of India has made some progress in law enforcement to combat human trafficking in 2010, but concerns still exist (2011 Trafficking in Persons Report). The central and the state governments have attempted to initiate many initiatives to raise awareness about sex trafficking, but little progress has been made (2011

Trafficking in Persons Report). The Ministry of Home Affairs had recently collaborated with the Indira Gandhi National Open University to launch a six month graduate certificate course on human trafficking (2011 Trafficking in Persons Report). The Ministry of Home Affairs had issued an advisory to encourage police officers to enroll in this course, the government has reported that more than 200 officials have already enrolled, most of whom are police officers (2011 Trafficking in Persons Report).

India prohibits some, but not all forms of sex trafficking through the ‘Immoral Trafficking Prevention Act (ITPA). Penalties under this act range from seven years to life imprisonment (2011 Trafficking in Persons Report). It is known that ITPA crimes are generally tried under magistrate courts, which limits sentences to three years. According to a 2011 Trafficking in Persons report released by the United States Department of State, Indian authorities have used “sections 366(A) and 372 of the Indian Penal Code (IPC), which prohibit kidnapping and selling children into prostitution, respectively to arrest and prosecute suspected sex traffickers. Penalties prescribed under these provisions are a maximum of 10 years of imprisonment and a fine. The Indian government has continued to debate proposed amendments to the ITPA to give trafficking victims greater protections and also to get rid of Section 8, which is used to criminalize sex trafficking victims. Interestingly enough, the state of Goa in India has its own laws prohibiting child trafficking; prescribed penalties under the “2003 Goa Children’s Act include imprisonment of no less than three months and/or a fine for child labor trafficking, and imprisonment for one year and a fine for child sex trafficking” (2011 Trafficking in Persons Report).

In context to the ITPA, specifically section 5 of the ITPA, “a trafficked person could

be a male or a female of any age who has been trafficked for commercial sexual exploitation (CSE) in a brothel or any place where CSE takes place. ITPA provides punishment even for an attempt to traffic a person” (Nair 2007, 3). Therefore, this law comes into question before the person is physically trafficked (Nair 2007, 3). The ITPA is a legislation which provides strength and power to the law enforcement delivery agencies to combat and prevent trafficking (Nair 2007,9). This legislation has been enacted since 1956 and it has been amended by the Indian parliament twice, in 1978 and also in 1986 (Nair 2007, 9). The 1986 amendment had been focused upon prevention, but for various reasons, such as ignorance and a lack of understanding of these provisions, the different provisions of this law are not being used and are also misused and abused (Nair 2007, 9).

If the legislation of the ITPA is utilized in a manner where the legislation is seriously taken into consideration without the lack of ignorance and understanding of these provisions, one can argue that this legislation can be effective and powerful in combating the commercial sexual exploitation of both women and children. The strengths of the ITPA include, but is not limited to the fact that it:

applies to trafficking of males and females, the law gives special attention to women's rights and child rights, commercial sexual exploitation of anybody (irrespective of sex and age) is an offense, the thrust of the law is addressing trafficking and not prostitution, as it is often misunderstood. This legislation also provides special protection to the police officers and NGO's taking part in search, rescue etc from any criminal or civil proceedings against them (Nair 2007, 10).

In Mumbai, India the ITPA court has issued approximately 164 convictions against the brothel owners and pimps; a majority of these convictions were for sex trafficking (2011 Trafficking in Persons Report). Under section 3 of the ITPA, “keeping or managing (or assisting in keeping or managing) a brothel or allowing premises including vehicles to be

used as a brothel” is an offense (Nair 2007, 10). Under the ITPA, if one even attempts to traffic an individual or individuals, this is an offense (Nair 2007, 33). In 2010, the state of Andhra Pradesh courts have registered 118 convictions against pimps and brothel owners under various sections of the IPC and ITPA, with sentences ranging from three to seven years (2011 Trafficking in Persons Report). The majority of these convictions were for sex trafficking (2011 Trafficking in Persons Report). It is not clear to know how many convicted criminals have actually served their sentences (2011 Trafficking in Persons Report).

According to the 2011 Trafficking in Persons Report, it is argued that Indian courts have a lenient attitude towards the bail of trafficking offenders and that the accused are often released on bail after an investigation was over. This facilitates witness intimidation and delayed trials. Obtaining convictions in most parts of India has been difficult due to “overburdened courts, the lack of modern docket systems, a weak understanding of the laws, and a lack of commitment and awareness by many of the local authorities.” Under the Indian constitution, states possess the responsibility for law enforcement and the authorities at the state level are limited in their abilities to effectively confront interstate and transnational trafficking crimes (2011 Trafficking in Persons Report). Therefore, it would be safe to say that the exploitation of the vulnerable into prostitution and or sex trafficking is something which has to be seriously dealt with by the federal government of India.

The government of India’s “Comprehensive Scheme for Strengthening Law Enforcement Response in India” has reserved \$ 12 million over 3 years in order to implement the nationwide anti-trafficking effort (2011 Trafficking in Persons Report). As

a part of this initiative and effort, the state level governments have established nearly 87 new AHTU's in police departments. There is a total of nearly 125 AHTU's spanning in nearly 17 of the 28 Indian states. One can argue that the major obstacle in tackling the issue of forced prostitution and the trafficking of vulnerable women and children is that the involvement of public officials in human trafficking and the pervasiveness of corruption in India has remained to be a significant and unaddressed for greater progress against human trafficking.

According to the 2011 Trafficking in Persons Report, some have gone as far as to argue that corrupt law enforcement officers have reportedly continued to facilitate the movement of sex trafficking victims and have essentially protected the suspected traffickers and brothel keepers from the law. Many of the police officers have continued to tip-off locations of sex and labor trafficking to impede rescue efforts. Reportedly, some owners of the brothels, rice mills and stone quarries are politically connected. As of yet, India has not reported no convictions or sentences of government officials for trafficking related offenses. On the contrary, it is rather striking that the Indian government has arrested a former member of Indian parliament for forcing a young girl into prostitution in the city of Kolkata. This example is a dangerous one. If people such as members of parliament have or are forcing young girls into prostitution, how is this act justified? If political officials are participating within the sex industry, then how can one expect the social, political and, or legal conditions in a nation like India to improve for the vulnerable young girls and women in regards to being sexually exploited? People such as members of parliament are supposed to be the ones who promote, encourage and implement justice for the vulnerable in society. If these people are the ones who are

contributing to the sexual exploitation of women and children, then perhaps they should not be working as, or be promoted as politicians. If corruption is proving to be prevalent, then how can justice be served to the innocent in India? People are proving to be lead by money and not by humanity.

The Ministry of Women and Child Development (MWCD) has funded 331 “Swadhar projects-which help female victims of violence, including sex trafficking- and 134 projects and 73 rehabilitation centers in 16 states under the Ujjawala program- which seeks to protect and rehabilitate female trafficking victims-and 238 women’s helplines” (2011 Trafficking in Persons Report). Some of the NGO’s have noted difficulty in receiving timely disbursements from the national government funding for their shelters under these programs. In fact, some of the rescued sex trafficking victims in the state of Andhra Pradesh have died because of waiting over a three year time period to receive rehabilitation funds. India does not have specialized care for adult male trafficking victims (2011 Trafficking in Persons Report). This is also a problem to be addressed because there should be and there needs to be care available for all human beings, regardless of one’s gender, age and or race.

There is also a problem with shelter homes in India for the victims of prostitution and, or sex trafficking. Conditions of government shelter homes under the MWCD vary from state to state (2011 Trafficking in Persons Report). Many of these shelters have been found to be “unhygienic, offered poor food, and provided limited, if any, psychiatric and medical services” (2011 Trafficking in Persons Report). If these are the conditions in which these shelter homes thrive in, then one can argue that not having a shelter home has the same value as these more or less ‘useless’ shelter homes. It is also believed that

many women may have been placed within these shelter homes against their will. Some shelters did not permit child victims to leave the shelters, not even to attend school to prevent their re-trafficking. Victims of trafficking within shelter homes have to be well protected in India because traffickers have continued to re-traffic victims by meeting shelter managers and pretending to be family members in order to have the victims released to them (2011 Trafficking in Persons Report).

It has been argued that the level to which government officials have encouraged victims to cooperate with law enforcement investigations and prosecutions of traffickers was inconsistent (2011 Trafficking in Persons Report). In most cases, it is the NGO's who have assisted rescued victims in providing evidence to prosecute suspected traffickers (2011 Trafficking in Persons Report). If the government of India is proving not completely and efficiently to cooperate with law enforcement investigations and prosecutions of traffickers then one can argue that it is difficult and it will be a challenge to serve justice to the trafficking victims. Unfortunately, due to the fear of retribution of traffickers, many trafficking victims typically decline to testify against their traffickers (2011 Trafficking in Persons Report). The Supreme Court of India has reportedly issued a directive in February, 2011, this orders all states to provide a list of the measures that they are taking in order to fight prostitution. Training for Indian soldiers and police officers deployed in peacekeeping missions included awareness about trafficking. India has also ratified the 2000 UN TIP Protocol in May, 2011 (2011 Trafficking in Persons Report).

According to a National Human Rights Commission (NHRC) study, a large number of rescued persons are re-trafficked in India (Nair 2007, 54). The victims are often 're-

'victimized' when confronted with the law because unfortunately they are arrested on charges of soliciting (Responding to Trafficking for Sexual Exploitation in South Asia 2007, 3). There are many reasons for the re-trafficking of the rescued persons. Victimization of the victims, the arrest of trafficked persons as accused and their criminalization are just some of the many reasons (Nair 2007, 54). In India, a recent survey by the NHRC states that only 7 per cent of the police officials have received any type of training in regards to combating the crime of human trafficking (Responding to Trafficking for Sexual Exploitation in South Asia 2007, 3). Why is this percentage so low in a nation where the population exceeds a billion people?

It is also critical for legislators in India to amend, or replace the new criminal law on violence against women (India: Reject New Sexual Violence Ordinance 2013). Violence against women in the realm of prostitution and sex trafficking is a major area of concern, therefore it is critical for the Indian government to promote and enforce stricter laws against people who commit not only sexual violence against women, but any other type of violence in general. On February 13, 2013, Indian President Pranab Mukherjee signed the Criminal Law (Amendment) Ordinance 2013. This was signed for amending criminal laws, over protests from human rights and women's rights groups across the nation of India. The rights groups have proposed that the legislation should address sexual violence and should reflect international human rights law and standards. It is stated by Meenakshi Ganguly, South Asia director at Human Rights Watch, that the "new ordinance at long last reforms India's colonial-era laws on sexual violence, but fails to provide crucial human rights protections and redress for victims" (India: Reject New Sexual Violence Ordinance, 2013). Indian parliamentarians should insist on a law that deals with these

critical issues in society.

Criminal law reform to address sexual violence has been the subject of national debate in India since the unfortunate gang rape and death of a 23 year old woman in New Delhi in December, 2012 (India: Reject New Sexual Violence Ordinance, 2013). The Indian government set up a three member committee which was headed by former Supreme Court Justice, J.S Verma to consider reforms to strengthen laws against sexual violence. Unfortunately, the new ordinance proves to ignore the committee's key recommendations, especially on police accountability and framing sexual violence as a violation of women's rights to bodily integrity (India: Reject New Sexual Violence Ordinance, 2013). The rights groups have stated that the ordinance falls short of international human rights standards in several ways. The ordinance "fails to criminalize the full range of sexual violence with appropriate punishments in accordance with international human rights law" (India: Reject New Sexual Violence Ordinance, 2013). The ordinance includes, "vague and discriminatory provisions, and introduces capital punishment in some cases of sexual assault". The ordinance also "retains effective legal immunity for members of state security forces accused of sexual violence, harms rather than helps teenagers by increasing the age of consent to sex, and defines "trafficking" in a way that might conflate it with adult consensual sex work" (India: Reject New Sexual Violence Ordinance, 2013).

Despite India's ongoing social and legal efforts in working on addressing the sexual violence taking against women in the nation, it is difficult to comprehend why some of the definitions which India has incorporated into the ordinance do not appropriately protect women from sexual violence (India: Reject New Sexual Violence Ordinance,

2013). This specific concern was raised by the human rights groups in India. If Indian nationals and parliamentarians are concerned about preventing and protecting women from sexual violence in society, then why are some of the definitions in the ordinance not proving to protect women from sexual violence? It has also been argued that the ordinance retains archaic and discriminatory concepts used to “define criminal offenses as “insults” or “outrages” to women’s “modesty” rather than crimes against their right to bodily integrity” (India: Reject New Sexual Violence Ordinance, 2013). This phenomenon itself violates India’s international legal obligations to amend all laws containing gender discriminatory provisions. If India is still utilizing discriminatory language against women, then how is it possible to achieve justice for women who are victims of sexual violence if the government itself is not directly supporting the women through law? Why has India signed on to International law in context to gender discriminatory provisions, when India itself is proving to be discriminatory against the women of its nation?

Within this context, India is contradicting itself. On the international level, India is saying that it is supporting women against violence through the means of signing on to international conventions, yet inside its own nation, India is retaining discriminatory concepts through the ordinance. The “ordinance includes penetrative sexual offenses within the definition of sexual assault and fails to draw a distinction between the harm caused by penetrative and non-penetrative offenses” (India: Reject New Sexual Violence Ordinance, 2013). For an example, the act of touching a woman’s breast is given the same punishment as someone who has committed a penetrative sexual offence.

Furthermore, something which is even more astonishing is the fact that the ordinance

leaves procedures that place the armed forces and the police above the law in cases of sexual violence committed against women. Under the current criminal procedure and other special laws, security forces and the police are not subject to prosecution, including sexual violence, unless the government body overseeing the respective force approves the prosecution (India: Reject New Sexual Violence Ordinance, 2013). It is believed that this prosecution rarely takes place and that this generally results in effective immunity for police officers and the soldiers who commit this type of serious crime. The Verma committee has recommended these legal immunities to be removed. Constant injustice has been caused to rape survivors in India's North-East, Jammu and Kashmir and Maoist-affected areas due to the protracted legal procedures to prosecute police and the armed forces (India: Reject New Sexual Violence Ordinance, 2013). South Asia director at Human Rights Watch, Meenakshi Ganguly, argues that, "India's laws should not give the police and armed forces special privileges to commit sexual violence and other human rights abuses. Requiring government permission to bring cases against public servants is an unacceptable barrier to justice for survivors of sexual violence" (India: Reject New Sexual Violence Ordinance, 2013).

The rights groups have also stated that the ordinance "conflates the crime of trafficking with adult, consensual sex work in section 370 of the amended penal code". The ordinance states that "exploitation shall include prostitution and other forms of sexual exploitation and adds that the consent of the victim is immaterial in a determination to the offence of trafficking". It is important to acknowledge that while "forced prostitution should be treated as a crime, and consent to a crime should not be a defense, the language of this provision risks conflating adult, voluntary sex with

trafficking into forced prostitution (India: Reject New Sexual Violence Ordinance, 2013).

CHAPTER VII

HOW HAS INDIA VIOLATED INTERNATIONAL LAW?

Reasonable persons rightly regard certain crimes committed against human dignity as outrageous. This, “state torture, state terrorism, and deprivation of basic civil and political rights are subject to international scrutiny and condemnation simply because such activities are contrary to the norms of international law” (Elder 1996, 1). Something that we do not typically take for granted are the “brutal outrages directed against women, such as sexual discrimination, forced marriage, enforced prostitution and sexual mutilation also violate the principles of international law” (Elder 1996, 1). It is also important to acknowledge within this context that vulnerable children and men are also people who we have to take into consideration and care about under international law, it is not only the vulnerable women who we should be simply be concerned about, as a global society.

India is a signatory to international conventions such as the:

Convention on the Rights of the Child (1989), Convention on Elimination of all forms of Discrimination Against Women (1979), UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (2000), the recent South Asian Association for Regional Cooperation (SAARC) and the Convention on Preventing and Combating Trafficking in Women and Children for Prostitution (2002) (Rajalakshmi 2003, 1).

Despite being a signatory to all of these international conventions, India has violated the

norms and values of most of these conventions. The ‘Convention on the Rights of the Child’ concerns the basic rights of children, covering many issues and needs. India has endorsed this convention on December 11, 1992 (Child Rights, 2012). Of the many issues and needs that this convention deals with in regards to children is that this convention seeks to protect children from exploitation (Child Rights, 2012). This convention states that “children have the right to be protected from economic and sexual exploitation” (Mahler 1997, 79). This convention also stipulates that “individual nations have the obligation to take all appropriate legislative, administrative, social and educational measures to protect children from all forms of abuse” (Mahler 1997, 79). In the developing world and in a nation such as India, poverty and economic disparity appear to be associated with exploitative conditions such as trafficking networks (Mahler 1997, 80). I argue that in context to the exploitation of children in sex trafficking, India is in violation of many of the articles under this convention. I will now attempt to discuss and examine out of the many, the few major articles which have been violated by India.

Foremost, under Article 11 (1), “state parties shall take measures to combat the illicit transfer and non-return of children abroad”. One can argue that this article has been violated because as one has already read throughout this paper, governmental officials in India have yet to take serious non corrupt initiatives in combating the issue of sex trafficking of children. Therefore, effective measures are not being taken to combat the illicit transfer and non-return of children abroad. Under Article 32 (1):

state parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child’s education, or to be harmful to the child’s education, or to be harmful to the child’s health, or physical, mental, spiritual, moral or social development (Child Rights, 2012).

I argue that India is in violation of this article because children in India are economically exploited on a daily basis, as discussed earlier within this paper. When children are being sexually exploited for the profit of traffickers, then it is safe to argue that children are not being protected from economic exploitation on a day to day basis. When a child is being exploited, whether this exploitation is economical or sexual, the child is being deprived from its basic right to education, good health, moral and or social development. Children who are exploited are not protected, therefore the state of India must take stronger initiatives to better protect children from being exploited so that the child's basic human rights are not stolen.

Under Article 34 of the Convention on the Rights of the Child:

"state parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, State Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent: a) the inducement or coercion of a child to engage in any unlawful sexual activity; b) the exploitative use of children in prostitution or other unlawful sexual practices (Child Rights, 2012).

This article has been violated by the state of India because if serious initiatives had been undertaken by the national government of India, millions of children would not be sexually exploited in India. Children are engaging in unlawful sexual activity because they are being forced to do so. Therefore, as a nation, I argue that as of yet, India has not proven to take this article and or this convention as seriously as it perhaps should in regards to protecting children from being sexually exploited.

Under article 37 (a), "State Parties shall ensure that no child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment" (Child Rights, 2012). It is arguable that India is in violation of this particular article as well because once children are sexually exploited, children are prone to being tortured and they do

encounter inhuman treatment because they have no one to look after their well-being within the sex industry. If the rate of child prostitution continues to grow every year within India, then it is safe to assume that as a state party to this convention, India is yet to ensure that no child is subjected to inhuman treatment or at minimum protect children from being placed into these undesirable settings and, or conditions. It is important to acknowledge that as a nation India cannot effectively eliminate the exploitation of children all at once, but if greater, harsher penalties and or initiatives are undertaken in order to better protect children, then this issue can be resolved and worked upon.

The government of India has submitted its Initial Report on measures adopted to give effect to the provisions of the ‘Convention on the Elimination of all Forms of Discrimination against Women’ (CEDAW) in August 1998 (Convention on the Elimination of Discrimination Against Women 2005, 2). One can argue that parts of the Indian national law have also been violated in regards to the exploitation of women and children. Article 23 of the Indian constitution prohibits trafficking of human beings and forced labor (Convention on the Elimination of all forms of discrimination against Women 2005, 46). The Indian Penal Code, Sections 372 and 373 “penalize buying and selling of minor girls for purposes of prostitution” (Convention on the Elimination of all forms of discrimination against Women 2005, 46). This law may be written within the Indian constitution, but one can argue that in reality, this law is not enforced and does not seem to carry any significance because minor girls are the ones who essentially dominate the arena of prostitution. The following is an example of how many minor children are being sexually exploited in India.

A report issued by the Indian government found that nearly 1.2 million prostituted

children are enslaved throughout India (Kloer, 2009). It is believed that 1.2 million is approximately the entire population of Dallas, Texas (Kloer, 2009). One study has found that there are approximately three million prostitutes in India, forty percent of whom are minors (Kloer, 2009). This is a vast number of prostituted children. This vast number makes one ask whether anyone is being penalized for buying and selling minor girls? If people were actually being penalized for committing this crime under the Indian law, then perhaps there would not be millions of prostituted children in India, as of today.

In addition to this, India is also a party to the International Convention for Suppression of Traffic in Persons and of the Exploitation of Prostitution, and it has also enacted the Immoral Traffic (Prevention) Act, 1956 (ITPA)" (Convention on the Elimination of all forms of Discrimination against Women 2005, 46). This act has been amended in 1976 and 1986. According to ITPA, prostitution itself is not a crime, but prostitution in public places and soliciting is a crime (Convention on the Elimination of all forms of Discrimination against Women 2005, 46). This act has also been violated because throughout India, prostitution in public places and soliciting is prevalent within society (India: The Demand for Sex Trafficking:(Holding Sex Buyers Accountable, 2009). Soliciting for prostitution is still very common throughout India because when women are brought to the brothels, the brothel owners take all of their little money earned, from the prostitutes clients (Holding Sex Buyers Accountable, 2009). A woman named Beenu describes her personal experience with this fact. Beenu states, "between seven and eight men bought her body daily at a rate of Rs. 50 (US \$1.25), she earns up to Rs 100 (US \$2.50) per day, of which the brothel madam keeps half" (Holding Sex Buyers Accountable, 2009). A woman like Beenu may be prostituting her body,

more or less for economic reasons and this is not a crime under the ITPA. But, under this act, it is a crime to have brothel owners selling and making money off of a woman's body (Holding Sex Buyers Accountable, 2009).

The government of India has been considering amendments to its law on trafficking and prostitution (Holding Sex Buyers Accountable, 2009). The 'Immoral Traffic (Prevention) Amendment (ITPA) Bill 2006 has proposed changes in a variety of areas including "decriminalizing prostituted women and penalizing buyers of prostituted women" (Holding Sex Buyers Accountable, 2009). The question with this is that how is this bill going to be enforced when there are millions of brothel owners in India, who are constant buyers of prostituted women? How will these buyers be effectively penalized? Changes should begin on the small scale and then build towards a larger agenda. For an example, foremost, one important change would call political officials and police officers end corrupt practices permitting the exploitation of both women and children into prostitution and or sex trafficking.

Groups including the "Apne Aap Women Worldwide,' a survivor led organization that began in 1998 as a community based initiative of women in the red light district of Mumbai have been advocating for the proposed changes" (Holding Sex Buyers Accountable, 2009). However, this specific group has been facing opposition. They face opposition to this provision that would penalize the buyers, which is set forth in Section 5C of the bill (Holding Sex Buyers Accountable, 2009). One of the many arguments which have been made in regards to the opposition of this bill is the belief of "regulation of prostitution- and hence its legalization- would guarantee the use of condoms to prevent the spread of HIV/AIDS, which is prevalent in the sex industry" (Holding Sex Buyers

Accountable, 2009). The condom provision approach fails to take into account that prostituted women are essentially not able to force commercial sex buyers to use condoms (Holding Sex Buyers Accountable, 2009). Regulation of the sex industry has not shown any plausible improvements in being able to negotiate the use of condoms (Holding Sex Buyers Accountable, 2009).

Under Article 16 of the ‘1949 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of others’ to which India is a signatory to, state parties have agreed to “take or to encourage, through public and private educational, health, social, economical, and other related services, measures for prevention of prostitution and for the rehabilitation and social adjustment of the victims of prostitution” (Holding Sex Buyers Accountable, 2009). NGO’s and government reports have reported that there are “hundreds of thousands to millions of women and girls prostituted in India, many of whom are victims of sex trafficking” (Holding Sex Buyers Accountable, 2009). It is argued that the majority of girls and women who are trafficked and prostituted within India are from the ‘lower’ castes and many girls are brought to this sex industry as young as 13 years of age. The United Nations committee on the Elimination of Racial Discrimination in March, 2007 has raised concerns with India in regards to the sexual exploitation of the tribal and ‘lower caste’ women who are constantly trafficked into prostitution. The exploitation of ‘lower caste’ women still takes place despite the fact that under article 15 of the Indian constitution, law “prohibits discrimination on grounds of religion, race, caste, sex or place of birth,” the exploitation of women and girls continue (Holding Sex Buyers Accountable, 2009).

Furthermore, India is a signatory to the international “Protocol to Prevent, Suppress

and Punish Trafficking in Persons, especially women and children” (United Nations Office on Drugs and Crime, 2012). India signed on to this treaty on December 2, 2002 (United Nations Office on Drugs and Crime, 2012). After an 11 year old delay, India has finally ratified the Protocol on human trafficking on May 5, 2011 (India finally ratifies the UN Trafficking Protocol, 2012). This protocol is significant because it gave the first comprehensive definition of human trafficking and it required nations to criminalize the practice and to adopt legislation to translate the Protocol’s obligations into national law (India finally ratifies the UN Trafficking Protocol, 2012). Ratification of this convention now means that it is now binding upon India to develop a law that actually conforms to the International convention and its provisions (India finally ratifies the UN Trafficking Protocol, 2012). The lack of effective prosecutions and enforcement has been blamed partly due to corruption in India (India finally ratifies the UN Trafficking Protocol, 2012). Due to this fear of corruption, India has also ratified the ‘UN Convention against Corruption’ (India finally ratifies the UN Trafficking Protocol, 2012). Prime Minister, Manmohan Singh announced that the “ratification of the United Nations Convention against Corruption is a reaffirmation of our government’s commitment to fight corruption” (India finally ratifies the UN Trafficking Protocol, 2012).

Last, but not least in regards to exploitation of both women and children into prostitution and sex trafficking, India is also a member state to of the ‘South Asian Association for Regional Cooperation’ (SAARC Convention on Prevention and Combatting the Trafficking in Women and Children for Prostitution, 2005). The purpose of this convention is to promote cooperation amongst member states so that they may effectively deal with the various aspects of:

prevention, interdiction and suppression of trafficking in women and children; the repatriation and rehabilitation of victims of trafficking and prevent the use of women and children in international prostitution networks, particularly where the countries of the SAARC region are the countries of origin, transit and destination (SAARC Convention on Prevention and Combatting the Trafficking in Women and Children for Prostitution, 2005).

The prevention, interdiction and suppression of trafficking in women and children are much required in current India.

It is crucial to strengthen the Immoral Trafficking Prevention Act, which is “India’s legal response to trafficking, in accordance to the United Nations Protocol to Prevent, Suppress and Punish Trafficking in persons, Especially Women and Children (2000) and the UN Recommended Principles and Guidelines of Human Rights and Human Trafficking (2002)” (Joffres et al. 2008). Anti-trafficking policies should not only be addressing the causes of both supply and demand of trafficked peoples, but they also must include the protection of and assistance to trafficked peoples, appropriate enforcement mechanisms, and adequate sanctions against the traffickers. Protection and assistance to the victims should include, “compensation for victims of trafficking; necessary medical care; provision of free legal assistance; and the rehabilitation and reintegration of rescued victims in consultation with trafficked victims and countries of origin” (Joffres et al. 2008).

One of the most problematic issues of eliminating trafficking is the compliance with International law (King, Date N/A, 88). Measures for compliance with international treaties include signature, ratification, and enforcement of international agreements (King, 88). Once a state signs and ratifies a treaty; it is subject to monitoring by U.N committees, which receive input from non-governmental organizations. Enforcement of

international law in context to human trafficking is most effective and efficient when it is incorporated into domestic and regional legislation (King, 88-89). On the contrary to this argument, one can argue that even if state parties enforce international law in context to human trafficking within their own domestic law, laws are still not being obeyed. One can see this with the example of India. As examined earlier within this paper, India may have laws written in its constitution, but in reality these laws are not being effectively enforced within the Indian society in context to the exploitation of prostitution and or sex trafficking.

It is also difficult to enforce anti-trafficking laws because victims of trafficking are hesitant to identify traffickers for fear of repercussion. Furthermore, trafficking of human beings is a crime that transcends borders and jurisdictions. The application of International law to a person who lives in another nation is a costly and complex endeavor to undertake. The trafficking of humans usually violates several laws, not just one. It is also important to acknowledge that building a case against traffickers can take a great deal amount of time, energy and resources. In countries, such as India where resources are limited; these types of complexities can hinder enforcement of anti-trafficking laws (King, 89).

As discussed earlier in context to local enforcement officers, anti-trafficking laws is the lack of training of the local enforcement officers within the state (King, 90). Even if a state such as India has implemented anti-trafficking laws, it is not likely that the border patrol officers, federal agents and police officers are well versed on domestic or international laws in regards to human trafficking. Unfortunately, victims of trafficking are typically treated as criminals or illegal immigrants or are either arrested or deported.

In addition to all of this, most trafficking victims are typically not in their country of origin, there is often a language barrier between enforcement officers and victims making information gathering further difficult (King, 90). The vast number of resources needed to ensure that officers are able to enforce anti-trafficking laws are limited or are unavailable in most states (King, 90). One of the goals of UN.GIFT is to help build awareness of the issue and provide technical assistance. This assistance would include, “draft legislation, manuals for various law enforcement agencies and victims, and fact sheets for raising awareness” (King, 90). States, such as the United States have already begun implementing awareness programs for law enforcement officers. In addition, NGO’s throughout the globe have a crucial role in raising awareness about and monitoring human trafficking.

CHAPTER VIII

HOW CAN INDIA BETTER PROTECT THE POTENTIAL AND/OR EXPLOITED VICTIMS OF PROSTITUTION AND SEX TRAFFICKING?

It has been widely argued that the root cause of exploited prostitution and sex trafficking of vulnerable women and children is mainly due to poverty, unemployment and a lack of education (Orhant, 2001). In order to reduce the number of people being trafficked, worldwide governments and nongovernmental organizations and many others are attempting to tackle some of the root causes that encourage this practice. Poverty, unemployment and a lack of education and access to resources are the major driving forces as people are constantly taking risks improve their living conditions. The roots of sexual exploitation and trafficking are systemic and structural, prevention efforts should at the very least address some of the most fundamental issues that render women and girls vulnerable to trafficking (Samarasinghe & Burton 2007, 54). These issues clearly include the disadvantages for women in regards to poverty, education and wage employment (Samarasinghe & Burton 2007, 54).

A major issue with prevention of women being trafficked is also the lack of awareness among people in at-risk communities of the trafficking industry (Samarasinghe & Burton 2007, 55). Poor families living in villages are the most vulnerable in being deceived by traffickers. The Indian government should not just ignore the social, political

and economic well-being of these poor individuals. The government needs to take further, effective initiatives such as effective sexual exploitation awareness programs in the villages. The government should hire educated employees and then send them to rural villages to educate and communicate with these vulnerable human beings so that the families daughter and, or daughters lives can be saved from being sexually exploited within and out of the country. By receiving this type of awareness and education through government funded programs, thousands, if not millions of lives can be saved.

Development activities designed to promote the educational and vocational status of girls and women which raise their individual incomes are increasingly acknowledged in preventing trafficking (Samarasinghe & Burton 2007, 58). India must empower its girls and women through the mechanism of education for not only awareness, but also so that they can financially support themselves and their families. Girls and women should not have to place their human dignity on the line for survival. Rather, the voices of young girls and women should be empowered, but this is only possible if they are educated. The “ultimate objective is to empower women in order to prevent them from being forced into the sex industry” (Samarasinghe & Burton 2007, 58). In India, educational strategies aimed at young girls are seen in many regions.

Under Article 39 of the Convention on the Rights of the Child, there is a proposal for AIDS treatment, which the Indian government should seriously look into and enforce it within the nation (Robinson 1997, 258). By enforcing Article 39, India, being one of the signatories of this convention should provide medical treatment facilities that employ pediatricians, AIDS specialists and AIDS counselors for all victims, who have been exploited into prostitution and, or sex trafficking (Robinson 1997, 258). India should also

have medicine available that can treat AIDS throughout various stages (Robinson 1997, 258). This would not prove to be an inexpensive agenda, but at the end of the day a nation's people matter and it is not only the wealthy who matter, it is also the vulnerable human beings, who must be catered and cared for within society. When the poor, exploited people have no other to turn too, it is the government's responsibility to provide justice and care for all of its citizens. Furthermore, rather than having India's many corrupt politicians and or police officers to assist in exploiting the poor and vulnerable into prostitution and or sex trafficking, these individuals should provide victims with information on how to spread of the virus to other individuals via education on the transmission of HIV and the use of condoms (Robinson 1997, 259).

Individuals who are victims of prostitution and or sex trafficking, who endure rape, child abuse and degradation will require psychiatric help (Robinson 1997, 259). It has been argued that in "developing countries, psychological damage may not warrant extensive treatment because of the acceptance of child prostitution in the culture" (Robinson 1997, 259). This argument cannot be applied to every developing nation because this argument may or may not be applicable within a particular culture and, or community. But, in order for victims to enjoy life again, it is important and essential for India to provide facilities that can help the victims to cope with the trauma that they have endured (Robinson 1997, 259). Facilities should provide a means for victims to reconnect with people and society (Robinson 1997, 259). This type of therapy will allow the victim to relate with others who have been abused (Robinson 1997, 259). In effect, particularly the child will see that he or she is not alone and will hopefully be able to discuss the trauma that he or she sustained with individuals who can similarly understand

(Robinson 1997, 259).

In order to better protect the victims of prostitution and or sex trafficking, educational rehabilitation is the most important. The exploited prostitute, whether it be a woman, man or a child must not be deprived from the opportunity to read, write and think on their own (Robinson 1997, 259). There needs to be more governmental funded programs where victims can acquire the basic fundamentals of reading, writing and arithmetic (Robinson 1997, 259). Overall, these types of programs should place the victim at the point where the victim can find a job or allow him or her to continue with their education (Robinson 1997, 259). As discussed earlier, poverty plays a major role, particularly in female prostitution (Robinson 1997, 259). Earning a basic education is empowerment because one can and will become aware of what exploitation is and how it works within society within this context.

On the contrary, it is important to acknowledge that India is still an economically developing nation, therefore as much as one would like India to invest in worthwhile governmental funded programs for the victims of prostitution and or sex trafficking, it may not be completely possible to be able to afford first class “facilities, medical supplies, educational programs, physicians, counselors, or treatment programs to rehabilitate the victims” (Robinson 1997, 260). In response to the issue of exploiting children into prostitution and or sex trafficking, it has been recommended that developed signatory countries to the Convention on the Rights of the Child can augment the amount of fines imposed on sex tourists convicted of having sexual intercourse with children abroad (Robinson 1997, 260).

It has been recommended that developed nations can place the money from the increased fine in an international fund (Robinson 1997, 260). The level of monetary allowance can or may be based upon the developing nation's number of victims (Robinson 1997, 260). But, in order for this approach to actually work and be successful in reality, further international commitment of other nations is much needed (Robinson 1997, 260). The governments of nations within our global society must take this convention seriously in order to find avenues in order to help the vulnerable, who are exploited into prostitution and or sex trafficking (Robinson 1997, 260). To fight an unjust issue such as the exploitation of the vulnerable into the sex trade, the cooperation and sincere support is required and much needed from all nations within our global society.

In some parts of India, especially in the more economically poorer states, women are deprived of basic education, opportunity and hope (Robinson 1997, 260). As discussed earlier, the Devadasi system, mainly prevalent in southern India essentially deprives women from their individual desires and hope in the name of religion and culture. One can raise the question, is it appropriate for “parents in developing countries to allow the sexual exploitation of their child based on cultural notions of family obligation or religious practices”? (Robinson 1997, 261). Every culture, beliefs and religion should be respected, but if young, illiterate, and vulnerable females are being exploited into prostitution and or sex trafficking in the name of religion for the economic exploitation of the female’s body, then this is simply unacceptable. The “regulation of the female child to prostitution should be universally condemned” (Robinson 1997, 261). The attempts to change cultural practices are not impossible, if state parties to a convention like the

Convention on the Rights of the Child are vigilant enough in condemning female child prostitution, it can be possible for some if not many cultures to cease this practice (Robinson 1997, 261). Legislators and law enforcement should also recognize that the vulnerable child, woman or man should not be punished, but rather be respectfully rehabilitated into society (Robinson 1997, 261). Rather than placing the victims in jail, government officials should effectively enact measures that will punish the parents, pimps and customers (Robinson 1997, 261).

In parts of India, it has been often seen that victims of sexual exploitation are the ones who are often blamed, neglected and even criminalized after their rescue (Nair 2007, 54). This is completely wrong and absurd. People and also the Indian policy makers need to understand that sexually exploited victims are already mentally, emotionally and physically traumatized by being a part of the sex industry. The victims do not need to be further traumatized by being blamed and neglected for being exploited against their will. Rather, once victims have been rescued, it is very important to provide protection and care of the victims (Nair 2007, 54). It is also critical to rescue these victims with the proper rescue processes and not criminalize them (Nair 2007, 54). The only ones that should be criminalized and punished are the traffickers and abusers, but never the victims (Nair 2007, 54). Within this context, it is not just when vulnerable children and women are exploited into the sex trade by people who want to make profit off of their bodies. Furthermore, it is not just to criminalize these victims. It is only just if the abusers, exploiters and traffickers are criminalized for taking social and economic advantage of other human beings for their monetary gains.

The Indian police officials should be identifying vulnerable areas and individuals and focus their attention on them, empower them and also let this be a priority (Nair 2007, 55). The top priority for these officials should be to pay special attention towards the children that are kept in brothels (Nair 2007, 55). Children must be kept out and away from these brothels. If there is honest, proactive policing with the support of NGO's, a major change can be stimulated within the Indian society in regards to the sexual exploitation of both young women and children. By networking with civil society members such as NGO's, social activists, academia, lawyers, police officials can perform a better job of identifying and addressing vulnerabilities, keeping surveillance on exploiters, promoting public awareness and empowerment programs. It is critical for the Indian police officials and stations to be strengthened. Institutionalization of the response systems requires that the police stations, which are the fundamental unit of police administration and public service to be strengthened. Apart from empowering the police stations with material and human resources, their capabilities should be further enriched with discussions and training (Nair 2007, 55-57).

Media can also play a critical and a proactive role. Police managers and investigators should capitalize on this. Dissemination and of the rights of girl children and women's rights through the media would empower the peoples, especially the vulnerable, increase their awareness and alertness to the various issues, help them to come out of the 'culture of silence' and more towards a culture of 'zero tolerance' (Nair 2007, 63). There should be workshops facilitated and debates should also take place amongst media and the police to ensure the rights of women and children to be protected and provide adequate

publicity about convictions about traffickers and other exploiters (Nair 2007, 64). It is argued that naming and shaming traffickers and exploiters has a positive deterrent effect (Nair 2007, 63).

In order to prevent and protect the sexual exploitation of the vulnerable women and children in India, it is also important to recognize and acknowledge the role of youth as a major change maker in society and encourage them to join the fight against trafficking (India South Asia Regional Conference: Responding to Trafficking for Sexual Exploitation in South Asia 2007, 19). The media should also play a major role in educating and addressing the youth and adolescents on matters of sexuality, gender, child rights and women's rights (Nair 2007, 64). This type of education and awareness can not only contribute to the prevention of trafficking and other human rights violations of women and children, but it can also help to develop zero tolerance to all other types of violations against these individuals (Nair 2007, 64). Media professionals should also develop strategies which will strengthen the role of the media in providing information that is the highest of quality, reliability and ethical standard concerning all aspects of trafficking (Responding to Trafficking for Sexual Exploitation in South Asia 2007, 19). We must all acknowledge that violations of human rights are both a cause and a consequence of human trafficking (Responding to Trafficking for Sexual Exploitation in South Asia 2007, 19). Therefore, it is critical to place protection of all human rights at the center to prevent and also to combat these crimes (Responding to Trafficking for Sexual Exploitation in South Asia 2007, 19).

It is crucial to call upon the government, civil society organizations and

corporations to formulate or strengthen and implement gender-sensitive social and economic policies to assist women and children vulnerable to trafficking and families and communities in resisting acts that lead to trafficking, with special attention to family abuse, harmful traditional practices and their impact on girls, and to reduce poverty (Responding to Trafficking for Sexual Exploitation in South Asia 2007, 18). Poverty can be reduced by promoting gainful employment, income generation and other supporting and ensuring access to welfare schemes and programs (Responding to Trafficking for Sexual Exploitation in South Asia 2007, 18). It is also crucial and necessary for the Indian government to ensure the strengthening of collaborative efforts with the local, municipal and non-governmental organizations towards promoting “education and vocational training, microcredit, and other poverty reduction programs, including improved access to existing government programs” (Responding to Trafficking for Sexual Exploitation in South Asia 2007, 19).

In India, it is also critical to examine how citizens within the Indian society can contribute in helping to prevent the sexual exploitation of the vulnerable human beings. It is believed that trafficking in India is carried out from one place to another by transit places. Stopping and preventing the exploitation of the vulnerable from the public places has proven to be effective in the past. For an example, the ‘Rights Intervention Centre’ which has been started by the NGO, ‘Sewa’ at Sanauli, India with collaboration with the local police is an example of prevention of trafficking (Nair 2007, 53). It is believed that within a time period of 9 months, 65 girls could be prevented from exploitation by interception at the transit places. If effective surveillance and watch on suspects is implemented at the transit places by deputing spotters in collaboration with the NGO’s;

this can be a good method to essentially save the lives of the vulnerable. Innocent lives can be saved from sexual exploitation by the traffickers if people within society are more aware of what is happening and taking place around them at public places. This is why it is also very critical for the civil society to be aware and educated on how and why the sexual exploitation of the vulnerable women and children is taking place. If people are more aware and educated on the facts, then this awareness and education can greatly contribute in saving thousands of lives from this evil in the Indian society.

Amongst other nations in South Asia, India is also one of the many nations in which victim witness protection that is neglected. One of the major reasons for the low rates of complaints and trafficking cases is the reluctance of the victims to come forward to file complaints against those individuals who have violated their rights or to testify against them in courts (Responding to Trafficking for Sexual Exploitation in South Asia 2007, 20). If the victims are reluctant to file complaints due to factors such as shame, neglect in society, or fear then it will be difficult to achieve justice not only for the victim, but also for the millions of other victims. Strong legal instruments are much required and needed for the protection of victim witnesses. States such as India should adopt stronger witness protection laws so that the witnesses are able to complain and give their statements without any fear at the time (Responding to Trafficking for Sexual Exploitation in South Asia 2007, 21).

Apart from the social and political factors that have been addressed in order to prevent the vulnerable from being sexually exploited in India, it is also crucial to acknowledge the fact that there are gaps in the legal framework of trafficking in India. Crucial gaps in the legal framework have an impact on the areas of prosecution,

protection and prevention (Thomas 2011, 36). Foremost, there exists the lack of a comprehensive definition of trafficking as a common platform for the States to work together with one another, or even for punishing all forms of trafficking within the nations. Gender sensitivity is also missing. Even though there exist laws for women, this does not imply that law is sensitive towards them. For an example, there are provisions in the ITPA, which penalize the victim, rather than penalizing the trafficker or exploiter (Thomas 2011, 36). Why are victims being penalized in cases where they are lured into the sex industry by deception? Why are the exploiters and traffickers not being penalized for sexually exploiting young girls, women and children into prostitution and sex trafficking when this is against India's constitution?

In regards to prosecution, trafficking is often not seen as an organized crime and provisions relevant to organized crime are not made use of in trafficking cases (Thomas 2011, 36). Many have argued that sex trafficking of women and children is an organized crime, political power and money are essentially running and operating this industry. Why is trafficking not seen to be an organized crime? Is it not believed to be an organized crime because government officials are involved in this industry? Is political power, money and status covering up this belief that trafficking is not seen as an organized crime and that provisions relevant to organized crime are not made use of in trafficking cases? There is no simple, concrete answer to these questions.

In regards to the gaps in protection of victims in India, there is sometimes no adequate distinction drawn between the trafficker and the victims. An example of this is in the case of prostitution without documents. Sections 4 and 8 of the ITPA have been used against the victim herself in some cases. There is also no positive duty cast upon

States to provide a sufficient amount of shelters or rescue although provisions exist in various types of legislations, such as the ITPA. An atmosphere to make it safe and comfortable for victims to testify in court is not created. There are no witness protection programs either and many witnesses turn hostile due to this lack of protection. The proceedings are also often not gender sensitive and often a woman is unaware of the proceedings in her own case. The woman is not involved, nor does she have the services of legal counsel to advise her. Woman victims can also be placed into protective homes against their will and are separated from their own children (Thomas 2011, 37). By not having a comfortable atmosphere for women to feel safe in justifying their statements; lack of protection; lack of awareness about a woman's own legal case and using force to place women in homes where they do not wish to be and having their children taken away from them, is all of this not unjust towards the women? All of these disadvantages for the women is exemplifying the notion that vulnerable women are viewed to be inferior in society and that their rights simply do not matter.

In the nation of India, there also exist key gaps in prevention. The training of Government officials as well as community awareness are done sporadically and materials are not revised systematically (Thomas 2011, 38). Awareness programs among the public have to be strengthened alongside with publicized helpline phone numbers for people to utilize in society. Community initiatives in vulnerable areas must be further initiated with the cooperation of NGO's. Law reform, policy and prevention measures are too slow to respond to the newer forms of trafficking (Thomas 2011, 38).

I would now like to take this opportunity to conclude this paper by stating that the exploitation of both women and children into prostitution and, or sex trafficking proves to

be a major area of concern in India. The number of women and children trafficked for commercial sexual exploitation (CSE) in India is vast (Joffres et al. 2008). Trafficking in India has become an international business and unless serious action is taken, this business is unlikely to slow down or decrease in its vast size given the large potential profits for organized crime syndicates and independent traffickers (Joffres et al. 2008). Both women and children have the right to be protected from any forms of trafficking and to be treated and respected with dignity (Joffres et al. 2008). Apart from strengthening the current national and international legislation in regards to the sexual exploitation of both women and children in India, it is crucial to promote and place further promotion of gender equality in the family, community, and society at large, the facilitation of women's economic empowerment (via job training, job creation and income-generation schemes) and women's ownership and control of productive resources, the development of wider social welfare networks, the enforcement of safe migration policies, and a zero-tolerance level for corruption are also needed (Joffres et al. 2008). It is also very crucial for border guards, police and health officials to receive specific training related to trafficking (Joffres et al. 2008).

At the present, India is yet to make serious commitment to this issue. India proves to be in violation of many international conventions in regards to the exploitation of both women and children into the sex trade. This issue of exploitation is not something which India can change all at once, rather small changes should build into bigger and more effective change. Therefore, it is very necessary and important for India and the international community of states to work together to implement harsher penalties if state parties break international conventions. In the words of Ayesha, "When people tell me

that women choose this life, I can't help but laugh. Do they know how many women like me have tried to escape, but have been beaten black and blue when they are caught? To the men who buy us, we are like meat. To everybody else in society, we simply do not exist" (Rescuing victims of sex-trafficking as child pornography rises in India, 2013). Trafficking, like "pollution, is everyone's problem. The world collectively objected to slavery, and it will require a collective effort once again to abolish the practice of human trafficking" (King, 90). As a global community of states, all our efforts are needed and required in order to eradicate this social, political and legal issue.

REFERENCES

- Batsyukova, Svitlana. 2007. Prostitution and human trafficking for sexual exploitation. *Gender Issues* 24, no. 2: 46-46-50.
<http://linksource.ebsco.com/linking.aspx?genre=article&issn=1098-092X&volume=24&issue=2&date=2007-06-01&spage=46&title=Gender+Issues&atitle=Prostitution+and+Human+Trafficking+for+Sexual+Exploitation>
- Bhattacharji, Sukumari. 1987. Prostitution in ancient India. *Social Scientist* 15, no. 2: pp. 32-61. <http://www.jstor.org/stable/3520437>
- Coalition Against Trafficking in Women - Asia Pacific. 2001. Every woman has a right: Not to be prostituted. *Off our Backs* 31, no. 3: 7-9.
<http://www.jstor.org/stable/20836812>
- Dalit Freedom Network 2012. India finally ratifies UN Trafficking Protocol.
<http://www.dfn.org.uk/news/171-india-finally-ratifies-un-trafficking-protocol.html>
- D'Cunha, Jean. 1987. Prostitution in a patriarchal society: A critical review of the SIT act
Economic and Political Weekly 22, no. 45: 1919-1925.
<http://www.jstor.org/stable/4377703>
- Davidson, Julia O'Connell. 2002. The rights and wrongs of prostitution. *Hypatia* 17, no. 2, Feminist Philosophies of Love and Work: pp. 84-98.
<http://www.jstor.org/stable/3810752>
- Deane, Tameshnie. 2010. Cross-border trafficking in Nepal and India-violating women's rights. *Human Rights Review* 11, no. 4: 491-513.
<http://search.ebscohost.com/login.aspx?direct=true&db=poh&AN=55020293&site=ehost-live>
- Digal, Santosh 2010. India, World Hub in Human Trafficking.
<http://www.asianews.it/news-en/India,-world-hub-in-human-trafficking-18947.html>

- Elder, Betty G. 1986. The rights of women: Their status in international law. *Crime and Social Justice* no. 25, HUMAN RIGHTS AND JUSTICE UNDER SIEGE: pp. 1-39. <http://www.jstor.org/stable/29766290>
- Flowers, R. Barri. 2001. The sex trade industry's worldwide exploitation of children. *Annals of the American Academy of Political and Social Science* 575, no. , Children's Rights: pp. 147-157. <http://www.jstor.org/stable/1049185>
- The sex trade industry's worldwide exploitation of children. 2001. *Annals of the American Academy of Political and Social Science* 575, no. , Children's Rights: pp. 147-157. <http://www.jstor.org/stable/1049185>
- Government of India. Ministry of Women and Child Development. 2008. India Country Report: Prevent and Combat Trafficking and Sexual Exploitation of Children and Women. <http://www.unodc.org/pdf/india/publications/India%20Country%20Report.pdf>
- Gupta, R 2012. Trafficking of Children for Prostitution and the UNICEF Response. <http://asiasociety.org/policy/social-issues/human-rights/trafficking-children-prostitution-and-unicef-response>
- Herzfeld, Beth. 2002. Slavery and gender: Women's double exploitation. *Gender and Development* 10, no. 1, Trafficking and Slavery: 50-55. <http://www.jstor.org/stable/4030682>
- Hughes, D., Sporcic, L., Mendelsohn, N., & Chirgwin, V (N.D). Coalition against Trafficking in Women. <http://www.uri.edu/artsci/wms/hughes/india.htm>
- Human Rights Watch. 2013. India: Reject New Sexual Violence Ordinance. <http://www.hrw.org/news/2013/02/11/india-reject-new-sexual-violence-ordinance>
- India: The Demand for Sex Trafficking: Holding Commercial Sex Buyers Accountable. 2009. <http://saynotoviolence.org/join-say-no/india-demand-sex-trafficking-holding-commercial-sex-buyers-accountable>
- Joffres, Christine., Mills, Edward., Joffres, Michel., Khanna, Tinku., Walia, Harleen., & Grund, David. 2008. Sexual Slavery without borders: trafficking for commercial sexual exploitation in India. In *International Journal for Equity in Health*. 7 (September): 7-22. <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2569945/>
- Kapstein, Ethan B. 2006. The new global slave trade. *Foreign Affairs* 85, no. 6: pp. 103-115. <http://www.jstor.org/stable/20032146>
- King, Lindsey. (N.D). International Law and Human Trafficking. <http://www.du.edu/korbel/hrhw/researchdigest/trafficking/InternationalLaw.pdf>
- Kloer, Amanda. 2009. 1.2 Million Child Prostitutes in India. <http://news.change.org/stories/1-2-million-child-prostitutes-in-india>

- Mathur, Kanchan. 2008. Body as space, body as site: Bodily integrity and women's empowerment in India. *Economic and Political Weekly* 43, no. 17: pp. 54-63. <http://www.jstor.org/stable/40277391>
- Nair, P.M. 2007. *Trafficking Women and Children for Sexual Exploitation: Handbook for Law Enforcement Agencies in India*. United Nations Office on Drugs and Crime: New Delhi.
- Nag, Moni. 2001. Anthropological perspectives on prostitution and AIDS in India. *Economic and Political Weekly* 36, no. 42: pp. 4025-4030. <http://www.jstor.org/stable/4411265>
- Orhant, M. 2001. Trafficking in Persons: Myths, Methods and Human Rights. <http://www.prb.org/Articles/2001/TraffickinginPersonsMythsMethodsandHumanRights.aspx>
- Peterson-Iyer, K. 1998. Prostitution: A feminist ethical analysis. *Journal of Feminist Studies in Religion*, 14(2), pp. 19-44. <http://www.jstor.org/stable/25002334>
- Reanda, Laura. 1991. Prostitution as a human rights question: Problems and prospects of United Nations action. *Human Rights Quarterly* 13, no. 2: pp. 202-228. <http://www.jstor.org/stable/762660>
- Robinson, Laurie Nicole. 1997. The globalization of female child prostitution: A call for reintegration and recovery measures via article 39 of the United Nations convention on the rights of the child. *Indiana Journal of Global Legal Studies* 5, no. 1, Symposium: The Public's Health in the Global Era: Challenges, Responses, and Responsibilities: pp. 239-261. <http://www.jstor.org/stable/20644678>
- Samarasinghe, Vidyamali and Barbara Burton. 2007. Strategizing prevention: A critical review of local initiatives to prevent female sex trafficking. *Development in Practice* 17, no. 1: 51-64. <http://www.jstor.org/stable/25548176>
- Sinha, Murli M. 1999. Sex, structural violence, and AIDS: Case studies of Indian prostitutes. *Women's Studies Quarterly* 27, no. 1/2, Teaching about Violence against Women: pp. 65-72. <http://www.jstor.org/stable/40003399>
- Smile Foundation. 2012. Child Rights. <http://smilefoundation.org/contactus.htm>
- Thomas, Sarasau Esther. 2011. Responses to Human Trafficking in Bangladesh, India, Nepal And Sri Lanka- Legal and Policy Review. United Nations Office on Drugs and Crime: New Delhi. http://www.unodc.org/documents/humantrafficking/2011/Responses_to_Human_Trafficking_in_Bangladesh_India_Nepal_and_Sri_Lanka.pdf

- UiO The Faculty of Law. 2005. SAARC Convention on Preventing and Combating the Trafficking in Women and Children for Prostitution.
<http://www.jus.uio.no/english/services/library/treaties/02/2-04/saarc-traff-women-children.xml>
- United Nations. 2005. Convention on the Elimination of all forms of Discrimination against Women. <http://www.un.org/womenwatch/daw/cedaw36/India2-3E.pdf>
- United Nations Office on Drugs and Crime, UN.GIFT United Nations Global Initiative to Fight Human Trafficking. 2007. *India South Asia Regional Conference: Responding to Trafficking for Sexual Exploitation in South Asia*. Vienna: United Nations Office on Drugs and Crime.
- United States Department of State. 2011. 2011 Trafficking in Persons Report.
<http://www.unhcr.org/refworld/country,,,IND,,4e12ee7427,0.html>
- Varghese, J. 2010. Devadasi's: Young Indian Temple Prostitutes.
<http://www.assistnews.net/ansarticle.asp?URL=Stories/2010/s10090083.htm>
- Vetticattil, J., & Krishnan, S. 2002. Study uncovers reality of sex trade in India: low caste, poor women lured into prostitution-World.
http://findarticles.com/p/articles/mi_m1141/is_2_39/ai_94129133/
- Wickham, Leah. 2009. The Rehabilitation and Reintegration Process for Women and Children Recovering from the Sex Trade.
http://www.ipg.vt.edu/papers/Wickham_Sex%20Trafficking%20Victims.pdf
- Women's News Network. 2013. Rescuing victims of sex-trafficking as child pornography rises in India. <http://womennewsnetwork.net/2013/05/10/rescuing-victims-of-sex-trafficking/>

VITA

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