

# THE PROBLEM OF WOMEN TRAFFICKING OVER INDO-NEPAL BORDER

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## ABSTRACT

*Indo Nepal border is the only open border in South Asia. Whereas open border is beneficial for people to people contact between two countries and essential for trade and economic development of both countries and for the bonding of cultural ties of these ancient civilizations. It's also experienced so many problems or criminal and illegal practices over the borders, such as trafficking of arms, drugs, various other resources, goods and most dangerous among them is human trafficking. Women and children especially girl child are more vulnerable to this trafficking cases. Open border facilitate such activities, this is the reason that there is no recognition of these kind of activities. Only few cases had been registered. According to the Indian Home ministry in 2012 and 2013, there were 8 and 13 cases of human trafficking on the Indo-Nepal border registered. In 2014 and before the earthquake in 2015 there were 8 registered cases. However, in the aftermath of the earthquake in 2015, 46 cases have been registered. The government of both the countries try to rescue victims and curb this problem. But due to the complexity of the issue they are not fully successful. The present paper aimed to analyse the problem of trafficking on Indo Nepal border, the challenges in eliminating this illegal activity, others factors involved in it and recommendations for preventing this problem.*

**KEYWORDS:** Women Trafficking, Open Border

## INTRODUCTION

Human trafficking is a global phenomenon. Human trafficking is the third largest organised crime in world following by smuggling of narcotics and arms and weapons. The United Nations crime fighting office announced that 2.4 million people across the globe are victims of human trafficking and two out of every three victims are women. Among them 80 percent are being exploited as sexual slaves and 17 percent are forced to perform physical labour in homes and sweat shops. Only one out of hundred victims of trafficking is ever rescued. As an organized crime it become more vulnerable problem for developing countries especially those which undergone through socio-economic transformations. Mass human displacement from the areas which have been experiencing harshness in climatic conditions, or those which have witnessed long unbearable never ending wars and internal insurgencies, have lead increase in trafficking. War induced displacement has forced more women to earn livelihood through sex business which later on turned into trafficking.

In South Asia human trafficking is often referred to as one of the fastest growing transnational organized crimes. Over 150,000 people are trafficked within South

Asia every year for sex work, labour, forced marriages and organ trade. Often economic state and conditions contribute to the vulnerabilities of young people, women and children.

Globally, it is estimated that between 700,000 and four million (UNFPA, 2000) people are trafficked each year. There is no accurate figure of the scale of trafficking girls from Nepal. Despite published figures suggesting that between 5,000 to 7,000 Nepali girls are trafficked for sex work each year, and that 200,000 Nepali girls are working in the sex industry in India, the actual magnitude of trafficked girls from Nepal is unknown (Human Rights Watch, 1995).

Trafficking is an organised crime which violates all principles of human dignity and human rights. It is getting more and more organised day by day. Even cases of human trafficking have significantly increased after the devastating earthquake in Nepal. As Sastra Seema Bal (SSB) Director General B. D. Sharma told the reporters in Ranikhet on 11<sup>th</sup> may 2015, that "Human traffickers are taking advantage of the pathetic situation in Nepal."

Trafficking is becoming a common practice and emerged as an organised crime over the Indo – Nepal

border. There are many news and International, governmental and non-governmental Organizations reports on the issue but not widely covered in academic discourses. The present study is an attempt to analyse the role of Indo- Nepal open border in women trafficking and aims to answer the following questions:

- What is the role of the states in preventing trafficking? How many cases have been responded and what are the hurdles in responding such cases? And what are the policy implications?

- How open border facilitate women trafficking? Does the close border a solution of it?

### RESEARCH METHODOLOGY

Descriptive, analytical and to some extent comparative methods have been used for the present study. This study is based on basically secondary sources, like-journal articles, various national and international news from both print and electronic media, National and International reports and researches done by others in this field.

### WOMEN TRAFFICKING

Women trafficking is actually human trafficking, we use this term as women are more prone for trafficking in compare to men. The United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (the Trafficking Protocol) provides the first internationally recognized definition of trafficking in persons. According to it Trafficking is Recruitment Transportation, Transfer, Harboring, Receipt of persons for the purpose of for the purpose of Exploitation including...Exploitation of the prostitution of others, Other forms of sexual exploitation, Forced labour or services, Slavery or practices similar to slavery, Servitude, Removal of organs Exploitation by means of Threat or use of force or other forms of coercion, Abduction, Fraud, Deception, Abuse of power, Abuse of a position of vulnerability, Giving or receiving payments or benefits to achieve the consent of a person having control over another person.

This definition is broad in sense and tries to include each and every aspect of human trafficking or women trafficking. In general trafficking mostly recognised as a form of illegal migration organised crime and prostitution, which have been external forceful impositions upon the victims. It is concerned with security of human but always considered as a part of a 'domin of insecurity'. The

problem of human trafficking is related with governing and ordering society.

Human trafficking and migration are seen as inseparable realities. Van Impe has defined human trafficking as 'an epiphenomenon within the continuum of the migration cycle.' According to him trafficking in women 'has to be seen in the larger context of illegal migration of flows and analysed against the backdrop of world-wide economic and political change.'

### INDIA NEPAL OPEN BORDER AND TRAFFICKING OF WOMEN

India and Nepal shares open border for a long time and there is a close socio, economic, cultural, political closeness between them. Nepal is a landlocked country and it has no access to any ocean, so its dependency on neighbouring countries for importing goods is became very important. It covers an area of 147,181 square kilometres and it's bordered to the north by China and from the east, west and south by three Indian states of Uttar Pradesh, Bihar, West Bengal and Sikkim. It shares 1751 kilometre open border with India. Every people of both countries are free to enter in each other's territory from any point on the border without visa which is very unique in South Asia. There are 22 designated transit points from where movement of goods is allowed. The seeds of open border were in the 1950 Treaty of Peace and friendship which provide an equal treatment in matters of residence, acquisition of property, movement of people in each other's territory. Although there is a general perception that the open border has always allowed to unrestricted movement, it has been arguing that the concept of an open border formally began in 19<sup>th</sup> century after the delimitation of the India-Nepal boundary in 1816 and the restoration of Naya Muluk to Nepal in 1860. During colonial times, British had an interest to keeping border open for two reasons. Firstly, they impressed by the fighting skills of Gurkhas and they wanted to recruit them in Indian army. Secondly, they saw Nepal as a market where they can sells their finished goods. So to achieve these objectives there was a need to keeping border open for movement of goods and as well as people. After independence Indian government had also followed this British arrangement of the open border. An added reason for India to keep the border open was the emergence of assertive China. The Himalayas, a section which lay north of the Nepal, have been perceived historically as the northern barrier that guards India. In the absence of any natural barrier between India and Nepal, Indian policy makers came to view the

Himalayas as a natural barrier between India and China. This line of thought was lucidly highlighted by Prime Minister Jawaharlal Nehru in his speech in parliament in December 1950.

And regardless of our feelings about Nepal, we were interested in our own country's security, in our own country's borders. Now we have had from immemorial times, a magnificent frontier that is to say, the Himalayas. It is not quite so difficult as it used to be, still it is difficult, very difficult. Now so far as the Himalayas are concerned, they lie on the other side of Nepal, mostly not on this side. Therefore, the principal barrier to India lies on the other side of the Nepal and we are not going to tolerate any person coming over that barrier. Therefore, much as we appreciate the independence of Nepal and we cannot risk [our] own security to anything going wrong in Nepal which permits either that barrier to be crossed or otherwise weakens our frontier.

The open border has also important to economic implications for the two countries. One major aspect is the income that received by Nepal is salaries, remittances and pensions of the Gurkha soldiers into the Indian army. According to the some estimates, Nepal receives 100 million annually as foreign exchange from India. There are many people in Nepal who came to India every day for employment and even for necessary goods for their daily lives. There are many people who live in India and enjoying all the rights equally with the Indian citizens (as well as Indian citizen in Nepal). India has also taking advantage from Nepali natural resources and also interested in accessing Nepal's growing consumer market. Indian merchants and entrepreneurs have invested heavily in Nepal, which offers them cheap labour and tax breaks from setting up joint ventures. Most of these investments are in the telecom, food-processing, tourism, cosmetics, and pharmaceutical sectors. For instance, Indian telecom companies have recently invested Rs. 100 crore in Nepal.

The open border has many advantage as well as disadvantage which are very crucial topic between both of the countries of India and Nepal. One hand the open border is a good example of intimate friendship between citizens of both countries and the other hand it has been misused by terrorists and other illegal actors. It has been always discussed in the every seminar, conferences and high level meetings. Because of the illegal activities through the border area it's very vulnerable for security interest of both the countries.

The main problem of the open border is:

- Territorial disputes and encroachments
- Transgression of the border by insurgents and terrorists
- Spilling over of domestic unrest in Nepal across the border into India
- Cross border illegal activities like smuggling, gun running, trafficking in drugs and humans (especially women) etc.

There are many points of dispute along the Indo-Nepal border because there are not any natural barriers between them so border demarcation is very difficult and after every few year rivers changing their courses, thereby submerging older land and throwing up newer territory. The open border of India and Nepal has become heaven for illegal activities. It's a hideout place where criminals were hidden safely. Many terrorists had been arrested from the border area of India and Nepal, the ISI groups has using it as a base and doing their work very easily.

Another illegal activity that has emerged as a major concern for law enforcement agencies is the trafficking of women and children from Nepal. Hundreds of women and children are smuggled in from Nepal for commercial exploitation. According to some estimates, approximately 200,000 Nepali women are in Indian brothels and nearly 7,000 Nepali girls are sold in India every year.

There are twenty six Nepalese and twenty Indian districts attached along with border and some important routes of human trafficking between Nepal and India traced by Sastra Seema Bal (SSB) are Mahendranagar – Banbasa, Dhangarhi- Palia, Nepalganj – Rupediah, Krishnanagar- Barhri, Bhairhawa – Sonauli, Maheshpur – Thoothibari, Birganj – Raxaul, Biratnagar – Jogbani, and Kakerbhita – Panitanki. This trafficking takes place especially via the border districts of Bihar and Uttar Pradesh. A voluntary group has mapped around 1,268 unmanned routes along the Indo-Nepal border which facilitate human trafficking.

Traffickers trap the victims from various places in Nepal take them to Kathmandu and then to border towns in Nepal like Pashupatinagar, Mahendranagar, Nepalganj, Bhairhawa, Krishnanagar, Birganj, Biratnagar, Kakerbhita etc. and then travel by bus or train to various destinations in India. Girls from Tarai and eastern Nepal are usually taken directly to border towns. Dhading, Sindhupalchowk, Gorkha, Sinduli and Nawalkot districts are more vulnerable to women trafficking. Usually traffickers and

victims pseudo names and false identity are created and used in this process. Sastra Seema Bal (SSB) and active NGOs in field of Nepal border like Prayas, Maiti Nepal, Seva Sansthan, REEDS, Shakti bahini etc. work to rescue victims from getting trafficked. The SSB has provided a data of rescued victims and arrested traffickers which show that after earthquake on 25<sup>th</sup> April 2015 such incidences have been increased. However there are many unreported cases which cannot be estimated. The present table will show the numbers:

year	Cases	Traffickers arrested	Victims rescued
2012	8	7	72
2013	14	19	108
2014	8	8	33
2015	55	71	206
2015(before earth quake)	8	12	57
2015(after earth quake) 25 <sup>th</sup> April 2015- Dec. 2105	46	55	159

This shows that number of such cases has increased year by year and after the devastating earthquake the situation become worst. In this situation Nepal is the source from where traffickers trap the victims and sold them in various Indian cities for domestic help and forced prostitution, make India destination or transit hub for human traffickers.

#### LEGAL AND OTHER INSTRUMENTS OF STATES TO RESPOND TRAFFICKING

Women trafficking have been responded through many strategies both India and Nepal are trying to stop such type of activities. The primary role in such cases is of the domestic laws in this regard. As most cases dealt with local police, local public prosecutors and local judge. The constitutions of both the countries India and Nepal prohibited the trafficking, prostitution exploitation and forced labour. Article 23 of Indian Constitution provide fundamental right to prohibiting trafficking in human beings and all forms of forced labour. The Directive Principles of State Policy (Article 39 e & f) insured that health and strength of workers should not be abused and protects children and youth against exploitation of any kind. Immoral Traffick Prevention Act 1956 in India deals with trafficking of women and children for commercial sexual exploitation under which keeping a brothel is a

punishable act. Many sections of Indian Penal Code (1860), Prohibition of child marriage act 2006, Child (pledging of labour) act 1933, Bonded labour system (Abolition) Act 1976, Child labour (Prohibition and Regulation) Act 1986, Juvenile justice act 2000 are important in dealing with trafficking cases. Nepal's Trafficking in persons and transportation (control) act 2007 also works for preventing cross border trafficking along with it Children's Act 1991, foreign employment act 1998, child labour prohibition and regulation act 2000, birth death and other vital evidence registration act 1976 and muluki Ain also used to regulate women trafficking.

Along with domestic laws there are many legal international frameworks and instruments bound both the countries to fight against trafficking of women. India and Nepal both agreed with the United Nations Convention against Transnational Organized Crime (UNTOC) and its protocol for addressing defining and preventing the trafficking of human beings. Both have signed various international and regional conventions in this regard and work according them such as SAARC Convention on protecting and Combating Trafficking in Women and children for prostitution 2002, Convention on the Elimination of all forms of discrimination against women (CEDAW), SAARC Convention on Regional Agreement for the Promotion of Child Welfare in South Asia.

There are also some Movements and activities done by public or active NGOs in field of Nepal border like Prayas, Maiti Nepal, Manav Seva Sansthan, REEDS, Shakti bahini etc. to combating human trafficking like STOP and Red Thread movement any many more. Sastra Seema Bal (SSB) of India is also playing an important role in preventing trafficking and rescue victims. SSB conduct vigil by way of regular patrolling, nakas and checking posts. It identifies the traffickers by the process of suspicion, activities, intelligence and interrogation or on the basis of information provided by NGOs or activists. SSB doesn't have any investigation power it handover traffickers and victims to state police in presence of NGOs.

Apart from all these measures taken to stop trafficking it is still not only going on but increasing day by day. There are many reasons and problems in this respect. The traffickers are very clever they target innocent Nepali girls mostly from poverty stricken villages and trap them by giving assurance of better job opportunities and marriage, so they cross the border with them and not aware about getting trafficked. Mostly family members or relatives or person familiar to victims are involved in

trafficking for the sake money. Also old and incapacitated sex workers act as agents when they return homes. In all this conditions victims cross border without any suspect. There are fourteen legal entry points between India and Nepal but illegal cross border movement take place easily. Since India has an open border policy with Nepal trafficking may be difficult to identify. Also corruption in both countries facilitates illegal activities.

### DOES CLOSE BORDER A SOLUTION?

Many times scholars and other government officers demand for closing the Indo Nepal Border to stop human trafficking. They suggest it as a solution. As per our analysis close border may reduce some cases of women trafficking for some time but it is not a complete solution to the problem of trafficking. One valid argument for this is human trafficking is a problem related with cross border migration even countries with close border also faces this. Approximately all the countries in world today facing the problems of human trafficking most of them have close border and tight rules for crossing the border. Also it is becoming a feature of whole South Asian countries and only one open border is there.

Human trafficking is an organised crime and a major threat for society is that criminal networks develop a strong economic and political structure in society through legitimate ways. The under laying motive for such criminal penetration is the opportunity to make a profit quickly with little risk, unhindered by rules or just making use of weak rules, circumstances and cover techniques. This is also true in the Indo Nepal Border where traffickers are organized and unidentified so closing the border is not a solution.

Closing the border also harm the friendly and cooperative relations of both the countries and the development of both countries will be adversely effected by doing this.

### CONCLUSION

We may conclude that there are difficulties in preventing women trafficking between India and Nepal. Open and porous border makes it very difficult to check all the migration through this area. it is not easy to manage the cross border movement of each and every person when there is no feedback system on follow up action from state authorities are available. There are both pros and cons of having open border between India and Nepal and we should take any decision regarding this on the whole. There is a constant need to spread awareness among people

to prevent themselves from being trapped by the traffickers as there is a toll free helpline 1903 also introduced to help people in trouble but victims rarely dial this helpline. The problem is growing successively due to ignorance at various levels. The response to trafficking requires simultaneous attention and action by various agencies, like police, women and child development departments of state governments, prosecutor, counsellors, NGOs etc. the mechanism to share real time information between India and Nepal through quickest means is required and there is a need to institutionalizing cohesion, coordination among SSB, State Police and NGOs. For combating organized human trafficking intelligence's role is also important and there must be joint endeavours of both the countries to stop women trafficking by making people educated, empowered and aware and ending corruption at all the stages.

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