

## Strengthening Anti-Human Trafficking Mechanisms in the Bay of Bengal Region

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**ABSTRACT** Large numbers of people, most of them women, are trafficked in the Bay of Bengal region. Despite these countries having anti-trafficking laws in place in line with the United Nations Trafficking in Persons Protocol, the incidence of the criminal activity continues unabated. This brief gives an overview of human trafficking in the Bay of Bengal region, particularly around the contiguous zone of India–Nepal–Bangladesh, which has become a hub of this organised, trans-national crime. It offers recommendations to arrest human trafficking in the region.

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## INTRODUCTION

The increased incidence of trafficking of people—in particular, of women and children—is an urgent concern for the countries of BIMSTEC (Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation). Authorities agree that the routes, methods and activities of traffickers have become highly organised, with crime syndicates having a greater degree of penetration both within and outside the Bay of Bengal region. Most of the victims across the world are females; mainly adult women, but also increasingly young girls. The situation in the Bay of Bengal region is no different.<sup>1</sup> The alarming numbers of women and children being trafficked for forced labour or slavery-like practices (including commercial sexual exploitation) is a crucial concern for the Bay littorals.

Available statistics are limited and contested in nature, making it difficult to create an exhaustive map of the current situation. Nonetheless, the available data has managed to draw BIMSTEC's attention to the incidence of human trafficking in the region.

This brief provides an overview of the trafficking of women in the Bay of Bengal region, particularly around India–Nepal–Bangladesh, a contiguous zone and a hub of this type of organised, trans-national crime. The author uses available data to analyse how trafficking is related to forced migration. What makes women and children fall prey to trafficking? What are the cross-border legal mechanisms between and amongst these countries within the Bay region? What is the response of BIMSTEC as a subregional

organisation? The brief concludes with policy recommendations.

## SETTING THE TONE

The Trafficking in Persons Protocol was adopted by the United Nations (UN) in November 2000 and came into force in December 2003. It defines trafficking as “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, or 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 includes different forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude, or the removal of organs for sale.<sup>2</sup> According to the Global Alliance Against Traffic in Women (GAATW) report, *Collateral Damage: The Impact of Anti-Trafficking Measures on Human Rights around the World*, trafficking in persons is not limited to criminal issues and is a multi-dimensional phenomenon including social, economic, and criminal: gender, health, migration and development. These are more pronounced in the informal sector.<sup>3</sup> According to a report by the UN Office on Drugs and Crime (UNODC), *Global Report on Trafficking in Persons 2018*, in the last decade alone, there has been an upward trend in the number of victims identified, and traffickers convicted globally.<sup>4</sup>

There is a dearth of data on human trafficking specifically in the Bay of Bengal

region. Nonetheless, the 2018 UNODC report can be used to understand the situation in South Asia and East Asia-Pacific.<sup>a</sup> According to the report, of the total trafficked persons in South Asia,<sup>5</sup> women account for 59 percent and men, 37 percent. Of all incidents, trafficking for sexual exploitation (50 percent) is nearly equal to trafficking for forced labour (49 percent).<sup>6</sup> In 2016, 67 percent of the total reported victims of trafficking in East Asia and the Pacific were women. About 60 percent of these detected victims were trafficked for sexual exploitation, and 38 percent for forced labour. In Myanmar, most of the detected victims were women. In Thailand, there was more trafficking of people for forced labour than for sexual exploitation, and men accounted for the majority of trafficked persons. Both these countries reported particularly high numbers of women being prosecuted, and convicted of trading in humans. The vast majority of the convicted traffickers are citizens of the country of conviction.<sup>7</sup>

According to the same UNDOC report 2018, the South Asian region is the origin area for a significant proportion of humans trafficked to the rest of the world; indeed, victims from South Asia have been detected in more than 40 countries around the world.<sup>8</sup> The main destinations are found to be the countries of the Gulf Cooperation Council in the Middle East. To a lesser extent, victims from South Asia have also been reported in Western and Southern Europe, and in North America. Victims from South

Asia—particularly, Bangladesh and India—also end up in the countries of Southeast Asia.

Meanwhile, both the diversity of the flows and the number of victims detected indicate that human trafficking from East Asia is of a global dimension. The flows from countries in the region to North America, the Middle East, and Western and Central Europe, are particularly relevant. Thailand is a destination for victims trafficked from Cambodia, the Lao People's Democratic Republic, Myanmar and Vietnam. In Australia and Japan, most of the women being traded are from Southeast Asia.<sup>9</sup>

## **SPOTLIGHT ON INDIA–NEPAL–BANGLADESH ZONE**

Based on the patterns of human trafficking in the region, analysts and authorities categorise some countries as “sending countries” or sites of origin, and others as “receiving countries” or destination. However, the situation on the ground is more complex. India, for instance, is not only a site of destination within the region, but a transit country as well. It works as an intermediary space, from where women and children are trafficked to sites within the region as well as to other parts of the world. Bangladesh and Nepal, meanwhile, can be characterised purely as sending countries.

A 2008 report reveals that Bangladesh and Nepal are two of the biggest suppliers of the traffic into India, accounting for 2.17 percent and 2.6 percent, respectively.<sup>10</sup> A report by Justice and Care, in association with the Border Security Force (BSF) found that more

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a This brief analyses the situation of Southeast Asia as part of East Asia.

than 500,000 Bangladeshi women and children aged 12–30 have been illegally sent to India in the last decade.<sup>11</sup> According to a report by the National Human Rights Commission, nearly 35,000 Nepali citizens (15,000 men, 15,000 women, and 5,000 children) were trafficked into India in 2018–19.<sup>12</sup> Non-government organisations working to battle trafficking have estimated that about 50 women are being traded from Nepal to India every day.<sup>13</sup> Nepali victims of labour trafficking are often transported through Sri Lanka and Myanmar, en route to their final destination.

According to the US State Department's 2018 report, "Trafficking in Persons," about 728,000 Rohingyas have fled from Rakhine in Myanmar since August 2017 to neighbouring Bangladesh. Of these, a substantial number of women and girls have been traded for sex work in both Bangladesh and India. Traffickers are known to abduct Rohingya women and children who are in transit as well as those already in refugee camps in Bangladesh, and sell them into forced marriages in India, Indonesia and Malaysia. Some of them have reportedly been subjected to forced labour or sex trafficking.<sup>14</sup> Traffickers transport Rohingya girls both within Bangladesh, to Chittagong and Dhaka, and transnationally to Kathmandu and Kolkata for sex work; some traffickers also trade these girls over the internet.<sup>15</sup>

Once these women are trafficked from one country to another, they lose their rights and become virtually stateless. Some start as migrant workers but end up in brothels, primarily because there are no authorised safe channels for women migrant workers to

guarantee their employment, let alone being paid for their work. In most cases, the migration occurs without any legal or authorised documents. Unskilled female workers, between the ages of nine and 25 years, constitute the most vulnerable group in human trafficking.<sup>16</sup> Radhika Coomaraswamy's report provides important indicators for the possible intersections between trafficking and migration.<sup>17</sup> The growth in migration and trafficking flows has resulted from a combination of push, pull and facilitating factors. Illiteracy, poverty, class clashes, natural calamities, and political and ethnic unrest have all contributed to heightening the vulnerabilities of marginalised groups, making them even more susceptible to gross violations of human rights.<sup>18</sup>

## **CROSS-BORDER LEGAL MECHANISMS IN THE BAY OF BENGAL REGION**

Until recently, the national governments of the BIMSTEC countries did not prioritise the issue of cross-border human trafficking. However, most of the countries of the region have now made a commitment at the national level to combat the trafficking of women and children. India, Nepal and Bangladesh are perhaps the most proactive in attempting to combat the problem through the passage of national legislations. However, domestic laws face issues of implementation and enforcement; impunity still prevails despite these legislations.

### **• Bilateral Responses**

At the bilateral level, the India–Bangladesh memorandum of agreement (MoU) in 2015



was a significant move in the two countries' efforts at preventing human trafficking. The MoU has focused on three aspects: a) expansion of the definition of who are "trafficked"; b) repatriation; and c) the creation of a joint task force. India has been planning to sign similar MoUs with other neighbouring countries such as Nepal and Myanmar.<sup>19</sup> On 27 November 2019, the Union Cabinet of India approved an MoU between India and Myanmar on bilateral cooperation for the Prevention of Trafficking in Persons, covering rescue, recovery, repatriation and reintegration of victims of trafficking.<sup>20</sup> It was finally exchanged on 27 February 2020, during the state visit of the President of Myanmar. In Thailand, multiple agencies, including the MSDHS, the Royal Thai Police, the Immigration Bureau, the Office of the Attorney General, and the Office of the Judiciary, have cooperated with the Myanmar Police and other relevant agencies to provide assistance for, and expedite the repatriation of Myanmar victims through the reception centre in Myawaddy.<sup>21</sup>

#### • SAARC's Approach

The signing of the Convention on Trafficking in 2002 by the South Asian Association for Regional Cooperation (SAARC) was a landmark step towards recognising the importance of the issues relating to cross-border human trafficking and undocumented migration. However, despite being regarded as a milestone in coordinating interventions against human trade at the regional level, the convention has its limitations. For one, it defines 'trafficking' within the limited scope of "prostitution." This definition needs to be broadened.<sup>22</sup>

#### • BIMSTEC's Role

BIMSTEC has identified the fight against "terrorism and organised international crime" as one of the most important prerequisites for sustainable growth and for maintaining peace in the region. In the Eighth Ministerial Meeting held at Dhaka, Bangladesh, on 18–19 December 2005, Counterterrorism and Transnational Crime (CTTC) was added as one of the priority sectors of BIMSTEC, with India as the lead. Accordingly, a joint working group (JWG) was formed including four sub-groups, each with its own lead country: intelligence sharing (Sri Lanka), financing of terrorism (Thailand), legal and law enforcement issues (India), and prevention of trafficking in narcotics and psychotropic substances (Myanmar).

In 2009, the "BIMSTEC Convention on Cooperation in Combating International Terrorism, Transnational Organised Crime and Illicit Drug Trafficking" was adopted. Comprising 15 articles, this convention can be considered as a confidence-building measure, and the member states, subject to their domestic laws and regulations, made a commitment to cooperate in combating international terrorism; transnational organised crime; and illicit trafficking in narcotic drugs and psychotropic substances, including their precursor chemicals. However, the convention does not mention human trafficking and undocumented migration. All the member states have ratified the Convention except Bhutan. In principle, Bhutan agrees with the agenda of combatting human trafficking. However, there is a lack of clarity about the nature of the extradition treaty at the BIMSTEC level since the country

has already signed a bilateral extradition treaty with India.<sup>23</sup>

While approving the final text of the “BIMSTEC Convention on Mutual Legal Assistance in Criminal Matters,” the JWG recommended the inclusion of “Human Trafficking and Illegal Migration” and “Cooperation on Countering Radicalization and Terrorism” in the agenda of the 7<sup>th</sup> JWGCTTC meeting. Further, it proposed the creation of two new sub-groups under the leadership of Bangladesh and India. Finally, it approved the proposal to start drafting and negotiating on a “BIMSTEC Treaty on Extradition.”

## RECOMMENDATIONS

BIMSTEC has yet to take collective measures to arrest the incidence of trafficking of its people and within its borders. In relation to the countries’ populations, the response level of criminal justice appears to be limited. For instance, in 2016, countries in South Asia reported lower conviction rates compared to those in more populated regions; the situation is similar in BIMSTEC.

While significant milestones have been achieved by national governments in introducing anti-trafficking initiatives in the Bay region, the incidence of the criminal activity continues unchecked.<sup>24</sup> Crossing the borders is a daily routine for many; thus, the role of security officials at the border checkpoints is crucial. The risks of and possible responses to trafficking could be disseminated as practical information and should be provided to refugees, internally displaced people, and to communities that live along the migration routes.

Indeed, the role of the international community is important in facilitating anti-trafficking strategies. In this context, the UNDOC 2018 report recommends that the international community “accelerate progress to build capacities and cooperation, to stop human trafficking especially in conflict situations and in all our societies where this terrible crime continues to operate in the shadows.”<sup>25</sup> The report indicates that in precarious socio-economic conditions or situations involving persecution, people escaping conflict are compelled to migrate, accepting fraudulent job offers in neighbouring countries or fraudulent marriage proposals that in fact bring them to exploitative situations. Further, the report noted, “armed conflicts tend to have a negative impact on the livelihood of people living in the surrounding areas, even when they are not directly involved in the violence. Again, traffickers may target communities that are particularly vulnerable because of forced displacement, lack of access to opportunities for income generation, discrimination and family separation.”<sup>26</sup>

This brief offers the following recommendations to arrest the incidence of human trafficking in the BIMSTEC region:

- **A more holistic view**

Under the ambit of the CTTC sector of BIMSTEC, more focused and coordinated efforts should be adopted to tackle all the interconnected segments of human trafficking. The definition of what constitutes ‘human trafficking’ must be considered in a more holistic manner, incorporating the

various facets of cross-border undocumented migration. For possible cross-border cooperation, member states must strengthen infrastructural and institutional connectivity, enhancing CTTC measures through the convergence of rules, regulations and policies.

- **An understanding of victims' perspective**

While trafficking for sexual exploitation may be carried out by criminals using physical violence and other coercive methods, victims may also be trapped in such situations by abuse and deception. Institutions across borders dealing with human trafficking should collaborate to identify the different and often complex contexts and realities in which sexual exploitation takes place in order to respond to victims' physical, psychological, social and economic needs.

- **Free exchange of information**

Because of the trans-national nature of this organised crime, it is important to have free and fair exchange of information amongst the member states. In most cases, data on the victims are not systematically collected. As most countries in the Bay regions are now parties to the UN Trafficking in Persons Protocol and have appropriate laws in place, it is time to focus on the implementation of the Protocol provisions. In the spirit of shared responsibility and international cooperation, support from other neighbouring countries affected by these trafficking flows can help accelerate anti-trafficking efforts.<sup>27</sup>

- **Engage NGOs and international organisations**

While transnational trafficking networks are still prevalent, appropriate responses can be found using international cooperation and national justice measures. Different stakeholders relevant in this field, including NGOs and international organisations, should engage in constant dialogue.

- **Address gender, migration and labour issues**

The increase in the trafficking of women and children in the BIMSTEC region runs parallel to rising illegal and undocumented migration within the region. Economic growth, relative prosperity and peace on the other side of the border act as 'pull' factors. Growing economies create increased demand for imported labour. Young women, in particular, are on demand because they are presumed to be more compliant and less likely to object to substandard working conditions. Women and children are in greater demand within the trade of human labour as the market is segmented on the basis of gender and age.<sup>28</sup> BIMSTEC should work towards linking issues related to gender, migration and labour.

- **Specific anti-trafficking interventions for children**

The trafficking of children is an urgent concern. There should be a holistic approach to reduce the vulnerability of children to exploitative patterns. Anti-trafficking interventions for children can be more effective if they are included in programmes to provide quality education for all, especially in

settings at an increased risk of trafficking such as refugee camps.<sup>29</sup>

## CONCLUSION

BIMSTEC is in the process of finalising its charter and rule of laws. It would do well for the forum to include the issue of human trafficking in its priority agenda. Reliable, updated data are difficult to come by. Still, the data which is available point to a dire situation—especially in the contiguous zone of India, Nepal and Bangladesh—that is in

need of immediate, suitable responses from both national governments and BIMSTEC as a collective. After all, the grouping has identified the fight against “terrorism and organised international crime” as one of the most important prerequisites for peace in the region.

This brief offers specific recommendations, beginning with more focused exchange of information amongst the BIMSTEC states, and a more holistic view of the spectrum of issues related to trade in humans. [ORF](#)

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