

## BOOK REVIEW

Romana Lepcha, *Cross Border Human Trafficking: Legal Dimension between India and Nepal*, (Mittal Publication, New Delhi, 2018), Rs 900, pp. xvii+252, ISBN 81-8324-913-2

Human Trafficking is a heinous crime of global concern. It has grown to the level of largest crime in the world. The national and international legal institutions have formulated various laws to combat this menace. It is a question of concern whether these legal institutions are effective in their objective to eradicate this crime or it is deficient in performing their role as a key organisation. The book under review examines the role and the nature of legal institutions particularly taking the region of South Asia between the border lines of India and Nepal that indicates human trafficking as one of the vicious crimes. The author gently explores the socio legal dimension of human trafficking, its causes and critically examines the role of legal institutionalised frameworks in/between India and Nepal. It discusses the major loopholes that are linked with the weak implementation of the laws and legal frameworks in India and Nepal with regard to human trafficking.

Chapter I, "Introduction" elucidates and defines human trafficking in its various forms as provided by national and international legal institutions. In this section the author gives a background to the study by explaining the incidents of cross border trafficking between India and Nepal. The open and porous border between India and Nepal not only fosters close socio-economic relation between the two countries but it also poses the threat of human trafficking. In this context the author has opined that Nepal serves as a major source of human trafficking in South Asia, and India acts as the main destination for trafficked men, women and children who are later subjected to forced labour and commercial sex. Despite laws and legal frameworks in both the countries to combat this menace the author is of the view that it has failed to prevent trafficking. To prevent such crimes the author stresses on changing the society's perceptions by organising awareness programmes among the people and by imposing severe punishment with strict laws to be followed by both the countries. Further the author elaborates on the legal frameworks of India and Nepal on human trafficking and critically analyses all the important Constitutional provisions, laws and acts.

Both primary and secondary sources are applied to explain the context of the study. Firstly, the author tries to find out whether the legal mechanisms are sufficient to tackle the increased human trafficking between India and Nepal. And secondly, she tries to find out the possibilities of developing new common legal frameworks and institutions to address the issue of Human Trafficking between the two countries.

Chapter II "Legal Regimes, institutions and Human Trafficking in India and Nepal An overview" pays attention to international legal institution in defining human trafficking in its various forms as one can find in chapter I of this book. It also discusses the causes of human trafficking by explaining the supply and demand sides of it. In the supply side, conflict and post conflict situations, unstable economics as

well as significant disruptions in socio-economic conditions due to natural disasters make many victims vulnerable to trafficking (p. 27). To the author the supply side also results due to poverty, gender and caste discrimination, human right violation, corruption and unemployment. The demand is from countries that are more open to globalisation, economically prosperous and support the commercial sex industry. In this framework, globalisation and socio-economic conditions are important factors in motivating people to migrate or in making them easy targets of trafficking. Globalisation has generally created inequalities both across countries or regions and between social strata within them (p.27). This according to the author becomes one of the major reasons behind the increasing crimes against humanity. Further the concept of human trafficking and human smuggling has also been discussed to understand the basic differences. Human smuggling involves the crossing of national borders which always involves illegal border crossing and on the other human trafficking involves the crossing of international borders as well as within the borders of one country as internal human trafficking (p.29). The author also adds other differences between human trafficking and human smuggling relating to their legal status in the country of destination. A person who is smuggled into a country may be working in violation of that country's domestic laws, but she or he is free to accept or reject job offers. On the other hand a person who is trafficked into a country is forced to work without compensation and has no freedom of choice in his job selection (p.30). Lastly, the author has discussed some of the important international conventions that deal with human trafficking globally. The main purpose of this chapter is to discuss the international legal regimes and institutions of human trafficking with a reference to India and Nepal.

In chapter III "Human Trafficking between India and Nepal: Socio-Legal Dimensions" the author analyses the National Legal Frameworks of India and Nepal in connection with human trafficking with reference to constitutional provisions, laws, acts and legal regimes. The chapter also discusses all the major institutions set up by both governmental and non-governmental agencies on human trafficking in India and Nepal. To the author although with a number of laws and provisions prohibiting activities that are associated with Human Trafficking both India and Nepal fail to combat this menace as the magnitude of trafficking still continues to grow at an alarming rate. The author is of the view that in both countries legal framework is not found to be very effective in protecting victims and punishing offenders. However, there are governmental and non-governmental institutions playing an important role to tackle human trafficking. Such institutions are found to be committed and effective to implement policies and monitor Human Trafficking. Thus, the author concludes by saying, in addition to establishment of legal institutions and significant amount of legal measures taken by both the countries to deal with human trafficking, the collective means and measures are still wanting.

In chapter IV "Legal Frameworks on Human Trafficking in/Between India and Nepal: A Critical Examination" the author discusses the major loopholes or gaps that are linked with the weak enforcement of laws and legal framework in India and Nepal. The role of SAARC as a regional institution has been discussed in this chapter.

The SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution, 2002 is the first regional multilateral anti-trafficking treaty. The author is of the view that the definition provided by SAARC Convention on Trafficking does not visualise comprehensive definition of trafficking for commercial types of exploitation as it is restricted to trafficking for commercial sexual exploitation. Lack of awareness, weak enforcement of law, inadequate anti-trafficking legislation, lack of training to the police personnel and negligence or delay on the enforcement of existing laws result in major failure to combat trafficking, and such issues pose a major challenge to South Asia. The author also investigates the root causes of human trafficking like poverty, gender discrimination and weak laws which make India and Nepal the source, transit and destination of this clandestine crime. Absence of commitment of governments concerned authorities, NGO's, stakeholders of both the countries, the poor compliance with international protocols and domestic laws coupled with weak enforcement system, and delay in justice delivery encourage the traffickers to continue the commercial trade of human trafficking in both the countries. The author further emphasizes on an effective system designed within the human rights system to prevent women from abuses within nation and during migration. She recommends the concerned institutions against human trafficking to conduct programmes and formulate policies that actually assist women victims of violence. The unregulated open border between India and Nepal is another reason behind the difficulty in controlling cross border human trafficking. The author is of the opinion that civil society or the NGO's are on the paths of immense progress in raising human trafficking issue at the global level. One such example as set by the author is of *Maiti Nepal*, a non-governmental organisation, that provides special training for police personal, and has also contributed a great deal in reducing the number of women and girls being trafficked from the region. The key findings in this chapter are the limitations or gaps in legal or non-governmental institutions of both the countries. However, the author does not ignore the proper functioning of some of the non-governmental organisations as in Nepal.

Chapter V "Addressing Human Trafficking between India and Nepal: Reform of Legal Frameworks and Restructure of Institutions" emphasizes the issues of restructuring institutions and reforming legal frameworks of both India and Nepal that deal with Human Trafficking. The chapter also discusses the different measures to address human trafficking more efficiently that includes establishment of new institutions and legal mechanisms and/or reform of existing bilateral, multilateral, regional and international agreements. Various prevention, protection and prosecution measures are discussed in this chapter. It also emphasises the need to promote cooperation and coordination between social organisations and national law enforcement agencies of Nepal and India since, many committed social organisations have proved to be very effective in exposing human trafficking networks in these countries. To achieve this author recommends both the countries to work together ensuring the rehabilitation of victims in terms of providing them healthcare, education, self-esteem measures and other employment opportunities. The international definition of trafficking contained in UN Trafficking Protocol should be adopted by both the countries as a national law to concretise the effectiveness of anti-trafficking measures. Further, the author also

emphasizes gender sensitive services with proper punishments to perpetrators who are found guilty in order to curtail such crimes. This would be made through bilateral mechanism or regional arrangements like SAARC (p.184).

The work contributes immensely in understanding the nature and role of both national and international legal institutions in combating Human Trafficking. The study based on South Asia particularly between the border lines of India and Nepal highlights the limitations of the existing legal mechanism in curtailing Human Trafficking practiced in both the countries. It would have been stimulating if the same findings were not repetitive in every section of the study. However, it would be interesting for the academicians working to curtailing Human Trafficking nationally and internationally through legal or through various other governmental and non-governmental organisations.