

# Understanding the Presence of Human Trafficking Through the Lens of Feminism Philosophy

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## Abstract

Human trafficking has raised significant political and public concerns in the contemporary time period. Individuals are often illegally trafficked throughout India for various purposes, such as forced labor or commercial sexual exploitation. India is an infamous destination for trafficked women from Bangladesh, primarily for commercial sexual exploitation. In West Bengal, the challenge of human trafficking poses a serious concern to the residents. Often in the news and official reports, it is observed that two districts of West Bengal, namely North Bengal and South 24 Parganas, are considered the main haven for perpetrators to traffic humans from one place to the other. The porous border that West Bengal shares with Bangladesh has aggravated the situation since the perpetrators can escape the scope of security while engaging in human trafficking. In order to understand the presence of human trafficking in contemporary times, an action that has been termed illegal for over a century now, this research will analyze and discuss why trafficking of humans still continues to persist through the lens of feminist philosophy. This research article seeks to analyze the theoretical framework advocated by the neo-abolitionists who condemn all forms of prostitution as they believe it is oppression against women and tries to understand the presence of human trafficking as a consequence of gender oppression.

**Keywords:** Human Trafficking, India, Bangladesh, Feminist Philosophy, Neo-Abolitionists

## Introduction

Human trafficking has raised significant political and public concerns in the contemporary time period. Many scholars believe that human trafficking is not a new phenomenon. Smuggling and trafficking are considered to be different forms of trade. However, there is a diversity in the products and services that are traded and what are prohibited from being traded over time [1,2]. Stated, “depending on the political winds and dominant social norms of the day, what is an illegitimate trade in one era may be a legitimate trade in another.” In this context, it can be noted the exploitation of Africans as slaves by the Western imperial powers during the colonial era constituted human trafficking even when slavery was considered to be lawful by such Western powers. Thus, the legality of the services and products trafficked from one place to another depends on the historical and social setting and the laws framed by the statesmen during that time.

The challenge of human trafficking continues to pose a significant problem to Indian society even in the twenty-first century. Individuals are often illegally trafficked throughout India for various purposes, such as forced labor or commercial sexual exploitation [3]. Certain non-governmental organizations have estimated that this malpractice of human trafficking adversely affects nearly sixty-five million Indians. India is an infamous

destination for trafficked women from Bangladesh, primarily for commercial sexual exploitation [4]. The children trafficked from Bangladesh to India are forced to forcefully engage as laborers in circus shows. Furthermore, Indian women are often trafficked to the countries of the Middle East for similar purposes, such as being commercially exploited. An unfortunate occurrence is that certain Indian migrants who voluntarily migrate to the Middle East and Europe to work as low-skilled laborers or as domestic servants also end up being part of the human trafficking industry. Many scholars have identified certain structural issues to be the main cause of the presence of human trafficking [5]. Such structural issues include low income levels of the perpetrators and the victims, belonging to the disadvantaged social strata in the community, and, most importantly, not possessing educational awareness [4]. All of these factors contribute to the emergence of the idea of treating human beings as objects.

In West Bengal, the challenge of human trafficking poses a serious concern to the residents [6]. In the news and official reports, it is often observed that North Bengal and South 24 Parganas are considered the main haven for perpetrators to traffic humans from one place to the other. The porous border that West Bengal shares with Bangladesh has aggravated the situation since the perpetrators can escape the scope of security while engaging in

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human trafficking [4]. The nature of human trafficking is often masked as voluntary labor, making it challenging on the part of the state and non-state actors to prevent the crime. Although law enforcement officials exist to mitigate the challenge, there is a need to understand the social conditions present in West Bengal, which leads to the existence of human trafficking. This research article seeks to understand the presence of human trafficking along the India-Bangladesh border near West Bengal through the lens of a feminist rights-based approach. In this context, the paper also outlines the different roles played by state and non-state actors to mitigate the challenge.

### 1.1. Understanding Human Trafficking Through the Lens of Feminist Philosophy

The phenomenon of human trafficking has been sought to be discussed and analyzed by various scholars and researchers throughout human history. During the initial times, scholars sought to define human trafficking within the folds of slavery and forced human labor. However, human trafficking constitutes much more than that. Due to the gendered nature of human trafficking wherein females are found to be trafficked in higher numbers than males, a need was felt to broaden the understanding of human trafficking and introduce a more targeted theoretical framework. This brought in the feminist understanding of human trafficking.

Due to the inherent limitations of the criminal and economic perspective on human trafficking, a new theoretical framework to understand human trafficking emerged in the form of a feminist rights-based approach. This approach looks at the phenomena of human trafficking through the lens of gender. The feminist rights-based approach does not deny the validity of the previous theories. Still, rather, it takes a humanized approach to contextualizing, conceptualizing, formulating theory, and addressing the practice of human trafficking [7]. The feminist rights-based approach is in fact a human rights-based approach precisely because “gender discrimination is . . . a fundamental denial of human rights.” Hence, in order to understand the scope of human trafficking and its existence in this century, it is important to understand that women’s human rights form the core of the feminist rights-based approach, and this should be considered to formulate any credible anti-human trafficking strategy “for violations of human rights are both a cause and a consequence of trafficking in persons” [7].

The interaction of complex factors, including unemployment, poverty, kidnapping, forced labor, forced migration, slavery, and torture, constitutes various types of human rights violations and leads to crimes [8]. People “must be treated adequately” and on an individual basis if human trafficking is to be eradicated completely. All of these issues are extremely worrying, especially in light of the widespread assumption, especially among those who advocate a criminal approach to the problem, that a victim of kidnapping and forced prostitution is a victim of bad behavior. The feminist rights-based approach rejects these narrow views and focuses instead on human rights violations of trafficked persons and ways to empower them economically and socially so that they can protect their internal rights. In other words, the feminist rights-based approach shifts the goal from

exposing victims “to additional hardships [such as] testifying at trial or being in danger” to “protecting . . . [their] rights” [3].

The feminist rights-based approach brings feminist critique of sex trafficking to the forefront, focusing on the connections between prostitution, human rights, and globalization. The more conventional view of human trafficking does not fit easily with this perspective because of the correlation it posits between human trafficking and increased female labor migration, a phenomenon often referred to as “feminization of labor migration” [7]. Focusing on global labor migration patterns and the need for low-wage female workers, the feminist rights-based approach reveals the pathways that have opened up for illegal labor and trafficking, thereby displacing women. Migration is one of the leading causes of human rights violations on a large scale. One of the most common examples of the latter is the practice of wage garnishment, forcing female employees to find other jobs just to survive another day. Under such coercion, victims may have no choice but to engage in prostitution or “sex work” [9]. In the feminist rights-based approach’s view, this change in terminology was intended to transform “deviant sexual behavior [into] a job like any other” [9]. However, to consider prostitution simply “a job” is to ignore the human rights violations that characterize the oldest profession.

Identifying victims of trafficking as individuals with human rights implies that they can be empowered. To achieve this goal, proponents of the feminist rights-based approach have developed strategies that have both structural aspects such as laws, government policies, institutional activities to combat human trafficking, and individuals, specifically empowering individuals and groups to combat human trafficking [7].

In this understanding, women’s empowerment strategies must go beyond economic independence, for example by increasing ownership and control of productive resources and access to markets; they must also strengthen women’s position in the family, in educational institutions, in grassroots organizations, and in the wider community, all traditional bastions of patriarchal power. By providing an analytical framework focused on human rights – the rights to life, work, and health – and introducing legal provisions prohibiting torture and slavery, the feminist rights-based approach represents “a holistic response” [8]. At the same time, it defines a protocol of action based on the legal obligations of individual states and the international community to eradicate human trafficking, protect victims, and prosecute perpetrators [8]. It is this comprehensive approach that exposes the vulnerabilities that undermine transnational efforts to combat and eliminate human trafficking.

### 1.2. Presence of Human Trafficking Along the India-Bangladesh Border

Understanding the presence of human trafficking through the lens of the feminist approach helps researchers to look at the crime through a gendered lens. This becomes important as analysts and authorities classify some countries as sites of origin and others as destinations based on regional trends of human trafficking. The actual situation is more complicated, though. For instance, India serves as a transit and destination country. It serves as a

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hub for regional and international trafficking of women and children. Meanwhile, Bangladesh can be considered just a place of origin [10]. More than 5,00,000 Bangladeshi women and children between the ages of 12 and 30 were illegally trafficked to India in the previous ten years, according to a Justice and Care report produced in collaboration with the Indian Border Security Force [1].

According to the United States State Department, hundreds of thousands of Rohingyas have fled from Rakhine in Myanmar to Bangladesh [1]. Many of these refugees have been exchanged for sex labor in Bangladesh and India, especially women and girls. Women and children from the Rohingya minority are kidnapped by traffickers while traveling and when they are already living in refugee camps in Bangladesh. They are then sold for forced marriages in India, Indonesia, and Malaysia. According to reports, some victims have also been the victims of sex trafficking or forced labor. Traffickers transport Rohingya girls in Bangladesh to Chittagong and Dhaka and across borders to Kathmandu, Nepal, and Kolkata, India, for sex work. Some traffickers deal with these girls over the internet. When victims are taken to another country, they lose their rights and become virtually stateless. Some started out as migrant workers but ended up in brothels. This is primarily due to the lack of an authorized and secure route to guarantee employment, not to mention that migrant workers receive compensation for their work.

In most cases, the migration will occur without legal or authorized documentation. Unskilled workers aged 9 to 25 are the most vulnerable to trafficking [10]. A United Nations report on women's trafficking, written by a Sri Lankan lawyer and human rights activist Radhika Kumaraswamy, provided important evidence that trafficking and migration could intersect. The increase in immigration and trafficking flows is due to a combination of factors. Literacy, poverty, class struggle, natural disasters, and political and ethnic instability increase marginalized groups' vulnerability and make them even more vulnerable to serious human rights violations.

## **2. Measures to Prevent Human Trafficking**

### **2.1. Role of state actors**

State governments, along with regional non-state actors, are involved in trying to mitigate the challenge of human trafficking in border regions. India shares a porous border with Bangladesh, providing easy access to the perpetrators of trafficking to indulge in the heinous crime. As a result, the state governments' working in policy formulation and the activities of the non-state actors to mitigate the crime by implementing such policies have to be analyzed.

### **2.2. India**

To mitigate human trafficking in India, the Immoral Trafficking Prevention Act (ITPA) was formulated in 1956. This Act provides additional jurisdiction to the special police officers appointed under the Act [10]. Special police officers have the power to arrest anyone without a warrant or give directions to their subordinates to make such an arrest without a warrant, provided that it is given in writing. However, a vital drawback of this Act is that it criminalizes those living in a brothel or

living on the income earned through prostitution. This creates a dichotomy in the significance of rehabilitation as the victims living in brothels might have been forced into prostitution and cannot leave the place due to extraneous factors.

### **2.3. Bangladesh**

Bangladesh has created a holistic document to tackle the challenge of human trafficking as late as 2012, known as the Prevention and Suppression of Human Trafficking Act 2012 [1]. The Act focuses more on protecting the dignity and the rights of the victims of human trafficking and ensuring a safe migration process. Thus, the drawback of this legislation is that the Bangladesh government does not stress too much about punishing the perpetrators for whom the crime of human trafficking still exists in the country.

## **3. Role of Non-State Actors**

### **3.1. South Asian Association for Regional Cooperation (SAARC)**

Regional organizations such as the South Asian Association for Regional Cooperation (SAARC) has formulated a convention known as the SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution (Secretariat, 2002). The Convention aims to protect women and children in South Asia from becoming victims of human trafficking some of the drawbacks that are present in this Convention include a narrow scope of the document [11]. The Convention does not cover issues of forced migration, illegal adoption common in third-world countries, forced domestic servitude or forced labor, organ removal from trafficked humans, or instances of non-commercial sexual exploitation.

### **3.2. Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation (BIMSTEC)**

One of the most crucial conditions for sustained progress and the preservation of peace in the region, according to BIMSTEC, is the fight against terrorism and organized international crime. The priority sector of counterterrorism and transnational crime was added to BIMSTEC during the eighth Ministerial Meeting in Dhaka in December 2005, with India taking the lead. A collaborative working group was created as a result, with four subgroups that each had a lead nation: Sri Lanka for intelligence sharing, Thailand for financing terrorism, India for legal and law enforcement matters, and Sri Lanka for stopping the trafficking of drugs and psychoactive chemicals (Myanmar). The BIMSTEC Convention on Cooperation in Countering International Terrorism and Transnational Organized Crime was signed in 2009 [12]. The convention, which has 15 articles, can be viewed as a confidence-building measure. The member states agreed to work together, subject to their domestic laws and regulations, to fight international terrorism, transnational organized crime, and the illicit trafficking of narcotics, psychoactive substances, and their precursor chemicals. However, neither human trafficking nor unauthorized immigration is mentioned in the convention.

## **4. Conclusion**

The rapid expansion of globalization in the post-Cold War era has created "haves and have-nots" in almost every country. Later, migration from rural to urban centers or across borders was often

seen as the only way out of poverty. This led to the emergence of human trafficking. According to the research mentioned above, it has been found that some of the officially approved strategies aimed at eliminating the practice of trafficking of humans are fundamentally at odds with the feminist rights-based approach. The fundamental difference between the strategies lies in the way victims are identified: for the former, they are considered criminals or at best purveyors of evils, and, for the latter, as human beings forced to flee the stagnant economy. This is of crucial importance because the way victims are identified determines the nature of the remedies applied, which in turn determines the success or failure of the policies and strategies adopted. A concern that arises is that does a feminist rights-based approach calls for a twofold and unified strategy of targeting and penalizing the troublemakers while safeguarding the victims, regardless of their status. This in essence, would require the full safeguard of the law, in addition to the essential services and resources to empower the victims as rights-bearing subjects entitled to have their human rights protected.

If the double objectives of protection and empowerment are ever to be realized, a feminist rights-based approach must be formulated, recognized, approved, and implemented by the concerned state and non-state actors with the requisite mandates and powers to execute the necessary measures. This will be challenging mainly due to two reasons. First, there exists no agreement as to what constitutes human rights and the different rights that are available to everyone; indeed, for some human rights are dismissed as a purely Western invention, having little relevance for the non-Western world. Second, some critiques of feminism and feminist theory, particularly those directed at white feminists by women of color, argue that societal issues such as race, have, by and large, been ignored in the debate on human trafficking. Regarding the latter position, as Radha [13], warns, while issues such as race are pivotal and as such warrant inclusion in any global anti-trafficking strategy, in privileging race over gender, there lies the danger of jettisoning the notion of the “essential woman” or even abandoning the analytical category of “woman” altogether. This leads Jhappan to pose the rhetorical question: “If we cannot take on any biologically or socially determined characteristic or concern (after all, “women” constructed differently in different cultures)”; in other words, if we lose the analytical category of women, what happens to feminist work?” Such essentialist arguments are a trap and therefore do little to solve a problem that is global in scope and whose main victims are women.

Regarding the first position, it is believed that the human rights dichotomy between particularism and universalist currents has been exaggerated. Strictly speaking, this does not mean denying the fact that historically the protection of “human rights” has been and continues to be, used as a “fig leaf” to hide the efforts of Western superpowers. To maintain global class hegemony as [13], argues, an important first step towards achieving this goal is to create a “dialogue” within women, including women of color, and between women and the community at large”, both locally and internationally, in an “open and enriching” way. These important first steps must be complemented by ways and means of empowering “women”, individually and collectively,

for example, through effective policy, specifically designed to protect their rights and take effective action at local and community levels efforts to raise awareness of the causes and consequences of human trafficking and its impact on women female.

However, women's empowerment will only have an impact on human trafficking if individual and collective human rights are guaranteed by international and national law and strictly enforced. At the moment, this seems little more than a “pipe dream” given the current status quo in international affairs. However, the growing recognition and respect for the feminist rights-based approach suggests that a sea change in organizations targeting human trafficking may be underway, in which case this despicable practice one day may be thrown into the ashes of history [14].

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