



# SAARC LAW

South Asian Association for Regional Cooperation in Law

SAARC Apex Body

Special Issue, 2017

## TRAFFICKING IN PERSON

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#### ANNEXURE

1. Palermo Protocol
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### TRAFFICKING SITUATION IN SOUTH ASIA

Human trafficking is the trade of humans, most commonly for the purpose of sexual slavery, forced labor, or commercial sexual exploitation for the trafficker or others. This may encompass providing a spouse in the context of forced marriage, or the extraction of organs or tissues, including for surrogacy and ova removal. Human trafficking can occur within a country or trans-nationally. Human trafficking is a crime against the person because of the violation of the victim's rights of movement through coercion and because of their commercial exploitation. Human trafficking is the trade in people, and does not necessarily involve the movement of the person from one place to another.

According to the International Labour Organization (ILO), forced labor alone (one component of human trafficking) generates an estimated \$150 billion in profits per annum as of 2014. In 2012, the ILO estimated that 21 million victims are trapped in modern-day slavery. Of these, 14.2 million (68%) were exploited for labor, 4.5 million (22%) were sexually exploited, and 2.2 million (10%) were exploited in state-imposed forced labor.

As per the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime<sup>2</sup>

Article 3 (a) "Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring 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. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs; (b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used; (c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered "trafficking in persons" even if this does not involve any of the means set forth in subparagraph (a) of this article; (d) "Child" shall mean any person under eighteen years of age.

Only Afghanistan, India, Maldives and Sri Lanka are the countries who have ratified the protocol in South Asia<sup>3</sup>.



Picture Source: <http://www.activistpost.com/2017/03/two-high-level-government-child-trafficking-rings-busted-american-media-silent.html>

Disclaimer: Views/data expressed in the newsletter/articles were prepared based on the secondary data/information available online and are not conclusive. The opinions, if any expressed do not reflect the views of the organization. The newsletter is for generating and sharing information at one platform. Please check the relevant Act/statue/links/report for further and updated information. The organization will not be responsible for submission or omission of information, in whatsoever manner.

At the Regional level, under the mandate of South Asian Association for the Regional Cooperation (SAARC), countries in South Asia have promulgated the mechanism from trafficking perspective which address the movement of the people across the borders. SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution (2002) is a regional treaty deals with the issues of trafficking. It defines it as “the moving, selling or buying of women and children for prostitution within and outside a country for monetary or other considerations with or without the consent of the person subjected to trafficking<sup>4</sup>.” SAARC Convention on Regional Arrangements for the Promotion of Child Welfare in South Asia is another convention that have been ratified by all the SAARC countries obliges states parties to put legal and administrative measures and social safety nets in place to ensure that “their national laws protect the child from any form of discrimination, abuse, neglect, exploitation, torture or degrading treatment, trafficking and violence<sup>5</sup>.”

As per the Trafficking in Person - 2016 report published by the Government of the United States; Bangladesh, Bhutan, India and Nepal have been kept in Tier 2 list whereas Afghanistan, Maldives, Pakistan and Sri Lanka have been placed in Tier 2 Watch List.

- Tier 1 Countries whose governments fully comply with the TVPA's minimum standards.
- Tier 2 Countries whose governments do not fully comply with the TVPA's minimum standards, but are making significant efforts to bring themselves into compliance with those standards.

- Tier 2 Watchlist Countries whose governments do not fully comply with the TVPA's minimum standards, but are making significant efforts to bring themselves into compliance with those standards AND: a) The absolute number of victims of severe forms of trafficking is very significant or is significantly increasing; or b) There is a failure to provide evidence of increasing efforts to combat severe forms of trafficking in persons from the previous year; or c) The determination that a country is making significant efforts to bring themselves into compliance with minimum standards was based on commitments by the country to take additional future steps over the next year.
- Tier 3 Countries whose governments do not fully comply with the minimum standards and are not making significant efforts to do so.

## MIGRATION IN SOUTH ASIA

Labor migration feeds the global economy. There are more than 150 million migrant workers worldwide who generated global remittances of more than \$580 billion in 2013. They are domestic workers, construction and agricultural workers, factory and service workers, teachers and professionals. Migrant workers often travel long distances due to a lack of decent work at home to support their families and build a better life<sup>6</sup>.

As per the latest World Bank report, the South Asian Countries have total 114,977 US million dollars migrants' remittance inflows till October 2016. India has highest 65450 US million dollars migrants remittance inflows followed by Pakistan which has 20300 US million dollars migrants remittance inflows, Bangladesh has 14850 US million dollars, Sri Lanka 7110 US million dollars migrants remittance inflows till October,

## MIGRATION SITUATION IN SOUTH ASIA



1 [https://en.wikipedia.org/wiki/Human\\_trafficking](https://en.wikipedia.org/wiki/Human_trafficking)  
2 <http://www.ohchr.org/EN/ProfessionalInterest/Pages/ProtocolTraffickingInPersons.aspx>  
3 [https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg\\_no=XVIII-12-a&chapter=18&clang=en](https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=XVIII-12-a&chapter=18&clang=en)  
4 <http://www.saarc-sec.org/userfiles/conv-trafficking.pdf>  
5 <http://www.saarc-sec.org/userfiles/conv-children.pdf>  
6 <http://www.solidaritycenter.org/what-we-do/migration-and-human-trafficking/>  
7 <http://www.un.org/documents/ga/res/45/a45r158.htm>





## DEFINITION OF TRAFFICKING IN SOUTH ASIA

2016. India has highest 65450 US million dollars migrants remittance inflows followed by Pakistan which has 20300 US million dollars migrants remittance inflows, Bangladesh has 14850 US million dollars, Sri Lanka 7110 US million dollars migrants remittance inflows till October, 2016. Nepal 6992 US million dollars migrants remittance inflows during that period.

As per the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families Article 2(1). The term "migrant worker" refers to a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national. However the activity related to migrant worker needs to be looked from and keeping principles and standards set forth in the Universal Declaration of Human Rights, the International Covenants on Human Rights, International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Elimination of All Forms of Discrimination against Women and also taking into account the standards set forth in the International Labour Organisation, especially the Convention concerning Migration for Employment, the Convention concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers, the Recommendation concerning Migration for Employment, the Recommendation concerning Migrant Workers, the Convention concerning Forced or Compulsory Labour and the Convention concerning Abolition of Forced Labour.

### **Afghanistan : Law Countering Abduction and Human Trafficking (2008)**

**Trafficking in Persons:** Is transferring, transiting, employment, keeping of a person for the purpose of exploitation by taking advantage of poor economic and desperate condition of the victim through paying and receiving money, interest or using other deceiving means in order to obtain the consent of the victim or his/her guardian

**Abduction:** Taking away of a person by using force, trick or deceit, or taking advantage of physical or mental disabilities of abducted, or exchanging a new born baby with another one or keeping away a child from their parents or legal guardian or leaving a child in a not residential place whether for the purpose of exploitation or harming.

### **Bangladesh: Prevention and Suppression of Human Trafficking Act, 2012**

"Human Trafficking" means the selling or buying, remitting or receiving, deporting or transferring, sending or confining or harbouring either inside or outside of the territory of Bangladesh of any person for the purpose of sexual (exploitation or oppression, labour exploitation or any other form of exploitation or oppression by means of (a) threat or use of force; or (b) deception, or abuse of his or her socio-economic or environmental or other types of vulnerability; or (c) giving or receiving money or benefit (i) procure the consent of a person having control over him or her. (2) If the victim of trafficking is a child, it shall be immaterial whether any of the means of committing the offence mentioned in clause (a) to (c) of subsection (1) is used or not.

### **Bhutan : Bhutan Penal Code AND The Child Care and Protection Act of Bhutan 2011**

**Trafficking a person:** "A defendant shall be guilty of the offence of trafficking a person if the defendant recruits, transports, sells or buys, harbours or receives a person through the use of threat or force or deception within, into or outside of Bhutan for any illegal purpose".

**Trafficking of a child:** A defendant shall be guilty of the offence of trafficking of a child, if the defendant, sells, buys or transports a child for any illegal purpose.

#### **Trafficking a person for prostitution**

A defendant shall be guilty of the offence of trafficking a person for prostitution, if the defendant transports, sells or buys a person into or outside of Bhutan with the purpose of engaging that person in prostitution.

**The Child Care and Protection Act of Bhutan 2011:** Trafficking of a child: A person shall be guilty of trafficking of a child if a person recruits, transport, transfer, harbour or procure a child by means of threat, use of force, coercion, abduction, fraud, deception, abuse of power, position of vulnerability, transaction involving payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.

### **India : Criminal Law Amendment Act – 2013**

#### **Indian Penal Code – 1860**

**Trafficking of Person:** Whoever for the purpose of, transfers exploitation- recruits, transports, harbours, receives, *by* using, threats, force, any other form of coercion, abduction, fraud, deception, by abuse of power, inducement –including the giving or receiving of payments or benefits, in order to achieve the consent of any person having control over the person –recruited, transported, harbored, transferred or received, commits the offence of trafficking.



## **Maldives**

### **Anti-human trafficking Act- 2013**

#### **Human-trafficking**

A person who commits any of the following acts shall be considered a human trafficker:

1) Planning the transportation or transfer of a person or persons from one country to another by use of illegal means, force or other forms of coercion or being an accomplice to such a transfer. Engaging in the transportation or transfer of a person to another country by use of force or coercion or the receipt or harboring of such a person.

2) Planning the transportation or transfer of a person from one place to another within the territory of the Republic of Maldives by use of illegal means or force or other forms of coercion or being an accomplice to such a transfer. Engaging in the transportation or transfer of a person from one place to another by use of force or coercion or the receipt or harboring of such a person.

(b). For the purpose of a. (1) of this Section “the transportation or transfer of a person from one country to another” includes the transportation of a person to or from the Maldives.

(c). Although the victim of human-trafficking specified in (a) of this Section has given consent for the transportation or transfer or being harbored or received, the person who committed the act will be considered to have been engaged in the act of human-trafficking.

#### **(a). Human-trafficking**

A person who commits any of the following acts shall be considered a human trafficker:

1) Planning the transportation or transfer of a person or persons from one country to another by use of illegal means, force or other forms of coercion or being an accomplice to such a transfer. Engaging in the transportation or transfer of a person to another country by use of force or coercion or the receipt or harboring of such a person.

2) Planning the transportation or transfer of a person from one place to another within the territory of the Republic of Maldives by use of illegal means or force or other forms of coercion or being an accomplice to such a transfer. Engaging in the transportation or transfer of a person from one place to another by use of force or coercion or the receipt or harboring of such a person.

(b). For the purpose of a. (1) of this Section “the transportation or transfer of a person from one country to another” includes the transportation of a person to or from the Maldives.

(c). Although the victim of human-trafficking specified in (a) of this Section has given consent for the transportation or transfer or being harbored or received, the person who committed the act will be considered to have been engaged in the act of human-trafficking.

#### **Human-trafficking for the Purpose of Exploitation**

A person who commits any of the following acts shall be considered a human trafficker.

1). Organizing or directing the transfer or transportation of a person from one country to another or the receipt or harboring of such a person or deliberately being an accomplice to such a transfer. Or an act of negligence during and after the process of transfer or transportation which may lead to any of the following circumstances:

Subjecting the person to forced labour or servitude, conditional labour or servitude or the victim does not have the choice or freedom to change the situation.

Coercing someone to take part in an arrangement or agreement which may have legal implications or coercing the person to non-consensual marriage or the person who has entered such an agreement or marriage does not have the choice or freedom to change the situation.

Forcing someone to do a medical treatment or examination which is not required. That the person was subjected to the medical treatment or examination without consent.

2). Organizing the transfer or transportation of a person from one place to another within the territory of the Maldives or being an accomplice to such a transfer or during and after the process of transfer or transportation an act of negligence which could subject the person to any of the circumstances specified in clause (1) to (3) of this Section.

3). Organizing the transfer or transportation of a person from one country to another or being an accomplice to the act. Or attempt to falsify or mislead while being aware that the person could be subjected to exploitation during and after the transfer or transportation.

4). Organizing the transfer or transportation of a person from one place to another within the territory of the Maldives or being an accomplice to the act. Or attempt to falsify or mislead while being aware that the person could be subjected to exploitation during or after the process of transfer or transportation.

b). For the purpose of clause a. (1) and (3) of this Section, the transfer or transportation of a person from one country to another would include the transportation of a person to and from the Maldives.

c). Although the victim of the act specified in (a) of this Section has given consent for the transfer or transportation to another country, the perpetrator of the act would still be considered to have been engaged in the crime of human trafficking specified in this Act.

Section 17 (a) of the Anti-Human Trafficking Act stipulates that “human trafficking is a crime”. Clause (c) of the Section prescribes a 10-year prison sentence for anyone found guilty of having committed the act.

**DIFFERENT FORMS AND PURPOSES OF TRAFFICKING**

**Nepal: Human Trafficking and Transportation (Control) Act, 2007**

Acts considered as Human Trafficking and Transportation: (1) If anyone commits any of the following acts, that shall be deemed to have committed human trafficking:

- (a) To sell or purchase a person for any purpose,
- (b) To use someone into prostitution, with or without any benefit,
- (c) To extract human organ except otherwise determined by law,
- (d) To go for in prostitution.

(2) If anyone commits any of the following acts that shall be deemed to have committed human transportation:

- (a) To take a person out of the country for the purpose of buying and selling,
- (b) To take anyone from his /her home, place of residence or from a person by any means such as enticement, inducement, misinformation, forgery, tricks, coercion, abduction, hostage, allurements, influence, threat, abuse of power and by means of inducement, fear, threat or coercion to the guardian or custodian and keep him/her into ones custody or take to any place within Nepal or abroad or handover him/her to somebody else for the purpose of prostitution and exploitation.

- Bonded labour
  - Domestic work
  - Agricultural labour
  - Construction work
  - Carpet industry, garment industry
  - fish/shrimp export as well as other sites of work in the formal and informal economy
- Illegal Activities**
- Begging
  - Organ trade
  - Drug peddling and smuggling
- Sexual Exploitation**
- Forced prostitution
  - Socially and religiously sanctified Sex tourism
  - Pornography
- Entertainment and Sports**
- Circus, dance troupes, etc.
  - Camel jockey
- For and through Marriage  
For and through Adoption  
For using children in conflict situations

Source: <http://haqrcr.org/>

**Pakistan: Prevention and Control of Human Trafficking Ordinance, 2002**

“Human Trafficking” means obtaining, securing, selling, purchasing, recruiting, detaining, harbouring or receiving a person, notwithstanding his implicit or explicit consent, by the use of coercion, kidnapping, abduction, or by giving or receiving any payment or benefit, or sharing or receiving a share for such person’s subsequent transportation out of or into Pakistan by any means whatsoever for any of the purposes mentioned in section 3.



**Sri Lanka: Section 360C of the Penal Code (Amendment) Act, No. 16 of 2006**

Whoever—(a) buys, sells or barter or instigates another person to buy, sell or barter any person or does anything to promote, facilitate or induce the buying, selling or bartering of any person for money or other consideration; (b) recruits, transports, transfers, harbours or receives any person or does any other act by the use of threat, force, fraud, deception or inducement or by exploiting the vulnerability of another for the purpose of securing forced or compulsory labour or services, slavery, servitude, the removal of organs, prostitution or other forms of sexual exploitation or any other act which constitutes an offence under any law ; (c) recruits, transports, transfers, harbours or receives a child or does any other act whether with or without the consent of such child for the purpose of securing forced or compulsory labour or services, slavery, servitude or the removal of organs, prostitution or other forms of sexual exploitation, or any other act which constitutes an offence under any law, shall be guilty of the offence of trafficking. (2) Any person who is guilty of the offence of trafficking shall on conviction be punished with imprisonment of either description for a term not less than two years and not exceeding twenty years and may also be punished with fine and where such offence is committed in respect of a child, be punished with imprisonment of either description for a term not less than three years and not exceeding twenty years and may also be punished with fine.



**“Regional Parliamentarian Conference in Combatting Human Trafficking”, organized by the Asian Forum of Parliamentarians on Population and Development (AFPPD) and the South Asia Initiative to End Violence Against Children (SAIEVAC) supported by the Department of Foreign Affairs and Trade (DAFT) of the Government of Australia, on 21-22nd March, 2017, Bangkok, Thailand**



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Mr. Muhammad Mohsen Rashid further presented major challenges and key gaps in India’s legal framework on trafficking in persons. He noted the lack of a comprehensive definition of trafficking and identified other legal gaps similar to the one mentioned for Bangladesh.

In conclusion, Mr. Muhammad Mohsen Rashid stressed that trafficking is a complex and global problem that requires a global answer. He highlighted that it is important to raise awareness within the countries and the general public. Governments must have sufficient oversight and work in partnership with the private sector and NGOs. He encouraged the parliamentarians to refer to the Organization for Security and Co-operation in Europe (OSCE) Action Plan to combat human trafficking to develop policies. To emphasize that trafficking is a still today’s reality, he recalled the testimony of Ms. Nadia Murad Basee Taha before the UN Security Council, a Yezidi woman who was abducted into slavery by ISIS. He also mentioned the recent film name “An Indian Picture: Kahaani 2,” which tells the story of a young girl sexually exploited by a member of her family.



Mr. Muhammad Mohsen Rashid, as the Secretary General of SAARCLAW, discussed the situation of human trafficking in some South Asian countries. In Bangladesh, he recognized the efforts of the government, who has passed clear anti trafficking laws. Enforcement of these laws is also in progress, and the number of investigations and prosecutions has increased. In April 2012, the Parliament passed the Human Trafficking Deterrence and Suppression Act that generally prohibits and punishes all forms of human trafficking. Mr. Muhammad Mohsen Rashid further acknowledged the work of different Ministries in raising awareness on trafficking of women and children. He highlighted that a number of NGO’s in Bangladesh are working to combat human trafficking.

Mr. Muhammad Mohsen Rashid then presented major challenges and key gaps in the legal framework of Bangladesh, including a lack of gender-perspective approach. He also identified gaps in prosecution, noting the absence of a clear and unified definition of a child in terms of age, the absence of cooperation mechanisms relating to cross border trafficking and the absence of a comprehensive definition of trafficking. As for the gaps in protection, Mr. Muhammad Mohsen Rashid stressed that victims are not provided with sufficient shelters, that civil remedies in tort law are not used against employers, that the financial support for existing programs is often insufficient, and that the government should develop a witness protection program. Finally, regarding gaps in prevention, Mr. Muhammad Mohsen Rashid insisted on the importance of providing comprehensive training of personnel including police officers, developing awareness campaigns and community initiatives, and licensing and monitoring recruitment agencies.



Please find the full document at <https://www.afppd.org/events/event-docs/198-report-final-compressed-report.pdf>



**STATUS OF INTERNATIONAL CONVENTIONS ON TRAFFICKING IN SOUTH ASIA**

Country	Convention on the Rights of the Child	United Nations (UN) Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children	Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography	Optional Protocol to the Convention on the Rights of the Child on the involvement of Children in Armed Conflict	Minimum Age Convention, 1973 International Labor Organization (ILO) Convention 138	Worst Forms of Child Labour Convention, 1999 International Labor Organization (ILO) Convention 182	Convention on the Elimination of All Forms of Discrimination Against Women
Afghanistan	Ratified 28 March 1994	Ratified 15 Aug 2014	Ratified 19 Sept, 2002	Ratified 8 Sept, 2000	Ratified 7 April, 2010	Ratified 7 April, 2010	Ratified 5 March 2003
Bangladesh	Ratified 3 Aug, 1990	<b>Not signed &amp; ratified.</b>	Ratified 6 Sep, 2000	Ratified 6 Sept, 2000	<b>Not signed &amp; ratified.</b>	Ratified 12 March, 2001	Ratified 6 Nov 1984
Bhutan	Ratified 1 Aug, 1990	<b>Not signed &amp; ratified.</b>	Ratified 26 Oct, 2009	Ratified 9 Dec, 2009	Not the member of International Labor Organization		Ratified 31 Aug 1981
India	Ratified 11Dec 1992	Ratified 5 May, 2011	Ratified 16 Aug, 2005	Ratified 30 Nov,2005	Ratified 13, June2017	Ratified 13, June2017	Ratified 9 July 1993
Maldives	Ratified 11 Feb, 1991	Ratified 14 Sept, 2016	Ratified 10 May, 2002	Ratified 29 Dec, 2004	Ratified 4 Jan 2013	Ratified 4 Jan, 2013	Ratified 1 July 1993
Nepal	Ratified 14 Sept, 1990	<b>Not signed &amp; ratified.</b>	Ratified 20 Jan, 2006	Ratified 3 Jan, 2007	Ratified 30 May,1997	Ratified 3 Jan, 2002	Ratified 22 April 1991
Pakistan	Ratified 12 Nov, 1990	<b>Not signed &amp; ratified.</b>	Ratified 5 July, 2011	Ratified 17 Nov,2016	Ratified 6 July, 2006	Ratified 11 Oct, 2001	Ratified 12 March 1996
Sri Lanka	Ratified 12 July, 1991	Ratified 15 Jun, 2015	Ratified 22 Sept, 2006	Ratified 8 Sept, 2000	Ratified 11 Feb, 2000	Ratified 1 March, 2001	Ratified 5 Oct, 1981

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Source: <https://treaties.un.org>  
Compiled by SAARCLAW Regional Secretariat



**EVENTS AND CONFERENCES IN THE UPCOMING YEAR**

Date	Theme	Organized By	Venue	Contact Details
June 28-30, 2017	10th GFMD Summit Meeting “Towards a Global Social Contract on Migration and Development”	Global Forum on Migration and Development (GFMD)	Berlin, Germany	Phone: +4122 788 49 46 Email: supportunit@gfmd.org
6-8 <sup>th</sup> September, 2017	Strengthening the implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto Constant Element for the conference: Working Group on Trafficking in Persons	United Nations Convention against Transnational	Vienna, Austria	
21st– 22nd September, 2017	14th Annual International Human Trafficking and Social Justice Conference	Human Trafficking and Social Justice Institute	Toledo, OH	Phone no.: 419-530-5592 Email: traffickingconference@gmail.com
24 <sup>th</sup> -26 <sup>th</sup> October, 2017	Juvenile Sex Trafficking (JuST) Conference 2017	Shared Hope International	Hyatt Regency New Orleans, LA	Phone no. : 70113 504-561-1234

**Compiled by SAARCLAW Regional Secretariat**

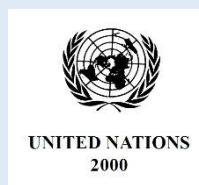
**PRESS RELEASES RELATING TO TRAFFICKING  
IN SOUTH ASIA**

<b>AFGHANISTAN</b>	<a href="https://www.thesun.co.uk/news/3090611/afghan-asylum-seekers-sneaked-into-uk-using-genuine-passports-of-british-sikhs-after-border-officials-got-confused-by-their-beards-and-turbans/">https://www.thesun.co.uk/news/3090611/afghan-asylum-seekers-sneaked-into-uk-using-genuine-passports-of-british-sikhs-after-border-officials-got-confused-by-their-beards-and-turbans/</a>
<b>BANGLADESH</b>	<p><b>10 Bangladeshi juvenile trafficking victims return home</b></p> <p><a href="http://www.dhakatribune.com/bangladesh/nation/2017/03/30/10-bangladeshi-trafficking-victims-return/">http://www.dhakatribune.com/bangladesh/nation/2017/03/30/10-bangladeshi-trafficking-victims-return/</a></p> <p><b>9 suspected human traffickers held, victims rescued</b></p> <p><a href="http://www.dhakatribune.com/bangladesh/crime/2017/03/22/9-suspected-human-traffickers-held-victims-rescued/">http://www.dhakatribune.com/bangladesh/crime/2017/03/22/9-suspected-human-traffickers-held-victims-rescued/</a></p>
<b>INDIA</b>	<p><b>Almost 20,000 women, children trafficked in 2016: Government report</b></p> <p><a href="http://timesofindia.indiatimes.com/india/almost-20000-women-children-trafficked-in-india-in-2016-govt-report/articleshow/57569145.cms">http://timesofindia.indiatimes.com/india/almost-20000-women-children-trafficked-in-india-in-2016-govt-report/articleshow/57569145.cms</a></p>
<b>MALDIVES</b>	<a href="http://en.mihaaru.com/three-men-sentenced-to-10-years-over-human-trafficking/">http://en.mihaaru.com/three-men-sentenced-to-10-years-over-human-trafficking/</a>
<b>NEPAL</b>	<a href="http://kathmandupost.ekantipur.com/news/2016-12-19/police-bust-human-trafficking-racket.html">http://kathmandupost.ekantipur.com/news/2016-12-19/police-bust-human-trafficking-racket.html</a>
<b>PAKISTAN</b>	<p><b>Women, children being ‘trafficked from Pakistan, forced into begging’ in Europe</b></p> <p><a href="https://tribune.com.pk/story/1225069/women-children-trafficked-pakistan-forced-begging-europe/">https://tribune.com.pk/story/1225069/women-children-trafficked-pakistan-forced-begging-europe/</a></p>
<b>SRI LANKA</b>	<p><b>British woman arrested in Mumbai helped trafficking Sri Lankans to UK</b></p> <p><a href="http://www.colombopage.com/archive_17A/Mar20_1489980491CH.php">http://www.colombopage.com/archive_17A/Mar20_1489980491CH.php</a></p>





**PROTOCOL TO PREVENT, SUPPRESS AND PUNISH TRAFFICKING IN PERSONS, ESPECIALLY WOMEN AND CHILDREN, SUPPLEMENTING THE UNITED NATIONS CONVENTION AGAINST TRANSNATIONAL ORGANIZED CRIME UNITED NATIONS 2000**



### **Preamble**

*The States Parties to this Protocol, Declaring* that effective action to prevent and combat trafficking in persons, especially women and children, requires a comprehensive international approach in the countries of origin, transit and destination that includes measures to prevent such trafficking, to punish the traffickers and to protect the victims of such trafficking, including by protecting their internationally recognized human rights, *Taking into account* the fact that, despite the existence of a variety of international instruments containing rules and practical measures to combat the exploitation of persons, especially women and children, there is no universal instrument that addresses all aspects of trafficking in persons, *Concerned* that, in the absence of such an instrument, persons who are vulnerable to trafficking will not be sufficiently protected, *Recalling* General Assembly resolution 53/111 of 9 December 1998, in which the Assembly decided to establish an open-ended intergovernmental ad hoc committee for the purpose of elaborating a comprehensive international convention against transnational organized crime and of discussing the elaboration of, inter alia, an international instrument addressing trafficking in women and children, *Convinced* that supplementing the United Nations Convention against Transnational Organized Crime with an international instrument for the prevention, suppression and punishment of trafficking in persons, especially women and children, will be useful in preventing and combating that crime,

*Have agreed as follows:*

### **I. General provisions**

#### *Article 1*

*Relation with the United Nations Convention against Transnational Organized Crime*

1. This Protocol supplements the United Nations Convention against Transnational Organized Crime. It shall be interpreted together with the Convention.
2. The provisions of the Convention shall apply, mutatis, mutandis, to this Protocol unless otherwise provided herein.
3. The offences established in accordance with article 5 of this Protocol shall be regarded as offences established in accordance with the Convention.

#### *Article 2*

*Statement of purpose*

The purposes of this Protocol are:

- (a) To prevent and combat trafficking in persons, paying particular attention to women and children;
- (b) To protect and assist the victims of such trafficking, with full respect for their human rights; and
- (c) To promote cooperation among States Parties in order to meet those objectives.

#### *Article 3*

*Use of terms*

For the purposes of this Protocol:

- (a) "Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring 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. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;
- (b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used; (c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered

“trafficking in persons” even if this does not involve any of the means set forth in subparagraph (a) of this article;  
(d) “Child” shall mean any person under eighteen years of age.

#### *Article 4*

##### *Scope of application*

This Protocol shall apply, except as otherwise stated herein, to the prevention, investigation and prosecution of the offences established in accordance with article 5 of this Protocol, where those offences are transnational in nature and involve an organized criminal group, as well as to the protection of victims of such offences.

#### *Article 5*

##### *Criminalization*

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences the conduct set forth in article 3 of this Protocol, when committed intentionally.

2. Each State Party shall also adopt such legislative and other measures as may be necessary to establish as criminal offences:

(a) Subject to the basic concepts of its legal system, attempting to commit an offence established in accordance with paragraph 1 of this article;

(b) Participating as an accomplice in an offence established in accordance with paragraph 1 of this article; and

(c) Organizing or directing other persons to commit an offence established in accordance with paragraph 1 of this article.

## **II. Protection of victims of trafficking in persons**

#### *Article 6*

##### *Assistance to and protection of victims of trafficking in persons*

1. In appropriate cases and to the extent possible under its domestic law, each State Party shall protect the privacy and identity of victims of trafficking in persons, including, inter alia, by making legal proceedings relating to such trafficking confidential.

2. Each State Party shall ensure that its domestic legal or administrative system contains measures that provide to victims of trafficking in persons, in appropriate cases:

(a) Information on relevant court and administrative proceedings; (b) Assistance to enable their views and concerns to be presented and considered at appropriate stages of criminal proceedings against offenders, in a manner not prejudicial to the rights of the defence.

3. Each State Party shall consider implementing measures to provide for the physical, psychological and social recovery of victims of trafficking in persons, including, in appropriate cases, in cooperation with non-governmental organizations, other relevant organizations and other elements of civil society, and, in particular, the provision of:

(a) Appropriate housing;

(b) Counselling and information, in particular as regards their legal rights, in a language that the victims of trafficking in persons can understand;

(c) Medical, psychological and material assistance; and

(d) Employment, educational and training opportunities.

4. Each State Party shall take into account, in applying the provisions of this article, the age, gender and special needs of victims of trafficking in persons, in particular the special needs of children, including appropriate housing, education and care.

5. Each State Party shall endeavour to provide for the physical safety of victims of trafficking in persons while they are within its territory.

6. Each State Party shall ensure that its domestic legal system contains measures that offer victims of trafficking in persons the possibility of obtaining compensation for damage suffered.

#### *Article 7*

##### *Status of victims of trafficking in persons in receiving States*

1. In addition to taking measures pursuant to article 6 of this Protocol, each State Party shall consider adopting legislative or other appropriate measures that permit victims of trafficking in persons to remain in its territory, temporarily or permanently, in appropriate cases.

2. In implementing the provision contained in paragraph 1 of this article, each State Party shall give appropriate consideration to humanitarian and compassionate factors.

#### *Article 8*

##### *Repatriation of victims of trafficking in persons*

1. The State Party of which a victim of trafficking in persons is a national or in which the person had the right of permanent residence at the time of entry into the territory of the receiving State Party shall facilitate and accept, with

due regard for the safety of that person, the return of that person without undue or unreasonable delay.

2. When a State Party returns a victim of trafficking in persons to a State Party of which that person is a national or in which he or she had, at the time of entry into the territory of the receiving State Party, the right of permanent residence, such return shall be with due regard for the safety of that person and for the status of any legal proceedings related to the fact that the person is a victim of trafficking and shall preferably be voluntary.

3. At the request of a receiving State Party, a requested State Party shall, without undue or unreasonable delay, verify whether a person who is a victim of trafficking in persons is its national or had the right of permanent residence in its territory at the time of entry into the territory of the receiving State Party.

4. In order to facilitate the return of a victim of trafficking in persons who is without proper documentation, the State Party of which that person is a national or in which he or she had the right of permanent residence at the time of entry into the territory of the receiving State Party shall agree to issue, at the request of the receiving State Party, such travel documents or other authorization as may be necessary to enable the person to travel to and re-enter its territory.

5. This article shall be without prejudice to any right afforded to victims of trafficking in persons by any domestic law of the receiving State Party.

6. This article shall be without prejudice to any applicable bilateral or multilateral agreement or arrangement that governs, in whole or in part, the return of victims of trafficking in persons.

### **III. Prevention, cooperation and other measures**

#### *Article 9*

##### *Prevention of trafficking in persons*

1. States Parties shall establish comprehensive policies, programmes and other measures:

(a) To prevent and combat trafficking in persons; and

(b) To protect victims of trafficking in persons, especially women and children, from revictimization.

2. States Parties shall endeavour to undertake measures such as research, information and mass media campaigns and social and economic initiatives to prevent and combat trafficking in persons.

3. Policies, programmes and other measures established in accordance with this article shall, as appropriate, include cooperation with non-governmental organizations, other relevant organizations and other elements of civil society.

4. States Parties shall take or strengthen measures, including through bilateral or multilateral cooperation, to alleviate the factors that make persons, especially women and children, vulnerable to trafficking, such as poverty, underdevelopment and lack of equal opportunity.

5. States Parties shall adopt or strengthen legislative or other measures, such as educational, social or cultural measures, including through bilateral and multilateral cooperation, to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking.

#### *Article 10*

##### *Information exchange and training*

1. Law enforcement, immigration or other relevant authorities of States Parties shall, as appropriate, cooperate with one another by exchanging information, in accordance with their domestic law, to enable them to determine:

(a) Whether individuals crossing or attempting to cross an international border with travel documents belonging to other persons or without travel documents are perpetrators or victims of trafficking in persons;

(b) The types of travel document that individuals have used or attempted to use to cross an international border for the purpose of trafficking in persons; and

(c) The means and methods used by organized criminal groups for the purpose of trafficking in persons, including the recruitment and transportation of victims, routes and links between and among individuals and groups engaged in such trafficking, and possible measures for detecting them.

2. States Parties shall provide or strengthen training for law enforcement, immigration and other relevant officials in the prevention of trafficking in persons. The training should focus on methods used in preventing such trafficking, prosecuting the traffickers and protecting the rights of the victims, including protecting the victims from the traffickers. The training should also take into account the need to consider human rights and child- and gender-sensitive issues and it should encourage cooperation with non-governmental organizations, other relevant organizations and other elements of civil society.

3. A State Party that receives information shall comply with any request by the State Party that transmitted the information that places restrictions on its use.

#### *Article 11*

##### *Border measures*



1. Without prejudice to international commitments in relation to the free movement of people, States Parties shall strengthen, to the extent possible, such border controls as may be necessary to prevent and detect trafficking in persons.
2. Each State Party shall adopt legislative or other appropriate measures to prevent, to the extent possible, means of transport operated by commercial carriers from being used in the commission of offences established in accordance with article 5 of this Protocol.
3. Where appropriate, and without prejudice to applicable international conventions, such measures shall include establishing the obligation of commercial carriers, including any transportation company or the owner or operator of any means of transport, to ascertain that all passengers are in possession of the travel documents required for entry into the receiving State.
4. Each State Party shall take the necessary measures, in accordance with its domestic law, to provide for sanctions in cases of violation of the obligation set forth in paragraph 3 of this article.
5. Each State Party shall consider taking measures that permit, in accordance with its domestic law, the denial of entry or revocation of visas of persons implicated in the commission of offences established in accordance with this Protocol.
6. Without prejudice to article 27 of the Convention, States Parties shall consider strengthening cooperation among border control agencies by, inter alia, establishing and maintaining direct channels of communication.

#### *Article 12*

##### *Security and control of documents*

Each State Party shall take such measures as may be necessary, within available means:

- (a) To ensure that travel or identity documents issued by it are of such quality that they cannot easily be misused and cannot readily be falsified or unlawfully altered, replicated or issued; and
- (b) To ensure the integrity and security of travel or identity documents issued by or on behalf of the State Party and to prevent their unlawful creation, issuance and use.

#### *Article 13*

##### *Legitimacy and validity of documents*

At the request of another State Party, a State Party shall, in accordance with its domestic law, verify within a reasonable time the legitimacy and validity of travel or identity documents issued or purported to have been issued in its name and suspected of being used for trafficking in persons.

## **IV. Final provisions**

#### *Article 14*

##### *Saving clause*

1. Nothing in this Protocol shall affect the rights, obligations and responsibilities of States and individuals under international law, including international humanitarian law and international human rights law and, in particular, where applicable, the 1951 Convention and the 1967 Protocol relating to the Status of Refugees and the principle of non-refoulement as contained therein.
2. The measures set forth in this Protocol shall be interpreted and applied in a way that is not discriminatory to persons on the ground that they are victims of trafficking in persons. The interpretation and application of those measures shall be consistent with internationally recognized principles of non-discrimination.

#### *Article 15*

##### *Settlement of disputes*

1. States Parties shall endeavour to settle disputes concerning the interpretation or application of this Protocol through negotiation.
2. Any dispute between two or more States Parties concerning the interpretation or application of this Protocol that cannot be settled through negotiation within a reasonable time shall, at the request of one of those States Parties, be submitted to arbitration. If, six months after the date of the request for arbitration, those States Parties are unable to agree on the organization of the arbitration, any one of those States Parties may refer the dispute to the International Court of Justice by request in accordance with the Statute of the Court.
3. Each State Party may, at the time of signature, ratification, acceptance or approval of or accession to this Protocol, declare that it does not consider itself bound by paragraph 2 of this article. The other States Parties shall not be bound by paragraph 2 of this article with respect to any State Party that has made such a reservation.
4. Any State Party that has made a reservation in accordance with paragraph 3 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

## *Article 16*

### *Signature, ratification, acceptance, approval and accession*

1. This Protocol shall be open to all States for signature from 12 to 15 December 2000 in Palermo, Italy, and thereafter at United Nations Headquarters in New York until 12 December 2002.
2. This Protocol shall also be open for signature by regional economic integration organizations provided that at least one member State of such organization has signed this Protocol in accordance with paragraph 1 of this article.
3. This Protocol is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the United Nations. A regional economic integration organization may deposit its instrument of ratification, acceptance or approval if at least one of its member States has done likewise. In that instrument of ratification, acceptance or approval, such organization shall declare the extent of its competence with respect to the matters governed by this Protocol. Such organization shall also inform the depositary of any relevant modification in the extent of its competence.
4. This Protocol is open for accession by any State or any regional economic integration organization of which at least one member State is a Party to this Protocol. Instruments of accession shall be deposited with the Secretary-General of the United Nations. At the time of its accession, a regional economic integration organization shall declare the extent of its competence with respect to matters governed by this Protocol. Such organization shall also inform the depositary of any relevant modification in the extent of its competence.

## *Article 17*

### *Entry into force*

1. This Protocol shall enter into force on the ninetieth day after the date of deposit of the fortieth instrument of ratification, acceptance, approval or accession, except that it shall not enter into force before the entry into force of the Convention. For the purpose of this paragraph, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by member States of such organization.
2. For each State or regional economic integration organization ratifying, accepting, approving or acceding to this Protocol after the deposit of the fortieth instrument of such action, this Protocol shall enter into force on the thirtieth day after the date of deposit by such State or organization of the relevant instrument or on the date this Protocol enters into force pursuant to paragraph 1 of this article, whichever is the later.

## *Article 18*

### *Amendment*

1. After the expiry of five years from the entry into force of this Protocol, a State Party to the Protocol may propose an amendment and file it with the Secretary-General of the United Nations, who shall thereupon communicate the proposed amendment to the States Parties and to the Conference of the Parties to the Convention for the purpose of considering and deciding on the proposal. The States Parties to this Protocol meeting at the Conference of the Parties shall make every effort to achieve consensus on each amendment. If all efforts at consensus have been exhausted and no agreement has been reached, the amendment shall, as a last resort, require for its adoption a two-thirds majority vote of the States Parties to this Protocol present and voting at the meeting of the Conference of the Parties.
2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote under this article with a number of votes equal to the number of their member States that are Parties to this Protocol. Such organizations shall not exercise their right to vote if their member States exercise theirs and vice versa.
3. An amendment adopted in accordance with paragraph 1 of this article is subject to ratification, acceptance or approval by States Parties.
4. An amendment adopted in accordance with paragraph 1 of this article shall enter into force in respect of a State Party ninety days after the date of the deposit with the Secretary-General of the United Nations of an instrument of ratification, acceptance or approval of such amendment.
5. When an amendment enters into force, it shall be binding on those States Parties which have expressed their consent to be bound by it. Other States Parties shall still be bound by the provisions of this Protocol and any earlier amendments that they have ratified, accepted or approved.

## *Article 19*

### *Denunciation*

1. A State Party may denounce this Protocol by written notification to the Secretary-General of the United Nations. Such denunciation shall become effective one year after the date of receipt of the notification by the Secretary-General.
2. A regional economic integration organization shall cease to be a Party to this Protocol when all of its member States have denounced it.

*Article 20*

*Depositary and languages*

1. The Secretary-General of the United Nations is designated depositary of this Protocol.
  2. The original of this Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.
- IN WITNESS WHEREOF, the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed this Protocol.

**Source:**

[https://www.unodc.org/documents/treaties/Special/2000\\_Protocol\\_to\\_Prevent\\_2C\\_Suppress\\_and\\_Punish\\_Trafficking\\_in\\_Persons.pdf](https://www.unodc.org/documents/treaties/Special/2000_Protocol_to_Prevent_2C_Suppress_and_Punish_Trafficking_in_Persons.pdf)





## **SAARC CONVENTION ON REGIONAL ARRANGEMENTS FOR THE PROMOTION OF CHILD WELFARE IN SOUTH ASIA**

### **PREAMBLE**

THE MEMBER STATES OF THE SOUTH ASIAN ASSOCIATION FOR REGIONAL COOPERATION (SAARC), PARTIES TO THE PRESENT CONVENTION

**NOTING** that a quarter of the world's children live in South Asia and many of them require assistance and protection to secure and fully enjoy their rights, and to develop to their full potential and lead a responsible life in family and society;

**BEARING IN MIND** that parents or legal guardians, as the case may be, have the primary responsibility for the upbringing and development of the child;

**RECOGNISING**, therefore, that the family, as the fundamental unit of society and also as the ideal nurturing environment for the growth and well-being of children, should be afforded the necessary protection and assistance so that it can fully assume and fulfill responsibility for its children and community;

**RECALLING** the common proclamation of their nations in the Universal Declaration of Human Rights that childhood is entitled to special care and assistance;

**REAFFIRMING** their adherence to the Declaration of the World Summit for Children and their commitment to the UN Convention on the Rights of the Child;

**RECOGNISING** the efforts of SAARC towards building a regional consensus on priorities, strategies and approaches to meet the changing needs of children, as embodied in Rawalpindi Resolution on Children of South Asia 1996, and noting the significant progress already made by the Member States in the field of child survival and welfare;

**TAKING INTO ACCOUNT**, the declaration of the years 2001-2010 as the "SAARC Decade of the Rights of the Child";

**BEARING IN MIND** that the development of the full potential of the South Asian child is a critical concomitant to the region's collective march towards solidarity, justice, peace and human progress;

**ACKNOWLEDGING** that regional solidarity and cooperation through sharing of experience, expertise, information and resources are eminently useful in galvanizing the efforts of the South Asian nations to fulfill and protect the rights of children;

**REALISING** further that, together, the Member States of SAARC can move towards a comprehensive South Asian vision for the well-being of their children;

**HEREBY AGREE** as follows:

### **PART I - DEFINITIONS, PURPOSE AND GUIDING PRINCIPLES**

#### *Article I - Definitions*

For the purposes of this Convention:

'Rights of the Child' shall mean the rights of children embodied in the UN Convention on the Rights of the Child.

'Child' shall mean a national of any Member State of the South Asian Association for Regional Cooperation (SAARC), below the age of eighteen years unless, under the national law, majority is attained earlier.

#### *Article II - Purposes and Objectives*

The purposes and objectives of the present Convention shall be to:

1. Unite the States Parties in their determination of redeeming the promises made by them to the South Asian Child at the World Summit for Children and at various other national and international conferences and successive SAARC Summits;
2. Work together with commitment and diligence, to facilitate and help in the development and protection of the full potential of the South Asian child, with understanding of the rights, duties and responsibilities as well as that of others;
3. Set up appropriate regional arrangements to assist the Member States in facilitating, fulfilling and protecting the rights of the Child, taking into account the changing needs of the child.

### ***Article III - Guiding Principles***

For the establishment of regional arrangements, States Parties shall be guided by the following principles:

1. States Parties to this Convention shall consider survival, protection, development and participatory rights of the child as a vital pre-requisite for:
  - a) Accelerating the process of their peoples' realization of human rights and fundamental freedoms; and
  - b) Achieving economic and social development in South Asia.
2. States Parties shall reaffirm the right of the child to enjoy all rights and freedoms guaranteed by the national laws and regionally and internationally binding instruments.
3. States Parties consider the UN Convention on the Rights of the Child as a comprehensive international instrument concerning the rights and well-being of the child and shall, therefore, reiterate their commitment to implement it.
4. States Parties shall uphold 'the best interests of the child' as a principle of paramount importance and shall adhere to the said principle in all actions concerning children.
5. States Parties, while recognizing that the primary responsibility of looking after the well-being of the child rests with the parents and family, shall uphold the principle that the State has the right and authority to ensure the protection of the best interests of the child.
6. States Parties shall consider this Convention as a guiding force for all national laws and bilateral or multilateral agreements that are entered into in the field of child welfare.
7. States Parties shall always consider gender justice and equality as key aspirations for children, the realization of which, collectively by the governments, would enhance the progress of South Asia.

## **PART II - REGIONAL PRIORITIES AND ARRANGEMENTS**

### ***Article IV - Regional Priorities***

1. Without prejudice to the indivisibility of the rights enshrined in the UN Convention on the Rights of the Child and other international and national instruments and law, States Parties shall place special emphasis on the important areas for child development and well-being as regional priorities that can benefit immensely from bilateral and regional cooperation.
2. Recognising basic services such as education, health care, with special attention to the prevention of diseases and malnutrition, as the cornerstone of child survival and development, States Parties shall pursue a policy of development and a National Programme of Action that facilitate the development of the child. The policy shall focus on accelerating the progressive universalization of the child's access to the basic services and conditions.
3. States Parties shall ensure that appropriate legal and administrative mechanisms and social safety nets and defenses are always in place to:
  - a) Ensure that their national laws protect the child from any form of discrimination, abuse, neglect, exploitation, torture or degrading treatment, trafficking and violence;
  - b) Discourage entry of children into hazardous and harmful labour and ensure implementation of the Ninth SAARC Summit decision to eliminate the evil of child labour from the SAARC region. In doing so, States Parties shall

adopt a multi-pronged strategy including the provision of opportunities at the primary level and supportive social safety nets for families that tend to provide child labourers;

- c) Administer juvenile justice in a manner consistent with the promotion of the child's sense of dignity and worth, and with the primary objective of promoting the child's reintegration in the family and society. In doing so, States Parties shall provide special care and treatment to children in a country other than the country of domicile and expectant women and mothers who are detained along with infants or very young children, and shall promote, to the best possible extent, alternative measures to institutional correction, keeping in mind the best interest of the child;
  - d) States Parties shall make civil registration of births, marriages and deaths, in an official registry, compulsory in order to facilitate the effective enforcement of national laws, including the minimum age for employment and marriage.
4. Recognizing the evolving capacities of the child, States Parties shall encourage and support administrative and judicial institutions to arrange for suitable mechanisms at appropriate levels and in accordance with local customs and traditions, to provide opportunities and access for the child to:
- a) Seek and receive information;
  - b) Express views, directly or through a representative, and receive due weight and consideration for them, in accordance with age and maturity, in all matters affecting them;
  - c) Participate fully and without hindrance or discrimination in the school, family and community life.
5. States Parties shall encourage the mass media to disseminate information and material of social and cultural benefit to the child. They shall also endeavour to give wide publicity to the Convention as well as other regional and international instruments having a bearing on the child.

#### ***Article V - Regional Arrangements***

To ensure consistent focus on and pursuance of the regional priorities delineated above, States Parties shall promote solidarity, cooperation and collective action between and among SAARC Member States in the arena of child rights and development. States Parties view such cooperation as mutually reinforcing and capable of enhancing the quality and impact of their national efforts to create the enabling conditions and environment for full realization of child rights and attainment of the highest possible standard of child well-being. In pursuance hereof, States Parties shall:

- a) provide opportunities for appropriate bilateral and multilateral sharing of information, experience and expertise;
- b) facilitate human resource development through planned annual schedule of SAARC Advanced Training Programmes on Child Rights and Development;
- c) make special arrangements for speedy completion and disposal, on priority basis, of any judicial or administrative inquiry or proceeding involving a child who is a national of another SAARC Member State, and for the transfer of children who are nationals of SAARC countries, accused of infringing the penal code, back to their country of legal residence for trial and treatment, provided that the alleged offence has not imperiled the national security of the country where it has been allegedly committed;
- d) strengthen the relevant SAARC Bodies dealing with issues of child welfare to formulate and implement regional strategies and measures for prevention of inter-country abuse and exploitation of the child, including the trafficking of children for sexual, economic and other purposes;
- e) set up a South Asian nutrition initiative aimed at enhancing knowledge and promoting greater awareness, practice and attainment of higher levels of nutrition, particularly for children and women, through mass education, adequate training and ensuring food security and equitable distribution of food at the family level.

### **PART III - RELATIONSHIPS AND COOPERATION**

#### ***Article VI - Bilateral and Multilateral Cooperation***

States Parties shall encourage and support bilateral and multilateral agreements and cooperation that would have positive impact on regional and national efforts in facilitating, fulfilling and protecting the rights and well-being of the child.



### ***Article VII - Relations with National Law and International Instruments***

1. The States Parties to the Convention shall adopt, in accordance with their respective Constitutions, the legislative and other measures necessary to ensure the implementation of the Convention.
2. Nothing in this Convention shall affect any provisions which are more conducive to the realization of the rights of the South Asian child and which may be contained in national laws or international agreements that are in force.

### ***Article VIII - Relations with Non-Governmental Bodies***

State Parties, while implementing the provisions of the Convention, may encourage and support the participation of non-Governmental bodies including community-based organizations.

### ***Article IX - Cooperation with UN Agencies and Other International Agencies***

Recognizing their nature and scope, States Parties may encourage cooperation with UN and other international agencies.

### ***Article X - Political Commitment***

States Parties shall provide the necessary political support to ensure that appropriate measures are taken, to help fulfill the provisions of this Convention. The measures, inter-alia, could include legislative reform and promulgation of appropriate new policies and legislation, trained manpower, adequately equipped institutions and adequate allocation of human and financial resources.

## **PART IV**

### ***Article XI - Signature and Ratification***

The Convention shall be open for signature by the Member States of SAARC at the Eleventh SAARC Summit in Kathmandu, and thereafter, at the SAARC Secretariat in Kathmandu. It shall be subject to ratification. The Instruments of Ratification shall be deposited with the SAARC Secretary-General.

### ***Article XII - Entry into Force***

The Convention shall enter into force on the fifteenth day following the date of deposit of the Seventh Instrument of Ratification with the Secretary-General of the South Asian Association for Regional Cooperation (SAARC).

The Secretary-General shall be the Depository of this Convention and shall notify the Member States of signatures to this Convention and all deposits of Instruments of Ratification. The Secretary General shall transmit certified copies of such instruments to each Member State. The Secretary-General shall also inform Member States of the date on which this Convention will have entered into force in accordance with Article XII.

**IN WITNESS WHEREOF** the undersigned, being duly authorized thereto by their respective Governments, have signed this Convention.

**DONE** at Kathmandu on this Fifth Day of January Two Thousand and Two, in nine originals, in the English Language, all texts being equally authentic.



## SAARC CONVENTION ON PREVENTING AND COMBATING TRAFFICKING IN WOMEN AND CHILDREN FOR PROSTITUTION

**THE MEMBER STATES OF THE SOUTH ASIAN ASSOCIATION FOR REGIONAL COOPERATION (SAARC), PARTIES TO THE PRESENT CONVENTION**

**EMPHASISING** that the evil of trafficking in women and children for the purpose of prostitution is incompatible with the dignity and honour of human beings and is a violation of basic human rights;

**RECALLING** the decision of the Ninth SAARC Summit (May, 1997) that the feasibility of a regional Convention to combat the grave crime of trafficking in women and children for prostitution should be explored;

**RECALLING ALSO** the relevant international legal instruments relating to prevention of trafficking in women and children, including the Convention for the Suppression of Trafficking in Persons and of the Exploitation of Prostitution of Others, 1949; Convention on the Elimination of All Forms of Discrimination against Women, 1979; International Covenant on Civil and Political Rights, 1966; and the Convention on the Rights of the Child, 1989;

**GIVING** due regard to the implementation of the recommendations of the various pertinent International Bodies and Conferences including the Fourth World Conference on Women at Beijing (1995);

**NOTING** with concern the increasing exploitation by traffickers of women and children from SAARC countries and their increasing use of these countries as sending, receiving and transit points;

**RECOGNISING** in this regard the importance of establishing effective regional cooperation for preventing trafficking for prostitution and for investigation, detection, interdiction, prosecution and punishment of those responsible for such trafficking;

**EMPHASISING** the need to strengthen cooperation in providing assistance, rehabilitation and repatriation to victims of trafficking for prostitution;

**HAVE AGREED** as follows:

### *Article I*

#### DEFINITIONS

For the purpose of this Convention:

- 1) "Child" means a person who has not attained the age of 18 years;
- 2) "Prostitution" means the sexual exploitation or abuse of persons for commercial purposes;
- 3) "Trafficking" means the moving, selling or buying of women and children for prostitution within and outside a country for monetary or other considerations with or without the consent of the person subjected to trafficking;
- 4) "Traffickers" means persons, agencies or institutions engaged in any form of trafficking;
- 5) "Persons subjected to trafficking" means women and children victimized or forced into prostitution by the traffickers by deception, threat, coercion, kidnapping, sale, fraudulent marriage, child marriage, or any other unlawful means;
- 6) "Protective home" means a home established or recognized by a Government of a Member State for the reception, care, treatment and rehabilitation of rescued or arrested persons subjected to trafficking.
- 7) "Repatriation" means return to the country of origin of the person subjected to trafficking across international frontiers.

### *Article II*

#### SCOPE OF THE CONVENTION

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.

### *Article III*

#### **OFFENCES**

1. The State Parties to the Convention shall take effective measures to ensure that trafficking in any form is an offence under their respective criminal law and shall make such an offence punishable by appropriate penalties which take into account its grave nature.
2. The State Parties to the Convention, in their respective territories, shall provide for punishment of any person who keeps, maintains or manages or knowingly finances or takes part in the financing of a place used for the purpose of trafficking and knowingly lets or rents a building or other place or any part thereof for the purpose of trafficking.
3. Any attempt or abetment to commit any crime mentioned in paras 1 and 2 above or their financing shall also be punishable.

### *Article IV*

#### **AGGRAVATING CIRCUMSTANCES**

1. The State Parties to the Convention shall ensure that their courts having jurisdiction over the offences committed under this Convention, can take into account factual circumstances which make the commission of such offences particularly grave, viz.
  - a) the involvement in the offences of an organized criminal group to which the offender belongs;
  - b) the involvement of the offender in other international organized criminal activities;
  - c) the use of violence or arms by the offender;
  - d) the fact that the offender holds a public office and that the offence is committed in misuse of that office;
  - e) the victimization or trafficking of children;
  - f) the fact that the offence is committed in a custodial institution or in an educational institution or social facility or in their immediate vicinity or in other places to which children and students visit for educational, sports, social and cultural activities;
  - g) previous conviction, particularly for similar offences, whether in a Member State or any other country.

### *Article V*

#### **JUDICIAL PROCEEDINGS**

In trying offences under this Convention, judicial authorities in Member States shall ensure that the confidentiality of the child and women victims is maintained and that they are provided appropriate counselling and legal assistance.

### *Article VI*

#### **MUTUAL LEGAL ASSISTANCE**

1. The State Parties to the Convention shall grant to each other the widest measure of mutual legal assistance in respect of investigations, inquiries, trials or other proceedings in the requesting State in respect of offences under this Convention. Such assistance shall include:
  - a) taking of evidence and obtaining of statements of persons;
  - b) provision of information, documents and other records including criminal and judicial records;
  - c) location of persons and objects including their identification;
  - d) search and seizures;
  - e) delivery of property including lending of exhibits;
  - f) making detained persons and others available to give evidence or assist investigations;
  - g) service of documents including documents seeking attendance of persons; and
  - h) any other assistance consistent with the objectives of this Convention.
2. Requests for assistance shall be executed promptly in accordance with their national laws and in the manner requested by the Requesting State. In the event that the Requested State is not able to comply in whole or in part with a request for



assistance or decides to postpone execution it shall promptly inform the Requesting State and shall give reasons for the same.

#### *Article VII*

### **EXTRADITION OR PROSECUTION**

1. The offences referred to in the present Convention shall be regarded as extraditable offences in any extradition treaty which has been or may hereinafter be concluded, between any of the Parties to the Convention.
2. If a State Party which makes extradition conditional on the existence of a treaty, receives a request for extradition from another State Party with which it has no extradition treaty, the Requested State shall, if so permitted by its laws, consider this Convention as the basis for extradition in respect of the offences set forth in Article III.
3. Extradition shall be granted in accordance with the laws of the State to which the request is made.
4. The State Party in whose territory the alleged offender is present shall, if it does not extradite him or her, submit, without exception whatsoever and without undue delay, the case to its competent authorities for the purpose of prosecution in accordance with the laws of that State.
5. In States where extradition of their nationals is not permitted under their law, nationals who have committed offences under the present Convention shall be prosecuted and punished by their courts.

#### *Article VIII*

### **MEASURES TO PREVENT AND INTERDICT TRAFFICKING IN WOMEN AND CHILDREN**

1. The State Parties to the Convention shall provide sufficient means, training and assistance to their respective authorities to enable them to effectively conduct inquiries, investigations and prosecution of offences under this Convention.
2. The State Parties to the Convention shall sensitize their law enforcement agencies and the judiciary in respect of the offences under this Convention and other related factors that encourage trafficking in women and children.
3. The State Parties to the Convention shall establish a Regional Task Force consisting of officials of the Member States to facilitate implementation of the provisions of this Convention and to undertake periodic reviews.
4. The State Parties to the Convention may also, by mutual agreement, set up bilateral mechanisms to effectively implement the provisions of the Convention, including appropriate mechanisms for cooperation to interdict trafficking in women and children for prostitution.
5. The State Parties to the Convention shall exchange, on a regular basis, information in respect of agencies, institutions and individuals who are involved in trafficking in the region and also identify methods and routes used by the traffickers through land, water or air. The information so furnished shall include information of the offenders, their fingerprints, photographs, methods of operation, police records and records of conviction.
6. The State Parties to the Convention may consider taking necessary measures for the supervision of employment agencies in order to prevent trafficking in women and children under the guise of recruitment.
7. The State Parties to the Convention shall endeavour to focus preventive and development efforts on areas which are known to be source areas for trafficking.
8. The State Parties to the Convention shall promote awareness, *inter-alia*, through the use of the media, of the problem of trafficking in women and children and its underlying causes including the projection of negative images of women.

#### *Article IX*

### **CARE, TREATMENT, REHABILITATION AND REPATRIATION OF THE VICTIMS**

1. The State Parties to the Convention shall work out modalities for repatriation of the victims to the country of origin.
2. Pending the completion of arrangements for the repatriation of victims of cross-border trafficking, the State Parties to the Convention shall make suitable provisions for their care and maintenance. The provision of legal advice and health care facilities shall also be made available to such victims.

3. The State Parties to the Convention shall establish protective homes or shelters for rehabilitation of victims of trafficking. Suitable provisions shall also be made for granting legal advice, counselling, job training and health care facilities for the victims.
4. The State Parties to the Convention may also authorize the recognized non-governmental organizations to establish such protective homes or shelters for providing suitable care and maintenance for the victims of trafficking.
5. The State Parties to the Convention shall encourage recognized non-governmental organizations in efforts aimed at prevention, intervention and rehabilitation, including through the establishment of such protective homes or shelters for providing suitable care and maintenance for the victims of trafficking.

*Article X*

**IMPLEMENTATION**

The State Parties to the Convention shall adopt, in accordance with their respective Constitutions, the legislative and other measures necessary to ensure the implementation of the Convention.

*Article XI*

**HIGHER MEASURES**

The measures provided for in the Convention are without prejudice to higher measures of enforcement and protection accorded by relevant national laws and international agreements.

*Article XII*

**SIGNATURE AND RATIFICATION**

The Convention shall be open for signature by the Member States of SAARC at the Eleventh SAARC Summit at Kathmandu and thereafter, at the SAARC Secretariat at Kathmandu. It shall be subject to ratification. The Instruments of Ratification shall be deposited with the Secretary-General.

*Article XIII*

**ENTRY INTO FORCE**

This Convention shall enter into force on the fifteenth day following the day of the deposit of the seventh Instrument of Ratification with the Secretary-General.

*Article XIV*

**DEPOSITORY**

The Secretary-General shall be the depository of this Convention and shall notify the Member States of signatures to this Convention and all deposits of Instruments of Ratification. The Secretary-General shall transmit certified copies of such instruments to each Member State. The Secretary-General shall also inform Member States of the date on which this Convention will have entered into force in accordance with Article XIII.

**IN WITNESS WHEREOF** the undersigned, being duly authorized thereto by their respective Governments, have signed this Convention.

**DONE** at Kathmandu on this Fifth Day of January Two Thousand and Two, in nine originals, in the English Language, all texts being equally authentic.

**Source:** [http://saarc-sec.org/digital\\_library/detail\\_menu/saarc-convention-on-preventing-and-combating-trafficking-in-women-and-children-for-prostitution](http://saarc-sec.org/digital_library/detail_menu/saarc-convention-on-preventing-and-combating-trafficking-in-women-and-children-for-prostitution)

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