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**Human Trafficking  
And  
Models of Governing Security**

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**A thesis presented for the Doctor of Philosophy  
School of Law  
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## ABSTRACT

This thesis seeks to address the complex forms assumed by the problem of human trafficking in the contemporary world and in particular to analyse and overcome certain identified shortcomings in existing models of intervention. It begins by locating the problem historically through its foundations in slavery, and explores the incomplete nature of the abolition of that institution. These observations provide the context for the emergence of contemporary forms of exploitation.

The complexity of the problem of human trafficking is reflected in the variety of approaches to intervention thus far attempted and in the lack of consensus among stakeholders concerning the effectiveness of competing models. The tendency towards institutional failure in current approaches, and the consequent growth of the trafficking phenomenon are compounded by the ability of criminal networks to infiltrate and corrupt the very systems that are meant to safeguard vulnerable populations. This thesis argues that the shortcomings of existing models are themselves evidence that one of the foundational reasons for the emergence of human trafficking as a networked global crime is the security deficit created by the replacement of the structures of state with criminal networks embedded within communities.

These observations are supported by empirical evidence in the form of i) a detailed review of records relating to a number of prosecutions and ii) first-hand observations and interviews with officials and civil society organisations in India, the United Kingdom and the Netherlands. I argue, in conclusion, that the evolution of models of intervention, leading to the creation of a preferred multidisciplinary model, show that this security deficit is best countered by emergent partnerships between the structures of the state, communities and civil society groups. Such innovations prefigure new hybrid structures, which offer a degree of hope for holistically tackling common global problems and networked crimes such as human trafficking.



**I hereby declare that this thesis is my own work. The work has not been submitted for any other degree or professional qualification. Any included publications are my own work. Where I have cited the work of others these works have been clearly referenced.**

A handwritten signature in black ink, reading "Ashley Varghese". The signature is written in a cursive style with a large, stylized initial 'A'.

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**Ashley Varghese**



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‘Be strong and courageous! Do not be afraid or discouraged. For the Lord your God is with you wherever you go.’ This quote from The Book of Joshua in the Bible has journeyed with me over the past six years as I have pursued this PhD and attempted to stand against the heinous crime of human trafficking.

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### **BIBLIOGRAPHY**



# **Chapter 1: Introduction to human trafficking and models of governing security**

## **1.1 Introduction**

The world of human trafficking was introduced to me in 2001 by a traffic diversion through the Falkland Road, a prostitution area in Mumbai, India. I was taken by a local taxi driver while he drove me back from court, where I had, as a human rights activist, been representing a legal aid client. I am now into my fifteenth year of tackling this growing challenge as an activist, lawyer, strategist and researcher. Over the years, my work as a human rights activist has involved working with governments and civil society to mobilise limited resources in the effort to save lives and break the cycle of the crime by implementing effective anti-human trafficking strategies. My goal to undertake a PhD was driven by a desire to better understand my work within the larger international context of tackling this crime; to research and develop a deeper understanding of the existing models for tackling the problem; to understand how criminal networks adapt themselves to such models; and to explore the need for an evolving, holistic and flexible model to tackle the problem.

During the course of my research I have been able to investigate several anti-human trafficking models, analyse how human trafficking criminal networks evolve in relation to these models and, based on the successes and failures of these models, develop and implement an evolved anti-human trafficking model, the results of which form part of my research. My hope is that this PhD project presents an understanding of the complex problem of human trafficking from a grassroots perspective and explains the need and rationale for closer and more profound cooperation between the state and civil society groups in tackling human trafficking.

The research upon which this thesis is based reflects the journey I have taken over the past fifteen years as a lawyer and nearly eight years as a doctoral researcher. As part of my PhD journey I reviewed the historical context of slavery, with a focus on the evolution from slavery to contemporary forms of human trafficking. I soon came to realise that human trafficking had much deeper roots and a wider impact, at micro and macro levels, than I had first appreciated during my experience in the field.

In order to set the stage and context for my research I will start with explaining the scale of the problem of human trafficking as a global crime. In this chapter I will reflect on the reasons for undertaking this project; the research questions that have informed it; and the organisation and scope of the research. I will also look at the challenges faced in undertaking the research, the impetus for the study, its rationale and its original contribution to theory and practise. I will then end the introduction chapter with a summary of my overall research conclusions.

## **1.2 Scale and definition of the problem**

### ***1.2.1 The numerical scale***

In recent times, human trafficking has emerged as a global organised crime, the scale and reach of which is steadily approaching that of drugs and arms trafficking (Interpol, 2010). The United States State Department, Office to Monitor and Combat Trafficking in Persons (G-TIP), The International Labour Organisation (ILO, 1996–2011) and Kevin Bales (2004), estimate that between 29.8 to 35.8 million people (The Global Slavery Index 2013, 2014) are trapped in what I shall argue frequently amounts to modern day slavery. Of those trafficked, it is estimated that more than 80% are female and nearly 50% are children under the age of 18 (Trafficking in Persons (TIP) Report, 2007). In 2012, The United Nations Office on Drugs and Crime (UNODC) estimated that, between 2007 and 2012, 5560% of trafficking victims detected were women. According to the UNODC, this drop in women trafficked during this period was offset by an increase in girls being trafficked, which stood at 15–20% of detected victims. 8–10% of the detected victims were boys and 14–18% of the detected victims were men (UNODC, 2012).

### ***1.2.2 The geographical scale***

In its 2006 report, the UNODC estimated that people were being trafficked from 127 countries to be exploited in 137 countries worldwide (UNODC, 2006). Between 2007 and 2010 victims of human trafficking from 137 countries were detected in 118 countries around the world (UNODC, 2012). In 2007, approximately 1,175 victims were trafficked into the United States (US) from 77 countries (TIP Report, 2007). A 2004 UN report estimated that, across a sample of 12 developed countries across Europe, roughly half of women engaged in prostitution had been trafficked (UN, 2004). In a report published on the 19<sup>th</sup> of January 2015 by the National Crime Agency (UK), over 2,340 victims of human trafficking from 96 countries, including the United Kingdom (UK), were referred to the National Referral Mechanism representing a rise of 34% from the records of 2013 (NCA, 2015). Of these victims 61% were women and 29% were children.

### **1.3 Areas of exploitation and revenue generated**

Today, the trafficking of persons exists to feed a wide range of areas of exploitation, including sexual slavery, forced marriage, camel jockeying, domestic servitude, child sex offender networks, call girl rackets, child labour, forced/bonded labour, organ transplantation, servitude at sea, child warfare and pornography. This list is not exhaustive and new fields involving the trafficking of persons are regularly appearing (TIP Report, 2001–2014). The TIP Report of 2008 commissioned by the US State Department estimates that traffickers can earn up to \$23,000 (USD) per victim (TIP Report, 2008). Overall, estimates of the revenue generated each year from human trafficking are \$10.4 billion (USD) from forced economic exploitation, \$3.8 billion (USD) from trafficked people in forced economic exploitation, \$33.9 billion (USD) from all forced commercial sexual exploitation and \$27.8 billion (USD) from forced commercial sexual exploitation as a result of trafficking (ILO, 2005). In 2014, ILO stated that annual profits from forced labour amount to \$150 billion (USD) for 21 million people, with \$99 billion (USD) from commercial sexual exploitation and \$51 billion (USD) from forced economic exploitation. The International Labour Organisation (ILO) (2014) estimates that, based on the annual

profits from 2012, slave labour, at \$150.2 billion (USD) was more valuable than the tobacco industry (\$35 billion (USD)), Google (\$50 billion (USD)), Big Oil (\$120 billion (USD)) and US banking (\$141.3 billion (USD)). The UNODC, in its 2012 report, documented the trafficking trends between 2007 and 2012 at 49% a cross border but within a given geographical region such as between India and Nepal or Indian and Bangladesh with South Asia similar between countries in Africa etc., 27% of the trafficking supply was internal and 24% was transnational or transcontinental (i.e. from Nepal to Saudi Arabia) (UNODC, 2012). Given the growth and intensity of human trafficking today, Pocar (2007) makes the case that human trafficking today qualifies as a crime against humanity, as defined in Article 7 of the Rome Statute of the International Criminal Court (1998) that came into force in 2002. The provisions of Article 7(1) and 7(2) clearly lay out the case, along with Article 5 (on jurisdiction) of the Rome Statute of 1998, that various severe forms of human trafficking classify as crimes against humanity.

#### **1.4 Terminology and key terms**

##### ***1.4.1 Definition of human trafficking***

A common theme that emerges when studying human trafficking cases is its capacity to reduce 'human beings to forms of property over which unlimited power is exercised by another human being' (Q. Obokata, 2005; J. Fitzpatrick, 2003, quoted by Focar, 2007: 8–9). Undoubtedly, over the years definitions of what constitutes slavery and enslavement have evolved, the key thought is that as the crime of enslavement evolves it should not be interpreted or understood within a narrow context, rather it should be viewed within the context of its history and the ways in which it has evolved as a crime. Historically, there was never a break between slavery and its present forms of human trafficking and forced exploitation in the modern world.

The body of literature written about human trafficking devotes a considerable amount of time and space to defining exactly what human trafficking is. The various definitions reflect different interpretations of the attributes of trafficking. The areas on which debate is most frequently centred are the issues of consent and movement, of purpose and of the unequal treatment of women and children. The United Nations Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children, adopted in November 2000, is a part of the United Nations Convention against Organised Crime and provides the first internationally recognised definition of trafficking (The United Nations Economic and Social Commission for Asia and the Pacific (ESCAP), 2003). Besides giving a framework for further discussion, it has proved to be a guiding principle for a macro-conceptual understanding of trafficking (The United Nations Development Fund for Women (UNIFEM), 2003b, known since 2011 as UN WOMEN). This definition deals with the exploitative conditions that may result from trafficking, including ideas that were previously confined only to understanding prostitution. The positive aspects of this definition include the explanation of the means used for trafficking, its clarity on the issues of consent and the different acts within the trafficking process. It also differentiates human trafficking from 'People Smuggling' which has been helpful in

implementing the law against human trafficking incorporating this definition as investigating people smuggling is easier than trafficking cases (Kangaspunta, 2007). Concern, however, has been expressed that this modern definition of trafficking is being elaborated on in the context of crime control, rather than with a focus on human rights (UN, 2000: 7; TWCI, 2005: 7). The definition is also viewed as one that may confuse the common person (The United Nations Children's Fund (UNICEF), 2001). The debate continues as various international bodies, such as the ILO, The South Asian Association for Regional Cooperation (SAARC) and others, propose different variations. According to the ILO, one explanation for this continued debate is that the concept of trafficking can be easily expanded, limited or shifted to accommodate institutional objectives and context (ILO, 2001a: 5). The Economic and Social Commission for Asia and the Pacific (ESCAP, 2003) concluded that trafficking is a multidimensional form of exploitation, wherein each dimension has its own legal and conceptual framework. There are many forms of trafficking, each with different implications, yet forming part of an interrelated web of varying contexts. Thus, expecting universal consistency in the definition of trafficking is unrealistic. The viewpoint that regions and contexts influence the interpretations of the term is expressed in most of the literature on the subject. The multiplicity of attributes and variables involved in the trafficking process and the different perspectives on the subject are also put forward as reasons for there being no uniform method of classifying the forms of trafficking (Trafficking of Women and Children in India-TWCI, 2005: 8). In December 2000, after intense lobbying and consultation, The United Nations Protocol to Prevent, Suppress and Punish the Trafficking in Persons, Especially Women and Children was opened to signature and ratification. This Protocol, which was attached to the United Nations Convention against Transnational Organised Crime, came into effect, with its 40<sup>th</sup> ratification, in December 2003. The drafters of the UN protocol were under considerable pressure to loosen the association between trafficking and prostitution, which was implied in the 1949 UN Convention. In consequence, the protocol explicitly acknowledges that trafficking occurs for reasons other than for prostitution and extends its remit to cover all forms of forced labour, slavery-like practices and servitude (Munro, 2006).

For the purposes of my research I have adopted the definitions of terms as used in the UN report, Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention against Transnational Organised Crime (2004).

‘Article 3.

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.’

Tackling human trafficking requires three components: an international understanding of what constitutes human trafficking, a clear message to people on what human trafficking is and the application of local laws at the ground level while tackling entire criminal networks that dominate the crime. The first of these is provided by the definition under the UN anti-trafficking protocol, which creates a framework for international cooperation. The second is communicating a basic understanding of the issue, for this I often use a simplified explanation that ‘human trafficking is the buying and selling of people, for various forms of exploitation and abuse involving profit’. The third is the application at ground level, where a number of criminal law statutes surrounding the UN definition are used to take down the entire criminal network, which operates across the entire spectrum of criminal activities conducted by them required to develop and profit from this crime. An effective anti-trafficking approach needs to embrace these three components. During the course of my research the bulk of the countries where my case studies are based, such as India, the UK and the Netherlands, have both signed and ratified/accepted the UN Trafficking Protocol 2000. It is for this reason and due to the universal acceptance of The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime, adopted on the 15<sup>th</sup> of November, 2000 (today signed by over 115 countries and with a total of 165 countries party to it) that I have chosen to adopt the definition of ‘Human Trafficking’ found in this Protocol for the purposes of my research.

#### ***1.4.2 Governing security***

Criminal networks today are deeply embedded within communities which are largely governed by what we traditionally understand as ‘state models’ (i.e. law enforcement machinery, the judicial machinery, legislative machinery, political machinery and the executive body). An increasingly globalised world is affected by the paucity of resources; economic downturns; double-dipped recessions; high youth-unemployment; the loss of jobs caused by the shift in manufacturing or service bases to reduce labour costs; lack of adequate re-training or social security. The deprivation caused by this lead to the absence of state governance from marginalised communities in both urban and rural contexts; and the growth of a networked society (Castells, 2000). The spread of globalisation is defined as ‘the intensification of worldwide social relations which link distant localities in such a way that local happenings are shaped by events occurring many miles away and vice versa’ (Giddens,1990: 64). This has created platform of growth leading to the rise of inter-linked criminal networks (Morselli, 2009) that dominate today’s transnational-networked crimes, such as the trafficking of drugs, arms and human beings. The domination of criminal networks within



communities traditionally a source of power and strength for the state, has increasing led to a gap in security as the state becomes increasingly isolated from its people and restricted within the structures it has created (such as jurisdictions and borders, etc.) to tackle earlier and pre-evolved forms of crime. As a result the state becomes hard-pressed to autonomously meet the contemporary challenges of tackling deeply entrenched, inter-connected criminal networks involved in local, regional and transnational crime. The response to this challenge is for the community affected by both the dominance of criminal networks and cyclical forces of the economy in a globalised world, to re-establish a close symbiotic partnership with the state and to bridge the gap between the state and the marginalised and affected communities. Together the community and the states may develop comprehensive strategies and plans to tackle all the factors affecting them, including the dominance of criminal networks within the community and the impact of their criminal activities, locally, regionally and globally. The initiatives formed by partnerships between the state and civil society in South Asia led to the creation of the Child Welfare Committee (CWC), which oversees the care and protection of children, and the Juvenile Justice Board (JJB), which oversees juveniles in conflict with the law. Both these forums are joint ventures, formed by partnerships between the executive of the state (under the aegis of The Department of Women and Child Development), the judiciary and reputed and vetted members of civil society. The procedures that precede these quasi-judicial tribunals are jointly supported by the local police, vetted non-governmental organisations and any individual. Similarly, the training, operations and the aftercare for victims of trafficking in South Asia are today undertaken jointly by state and civil society institutions, making them much more effective. In the UK and the Netherlands, the work to tackle human trafficking and issues surrounding child protection also sees a close partnership between state and civil society. The roles of The Crimestoppers Trust and Sexual Assault Referral Centres (SARC) show the close partnership between various arms of the state, in order to facilitate the flow of information on crime and secure a safe enjoinment for victims of sexual assault so that they might be able to seek help and support outside a police station or a court premises. The various anti-human trafficking models discussed in Chapters 7 and 8 of this thesis highlight the emergence of various other state and civil society models.

My research examines human trafficking through the lens of these new structures, which have been formed to tackle the equally complex criminal network structures that profit from trafficking of persons. The expectation of people in any community within any state, or across borders in a globalised networked world, is to grow and feel safe within an environment of security and justice. This is seen in environments where governance occurs within a framework which is based on the rule of law within a local, regional and global context. This seeks to maximise the extent to which all actions, processes, procedures and behaviours within a society, occur in a manner which allows a holistic view of security and justice when any of the boundaries established by the rule of law are crossed. Security and justice which begins at the grassroots, is preventative, restorative, innovative, inclusive and constantly evolving, is what I define as governing security. This approach from a local, regional and global perspective is needed to tackle the challenges presented in a globalised world. It

is within this context that my research explores the on-going duel between criminal networks (and the state-civil society systems infiltrated by them, or allied with them) and the individuals and state-civil society agencies, partnering together to fight against the crime and the models created by those perpetuating it. Numerous examples of this battle can be seen in today's globalised world. The conflict in Afghanistan, fuelled by drug trafficking, exploitation of mineral riches within the country and the geopolitical national interests of various countries has blurred the dividing line between state and civil society. Similarly, in the ongoing conflict involving the Rakhine ethnic group in Myanmar, it is a plausible explanation that the state of Myanmar does not want the Rakhine people in their country and human trafficking criminal networks in South Asia and South East Asia are profiting from their forced displacement in a major way. In studying the correlation between migration patterns and human trafficking during the course of my PhD of the Rakhine ethnic group a number of them are migrating from Myanmar to Pakistan via India in keeping with the two state solution at the time of the creation of Pakistan and the division of India based on religious lines. The conflicts in Syria and Iraq present similar challenges. In these countries criminal networks with interests in human trafficking, arms trafficking, extortion and the smuggling of goods have completely merged with various state elements, making the line between the state and certain criminal networks almost indistinguishable. These blurred lines reflect the reality of the modern networked world in which we live and how vulnerable the traditional structures of state and civil society are to emerging challenges. My intention in conducting this research is to further develop the framework of the governance of security (Shearing and Johnston, 2003), as described in Chapter 5 of this thesis, and to further enhance its conceptual framework. 'Civil Society', for me, represents the non-state actors towards tackling the problem of human trafficking. This includes non-state individuals, groups and communities affected by the problem, in source, transit and destination areas, non-governmental organisations and the private sector.

## **1. 5 Reasons for Undertaking this Research**

### ***1.5.1 Development of an effective next generation strategy***

As a human rights legal practitioner, I work with all stakeholders to tackle all forms of human trafficking and, working at an operational level, I felt it necessary to step back and seek to develop a more objective and expansive understanding of the issues involved in human trafficking, with the aim of using the knowledge acquired to develop a comprehensive strategy to tackle human trafficking. One of the key reasons for this was a realisation that criminal networks had adapted themselves very well to existing strategies used to counter human trafficking. This resulted in a gradual reduction in the numbers of lives saved per operation and in the number of criminal networks disrupted. The efforts of government agencies and organisations working in this sector were not sufficiently flexible, nimble or targeted to adapt to the changing tactics of the criminal networks. In contrast, the criminal networks showed a remarkable flexibility and were able to immediately adjust and adapt. Through case work undertaken during implementation of anti-trafficking strategies, similar analyses have been made by agencies such as The National Crime Agency (NCA), previously called The Serious

Organised Crime Agency (SOCA), United Kingdom; The Federal Bureau of Investigations (FBI), United States; The Office to Monitor Trafficking of Persons, US State Department (GTIP); International Justice Mission (IJM), USA; and The Child Exploitation Online Protection Centre (CEOP). However, there is very little understanding or focused academic research addressing this area. As a result, only a few solutions have been put forward to tackle the overall declining success rate in the battle to save victims of human trafficking, or for tackling the increasing ability of criminal networks to evolve and pre-empt efforts to disrupt them.

### *1.5.2 Offering solutions to the declining success rate of existing anti-human trafficking strategies*

From my experience, three possible solutions are currently available to tackle the declining success rate of the current crop of anti-trafficking strategies. The first solution is to reduce the operations under existing strategies, by limiting the amount of casework at locations where criminal networks were previously investigated and successful prosecutions brought. This would result in an overall proportional reduction in the number of victims rescued. In other words, the aim would be to reduce the criminal network's exposure to the existing strategy, confusing them on the exact strength and capability of the unit in the area, so that it would take them longer to adapt against it. This solution would be accompanied by a shift in emphasis to advocacy, training and policy input. The hope would be that, in time, the criminal network would grow lax and overconfident and forget the lessons learnt from the impact of this strategy.

The second solution is to implement the same strategy in new locations that also have a chronic human trafficking problem; locations where the criminal networks have not yet evolved to challenge existing strategies because these strategies are, as yet, unknown to them. These locations need to be strongholds for criminal networks as a result of the complete withdrawal of the state from effective governance of the region, or due to the subservience of the state systems to the criminal networks in an effort to maintain law and order and contain the problem. At such locations, a strategy that had previously succeeded elsewhere could be implemented by a joint state-civil society anti-trafficking unit, financed and internationally backed by powerful stakeholders such as large private foundations or foreign governments.

The third and, as I will argue, best way forward involves building upon lessons learnt through challenges faced by existing and previous operational models, in order to develop the next-generation strategy/model to tackle human trafficking, thus pre-empting the evolution of criminal networks. This solution addresses the areas where the criminal networks have evolved, keeping the strategy constantly effective and contemporary. All three solutions mentioned here, and the paths they have taken, emerge from the **unitary model**. This is a pioneering prevention and intervention programme which uses the rule of law and victim protection as tools to tackle criminal networks at the destination locations. However, the cost of this third approach is much lower than the other two solutions mentioned, because it is most comprehensively targeted at areas where the need is most pressing. As I

will argue throughout this thesis, this approach offers an opportunity for genuine state-civil society partnership, based on a focus on casework and not resources. It allows anti-trafficking strategies to target the entire criminal network and its scope of operations and supply. It provides a clear picture of the extent of the problem, not just in a specific country but also at a regional and global level. It provides a wide range of tactics within a given strategy, thus providing the flexibility and ability to target the many different manifestations of the problem. It naturally brings about a focus on prevention, community mobilisation and participation and grassroots policy development. There is much strength to this solution and my thesis focuses on this approach as the optimum solution to the problem of human trafficking.

### ***1.5.3 Knowledge exchanges between grassroots work and academia***

Right up to the present day there has been limited interaction between academia and the grassroots-level activity in the anti-human trafficking sector. On one side, at a grassroots level there is a lack of trust in the academic world, and limited understanding of the aims and purposes of research. Many activists see academics as unduly, and perhaps irresponsibly, critical of frontline work, resulting in limited research access to frontline work for academics. From an academic perspective, there is a need to be objective, to protect the researcher from ‘going native’, to protect the victims during the research, to address data protection concerns and to reduce risks to the researcher from criminal networks. I felt it was important to undertake the journey from a grassroots perspective whilst understanding and engaging with the subject from an academic perspective. I believe the partnership between the two worlds is critical in developing a greater understanding of an otherwise hidden subject and in establishing a stronger theoretical and empirical basis for interventions to tackle human trafficking.

### ***1.5.4 Understanding human trafficking within a transnational context***

By 2007, it was apparent to me that human trafficking was increasingly developing as a global crime. As a result, I found that I had to understand the broader international context, debates and challenges that surround human trafficking. I also found that in order to be taken seriously by governments and stakeholders, it was important that I approached them with a successful track record of grassroots, strategic, legal and operational experiences and academic credentials. A PhD was an obvious way forward; one that furthered my aim of being at the cutting edge of anti-human trafficking work and being equipped, both operationally and academically, to bring governments and civil society together. Such partnerships will be critical in tackling criminal networks that are foundational to the dramatic global rise of human trafficking for various forms of exploitation.

## **1.6 Key Aims, Objectives and Research Questions, and original contribution to knowledge**

The key research questions for this project are:

1. What have been the impacts of, and challenges for, various anti-human trafficking models in countering human trafficking?

2. How have human trafficking criminal networks evolved to evade or counter existing anti-human trafficking models?
3. How could the anti-human trafficking framework benefit from a multidisciplinary, end-to-end, strategic approach to countering human trafficking, involving state-civil society partnerships?

My research questions are aimed at analysing various state and civil society anti-human trafficking models that have been utilised in India and the UK. The research examines the strengths and failures of various anti-trafficking models, the ability of criminal networks to evolve and the potential of a yet more evolved anti-human trafficking model, embodying state-civil society partnerships, to address the failings or gaps in the previous models. I develop my arguments through anti-human trafficking casework from 2001 to 2014 in South Asia (India, Bangladesh and Nepal) and transnational casework between South Asia and the UK from 2007 to 2014. The research concludes by putting forward a comprehensive, multidisciplinary, transnational, holistic and strategic framework to tackle human trafficking, that has the potential to accommodate and adjust to local sensitivities, local context and, as a result, to be replicable in different parts of the world.

My research highlights the fact that two of the greatest contributory factors in the growth of human trafficking are the evolving nature of criminal networks, deeply embedded within governance structures and society as whole, and institutional failures in current anti-human trafficking models. Current state approaches to tackling the problem directly contribute to the evolution and rapid growth of the crime. The solution to these twin contributory factors is to create an effective holistic model, such as the multidisciplinary model, that represents constant inclusion, evolution, innovation, and flexibility. This new model is made possible by the efforts of members of the community, affected by the dominance of the criminal networks and the absence of the state, and will create the template for the future of criminal justice systems as the world becomes a smaller and more well networked place.

I have categorised the different approaches to tackling human trafficking into different models. The institutional failures arising within these models, which have inadvertently or otherwise allowed the growth of human trafficking, are analysed. This thesis will then look at various counter models developed by human trafficking criminal networks. I conclude by developing and implementing a next-generation, replicable state-civil society model to tackle human trafficking. My research documents the challenges and successes of this model over an eight-year period, from 2007 to 2014.

### **1.7 Case studies covered for the research**

My PhD reflects upon frontline casework of anti-human trafficking models between 2001 and 2014, primarily in India and South Asia, as well as case studies of anti-human trafficking models in the UK, and the Netherlands, between 2007 and 2014. The research also reflects upon the development and

implementation of the multidisciplinary model in South Asia and the development of the transnational case framework between the UK and South Asia (India, Bangladesh and Nepal) from 2007 to 2014.

I outline the emergence and succession of a series of six models of intervention, which I term, respectively: the **unitary**, the **multidisciplinary**, the **specialist**, the **departmental**, the **regulatory** and the **nodal** models. I suggest that these models are inherently limited and need to be superseded or evolved into a multidisciplinary, end-to-end, strategic approach, the key characteristics of which I develop herein. The attractions of this model include its greater coherence and adaptability. Crucially, it also has the ability to build bridges of cooperation between the criminal justice machinery of two or more sovereign countries and/or regions, to protect and reintegrate transnational victims of trafficking and abuse, and to facilitate the flow of information and evidence pertaining to transnational crimes. This counters criminal networks which take advantage of a nation's limitation due to its borders and the limited jurisdiction of its criminal justice machinery. The strategy plays a key role in facilitating extra-territorial prosecution, pioneered by some countries. I have dwelt at length on this model and present it as an evolved and innovative modern-day solution, undertaken by state-civil society partnerships in the effort to tackle global crimes, such as human trafficking, conducted by criminal networks.

In responding to human trafficking as a complex and multi-dimensional problem, this thesis has many dimensions. It addresses the historical, theoretical, policy-focused and grassroots perspectives on human trafficking and efforts to tackle it. It aims to present a narrative, from the abolition of the Atlantic slave trade and ignorance of the Eastern slave trade, through to the loopholes that enabled criminal networks to survive, reviving a crime that is, today, larger and more resilient than in the eighteenth century, when extensive efforts to abolish slavery were made. It brings forth the wide and complex range of players, challenges and factors that contribute, both towards the evolution of the crime and towards tackling it. The proposal of the multidisciplinary model, accordingly, makes the case for evolving approaches to tackling crime, from a joint state-civil society perspective. These evolved approaches are effective counters to the contemporary strategies of the criminal networks and provide a response to the unavoidable future of governing security, that is, the bringing together of the delivery of security and justice within the context of a state-civil society networking framework.

### **1.8 Conclusions of the thesis**

In 2001, when I first entered the sector of combating human trafficking as an activist lawyer, the task of tackling human trafficking was largely taken on by the state (i.e. the police, prosecuting agencies, social work departments, etc.). The community in Mumbai, India, in response to the enormity and growing nature of the problem in the city, first initiated its partnership with the police under the **unitary model** of tackling human trafficking. At the start of this effort in Mumbai in 2001, it was very easy to find children as young as six years of age being sold into prostitution. Over the last 14 years, such partnerships have further evolved through the various models documented in this research. This

evolution culminates in what I am calling the next-generation **multidisciplinary model**, presented here as among the most advanced and innovative in civil society and state partnerships adopted in the effort to counter human trafficking.

Initially there was a lot of resistance to the state-civil society approach. The police in Mumbai asserted their belief (as expressed by law enforcement officers in private conversations across the globe) that they had the ability to solve complex problems such as human trafficking themselves, without the partnership and cooperation of civil society groups. The resistance to working together was mutual. The state, being too specialised, was disconnected from the very communities where the problem was occurring. The criminal networks conducting human trafficking (as well as drugs and arms trafficking and other criminal activities) were well embedded within the community and had infiltrated the state systems substantially. Many members of the community were too terrified to cooperate with the state, found them unapproachable, or else were so frustrated at the lengthy delays in the criminal justice system that they preferred either silence or to solve their problem through collusion with the criminal networks themselves.

It was in response to this developing situation that some activists and state agents came together in 2001, in an effort to initiate the state-civil society partnership that has proved so critical in attempting to address the problem of human trafficking. Over the years, coming from a position of total denial, both civil society groups and the state have acknowledged the problems they face and, in many cases, are working together in a range of areas to deal with the issue. These state-civil society partnerships are the future of governing security; from these partnerships will emerge systems, institutions and frameworks that will encourage innovative approaches in the form of evolving, emerging and flexible models to tackle crime and criminal networks and, additionally, to steer the development of their nations and regional cooperation between countries in new ways. It is in working towards this end that my research sheds light on, not just one of the most pressing problems of the twenty-first century (that is human trafficking), but on the grassroots-level approach in key regions and how it represents a massive shift in governing security in our daily lives.

## **Chapter 2: Slavery and its Contemporary Forms**

### **2.1 Introduction**

This chapter looks at the historical aspects and foundations of slavery that have led to the rise of twenty-first-century human trafficking, which, I will argue, is itself a form of slavery. It starts with a brief look at the roles of the Atlantic slave trade and the Eastern slave trade in the development of modern slavery. It then reflects on the factors that have led to the re-emergence of slavery in the twenty-first century, which, it is argued, is very much rooted in the failure to address some of the root causes of the slave trade. The chapter goes on to look at the failure of both the state and non-state actors to adopt a comprehensive plan for the rehabilitation and reintegration of the victims of slavery and the failure to break the cycle of human trafficking. In tackling slavery, historically, various governments focused on compensating slave owners; more resources were spent compensating them than in the act of emancipation of slaves or ensuring that the slave owners or trafficking networks were brought to justice for crimes they committed on a genocidal scale. This chapter then goes on to look at how the scattered allocation of resources to tackle chattel slavery, and a failure to address the various cultural forms and roots of slavery played a contributory role in the evolution of slavery into its contemporary forms. The decision to de-recognise slavery, or to define it so narrowly as to preclude the possibility of compensation, had the effect of supporting the slave owners rather than prohibiting the act and supporting the victims. Chapter 2 examines how this has occurred in several regions, both under colonial administration by Western powers and in collusion with local administrations, the chapter will consider how this has resulted in slaves being unable to seek state support against the slave owners. It is important to address and reflect on these historical issues in order to understand the ability of this crime to evolve, so that similar shifting trends in twenty-first-century human trafficking are effectively identified, understood and addressed. The most important point for me in this chapter, and in the quest to tackle slavery, is that we avoid history repeating itself and learn from the successes and failures of past efforts to tackle this complex problem. The chapter also reflects on the historical roots of trafficking for bonded labour and several other forms of forced labour, and looks at how these practices have become widespread today.

In a number of countries, perpetrators of slavery have been allowed to evolve their practices to ensure continued profitability and to avoid potential conflicts with the law arising from civil unrests, which may accompany large-scale emancipation of slaves. The governments controlling these regions where slavery underpinned the economy were dependent on the cooperation of the slave owners to maintain control of these territories. Following this, the chapter looks at how historically the lack, or very limited nature, of prosecution efforts by the state against perpetrators encouraged them to consolidate their losses and explore alternative avenues for continuing with slavery in new forms. These new forms were recognised only much later as offshoots of slavery by the anti-slavery lobby and, even then, very little recognition was given to the fact that they were deliberately allowed to evolve and grow. I will argue that some of these historical factors have played a key role in laying strong



foundations for human trafficking to grow and thrive in a networked and globalised world. The historical lack of monitoring and lack of cooperation among countries dealing with slavery, has resulted in there being no uniform international law to ensure consistency in tackling human trafficking today.

### ***2.1.1. Historical roots***

Human trafficking as it has evolved today has its origins in the slave trade; a fundamental part of ancient civilisations. The slave trade underpinned economic growth and was a tool used by dominant civilisations to control. In the Roman Empire slavery took the forms of debt slavery, slavery as punishment for criminal activity, the enslavement of prisoners of war and the enslavement of children born to those who were enslaved (Harris, 1999). Over a quarter of the people living under ancient Roman rule were slaves, but they were kept so suppressed that little is known about them (Bradley, 2010; Barrow, 1998). Various historical sources document the active use of slave labour to build cities under the various powers. The Assyrian, Egyptian, Chaldean, Persian and Greek empires documented the capture, purchase and sale of slaves as a key economic activity, which thrived due to war, piracy or banditry, international trade and natural growth (Hammurabi's Code of Laws, c.1760 BC; Martin, 2000, p.66, 75–77). Slavery was then and, even today, is, in some cases, used as a tool to keep minority ethnic groups under the control of the ruling majority tribe or ethnic group. Over the centuries, from the emergence of the Roman Empire to its eventual decline, nearly 100 million people were seized and sold into slavery throughout the Mediterranean (Scheidel, 2010: 2). Slaves by law were treated as chattel or property and covered under the property laws.

## **2.2 The historical roots of human trafficking: the transnational growth of slavery**

### ***2.2.1 Demand for the transatlantic slave trade***

According to David Eltis (2007) and Herbert S. Klein (1999), the transatlantic slave trade was created by the demand for luxury goods such as sugar, gold, tobacco and agricultural products. This was compounded by the destruction of Native American societies, along with the inability to procure Europeans and indentured labour in sufficient numbers. Thus a need for labour generated by a demand for luxury products led to the enslavement of Africans in large numbers. The reality of the human trade meant that there were as many African slave traders willing to sell slaves as there were European slave traders willing to buy slaves. From 1501 to 1625 Spain and Portugal were market leaders in the slave trade, with the Netherlands and Great Britain as new entrants to the market from 1551 to 1625 (Eltis et al., 2009).

In the sixteenth century the development of the British Navy and military led to their eventual domination of the slave trade. Over time, this was aided by the decline in France's ability to hold on to its slave colonies following the revolution. The industrial revolution fuelled the slave triangle, wherein raw materials were produced in the Americas by slave labour, which in turn was procured from Africa in exchange for finished utility products from Europe. The raw materials were then transported to

Europe where the finished products found a ready market in Europe, America and in the former European colonies (Klein, 1999).<sup>1</sup> The question arises, why did the exploitation of slaves not take place on African soil? On studying the transatlantic slave trade, it becomes apparent that local resistance in Africa meant that production there was not feasible. For example, the ethnic groups in Upper Gambia were resistant to the slave trade, resulting in a lesser number of people entering the trade as slaves. European traders avoided this area, except in years when the demand or price for slaves was very high. The level of resistance here was so high that one in every ten shipments experienced major rebellions on board (Eltis, 2007).

### ***2.2.2 Scale and players***

According to a summary of the database on transatlantic slave trading voyages by Emory, Harvard and Hull Universities, at one point in 1455, during the development of the slave trade by European nations, nearly 10% of the population of Lisbon consisted of African slaves (Eltis et al., 2009). The initial demand for slaves began in the gold mining industry. It then grew to a point where over 40% of the slave trade was targeted towards Brazil, where slaves were largely used in the sugar trade. By the time the Dutch invaded Brazil in 1630, Brazil was supplying the entirety of the sugar demand in Europe, at which point the vast majority of the slaves in this industry were Africans. According to Eltis (2007), by 1690 about 30,000 people were being trafficked into slavery per year, increasing to 85,000 people per year a century later. The slave trade showed a remarkable spike in the number of people enslaved after 1700, with eight out of every ten of those enslaved having been trafficked into the slave trade between 1700 and 1850. From 1700 to 1810 it is estimated that British traders bought three million slaves from Africa (Lee, 2007; Hochschild, 2006).

According to Eltis (2007), in the second half of the eighteenth century the English, French, Portuguese, Spanish, Dutch and Danish empires used slavery and the slave trade to produce sugar, rice, indigo dye, coffee, tobacco, alcohol and precious metals. Sugar was the most profitable commodity among the products. Between 1750 and 1850 most of these transatlantic slave trading empires disappeared and slavery was limited to those being trafficked to Brazil for the coffee industry; to the US for manufacturing cotton; and to Cuba for manufacturing sugar. The US absorbed only 5% of the total number of slaves transported in the transatlantic slave trade. They relied instead on the 'natural' growth of their existing slave population and their domestic slave trade. Despite this, and the fact that the British, American, Danish and Dutch ceased to participate in the slave trade, the period from 1821 to 1830 still saw over 80,000 people leaving Africa as slaves. A million more slaves, about

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<sup>1</sup> The Middle Passage, the crossing of the Atlantic to the Americas, was endured by the slaves, with them laid out in rows in the holds of ships. It was only one element of the well-known triangular trade engaged in by the Portuguese, Dutch, French and British. Ships, having landed slaves in Caribbean ports, would take on sugar, indigo, raw cotton, and later coffee, and make for Liverpool, Nantes, Lisbon or Amsterdam. Ships leaving European ports for West Africa would carry printed cotton textiles (some originally from India), copper utensils and bangles, pewter plates and pots, iron bars (more valuable at the time than gold), hats, trinkets, gunpowder, firearms and alcohol.

one tenth of the total volume in the entire slave trade era from 1821–1830, followed in the next 20 years. In 1840 it is believed that there were 6.75 million slaves in the New World alone. The greatest concentrations were in the US and Brazil (Eltis, 2007). In total 12.5 million slaves were shipped from Africa over the entire period of the slave trade from 1501–1866, 10.7 million of whom arrived in the Americas.

### **2.2.3. Profit margins**

There are interesting parallels between contemporary slavery and the beginnings of transatlantic slavery. For one thing, the origins of the transatlantic slave trade began with the involvement of traders and businessmen, many of them forming small groups. These were people who were willing to undertake risks because of the potentially immense profits to be found in slavery. The average income from the slave trade between 1650 and 1850 increased from £15 million to £75.5 million (Tnikori, 1998; as cited in Lee, 2007). The governments of Portugal, Spain, France, the Netherlands and Great Britain created charter companies such as the Royal African Company, East India Company and West India Company, for the organised exploitation of slaves. During the 1700s the West Indies counted for 20% of France's external trade (Alcott, 2007). The UK in 1760 had trade with the West Indies valued at around £3 million (worth around £250 million today). In the eighteenth century 75% of Africa's exports were slaves, amounting to an average of 80,000 slaves per annum (Hochschild, 2005). From the records available today, it is estimated that a single slave trading voyage in 1798 could raise a profit of nearly £12,000. This is valued at around £1 million in today's business terms. This profit estimation of £12,000 per slave trip is based on the voyage of a ship called *The Lottery* in 1798, owned by Thomas Leyland. The political leverage and support that slavery enjoyed is demonstrated by the fact that Leyland, a slave ship owner, was elected three times as the mayor of Liverpool (Rice, 2007). The Royal African Company was able to buy a slave with trade goods worth £3 and go on to sell the slave for £20, giving them a profit margin of 38% on each slave voyage in the 1680s. On average, profit margins were around 10% for each slave voyage (Rice, 2007).

Most of these businesses were financed from Britain and the Netherlands. Lloyds' maritime insurance in London was one such well-known company, which would insure or finance slave ships and voyages and which thrived during the slave trade era for the U.K and Netherlands from 1551–1850 (Elwin, 2010). Liverpool merchants involved in slave trading formed Heywood's Bank, which eventually became part of Barclays Bank (Walvin, 2011). According to Walvin (2011), in 1694 when The Bank of England was set up, from the Governor down to its wealthy city members, many of the bank's founding men had made their wealth, entirely or in part, from slavery. As the profits began to increase, the government sought to be involved in the business. This was often directly, through the waging of wars aimed at securing and protecting overseas possessions, including slave colonies, and the financing of military and naval power to protect the Atlantic slave trade and the plantation economies (Walvin, 2011). Their involvement also included patronage and legal protection.

### **2.2.4 Human Rights Violations**

During the transatlantic slave trade, in Africa each region that exported slaves experienced a marked upswing in the number of slaves it supplied and, from that point on these regions continued to export large numbers of slaves for over a century (Eltis, 2007). Regarding the level of abuse during the transatlantic slave trade, the sexes were kept separate, naked, packed together and chained for long periods of time. About 25% of the slaves on board registered slave voyages were classified as children, and around 12–13% of all slaves on registered slave voyages did not survive the trip (Eltis, 2007). During auctions the slaves were stripped naked, palm oil was rubbed on to their skin and grey hair was covered, to maximise the amount that traders might receive for them (Northup, 1853; Scottish Executive, 2007). Families would be separated (Northup, 1853:78–82), and slaves' names<sup>2</sup> were changed to break their identity. They might be moved to areas where no one spoke their language and there were no other members of their ethnic group. They were made to work for long hours each day over a period of many years, without pay. There were strict codes for slaves: they were kept permanently shackled, with beatings and floggings being daily occurrences (Rogers, 1890, p29–30). The main goal was to stamp out even the slightest forms of resistance, as a warning or example to other slaves (Rogers, 1890). Enslaved women with children were often separated from them, frequently resulting in the children's deaths (Rogers, 1890, p.15). The majority of slaves lived short lives, worked to exhaustion or death as they were seen as easily replaceable<sup>3</sup> (Graham, Whyte and Kitching, in a paper on *Scotland and the Slave Trade*, 2007). Slaves were punished for merely talking about freedom. Rogers (1890: 40–41) records the instance when a slave called 'George' received 900 lashes and had his eye gouged out for talking about freedom during The American Civil War. There were severe punishments for those who attempted to escape. In some instances, a foot of the runaway slave would be cut off to prevent them from doing the same again and as a warning to others. Rogers also talks about the case of "Hattie", a female slave, repeatedly raped by the slave owner's son, who gave birth to two children in woodland as she attempted to flee. Ten hounds and six slave enforcers hunted her down on horseback. She was stripped naked, put in the stocks and beaten day and night before dying of her wounds (Rogers, 1890, p70–73). To die of wounds inflicted as a punishment was common for slaves during this time (Gillray, 1791; Graham, Whyte and Kitching, 2007).

### **2.3. The Eastern Slave Trade**

There is much discussion in Western circles on the lasting impact of the transatlantic slave trade and its contemporary manifestations. But to state this and not focus on other simultaneous forms of the slave trade and their convergence, in countries such as India, is to ignore their enormous impact on

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<sup>2</sup> It is common even today for all victims of human trafficking to be given a different names and identity.

<sup>3</sup> It was unusual for an African slave to live beyond 40 years of age in the Caribbean; many lived beyond 20 but this depended on how old they were when they arrived.

human trafficking as we see it today. One of the subject countries of my research is India. India has been significantly impacted by the Eastern slave trade and by the development of the slave market, internally and externally during the fifteenth, sixteenth and seventeenth centuries. The drivers for this development came through invasions from Afghanistan and Central Asia, the growth of The Mughal Empire and its subsequent decentralisation. India is also a region with historically well-developed slave markets, including indentured labour. The Indian model for the emancipation of slaves was developed in British India in close association with local rulers and on its success replicated in other British colonies during the governance of the East India Company and The British Empire, from early engagements in 1612 to Crown rule between 1857 and 1947. This makes India a unique place, affected by forms of governance that have encouraged servitude and slavery in different forms.

### ***2.3.1 Scale***

The Eastern slave trade, which started between the seventh and ninth centuries and continued until the twentieth century, involved the servitude of between 11 and 14 million slaves (Smith, 2005; Housden, 2001; Segal, 2003). The supply for the Eastern slave trade came from Africa, India, the Balkans, Central Asia and Mediterranean Europe (BBC, 2007; Levi, 2002; Burton, 1998; Cumming, 1977). The slave populations in Muslim-dominated countries in Central Asia were considerable. An affluent household had many slaves to look after their affairs and to maintain their gardens, while a large number were utilised for farming, for work as shepherds and for work on the individual estates of wealthy families (Morgan and Coote, 1886). The slave trade between Islamic countries, unlike the Atlantic slave trade, was not wholly motivated by economics. While the majority were used for agriculture or livestock, slaves were also employed in military service, in construction, in the maintenance of irrigation canals, in brick factories, in carpentry, in the civil service and as household servants (Mukminova, 1985; Morgan and Coote, 1886). Skilled slaves were in high demand but a beautiful female slave would have a higher value than even a skilled artisan (Meyendorff, 1975). Sexual slavery was also prevalent, in which young women were made concubines, either on a small scale or in the large harems of the powerful (BBC, 2007). According to Gwyn Campbell and Frank Cass (2004), when the Atlantic slave trade was abolished, the Eastern trade expanded, thus replacing demand in the West with demand in the East. Although the vast majority of contemporary Muslims abhor slavery, it remains part of their religious law (Kurzman, 1998).

### ***2.3.2 The rights of a slave in the Eastern Slave Trade***

Islam accords the slave the right of being a human rather than a chattel. Sharia law allows for slaves to be secured during wars of conquest through a valid jihad, or through the birth of a child to two slaves (Charles Kurzman, 1998). Hope of freedom for the slave lay in the following avenues: if the slave had a limited contractual period for slavery, if the owner died and the slave formed part of a large estate, or if a female slave bore her master a child. Slaves could take their masters to court for mistreatment or overwork, they could own property, and a slave mother could not be separated from her child for seven years from the date of birth (BBC, 2009; Campbell & Cass, 2004). However, women could be

taken as personal sexual slaves without being sold to other men. In slavery under Islamic regimes, for every two women, one man was enslaved, unlike the transatlantic slave trade where, for every two men, one woman was enslaved (Segal, 1998). It was considered an act of charity if a slave was set free. Often when slaves converted to Islam, even though it did not guarantee their liberty, it was looked upon as a route towards freedom.

The atrocities within slavery, under Islamic regimes that controlled the eastern slave trade, were as brutal as those of the transatlantic slave trade (Segal, 1998). There were instances when the warrior elite and the regime's best administrators were selected from the slaves (Winter, 1992). Examples of this are the Mamluks of Egypt, and the Devshirme system, where, in conquered areas of the Ottoman Empire, the population had to hand over 20% of their children to be converted to Islam. These children then formed the bedrock of the Ottoman administration in these regions. It is estimated that nearly 1.5 million children were enslaved in this manner (Winter, 1992). Eunuchs (castrated male slaves) were used to control the female sex slaves or the concubines of wealthy rulers in Islamic empires (BBC, 2009). A contemporary version of this continues, where runaway or kidnapped young boys and girls are trafficked into eunuch-led criminal networks in South Asia. The boys are castrated without use of anaesthesia, and then trained as male sex slaves, used as religious superstitious tools to extract money from the community on the occasion of the birth of the child and using the same superstitious fear of them within the community they are employed as beggars who in exchange for money can either bless or curse a donor they approach. Even today, criminal networks led by eunuchs have a stake in the lucrative trafficking and commercial sexual exploitation of people in South Asia<sup>4</sup> (*Hindustan Times*, 2013; See cases studies from India, 2001–2004, in Chapter 7). Despite being considered progressive at the time of its creation, Sharia law still allows for the practice of slavery. Islamic countries, under pressure from external powers (such as Western countries) and internally from progressive thinkers and clerics, use civil or secular law to suppress slavery within their countries.

### ***2.3.3 Sexual slavery in the Eastern Slave Trade.***

According to Segal (2003), while transatlantic slavery was about organised production (hence the ratio of men to women enslaved being 2:1), the Eastern slave trade was largely about consumption and service (hence, slavery within Islam had twice as many women as men) (Segal 2003). According to Ehud R. Toledano, in his book *Slavery and Abolition in the Ottoman Middle East* (Toledano, 1998), the harem or concubine system was a system of sexual slavery, created by the Ottomans. The creation of the harem in the Ottoman palace, Topkapi Palace, according to Turkish history, began in 1481 under the rule of the successor of Mehmet II. The term 'harem' comes from the Arabic haram or ḥarīm, which literally means 'prohibited place'; the creation of harems stems from the desire to limit

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<sup>4</sup> Available at: <http://www.hindustantimes.com/India-news/NewDelhi/12-yr-old-castrated-forced-to-be-part-of-eunuch-group/Article1-1021176.aspx>

access for men not belonging to the family, to the women and children therein. Women and girls who were brought in as slaves were trained to be ladies. Their freedom was limited to the walls of the harem, though there were exceptions for some women who were allowed the freedom to shop. The owner of the harem had the right to have sex with any of the slaves, even if this was against her will. A woman could also be bought and sold as a gift. However the harem system also allowed some slave women to rise up socially, as many of the Ottoman rulers were born out of associations with concubines (Pierce, 1993; Fay, 1988). Concubines had some rights in the law; in fact, if one bore a child to her master it gave her a chance to be free of the title of 'slave'. Many women, not used as concubines, were used as domestic slaves.

Eastern slavery had a life span of over 1,200 years, underpinned by a religious system. Its eventual decline in this form was principally due to a significant degree of external pressure from Western powers like France and Britain; at times, the direct action against slave traders by the British Navy; public indignation and support aroused by abolitionists in the West and unsung abolitionists in the East. There was also significant internal pressure from Muslim abolitionists, influenced by the abolition of the Atlantic slave trade and the economic progress of the West without the use of slavery (Smith, 2006). Muslim countries largely use secular law to ban the practices of slavery. Countries that have banned slavery using secular law relatively recently include, Qatar (in 1952), Yemen and Saudi Arabia (in 1962), and Mauritania (in 1980) (BBC, 2009). Article 11 of the Cairo Declaration of Human Rights in Islam (CDHRI) (1990), declares that 'Human beings are born free and no one has the right to enslave, humiliate, oppress or exploit them and there can be no subjugation but to God the Most High.' Even so, many of these customs continue in modern forms and make up a critical part of the growth of slavery in Asia. The CDHRI made secular rights subject to Islamic Sharia law, which continues to permit slavery (Kurzman, 1998). The transatlantic slave trade and the Eastern slave trade, combined, form the foundations for contemporary forms of slavery, or created the culture from which they arose. Abolitionists such as the The Clapham Sect were small in number compared to the scale of slavery, hence the law became a critical tool for them, in order to have real impact.

## **2.4 Abolition as a legal tool of anti-slavery campaigners**

### ***2.4.1 Foundations of reform***

Historically, there have been several efforts to set slaves free. Adherents have found strong moral, theological and motivational foundations for the reformation of the slave trade in the acts of historical figures, such as Moses, Jesus and the Prophet **Muhammad**. These foundations include the first known acknowledgement of the rights of slaves and actions to free slaves as a matter of conscience. In fact these foundations have very much set the scene over the centuries for the first well-recorded abolition movement against the growth of slavery. This effort began with the Quakers in 1783, The Clapham Sect, The Society for the Abolition of the Slave Trade (Oldfield, 2010) and progressive thinkers in Islam. Former slaves such as Ignatius Sancho (1729–1780) and Olaudah **Equiano** (1745–1797) played a powerful role in influencing all sections of society with their testimonies of the brutality and

horror of slavery. William Wilberforce, a British Member of Parliament and abolitionist, supported by The Clapham Sect, the Quakers, former slaves and his close friend, Prime Minister William Pitt, played a key role in the consistent effort to highlight the injustice suffered by the victims of slavery and how such a trade was a stain on the foundations of British society. The abolition movement found mass support among the Quakers, Methodists, Baptists and several other groups, including people in the industrial heartland of Britain, and after a number of efforts, on the 25<sup>th</sup> of March 1807, Britain passed the legislation to abolish slavery (Hague, 2007). A total of 283 Members of the British Parliament voted for The Foreign Slave Trade Abolition Bill in 1807, resulting in the overnight collapse of one third of the slave trade, as the law made trading in slaves illegal for British ships and subjects.

The British abolition movement is one of the most documented abolition movements in history because of its impact around the world. The significance of the abolition of the slave trade by the UK lay in the fact that it took the decision to abolish the slave trade when it was the undoubted market leader in the slave trade. It also took this decision in the highest traditions of parliamentary democracy, despite knowing that all known global rivals would potentially exploit this decision to their benefit. The scale of British involvement in slavery before abolition is reflected in the number of people hitherto sold and carried by slave vessels carrying the British flag. Commercial interests within Britain caused the shipping of 3.26 million Africans across the Atlantic, equaling 26% of the total transport of 12.52 million individuals between the years 1501 and 1866 (Eltis et al., 2009). This made it a significant contributor to the slave trade, due to the sheer volume of slaves trafficked and the vast geographical scope of a British Empire, which had depended upon the slave trade for nearly two centuries. London, Bristol and Liverpool competed with each other over the triangular slave trade economy between 1725 and 1800. From 1748 to 1775 the Caribbean slave economy accounted for 34% of the growth of the British exports and 12% of British industrial output (Richardson, 2008), a fact that made the parliamentary decision to abolish slavery, and Britain's subsequent efforts to end slavery across its sphere of influence, all the more damaging to the global slave trade (Lovejoy, 1982).

The Slavery Abolition Act of 1833 in the UK abolished slavery in the majority of the British Empire, with the exception of the territories of the East India Company and Ceylon. On the 1<sup>st</sup> of August 1834, a number of years after the outlawing of the slave trade in 1807, Britain emancipated the slaves in their various colonies, giving them the position of apprenticed labourer for a period of six years (The Slavery Abolition Act 1833, Section 1). There was a noticeable lack of rehabilitation or reintegration measures provided for slaves. The Act provided for the compensation of the slave owners for their loss of property, with the sum of £20 million set aside for compensation claims (Section 24, The Slavery Abolition Act, 1833). An entire account of how much compensation slave owners received has been recorded in the Parliamentary Papers (1837–1838, Vol 48). This compensation accounted for 40% of the British national budget for the year 1834, the equivalent of £17 billion (GBP) (Hochschild, 2005: 347).



As part of the contribution towards ending the slave trade, Britain signed a number of treaties allowing its naval vessels to detain slave ships from other countries (Eltis, 2007; Miers, 2003) and allocated 10% of its naval resources to tackle the transnational slave trade. From 1808 onwards, naval action resulted in the capture of 2000 slave vessels, of which 544 had slaves on board. The action led to 125,000 slaves being released. Between 1840 and 1850 the average number of slaves trafficked reduced from 50,000 to 16,000, thanks to the efforts of the regional governments of Cuba and Brazil in tackling the slave trade (Eltis, 2007). By 1870, all New World markets had been closed but slaves were still exported to the Middle East from Africa, from the Caucasus, and the eastern shores of the Persian Gulf. The institution of slavery was also affected by the large-scale recruitment of slaves as labour, and to serve as soldiers, in the First World War. All of these people refused to serve as slaves after the war was over (Miers, 2003, p38–39).

## **2.5 The Indian model of emancipation: A foundation for contemporary slavery?**

### ***2.5.1 Historical foundations***

India had a well-developed system of institutionalised slavery well before British, or even Mughal, rule (Chattopadhyay, 1959). Sources suggest that the system of slavery was well developed by the eighth century BC, during the life of Gautama Buddha (Levi, 2002). There was, however, an escalation in the growth of slavery during the Islamic domination of North India (Lal, 1994; Kidwai, 1985; Levi, 2002). There were several key reasons for India becoming a haven for slavery. The first was the military conquest by Islamic rulers from Central Asia and Afghanistan and, subsequently, the Mughal Empire (Levi, 2002). The second reason was that the tax revenue policies of Islamic rule in South Asia led to a person being enslaved if they were unable to pay their tax (Basham, 1967). The third reason was that, in order to avoid starvation during famine, parents would choose to sell themselves and their children into slavery. The fourth reason was that the population of India was comparatively dense, compared to that of surrounding countries. During the Mughal Empire, it was estimated that India had a population of between 60 and 98 million people, compared to several central Asian countries that individually had populations of less than five million (Dale, 1994). Linked to this, is the fifth reason for the increase of slavery in India; the fact that India was often raided for its abundance of skilled labour (Jackson, 1999). The sixth reason was that the majority of the Indian population were non-believers in Islam, classified as ‘Kafirs’, and there was great demand for them in the Central Asian slave markets. Since India itself had a large non-Muslim population, for the sake of political expediency, Islamic rulers in India granted local Muslim converts an exemption from slavery (Jackson, 1999). The transportation of Indian slaves to the Central Asian market declined with the fortunes of the Mughal Empire (Levi, 2002), though as the British gained dominance in India, it, as a country, continued to practice various manifestations of slavery (Chatterjee, 1999). According to Miers (2003, p.30), in 1841 it was estimated that one million people were in various forms of servitude in India. Modern estimates suggest that this may have been as high as nine million.

### ***2.5.2 Abolition of slavery compromised in India***

Britain abolished the legal status of slavery in India through The Indian Slavery Act, V of 1843.<sup>5</sup> Under pressure, the East India Company came up with an ingenious solution that would provide a loophole for the continuation of slavery. The remarkable aspect of this solution is that this loophole became the key strategy, or hallmark, in anti-slavery efforts of states or governments worldwide. It also provides us with a clear clue as to why slavery survived the efforts of various state and civil society groups. It was deemed inadvisable to outlaw slavery itself, as this would involve the state providing compensation to slave owners. Instead, it was declared that slavery had no legal standing in British India (The Indian Slavery Act, V of 1843). As a result, if slaves decided to leave their owners they could not be recovered by legal action or force, nor could they be made to work against their will. No case could be brought against them, nor could property be taken from them on grounds that they were slaves. However it was not illegal to own slaves. Since slavery had no legal standing, those who continued to be slaves in practice were no longer slaves in theory. They were considered to be there in a voluntary capacity. This introduced the term ‘voluntary or permissive slavery’. The government made no effort to tell slaves that they were free to leave, or to secure their livelihood if they left, so slaves in India were often the last to hear of their freedom (Temperley, 1972, pp.107–108; Hjejle, 1967; Miers, 2003, p.31).

Slave owners, on the other hand, heard of the decision to ‘de-recognise’ slavery and had ample time to develop other ways to protect their interests. Thus, owners used several tools, such as the eviction of slaves from their homes and land, and demands of rent for their houses and land. Often a slave would be unable to meet such demands from their former owners, thus falling into hereditary debt bondage and swelling the number of ‘soft slaves’ (Hjejle, 1967, p.93; Miers, 2003). Only in 1860, after the UK Government took over from the East India Company, did owning slaves become an offence (Chattopadhyay, 1977, p.253; Miers, 2003, p.31).<sup>6</sup> The Indian model of abolition did little for the slaves, but it was ideal for the government. It needed no resource allocation to tackle slavery from a law enforcement perspective, as it caused no disruption to the economy or to social life and the owners continued to be happy with the arrangement. In many cases, even these rules never applied to British protectorates, which accounted for nearly two-fifths of the continent. As a result, even today there are between 17 and 19 million people under some form of servitude, bonded labour or slavery in the region (Bales, 2005).

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<sup>5</sup> According to Sir Henry Bartle Frere (who sat on the Viceroy's Council), there were an estimated eight or nine million slaves in India in 1841. In Malabar, approximately 15% of the population were slaves. The Indian Slavery Act, V of 1843 abolished slavery in both Hindu and Muslim India. Provisions of the Indian Penal Code of 1861 effectively abolished slavery in India by making the enslavement of human beings a criminal offense (Levi, 2002).

<sup>6</sup> (Chattopadhyay, 1977: 253). The Government of India was transferred, from the East India Company, to be subject under the direct authority of the UK parliament in 1858. Subsequently even dealing in slaves was prohibited.

### ***2.5.3 Replication of the Indian model of emancipation in Africa: Colonial dilemmas and deceptions***

Colonial rulers all feared that the sudden liberation of slaves would lead to economic collapse, famine, disorder and revolts. In the early days, while tackling slavery at a global level, Miers (2003) suggests that it was imperative that public order and discipline were maintained in the conquered colonies. This was because the number of European administrators in conquered colonies was small, they had limited resources and faced continued war for the expansion of the colonial empires. The maintenance of law and order was only possible with the political and economic cooperation of the slave owners, as they formed an influential part of the power structure within a colony and provided a source of revenue for the colonial masters. Their cooperation could be guaranteed only if their authority and prosperity were not threatened. Hence, it was imperative that slavery in some form be continued. The Indian model of emancipation was considered the least disruptive model in the transition from an arrangement of slavery, to the development of a free labour market and voluntary tax paying civilians (Miers, 2003, p.34).

As such, the Indian model of emancipation, with certain variations, was introduced in Africa from 1874. All children and adults entering the British protectorate in the Gold Coast were considered free and the practice of debt bondage or pawning – the temporary transfer of a person as collateral for a loan, a practice widespread in Africa – was also declared illegal. The failure to emancipate existing slaves was justified on the grounds that it would cause hardship to both the slave and the master. Had emancipation been enforced, it would have struck at the heart of the trading system in Africa, and free slaves would have been able to renegotiate their terms of service with their masters. However, the governor of the Gold Coast protectorate ensured that the impact was minimal, assuring the local rulers that the slaves would not be encouraged to leave. Even if an enslaved victim was liberated, it would not cancel their debt. In addition, penalties for the slave owners were toned down and officials undertook no obligation to inform the slaves that they were free (Dumett and Johnson, 1988, p.85; Mc Sheffrey, 1983, pp.349–368; Miers, 2003, p.35). The onus was placed on the slave to file a complaint with the British officials, who were very few in the interior regions, and often the slave owner was able to prevent the slave reaching the official. Furthermore, it was very difficult to secure convictions, as it was hard to gather evidence against the perpetrators, who were often village chieftains (Dumett and Johnson, 1988, p.85; Metcalfe, 1964, p.400; Miers, 2003, pp.35–36).

Colonial administrations were often forced to perform a balancing act. On the one hand, they supported slavery to maintain the viability and profitability of their colonial conquests, whilst on the other, continued to show a superficial, media-led attack on slavery, pandering to the pressure of the audience back home. For example, in Zanzibar, while slavery was outlawed in 1897, only 11,000 of the estimated 40,000 slaves had been liberated by 1907 (Cooper, 1980; Uzoigwe, 1974, pp.155–171; Miers, 2003; Miers, 1974). In another example of the duplicity of colonial administrators with regard to slavery, the protectorate of Northern Nigeria had one of the largest slave populations in the world,

numbering up to 2.5 million people. The British High Commissioner there, Frederick Lugard, abolished the legality surrounding slavery and declared all children born after 31<sup>st</sup> March 1901 as free. However, to prevent the wholesale departure of slaves, he made them pay for their redemption. He ordered his subordinates not to help those who left without the permission of their owners, unless they had been ill-treated. In the event of ill-treatment, the officers could assist a slave's escape, to prevent the owners being antagonised. Fugitives from slavery were not helped, neither were they given jobs, nor land to till in order to survive. Often they were handed over to Islamic (Sharia) courts which could hear claims of slavery and which would regularly restore the slaves to their former owners (Lugard, 1906; Lovejoy and Hogendorn, 1993; Miers 2003, p.37–38). Lugard was widely regarded as an authority on slavery by the humanitarian lobby, who did not suspect his policies (Hogendorn and Lovejoy, 1993). He covered his tracks by treating male fugitive slaves as vagrants, while female slaves were brought before the Islamic courts so that slave owners could be given reimbursement under the guise of marital dispute compensation.

The measures described above gave slaves little incentive to embrace freedom, even though legally slavery was no longer recognised. There were also wide variances in the administrative policy between each region regarding de-recognition of slavery, meaning that the only effect of the policies was the satisfaction of the public back home in the UK. In reality, the slaves' circumstances did not change, as they could be forced to pay for their redemption, or be handed over to alternative religious legal forums which recognised slavery, and often handed them back to their former masters (Miers, 2003). Thus, the whole Indian model of emancipation became largely a theoretical exercise for slaves, while often serving as a cover for territorial expansion, or a tool to effectively administer a province wherein slavery was the key source of labour (Temperley, 1972, pp.108–109; Miers, 2003, p.38).

However, it would be totally unfair to blame the evolution of modern day slavery solely on the British Empire, as several other colonial powers adopted similar measures to sustain and regulate slavery within their respective colonies. It is important to note at this point that, though the British became market leaders in slavery, the Atlantic slave trade was pioneered and also dominated by several other countries, including Portugal, Spain, the Netherlands and France. With only a few variations, the approach by other global powers to tackle slavery and emancipate slaves was similar to the British Indian model of emancipation.

## **2.6 Institutional failures in tackling slavery**

There were several key challenges in tackling slavery. One was repatriation; in cases where the slave knew exactly where they came from, they would attempt escape and a return to their families. In many cases, due to their age, gender, political and economic conditions, this proved impossible (Miers, 2003, p.41). Another factor was the reluctance of the local administration of colonial powers to upset the local economy by emancipating slaves. Though The Brussels Conference Act of 1890 mandated that slaves should be repatriated, this was rarely followed as there were serious economic implications

regarding the number of slaves that any country could repatriate, rehabilitate or effectively reintegrate (Wright, 1993; Miers, 2003, p.41). There was also a greater cost implication for the slave owners.

The third problem was the limited option for long-term rehabilitation of released slaves. This was extremely challenging, as there were a limited number of quality rehabilitation programmes when compared to the number of slaves in need of support. In many cases, smaller numbers of slaves could be rehabilitated through local missionaries and civil society groups, which undertook their education, rehabilitation and reintegration. The victims who were taken on in such quality rehabilitation programmes were among the first to receive a Western education and many went on to work in local government or set up their own businesses (Herlehy and Morton, 1998; Dummett and Johnson, 1988; Miers, 2003).

But there were also cultural barriers to rehabilitating and reintegrating victims of slavery. A slave released did not necessarily gain his or her reputation in society upon their release. They were still considered slaves, and in some cases this meant they were not considered to be human. The home culture of the released slaves was often at odds, or alien to, the local culture into which they found themselves transplanted (Ohadike, 1988, p.433). In some cases the released slaves refused to accept any compensation from the local government, as accepting such compensation reminded them of their previous status as slaves (Hargey, 1981, p.308). Also, what 'freedom' meant varied from slave to slave, as in some cultures tribes and clans would have exercised a significant amount of control over a member. As such, it was not uncommon for released slaves to form similar households where similar amounts of control were exercised. The outbreak of the First World War I in 1914 marked the point when the chattel form of the slave trade ended, or was much reduced, and slavery itself seemed to be on the wane. However, as we will now explore, serious efforts were being made to replace such chattel slavery with new forms of labour exploitation (Miers 2003, pp.42–43).

## **2.7 Conclusion**

It is important, both intellectually and politically, to reflect upon the history of slavery and its contemporary forms. We cannot understand where we are now, or how things might develop, if we do not understand what has gone before. What seems clear, is that slavery in many ways underpinned, or was the catalyst for, a truly global economy. It was a prized global export commodity, directly and indirectly supporting the manufacturing and services that are the foundations of the modern world. It was the catalyst for the creation of the globalised, networked world that we find ourselves in today. Slavery played a key role in the rise and fall of many empires. In some ways, I would argue that the decision to stand against slavery, and the deep thought, passion and courage this stance provoked, served very much to form the core of various founding, pivotal documents such as The Bill of Rights and fundamental rights seen in many constitutions that ground the human rights framework. Slavery, time and again, has served to polarise people and yet, also, rally them together to a higher standing on principles and values that frame our world today. Just as the very partial and ambiguous nature of its

abolition in many parts of the world has facilitated its evolution into a contemporary global problem, in a similar manner the stand taken over centuries against various manifestations of this crime continues to inspire people to stand against it.

Having examined the various aspects of twenty-first century slavery, I will argue that similar challenges exist today as were seen in the rehabilitation of freed slaves in the eighteenth and nineteenth centuries. As I will explore in greater detail in the subsequent chapters of literature review and in my main findings, laid out in Chapters 6, 7 and 8, there are both similarities and differences between past and present forms of the slave trade. Kevin Bales (2004) also suggests that there are some differences between the slavery of the eighteenth and nineteenth centuries and the slavery of today. Bales argues that human trafficking is notorious for the low purchase price of the slave and the high profits for the perpetrators. The average cost of a slave worldwide today, according to Bales, is \$90 (USD) while in 1850, in today's real value, a slave would cost \$45,000 (USD) (Bales, 2004). According to Williamson and Cain (2011), the average price of a slave from 1804 to 1861 grew from \$300 (USD) to \$800 (USD). Taking into account the labour or income value, economic status and real price, the value in 2011 of \$400 (USD) would be between \$12,000 (USD) and \$176,000 (USD) (Williamson and Cain, 2011). Another difference between slavery and human trafficking is that there is no shortage of people who can be enslaved and human trafficking, in terms of its reach and targeting of victims, is global, diverse and oriented towards tapping and exploiting multiple markets.

Certain aspects of contemporary life have exacerbated the problem. In studying the history of slavery, one has to understand the complexity of slavery and the survival mechanisms of slaves, the way in which slavery was assimilated into society, the differentiation between the genders and the purpose for which the slave was trafficked. As slavery evolved from chattel to contractual forms, a common factor throughout was that to a slave trader a woman or child was a prized commodity, in both the Eastern slave trade and the domestics slave market, for various reasons. A male slave was only useful for commercial work, whereas a woman was capable of doing a wide range of tasks, both in the home and in the manufacturing of goods. A woman also had reproductive potential to replenish an exhausted source area with a new generation of slaves and propagate progeny of the masters. The Eastern slave trade focused very much on the dual purpose of enslaving the local population while increasing the domination of the rulers. Thus, in many areas of the Eastern slave trade the male slaves were never allowed to cohabit with women while the masters would use women for a wide range of tasks including sexual servitude. As chattel slavery evolved into contractual slavery it largely became dominated by female and child slaves. This was true in all parts of globe where slavery was practiced. As mentioned earlier, a woman was more profitable, a child was easily manipulated and both could be transported quietly and easily without much resistance. It was most likely that resistance was higher from male slaves, both during their trafficking and their enslavement. It is a fact that very few women or children ever escaped their slave owners. This fact is highlighted in *Children in Slavery*, Volumes 1 and 2, by Campell, Miers and Miller (2009).

A further key aspect of human trafficking which makes it different from commercial slavery is the evolution of the Atlantic slave trade, from the trade of largely men to the trade of women and children, which aligns it with the Eastern slave trade, making it a globally profitable trade with a larger market share. The enslavement of women and children became a dominant part of human trafficking, because they were more profitable than men, easier to conceal and control and not given to rebellion. The ability of human trafficking criminal networks to become part of the acceptable cultural and economic landscape and their ability to blend in well and evolve to meet twenty-first-century demands contributed towards the relentless growth of human trafficking, which I will elaborate on in the literature review and the findings chapter. In the relentless quest for profit, global trade in goods and services has played a critical part in elevating the primary reasons for enslavement, at the same time it has driven inequality among human beings and been a factor in the rise of various forms of bonded labour. The demand today for a larger market share, higher returns and lower costs, bigger trades drive the creation of a complex web of structures which hide slavery, in a manner that contributes towards profits but provides plausible deniability for the top rung of any corporate structure indulging in it.

The final key factor is to understand cultural and religious contexts, societal structures and the impact of slavery in both source areas and the areas that slaves were sold into. When talking of cultural impact, countries having patriarchal structures continue to view women in a poorer light. Such structures, even today, impose a wide range of crippling rules on women, which play a contributory role in both creating demand and in the exploitation of women within these settings. Patriarchal structures often place a bonus on a male child, causing a rise in female infanticide, leading to gender imbalance which serves to create both the push and pull factors of demand that govern modern day human trafficking for prostitution and forced marriages. Religious contexts can both justify and oppose slavery. The Islamic slave trade, to date, dominates the trafficking of women and children for household slavery. In modern times, the trafficking of young girls from developing countries such as Nepal, Bangladesh, Kenya and India to Saudi Arabia, the actions of the Islamic State (IS) occupying portions of Syria and Iraq and their treatment of women from religious minority groups, are a reflection of both the religious and patriarchal structures that impact upon human trafficking and slavery.

Many societies have been fundamentally impacted by both human trafficking and historical slavery when, as a result of being unchecked, they manifest themselves in epidemic proportions. Societies, to date, continue to be heavily impacted by social issues stemming directly from an absence, or lack, of effective reintegration measures for former slaves and contemporary victims of human trafficking. The absence of effective reintegration measures that would aid each victim on the journey to seek justice for the crimes committed against them, and assist them in becoming a self-sustaining members of society, treated with equal dignity and respect remains one of the key gaps of tackling human

trafficking in countries where human trafficking is a problem. As a result, former slaves and the subsequent generations blighted by human trafficking today, suffer from a range of injustices within law, society, religion and culture. From an historical perspective, the social issues that African American people face in the US, the continued turmoil in Congo and The Central African Republic, the challenges around development in Brazil, are all indicative of the ongoing impact of slavery and reflect the slow and gradual progress that has been made, and needs to continue, to guarantee the rights of those who were enslaved within the region. The plight of the Yazidi and Christian minorities in Syria and Iraq and the Rohingya people in Myanmar are modern manifestations of the impact of slavery and human trafficking.

The failure to secure new laws in support of the disruption and dismantling of criminal networks has proved a major factor in the evolution of slavery and human trafficking. I consider those who once indulged in slavery and who, today, profit from human trafficking to be a criminal network. A criminal network being not just a group of individuals who break or manipulate the law for profit, but the elements of both the state and civil society that are complicit in supporting human trafficking, just as some of them were in supporting and contributing to slavery. A criminal network consists of those that create the demand, exploiting both the basic needs of the society and creating a mass market to increase the penetration of the product, which could be anything from a commodity to a service. Those creating the market and the demand then procure the commodity or the services, with minimal cost, within a global market.

The state actors are then compromised either wholly or completely, creating both the seen and unseen world of finances that underpin the growing market for human trafficking. Those that profited from slavery and, today, profit from human trafficking in a globally networked world are masters of multiple markets. Irrespective of which form of government or ideological system governs the market, the speciality of this crime is its ability to transcend these various market forms and models of governance. This explains its market penetration in over 137 countries around the world today (UNODC, 2006).

In contemporary forms of human trafficking, the members of such criminal networks have access to multiple forms of transport which would have been unavailable previously, such as aircraft, trains and motor vehicles. In the transatlantic slave trade the main form of transportation would have been the slave ships. One thing that remains the same, however, is that traffickers continue to avoid areas or regions where community networks are strong, or where the resistance to trafficking is strong. Traffickers also continue to use a mix of approaches, ranging from indentured labour, bribes, persuasion, coercion and outright slavery. They no longer target just one ethnic group or region; instead, according to a TIP Report (2010) they target most countries around the world as source, transit or destination points. They invest a high proportion of their earnings or resources in securing the cooperation of elements within the state, elements that are susceptible to corruption yet specialise



in maximising the profit to be earned from the criminal justice machinery turning a blind eye to their activities. Modern traffickers use a single trafficking business transaction or chain of events to simultaneously traffic human beings, drugs, and arms among other illegal goods.<sup>7</sup> More and more, trafficking syndicates specialise in being well-networked and less visible, and so it can be very hard to trace the principal culprits perpetuating human trafficking. They have, so far, been successful in evolving against current models being implemented to tackle them. There are numerous singular instances and cases of resistance by victims, but no known record of coordinated, organised resistance against trafficking perpetrators by victims. In many ways, organised crime groups have invested significant resources in engineering demand, thus, making the average citizen largely silent, complicit or, even worse, a participant in the various forms of modern slavery. In subsequent chapters I will provide examples of forms of exploitation of vulnerability, collusion with locally powerful individuals and outright corruption that allow trafficking in persons to flourish. In the next chapter I will look at the, now global, nature of human trafficking in the twenty-first century by analysing the currently available literature in the field. The transition of focus, from slavery as a form of exploitation to human trafficking for various forms of exploitation today, reflects the remarkable ability of this crime to evolve and grow over time through a wide range of factors. There are a range of factors that affect this problem, from the demand created by subtle and direct marketing, the generation of supply with intent to maximise profits and the intervention of the state to have a share of the profits or to control it. This is often the underlying theme that creates and, over time, has developed this social problem.

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<sup>7</sup> The researcher has witnessed children being trafficked across the Bangladesh-India border, for their ensuing enslavement as well as to use their bodies for the trafficking of illegal goods, where the price difference would make the traffickers a profit on both the sale of the child as well as the goods they brought with them.

## **Chapter 3: Review of the Human Trafficking Literature and Regulatory Framework**

### **3.1 Introduction**

This chapter provides a review of the ways in which slavery evolved itself from chattel slavery to various forms of human trafficking. The chapter also looks at the available literature covering the factors that perpetuate the growth of human trafficking at a global level, before focussing on how global, regional and local factors can act as push or pull factors for the growth of human trafficking. Given the geographical area covered in field work, the chapter concentrates on various forms of human trafficking within the regional context of South Asia and Europe. I begin by addressing the leading role played by the US in tackling twenty-first-century trafficking of person. This is followed by a baseline analysis of what current literature tells us about human trafficking in the targeted research areas of India, the UK and the Netherlands, within the wider geographical contexts of South Asia and Europe. In the section on challenges and debates surrounding human trafficking, this chapter touches upon the existing understanding of the push and pull factors, trafficking routes, perpetuating factors of trafficking, the extent of violence committed against victims of trafficking and the role of victim-consent in human trafficking. I will also look briefly at the debates surrounding strategies or approaches towards tackling human trafficking; understanding human trafficking as a business, the role of migration control approaches with stricter border controls, restricted asylum, use of detention centres and aggressive interception of people smuggling and human trafficking networks in source areas. This section will also consider the debates surrounding the criminalisation of buying of sex by targeting customers of prostitution, vis a vis the de-criminalisation approach to prostitution, which pushes the focus towards regulation of prostitution but simultaneously pushes for criminalisation of other forms of human trafficking. The chapter builds towards an exploration of the role of governing security – a theoretical framework described in Chapter 5 – being an evidence-based middle path to focus on a more holistic approach, through the multidisciplinary model (described more fully in Chapter 8), encompassing the key points enumerated in the debates above, on both sides of the argument, through actual casework. I will reflect on literature that discusses how various factors, such as culture, religion, patriarchal structures, globalisation, economic structures (driven by capitalism and organised criminal networks in South Asia and Europe), have strongly underpinned the growth of human trafficking. I conclude this chapter by focussing on the gaps in the literature on human trafficking, which this thesis goes some way to addressing.

### **3.2 The evolution of slavery into human trafficking**

The first phase of the growth of human trafficking coincided with efforts, around the world, to tackle chattel slavery. The evolution of chattel slavery into contemporary forms of exploitation for which people are trafficked and exploited today, is often driven by various individuals, organisations, corporations, networks and structures; developed and motivated by unsustainable greed, unbalanced

growth and inequality within a complex, global and inter-linked world; frequently buffeted by human conflicts, natural disasters, unpredictable economic downturns due to poor governance; and by other linked factors. The growth of human trafficking is often facilitated by institutional failures in tackling the problem and collusion between elements of state and civil society with criminal networks that profit from the continued existence and growth of various forms of human trafficking, amplifying the isolation many communities face from their institutions of governance. The interplay or collusion between the governance of an area, operational criminal networks, the corruption of society at several levels, the emergence of global markets and a demand for skilled, semi-skilled or irregular labour at a very low cost, forms the foundations of human trafficking

According to Miers (2003), as the colonial empire expanded in Africa they were faced with a community that was largely made up of subsistence farmers or herders, meeting their own needs and requiring only a small surplus product to trade in the local markets. There were specialised groups such as hunters and craftsmen but, mostly, everyone took care of their own needs. The primary tool for mobilising labour was the slave trade and slavery, as there was a limited pool of wage labourers or peasant labourers (Miers, 2003, p.47). The goal of the colonial rulers was to turn Africa into an industrial workforce that would generate produce for the markets and taxes for the colonial rulers to run their administration. This required the disconnection of the local population from their subsistence form of community living and from their previous means of production, such as working the land and labour. The catalyst for the change from slavery to bonded or forced labour was the limited capital held by colonial governments, which made it difficult to pay market rates for their infrastructural projects. None of the European companies and individual employers were willing to offer wages or the working conditions to attract labour. This provided limited incentive for the local people; all that was offered was to work for a low wage, far from home and in bad conditions. In addition, the absence of an able-bodied person as a farmhand during the farming season affected the ability of a family to provide their own food, which could lead to starvation (Miers, 2003, p.48). In order to meet the demand for labour from public infrastructural projects and private companies, the colonial government enacted a wide range of strategies to facilitate bonded, contractual or forced labour. These forms of servitude often differed from historic forms of slavery, such as chattel slavery in which a slave was procured and controlled. Since the abolition of slavery and the emancipation of slaves a human being could no longer be treated as a saleable asset. However the tools and powers of coercion available to a colonial state were often greater than those a slave owner possessed. This often led to emerging contractual, debt bondage based labour systems, founded on a mixture of low wages, repressive land and tax laws, restricted access to product markets and enforced production quotas that were similar to slavery (Miers, 2003, p.48).

There are various factors and key reasons for the evolution of slavery into human trafficking. These include the growing clout of the illegal market economy and the money laundering industry. Global Financial Integrity (GFI) pegs the illegal income in India, alone, at \$462 billion (USD) with an annual

loss to the exchequer of \$19 billion (USD). Illicit income according to the GFI report in 2011 refers to the cost of crime, corruption and mispricing in developing countries. The illicit flow from the economies of developing countries increased from \$1.06 trillion (USD) in 2006 to \$1.26 trillion (USD) in 2008, with an average annual illicit flow from developing countries for the period 2000–2008 of between \$725 billion (USD) and \$810 billion (USD) (Global Financial Integrity, 2011). The illicit financial flows for the period 2008–2012 equalled more than 10% of the gross domestic product (GDP) for 25% of the 82 countries studied; for 40% of the countries studied it amounted to 10% of their trade value; and in 20 of the countries it was more than the combined value of the official foreign aid and foreign direct investment. Notable here is Nepal, afflicted by the recent earthquake, where illicit financial flows amounted to 56.9% of the lost government revenue desperately needed to rebuild the country. In 40% of the 82 countries the illicit flows exceed the expenditure on health and education in the respective countries (Spanjers and Foss, 2015). Developing countries represent the prime source areas for the trafficking of human beings and developed countries represent a higher source of profit. In a report by the International Labour Organisation, published in May 2014 and titled ‘Profits and Poverty: The Economics of Forced Labour’, it is noted that of the \$150 billion (USD) earned each year from various forms of forced labour \$51.8 billion (USD) was from the Asia-Pacific region and \$46.9 billion (USD) was from developed economies and the European Union Economic Region. The average price earned from a victim of sexual exploitation in 2014 was \$21,800 (USD) per year using fraud or force and \$4,000 (USD) per year from other forms of forced labour exploitation outside of domestic work (ILO, 2014).

The effort that began with tackling chattel slavery must now deal with an ever-widening range of practices and forms of exploitation associated with slavery. In 1975, chattel slavery seemed to have disappeared, having been replaced by other forms of trafficking and bondage. According to Miers, debt-bondage has made deep inroads into South Asia and South America; child labour has become widespread in many parts of the world; forced marriages and servile forms of marriage keep millions of women bound by law and totally dependent on their husbands and extended families; and unknown numbers of women, children and men continue to be lured or forced into the sex industry (Miers, 2003, p.415). The other key factors that explain the resurgence of contemporary slavery are the failure to rehabilitate the victims of slavery, which results in them being enslaved in other forms of slavery such as contractual slavery; the failure to comprehend or address the transition from slavery to indentured labour; and the continuing failure to have a coordinated and comprehensive response between nations against criminal organisations or groups that became transnational as a result of the globalisation. In addition, and as we shall see in an analysis of the fieldwork data in later chapters, criminal organisations have shown remarkable adaptability in countering local law enforcement. They are rarely limited by borders or jurisdictions and operate in closely linked yet visibly separate criminal networks, which may be loosely organised, semi-organised, or highly organised depending on what best suits the context. They are increasingly willing, at the cost of the victim, to take on high levels of risk and to explore any new areas and opportunities for exploitation, which may results in a high

return on investment. Furthermore, they remain under the radar of the public concern for governance of security. Contemporary forms of slavery also feed on a continual and growing global demand for cheap human labour. This demand is created by both individuals and the commercial sector and it is facilitated, maintained and/or protected by organised criminal networks. As has already been discussed, the global abolition of traditional slavery was spread over a period of 180 years, starting with its initial abolition in the UK. This has given ample time for the crime to evolve into new forms.

### ***3.2.1 Various forms of modern-day slavery***

#### **3.2.1.1 Chattel slavery**

##### **Mauritania**

In 1980, Mauritania stunned the world with the announcement that it had outlawed slavery. Despite the fact that the French had outlawed it in 1905 and in the constitution at the time of its independence in 1960, Mauritania still did not recognise the existence of slavery prior to this date (Miers 2003, p.413). A mixture of drought, war, and military coup created optimum conditions for slavery to continue to grow and thrive. This cultural context generated a class system that continued for years after the abolition of slavery, whereby a freed slave could not grow to a place of self-sustainability or influence within society. The slave owners, due to lack of compensation and in an effort to control the progeny of the slaves, would not give freedom to the female slaves nor would they grant custody of the children (Messaud, 2000; Miers, 2003, p.420). Any prosecution in this area became particularly difficult or impossible because of the conflict between civil law and Sharia law. (The Islamic courts across the world, as per Sharia law, continue to uphold slavery to this day and in most Islamic countries the Sharia law takes precedence over civil law.) Thus prosecutions were nullified due to the fact that the civil courts did not have jurisdiction over the Islamic courts and that Islamic law took precedence over civil law (Messaud, 2000; ASR, 1999; Miers, 2003, p.420). The term ‘vestiges of slavery’ was coined by several governments alongside the UN committees, amongst others, to describe practices based on slavery (Miers, 2003: 420). The reason for the introduction of this term was that once slavery had lost its legal status, there was no official trade in slaves, so theoretically slaves could leave their masters, they could own property, marry, and have children. Hence, all that remained were the vestiges of slavery. To activists, however, what was witnessed in places such as Mauritania was slavery itself (Messaud, 2000; Ruf, 2000; Miers 2003, p.420). The vestiges of slavery continue to reveal themselves around the world, wherever slavery has been practised. In 2000, all ethnic groups (WGCFS Report, 2000; Miers, 2003) brought evidence before the Working Group on Contemporary Forms of Slavery (WGCFS) on the practice of slavery in Niger. Similarly, research on the Indonesian island of Sumba showed that there were still slave girls there towards the end of the twentieth century (Miers, 2003, p.421).

#### **3.2.1.2 Debt bondage**

##### **South Asia as a cradle for debt bondage**

Debt bondage has emerged as the most widespread form of contemporary slavery. Even though India legislated against it in 1976 and Pakistan did so in 1992, it has emerged as the bedrock of the informal industrial sector in South Asia (Bales, 1999; Miers, 2003). Debt bondage works because it is based on the class and caste structures that are prevalent in South Asia. Many of the marginalised communities do not have the legal title deeds to their land. They may also be subsistence farmers, whose livelihoods are based on unpredictable weather cycles. For them, education is limited, and as such, they are forced to work in certain menial occupations. In some cases, due to corruption at a village, district, and/or state level or, indeed, within a union of states, resources may be badly managed, resulting in man-made poverty. Cultural practices such as the caste and class systems in South Asia and a varied political-ideological divide within a country's state and federal governments also contribute to the lack of development of some states. Politicians that sit on the local boards of banks often control the money lending structure at a village level. They will often double up or associate with loan sharks, providing loans at rates far above the official levels (*Indian Express*, 2010). They may intentionally increase the bureaucracy surrounding a loan grant and make it very difficult for the average person to secure a loan without proper collateral (*Indian Express*, 2007).

Often relief measures by the government to support a change in policy, or to target affected people, do not filter down because of inefficient systems and corruption. The loan sharks, through their political clout, restrict the credit limit a bank can offer a person. Often, such corruption occurs in smaller towns and rural areas that are particularly hit by the lack of development or by a natural calamity such as a famine, an earthquake or floods (Ahmed, 2006; Robinson and Sunna, 2007). In India, for example, 52% of its employment and 16% of its GDP is rural and agrarian in nature (CIA, 2011). All of these factors result in the outright exploitation by moneylenders, who give loans at exorbitant rates to poor people who spend the rest of their lives just paying off the interest. In many parts of South Asia this is used in order to capture land given to the marginalised classes under the local land reform acts. In parts of South Asia it is not uncommon to hear of farmers committing suicide to protect their families from the legacy of debt bondage (AFP, 2011). According to The National Crime Records Bureau (NCRB) in India, an average of 47 farmers have committed suicide each day since 2004.

Across South Asia, this leads to children being employed in forced labour within a wide range of irregular establishments, such as factories, brick kilns, quarries, fisheries and other businesses. The creditors kept people in bondage by levying illegal fines, or charges for food, tools, fertiliser and other essentials. At the same time they pay very low wages, thus making it difficult for the person to pay back the debt. Often, they might insist that the labour be used as collateral for the debt, preventing the debtor from using any money they might make from the labour to repay the loan (Miers, 2003, p.423). If a debtor is unable to pay off the debt it often results in the debtor's wife and children being made to work, thereby becoming bonded themselves (WGCFs Report, 2001). In such cases debts therefore may become hereditary and inter-generational. It can be impossible to escape such traps due to the collusion of corrupt elements within law enforcement and the labour department, who, if the victim

escapes, may catch them and return them. As a lawyer, working with victims of human trafficking and assisting governments and agencies in prosecuting perpetrators of contemporary forms of slavery, I have seen debt bondage being used as a tool to control victims in several forms of trafficking or slavery. In all of South Asia the laws enable make it very difficult to prosecute the people who use debt bondage to enslave, and very limited financial and personnel resources to ensure the effective rehabilitation and reintegration of the victims.

Such problems are not limited to developing countries; today one sees problems with domestic servitude, where a bonded labour situation is created when recruiting, and agencies smuggle, and traffic workers for labour into developed countries. Many find themselves unable to pay off their debts to the recruiting agencies resulting in debt bondage. This is common, not only in the Middle East, and occurs even in Western countries (ILO, 2014). In 2001, the UN estimated that there were about 20 million people in bonded labour in the world, many of them indigenous people (Miers, 2003). An ILO report states that ‘once identified and released, the only way to keep the victims out of debt and to prevent new people from falling into it was to provide those at risk with land or adequately paid jobs, as well as access to credit and compulsory free education’ (ILO, 2001). All of these steps require strong political will on behalf of the government.

### **3.2.1.3 Child exploitation**

#### **Background**

In 1982, the UN Special Rapporteur on Slavery and Child Exploitation concluded that despite The Declaration on the Rights of the Child, proclaimed by the UN in 1959, and the ILO convention on the minimum age for employment, by 1973 more than 50 million children were working in hazardous conditions, the bulk of them in developing countries (ASR, 15 reports between 1978 and 1998; Bouhdiba, 1982; Miers, 2003: 426). This subject will be expanded upon at length in the main chapter 6, 7 and 8 of my findings. To give a contextual snapshot at this point, I will describe some of the areas in which children are trafficked and exploited in the twenty-first century.

Camel jockeys in the Middle East tend to be children from the age of three upwards, trafficked from Bangladesh, Pakistan and Afghanistan for camel races. The work of the Ansar Burney Trust documents the ongoing atrocity in the Middle East. The children are fed on biscuits and water only and are held in unclean, unhygienic and shanty prison camp-like conditions, with barbed wire surrounding the area in which they live (*The Times*, 2005)<sup>8</sup>. They are regularly assaulted, beaten and raped by their handlers. This is in sharp contrast to the treatment of the camels, which have the best treatment possible, including proper meals, exclusive healthcare, and walks in swimming pools to cool them down in the summer heat. The owners that support and sponsor these races are among the richest individuals in the world, including members of the royal family of the United Arab Emirates

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<sup>8</sup> Kidnapped children starved as camel jockey slaves, *The Times*, 27<sup>th</sup> of March, 2005

(UAE). Many of the children may be seriously injured by falling from the camels and being trampled underfoot. A number of them die from the injuries they sustain (Turner, 2009). A documentary by HBO records how, despite several official announcements by the governments of the Middle East, bans on the use of child jockeys are rarely enforced. In 2004, despite evidence of continued prevalence of the use of child slaves as camel jockeys, the US government publicly appraised the work of the UAE on tackling camel jockeys in the Trafficking in Persons Report (TIP report, 2005; UN, 2006). Often the only way children can be rescued from such conditions is by a specific specialist team organising the escape of the children from the camps and taking them to a neighbouring country, where the embassy of the victims will then process their paperwork and exit visas. Most countries such as Pakistan and Bangladesh, from where the traffickers procure these victims, are heavily dependent on Middle Eastern countries for aid and for jobs for their citizens. As a result they are reluctant to take up the cause of children trafficked from their countries for slavery. A detailed assessment of the trafficking of children for camel races was documented and aired in 2004 by HBO Sports. It was called 'Child Camel Jockeys – Modern Day Slavery'. The practice continues today (Turner, 2009; *The Independent*, March 2010; *The Telegraph*, March 2010).

The effort to tackle child labour at a global level is handicapped by a lack of consensus over the age of majority. The age varies from country to country; in some it is 12 or 14 years whilst in others it is 18 or even as high as 21 years of age. The problem is compounded by the fact that the ILO has adopted a piecemeal approach to this issue. Initially, in the 1979 convention, they deemed a child to be anyone below 15 years of age (ILO convention, 138; Miers, 2003, p.430). In South Asia, 14 years of age continues to be the age below which child labour is not tolerated. It is estimated that 23% of a typical family income in India is dependent on child labour; millions in Pakistan are employed in the carpet industry, which also happens to be a key source of income for the government (Miers, 2003, p.430). The Convention on the Rights of the Child, 1989, held the age of a child as 18, except in a state where the legal age of maturity was earlier. The ILO has estimated that globally there are some 250,000 children employed between the ages of five and 12 years. Nearly half of them work every day of the year and over 70% of them work in hazardous occupations (ASR, 1998; Miers, 2003). In June 1999, the ILO adopted the Worst Forms of Child Labour Convention (No. 182), which defined the age of a child to be 18 years or less. However, this was watered down when it was accepted that those above the minimum age and below the age of 18 could work in a hazardous occupation as long as it was part of vocational training and safety precautions were in place. This provided a loophole for several countries and though the Worst Forms of Child Labour Convention (No. 182) was widely ratified the jury is still out on how effective it has been (Miers, 2003: 431).

#### **3.2.1.4 Forced prostitution**

The area of prostitution is a difficult and controversial one. There is an overall consensus that the kidnapping of a woman or use of deception, coercion, flattery, blandishments, confinement, and detention in forcing her into prostitution against her will is a clear violation of her basic human rights.



However, opinion is split between those who believe that all prostitution is slavery and should be criminalised and those who believe that consensual prostitution is a way of life and a matter of free choice. The camps are so split that in 1949, when the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others made consensual procurement and enticement into prostitution an offence, several countries, prominent among them the UK and the Netherlands, refused to sign the convention (Miers, 2003). I have examined feminist literature and opposing debates on the subject of prostitution at length in the literature review chapter.

The International Movement Against All Forms of Discrimination and Racism (IMADR) in 1999 attempted a consensus approach between the UN, international agencies and non-governmental organisations (NGOs) on a human rights framework to deal with the global sex industry. Groups came with opposing approaches to the issue; the New York-based Coalition Against Trafficking of Persons (CATW) is supportive of criminalising the buying of sex as, for them, prostitution is a form of slavery, while the Bangkok-based Global Alliance Against Trafficking in Women (GAATW) advocates decriminalising the buying of sex and regulating the industry for the better protection of the women. Even though, prior to the 2001 report from the WGCFS, they were able to reach a compromise on common objectives, the eventual report by the UN Working Group on Contemporary Forms of Slavery in 2001 took the CATW approach and recommended that prostitution should in no way be legalised, as it was seen as a violation of human rights (WGCFS 2001; Miers, 2003, p.433)

It is estimated that between 40,000 and 50,000 women and children are reported trafficked to the US each year (WGCFS report, 2001; US State Department report, 1999; Miers, 2003). In 1995 a UN Special Rapporteur on systemic rape, sexual slavery and slavery-like practices reported cases of systematic rape as part of coordinated ethnic cleansing. Rape was also used as a tool by Peruvian soldiers while fighting the Shining Path guerrillas, and by Indonesian soldiers in East Timor, Irian Jaya and Aceh. Such practices, often sustained over a period of time, became sexual slavery. The Lord's Resistance Army (LRA) in Uganda and rebels in Sierra Leone illustrated this. (Chavez, 1996; Coomaraswamy, 1997, 1998, 1999; Miers, 2003).

According to the working paper of the IMADR, sanctioned by the WGCFS:

'In half a century since 1949, trafficking has become more pernicious and pervasive. Criminal networks are now more organised and powerful, with everyone from officials, community members and even parents seeking to profit from prostitution. Increasingly laws are passed but not implemented.' (Miers, 2003, p.433)

The report suggests that governments and civil societies are split between the need to criminalise or to legalise and control prostitution. The report also talks about the internet being used as a medium to develop new areas of prostitution; the trafficking of mail order brides, sex tours, pornography, live sex shows and rape videos (Miers, 2003). Prostitution also poses a serious health hazard in addition to the

problems posed by the growth of organised crime. The report requested a coherent global strategy to combat prostitution, including national action plans by governments with mandatory compliance reports, mechanisms for individuals to make complaints, the use of civil remedies against perpetrators and the appointment of a Special Rapporteur or working group to gather evidence and build a consensus on an action plan (WGCFS, 1998).

### **3.2.1.5 Forced marriage**

In certain cultures in Africa, when a married man dies, the widow forms part of the inheritance that is automatically passed on to the sibling of the deceased, or to the nearest relative. This system is often used as a pretext to swindle the widow out of any form of compensation for herself and her family. Furthermore, in many cases the widow is forced to marry a person against her will (Miers, 2003, p435)<sup>9</sup>. In the twenty-first century a new form of marriage-based slavery has also developed. This involves ethnic Asian girls from Western countries being forcibly married to individuals in the country from which they, or their parents, migrated. In 2014 the Forced Marriage Unit (FMU) of the UK Home Office gave advice or support in 1,267 potential cases of forced marriage. The victims varied in age: 11% were under 16 years of age, 11% were between 16 and 17 years of age, 17% were between 18 and 21 years of age, 14% were between 22 and 25 years of age, 8% were between 26 and 30 years of age, 5% were between 31 and 40 years of age and 2% were over 41 years of age. The gender ratio of females to males being forced into marriage was 79:21. The bulk of the 88 countries to which the victims were to be forcibly taken were in South Asia; Pakistan 38%, India 8%, Bangladesh 7% and Afghanistan 3%. 135 of the victim had some form of disabilities and eight identified themselves as lesbian, gay, bisexual or transgender (FMU report, 2014). A British Home Office-funded study, located in the Luton area of England found that, based only on the cases that came to their attention, up to 3,000 women per year were being forced into marriage in the UK (*The Guardian*, 2008). A study by the Department for Children, Schools and Families (DCFS), published in 2009, claims that up to 8,000 cases of forced marriage were reported in England and Wales in 2009. The majority of the victims of forced marriage are British girls, whose parents are of Pakistani or Bangladeshi descent (*The Telegraph*, 2009, 2011). The growing trend of forced marriages in England and Wales was prohibited by the Forced Marriage (Civil Protection) Act 2007, though the act failed to make it a specific criminal offence (*The Guardian*, 2007). Forced marriage has serious consequences for victims, including child abuse, sexual assault, early pregnancy, high maternal and child mortality rates and increased risk of sexually transmitted diseases. Victims are often ostracised by their families both in Asia and the West (Chantler, Gangoli and Hester, 2009). Often many of these girls are raped and impregnated against their will and are only allowed to leave without the custody of their child. According to Amartya Sen (1999), in countries such as China, where there is a preference for male

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<sup>9</sup> The author of this thesis has personally handled these cases during his work as a legal counsel for various charities (2001–2006), legal counsel for the Government State homes and for the Children’s Protection Tribunal in Mumbai etc.

children, the one-child policy has resulted in high female infant mortality rate, female infanticide, sex selective abortion and girls being abandoned. The imbalance in the sex ratio due to preference for male children has led to a rise in the trafficking of children and young girls for forced marriages (Dube, 1983; Jaschok and Miers, 1994, pp.264–65).

### **3.2.1.6 Religious and cultural slavery**

According to Bales (1999, pp.199–201), Miers (2003) and as I have witnessed through my own experience as a lawyer in India representing the victims of such crimes, there exists in Southern India practices of temple prostitution, devoted to the goddess Yellamma. Often for material gains, or for the protection of the family in general or of a specific male child, a girl is dedicated to the goddess when she is between three and four years-of-age. Often during the course of the ritual dedication a religious necklace is put on the child. This must be worn by the victim for her entire life, only to be removed when she, as part of a similar ceremony, places the necklace on her own child. This ensures hereditary bondage from mother to daughter for generations. The child is made to believe that any man within the community is permitted to have sex with her and that she would be pleasing the goddess by complying. She is also made to believe that refusal to comply will result in the curse of the goddess coming upon her, destroying her and her family. In the world of sex trafficking this is one of the most guaranteed supply routes when demand is high and supply is poor. Chapters 6, 7 and 8 of this thesis will explore this form of slavery further. It is difficult to give an exact number of victims of this kind of slavery as, because of religious convictions, there is a conspiracy of silence surrounding the issue. Laws have been passed that punish the practice but enforcement has been poor. I personally have worked on several cases where children have been trafficked into sexual exploitation through dedication to temple prostitution. I will document this further in my main findings, in addition to documentation of this form of slavery found in the work of Bales (1999, pp.199–201) and Miers (2003, p.436) and of the WGCFS, 1995.

Similar practices have been reported in southeast Ghana, where girls have been dedicated to shrines by their families in order to atone for offences committed by other members of their extended family. Miers mentions a case where a nine-year-old girl was dedicated to a shrine to atone for an offence committed by her grandmother – the theft of a pair of earrings (Miers 2003, p.436). Children here are forced into a lifetime of servitude and bonded labour, often forced to have sex with the priest, with any child born to them also in bondage. The Anti-Slavery Society (ASS) first drew attention to this issue in 1995 and while Ghana outlawed the practice in 1998, there have been no recorded convictions or prosecutions of any of the priests who enforce these practices (ASR, 2000; Miers, 2003, p.436).

### **3.2.1.7 Adult forced and bonded labour**

Forced labour has also been used for the exploitation of economic and illegal migrants in the private sector. The abuse of migrant labour has taken several forms and is prevalent around the world. Often strict immigration laws and a lack of social integration on behalf of the workers have been used as

tools to generate a profit-based illegal economy, often using oppressive working conditions in some sections of the migrant population. Forced labour has also been prevalent in diplomatic circles, where restrictive visas have been used as a tool by some diplomats to ensure forced and bonded labour from their maids and household assistants. Often, such victims would have their passports taken away, would suffer physical abuse, or would have their pay withheld but they fear deportation proceedings if they report their situation to the local police. In addition, victims often do not speak the local language and may have families who are dependent on their earnings. Such extreme circumstances may drive the victims into prostitution (Miers, 2003, p.437; Evans, 1998; Taylor, 2002).

Due to the kefala system in the Middle East, where the local employers have sweeping powers over entry, stay and exit of a migrant domestic workers, working conditions include the use of violence, confinement, exploitation of working hours and conditional pay (Jureidini, 2010; Calandruccio, 2005). There are numerous recorded instances of influential individuals within Middle-Eastern royalty being caught red-handed with slaves under the guise of concubines. Recently Saudi prince Saud Abdul Aziz, was charged with and convicted for sexually assaulting and murdering his servant in London (Ambrogi and Heinrich, 2010). Records of economic migration from South Asia to the Middle East have been riddled with stories of contractual forced labour, exploitation, and mistreatment by locals and immigrants alike (Human Rights Watch, 2010; *The Economist*, 2010). In Saudi households alone up to 1.5 million servants are employed from countries such as Indonesia, Nepal, the Philippines and Sri Lanka (Human Rights Watch, 2008). An article published in the Saudi daily newspaper *Arab News*, on May 26<sup>th</sup> 2010, talks about cases where young girls are brought from Nepal to Kuwait, then taken, illegally and against their will, across the border to work in Saudi Arabia as domestic servants. The newspaper reports that nearly 50,000 Nepali girls are working in such conditions (Human Rights Watch, June, 2010). Western countries are by no means free from these practices. Trafficking for forced labour is a concern in the US and has been reported in California and Florida, among other states. In a series of nationwide operations called Operations Cross Country IV, the FBI recovered 52 children, some as young as ten, from sexual slavery in 36 cities. Over 700 people were arrested, of which 60 were pimps (FBI, 2009). In Italy nearly 30,000 people were found working in sweatshops in and around Florence (Miers, 2003, p.438).

### **3.3 Background on the available literature and data on trafficking**

There are many reasons for an increased interest in the area of human trafficking. One is the efforts of the US government through the Office to Monitor Trafficking of Persons, US State Department. The office was set up according to the mandate of the Trafficking Victim Protection Act of 2000. The second reason for the increased focus is competing narratives of migration control and human rights frameworks between the EU and several emerging countries such as the BRIC<sup>10</sup> economies. The

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<sup>10</sup> BRIC stands for Brazil, Russia, India and China. South Africa is the latest entrant to this club of emerging economies that have a different human rights framework from that of the EU. The need for

contraction of the world economy due to a recessionary economic environment and the transfer of manufacturing and rebalancing of wealth between the West and the East is, in many ways, fostering protectionism<sup>11</sup> and reactionary policies on controlled immigration, which, in turn, fuel the illegal smuggling of human beings. Human trafficking networks often use consensual human smuggling as a smoke screen, in order to help them exploit vulnerability for profit. The debates surrounding these issues often serve to bring human trafficking and smuggling into the public eye and media spotlight, as a precursor for stricter implementation of immigration law.

The third reason for a growing local, regional and international focus on human trafficking is the increasing availability of compelling accounts from victims about their experiences. The world of human trafficking has evolved each year to include several new forms of enslavement, though trafficking for prostitution continues to be the most versatile and profitable component. This is mainly due to the vulnerability of women and children, the historical links of prostitution with slavery and an increased global supply of victims as a sex commodity (Di Nicola, Orfano, Cauduro and Conci, 2005; Di Nicola, 2004; ILO, 2005). The ongoing public debates on the differing approaches to prostitution, in feminist circles and among other groups, have arguably polarised activists, academics, governments and civil society groups (Di Nicola, Cauduro, Conci and Orfano, 2006). I will explore later, in Chapter 3.9 on the role of consent, how these differing approaches have, to some extent, paralysed the scope and nature of the debate and intervention in human trafficking.

### ***3.3.1 Challenges in data monitoring mechanisms for human trafficking***

The relative lack of information and, in particular, quantitative data on trafficking stems from a number of factors that make accurate assessments of the problem of human trafficking difficult. The customers' wish to remain anonymous, the clandestine nature of the trafficker's activities, the low visibility of the exploitation itself and the victims' fear of the police and their exploiters, all ensure that few details are released. As a result, researchers find it difficult to locate local sources of information and face non-cooperation from those involved (Phinney, 2001: 3; Blanchet, 2002; Pandey, Jena and Mohanty, 2002; DWCD, 1998; TWCI, 2005: 18). Furthermore, the emphasis on qualitative, rather than quantitative, data limits the understanding of patterns and trends (TWCI, 2005: 18), though, because of the complexity of the cases, it is no simple task to condense the specific details so that standard definitions can be applied. In other words, the individual stories of trafficking

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the economy to grow means that, in such countries law enforcement is more relaxed towards labour issues and the trafficking of persons, as the latter often feeds high profit margins in regular economies, irregular economies and money laundering or illicit economies.

<sup>11</sup> The term 'fortress Europe' is commonly used to indicate a common border control across Europe that is aimed at keeping economic migrants out, and which sets terms stating that people who have a certain bank balance and level of influence are permitted in. This creates adverse pressure, resulting in asylum seekers and economic migrants approaching smugglers to smuggle them into Europe. One sees a similar approach in emerging economies, where borders are used as tools to leverage influence and respectability in the new emerging global order. These measures largely affect the poorer sections of society, which form the main recruitment base for traffickers.

are difficult to squeeze into categories (Blanchet, 2002). Bales' (1999: 19) statement, within the context of slavery, sums this up well: 'People are inventive and flexible, and the permutations of human violence and exploitation are infinite.'

Accurate data on the extent of trafficking in human beings does not exist. General figures are often given by inter-governmental and non-governmental organisations, whose sources and reliability can be difficult to verify. This situation is not unique to data on human trafficking, but is typical of criminal justice data in the area of serious and organised crime, which remains under-reported, under-detected and therefore under-prosecuted. The problem with human trafficking is that its human victims are often unaware of how to report the abuse or are unable to do so, particularly when they are minors. It is typically the case that victims are scared to report their abusers for fear of reprisals, against themselves or their families. In addition, victims are often distrustful of the police and criminal justice authorities, and feel doubtful of their ability or willing to assist them should they report their victimisation. These factors, combined with the problems of corrupt police and criminal justice personnel, serve to undermine criminal justice responses to the crime of human trafficking, and make accurate estimation of its scale difficult (Goodey, 2008). Among the other key challenges in ensuring accurate data-gathering is the gap that exists between the reported and unreported cases. This is an institutional failure described in my main findings, presented in Chapter 6 in the section of filing a case. Tackling human trafficking, even today, remains a low priority for governments and police forces at a regional, national and local level (Collins, 2014).

According to Scarpa (2008), with the challenges of researching human trafficking comes the pressing need to develop new ways of gathering data, as traditional data methods cannot be applied to new forms of crime. The illegal nature of the research subject, the recent adoption of anti-trafficking laws, the reluctance of victims to cooperate and the low priority given to research and data-collection by certain governments all combine to make this a challenging area to research. Scarpa also suggests that, as it was only in 2000, through the UN protocol, that a definition of human trafficking came into existence, there is still overall confusion within governments and a resultant mixing-up of data, due to uncertainties on what constitutes human trafficking. There is also no uniformity, while recording cases, as to whether to record the age of the victim on the date they are freed or on the date that trafficking occurred. A greater focus on trafficking for sexual exploitation also makes it difficult to appreciate the overall context, i.e. for all forms of trafficking (Scarpa, 2008).

It is a common public perception that the victims of trafficking are children or women. Many do not consider that men may also be victims of trafficking. It is true that there is a gender bias in recorded cases of human trafficking (US GAO, 2006). Even today, there is very little understanding of non-sexual forms of trafficking, such as labour and domestic servitude. These cases often never get recorded within the system. The capacity of data-gathering is very poor or, in many cases in developing countries, non-existent (US GAO, 2006). Even after the creation of the UN Trafficking

Protocol in 2000, each country has differing legal definitions of, and laws on, human trafficking. Countries around the world still confuse data sets of smuggling and illegal migration with cases of human trafficking. The lack of transparency within government agencies and the policy of deportation for victims of trafficking, lead to a lack of multiagency cooperation in the best interests of the victims. This results in the victims of trafficking dropping out of the system at an early stage, leaving limited records beyond their deportation. The challenges associated with age of consent in each country also results in a number of cases of trafficked people being overlooked, due to the ease in which the perpetrators can manipulate the consent of the victims when they are questioned by the authorities.

In a comparative analysis between murder and trafficking, Bales (2011) estimates that the US Government spends an estimated \$4 billion (USD) per year on the criminal justice system to tackle cases involving an average of 17,000 murders. There are 45,000 specialists in the US who tackle the issue of murder, leading to a detection and clearance rate of 70–75% of known murder cases each year. In the case of trafficking, the US has an average of 17,000 victims per year (Bales, 2011). However the US government, which is a leader in this area of work, only spends an estimated \$150 million (USD) on the issue and has between 50 and 100 anti-slavery specialists. This, according to Bales (2011), is one of the reasons why the US has a growing problem with human trafficking. In the first instance, it is true that tackling human trafficking, to date, is not a priority in a number of countries, also any approach to the problem is still largely seen as a law enforcement or social work issue. In all the data analysed during the course of writing this thesis, I have seen very little to point towards a multidisciplinary approach to tackling the problem. While in a number of countries more is being done in 2015 than was in 2001 to tackle human trafficking, very few of these efforts are either holistic or consistently applied, leaving a lot of room for the crime to evolve. Also, increasing monetary support to tackle human trafficking is not a win-all solution to the problem, the real problem is implementation. As my thesis explores, the framework and model through which these increased resources are allocated often causes more harm than good. In my research I look at the dual challenges of a complex, operating global environment in which both institutional failures in current anti-human trafficking approaches and the ability of the criminal networks to evolve play a key role in the growth of this crime. The need of the hour is a greater focus on the problem of human trafficking, followed by efficient use of resources within an innovative and flexible model.

From 2006 there have been four databases that track the global trafficking of persons, one managed by each of the following organisations: the US government, the International Labour Organisation (ILO), the International Organisation for Migration (IOM) and the United Nations Office on Drugs and Crimes (UNODC) (US GAO, 2006). The US government and the ILO estimate the number of transnational victims worldwide, the IOM gather data on the victims that it assists in countries where it has a presence and the UNODC traces major international trafficking routes. The ILO estimates that 20.9 million people are subjected to forced labour worldwide. Of these, 2.2 million are subjected to state-enforced forced labour, 4.5 million to forced sexual exploitation, 14.2 million to commercial

economic exploitation and 6.10 million to mixed, or other forms of, forced labour. Asia and the Pacific count for 11.5 million of the total (ILO, 2012). The UNODC estimates in its 2014 report that, between the years 2011 and 2012, 34% of the victims were trafficked within the national borders of a country, while 66% of the victims were trafficked outside of the national borders of a country (UNODC, 2014). Between 2010 and 2012, UNODC (2014) recorded victims of 152 different nationalities, in 124 countries. The percentage of females trafficked between 2004 and 2011 indicated a fall from 74% to 49%. Women also constitute 28% of the convicted perpetrators of human trafficking between 2011 and 2012 (UNODC, 2014). UNODC (2014) also recorded a rise in the number of child victims (boys and girls) from 13% to 33% of the total number of trafficked persons. The IOM recorded the cases of 20,000 victims trafficked from 85 source countries into 100 destination countries between 2000 and 2010. 81% of the victims were trafficked for prostitution, 14% for labour and 5% for other forms of trafficking. According to this dataset, the gender ratio was 62% female, compared with 37% male and 1% where the gender was not identified. 36% of those trafficked were minors and 62% were adults, with 2% unknown (IOM, 2011). The UNODC and IOM record their cases based on the definition of human trafficking in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime (US GAO, 2006).

The above paragraph documents the four key datasets in understanding the global nature of human trafficking. I have, as a grassroots practitioner, observed the engagement of three of these: the US Office to Monitor and Combat Trafficking in Persons, through their annual trafficking in persons report (TIP report); the IOM and the UNODC. The data reflects, to me, the reality of how the situation around human trafficking has changed over the past 15 years. Firstly, the problem of human trafficking is a lot more diversified today than it was in 2000 and 2001. People are trafficked for various forms of exploitation today, as opposed to the three or four forms of slavery in the early years. It is tempting to say that this could be because of lack of detection, however my assessment is that this is due to criminal network becoming more efficient and leveraging their impact for greater profit. For a criminal network, if the effort is the same and they can maximise their profit by targeting an entire family unit, community, ethnic group or country, then that is what they will do, as evidenced by case studies in Chapters 6, 7 and 8. The second cause is the trend for increasingly young victims, the decreasing percentage of women being trafficked and the increase in the percentage of children being trafficked. This is also teamed with the gender neutrality of the perpetrator. In all the case studies I have seen, and as illustrated in my main findings, the average age of a female victim in the early years tended to be between 13 and 25, today both boys and girls are trafficked for various purposes and the age has gone down, beginning at birth and dropping off at 25 years of age, with decreasing margins for those between 25 and 40 years of age, though there is a gentle exploratory push there by criminal networks for profitability. In 15 years working in this area, studying both case studies and data, I have seen that human trafficking is a gender-neutral crime with the perpetrators tending to be men, women and the third gender (Eunuchs). This is borne out by the case studies in my main findings. The data



monitoring organisations have still to catch up on the role of women and the third gender (Eunuchs) in perpetuating the crime. What I have discovered through this data is the difference between margins of profitability and availability of resource in each market; in developed markets such as the EU and Anglo-American markets there are lower volumes and higher profit margins and in the emerging and developing markets there are higher volumes and lower profit margins. Through my case studies I am now able to understand how this drives greater innovation and sophistication of criminal networks and their global inter-linkages. I study this in greater detail in Chapters 6, 7 and 8 of my main findings.

Of the data monitoring mechanisms, I started out with a healthy respect for the US Office to Monitor and Combat Trafficking in Persons annual reports (TIP report) but over the years, while continuing to appreciate the qualitative insight it provides on the global problem of human trafficking, I have found it hampered by the global national security agenda that drives this area of work for the US as a dominant global power. I go into greater details about this in Chapter 3.4. The US undoubtedly set the trend on tackling human trafficking and had they continued to maintain a focus there human trafficking as a crime would be at a much more controlled level. Their distraction with the global war on terror, firstly, and then the need to deal with economic recession, led to a lot of breathing space being given to those interested in evolving and continuing to profit from this crime. In 2015, there seems to be a slow shift back to a focus on human trafficking, but it is nowhere near at the same level as in the period between 2001 and 2006. The documentation from the United States Government Accountability Office (GAO) shows the drop in local and international US government funding, from a peak of \$90.8 million (USD) in 2005 to only \$17.7 million (USD) in 2012. I have analysed the impact of this in Chapter 7. My experiences with the IOM machinery, as well, left me disappointed, as I found them largely focussed on working with the state on voluntary repatriations rather than tackling the criminal networks and ensuring effective long-term reintegration, as their work was largely driven by state institutional funding, hence, driven by local state agendas on what is a global problem. Finally, the UNODC was unknown in the sector until it received a grant from the US government for its work in India and a grant of \$15 million (USD) from the UAE for their global initiative to fight human trafficking. This grant largely funded global conferences and development of standard practices and protocols, rather than any consistent grassroots work. Barring some positives from the US government grant to the UNODC in South Asia, the UNODC have had limited impact on the subject in South Asia, in the UK or the Netherlands, where my case studies and the models I have studied were based. They are most known now for their Global Report on Trafficking in Persons, which rivals that of the US State Department's annual TIP reports.

### **3.4 Origins of a global response against human trafficking**

The collapse of the Soviet Union made the US the sole remaining superpower, wielding enormous influence across the world. Of the many things they did in furtherance of their national security agenda across the world, tackling human trafficking was one of their priorities and in the early years of implementing this agenda it was not tied-up with their national security agenda; in the beginning, a

country's constructive engagement with making progress in tackling human trafficking was not held to ransom against, or traded for progress in, other areas of geopolitical interest for the US. As a result, in the early years of this work many countries constructively partnered and engaged with the US to tackle human trafficking. They looked to them for training, support and genuine partnership in this sector. I started my work in tackling human trafficking with the US being an absolutely key and engaged player in this sector and in the instances when they partnered with a country as equals they made enormous progress. As I came into my PhD, understanding the origins of their role and how their partnership or knowledge transfer affects the evolving world of human trafficking became of great relevance to me. The tools used by the US through both hard power of global report and accountability backed by sanctions and the soft power of trade, development funding of local and regional partnerships has played an absolutely vital role in focussing attention on what was hitherto a hidden and growing crime. I owe my journey into the whole area of understanding and developing solutions to human trafficking to the mutual partnerships pursued by Indo-US forums and Indo-UK forums. In the evolution of the multidisciplinary model the engagement of the US government played a pivotal role before, of course, their attention was diverted to the wars in Iraq and Afghanistan. My main findings in Chapters 6, 7 and 8 consider how each stage of evolved anti-human trafficking models found partnership with the US to be problematic, finding that in order to achieve their goals and targets with the multidisciplinary model. One of the strategic moves of the multidisciplinary model was to work towards a closer engagement with governments and civil society at a regional level, as in South Asia, and private sector partnerships, as they were often more beneficial for leverage, risk protection and sustainability, rather than an funding from Western governments, allied UN and international agencies or linked institutional funding bodies.

Human trafficking is a global problem with both a complex networked operating environment and the criminal networks that thrive within this environment working as masters of multiple markets, both within national borders and cross-border. As UNODC (2014) data shows, which is reflected in my findings, 66% of the trafficking occurs outside the national borders of a country. Hence, there is a need for uniformity in law, procedures and models of tackling it which take into consideration regional, and local contexts. In light of this the initiative of both the UN and the US, described in the paragraph below, and the subsequent section of US trafficking law continue to play a key role in the effort tackle the problem and in developing a holistic solution for the problem at a local, regional and global level.

The US led the effort against organised crime through their successful prosecution of criminal networks, such as the five crime families in New York, and crime families in Chicago. In this 'war' they used new and unique tools such as witness protection programmes, electronic surveillance and racketeering laws (DeStefano, 2008). However the efforts against organised crime were not uniform and, due to a potent mixture of migration, communication tools and modern banking, organised crime was able to establish deep roots within society in several countries. It was at the ministerial conference

in Naples, in 1994, that a decision was made by several countries to develop a convention on organised crime (Lauriola, 2000). In 1990, the US made it a policy focus to develop tools for combating organised crime on a transnational level. They started lobbying for Russia and the G7 countries to come together on a common global platform to tackle organised crime. Russia and the G7 countries were themselves dealing with significant levels of organised criminal activity within their regions and backed the need for a global summit. It was at this stage that the UN through its Commission of Crime Prevention and Criminal Justice (CCPCJ), and the Economic and Social Council, took on the coordination of a general assembly resolution, asking for high-level, inter-country negotiations with a goal of developing a convention against transnational organised crime (Lauriola, 2000; DeStefano, 2008). As negotiations progressed, a number of additional protocols were proposed to the Convention against Transnational Organised Crime, including one on arms trafficking, smuggling and human trafficking (UN, 1998: DeStefano, 2008: p.18). In 1998, the US and Argentina presented draft protocols to guide the UN negotiations on tackling human trafficking. It was acknowledged that, at this stage, the drivers for growth in human trafficking were largely from organised criminal groups in Eastern Europe and the Far East, with exploitation of the population in South East Asia and the former Soviet Union (DeStefano, 2008). The result of the debate were six pillars for each of the countries to follow, which included the development of focussed anti-trafficking legislation that criminalised the trafficking of human beings; a long term victim protection and aftercare programme; transnational cooperation among countries; safe repatriation; programmes to raise public awareness; and multidisciplinary support for victims. The negotiations also raised areas of concern for the US, such as the widespread practice of the deportation of victims, poor aftercare for victims of trafficking and marginalisation within society (DeStefano, 2008).

It was to address these issues that the US proposed four key articles within the trafficking protocol. The articles focussed on the requirements of governments to provide housing, education and childcare for victims of trafficking. The articles also provided for the physical safety of foreign victims of trafficking and regular communication with them regarding ongoing procedures related to the prosecution of the perpetrators, and decisions on long term after-care plans for them (DeStefano, 2008: p.22). Article 5 focussed on aspects of deportation and on amending immigration laws to provide asylum in cases of trafficking where the victims would be in great danger if they returned to the source country. Article 5 also focussed on the requirements of countries to cooperate with one another regarding the repatriation of victims. Article 7 requested that governments help the victims of trafficking with compensation from forfeiture and seizure of criminal assets. It also requested that help be provided to victims in their recovery from the physical and psychological trauma of trafficking. Finally, Article 12 focussed on encouraging governments to work with one another to develop anti-trafficking prevention programmes.

It took over two years of ongoing negotiations to develop the protocol. Some of the concerns raised over the draft protocol, particularly by the then United Nations High Commissioner for Human

Rights, Mary Robinson, revolved around broadening the definition of human trafficking, and increasing the level of long-term support available for the victims of trafficking. It was also considered important that steps be taken to ensure that repatriation would be voluntary and safe, and that the protocol should not be used to couch the policy of several states to forcibly deport the victims of trafficking, as the illegal entry of a victim facilitated by trafficking would become a disqualifier for valid asylum claims.

During the course of the negotiations there was unanimity on the need for the protocol, and its subsequent implementation, by all countries. The key negotiations revolved around the degree of assistance to be given to a victim, the issue of repatriation, and resisting the advance of purely anti-prostitution lobbying groups (DeStefano, 2008: p.24). This final issue, the negotiation on meeting the demands of the anti-prostitution lobby to abolish prostitution, nearly derailed the entire development of the anti-trafficking protocol. There were also serious challenges in ensuring that the repatriation of victims of trafficking should not become a blanket approval for returning a migrant national, which is a key source of income through repatriation of foreign earning for many families in source countries. Eventually, Article 8 of the UN Trafficking Protocol was developed to include repatriation, whereby an obligation was imposed on nations to facilitate the issuing of travel documents for victims of trafficking, taking into account their safety and avoiding undue delay. This was without prejudice to their natural rights of asylum in the destination country (DeStefano, 2008). The entire negotiation process for the Convention against Transnational Organised Crime and the supporting protocols on migrant smuggling and human trafficking took two years and had the support of 125 countries. The signing of the convention and the related protocols took place in Palermo, Sicily as a symbolic location to show the world's commitment to fighting organised crime. Palermo, Sicily gained a reputation for the courage of the criminal justice system in tackling the violent Sicilian criminal network led by its chief Salvatore Riina. This led to the world famous killings of Justice Giovanni Falcone and Paolo Borselloni for their work to tackle the Sicilian Criminal network through the Maxi trials. On the 15<sup>th</sup> of December 2000, over 121 countries signed the convention on organised crime, 81 countries signed the anti-trafficking protocol and 79 countries signed the migrant smuggling protocol. On the 29<sup>th</sup> of September 2003, 25<sup>th</sup> December 2003 and 28<sup>th</sup> January 2004, over 40 countries ratified the convention, the anti-human trafficking protocol and the migrant smuggling protocol respectively, thus making them legally binding documents for these nations (DeStefano, 2008).

#### ***3.4.1 Victims of Trafficking and Violence Protection Act 2000 and annual Trafficking in Persons (TIP) Report***

On the 19<sup>th</sup> October 2000, a good two months before the signing of the UN Organised Crime Convention and the Anti-Trafficking Protocol, President Clinton signed, and made law, The Victims of Trafficking and Violence Protection Act of 2000. From an international perspective, the act commissioned a global human trafficking report on the track record of each country in tackling human trafficking, and the setting-up of an inter-agency task force to monitor the trafficking of persons.

Finally, it covered the provision of sanctions for non-compliant countries, and the allocation of financial resources for anti-trafficking work (DeStefano, 2008).

One of the key works in documenting the trafficking of persons is the Trafficking of Persons Report. The report is put together on an annual basis by the Office to Monitor Trafficking of Persons, which is part of the US State Department. Under the Trafficking Victim Protection Reauthorisation Act of 2005 (TVPA), now known as William Wilberforce Trafficking Victims Protection Reauthorisation Act of 2008, the US received the mandate and the funding, internally and externally, to support governments around the world in combating the trafficking of people.

The anti-trafficking law mandates the rating of countries into four categories. Tier 1 lists countries fully complying with TVPA standards; Tier 2 lists countries that do not fully comply but are making significant headway in compliance; Tier 2 Watch List consists of countries that do not fully comply but are making significant progress, countries where the problem is growing in terms of the number of victims or the country's inability to sustain significant progress from the previous year, and countries that promise to make significant progress in the following year; Tier 3 consists of countries that do not fully comply and are not making significant efforts to comply with TVPA. There are currently 19 countries in the final fourth tier, who face non-humanitarian sanctions and US opposition at various international forums (TIP, 2013).

The report also gives a detailed annual update on the problem of trafficking from a transnational perspective and assesses global efforts to combat it in the areas of prosecution, prevention and protection. This strategy has proved to be a successful policy that has been carried over from the previous US administration. A couple of years ago, Israel, a key US ally, was placed in Tier 3, leading to remarkable efforts to combat trafficking. However, there are concerns as to whether such a strategy prompts a severe knee-jerk reaction from the governments toward the victims. Sanctions against a country can be waived by the US President and can also be waived if it is identified that they will cause undue hardship for victims of trafficking within the country. Between 2001 and 2006, the US government has invested \$375 million (USD) in anti-trafficking initiatives worldwide. In 2005, alone, the US government invested \$96 million (USD) in more than 265 programmes across 100 countries. In September 2003, the US President declared that human trafficking was a humanitarian crisis and committed an additional \$50 million (USD) to help combat the problem. In 2004, it was decided that this grant was to be spent in eight priority countries: India, Brazil, Cambodia, Mexico, Moldova, Sierra Leone and Tanzania (US GAO, 2006).

There is some criticism of the report due to the fact that it states it will adversely influence the vote for relief for nations that do minimal amounts to tackle significant trafficking problems – that is, countries that fall into Tier 3, or below. In fact, the US is unable to influence the International Monetary Fund (IMF) because of its consensus-led approach to decisions. There is also no public assessment of the

threat of sanctions and the impact they will have within a targeted country. The report has also been criticised for having an unclear threshold for meeting standards on the prescribed punishment. France is often given as an example, where their tier rating was determined through intense political horse trading and what was felt to be a lack of neutral assessment of the French government's compliance (US GAO, 2006). Further criticism is that the reporting cycle does not coincide with the grant cycle, so resources are not always used to help countries that fare badly in the TIP report. This is proven by the fact that, in 2005, only one quarter of the funds available went to countries in Tiers 2 and 3 Watch Lists (US GAO, 2006). The report, through its own internal enquiry, has been asked to improve its data and research, improve inter-agency coordination and monitoring mechanisms, and to provide clear rationale and support for their tier ratings (US GAO, 2006).

Over the years, several anti-human trafficking initiatives have been well funded under the The Victims of Trafficking and Violence Protection Act. Funds allocated increased from \$60 million (USD) in the period up until 2003, to \$106 million (USD) allocated for 2004 alone. There were also additional departmental budgetary allocations, such as those within the Department of Justice, the Department of Health and the Department of Labour. The experiences gained from the implementation of the US trafficking law led to changes being brought in to deal with US contractors who, it became apparent, were involved with human trafficking; to increase flexibility in the allocation of T Non-immigrant Status (T visas),<sup>12</sup> so that support previously only available to the victims of human trafficking could also be extended to their families, and to reduce the need for law enforcement cooperation if the victim was between 15 and 18 (DeStefano, 2008). The interesting fact here for the many countries that fear such provisions will be used by smugglers to bring in illegal migrants, is that, of the allocated 5,000 T visas, fewer than 10 % were actually used. The chief official charged with monitoring human trafficking was accorded the status of ambassador-at-large, which increased the influence and weight given to the issue.

The most controversial decision regarding the amendments was the decision not to give grants to aid organisations promoting, supporting or advocating the legalisation of prostitution. Experts feared the stigmatisation of vulnerable groups of women involved in prostitution, who could no longer be engaged with as a result of this directive. The amendments did, however, emphasise that increased research should be conducted on this subject. In September 2006, the US adopted the law to abolish prostitution as part of the effort to tackle human trafficking. With an allocation of only \$45 million (USD) to implement the law, the efforts were largely symbolic in nature and without any real impact.

In September 2005, the IOM stated that, despite the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children and the US Victims of Trafficking and

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<sup>12</sup> T visas are resident visas given to victims of human trafficking in the US who are willing to testify against the criminal networks that enslaved them.

Violence Protection Act, human trafficking remained a huge problem, with very little change in areas where significant amounts of government and international funding had been allocated. They also highlighted that the number of victims of trafficking was significantly higher than the number of victims to which any initiative was able to reach out. The IOM (2005) indicated that criminal networks were fast adapting to the tactics of law enforcement. This was also backed up by a report, published by the IOM in 2004, that stated that criminal networks involved in all forms of trafficking were in a '...state of continuous expansion, evolution and specialisation.' (IOM, 2004) This study indicated the reforms were taking place within criminal networks, which were resulting in criminal operators having greater management expertise, thus giving them the ability to further infiltrate the state and to change their networks at a rapid pace; a pace which, the IOM noted, law enforcement agencies were unable to keep up with. The IOM also noted that a number of victims came from well-to-do families, indicating that poverty or economics were not the sole reasons for human trafficking (IOM, 2005).

### **3.5 Human trafficking in a European context**

Human trafficking is a local, regional and global, inter-linked, networked crime. When tackling a case on human trafficking the factors that affect that case always have multi-regional implications. In case studies from India, invariably they have a high percentage of both victims and criminal networks that are cross-border in nature. India serves as source, transit and destination points for the trafficking routes in South Asia and between South Asia and the Middle East, European and with the Northern American regions. The same is true for the UK and the Netherlands. These are the three countries where I have engaged at length with case studies and models to tackle human trafficking, with India as the primary source and both the UK and the Netherlands being involved in casework implications with South Asia. According to the findings of my research, presented in Chapters 6, 7 and 8, the criminal networks (which represent interconnected networks that consists of individuals and organisations that criss-cross their area of operations and have deep levels of infiltrations within both state and civil society) thrive under such circumstances. Within this context, having reflected on the global nature of the problem of human trafficking, I am looking at a baseline analysis of human trafficking within the regional context of Europe, where, unlike South Asia, as a result of both the Schengen Agreement and the EU there is free movement of people, goods and services. This provides the context to understand the models and case studies from the Netherlands and the UK reflected upon in Chapters 7 and 8.

In Europe, some of the most detailed reports on trafficking are focussed on sex trafficking in the countries of Central and Eastern Europe, and in the south-eastern European regions, specifically in the Balkans (Velkoska, 2007). Between 200,000 and 500,000 women are estimated to be working illegally within the prostitution industry of the EU (Mugur, 1996). The role that the transition from communist to capitalist market economies has played in both the creation of poverty, – in particular female poverty – in opportunities for (legal/illegal) migration from the East to the West, and in the

ability for organised criminal networks to exploit this situation, is now well documented (Nicolic-Ristanovic, 2000, 2002). At the same time, civil war in the Balkans has served to exacerbate the negative economic situation of women, and has provided a steady market for organised crime and prostitution (Octopus programme, 2004). A combination of economic and social push and pull factors – including a thriving sex industry – has meant that there is a steady supply and demand for women and girls. The entry of ten new countries into the EU in 2004, and a further two in 2007 (Bulgaria and Romania, which are typically countries of origin for sex trafficking), has meant that the trafficker's job has become easier. Today Moldova, Ukraine, Bulgaria, Romania and the Russian Federation, along with Nigeria, account for the majority of women being trafficked into the EU (Europol, 2006, 2007). During my field visits to the Netherlands I was able to observe the shift this change has produced in the human trafficking sector. The opening of borders from countries belonging to the former Soviet Bloc resulted in the prostitution sector being flooded with both underage and young girls from these countries. These victims were controlled by the criminal networks that operated in the former Soviet Bloc and thrived on its collapse. In the words of people I spoke to:

‘Before we could enter the windows, talk to women, ensure the health and wellbeing, prevent children being exploited in the prostitution district. Since the fall of the Berlin Wall the sector is now dominated by ruthless and powerful criminal networks with no shortage of underage and young girls under their control. It is no longer free to talk to the girls and the windows are no longer as accessible as before.’

I also observed that the demand was largely met by Turkish and Algerian criminal networks that used the ‘lover boy’ tactic to lure, seduce and coerce Dutch girls into commercial sexual exploitation. I have reflected on this at length in Chapter 7.

It is estimated that nearly 75% of women in prostitution in Germany are from other countries. In other European cities, such as Milan, this ratio is as high as 80%. In Italy 19,000–25,000 women in prostitution are from other countries, of which, it is estimated, 2,000 are trafficked. Some of these are as young as 14 years of age. During investigation into human trafficking offences in countries, the presence of children from other countries being exploited is a strong indicator that they have been trafficked and a lead for further investigations. It's estimated that 70–80% of trafficked persons are used in street prostitution (IOM, 1996). This is affirmed in the most recent US Annual Trafficking in Persons Report in 2014 which states that:

‘Victims subjected to trafficking in Italy often originate from Nigeria, Romania, Morocco, Tunisia, Moldova, Slovakia, Ukraine, China, Brazil, Peru, Colombia, Pakistan, Bangladesh, Ecuador, Poland, Bulgaria, Pakistan, Egypt, Somalia, Eritrea, and India. Children subjected to sex trafficking and forced labor in Italy are from Romania, Nigeria, Brazil, Morocco, and Italy, specifically Roma and Sinti boys who may have been born in Italy. Transgender children from Brazil are subjected to sex trafficking in Italy. Experts estimate approximately 2,000 children are exploited on the streets in prostitution. Nigerian children and women are subjected to labor trafficking through debt bondage and coercion through voodoo rituals. Roma children from Italy are subjected to forced labor in begging or petty theft and sex trafficking.’ (US Annual Trafficking in Persons Report 2014)



The number of people charged with human trafficking has increased from 285 in 1990 to 737 in 1994 (IOM, 1996) to 2624 offenders in 2011 and 2270 offenders in 2012 (TIP, 2014). Italy has recently been severely affected by both the economic recession in the European Union and the migrant crisis from Africa affecting its borders which is a factor in this increase. In Austria in 2013, had 192 trafficking cases and 134 in 2012 with 242 victims identified in 2012 and 261 in 2013 (TIP, 2014). Similar to what I observed in the Netherlands during the course of 2013 Vienna's specialist centre for unaccompanied minors over 202 trafficked child victims were supported (TIP, 2014). Austria has not been as affected as Italy is by both the economic recession and the migrant crisis. This reflects that in high margin markets such as Europe, regulation and licensing is no guarantee that victims will not be illegally trafficked and exploited. In fact, in the Netherlands I observed that, often, the illegal prostitution market pushes the legitimate market aside, as it is able to provide wider choice, younger victims and allow for a range of deviant behaviour and sexual violence towards the victims. A snapshot of those trafficked over an 18-month period during this time, shows a total of 751 victims, 48% of whom were Czech and Slovak nationals and 16% who were Dominican nationals. The changing trends in the sex industry in Western Europe is indicated by the fact that, before the end of the cold war and the fall of the Berlin Wall, women were trafficked from Asia (Thailand and Philippines), the Caribbean and South America (Dominican Republic and Colombia) and Africa (Ghana and Nigeria). Western Europe is now experiencing an increasing number of women and young girls who are trafficked from Eastern and Central Europe (IOM, 1995). In 1994, nearly 70% of women trafficked to the Netherlands were from Central and Eastern European countries (IOM, 1995). In Belgium nearly 15% of women engaged in prostitution have been trafficked (IOM, 1995). In 2014 according to the United States Annual Trafficking in Person Report 2014 there were 1711 registered victims in 2012 and 1195 victims in the first 11 months of the 2013. The victims range from within the Netherlands and from abroad Romania, Bulgaria, Hungary, Nigeria, Guinea, China, Sierra Leone, the Philippines, Vietnam and other countries from Africa, South East Asia and South Asia in 2013 (TIP, 2014). In 2013 out of 236 defendants 178 were convicted with an average sentencing of 25 months which I found throughout my travels to the Netherlands was considered inadequate by several practitioners.

Heli Askola (2007) gives an overview of policies on sex-trafficking in three European countries. Interestingly two of these countries – the Netherlands and Sweden – have completely opposite approaches to sex-trafficking within the EU. I would argue that the differences are more ideological and cosmetic than tangible or real. In both cases the borders are governed under the Schengen Agreement; in both Sweden and the Netherlands non-EU sex trafficking victims are deported and the approaches of both countries have no impact on the criminal networks. In both cases it reduces the burden on the police, or gives them no incentive to target the criminal networks. In the case of licensing, it ensures that the police basically abandon the area to be self-governed. From everything I have observed, and in the case of punishing prostitution as a crime, it displaces the problem to a

surrounding country and ensures that valuable resources are diverted from the effort to disrupt and dismantle criminal networks and ensure that survivors receive help to become both self-sustaining and, where there is potential, a market leader.

The third country, Italy, has an approach that is deemed friendlier towards victims of trafficking. It may be the case that Italy has a more favourable approach to victims of human trafficking in law, but the realities seen recently in their treatment of refugees on the high seas and those on land did not comply with global standards with protection of refugees. Themes that Askola considers include the feminist debate on prostitution, the impact of the European Commission's free movement law, trafficking as a form of irregular migration, criminal justice cooperation against trafficking, trafficking and human rights and, finally, as a conclusion, a more comprehensive approach towards trafficking. Askola brings out beautifully the debate in feminist academic circles that led to the diametrically differing approaches seen in policy circles in the Netherlands and Sweden. The Netherlands has adopted a decriminalising approach, where prostitution is legalised, whereas Sweden has adopted an approach that criminalises the demand for prostitution. Askola discusses the facts that link the European anti-trafficking approach to systems that have become less victim-friendly and one that penalises irregular migration (people smuggling/illegal aliens). According to Askola, the lack of policy in dealing with irregular migration within the EU fuels the growth of human trafficking there.

Askola also suggests that victim protection should not be contingent on the willingness of the victim to testify and that victims of trafficking should be given an opportunity to be rehabilitated within the country to which they have been trafficked. This conflicts completely with the current EU approach, which provides support on condition that the victim is trafficked against their consent and is willing to testify against the perpetrators. Yet the victim has no incentive to testify against the perpetrators, particularly when the traffickers in the victim's country of origin have not been arrested and the destination country is willing to delay their deportation only temporarily until they testify. After the victim's testimony they will inevitably face deportation. The victim is aware of the risk to their life, their reputation and that of their family from the traffickers once they have been sent back to the source area. Due to the lack of a proper victim protection programme, these victims are often re-trafficked by the same trafficking group following their repatriation. The victim of re-trafficked then, through word of mouth, is used as a tool to dissuade other victims from cooperating with the authorities. I fully agree with Askola here about the need to disrupt and dismantle the entire criminal network, but do not agree with her argument to provide the victim with the opportunity to settle in the country where they have been trafficked. Such an incentive should not become a driver for human trafficking and implication of innocents, when economic migrants use these routes to settle in advanced countries. In almost all case studies I have encountered, of victims (children and forced adults) from Bangladesh being trafficked into prostitution in India, all have wanted to return home. It was the bureaucratic delay in processing their travel permits, and obstacles created by the lawyers representing criminal networks to prevent video conferencing from their home countries, that

contributed to the problem rather than ensuring that the victim had the opportunity to settle down in the country they were trafficked to. In cases where the return to the home country presents a high level of risk the normal process of asylum status should be granted on a case by case basis.

Askola (2007) appreciates the closer cooperation within the criminal justice system in the EU but fears that it is a front for criminal justice agencies to coordinate with one another and further their own agenda of controlling migration flows, rather than intercepting and helping genuine victims of trafficking. She indicates that one of the clear ways forward is to find a way of facilitating safe migration for unskilled labour or irregular migrants. The demand for unskilled labour, according to Askola is facilitated in Europe through better living standards which results in large segments of the population being unwilling to undertake the jobs that irregular migrants then take up. The EU estimates that, even with the addition of ten new states, it will not meet the demand for labour facilitated by better productivity and an ageing population. In the sex industry, better living standards and gender equality have resulted in few European women being involved in prostitution. The IOM estimates that 120,000 women and children are trafficked into Western Europe each year.<sup>13</sup> Since most of these women would automatically face deportation, re-trafficking and shame in their home countries because of the local culture there, they choose to remain quiet and suffer horrendous abuse at the hands of the perpetrators and their clients. Even in the Netherlands, the legalisation approach has led to significant problems with trafficking. The Netherlands deports non-EU citizens who are prostitutes, giving only temporary residence permits if the victims are willing to testify against their traffickers. After their testimony has been heard in court, they are subject to deportation to their country of origin.

In Sweden, though there is a decline in trafficking as a result of the government decisions to criminalise the purchase of sex, migrant women who are trafficked are still being deported and there is limited incentive or protection for the women who testify. Askola (2007), in the short term, advocates a more comprehensive, multidisciplinary approach to combat human trafficking and a safe migration policy for migrants from non-EU countries. In the long term, the Askola prefers that the EU insists, in their engagements with the developing world through economic and developmental support, on a more gender-sensitive policy framework. She advocates the use of policy and long-term financial support for initiatives that reduce poverty and provide beneficial long-term employment for women and education for children. She also advocates a more flexible policy on allowing repatriation of earnings by migrants, from the EU to their families in the developing world. I agree with Askola on the need for a comprehensive, multidisciplinary approach to tackle human trafficking. It should however be consistent and institutionalised rather than a short-term measure. It should also be an end-to-end strategy that tackles the factors contributing towards the problem at source, transit and destination and in the evolving online forums. It should also include a comprehensive care, protection

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<sup>13</sup> Centre for Research on Globalisation. <http://www.globalresearch.ca/articles/VAR207A.html>

and reintegration plan. The criminal networks and their assets have to be disrupted and dismantled. I agree with Askola that a comprehensive and safe migration policy is essential, within the limits of what is acceptable to each country and their resources. It should be a policy that ensures a good standard of care for all migrants and a quick, humane yet effective approach towards screening genuine refugees and asylum seekers. During the course of my PhD, a number of academics researching the asylum process informed me that the executive decision to grant asylum is often based on generic online reports on the situation of the country from which the applicant hails, rather than understanding the specific circumstances of each person. I also observed that the lawyers representing the asylum seeker were not interested in knowing the specific assessments of each case, but rather a generic sympathetic assessment that would ensure that their clients receive asylum. Finally while I agree with Askola's assessment of long-term poverty reduction and employment-creation measures in source countries, such efforts are pointless without dismantling and disrupting the criminal networks involved and need a long-term focus on journeying with each victim to make them market leaders who would serve as an effective mechanism to identify other vulnerable victims, and ensure multiple and equitable choices for them to grow and develop in their homes countries. Just giving financial resources to countries with poor governance, conflicts etc. to raise physical barriers and holding facilities for would-be migrants will only exacerbate the matter and drive victims to desperate measures.

Research undertaken by Munro (2006) indicates discrepancies between policy and practice in the domestic regimes of Australia, Italy, the Netherlands, Sweden and the UK. While in some instances this is attributable to tangible difficulties, such as poor inter-agency coordination or the lack of sufficient resourcing, in other situations there would appear to be a more agenda-driven approach in the prioritisation of either border integrity or law enforcement concerns over those related to social services and human rights protection (Munro, 2006). Sweden and the Netherlands have continued to adopt anti-trafficking legislation which explicitly maintains a requirement of force or non-consent. While in the context of the Netherlands this position is logically consistent with their legalisation of voluntary sex work, in Sweden it sits at odds with the government's conviction that prostitution itself is a violent act (Munro, 2006). In the UK, despite a policy-level emphasis on the irrelevance of consent in the context of trafficking for sexual purposes, the lack of a coherent victim-support network permits an ad hoc provision of services and establishes a practice under which the victim's access to support is dependent on securing the sympathy of the official involved. Securing this sympathy involves demands for proof of non-complicity and non-consent. In Italy, where anti-trafficking rules stipulate an exclusive emphasis on exploitation, there remains among officials an underlying reluctance to abandon reliance on consent altogether (Munro, 2006).

In the ten years following the 1997 Joint Action by the Council of the European Union the following mile stones occurred. In 2002, the Council of the European Union adopted its own framework

decision on combating the trafficking of human being. In 2003, the framework decision on combating the sexual exploitation of children and child pornography was adopted. This also addressed the issue of child trafficking. In 2004, the Justice and Home Affairs Council adopted a directive on residence permits issued to Third Country Nationals, who are victims of trafficking or those who have been the subject of an action to facilitate illegal immigration, and who are willing to cooperate with the authorities. The Charter of Fundamental Rights of the European Union specifically prohibits trafficking in human beings under one article, and in so doing, serves to emphasise trafficking as a human rights violation (Goodey, 2008).

In the EU, human trafficking is closely linked with issues surrounding migration and crime. Work in this area began on a foundation of very little, in terms of the laws that existed to tackle the problem. Anita Gordin, the Commissioner for Justice and Home Affairs, is credited with pioneering an anti-trafficking framework within the EU. In the EU, since the mid-1990s, some notable European Commission-funded programmes have supported anti-trafficking initiatives. These include the Daphne Programme, which specifically concerns violence against women and children, as well as other programmes that have focussed on police and judicial co-operation. On 29<sup>th</sup> November 1996, the Justice and Home Affairs Council of the European Commission set up the STOP Programme which continued to run until 2000. It focussed on training, information dissemination, and exchange programmes for professionals dealing with the problem of human trafficking (Turnbull, 1999). The European Commission initiated the Daphne Programme with the specific goal of developing cooperation with NGOs on similar grounds to those mentioned above. The European Commission also facilitated the European Drugs Unit which then became Europol. The European Drugs Unit developed an intelligence-sharing mechanism, concerning human trafficking and illegal immigration (Turnbull, 1999).

It was as a result of this programme that the Russian mob were identified as controlling the Polish and German human trafficking markets, while the Ukrainian mafia controlled the markets in Hungary and Austria (Turnbull, 1999). The Justice and Home Affairs Council set up the European Judicial Network in May 1999, to strengthen cross-country judicial cooperation in Europe. The European Commission also developed the Falcone Programme which, between 1998 and 2002, focussed on tackling organised crime, investing €10 million in this area, and the Sherlock Programme which invested €12 million in the field of migration. Both programmes worked through a framework of organising training, exchanges and investment in research (Turnbull, 1999). During the process of the enlargement of the EU, grants were given by the Commission under the Phare and Tacis Democracy Programme to strengthen civil society within countries that were becoming part of the EU (Turnbull, 1999).

In 2002, the European Conference on Preventing and Combating Trafficking in Human Beings was organised under the framework of the European Commission's STOP Programme. The conference

resulted in the Brussels Declaration on Preventing and Combating Trafficking in Human Beings, which, in turn, resulted in the commissioning of a group on human-trafficking experts with the remit of developing concrete proposals for implementing the Brussels Declaration. The European Commission created a new expert sub-group on human trafficking, in addition to the expert committee formed after the Brussels Declaration of 2002. Alongside the European Commission, the Council of Europe and, in particular, the Organisation for Security and Cooperation in Europe (OSCE), through its Office for Democratic Institutions and Human Rights (ODIHR) office, have put human trafficking centre stage in their policies. The OSCE's output is centred on both policy development and practical responses to trafficking, ranging from the creation of a national referral mechanism, to protect the rights of trafficked persons (OSCE, 2004), to a publication on compensation for victims of trafficking (OSCE, 2008b). The continued international focus on trafficking is to be welcomed, though the absence of reliable data on many aspects of trafficking would suggest that careful consideration needs to be given to policy development and funding, to ensure that attention is allocated to all areas of trafficking, including those not usually in the spotlight, such as the trafficking and exploitation of men for labour.

Having reflected at length on the European region I am now going to look in some depth at the situation of human trafficking in both the UK and India. My main findings in Chapters 6, 7 and 8 involve a number of case studies and anti-trafficking models are drawn from my 15 year engagement with the anti-trafficking work in India and also from my engagement during the course of my PhD with similar initiatives in the UK. The sections below address a baseline analysis in the literature review chapter of problem of human trafficking in India and the UK. I aim through this to understand the context in which my case studies exist and reflect on the differentiating features between the data and what emerges from the understanding gained through my research.

### ***3.5.1 UK-profile of human trafficking in a research area***

Given my initial pre-thesis engagement with the 'Stop the Traffik' coalition, formed by UK and international charities around the 200<sup>th</sup> anniversary of the abolition of slavery in the UK, I was keen to understand the ground-level situation for the purposes of developing a cohesive and interlinked global strategy under the multidisciplinary model. The UK to date, as is the case with many countries, given their linkages, financially and culturally, with the world does not yet comprehend in its entirety at a grassroots level about the spread of human trafficking within the country. This despite no shortage of resources or political will present that on the face of it shows a determination to tackle the problem. I have had the opportunity to share my experiences with those involved in drafting anti-trafficking legislation in Scotland and the UK as a whole. Having engaged with them, I have observed a lack of comprehension on what the problem of human trafficking in the UK is, and what its regional and global inter-linkages are. The legislations were both agenda-driven and ideologically inspired, with conversations stemming from the Swiss model or the Dutch/Australian-New Zealand model. In London the legislation was driven by the agenda of trade barriers, consumer choice and anti-bribery

legislative tools, where any company registered or undertaking business in the UK has to ensure a process free of human trafficking. I found that very little was inspired by what was actually transpiring on the frontlines, there was a poor understanding of the criminal networks involved, poor intelligence-gathering in the human trafficking sector which was crowded by advocacy and campaigning organisations. In many instances it is a classic case of institutional failure contributing in a nascent market now maturing into a growth-oriented market for human trafficking criminal networks. Despite all these challenges I have encountered extraordinary individuals in the UK, in both the state and civil society sectors who understand human trafficking and who have been quietly doing their very best, often under-resourced and over-stretched in their efforts, to tackle the problem.

The baseline numbers on the problem varied wildly during the course of the PhD. In 2005, the UK Home Office estimated that there were in the region of 4,000 trafficked women in the UK (UK Home Office, 2004). The 'End Violence against Women' campaign (EVAW) estimated that the number of trafficked women at that time was closer to 10,000 (Dickson, 2004). Law enforcement estimates that countrywide traffickers earn £275 million to £300 million from sex trafficking within the UK (Channel 4, 2010). During a nine-month period between April and December 2010, the UK Human Trafficking Centre (UKHTC) identified 529 cases referred to the National Referral Mechanism (NRM) set up by the UK authorities. These cases represented victims from 61 different countries. Of these, 74% were young girls and women and 26.7% were trafficked children (UKHTC, 2010; Anti-Trafficking Monitoring Group, 2010). My concern with the NRM has been that it represents a central filtering authority, aiming to determine whether the person is a victim of human trafficking or not. The stakeholders should deal with the victim directly and make this decision, in order to avoid any delay. The NRM has been criticised for its insensitivity in relation to the circumstances of each victim, the narrowness of its definitions determining a victim, and its inability to address the fears and concerns of victims about facing retributions from the criminal networks (Tsalikis, 2011). During the course of my research most non-EEA citizens I came across were either being deported or being provided voluntary repatriation. This was based on my meetings with Korin Lebov between 2007 and 2008, researching human trafficking in Scotland for the Scottish government, and meetings with the International Organisation for Migration (IOM) in 2011.

One of the key agencies tasked with coordinating the UK law enforcement response on child sex offenders and child trafficking was the Child Exploitation and Online Protection Centre (CEOP), affiliated with the Serious Organised Crime Agency (SOCA). They assessed that 325 children were trafficked into the UK over a 12-month period between March 2007 and February 2008. The victims came from 52 different countries, with the majority coming from China, Vietnam, Afghanistan, Romania, Nigeria, and from elsewhere in the UK. The gender of the victims was 68% female and 29%

male<sup>14</sup>. 56% of the children had been trafficked into the UK via air travel and 9% entered through sea ports or the channel tunnel. For the remaining 35% the mode of entry was unknown (CEOP, 2009). Loopholes within systems relating to safe houses, asylum and private foster arrangements were exploited to traffic children into the UK. 56% (109) of the 325 cases were trafficked for sexual exploitation, 19% (36) for forced labour, and for the remaining 41% (132) the form of exploitation was not identified (CEOP, 2009). In the known cases of child trafficking, 76% (138/221 cases) of female victims were sexually exploited and 53% of the cases (53 of the 95 male cases in total) were for forced labour (CEOP, 2009). In the CEOP enquiry, it was found that children were trapped in debt bondage ranging in value from £5,000 to £40,000. More than 20% of trafficked children had been declared missing, according to police records (CEOP, 2009). The reality of the situation was that, while such annual reports regularly came out, that was as far as the action went, with very little actually being done about the problem. The mandate for action was largely left to the local police forces across the country who, with their ever shrinking budgets, had to prioritise the needs of the community over tackling complex criminal networks that operated with ease across several jurisdictions and had far more resources available to them than any individual law enforcement could command.

The key issue the UK faces today in the area of human trafficking is the trafficking of people from outside the UK into or through the UK onwards for various purposes. The ethnic grouping of the victims is indicative of how the trafficking networks exploit ethnic minorities within the UK, where the level of trust, integration or links with mainstream society would be at a minimum. The UK faces the twin problems of the trafficking of British-Asian girls for forced marriages outside of the UK, and the sexual grooming of British girls for sexual exploitation, both within and outside the country. There remains a lack of coherent, holistic and integrated responses to these problems at most levels. The predominant focus of the existing responses seems to be on conferences, advocacy and campaigning on the issue within communities and at a policy level. At a law enforcement and policy level, and among the general public, with some exceptions, the focus on tackling human trafficking remains the remit of border forces and organised immigration crime units. At a civil society level the debate remains polarised around prostitution and the various solutions to tackle it, from regulation to criminalisation to the National Ugly Mugs Scheme<sup>15</sup>. In my opinion, there have been significant resources invested in the area with very little to show for it. The UK remains an emerging market for human trafficking criminal networks, with a real danger of it becoming a developed and consolidated market.

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<sup>14</sup> Gender unknown in 3% of the cases.

<sup>15</sup> The Ugly Mugs Scheme is designed to create an intelligence platform of deviant and violent customers of men, women and transgender people in prostitution. <https://uknswp.org/um/>



Having explored the global context, the European regional context and the context in the UK I will now look at the Indian sub-continent where, for the past 15 years, I have engaged with both state and civil society to develop evolved, end-to-end strategic solutions to tackle human trafficking and the factors that drive its growth. Chapter 2, on the history of slavery, reveals how slavery evolved into its contemporary form of human trafficking through the Indian model of emancipation. This model was then replicated as a successful model across the world which led us to this point in history where we are slowly coming to terms with the growth of human trafficking as a crime. If the Indian model of emancipation could serve as a solution for the evolution of the crime then it is possible that the multidisciplinary model described in Chapter 8, contextualised locally, regionally and at a global level, could serve as a solution to bring this crime under control today.

I start my journey with a summary of a baseline analysis of the problem of human trafficking in India. I was part of the team which contributed towards this research and, while the problem has evolved significantly since then, it is a good baseline to understand the context in which the multidisciplinary model in Chapter 8 and its preceding models in Chapter 7 have evolved.

### **3.6 A profile of human trafficking in India**

In a broader context than human trafficking alone, the Indian sub-continent has a challenging and complex problem surrounding crimes against women and children. The conviction rate for crimes against women in 2011 stood at 26.9% (NCRB, 2011), and in 2013 stood at 22.4% (NCRB, 2013). Crimes against women may include molestation, sexual harassment, the importation of girls, the kidnapping and abduction of women, and domestic cruelty from women's husbands and relatives. A number of these crimes overlap or are ingredients for human trafficking as a crime. The number of rape cases in India in 2011 stood at 24,206 with a conviction rate of only 26.4% (NCRB, 2011), and in 2013 there were 33,707 cases of rape with a conviction rate of 27.1% (NCRB 2013). Crimes against children in 2011 numbered 33,098 cases, with a conviction rate of 34.6% (NCRB, 2011). In 2013 the number of recorded crimes against children stood at 58,224 cases and a conviction rate of 30.9%. The data reveals the need for an overhaul of the criminal justice system, in order to bring it on par with aspirations of the people in keeping with the pace of the economic growth in the region. What the data reflects is an increasing crime rate against women and children in an underreported system where it takes real courage for a child or women to seek justice. I will explore in further detail in Chapters 6, 7 and 8 the fault lines causing the increase in the rate of crime against both women and children and the subsequent lower convictions rates. The conviction rate today stands at an average of 60% and an average sentencing of seven years in prison for crimes against children and women, under the joint state-civil society partnership under the multidisciplinary model since 2008. Often, high conviction rates are indicators of the strength of the rule of law and good care, protection, and reintegration mechanisms for victims in the region.

While the case studies in this research come from all over India, Bangladesh and Nepal, the key cities in which the operational units have been based are Mumbai, in Maharashtra, covering Western India; in Kolkata, West Bengal, covering North East India and the eastern part of South Asia (including Bangladesh and Nepal); Bangalore, in Karnataka, covering the southern part of South Asia; and New Delhi, covering the northern parts of India. In South Asia, major cities such as these have seen remarkable growth, making them source, transit and destination locations for human trafficking criminal networks. I have focussed on these three cities, because they each have a serious human trafficking problem and because of the remarkable work being done in these cities against human trafficking criminal networks through state-civil society partnerships.

Kolkata, as the capital of West Bengal, is a key transit hub for human trafficking criminal networks in a region heavily affected by human trafficking. West Bengal borders Bangladesh, Nepal, and Bhutan and, within India, borders the states: Bihar, Orissa, Jharkhand and Assam. All of these states are key source areas for human trafficking criminal networks. Maharashtra is a western state in India, the capital of which is Mumbai. Mumbai is the financial capital of India and the administrative hub for most of the key business groups in India. Migration into Mumbai is a key factor in the explosive growth of the city and accounted for 43.7% of the population between 1991 and 2001, with migrants coming from the rest of Maharashtra accounting for 37.4% of that growth, followed by those coming from Uttar Pradesh (24.3%), Gujarat (9.6%) and a combination of the four southern states of Andhra Pradesh, Tamil Nadu, Karnataka and Kerala (16%) (Mumbai Human Development Report, 2009). Criminal networks exploit these urban-rural migratory pressures to traffic victims into Mumbai for all forms of human trafficking.

Karnataka is a southern state of India, home to Bangalore, which is considered the premier technological hub of India. The state is divided into a northern region, where people are poorer and there is less development, and a southern region, which is largely affluent, with a wealthy population. The migratory pressure on Bangalore is shown by the Indian census of 2011, which shows a population increase of 48% when compared to the Indian 2001 census. During the course of my research I observed that the growth of the city led, by the information technology industry, among others, created a demand for trafficked victims for various purposes from all across the Indian sub-continent. It also served as a transit point for victims trafficked into the Western Indian state of Goa.

The primary hubs for criminal networks controlling human trafficking in South Asia are Mumbai, Bangalore, Delhi, Kolkata, Dhaka, Colombo, Kathmandu and Hyderabad. The secondary hubs are the state of Goa, Trivandrum, Chennai, Nagpur, Bhopal, Jaipur, Lucknow, Patna, Siliguri and Guwahati in Assam (NHRC, 2005). Source areas for human trafficking cover virtually the whole of India, Bangladesh and Nepal with new source areas constantly emerging every year. Assuming that greater economic and political integration occurs, Pakistan, North-East India, and Myanmar will also become

thriving markets for human trafficking. In addition, the opening of new markets in South East Asia – China in particular – under India’s Look East policy will also fuel growth in the trafficking industry.

### ***3.6.1 A profile of the victims of human trafficking in India***

In 2005, the National Human Rights Commission of India carried out an extensive amount of research on human trafficking. P. M Nair, a senior serving officer in the Indian Police Service, led the research. The research was carried out in 12 states across India, with interviews undertaken with survivors of human trafficking (rescued from commercial sexual exploitation), victims of human trafficking (still in commercial sexual exploitation), brothel keepers, victims of forced labour exploitation, traffickers, clientele of brothels into which victims were trafficked, and police officers. This research is one of the most extensive pieces of work done on human trafficking in India, and it gives insight into the extent and profile of the problem there (NHRC, 2005). Among the reasons for focussing on this research is the fact that there is very little other comprehensive research to be found on the subject in India. This is reflective of a lack of investment in social research projects there. I was involved in the research, contributing a number of cases for analysis during the period when I was working as a legal advisor for victims of trafficking in cases undertaken by the Mumbai police between 2001 and 2004. During this period the police in Mumbai rescued 350 children and 600 young people from trafficking for prostitution and other forms of exploitation. A number of these cases and interviews with the victims were also included in the NHRC research. Furthermore, I made a number of contributions that have been published as part of the research, including several case studies in Mumbai, which, as a city, has pioneered the fight against criminal networks. This has naturally come out of Mumbai’s longstanding battle against entrenched organised crime. As a result I am aware of the reliability of the NHRC research; I can testify that in many ways it is an accurate record of the profile of human trafficking in India, as its conclusions corroborate my experience through the case studies in which I have been involved between 2001 and 2015. I have reflected at length on my multi-layered relationship with the data surrounding cases of all forms of human trafficking and its contributing factors, and on my role as a researcher, activist, lawyer, grassroots workers, policy developer in chapter 4 on the methodology and ethics from my research.

### ***3.6.2 Geographical and sociological contours of trafficking in India***

Some of the key findings of the research came from an analysis of information regarding 561 rescued victims of trafficking. Of these 561 victims 94% were from India, 1.2% were from Bangladesh, 5% were from Nepal, and 0.2 % were from Pakistan. Regarding the victims’ backgrounds, prior to trafficking, 69% of them had come from rural slums, 26% from urban areas, and 6% from urban slums (NHRC, 2005). More than 52% of the victims came from socially deprived sections of society; 66% of them were either illiterate or had only basic levels of literacy. When looking into the victims’ family backgrounds, the researchers found that child marriage emerged as a key factor promoting vulnerability, shown by the fact that more than 72% of married victims were married under the age of 18, in violation of the Child Marriage Act in India. 5% of the victims were trafficked when their

parents were away from home, working as seasonal migrants (NHRC, 2005). Of the respondents that had children, 60% had the children living with them in the brothels. Of the victims themselves, 32% described their family backgrounds as difficult or traumatic, but as many as 50% had suffered ill treatment at home, including physical torture (58% of those suffering ill treatment) and verbal and sexual abuse. 49 % of the victims stated that it was sexual assault by individuals other than their husbands that led them to being trafficked. When examining the reasons behind why the victims were initially trafficked, the researchers discovered that 62% had been trapped as a result of pre-meditated plans of traffickers, 18% were trafficked directly as a result of broken families or violence at home, 7% stated that sexual exploitation was a direct factor in their being trafficked, and 2% stated that they were trafficked as a result of cultural traditions (NHRC, 2005). More than 68% of victims stated that they had no prior relationship to the trafficker before being trafficked. Otherwise, traffickers were often the husband of the victim (14%), parents or in-laws (23%), lovers (20%), other relatives (3%) or siblings (3%).

When looking into the tactics used to traffic victims, the researchers found that both promises and threats were used. In 16% of cases the trafficker befriended the victims, in 52% of cases the promises of a job and/or money were offered, in 5% of cases victims were lured into trafficking through the promise of marriage, and in 0.2% of cases the promise of adoption was used. Conversely, 3% of victims were blackmailed into being trafficked, in 12% of cases victims were threatened with the use of force, 0.2% of victims were threatened with violence to their family, and 2% of victims cited cultural traditions. In 10% of cases the victim did not wish to respond. Of the victims surveyed, 61% stated that their first sexual experience was forced on them. Breaking this figure down further, 14% of those victims who had been raped said that those who raped them were relatives, 11% said they were neighbours, 12% said they were traffickers, and the remaining 64% said that they were people in some form of authority over the victims (NHRC, 2005). None of the victims who were raped received any payment or favours in cash or kind. In over 65% of cases the rape of the victim became more frequent after the first offence was committed.

The NHRC research revealed that 40% of the traffickers interviewed disclosed that they had trafficked children, of which 80% said that they had trafficked children into prostitution, with the remaining 20% saying they had trafficked children for begging, domestic servitude and forced labour. 23% of traffickers disclosed that they had trafficked children without the knowledge of the children's families, but in 77% of the cases trafficking had taken place with varying degrees of consent and knowledge of the child's family. In about 86% of the cases traffickers revealed that they had the consent of the parent in trafficking their children (NHRC, 2005). Approximately 40% of the traffickers chose to reveal the number of victims that they trafficked at a time, for 45% of this number, this was in clusters of ten female children; in roughly 20% of cases this was in clusters of between ten and 30 female children; and for 9% of traffickers a single consignment would include more than 30 female children. Similarly, for male children, 6% of traffickers trafficked up to ten children in a consignment; 14%

revealed that they trafficked between ten and 30 male children at a time; and just less than 7% of traffickers delivered more than 30 boys in a single consignment (NHRC, 2005). Approximately 6% of traffickers revealed that they had trafficked women and children into the pornography industry across India, the Middle East, the UK, Korea and the Philippines (NHRC, 2005). The traffickers revealed links with criminal networks that led to transnational trafficking between India and Nepal, the UK, the UAE, Oman, Thailand, Kenya, South Africa, and the Gulf countries (NHRC, 2005).

The NHRC (2005) researchers also interviewed 510 victims trafficked into non-sexual forms of exploitation. The age ranges for these victims were generally very low: 63% of those interviewed were under 15 years of age, 27% were between 15 and 16 years of age and the remaining victims were over 16. In trafficking for non-sexual forms of exploitation, the gender ratio was reversed: 71% of victims were male and 27% were female. Just over 50% of victims were illiterate and the majority were from poor or deprived families. Over 75% of the interviewed victims had been trafficked when they were younger than 15 (NHRC, 2005). In 40% of cases, the families of the victims were responsible for the trafficking of their children; in 54% of cases the trafficker was known by the family; and in only 7% of cases was the trafficker neither a family member nor were they known to the family (NHRC, 2005). In 41% of the cases the parents and extended family had forced the children to accompany the trafficker (NHRC, 2005). In 75% of the cases, traffickers painted a picture of a good life and a well-paid job as a way of persuading the victim and/or their family to consent to trafficking. In 6% of cases girls were drawn into trafficking for non-sexual exploitation using marriage as a lure. In 3% of cases the promise of adoption was used as a tactic to lure the victim. More than half of the victims interviewed disclosed that in their case the traffickers had targeted a specific village. Less than a quarter of victims told the researchers that they had attempted to escape during the trafficking process, while the remaining ones were too scared to attempt this.

### ***3.6.3 Interaction with law enforcement***

Once trafficked, 63% of victims were moved between different locations. During this time, 58% of victims were arrested by the police on the grounds of soliciting before being identified and rescued as the victims of trafficking. After arrest, in 41% of cases, the brothel keepers were the ones who intervened financially to secure bail for the victim, thus increasing the victim's debt bondage to the brothel keeper. In cases where victims were aware of the action of law enforcement to raid brothels and rescue victims of trafficking, 42% of victims reported that they were aware that someone from within the police force had tipped off the perpetrators before an operation could take place. In 32% of cases traffickers had created special hideouts within the locations where victims were kept, so that victims could not be found. 25% of the victims were of the opinion that the lack of law enforcement raids on the brothel were because of regular bribes given to the police (NHRC, 2005). The rescued victims pointed out that the names by which they were referred were regularly changed to evade law enforcement efforts.

When asked about the behaviour of police officers towards them, more than 40% of rescued victims were happy with the support they had received, whilst 38% were unhappy with the treatment they had received from the police. This was split between 27% of victims who complained that the police were uncaring and 11% who described abusive behaviour from police officers. When asked about support from non-governmental organisations, 57% of rescued victims were happy with the care and support they received from NGO's, but 16% felt the support was insufficient. Less than 1% reported abuse by NGO staff members (NHRC, 2005). Throughout the entirety of the research conducted by the NHRC, not a single victim stated that they wished to continue in commercial sexual exploitation of their own free will. Only 17% of the interviewed victims wanted to continue in prostitution, but this was because of a lack of alternate means of livelihood (in 80% of these cases), because of social stigma (5%), and because of a lack of necessary qualifications for alternative livelihood (14%). Nearly two-thirds of victims wanted to leave prostitution and focus on alternative means of livelihood but only 7% saw marriage as a form of sustainability (NHRC, 2005).

#### ***3.6.4 Trafficking as a demand-driven industry***

The results of the NHRC research describe trafficking as a demand-driven industry. In 18% of cases, brothel keepers stated that demand spiked around festivals, and 74% said that clients specified to them the type of girl they wanted. In these cases, 35% of brothel keepers stated that customers requested children who were preferably virgin girls or simply young girls if virgin girls were unavailable (NHRC, 2005). The brothel keepers described how it might take between three and five weeks for the trafficker to arrange a supply. They also described a variety in demand that might range between six and ten clients per day (for 23% of brothels), 11 and 20 clients per day (for 26% of the brothels), or as high as 20 customers per day (for 25% of the brothels). Of the occasional, non-regular clients, the types of people ranged widely; students were common clients in 53% of brothels, as were the working class in 28% of brothels. Truck drivers were regular clients in 26% of brothels, with businessmen being a common type of client in 42% of brothels. Police officers were also common clients, making up a regular client base in 43% of the brothels. Finally, professionals such as politicians, lawyers and doctors, and foreigners and tourists were occasional visitors in 40% of the brothels (NHRC, 2005).

#### ***3.6.5 The rule of law and trafficking criminal networks***

The NHRC (2005) research highlighted that 68% of traffickers revealed they had links with police officers, 61% revealed that the police were aware of their activities, and 78% admitted to paying police officers in order to evade arrest. In 71% of cases, the payment was made in cash, but in 17% of cases police officers were paid in kind, including free sex with trafficked victims (NHRC, 2005). Whilst 44% of traffickers admitted to being afraid of the police, 56% said that this was not the case. Instead, 13% disclosed that they were scared of other criminal networks, and 5% were afraid of NGO's and community leaders. Over 30% of the traffickers disclosed that they were not worried or afraid of anyone disrupting their work (NHRC, 2005). This lack of fear of the police can be explained by the fact that 53% of traffickers had never been apprehended by law enforcement efforts.

### **3.7 Criminal networks and human trafficking**

As recognised in the measures and reports discussed above, criminal networks are often the catalyst that precipitates and profits from the trafficking of human beings. This next section will give a summary analysis of the adaptation of some of the strategies and modus operandi criminal networks use in plying their trade in human beings. The role of criminal networks and institutional failures by state and civil society, as detailed in my chapter on theoretical framework and in Chapters 6, 7 and 8 of my main findings, create a culture of growth within which human trafficking continues to grow and thrive. Organised trafficking involves a range of players along the road from acquisition to exploitation (ILO, 2002a: 13). Trafficking networks may involve the police, visa and passport officials, railway and bus authorities and employees, taxi and car drivers and rickshaw pullers (DWCD, 1996). The literature reviewed seems to be in broad agreement on the various stages of trafficking. These can be summed up as the recruitment of people from a village or city, their transportation to a designated location/transit point, a possible shift to a central location, and then their movement to an ultimate destination. Sometimes trafficked persons are shifted several times before they arrive at their final destination, where the sale takes place. The different elements involved in this process create an impossible number of permutations or combination of locations, which was verified as a modus operandi used by criminal networks in my case studies in Chapters 6, 7 and 8. Thus, the majority of research relies on case studies. Even so, according to the ILO (ILO 2002a: 14–15) some patterns in these processes can be discerned at a regional level.

The Indian government's Department of Women and Child Development (DWCD) identifies two categories of traffickers: primary and secondary (DWCD, 1996). Secondary traffickers are those that operate behind the scenes with connections to government circles that are used to provide protection for the trafficking trade. Pimps and procurers are the primary traffickers. Some additional categories of roles involved in organised criminal networks are given by Andreas Scholenhardt (1999: 18–20) in the context of smuggling and trafficking, especially for cross-border operations. These roles include informers, enforcers, supporting personnel and specialists, debt-collectors, money movers and transporters, some of whom will gather information on matters such as border surveillance, immigration and transit procedures, asylum systems and law enforcement activities. There are also the agents who pay the recruiter, arrange for travel documents to be created, and hold the trafficking victims until they are ready to leave, and the brokers who meet the victims on their arrival and pay the agent for delivering them.

Some studies report that traffickers choose special times for recruitment. They take advantage of difficult periods, either before the harvesting season or during a drought, when people may look elsewhere for income to survive (HRW, 1995). Traffickers also keep themselves informed about severely impoverished areas or those that have suffered climatic, economic or political disasters (Johnston and Khan, 1998; 53 ISS 2003a). It is also common for them to recruit people during

festivals (ISS, 2003a and 2003c). According to the United Nations Development Programme (UNDP), people with low self-esteem and lack of self-control are reported to be especially vulnerable to trafficking (UNDP, 2002). A number of the reviewed reports and studies indicate that a high percentage of trafficked people belong to low-income groups. The greater the impoverishment, the higher the risk of falling prey to trafficking (Mukherjee and Das, 1996; Warburton and Maria, 1996; DWCD, 1998; UNDP, 2002; TWCI, 2005: 7). People with disabilities or women who suffer from disfigurements are also considered vulnerable (Ganthia, 2003: 5).

Recruiters can be neighbours, family friends, relatives of friends, acquaintances returning from abroad, women who have migrated or who have been trafficked, husbands, fathers, boyfriends or lovers. Some recruiters can be gay men, trusted by women because of their sexual orientation (Raymond 2002). They can also be drug peddlers, head masons at construction sites or even band leaders in dance/live bars (ISS, 2003a). More specifically, recruiters may include motorcycle taxi drivers, like in Goa, India (CRG, 2003), or labour contractors (ISS, 2003c). They may use friends and acquaintances to recruit, or may rely on word of mouth. Terms in India like 'dalal' or 'dalali' are used by the mainstream population to refer to traffickers. (Nirmala Niketan, College of Social Work, 2003; Gupta, 2003).

Often traffickers speak several languages (Giri, 1999:77; Tumlin, 2000) and may have multiple roles. For instance, those who help people migrate for trafficking, may also facilitate other, less exploitative, forms of migration, such as assisting refugees (Tumlin, 2000). The connotations linked to the word, mafia or the depiction of traffickers as villains and outsiders often does not correspond to the actual identities of most traffickers (Blanchet, 2002). Some are natives that travel to and fro between the source and destination points, and who will often have links with the location from where the victims have been trafficked (TWCI, 2005: 10). Some traffickers are also women over 25 who are no longer desirable for the sex industry and who are trying to find ways to escape abuse and bondage by finding a substitute for themselves (TWCI, 2005: 10; The Price of Sex: project of The Centre for Investigative Reporting).

Trafficking can be done through regular organised international and local networks, or by occasional traffickers. Traffickers may operate alone, in small gangs or as part of the organised crime groups (Richard, 1999; Kelly, 2001; Icduygu and Toktas, 2002; TWCI, 2005: 10). Gangs and criminal groups are reportedly the dominant modes of trafficking in South Asia (Government of Sweden, 2001; Sanghera, 2002; Nirmala Niketan College of Social Work, 2003). A study by Shalini and Lalitha (1996:38) for a joint women's programme in India, indicated the presence of an organised system of the trafficking of girls for profit, which accounts for the greatest number of girls brought, transported and sold within and outside India. Richard (1999) studied the involvement of organised crime groups in trafficking in an international context and noted that in most cases, trafficking operations are sophisticated and global in scale, and facilitated by modern technology. There are only a few



exceptions, where trafficking is a localised cottage industry. Traffickers operate within zones which are marked and do not usually violate the zone norms. Consequently, when moving from one zone to another, entirely different sets of people take over the activities (ISS, 2003a). They also frequently change their own area of residence, not only avoid the police but also to widen their field of operations. Having reflected on the insight that available academic literature provides pertaining to criminal networks involved in human trafficking, I will turn my attention to the modus operandi they utilise to control the trade in human beings.

### ***3.7.1 Analysis of mechanisms of control***

Victims of trafficking may be subjected to three forms of control: physical confinement, monetary control and violence. Violence is a key tool to initiate, intimidate and punish, and thereby control and enslave a victim of trafficking (Bales, 1999: 246). Rozario (1988) reports a wide range of violent methods which trafficked women may face, including being starved, locked in darkness, beaten, burnt with cigarette butts, bound, forced to drink alcohol, strangled, and stabbed for not submitting to prostitution. Attempts are made to create a dependency on drugs and alcohol among the victims. Children often relent swiftly under the psychological pressure (Nirmala Niketan College of Social Work, 2003). Women are often held in debt bondage, as money is withheld from the victims to pay for their price of purchase. Bales (1999:18) refers to this as contract slavery, which is extremely profitable for the traffickers. The victims have little money for sustenance and most trafficked women live off tips received from customers. This leads to the victim's dependence on traffickers for money, food, clothing and other necessities. Rescued women fear reprisals by the traffickers, to whom they are supposedly indebted (Raymond, 2002; Rosario, 1988; Karmakar, 2001; Mukherjee, 1997; Richard, 1999). A profile of 7,711 victims of trafficking, put together by the IOM (Geneva, 2005) indicates that prior to being trafficked, 85% of victims were enticed with the promise of a job. After the victims' arrival at their destination country, 87% were forced to engage in an activity against their will, 52% were subject to physical violence and 50% were denied freedom of movement.

In data gathered by the Indian Department of Women and Children in the State of Maharashtra, from 410 victims of trafficking based at an interim government safe home for minors in South Asia, the victims related a range of tactics used by traffickers. In many cases they were lured into trafficking by friends, neighbours or family members on the promise of better employment. Many were taken by force, through violence, abduction, intoxication or substance abuse, others by seduction and deception, through flattery, allurements, declarations of love, or offers of marriage by male traffickers. I will reflect further on the analysis of both these and similar databases in Chapters 6, 7 and 8 of my main findings.

My case studies in Chapters 6, 7 and 8 show how traffickers exploit the vulnerability of victims resulting from natural disasters, violence in the community, war, domestic abuse, alcoholism, drug abuse, and the health problems of a close relative. They may operate at transit points and entry points

of major cities in order to abduct missing and runaway children, or else exploit specific financial difficulties that they know the potential victim, or their family, is facing. Traffickers may employ captive breeding, exploiting the children born of trafficking victims in their custody. They may also exploit traditional, cultural and religious norms, including the use of voodoo or occult rituals, as a ploy to draw in further victims.

Mumbai police recorded a case of a nine-year-old child who had been abused by 40 customers per night. Furthermore, in 2007 in western India, a girl from Sikkim was forced to entertain 80 customers per night, with each customer being restricted to three minutes with the girl.<sup>16</sup> In 2006, the London School of Hygiene and Tropical Medicine interviewed 207 trafficked women. It discovered that nearly all of the women (95%) had been either physically or sexually assaulted. Of these women, 76% reported physical assault by traffickers, pimps, madams, club owners or boyfriends. The forms of violence including being kicked while pregnant burned with cigarettes, having their head slammed against a wall, being hit with bats and being punched in the face. 90% reported having been physically forced or intimidated into having sex or performing a sexual act; 89% reported threats of violence to themselves; 36% reported threats to their children and family; and 77% reported no freedom of movement, with those who reported a greater degree of freedom only gaining this through being accompanied by minders to prevent their escape. A 2003 scientific study in the *Journal of Trauma Practice* found that 89% of women in prostitution want to escape prostitution but have no other options for survival. A 2006 study of women trafficked for prostitution into the EU found that more than 60% of victims reported fatigue, neurological symptoms, gastrointestinal problems, back pain, and/or gynaecological infections. Additional psychological consequences common among prostituted women include dissociative and personality disorders, anxiety and depression. A 2001 study revealed that 86% of women trafficked within their own country, and 85% of women trafficked across international borders, suffer from depression.

In the US, researchers have found that a victim of sex trafficking would typically have to serve 30 customers a day, six days a week. Each customer would be charged \$20 (USD) for an act of sexual intercourse. Of this amount, \$10 (USD) would be immediately taken by the perpetrators as their share for running the business. A further \$7 (USD) would be taken by the perpetrator to go towards the debt they incurred to smuggle the victim into the country (DeStefano, 2008). On average, each girl would have an initial debt of \$2,000 (USD) attributed to them to cover this expense. Abortion expenses would be added to the initial debt bondage, as would any other health-related expenses and even the cost of calls made to the women's families. The girls would be moved, as a form of security for the perpetrators and to keep their value high. Due to their inability to get out of the debt cycle, many of

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<sup>16</sup>Case study based on a conviction for key members of a human trafficking criminal networks on the 18<sup>th</sup> of September 2009 in Shrirampur, Ahmednagar, Maharashtra, India their role in trafficking, abusing and exploiting three victims that were forced to serve between 90 and 130 clients per night.

the girls would take to drinking alcohol to dull the pain and shame they felt, pushing them even deeper into debt bondage. In addition, perpetrators would frequently destroy any financial records that the girls might keep, as a form of punishment and to further trap the victims (DeStefano, 2008; Gardiner and Mohan, 2001). Having reflected on a literature review on the linkages between human trafficking and the criminal networks that ply the trade, and having looked at the various documented methods that are used to control the victims of the trade, I will now reflect on the various debates and challenges that surround measures and models to tackle this problem.

### **3.8 Challenges and debates around studying trafficking**

One of the key perpetuating factors in the growth of slavery was the rapid industrialisation that occurred in the West. The need for raw materials and corresponding cheap labour to source and produce the raw materials was one of the key drivers of the Atlantic slave trade. I explore the role of contemporary, global, multinational business in a networked role and the part it plays in perpetuating human trafficking in Chapter 3.8.1 and through case studies in Chapter 6, 7 and 8 of the main findings. In addition, I look at the role of culture through patriarchal structures within societies such as those in India and the contributory role they have in sustaining exploitation of women and children. I look at the role that legislation plays in India post-independence and how that contributed towards the evolution of the crime as we see it today. I look at the contentious and fought-over subjects of demand and consent of those involved in the exploitative forms that thrive off human trafficking. I then study human trafficking as any business, from a market perspective and the role that corruption, money laundering, and facilitators, such as lawyers linked with criminal networks, play in the growth of human trafficking today.

#### ***3.8.1 Business models within a networked world***

Slavery is often considered among the first drivers of globalisation. The world today is very different from the days of chattel slavery. It is interconnected, well linked and with populations that are very mobile. The movement of goods and services occurs on a large scale. Yet it is an unequal world, with a vast majority of the population not a part of the economic growth that is changing a number of countries around us. Growth is also not equitable within a nation or a region, with the rise of crony capitalism in different parts of the world. Crony capitalism is when bureaucratic decision-making grants privileges and provides opportunities for favoured applicants to buy permissions to exploit the raw materials and other such national assets and for bureaucrats to sell for pure self-interest their powers and discretion to undertake a fair and transparent process of due diligence to decide a commercial deal in the best interests of the state and its people. (Bardhan, 1997; Tanzi, 1999 in Hughes, 1999). Crony capitalism kills competitiveness, reduces/undervalues the sale of national assets or contracts that are auctioned off, decreases tax recovery and plays a significant role in the growth of the illegal market. The proceeds of illegal income/illegal markets do not normally enter the regular

banking channels, hence, as evident in case studies in Chapter 6, are invested in human trafficking markets where profit margins are high, as seen in Chapters 1 and 2, where, both in terms of market capitalisation and return on investment for human trafficking, the markets are highly profitable. Often crony capitalism and authoritarian systems have synergies. We see today modern-day versions of the East India Company that are multinational and operational across vast areas. Such organisations have complex structures that cater to vastly differing accountability structures within each country.

An analysis done within the UK by Joseph Rowntree Foundation (JT report) in 2013, undertook an analysis of the various business models in the cannabis cultivations industry, the construction and the food sector. Modern-day forms of trafficking for forced labour to varying degrees, affect these three sectors. The cannabis cultivation industry shows how criminal networks that drive the crime used forced criminality as a tool to traffic people, including from Vietnam to the UK. This was also mentioned in the Trafficking in Persons Report 2014 by the US State Department. In the food sector, which is driven more by seasonal cultivation, the JT report talks about how various labour suppliers known as ‘Gangmasters’ in the UK succumb to using trafficked and other vulnerable victims at part of the labour requirements for farms and factories associated with farm produce. In some cases the employers are directly involved in the crime while in some cases the crime is either committed by other staff members without the knowledge of the employer or by the labour contractors. The motivations behind this could be free or cheap labour or the motivation to cut employee-related costs that are obligations by the employer towards the government. In some cases the motivation is to earn money from the employees by getting them to pay, from their wages, for sub-standard accommodation and other support services such as food, medical services, communication or clothing. The construction industry under the JT report is also vulnerable, largely due to the wide distribution of tasks and various services to a range of different contractors. In a construction company there are a wide range of factors and players essential to the successful completion of the project. The corporate multinational world has serious challenges to cope with in ensuring that their process is free from any form of slavery. The retail, chocolate, fishing, mining, elements of manufacturing, and recycling industries have had cases of forced child labour being found, with a number of children trafficked into the process by the industry.

As part of my research I have focussed on the trafficking of children into various forms of labour exploitation. In India, child labour is legally unacceptable if the child is below 14 years of age and forced child labour is unacceptable if the child is below 18 years of age. In my data, as Chapters 6, 7 and 8 will show, the challenges around this have two key components, one being that the head office of multinational organisations and their key markets are often either in main global financial hubs, or in key cities based in well-developed countries, or in major urban areas within the developing world. The operations around the head office involve developing intellectual property, research, design and marketing and are where the key decisions are made. Most head offices of such set-ups are in compliance with the legal requirements of the countries in which they are based. The key roles at

these head offices are often occupied by staff who require a high level of skill to do their job and thereby incur a high labour cost to company and, hence, such head offices or key coordinating locations of multi-national organisations are often in full compliance of established rule of law and labour practices. However in order to both maximise on their profits and keep costs low the bulk of the operations are carried out where raw materials are easily available, transportable, extractable and cost of labour is low and rule of law is weak. This occurs quite often in developing and poor countries, which is where the trafficking and exploitation occurs to cut costs and increase profits. In many cases there is an entire infrastructure around the head office, which involves top-end consultancy firms brought in to ensure that such corporations are ahead of the curve in terms of any changes in legislation that will impact these cost effective structures. As part of this effort it is not uncommon for such corporations or major consultancy firms to be part of advocacy and policy initiatives of various governments and civil society groups, which seek to tackle this new crime by creating laws or raising awareness. By infiltrating such initiatives criminal networks are able to have advanced warning, and wield the necessary influence to bring changes that will not impact them, thus, help the problem to evolve into more complex forms. The research findings discussed in Chapters 6, 7 and 8 will highlight case studies that reveal the role of business models in facilitating human trafficking.

### ***3.8.3 Patriarchal structures and human trafficking***

The Nirbhaya rape and murder case in Delhi in 2013 has had a massive influence on both the public awareness of the impact of sexual violence on the people of India, and on the resulting amendment to the criminal laws that it brought to pass to safeguard women and children from various forms of violence. As horrific as the rape and murder was, it brought to the fore the serious social upheavals caused by the economic growth in India, and the increasing employment and resulting empowerment of women in society and the conflict it brings in what still remain a strongly patriarchal system. While women in India are 76% as likely as men to enrol in college; only 36% of women participate in the job sector; and only 15% of women are likely to have any sort of leadership position in society (Weitzman, 2014). In a challenge to the patriarchal norms, women are increasingly performing well in their education and subsequently finding good jobs and often becoming equal partner in modern marriages/relationships – or even the main breadwinner – in the path toward greater equality. The data, however, indicates that there is a resulting rise in violent crimes against women due a range of factors, demonstrating that women still have a long way to go in the quest for social equality. According to Weitzman (2014), the choices pushed within a family due to financial hardship, the indirect role of wealth in choices of education and marriage, fertility (low-income families in India tend to marry their daughters at a younger age, making them more dependent on their male counterpart) and the impact of caste (lower-caste women suffer a higher degree of violence than upper-caste women) are some of the factors linked with violence towards women. In case studies in Chapters 6, 7 and 8, these negative choices made as a result of these factors increase the vulnerability of children and women to human trafficking. Weitzman (2014) concludes, through his research on

respondents in India, that violence in domestic settings increases when a spouse is earning more than the male counterpart or when the spouse is the only person with an income.

The ratio of female to male children in India has been steadily declining, from 945:1000 in 1991, to 927:1000 in 2001, and 914:1000 in 2011 (Ghosh, 2013). A preference for the male child, driven by patriarchal systems in South Asia, have led to a high degree of female infanticide which serves both as a push and pull factor for trafficking for prostitution, domestic servitude and forced marriages in the areas hardest hit by gender imbalance. Certain religious systems such as the Devadasi system (temple prostitution) in Southern India and cultural systems such as the Courtesan system, support patriarchal caste-based control systems, where the girl child within the lower castes is dedicated to temple prostitution, or the Courtesan systems, and then groomed by criminal networks to be exploited in the commercial sex trade from the young age of between three and five years old (see case studies in Chapters 6, 7 and 8). In India, as elsewhere, it is considered a man's job to dominate and provide for the family and a woman's job is oriented towards domestic chores, marrying and bearing children, which is reflected in the low percentage of women in the workspace (Weitzman, 2014). According to the National Health Survey (NFHS-3) 34% of all women between 15 and 41 years of age have experienced violence from the age of 15 (IIPS, 2007). The NCRB data shows that between 2005 and 2001 the crimes against women increased from 14.1% to 18.9%, and the crimes against women pertaining to the Indian Penal Code shows an increase from 7.9% to 9.4%. Patriarchal attitudes in society and the corresponding measures of control of both women and children, have an impact on the vulnerability of women and children to trafficking, as my case studies reveal. Criminal networks use a range of tactics and modus operandi, referred to in earlier chapters and in my main findings chapters (6–8), to traffic victims for a range of exploitations.

One of the common factors that fuels internal demand for girls is consistent female infanticide, reducing the child sex ratio. The traffickers exploit this gender imbalance, caused by the preference of patriarchal structures for the boy child, by trafficking girls from matriarchal, impoverished or gender sensitive cultures within South Asia to areas of greater gender imbalance, where the demand for girl brides is acute. Patriarchal structures, driven by culture and caste, also drive violence against women of other religions and those belonging to the oppressed communities within the lower rungs of the caste system in India. Often this leads to violence targeted at women and children which human trafficking networks tap into. What is happening with the Rakhine ethnic group in Myanmar is a good illustration of this point. Similarly, the impact of this is seen as a result of the conflict between the government and left wing Naxalite insurgency across portions of Eastern, Central, Western and Southern India (Chakravarti, 2008). This insurgency is driven by denial of land rights to tribal groups and the most oppressed sections of the lower castes. Human trafficking criminal network also target affected communities that face dislocation due to major hydroelectric, irrigation and other infrastructural projects, allocation of their ancestral land to business groups that are often seen as part of the upper castes or affluent sections of society. These powerful business interests due to their

ability to lobby governments successfully are often seen to be close to whichever government is in power. These result in government actions that result in poorly planned allocation of mining licenses and land for manufacturing and industry within traditional tribal areas disrupting entire communities and their way of life. In many of the tribal communities, due to matriarchal systems, women are the pillars of society and stability within these communities. They are often at the receiving end of violence from both upper-caste men and even corrupt elements of the local law enforcement. Often the men in the lower castes are influenced into consuming alcohol, in an attempt to break them into submission and get them to sign away rights to their land and property. Similar patterns are seen within other minorities, which are leading to increasing conflicts among various peoples across South Asia and in portions of North-East India. Such policies based on patriarchal and caste-based thinking often block sustainable economic growth or advancement of social and human development measures, creating a fertile ground for criminal networks to target the vulnerable populations, and render them open to trafficking for various forms of exploitation, largely by the affluent communities. This is the extent of the impact of a patriarchal culture on diverse groups across South Asia.

A reflection on the linkages between human trafficking and patriarchal structures within society gave me a framework to understand the key role that constituent cultures play in increasing vulnerability of women and children to human trafficking. Criminal networks are masters of multiple markets and thrive on the contradictions that manifest themselves within a region like South Asia, where patriarchal and matriarchal societies co-exist, where extreme wealth and extreme poverty go side by side, where economic growth and multiple insurgencies are part of daily life. These contradictions provide a strong basis for a powerful market for criminal networks. I will explore these further in Chapter 5 and through case studies and models in Chapters 6, 7 and 8.

#### ***3.8.4 The impact of policy in pre- and post-colonial India on human trafficking***

The earlier section on understanding the links between patriarchal structures and vulnerability to human trafficking provoked me into exploring two areas of work. Firstly, whether independence in India actually made a difference to those who historically remained slaves under the Indian model of emancipation, as they are now being bonded contractually to their former slave masters. I wanted to understand the impact of 60 years of independence on slavery and human trafficking in South Asia. Were we able to transform into actionable plans, policies and laws the values enshrined in the fundamental rights and the directive principles of state policy in the Indian Constitution? I was always worried what I might discover, as pre-independence the Indian model of emancipation, as discussed in Chapter 2, always had a partnership between two perpetuating elements. The first being the erstwhile British colonial rulers of India, the second were the Indian local rulers and people of power who were their equal partners. Many of them have evolved, today remaining key players in the Indian sub-continent. My niggling worry was that somehow I would discover that the policy of the Indian model of emancipation continued into independent India, as this would directly contribute towards the continuity of caste-based patriarchal systems that, in my view, are nothing but more highly evolved

slavery systems that, even today, are exploited by human trafficking networks. The analysis of the study undertaken by Patnaik and Dingwaney (1985) sheds light on the impact of the Indian model of emancipation on the policy in independent India.

Secondly, the chapter on the historical review of slavery sheds light on the forced labour components for the production of raw materials, which drove the industrialisation revolution in the West and the global world trade at the time through the Atlantic slave trade. I also explored the religious foundations of enslavement, expansion, control and growth which drove the Eastern slave trade. The Indian sub-continent represented, in many ways, as explored in Chapter 2, the evolution of the practices of the Eastern and Atlantic slave trades, which led the Indian model of emancipation to evolve chattel slavery into its modern contractual forms dominated by human trafficking. I wanted to explore if the policy of the Indian model of emancipation was limited to components of slavery for labour or bonded servitude for labour, or if it extended to commercial sexual exploitation and abuse. The work of Ashwini Tambe (2009) gave me an insight into this area, and my findings are that the measures surrounding the Indian model of emancipation were reflected in the commercial sexual exploitation sector, as well as leading to a very mature, well entrenched market for prostitution in the Indian sub-continent. A common myth, perpetuated by many sources, is that, despite everything undertaken to dismantle various forms of exploitation associated with historic slavery and human trafficking today, it has continued unhindered for many generations. The reality is that over generations the caste-based system developed in the Indian sub-continent evolved under the Eastern slave trade that came with the Islamic and Mughal rulers, and further developed under the British colonisation of the Indian sub-continent with an intent to provide the raw materials to fuel the global trade then dominated by the British Empire. A further continuation of these policies in post-independent India has led us to where we find ourselves today: South Asia continuing as one of the most mature and strongest growth-oriented markets for all forms of human trafficking.

A study by Tambe (2009) evaluates the historical impact of legislation, from a health and criminal justice point of view, on prostitution in Bombay during the rule of the British Raj. Her analysis reinforces the idea that the approach on slavery for forced labour taken under the Indian model of emancipation was replicated in trafficking for commercial sexual exploitation and abuse in India. The drive to segregate prostitution districts within Bombay was driven more by the local population's desire to limit the public nuisance from prostitution-based activities. The drive to contain the spread of contagious diseases spread by prostitution was limited to European prostitutes and to street-based prostitution. According to Tambe (2009), the impact of control measures were not based on practicalities of enforcement and the measures themselves were rarely enforced by law enforcement. The impact of the control policy was the creation of a partnership between corrupt elements of the law enforcement system and enterprising elements of criminal networks, who anticipated a growth market in trafficking for prostitution.



The study by Patnaik and Dingwaney (1985) talks about the way in which the Indian model of emancipation evolved after independence in India in 1947. India fought a losing battle after independence in an attempt to reform land rights which were, at the time, a key tool through which slavery was perpetuated within society, as agriculture was the key source work and economic income at that time. On paper the priority was to reform land rights to ensure that the rights transitioned from the owner to the tiller. However, barring a few states such as Kerala, this failed in most of the states. The reasons for this lay in the role of new policy, which was very similar to the Indian model of emancipation. The earlier model had landlords, who controlled those in generational, bonded servitude, cultivating their property. In order to avoid distribution of land to those in bonded servitude on their lands, the new policy allowed for a person to retain all their land as long as the owners were themselves cultivating the land, either directly or through employees to whom they paid wages. As a result the tenants on the farms were evicted and replaced by daily wage labourers. This added the tenants to the ranks of impoverished people within society. In a number of states when the state decided to limit the amount of land per person to ensure the equitable distribution to the tenants, they found the implementation impeded by severe resistance from the landlords (Patnaik and Dingwaney, 1985).

This struggle between the state and the landlords resulted in a clash at the Supreme Court, when the parliament decided to amend the constitution to shift the right to property from a fundamental right to a constitutional right. This gave the state the power to create legislation that enabled land reforms and prevented the legislation from being struck down as being an ultra vires to the fundamental rights enshrined in the constitution of India. The Supreme Court then, in a 13-bench judgement, decided that while the supremacy of parliament was an important principle within the constitution of India it sat alongside other key aspects of the constitution, such as the fundamental rights, independence of the judiciary etc. While the parliament could, within the framework of a special majority vote that included both the federal and state legislatures, amend any part of the constitution, it could not in the process violate the basic features of the constitution that the constituent assembly had passed. The Supreme Court, being the ultimate guarantor and protector of the constitution, could strike down a constitutional amendment if it violated the basic features of the Constitution of India. This has led to a tense standoff between the apex body and the parliamentarians, which is ongoing to date.

In Chapter 2, on the history of slavery, I talk about how the decision to compensate slave owners and not their victims plays a crucial role, not just in the evolution of slavery into human trafficking, but also in the continued social upheavals that many countries that relied upon slavery continue to face today. It came as a shock to me that a similar policy was pursued in independent India, which was a continuation from the days of the abolition of the slave trade: the allocation of a budget of 9.7 billion Indian rupees in the 1950's and 1960's to compensate land owners for often unproductive land given by them for redistribution to the landless. No such compensation was pursued in a real way for those affected by generational slavery suffered at the hands of the landlords. As a result the landlords

profited handsomely from such policies and, in turn, used the resources gained to consolidate their hold on the property by either leasing property from the government, buying back the property from those the property was distributed to who, due to lack of resources and the small area of land received, were unable to make the land viable and break the cycle of poverty. In section 3.2.1.2 I discuss how debt bondage is used as a tool for trafficking of persons. I discuss how banks are intentionally manipulated to ensure that the landless labourers of big farms or small scale land owners, would have no choice but to go to moneylenders who would give them loans at exorbitant rates of interest in a deliberate attempt to squeeze the credit abilities of the targeted farmer, take advantage of any health-related, climatic or economic misfortune and seize their land. Often the farmer, in desperation, would resort to committing suicide hoping that this would lift the debt bondage on property and family. However, it actually makes his family vulnerable to exploitation by human trafficking criminal networks. Post-independence, the government policy was to ensure the wide penetration of state-owned banking to support the land reforms by giving low interest loans to the farmers to whom the land was redistributed, to help them make it viable. However what ended up happening was that the landed gentry would use their power and influence to win elections in the areas they dominated. They then, using the political power acquired, got themselves nominated on the boards of the state banks that disbursed these grants, often then using their positions to positively influence the grant of major loans to their commercial entities at low interest rates of 9%. They then ensured that small-scale landowners would not get loans from state banks and have to depend on the illegal moneylenders controlled, once again, by the same power actors who would give loans at 18–20% interest, sometimes as high as 50–70% interest, trapping the majority of the small-scale farmers in a cycle of debt. When a harvest would fail, to escape the debt bondage the small-scale farmer would take his life, hoping that the debt would be dropped with his death. However, due to lack of modern bankruptcy protection legislation and the use of collaterals as loan guarantees, his death would only result in the transference of the debt onto the surviving wife and children. They would then be preyed upon by the criminal networks, also linked to the same landlords/power actors whose ancestors dominated the scene of exploitation and slavery prior to independence. The women and children would then be trafficked into various forms of exploitation and remain trapped by a cycle of debt bondage from the loans taken by the deceased male members of the family and the cost of trafficking and exploitation of the women and children. The networks of exploiters consisting of illegal money lenders, human traffickers, corrupt politicians and members of the local governance systems result in a systematic manipulation of entire communities in rural and transit areas of human trafficking with an aim to strip family units within a community and their assets.

The other factors discussed by Patnaik and Dingwaney (1985) as part of the evolving nature of the slavery in India, was the role played by the economic plans of the government to reform the agricultural sector in order to create a spike in production by encouraging the use of modern tools and farming practices (irrigation etc.). The large-scale land owners with their scale, finance and influence were able to profit immensely from this. The more fortunate of their former tenants also profited,

those who we understand as the middle class, who were able to break the cycle of slavery and join the landed gentry in suppressing the majority of the poor, landless, evicted tenants and labourers. The small-scale farmers were unable to afford modern forms or tools of farming and were outpriced in the market by landlords with more land and the middle-class farmers who were able to cut labour costs by using mechanised and other modern farming practices, thus eventually pushing small-scale farmers into the ranks of the evicted tenants and landless labourers. Lastly, the government policy of indirect taxation on commodities rather than direct taxation of the landlords, and the use of farming subsidies resulted in inflationary pressures and a resulting rise in the price of the commodities, affecting the poorer sections of society while it resulted in high profit margins for the landlords and, now, the middle class farmers.

This combination of policies similar to the Indian model of emancipation discussed in the earlier chapter, helped set the stage, after the 1991 economic reforms in India, for the human trafficking criminal networks to target communities deeply affected by this imbalance and inequality in rural and semi-rural areas that were originally strongholds of slavery. It gave criminal networks a significant number of vulnerable communities and a wide geographical area to target in order to meet the demands of a growing economy across the entire Indian subcontinent. As discussed previously, one of the key challenges with slavery and the way in which it evolved into human trafficking is the absence of a victim-centric response to the problem. I will delve into understanding this challenge in the next subchapter.

### ***3.8.5 A victim-centred response***

The key to tackling human trafficking is the presence of an integrated, well-established victim protection program oriented towards reintegrating survivors and those vulnerable to trafficking self-sustainably into the community. The absence of a victim protection program means that a number of trafficking victims are never identified, are lost within the criminal justice system or face high levels of risk once they are rescued. A three-pronged response to human trafficking is now well established in intergovernmental and NGO circles, from which policy and practical initiatives variously emanate. The three approaches are the prevention of trafficking; the protection and support of trafficking victims; and the prosecution of traffickers. These can be called the three 'Ps' of trafficking. Two of the three – prevention and protection – are firmly rooted in a victim-centred response to trafficking (Goodey, 2004a, 2005a; Gallagher, 2006). A holistic response to the root problems that cause trafficking, rather than merely reacting to its symptoms, is much harder to identify. If we agree that human trafficking is fuelled by inequality in global markets, by conflict and war, amongst other things, then these are problems that are obviously more difficult to respond to, in comparison with the more immediate and tangible initiatives that offer assistance to the victims of these inequalities (Goodey, 2008). The first pillar of effective victim protection involves saving victims from a position of vulnerability/captivity and getting them to a place where they are self-sustainable members, or entrepreneurs, in society. The second pillar is the disrupting and dismantling of entire criminal

networks and their assets that dominate this crime. A criminal network, for me, includes all stakeholders that profit from the crime and elements associated with them that are embedded within state and civil-society systems. There is no victim protection if the criminal networks are not disrupted and dismantled. Many researchers including Goodey (2005) and Gallagher (2006) separate prosecution from prevention and protection in terms of victim-centric response. In fact, through my case studies I discovered that to both vulnerable and already captive victims of human trafficking, the prosecution of the criminal networks plays a pivotal role in both building trust between the victim and society and effective prevention and protection mechanisms to tackle human trafficking.

The Modern Slavery Act, 2015 in the UK provides provision for legal aid and representation for victims of trafficking, presumption on the age of a victim, and residency for trafficked people working in domestic servitude. However, the legislation comes across as straining to fit in the various agendas of campaigning and advocacy groups, is clearly not grassroots-inspired and does not address the root need for either an effective intervention to save a victim of trafficking, or an integrated victim protection program across the UK with transnational linkages to other countries that are source and destination countries of victims to and from the UK. It also has certain worrying segments, such as the blanket legal protection for a victim of 18 years or above within the UK trafficked to cultivate cannabis crops. This comes across as a reaction rather than a carefully thought through response. I have come through a number of case studies where both minors and adults who are complicit in the crime will feign victim-hood very convincingly to infiltrate the victim protection program and threaten, coerce or re-traffic victims. This clause in section 45 of the Act will unwittingly cement this loophole.

Lindstrom (2007), in referring to the Balkans, classifies the different responses to trafficking by the international community as follows: the migration approach, exemplified by the IOM; the law-enforcement approach, exemplified by Europol; the human rights approach, exemplified by NGOs (this is essentially a victim-centred approach); and the economic approach which is similar to the human rights approach, but which emphasises the economic causes of trafficking and looks at alternative roots out of poverty for potential victims and those who have already been trafficked. Several commentators argue that the migration and law-enforcement approaches dominate the current responses to trafficking in Europe and are embedded in the construction of a migration-crime-security nexus that forms the backbone of the EU response to trafficking. In their edited book on transnational organised crime, Edwards and Gill (2003: 275) refer to the need to move towards a 'socialisation of criminal policy', and away from the current focus on the 'criminalisation of social policy'. Their argument is that the latter has primarily served the needs of the crime and security industry, rather than the societies in which crime occurs. Policy responses to human trafficking, unlike many other areas of organised crime, focus on victims through programmes that address prevention and protection. However, it is debatable whether the current focus of trafficking has yet reached a 'socialisation of criminal policy'. Rather, one could argue that the move towards a victim-centred

focus is well on its way, with reference to the incorporation of the needs of individual victims of trafficking into policy and practical papers. In this regard, the latest European Commission tender for a feasibility study on a hotline for victims of trafficking is evidence of a growing victim-centred response. However, a more comprehensive human rights approach, which would force us not only to look at the individual but also at the question of economic, social and gender inequality that lies at the heart of trafficking. An integrated victim protection program is the need of the hour, however it requires planning, commitment and a long-term focus similar to key infrastructural projects. I find governments are reluctant, either historically or in the modern world, to pursue a comprehensive program to support victims of human trafficking. In most countries there is an attempt to push the victims back to source countries in order to avoid the problem. Across the board there is exhaustion from having to prioritise resources towards women and children within the community, as the benefits from this is not immediate. Reintegration and victim protection is a long journey full of ups and downs and requires patience, perseverance and consistency – but the rewards are immense. A victim with whom a state can build a bridge of trust not only helps the state with dismantling and disrupting entire criminal networks but also helps with effective preventive mechanisms in their ability to identify other vulnerable victims within the community and, as a market leader, is able to engage them with constructive actions that orient them towards literacy, education and employment. I discuss a number of case studies in Chapter 8 which capture the enormous benefits to be gleaned, by both the state and civil-society, from effective victim protection. Having discussed the challenges around victim protection I will now explore the debates surrounding the role that consent plays in human trafficking

### **3.9 The role of consent in human trafficking**

One of the tactics of human trafficking criminal networks is to facilitate the transfer or travel of the victim using threats and other coercive measures. One of the outcomes of this is that often-trafficked victims will seem to come unaccompanied to destination or transit countries. This causes a conflict in law where there is an implication of the victim's guilt as an individual in violation of immigration laws. According to Munro 'while those responsible for human trafficking need not necessarily be involved in the facilitation of a person's illegal entry into a country, international policy has been framed by the context of transnational organised crime and this has generated a construction within which this aspect is taken to be a characteristic. This has led to blurred lines and a preoccupation to clarify the relationship between people trafficking and people smuggling' (Munro, 2006).

Traditionally, the distinction between people smuggling and human trafficking has centred on the presence or absence of migration consent. But, in the context of contemporary human trafficking, this approach soon proves to be unduly simplistic. Empirical research in this area indicates that the majority of people brought illegally into a country to work in exploitative conditions have given their initial consent to this process. It is hard to quantify this due to paucity of intelligence in this area. Even so, the context in which this consent is given may be heavily circumscribed by poverty, vulnerability,

and a lack of options or familial pressure. Furthermore, according to Munro, even in cases where the person involved has given their consent without any impediments to real agency, they may nonetheless experience considerable hardships, including the restriction of their movement, debt bondage and psychological control that frustrates their ability to withdraw consent and seek alternative options (Munro, 2006).

An alternative approach is to use exploitation as the defining element of trafficking and thereby make the distinction that smuggling would be conceived as non-exploitative and trafficking would be identified by the existence of a controlling, exploitative relationship maintained on arrival in the destination country. The challenge with such a definition is the undermining of the autonomy of a potential vulnerable victim by refusing to give any significance to their consent. It also risks the racist stereotype in sex-trafficking that normally only Western sex workers consent to prostitution whilst migrant workers do not. Moreover it diverts attention from the exploitative conditions of domestic sex workers. The debate on the role of consent and exploitation in human trafficking is often hostage to highly polarised debates regarding prostitution. As explained by Munro (2006), those in the Coalition Against Trafficking of Women (CATW) consider prostitution inherently exploitative and thereby support the conceptualisation of trafficking to include all migration undertaken for sexual purposes, regardless of the level of volition involved (Jeffrey, 1997). By contrast, those in the Global Alliance Against Trafficking in Women (GAATW) would adopt the opposite position, seeking a clear distinction between prostitution, which they regard as legitimate, chosen and non-exploitative labour, and trafficking, which is forced labour and therefore exploitative. Thus, for GAATW campaign groups, a reliance on the significance of consent remains necessary, since it prevents the normalisation of the exploitation experienced by trafficked persons and protects willing sex workers from the imposition of harsher anti-prostitution laws that would contribute to their stigmatisation. While Article 3b of the UN Trafficking Protocol (2004) stipulates that the consent of the victim of trafficking to the intended exploitation is irrelevant, this will only be the case where consent has been achieved as a consequence of threat, coercion, fraud, deception, abuse of power, abuse of vulnerability, or the provision of payments or benefits to a third party with control over the victim. When people talk of choice, the issues become more focussed on the individuals, and the discussion moves away from looking at the related power structures, the patriarchy as discussed above that arguably underpins trafficking and the identity and responsibility of those who benefit and profit from the buying, selling and exploitation of women in prostitution. Focusing only on consent can therefore over-individualise the complexities of human trafficking.

In reality, for me, consent has always played a key role in determining when the law is qualified, within a human rights-sensitive framework, to intervene in order to save a life affected by human trafficking. However, one must understand that in the Indian sub-continent human trafficking consent is often nuanced, for most consent is not about free choice but largely about there being no other real alternative. A number of victims are affected by their surrounding circumstances, involving the caste-

based exploitative systems that undermines social benefits, education, an opportunity to self-sustain within a rural setting and a focus by governments on urbanisation. In a number of cases discussed in Chapters 6, 7 and 8 a number of adults who were trafficked as children and now have children dependent on them who are trapped in a cycle of debt bondage, have no choice but to consent to prostitution. The same is the case with children born to women in prostitution; often they find their mothers redundant within a sector with an ever-growing demand for new victims, suffering from the health challenges and trauma-related illnesses that come with commercial sexual exploitation. It is often at this stage (explored in a number of case studies in my main findings in Chapters 6, 7 and 8) that the criminal networks exploit the control they have on the mother through a mixture of debt bondage and emotional manipulation of the child to care for their mother and break the child into prostitution. In case studies on other forms of human trafficking, such as forced labour and domestic servitude, I have discovered that often the consent of the children trafficked has been given by their parents or forced upon the victims because of a particular conflict at home involving a medical emergency, alcoholism, violence in the family, sexual violence or threat of sexual violence on the victim. Often parents are duped by the criminal networks into handing over their children under the promise of a better life for them. I have seen case studies where the profit earned from the victim particularly in trafficking for prostitution is so significant that they are willing to share a small percentage with the victim. While the percentage given amounts to a lot for the victim, the level of profit earned by the criminal networks through their extensive commercial exploitation is even greater. Such victims often imply to the media about their consent and the income they earn but through case studies I have found this to be a myth as the victim has no choice of which influential client they can or cannot serve and the level of violence and associated trauma is the same as those completely enslaved making such consents purely a media stunt for the criminal networks. These are just some of the findings explored further in my main findings on the role of consent in cases of human trafficking. I will now look at some of the push, pull and perpetuating factors surrounding human trafficking.

### **3.10 Push, pull and perpetuating factors**

In the literature reviewed there seems to be broad agreement on the factors that lead to human trafficking, though there is uncertainty about their precise roles. Vulnerability factors relate to the surrounding socioeconomic and political contexts and can be divided into two categories – personal circumstances and socio-structural forces (Raymond et al., 2002; DePaul University, 2002). Central to the organisation of trafficking are the victims, whose labour makes them highly profitable, low risk, expendable, reusable and resalable commodities (Richard, 1999).

Scarpa (2008) divides factors that precipitate human trafficking into pull and push categories. Pull factors include unmet labour demands in the small-scale industrial sector (UNCHR, 2002), economic, social and political factors (Clark, 2003). Scarpa (2008) lists poverty, lack of education, and a lack of employment as push factors. Gender inequality makes women and children vulnerable, as does a lack

of access to land, to credit and inheritance, all of which lead to the marginalisation of women and the feminisation of poverty (Scarpa, 2008). Other transit factors include the feminisation of migration (as women today account for half of the migrants worldwide), the globalisation of labour markets, obstacles to legal migration, the modernisation of travel, a reduction in the cost of travel, and the application of new technology. Political instability contributes significantly to the vulnerability of people to exploitation through human trafficking. Some recent examples include the collapse of the Soviet Union and the Eastern Communist Bloc and the continuation of ethnic conflicts in countries such as Iraq, Yemen, Syria, Afghanistan and Myanmar. Political situations where the fighting of crime escalates to the point that it must be dealt with by the military, such as in Mexico, or where there is a growing domination of organised criminal groups, such as in Central and Southern America can be described as push factors, as the increase in violence, the social disintegration and a lack of opportunities push victims into trafficking (Scarpa, 2008). Local cultures and traditions, contemporary forms of slavery, and religious practices can be described as pull factors. The increasing demand in human trafficking can be explained by the fact that a trafficked human being, unlike a consignment of drugs or arms, can be made to undertake a variety of tasks and services, has a longer shelf-life, leading to higher profitability. They can be easily manipulated and threatened because of gaps and weaknesses within the criminal justice system of several countries, which leads to an increased ability for the perpetrators to act with impunity. Trafficking patterns and routes are often highly complex, ranging from those used for trafficking within a single country or across a single border into neighbouring countries, to inter-continental and globalised trade (Tumlin, 2000). Routes are usually divided into origin/source, transit and destination points though some reports also mention collection and dispersal points. Correspondingly, nations are categorised as sending/source, transit or destination countries. Some countries may belong to more than one category, as is the case with India, which is a source, transit and destination point. The UK is considered to be a significant destination point and, to a lesser extent, a transit country. There are also cases of internal trafficking within the UK (TIP report, 2009).

The available literature on human trafficking indicates that trafficking occurs in the context of increased human rights violations, caused largely by the breakdown of the state machinery and its inability to protect its citizens. These patriarchal attitudes are explored in subchapter 3.8.3 such as the violation of women's reproductive rights, domestic violence against women, custodial violence against women, violence against women in public places, and the violation of women's rights in decision-making, and owning land, among other things (Warburton and Maria, 1996; Sanghera, 1999; Karmarkar, 2001; ADB, 2002; Raymond et al., 2002). Alison Phinney (2001) puts forward the notion of a trafficking triangle, which refers to the space created by the supply, demand and impunity, which must exist for trafficking to occur. According to her, sex trafficking is driven by the demand for women's and children's bodies for sex, fuelled by the supply of women who are denied equal rights and the opportunity for education and economic advancement, and perpetuated by traffickers who are able to exploit human misfortune with near impunity (Phinney, 2001). In some locations, it is not uncommon for family members to sell their female or child relatives into human trafficking, and



because there is a general perception that women and children, due to patriarchal attitudes, are to be considered the chattel or property of the husband or father, any protection from the wider community is seen as inappropriate. It is not uncommon for pimps or traffickers to pay a margin of their earning to the husband or parents of a trafficked person, for allowing them to be used in the sex trade. My case studies in Chapter 6, 7 and 8 explore the modus operandi used by criminal networks to traffic victims for the human trade from their parents, guardians and spouses.

One of the other factors that plays a role in encouraging human trafficking is the lack of a deterrent to traffickers. Insufficient or inadequate legislation, poor law enforcement, ineffective penalties, and a minimal chance of prosecution all add up to a relatively low risk of traffickers facing a punishment that will actually inconvenience them. Combined with issues of corruption and complacency, a lack of visibility of the results of trafficking, and a failure of governments to implement policies and provide adequate services for victims, these factors perpetuate opportunities for trafficking to occur (Warburton, 1996; DWCD, 1996; Phinney, 2001; UNDP, 2002; Nirmala Niketan College of Social Work, 2003). Political factors such as conflicts causing disruption and instability, immigration policies and human rights violations by the state may also influence vulnerability, as may poor governance, or a limited implementation of labour standards (ADB, 2002:9). Environmental calamities and disruptions also put people at risk. Furthermore, discriminatory practices and social exclusion can also exacerbate the vulnerabilities of groups such as scheduled castes and tribes, Other Backward Class (OBC), ethnic minorities, tribal communities, undocumented migrant workers and stateless people (i.e. people in refugee camps) (TWCI, 2005: 8). A very pertinent view, not often highlighted, is that people who protest against trafficking are in a minority. It is very difficult to fight the system especially when corruption causes everyone within the state apparatus involved in trafficking to unify. The families are profiting so no one will talk (HRW, 1995). In the context of the sexual exploitation of children, a 1996 workshop run by the Indian government found that the absence of reliable data led to some people emphasising the speculative nature of the problem. This created a lack of seriousness about the issue, which provided an opportunity for the crime to flourish further (TWCI, 2005: 9).

The process of globalisation and the proliferation of socio-economic displacement across Eastern Europe and the developing nations, have promoted patterns of widespread resistance from the countries into which people are trafficked (IOM, 2002). Their stipulation of stringent financial training or familial criteria within immigration policy, though designed to restrict the flow of migration, has ironically generated a large community of would-be migrants who, in the absence of avenues for legitimate entry, have increasingly had to turn to networks or individuals offering illicit alternatives. These changing migration demographics, when coupled with the high demand for cheap labour within a variety of industries, have led to a diversification of contemporary trafficking activity. The so-called 'feminisation of poverty', together with the emerging deconstruction of sex work as legitimate labour, has maintained a high female representation within this migrant population and a

strong relationship between migration and prostitution (IOM, 1998). Even so, as noted previously, the trafficking of men, women and children into other industries is also a fast-growing international phenomenon (Munro, 2006). Having reflected on the complex operating environment of push, pull and perpetuating factors within which human trafficking thrives, I now focus on the role of demand for human trafficking victims by a wide range of stakeholders within society.

### **3.11 The role of demand and its evolution**

Quantitative and qualitative research undertaken in separate studies in Finland, the UK, the US, the Netherlands, Norway, Russia, Spain, Sweden and Switzerland states that the percentage of men who had at one time paid for sex with a person employed in prostitution, ranged from 6% to as high as 61%, with an average rate, across the 15 countries of 18% (Nicola, Cauduro, Lombardi, Ruspini, 2009). In specific research on the clients of trafficked women, it was discovered that the market development for prostitution was driven mostly on ethnic lines (Raymond, Hughes and Gomez, 2001) with clients from different ethnic backgrounds being charged different rates. It was also recorded that client profiles were diverse, with clients ranging from white-collar professionals to academics and from politicians to blue-collar workers (ibid: 70). According to this research, US soldiers generated a significant amount of demand, with Asian women principally being their target (ibid: 69–70). The study also found that clients who targeted trafficked girls mainly desired younger, and at times underage, girls, preferring to have sex without a condom. The research also documented the wide range of violence perpetrated against women by their clients: physical violence, sadistic violence, sexual assault and the use of weapons (ibid: 71–77). In all the case studies that I have observed over the past 15 years demand for victims of human trafficking is widespread and cuts across all societal, cultural and religious barriers. Each customer in the case of sex trafficking has a particular taste and the criminal networks cater to meet the specific demands of the clientele. In fact, criminal networks over time have evolved themselves to ensure the protection of the client, including iron-clad guarantees that the victim would not disclose any aspect of their abuse at the hands of the client to law enforcement, if rescued. Human trafficking criminal networks address all sections of society from the demands of the richest to those of the transient or migrant communities that normally leave their families to come to work in urban areas. The criminal networks charge each type of clientele a particular rate depending upon the period of time and the type of sexual or physical desire sought to be fulfilled. In one of the case study in Chapter 8 the clientele, who were mainly truck drivers, were given a maximum of three to five minutes to complete their act of sexual intercourse on an open grassland and were even timed to maximise profit by ensuring that within a 24-hour period the maximum number of men could have sex with the victims. Trafficking often spikes due to the surge in demand during any festival period.

The IOM report by Anderson and O’Connell Davidson (2003) studied the differences in demand between victims trafficked for the sex trade and those trafficked for forced labour, and the number of trafficked victims. It looked at clients for both categories of trafficking, using victims assisted by the

IOM as its sample. The research showed that clients generally know that traffickers exploit prostitutes but such knowledge does not change their attitude towards prostitution (ibid: 23). According to the research, some men used 'neutralisation techniques' to justify violence. In some of the interviews, clients suggested that their violence was merely a reaction against substandard services or the forced use of a condom (ibid: 24). According to one client, '[the woman] is a commodity offering a service and she should accept that' (ibid: 25). The authors of the research go on to express the opinion that supply is what generates demand, rather than the other way around (ibid: 41). In case studies of sex trafficking I have observed that there is always a buzz around and a premium associated with victims that are newly trafficked into the human trade. Case studies on sex trafficking reveal that newly trafficked victims are often auctioned off to the highest bidder and the value of the victim reduces with each subsequent client that avails of their services. The newer the victim, the higher the resistance and, if accompanied with good looks, new victims have a huge premium attached to them by clientele in the commercial sexual exploitation sector.

My thesis does not limit itself to victims of sex trafficking. In fact, one of the key journeys for me during the course of my PhD was to enlarge the sphere of the multidisciplinary model to cover all forms of human trafficking. In South Asia, as described in case studies from Chapters 6, 7 and 8, there is a significant demand for human trafficking victims for various types of exploitation. In the trafficking for forced labour, depending upon the type of industry, there are criminal networks that have mapped geographies and areas with vulnerabilities to trafficking exactly as per the demands of the buyer who in this case could be a farmer, entrepreneur, manufacturer or service provider. In case studies I discovered that the modus operandi and the levels of violence and control in all forms of human trafficking is the same as in trafficking for commercial sexual exploitation. I also observed, as described in my main findings in Chapters 6, 7 and 8 that human traffickers from 2001 onwards evolved from focussing on trafficking single persons for one form of exploitation, to trafficking a family unit or targeting multiple family units within a community for various forms of exploitation. In order to understand this form of sophistication and drive towards profit it is important to look at human trafficking as a business from a market perspective.

### **3.12 Understanding human trafficking through a market perspective**

The criminal networks deal with human trafficking from a market perspective, therefore, in my opinion, to tackle human trafficking we need understand how they think in order to develop effective strategies to counter them. According to Williams (1999), the key factors underpinning the growth of human trafficking from a commercial angle, is the role of organised crime and illegal migration. Human trafficking has a transnational dimension; it is similar to other illicit markets, the exception being that the product is a human being. Williams goes on to describe other factors that are affecting market dynamics, including the evolving concept of travelling child sex offenders, cultural myths, the spread of disease, an increasing reliance on computer networks, and substance or drug abuse. As a product, a human being has a longer 'shelf life'. General measures that interrupt a thriving

commercial market are the disruption of day-to-day activities, the dislocation of a market, the imposition of risks and the establishment of barriers.

Williams describes the framework of a viable market in terms of the size and scale of the market. In the case of human trafficking there is a thriving national, regional and global market, each of which has the capacity to be either integrated or separate and overlapping. Countries in South East Asia, South Asia, Central Asia, Eastern Europe, and the Central Americas, plus Brazil and Nigeria, count as among the major source and supply regions for human trafficking. Research conducted by the IOM (IOM, 1996) found nearly 50,000 Dominican women in the sex industry in Austria, Curacao, Germany, Greece, Haiti, Italy, the Netherlands, Panama, Puerto Rico, Spain, Switzerland, Venezuela, and the West Indies (Williams, 1999).

According to Williams (1999), the human trafficking market is profitable as it is a continuing business with an object that has a long 'shelf life', which can easily be replaced, and can be consumed by a number of clients. Human trafficking has very low operational overheads as the victim is often paid very little. It has a high profit margin, as the purchase of the commodity is a one-time investment while the commodity is hired out on several occasions in a single day over a set period. A human being has a good re-sale value, even if only a minimum investment is made in maintaining them (Williams, 1999: 153). A viable market requires both supply and demand. Williams states that supply is available because of limited opportunities within the regular economy. From a market-based standpoint, a person makes a decision of their own free will after basing it on a financial cost-benefit calculation that has its foundations in limited, non-factual, deceptive information or facts. But human trafficking takes advantage of an opportunity to exploit vulnerability on a foundation of force (Williams, 1999). The movement of those trafficked is also underpinned by market operators and financiers, and protected by enforcers. Human trafficking, after the initial sale of the human being, is often further facilitated by corruption within the criminal justice and governance structure, by political patronage and by a development model (e.g. in sex tourism where trafficking is actively or strategically condoned, as the authorities feel that supply of human beings for prostitution, forced, bonded or child labour plays a role in the continued economic growth of the country) (Williams, 1999). Williams suggests that market forces can be alleviated by improving the job prospects of potential victims through better access to education, by improving the flow of intelligence, by facilitating public-private partnerships, by better governance at country borders and by improved legislation.

In research undertaken by Lazos (2004), members of human trafficking criminal networks put forth various narratives as their defence mechanism to legitimise the reasons for their part in this crime. Many of them rationalise it by saying that the law does not fully comprehend or understand what goes on in their business. They feel that they are just like any other legitimate business person conducting their profit making activities. They rationalise their violence as necessary to govern interpersonal and

social relations within the domain controlled by criminal networks where there is an absence of the rule of law. Lastly, many members of the criminal networks are at pains to state that their value system is the same as the value system of the general population in which they operate (Magnus and Lazos, 1999). In the findings section of this study, in Chapters 6, 7 and 8, I focus at length not just on specific examples of market forces but on how human trafficking evolves in response, and the overall effect of such market forces on the cycle of crime and the life of the victim. In the next subchapter I explore the role of corruption as a causal factor in the growth of human trafficking. Corruption is one of the foundational reasons for institutional failures in tackling human trafficking and is the key route for the infiltration of state and civil-society systems by the criminal networks. The subchapter illustrates this point very clearly.

### **3.13 The role of corruption**

#### **3.13.1 Introduction**

The challenges surrounding trafficking are often explained in the context of poverty, the paucity of jobs, levels of illiteracy, and globalisation. Most researchers reflect on corruption as a facilitating factor. There is, however, very little understanding of the role of corruption as a key or fundamental factor in the spread of human trafficking. I will explore this in more depth in my findings. Some academics, such as Bales (2005), consider corruption as a key indicator of human trafficking within a country. Though there is a lack of universal definition of corruption, and what constitutes corruption (Sheldon X. Zhang and Samuel L. Pineda in Dina Siegel and Hans Nelsen (eds.), 2008) but the common ingredients may be nepotism, patronage, personal profit, the manipulation of resources, the acceptance of bribes, and cronyism (Morgan, 1998). In the case of human trafficking one or more government official may either turn a blind eye or actively facilitate the establishment and growth of human trafficking (Zhang and Pineda, 2008). The Programme against Corruption and Organised Crime in South Eastern Europe (PACO) listed people within the security services, the intelligence services, the armed forces, and businesses in the private sector (such as travel agencies, airlines and financial institutions) as having corrupt officials directly linked with human trafficking (PACO, 2002:9). The way that corrupt officials contribute to human trafficking may be through passive tolerance or active participation in the crime. Their actions may include organising the trafficking of persons, providing protection for criminal networks, failing to perform their duties when information is provided to them (PACO, 2002:7; Zhang and Pineda in Siegel and Nelen, 2008), frequenting the brothels where trafficked victims are kept, as non-paying customers (Cockburn, 2003), or overlooking fraudulent immigration paperwork (Agbu, 2003).

The researchers compared all variables related to the measurement of poverty, such as the per capita index, the average life expectancy, the infant mortality rate, and the level of access to primary education, with tier countries measured according to their record of trafficking by the Office to Monitor and Combat Trafficking in Persons, US State Department. On reviewing and comparing per-capita income one would expect to see that the countries where the problems of human trafficking

were worst would be countries with the lowest per-capita income. Surprisingly, several of the countries with a significant problem in human trafficking were wealthy countries, including several in the Middle East (Kuwait, Saudi Arabia, Qatar and the UAE, among others). Hence it is clear that per-capita income is not a good indicator of the level of human trafficking within a country (Zhang and Pineda in Siegel and Nelsen (eds.), 2008).

Another suggestion from Zhang and Pineda (2008) was to measure the level of trafficking against the average life expectancy in a country (as an indicator of the nation's level of poverty). This too, however, didn't match up, as the results showed that, while countries with a Tier 1 problem had the highest life expectancy, countries with the worst trafficking problems (Tier 3) has the second highest life expectancy, countries in Tier 2 of the Trafficking in Persons (TIP) Report came fourth, followed by countries in the Tier 2 Watch List which had the lowest comparative life expectancy rankings (Zhang and Pineda in Siegel and Nelsen (eds.), 2008). When measuring the level of trafficking against infant mortality (as an indicator of a nation's overall healthcare service and socio-economic environment), countries ranked in Tier 1 had the lowest infant mortality rates while, once again, countries in Tier 3 performed better, with lower infant mortality rates than Tier 2 or Tier 2 Watch List countries (Zhang and Pineda in Siegel and Nelsen (eds.), 2008). Again, this trend suggests that infant mortality is not the best way to track countries with problems in human trafficking. Yet another suggested comparative factor was access to primary education (as a measure of a nation's financial strength and economic development). Here, the countries in Tier 1 are again the pack leaders, while countries in the remaining three tiers (Tier 2, Tier 2 Watch List and Tier 3) did not have much of a difference between them. Thus, this would suggest that better access to primary education would have little impact in improving levels of human trafficking with the exception of countries in Tier 1 (Zhang and Pineda in Siegel and Nelsen (eds.), 2008). When comparing the tier-ranking with corruption levels or the transparency index for each country, it was discovered that countries in Tier 1 were identified as the least corrupt, followed by increasing levels of corruption as one moved down through the Tier-2 countries, the Tier 2 Watch List and Tier-3 countries. Countries in the Tier 2 Watch List have the worst scores on corruption. From this the researchers concluded that the level of corruption had a stronger link to the TIP rating than any other variable used for measuring poverty. To further substantiate their findings the researchers conducted a correlation and regression analysis between the variables of poverty and transparency and the rankings of the countries in the TIP Report each year.

The researchers also compared the variables through a regression model and discovered that while there was some kind of correlation with all of the variables when compared with the TIP rankings, it was only corruption that showed statistical significance. The research suggests that corruption is the single biggest factor in the growth and sustainability of criminal organisations as they develop human trafficking networks. It proves that with regard to tackling human trafficking, corruption is more of an issue than poverty or a lack of economic opportunities. In the words of the researchers, '...the foundations of human trafficking lie in the symbiotic relationship that it has with the regulatory

environment' (Zhang and Pineda in Siegel and Nelsen (eds.), 2008). In my years of work on anti-human trafficking casework I was continually confronted with the challenges of corruption. These included tip-offs to the criminal networks of impending police operations based on verified intelligence of the presence of trafficked victims at the location, helping criminal networks establish safe havens for their operations, threatening parents/guardians of victims who came searching for the victims, and the return of many who had escaped the brothel and managed to reach the police station back into the custody of the criminal network. These are just some of the challenges that corruption causes and which directly contribute towards both the failure of anti-human trafficking models and the deep levels of infiltration within the state and civil-society apparatus. All my three main findings chapters (6, 7 and 8) cover the role of corruption in the growth of human trafficking at length, including case studies that analyse the financial transactions made by criminal networks to elements of the criminal justice system as part of their goal to infiltrate state and civil-society systems to ensure a high degree of protection for their sustainability and growth. Having studied the role of corruption, I will now look at the role of lawyers and illegal bankers in furthering the trade in human beings.

### ***3.13.2 The role of lawyers and illegal bankers***

Van de Bunt (1996) was among the first criminologists to study the links between professional occupations and crime. He concluded that the role of lawyers in facilitating organised crime was an incidental significant one. According to research done by the European Commission and published in the journal, *Crime, Law and Social Change* (2004) there were two forms of culpability, one being direct culpability where a professional may aid and abet criminal networks, and facilitate their organisation by helping them to launder money or property. The second form could arise from negligence in exercising due care in the execution of their regular duties with clients.

There are very few sources available on understanding the role of lawyers and notaries. There are very few cases of the prosecution of lawyers with regard to their role in human trafficking, as most law enforcement agencies are reluctant to investigate them, because of the key positions they occupy in society. There is very little expertise within law enforcement agencies in understanding the complex transactions undertaken by lawyers and understanding the lawyers' role. A lawyer and his or her network may provide their services to a wide range of criminal operatives and networks. This continued partnership between a small number of lawyers and criminal networks has the ability to disrupt society (Nelen and Lankhorst, 2008).

Lawyers are attractive to criminal networks according to Nelen and Lankhorst (2008) because of their understanding of the system that governs their society and the lawyers' ability to deliver within this system. The guidance that a lawyer provides gives the criminal networks a buffer against law enforcement and a defensive mechanism against any due diligence of prospective victims or those already trapped. Criminal networks exploit the principle of attorney-client privilege to secure an open

door to lawyers in order to influence, facilitate, and assimilate their illegal activities within a legal system and economy.

The gaps within the legal fraternity, which criminal networks exploit, are partly due to the rapid globalisation of law firms, which makes it difficult to ensure accountability across jurisdictions. It may also be partly due to the swings of commercialisation that, according to Nelen and Lankhorst (2008) cause increasing gaps within the consulting and litigating arms of law firms, which can result in lawyers indulging in unethical practices in order to compete and to increase their profits. As stated by Nelen and Lankhorst (2008), criminal networks are specialists in identifying the weak links within the legal fraternity.

According to Nelen and Lankhorst (2008), one of the common tactics used by lawyers on behalf of criminal networks is to shield their activities and for the lawyer to act as a conduit to pass sensitive information between their clients and unauthorised persons. Lawyers may also generate public pressure by releasing confidential elements of a case and the identity of the witnesses into the public domain. Lawyers may serve as a front to intimidate, persuade, blackmail or manipulate witnesses away from giving evidence that will secure a conviction or state sanction against their clients. There is increasing evidence of the growing role of lawyers in promoting human trafficking. The research undertaken by the European Commission shows that lawyers have been key in procuring the supply of false identity documentation used in human trafficking (Nelen and Lankhorst, 2008). In a couple of documented cases in Italy, lawyers were convicted for counterfeiting documents, developing forced labour contracts and commissioning several policemen to mislead and obstruct the course of certain investigations into organised crime. In another case, a lawyer was convicted of forging documents on behalf of a certain human trafficking network based in Albania, and laundering its proceeds.

There have also been a number of case studies regarding the role of lawyers in facilitating fake marriages and, through false petitions, making arrangement to secure asylum for human traffickers. In this particular case, a British solicitor helped secure asylum for an enforcer for the notorious 'Snakeheads', a Chinese triad criminal network that specialises in both human smuggling and trafficking. According to Nelen and Lankhorst (2008), lawyers take advantage of the reluctance of the judiciary and police to undertake surveillance of them, by allowing criminal networks to use the facilities of the law firm to communicate with one other.

One of the key areas of exploitation by lawyers is the principle of conflict of interest during representation. Often a lawyer will purport to represent a series of members during a trial but in actual practise, they are representing the interests of a key member of the criminal group. In human trafficking cases a lawyer is often used to represent both the accused and the victim. According to Nelen and Lankhorst (2008), a lawyer may often represent all members of a criminal network. While on the surface, this may not seem particularly sinister, it can result in the lawyer devising a criminal



defence strategy which protects the criminal network as a whole rather than the interests of the individual criminal. Often a member of a criminal network, who wants to testify outside of this defence strategy, will find it hard to find a suitable lawyer to best represent their interests. Criminal networks use intimidation and collective client punishment on a lawyer that represents such individuals.

Nelen and Lankhorst (2008) suggest that lawyers increasingly play a critical role in helping criminal networks to launder their proceeds. They do this either through their own accounts or by creating complex financial instruments, which make it incredibly difficult for the criminal justice system to trace the proceeds or document the interlinking financial connections between various criminal networks.

Council Directive 91/308/EEC, dated 10<sup>th</sup> June 1991, on the prevention of the use of the financial system for the purpose of money laundering, makes it mandatory for lawyers to report suspicious financial transactions. This is a promising way of tracing criminal networks at a key stage of laundering transactions but, according to Levi (2002), only 3% of the reported transactions in the Netherlands alone have been looked into so far, and increasingly, as the reports pile up, law enforcement agencies do not have sufficient resources to allocate to fulfil the Council Directive.

Lawyers are a key wheel in the smooth running of the criminal networks which run human trafficking. I am keen to shed more light on this very important aspect of understanding human trafficking and I intend to pick up on this through further case studies in the main findings of this thesis.

### ***3.13.3 Irregular banking and money laundering***

A second key foundation of criminal networks linked to the professional sector is the role of irregular or ‘Hawala’ banking in facilitating human trafficking. According to Van de Bunt (2008):

‘...Hawala bankers are financial service providers who carry out financial transactions without a license and therefore without government control.’ (Siegel and Nelen (eds.), 2008)

Hawala banking provides all the services of regular banking yet does not require any due diligence to be carried out with regard to the parties or the transactions. Also Hawala banks are not regulated and have no obligations towards the government. The International Monetary Fund estimates that a flow of cash and goods, equivalent to \$100 billion (USD), flows through this banking system. Illegal immigrants are among the key users of such systems (IMF, 2005; Van de Bunt, 2008).

The regular banking system in several countries is increasingly monitored by anti-money laundering systems. This is making it more difficult for criminal networks to utilise regular banking, because of the paper trails and risks associated with government control of such systems. Hawala systems tend to be low profile, low cost, not accountable to the governments and remarkably reliable. There are no

rules that govern this banking channel, thus enabling Bankers to cut bureaucracy and provide fast, efficient service with no paperwork and with very low overheads. Hawala is based on a barter system between two informal financial dealers. They eventually settle their books through the physical transfer of cash, using regular banking systems or undertaking a series of investments or commercial transactions (Kleemans et al., 2002:120; Munshani, 2005; Passas, 1999; Van de Bunt, 2008). In the main findings chapters of my thesis, I will discuss case studies where unofficial moneylenders use the Hawala channel to fuel the bulk purchase of human beings as slaves for their owners. Subsequently, daily interest is paid back to their illegal bankers on the sum advanced for the purchase of slaves. These interest payments are covered by the bonded or forced labour of the slave in whatever form that takes.

Hawala-system bankers generally belong to a certain ethnic group or community and have strong social and community ties. It is part of the core irregular finance system in the cultures of several Asian ethnic communities, in areas of India, Pakistan and Afghanistan. In Pakistani or Afghani communities, it has socio-religious or tribal backing, while in the case of India Bankers within the Hawala system do belong to a certain caste or clan within the business class, making Hawala accessible to all. (Munshani, 2005). Such a banking system is driven by economic growth, with the security of the system being largely dependent on honour, track record, word of mouth publicity and trust. According to Van de Bunt (2008), Hawala banking has been banned by every government (Schramm and Tube, 2003: 409 in Van de Bunt, 2008).

According to Van de Bunt (2008), Hawala banking can be used for all forms of criminal activity, including tax-avoidance and money-laundering. In recent research, based on interviews and case studies, Passas (2005) confirmed that the Hawala banking system is capable of moving around and investing large sums of money on behalf of criminal networks. Detailed research by Thompson (2006) on such Hawala dealers in Afghanistan found large fluctuations in their transactions during the poppy cultivation season. The inference that the researcher draws from this is that much of the drug trafficking from the country is financed by the Hawala system and the proceeds laundered through it too.

Van de Bunt (2008) brings to light at least three cases involving three Hawala bankers of Pakistani, India and Afghan origin who were the unofficial bankers for drug traffickers across key source and destination countries. In these cases, the Hawala bankers laundered money and guaranteed payments on behalf of both human traffickers and drug traffickers. Of the three, the banker of Indian origin did not keep any written record, so it was impossible for the authorities to gather much information from him. In one of the other case studies Van de Bunt focuses on, a banker is recorded as having dealt with human smugglers and guaranteed payments to the smugglers from the recipients of the services. The first case study had a cash flow of more than \$6.5 million (USD) from a select number of transactions that were identified from seized documents. In the second case the banker kept no records but the

authorities project his earning as being around €500,000 in a period of six months (Van de Bunt, 2008).

There are a number of methods used by criminal networks to bypass the regulatory systems including physical hoarding, the transfer of funds through dealings in cash, the conversion of cash into easily-transportable high-value commodities, and the use of a benami account or third-party account within regular banking channels. The key advantage of using a Hawala banker is their ability to transfer vast sums of money in any currency for a commission, and their ability to settle the transaction and stand as guarantor for the safe transfer of funds from or for any criminal transaction. Hawala banking in several countries underwrites the financial transactions underpinning the growth and development of human trafficking. In order to trace them one needs to be able to identify the location, network and means of communication through surveillance methods and be able to map the extent of their transaction with their clients and with other unofficial bankers.

My literature chapter begins with understanding the evolution from chattel slavery into the various contemporary forms of human trafficking that we see today. In response to the growth of human trafficking into various exploitative forms, the global community and the US government came together to develop the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, 2000, and the US Victim of Trafficking and Violence Protection Act, 2000. Post the creation of these legislative instruments, I look at the baseline situations of human trafficking in the EU with a focus on the various dimensions of the problem in the UK and the Netherlands. I also look at the baseline analysis of the problem in the Indian sub-continent. I then study the impact of the various challenges, from the ability of human trafficking networks to thrive within business models within a global context, to understanding the cultural impact of patriarchal systems and the policy impact of continuing the Indian model of emancipation in an independent India. I then look at the linkages between human trafficking and criminal networks and the various mechanisms of control and modus operandi used by criminal networks to perpetuate the growth of the crime. I then try to understand human trafficking from a market perspective, and the role of consent, demand, lawyers and illegal banking channels in the growth of human trafficking today. Having explored the current challenges surrounding human trafficking, I will now suggest some key gaps in the literature, some of which this thesis aims to address.

### ***3.14 Gaps in the literature on human trafficking***

As already suggested, human trafficking is today considered a leading transnational crime along with the trafficking of drugs and arms. Whilst not debating the severity of the issue, it is difficult to find the basis for such a claim used to come to this conclusion. If anything, case studies on human trafficking point to the fact that its extent and reach may be far more global than initially thought. The list of gaps in the available literature is significant. The content and format of the majority of studies are repetitive and appear to be recycled, so much so that often the reports are indistinguishable from one other

(TWCI, 2005:23). As a grassroots professional, the reports appears to me to be based on secondary information, expressing a high degree of outrage but with very limited or no evidence of application at the grassroots level. So far there have been very limited studies that have dealt with the issue of forms of human trafficking outside of the sex industry, such as forced labour, domestic servitude, organ transplantation, etc.

According to Sanghera (1999), the discourse on trafficking in South Asia is dominated by assumptions not founded on any evidence-based data or research. She states that there is an urgent need to develop and fine-tune methodological aspects such as theoretical constructs, methodological principles, research techniques and tools and methods for collecting data on trafficking (Sanghera, 1999: 27). Most studies fail to undertake an in-depth analysis of the issues and aspects of human trafficking from the available data and, as a result, fail to paint a realistic picture of the scope of the problem of trafficking, what sustains it and why it occurs. The varied dimensions and aspects of trafficking and their interrelationships need to be examined at length, instead of being accorded superficial treatment, whether the focus of the study is trafficking and migration or trafficking and organised crime (TWCI, 2005: 23).

An important question which needs to be addressed is, why, among people in similar positions of vulnerability, do some get trafficked while others do not? Also, adequate information on the involvement of organised crime is not available, nor is there enough knowledge of traffickers, their networks and organisations. There is a lack of clarity too on the role of the various players in trafficking networks, and on the detail of their socio-economic profiles (TWCI, 2005: 24). Sanghera (1999: 27) has urged that methodological guidelines should be developed on how to study an underground phenomenon, so as to fill in the gaps in the data on traffickers and organised crime syndicates. While it can be argued that sensitive data cannot enter the public domain, where it might jeopardise ongoing and future convictions, it remains the case that research attention has not been focussed on traffickers. Admittedly, any area of organised crime is difficult, and dangerous to research, but it is very important that this work is still done as, currently, it is clear that there are significant gaps in the criminological research concerning traffickers.

The demand side of various forms of trafficking has also not been adequately studied with hardly any attempt made to understand its patterns, depth and trends. It is unknown whether the demand side of human trafficking is driven by its consumers, whether human trafficking is very profitable for its operators or whether both factors serve a mutual interest between the suppliers and customers (Kelly, 2002: 33). Contrary to general perception, a study in India (Pandey, 2002) has shown that developed areas with improved infrastructure have invariably been the source, as well as the destination for trafficking in children and women, with the bulk of victims being landless labourers exploited for daily wages. Further research is needed to understand the intersection of the affluent and the poorer sections of society to fully understand and explain what makes victims vulnerable to trafficking.

While there are references to the nexus between politicians, law enforcement, social services, and non-governmental agencies with regard to human trafficking in the media in India and the UK, there are no reports to corroborate this information. Information on government strategies or strategies for civil-society and government partnerships, including their measures, responses, and preventative plans in tackling human trafficking, is limited as is information with a focus on the tackling of human trafficking from a transnational perspective. Related data such as transnational efforts, cases, mechanisms, strategies, plans, infrastructures, and the capacity of government schemes and organisations in tackling human trafficking as a global crime, is unavailable or limited in the various pieces of literatures on the subject. Equally, data or studies on anti-trafficking networks and their activities are almost non-existent (TWCI, 2005: 24). None of the countries profiled or studied have any long-term record of women or children who have been successfully reintegrated.

The use of summary measures by government agencies and their impact in the forms of bans, fines, deportation and the demolition of brothels have not been studied; neither has the role of international and bilateral sanctions impacting trade with a country if it is consistently found to have a poor record in dealing with human trafficking. There is very little understanding of the re-trafficking of a victim after the state and/or civil-society groups have rescued them. It is unknown what effect the complicity of corrupt state officials and the impact of a betrayal of trust have on the victims. What literature there is on trafficking does not discuss the many deep complexities of the issue. For instance, though people are trafficked for different purposes, some forms of trafficking and their modus operandi and methods of control for trafficking have laws governing them while other forms of trafficking, or accompanying modus operandi or methods of control may not even be known to the various governments tackling human trafficking. I have found through the case studies that the trafficking modus operandi for various forms of trafficking show a remarkable similarity and common points of intersection such as for example the criminal networks and the corrupt elements of the state and civil society groups involved. As such, their victim protection needs are similar independent of the situation they will meet after being trafficked. Further studies need to answer the question of whether it is time for the drafting of a uniform law and international framework which would deal with human trafficking as a whole, without differentiating between the different markets for trafficking (forced prostitution, child or bonded labour, sex tourism, etc.), and if so, how this is to be implemented.

The UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, 2000, may have produced a response that permits its provisions to be manipulated by the domestic agendas of border integrity, public nuisance and the suppression of vice. To the extent that this is so, there is a great deal that might usefully be learned by focussing anti-trafficking attention not only at the international and regional level, but also at a national and local level, and more specifically within that context, on both the policies put forward and their practical implementation (Munro, 2006). The US Government Accountability Office (US GAO, 2006) states that they could not come

across any study examining the relationship between the tolerated or legalised prostitution and the number of women and children trafficked into the sex trade. They also stated that very little was known of trafficking in countries where the number of recorded victims was less than 100.

### **3.15 Conclusion**

After setting the stage with the reasons, purposes and the context for undertaking this research in Chapter 1, I delved into the historical context of slavery and its evolution to chattel slavery and then, in response to the abolition of slavery and efforts to tackle it, evolved itself into contractual and various other forms of slavery. This evolution, as we have seen, was aided by poor strategic understanding of the extent of the problem, reasons of commerce, and the active connivance between elements of state and civil-society to ensure the viability and profitability of investments made in various forms of commerce around the world. The two also actively worked together in perpetuating the spread of religion, which in itself is a very profitable commercial enterprise.

This chapter tracked how chattel slavery evolved into its various contemporary forms, and examples of them were documented in different parts of the world. It looks at the various factors surrounding human trafficking that make it such a complex problem. This chapter looked at theoretical and policy issues, but also organised crime, societal structures, globalisation, the role of capitalism through the networked multinational business structures operating globally among various other factors. It takes a more detailed view of the manifestations of the problem from a European and a South Asian perspective, and then it delves deeper into the contexts of slavery in India and the UK, as a number of case studies in the main findings focus on India and its neighboring countries and, in some cases, on the United Kingdom, the Netherlands within the European context. The chapter looks at the various challenges in this area of work and how this crime can reveal a much deeper problem within the society that it takes root in. The chapter hopes to capture most of the factors one needs to know and understand around the subject of human trafficking, to give the reader a complete context within which both my theoretical approach and the main findings fit. The drive to find a comprehensive solution requires such depth and academic rigor if both the development of the multidisciplinary model and my research is to achieve its true potential of being a game-changer and a seminal piece of work on human trafficking and models of governing security.

My thesis, being grassroots-based, brings to light the institutional failure by the state and civil-society groups and how it is a contributing factor to the growth of human trafficking. In my study, I look at the evolving nature of human trafficking criminal networks and reveal the depth and extent of the problem facilitated by these criminal networks. When I started my research into human trafficking there was just one book available in the Edinburgh University Library on human trafficking, by Askola (2007), which explored some of the policy initiatives within European countries to control human trafficking. In the six years since starting my research there has been an explosion of academic interest and work on this subject. The literature chapter is reflective of my journey to delve deeper in

order to understand and map the academic literature on the subject. This literature chapter provides an overview of the international policy framework, the key players, the debates, the challenges, the interplay of human trafficking with other social factors and the role of criminal networks. It provides me with a platform from which to delve into the methodological and theoretical framework for my research. This chapter has highlighted the complexity and extent of the phenomenon of human trafficking and has considered the many gaps in knowledge, and obstacles to effective intervention that currently exist. The Chapter 4 sets out the methods of inquiry I have adopted in order to explore some of these hidden realities.





## Chapter 4: Methodology

### 4.1 Introduction

Human trafficking is one of the most complex, well organised, and well networked types of transnational crime in the world today. Lazos (2004) states that human trafficking is part of a larger intricate and interconnected illegal market dominated by criminal networks in which various kinds of illegal commodity are traded to meet a variety of both needs and desires of society, driven by access to money and power. This market depends, for its sustainability and growth, on deep linkages with governance structures that design and implement the rule of law within society. As discussed in Chapter 3, human trafficking is a dangerous topic to research due to the sheer scale and complexity of the crime, which makes it very difficult to quantitatively estimate the true number of people trafficked or the global revenues from the crime. The crime occurs within the domain of criminal networks that conduct their operations embedded within communities, with filtering mechanisms that weed out any risks or evolve their mechanisms to any risk. These criminal networks are extremely cautious about admitting any outsiders into their ranks and are ruthless in their decisiveness if any member is associated with any risk to the criminal network (Lazos, 2004). The hidden nature of such a crime, the violence and influence of the perpetrators, the complicity of state and civil-society groups and the silence of the masses, make human trafficking one of the most difficult subjects to research. The sophistication of the crime and the lack of direct official data make standard research methods and practices conducted by a researcher open to inaccuracy. This may be because of the risks involved in gathering data and the issue of fair access to closed criminal settings. The information available in the public sphere is often based on secondary or analytical data taken from general crime data, which may be projected and hard to verify. Lazos (2007) states that he had to constantly change his methods to keep pace with both an increasing volume of academic research on the subject with different ideas and with the constantly evolving, complex, networked nature of human trafficking as a crime. As a result, field research in human trafficking is difficult, challenging, full of agendas, vested interests and it takes a significant proportion of one's time to get a clear understanding of what is actually transpiring at the grassroots level in the world of human trafficking. I have discovered one of the significant challenges in researching such complex subjects is the time it takes: It has taken me, with the support of my supervisors, a total of nearly eight years to work on this research and the enormous challenges faced to achieve its conclusions. To do it justice, the amount of time it would take may often amount to professional suicide (Rasmussen, 1989).

Aromaa (2007) reinforces the challenges surrounding studying human trafficking by stating that data on the subject is scarce, unreliable and cannot be compared due to varying definitions of human trafficking, within both a national and international context. The volume of accurate data necessary to study the subject does not exist, as a number of studies on the subject are based on indirect sources. The key institutional sources being the data collated by the UN, The Office to Monitor Trafficking of

Persons part of the US State Department) and data on repatriation and migration collated by the International Organisation of Migration (IOM) (Aromaa, 2007).

#### **4. 2 Framework of study: methods and approaches**

This thesis offers a holistic and multifaceted view of the world of human trafficking and those who tackle it. It will attempt to define this world through concepts, terms and explanations that are unique to human trafficking as a type of organised crime. I have sought to capture the perspectives of those combating human trafficking and the complexities they face, through observations of agencies and civil-society groups on the frontline of tackling this crime. As Van Maanen and Kolb (1985, p.11) observe, ‘gaining access to most organisations is not a matter to be taken lightly but one that involves some combination of strategic planning, hard work and dumb luck’.

A basic assumption of the ethnographic tradition has always been that any description and explanation of institutions, communities and groups should be followed by seeking an understanding of the culture of their participants. Data about culture, beliefs, values, meanings and definitions, as well as the social interactions within which they are embedded, are collected by a variety of methods. Indeed, one of the hallmarks of the ethnographic tradition is that it has steadfastly refused to be tied down to any particular form of data collection. The main sources of data include forms of observation, unstructured interviews, and documents of various kinds. Typically, however participant observation stands at the centre of any ethnographic investigation (Jupp, 1989, p.57).

The thesis hopes to provide an insight into all of the stakeholders involved, through an array of mixed methods including case narratives, interviews, secondary reports, official statistics, news articles, and first-hand observation. Two primary research strategies and phases are referred to herein, namely, observations and case studies of anti-trafficking casework, strategies, agencies and organisations in India from 2001 to 2015; and observations and semi-structured interviews or conversations with anti-trafficking, child protection or law enforcement specialists and organisations in the UK from 2007 to 2015, and to a lesser degree with key child protection professional and anti-trafficking organisations in the Netherlands. I have chosen to focus on South Asia, led by India, because it is an area where I have worked for the past 16 years and, through the evolution of the multidisciplinary model, where I have had no access issues to explore the answers to my research question. I choose the UK, to a limited degree, as a natural progression of the interactions I enjoyed with UK law enforcement officers posted in India, the same goes for the Netherlands, where it was a natural progression of civil-society leaders that I engaged with before starting my PhD. The engagement with officials in both the UK and the Netherlands has grown over the course of the PhD and today, in 2015, stands at a significant level where active, joint casework is being done by various government enforcement agencies and civil society organisations in the areas of both targeting human trafficking criminal networks and child sex abuse networks.

Many of those involved in combating the crime must, out of necessity, be secretive in the way they function. This is due to the high level of risk involved for those working in this field, and the need to maintain witness protection for both witnesses and victims of trafficking. This research looks at the response and counter-response between the state and the criminal organisations. An analysis of action and reaction, between those fighting this crime and those that perpetuate it, should give insight into the process of evolution within organised crime and the counter-evolution of state efforts to control it. One primary focus of this research is to bring to light an evolving criminal justice, enforcement or security infrastructure that has responded to the position of human trafficking as an evolving global crime, without endangering those who work in the field. This research gives examples of this emergent infrastructure, consisting of joint state-civil society institutions, partnerships, strategies, laws, and judicial structures.

In addition to other sources of information, such as through governments and direct field action research, Aromaa (2007) states that non-governmental organisations (NGOs) could be a key and vital source of information on various aspects of human trafficking. In the case of governmental sources, the focus of gathering the information is largely for investigative purpose, generic recording of crime, monitoring of migration with very little on victims of trafficking or the routes of trafficking. The key gaps in gathering data from NGOs are the absence of gathering evidence in a standardised manner with clarity on definitions and recording of deviations, i.e. a common agreed method to gathering and recording data in an ethical manner. If these gaps are rectified, data from NGOs can give reliable qualitative and quantitative data on several parameters of human trafficking such as victimisations, trafficking routes and the percentage of victims trafficked within and outside borders. During the course of my research, in addition to other methods and sources of data, I have tapped extensively into the hitherto unresearched mine of data available from NGOs that work closely with the government, judiciary, communities, civil society leaders and the media to tackle human trafficking.

#### **4.3 Description of the sites of research**

As chapters on slavery and on the literature on the subject indicate, the Indian Sub-continent represents an area that not only has the most highly evolved markets of slavery but also, through the Indian model of emancipation, represents the bedrock on which human trafficking evolved into the twenty-first century. In 1841 it was estimated that a million individuals were in slavery in (undivided) India. At the turn of the twentieth century estimates put the figure at nine million (Miers, 2003). In 2014 an estimated 17 million individuals were estimated to be in slavery across South Asia (Bales, 2005; Global Slavery Index, 2014). The research and development of both the growth of human trafficking and the key to addressing it lies in the Indian sub-continent, due to the highly evolved and widespread nature of the problem, the size of the population and the economic importance of the whole region. The region and its neighborhood include major emerging economies like India and China both of whom historically accounted for 50% of the world's GDP in the seventeenth century and have the same emerging economic potential from a present future perspective. As explored in

chapter 2, taking into consideration the fact that historically the drive to profit from slavery by the erstwhile British East India Company and Indian local rulers led to the Indian model of emancipation. This model served to evolve an already sophisticated chattel form of slavery from the impact of Eastern slave trade and the caste system (a more ancient form of slavery) engrained within society into a contemporary contractual form. The Indian model of emancipation dominated increasingly by women and children in labour intensive markets around the world was implemented in the Indian sub-continent and on its success was replicated across other labour intensive markets within various colonial empires and ancillary regions that led directly to global contemporary modern day forms of human trafficking. Similarly, work by a range of movements against slavery and colonial rule, independence and anti-slavery movements including two world wars, led to change in the form of institutions that developed the concept of sovereignty, of parliamentary democracy, rule of law and a global partnership among nations. These ideas for change was best captured in the actions of an inspired group of enlightened individuals that created and developed the unique, non-violent form of civil rights movement for independence. The achievement of Independence in India had a massive impact in the Indian Sub-continent and in other countries within the erstwhile colonial empires, both in terms of independence and civil rights movements across the world. This movement towards sovereignty of nations at the end of World War Two, was brought about largely by the determination of the US to ensure that at the end of the war colonial empires would not be re-established, thus ensuring the liberations and independence of various countries within the colonial empires.

The goal of this PhD is to research a range of models and counter models that tackle human trafficking in the Indian Sub-continent and through its links with the UK and the Netherlands. This is essential to my research both in terms of financial and intellectual support for the ongoing work to tackle human trafficking within an international framework. It is also key in countering efforts of criminal networks that have seen trafficking routes established between South Asia and Europe that facilitate both members of criminal networks but also severely victimise those victims that it targets. Since the Indian sub-continent has played a key historical role in the evolution of sophisticated slave markets and their links to other areas where human trafficking occurs. Also given its limited resources, its cost efficient and replicable ways of tackling the problem, it is the battlefield where through designing and pioneering a proven anti-human trafficking model in the region can be replicated globally. After contextualising such a model to various local situations and scenarios a comprehensive inter-linked solution to the global problem can be found or vice versa a similar evolved model will emerge from the stables of the criminal network that will be recorded in history as the turning point for the continuation of slavery into the next century.

The focus of this research is mainly on India, with regional and transnational implications from India to South Asia and Europe respectively. The focus on the UK and the Netherlands is limited to transnational casework from South Asia with links to the UK and the Netherlands, and in relation to that meeting with other experts from governmental and non-governmental organisations with regards

to models they were adopting to tackle various forms of human trafficking and child sex offender networks internally and internationally in both these European countries. As a practising lawyer, I started working on cases in the criminal justice sector in India in 2001. These were early days in the study of human trafficking, as countries were only beginning to slowly understand the problems surrounding the crime. India has a population of 1.1 billion people; twice that of Europe. Human trafficking in India, according to various state and international reports, is a significant problem. India is a source, transit and destination point involving, not just neighbouring countries like Bangladesh, Nepal, Tibet, Pakistan, Sri Lanka, and Myanmar, but also countries in South East Asia and Europe. Girls from Eastern Europe, Russia, Uzbekistan, Azerbaijan and, recently, even from Germany have been trafficked into India.<sup>17</sup> Equally, children and adults from India have been trafficked to all corners of the world. India is a transit, source and destination country.<sup>18</sup>

One consequence of the Trafficking Victims Protection Act, 2000, US legislation was the direct impact its implementation had on India. India was among the first focus countries (the others were Thailand and the Philippines) in which International agencies established its base of operations, and Mumbai was its gateway into South Asia. I witnessed first-hand as a lawyer in the field, how the joint casework of the police and unitary model (described in Chapter 7) in India, alongside lobbying from several other agencies, helped to develop the Trafficking Victims Protection Act, 2000, and the Office to Monitor and Combat Trafficking in Persons (GTIP) of the US State Department that monitored the implementation of the law. Over the next four years the work of US based international agencies, its partners and several other anti-trafficking agencies, and their ability to influence US government anti-human trafficking policy, led to President Bush's human trafficking initiative under which \$82 million (USD) was set aside in 2004 to combat international human trafficking. I found myself, once again, as an active participant at the centre of this initiative in South Asia.

Given my involvement from 2001 onwards, from the start of this entire anti-human trafficking process in South Asia, I feel that the lessons learnt and progress made by the international community, including South Asians, in the area of tackling human trafficking in India and South Asia has had global implications. The work on the anti-human trafficking sector in India, in terms of innovative techniques based on low resources, is at a much advanced stage because of the efforts in this direction

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<sup>17</sup> US State Department country reports from 2001 to 2009. On the 4<sup>th</sup> of October 2009, the National Commission for Women stated that more than 600 districts were affected by human trafficking. NCW also states that there are over 2.3 million women in the sex trade, of which 43% were trafficked when they were under 18 years of age.

<sup>18</sup> This is based on the findings of the US State Department, Trafficking in Persons Reports from 2001 to 2009 on India and South Asia. The evidence of a German girl being offered to a Western customer in India was told to me in casual conversation by a Western tourist during my field trip. I immediately had this information passed on to the relevant law enforcement agencies for immediate action under Indian law.

since the start of anti-trafficking efforts in 2001. Whereas, from my research observations and interviews, the work in Europe in this sector started much later, though it is now making significant progress. Currently European governments are still making attempts to comprehend the scale of the problem and how they might respond in tackling it under a recessionary economic environment. All of these reasons, including my familiarity with the territory, make India an ideal strategic location in which to base my PhD research, in order to get a more in-depth view of human trafficking criminal networks and what the various models in the development of tackling the crime might look like.

The UK was chosen as an area in which to build upon the potential for transnational casework linking South Asia and the UK because during my previous involvement with international British-based charities, which started in 2005, I had gained exposure to agencies tackling human trafficking as an organised crime and made connections within both charitable and government agencies working in this sector. My work prior to my PhD involved working with a British-led coalition of 2000 charities which was coordinating community intervention and advocacy, built around the public interest in the 200th anniversary in 2007 of the abolition of the slave trade in the UK. During these interactions I had opportunities to meet and engage with some key individuals who, as a result of the success of the initiatives of 2007, are today at the frontline of advocacy regarding human trafficking in the UK. During my research I took advantage of the access given by these contacts to regularly meet and follow up with the related agencies as part of my PhD. With their permission I also followed a number of their initiatives within the UK, which have been featured in this thesis as examples of state-community partnerships tackling human trafficking. Furthermore, I met with different UK law enforcement agencies through contacts made in India, in these meetings we discussed the extra-territorial or cross-border nature of human trafficking travelling child sex abuse cases. The work with the government agencies in the UK has, in 2015, led to three convictions in the UK of child sex abuse criminal networks, charged with abusing children both in the UK and other parts of the world. It has also facilitated cooperation between state and civil society groups between the United Kingdom, Netherlands, India, Bangladesh, Nepal and Sri Lanka leading to over 15 ongoing prosecutions transnationally on child sex offender networks causing harm to over 1400 children. As a direct outcome such research bargains I was able to share ideas and strategies being implemented in India, which led to further casework and evolving discussions with government and civil society groups on the different strategies they were adopting to tackle human trafficking in the UK. This approach gave me access to study and understand the agencies, people and perspectives that would help me build up a picture of the efforts to combat human trafficking in India and UK and the implications of these efforts for South Asia, Europe and the world. The research bargain also led to me being able to share my research findings at both Europol and Eurojust in 2012 and 2015 led to casework between enforcement agencies and civil society groups in India and other countries in Europe.

My background and role of working at grassroots-level as a lawyer on cases of human trafficking has enabled me to gain access to senior frontline professionals working in this field and to benefit from

their input. Over a period of time, this has helped me, through the snowball sampling method, to network with anti-human trafficking government agencies and civil society groups in the UK, US, the Netherlands and South Asia. In addition, working on cases of trans-national trafficking within South Asia, and between India and Europe, has also strengthened my relationships with key people in such groups in these locations. This has been helpful in gaining knowledge of the groups' work and the strategies which they employ in tackling human trafficking. This access has been critical for me in gaining answers to my research questions on human trafficking and governing security across both regions.

This thesis draws upon the observations of anti-human trafficking work in two distinct phases: in India from 2001 to 2015, and transnational casework between South Asia and the UK from 2007 to 2015. The first phase is an analysis of organisations and anti-trafficking models from 2001 to 2007, prior to the start of my PhD, and the same from 2007 to 2015 during the course of my PhD. My thesis will draw upon relationships, interactions and observations I have had as a legal professional with state and civil society agencies in India, Nepal, Bangladesh, Sri Lanka, the UK, the Netherlands and the US. The research will also draw upon cases, dealt with by various anti-human trafficking agencies, which appear in the public domain. The case studies that have India as a central focus necessarily occur across destination locations, trafficking routes, transit points and source areas in South Asia and also have links with Europe.

#### **4. 4 Ethical considerations**

Israel and Hay (2006) emphasise that research today is interconnected at both a local, national and international level. If any of the research methods or findings are questioned or gathered unethically it undoes the framework on which strategies and policies around a subject is built and, thus, affects us all. According to Cloke et al.:

‘There exists no neutrality in research, when we undertake research into any subject and immerse ourselves in the process we become part of that world and our actions have an enormous consequence not just upon those with whom we have a direct contact but also on those linked with them. We have a responsibility not just to avoid harm upon research subject especially upon victims of a crime but also to ensure that through the research process they directly benefit. Ethical standards play a huge role in ensuring this safeguard and ensure through a process of negotiation and re-negotiation that these ethical standards are worked out in the wide and varied context of social research.’ (Cloke et al., 2000: p.151)

Kellehear (1989) suggests that ‘ethical conduct is at the root of seeing and interpreting relationships.’ Israel and Hay (2006: 157) state that ‘open disclosure is the cornerstone of ethical integrity, providing the foundation for research participants to give informed consent.’ Researchers have an ethical obligation to communicate their findings in a manner that does not distort their work and cause anxiety for research participant, key informants and gatekeepers. It is important that researchers maintain a high degree of control over how they report the research information. It is key that researchers ensure that their research is not misrepresented (Israel and Hay, 2006: 157).

Discussions about ethical principles in social research tend to revolve around certain issues that recur in different guises. They have been broken down by Diener and Crandall (1978) into four main areas:

- Whether there is harm to the participants;
- Whether there is a lack of informed consent;
- Whether there is an invasion of privacy;
- Whether any deception is involved (in Bryman, 2008, p.118)

I have taken as many precautions as possible to ensure that no harm, invasion of privacy or deception whatsoever is involved with or exposed to the participants of the research in any form. One way I have pursued this has been by ensuring that the research methods do not involve direct interaction, for example interviews, with the victims of human trafficking. The research focuses instead on organisations, case narratives, observations, secondary data, mass media and in-depth interviews with key informants within the organisations involved. The research complies with the provision of the Data Protection Act in ensuring that personal information, where there is any (for example interview notes), was fairly and lawfully processed, and done so for the limited purpose of this research only and that the recording of such personal information was adequate, relevant and not excessive, that it was accurate and up-to-date, not kept for longer than necessary, kept securely and not transferred to other countries without adequate protection. The challenges surrounding the issue of confidentiality are addressed in detail in the following subchapters.

#### ***4.4.1 Organisations observed or studied and key informants interviewed informally during the course of my PhD research:***

In South Asia:

- International Justice Mission, with a presence in more than 13 countries worldwide
- Oasis India, with offices in Mumbai, Bangalore and Chennai, and founder of the ‘Stop the Traffik’ worldwide movement
- Justice and Care, with a presence in 6 countries worldwide
- Catholic orders and their partner charities, including St. Catherine’s home and Advait Foundation, Bal Prafula, Don Bosco
- Rescue Foundation, one of the leading anti-trafficking agencies that specialises in dealing with victims from Nepal and Bangladesh
- STOP Delhi, a leading anti-trafficking agency that made the transition from a prosecution strategy to a community-based initiative to stop the spread of AIDS, as a result of funding concerns
- Prayas Delhi, a leading shelter and care-provider for vulnerable children in Delhi
- Sanlaap, a leading advocacy, networker and care-provider in the eastern part of South Asia
- Prajwala, a care-provider with a medical and vocational training focus
- Save the Children, India, an advocacy charity



- Bachpan Bachao Andolan, focusing on child labour in India
- Shakti Vahini, a youth movement in India
- Prerana, a care-provider in Mumbai
- Impulse NGO Network, a networking and training charity in North East India
- Maiti, Nepal, the main charity in Nepal. The Rescue Foundation was a spin-off from Maiti, Nepal
- Bangladesh National Women Lawyers Association (BNWLA), the dominant anti-trafficking charity in Bangladesh
- Rights Jessore. An anti-trafficking charity in Bangladesh
- Childline India, India's largest quasi-governmental charity that focuses on vulnerable children
- World Vision, an individual care provider
- Various smaller shelter homes

**Donor agencies:**

- USAID, the United States Agency for International Development
- UNIFEM, the UN mission for the empowerment of women
- UNICEF, the UN mission for the empowerment of children
- Department for International Development (DFID)
- Children's Investment Fund Foundation (CIFF)
- Groupe Development, a French transnational agency
- UN Office on Drugs and Crimes, a UN mission to deal with organised crime
- Academy for Educational Development, an implementing vehicle for USAID
- US Department to Monitor and Combat Trafficking in Persons (GTIP), the world's leading policy driver on human trafficking
- Spring Harvest Charitable Trust, a faith-based community in the UK
- New World, a faith based community group in the UK
- Panahpur trust
- Harvey Fellows

**South Asian Government agencies:**

- Various police forces across India and Bangladesh from the states of Maharashtra, Kerala, Karnataka, Telengana, Andhra Pradesh, Orissa, Rajasthan, West Bengal, Uttar Pradesh, Delhi, Bihar, Assam, North-Eastern States of India, Tamil Nadu etc. Sylhet, Dhaka and Cox Bazaar in Bangladesh
- The Central Bureau of Investigation (Federal Indian police agency)
- Child welfare judges in three cities
- The Department of Women and Child Development

- The Ministry of Home Affairs from India and Bangladesh
- Various state labour departments across India

**UK civil society groups:**

- ‘Stop the Traffik’, an advocacy and campaign group in the UK
- Oasis International, a care-provider for vulnerable youth
- Salvation Army, a care-provider
- Anti-Slavery, an advocacy group
- The Helen Bamber Foundation
- Chaste, a coalition of a collection of churches
- The ‘Poppy Project’, a leading care provider in the UK
- Croydon Community Against Trafficking, a leading community initiative in the UK
- Hope for Justice, a charity formed from the ‘Stop the Traffik’ movement and which currently focuses on advocacy and awareness

**UK government agencies:**

- The Serious Organised Crime Agency, the principle investigations agency, allocating 15% of its resources to tackling human trafficking now known as the National Crime Agency (NCA).
- Child Exploitation Online Protection, providing online protection for vulnerable children now an NCA command
- Lothian and Borders Police, Scottish police forces now Police Scotland
- Strathclyde Police, providing some initiatives in the area of human trafficking now Police Scotland
- Hertfordshire Police, Bedfordshire Police, Norfolk, Suffolk, Dyfed Pows, Dorset. This has grown extensively during the course of the PhD and all with the NCA as a focal coordinating point
- UK Human Trafficking Centre, a coordinating centre in the UK now merged with the National Crime Agency
- London Metropolitan Police, focusing on transnational cases from London
- UK Border Agency, focusing on entry and exit points to the UK now split into three entities one for the grant of visas, one for border enforcement and one for close support coordination resulting in active disruption of people smuggling and human trafficking networks transnationally

**Case studies analysed:**

- 109 case studies undertaken by the researcher in Mumbai from 2001 to 2006
- 275 case studies involving 1,500 lives studies undertaken by the researcher in South Asia from 2007 to 2015

- 20 transnational case studies between Europe and South Asia between 2007 and 2015
- A narrative report on the various anti-human-trafficking strategies in India from 2001 to 2015
- A three year report and analysis on all meetings, informal interviews undertaken as part of the PhD research from 2007 to 2010
- Analysis of a multidisciplinary strategy and security model involving proactive and reactive components in South Asia, piloted during the course of this research from 2007 to 2015
- Analysis of a community-interventions strategy in the UK from 2007 to 2015
- Cases on India from the book *Trafficking of Women and Children in India* by UNIFEM
- Indirect research data on human trafficking from civil society groups and government agencies in the UK
- National Geographic documentary on US border agencies
- Sky television documentary on the UK border agency
- 'Panorama' documentaries on internal trafficking within the UK and on the new push-back policy towards refugees and economic migrants in Europe
- Press articles on human trafficking through Google News alerts from the past eight years

I have listed some of the state and civil society groups during the eight year tenure of the research that I have studied, observe or whose key functionaries and gatekeepers that I have had a chance to interact with through the research bargain approach. The key focus for me throughout was casework and solutions to each complex case with no personal agenda involved. Even in pursuing this research the goal has always been the drive to understand the subject in such depth such as to propose a comprehensive way forward in solving the problem. In keeping with that focus and always seeking no credit to myself through any form of publicity and years of carefully built grassroots credibility I was able to build a network of organisations and individuals some of the key one recorded above is seeing and recording the problem from their perspective.

#### ***4.4.2 Informed consent***

According to Israel and Hay (2006), consent should be informed and voluntary where the participants need to, firstly, comprehend and, secondly, agree voluntarily to the nature of the research and their role in it. The consent from participants can take various forms and would need to be continuous and, in some cases, publication of the research would need fresh consent. Faden and Beauchamp (1986) state that informed consent has to be a decision taken by the participant independently without any level of force or manipulation and every decision taken by the participant in a lucid frame of mind. The principle of informed consent within this research complies with the British Sociological Association (BSA) statement, which reads that 'as far as possible participation in sociological research should be based on freely given informed consent of those studied. This implies a responsibility on the researcher to explain as fully as possible, and in terms meaningful to participants, what the research is

about, who is undertaking and financing it, why it is being undertaken, and how it is to be promoted.’ As a researcher I have complied with this statement by adhering to this during my informal and semi-structured interviews. Even so, as Homan (1991, p.73) observes, it is extremely difficult to present prospective participants with absolutely all the information that might be required for them to take an informed decision about their involvement. In ethnographic research, the researcher is likely to come into contact with a wide spectrum of people, and ensuring that absolutely everyone has the opportunity for informed consent is not practical, because it would be extremely disruptive in everyday contexts. Qualitative research is frequently open-ended, and as a result, research questions are either loose or not specified, so that it is doubtful whether ethnographers in particular are able to inform others accurately about the nature of their research (Bryman, 2008, p.128).

The dilemma for researchers is the balance where, on one hand, deception could compromise informed and voluntary research, and, on the other hand, in some instances it would be hard to get access to participant such as members of the criminal network if a safe cover is not there. Carolyn Hoyle (2000) stated that in some instances a degree of vagueness or duplicity was justified to minimise the risk of violence to victims of a crime and to provide them with the ability to speak freely. In the case of women suffering domestic violence often NGOs will have websites providing support that will shut down and leave no cookies on the device that was used to access the site in case the abusers check the online activity of the victim.

Regarding the use of a signed consent form there was a real danger that the requirement to sign the form would prompt, rather than alleviate, concerns on the part of the prospective participants, and that, as a result, they would end up declining to be involved. It is recognised that sometimes there is a clash between the ethically desirable and the practical. Some researchers like to secure the informed consent of research participants by asking them to sign a consent form. However, it has been shown that the requirement to sign such a form reduces prospective participant’s willingness to be involved in survey research. A recent study in the US shows that 13 % of respondents were willing to participate in a study but not if they were required to sign a consent form (Singer, 2003). In undertaking research in sensitive areas such as human trafficking one has to be careful that bureaucratic process does not close doors or elicit a violent or emotional response (Van Den Hoonard, 2001). In some cases there is a serious risk that consent forms can potentially compromise anonymity or become purely risk disclosure documents (Israel and Hay, 2006). According to Van den Hoonard (2001), in cases of drug trafficking or human trafficking research a consent form had the impact of shifting a relationship with the participant or the power actor/gate keeper from a position of trust to one of mistrust, and of just ticking the boxes to satisfy the requirements of academic research.

I have been able to draw upon my previous and continual professional interaction with both public and private sector agencies from 2008 to 2015. As part of my PhD research I have regularly engaged with the anti-human trafficking sector and with all stakeholders working to tackle it. I informed each

of the stakeholders that my PhD would draw upon my previous experience in South Asia and would undertake a critical analysis of existing anti-human trafficking models through case work and observations both in India and the UK. In addition, my research profile on the University of Edinburgh School of Law website clearly highlights in detail the area and objectives of my research from the year I started (2007) to date. It is key during such research that one employ methods of research contextualised locally to enable participants to make a decision to be part of or to withdraw during the research process (Canadian Sociology and Anthropology Association, 1994). I told them that, as a direct result of the PhD, those working on the frontline of tackling trafficking would potentially benefit through my expertise, knowledge sharing and exchange, networking, case work and my potentially more evolved anti-human trafficking model for implementation. On a number of occasions they would tell me during the meeting that a specific comment was an ‘off-the-record’ comment. The dilemma for me was that sometimes these comments gave me a direct insight into the questions I was seeking to address within the PhD. I would resolve this by incorporating the insight in general terms rather than by any form of direct quotation or attribution. In my discussion with these officials I did not go through a written formal interview form with them (Van Den Hoonaard, 2001, p.10; Israel and Hay, 2000; pp.68–69; Fluehr-Lobban, 2000). As an insider and with a long track record of developing strategies, undertaking casework, research and implementation I was trusted as an expert (Hammersley and Atkinson, 2007). This trust grew during the course of the PhD as they saw the evolution and success of the multidisciplinary model for tackling human trafficking, which I will describe in Chapter 8. The agencies throughout the course of the research to date have helped me with my research without once interfering with resources, access to cases, references etc., which shows their consent through their consistent and continuous support over the past eight years of my PhD journey. A number of them have been acknowledged in the introduction to my research. Under these circumstances, a written consent was not required to fulfil the requirements of informed consent.

In the case of research around many crimes and actions that have associated social stigma, it is preferable to have oral consent as the harm that can be caused by disclosure is discernible (Human Research Ethics, 2001). For one thing, any permission for them to sign such a document would have needed to come from their superiors as gatekeepers, and a gatekeeper is often more concerned about painting a favourable picture of the whole organisation and will keep sensitive things hidden (Seale (ed.), 2012, p.252). This would also have taken an enormous amount of time and resources, which would have derailed my research (Punch 1986, p.36 in Hammersley and Atkinson, 2007). The situation of victim from various forms of human trafficking has a lot of overlapping scenarios with homeless children. In fact homeless children would often be a key target of criminal networks at transit and destination points of trafficking as described in several case studies in Chapter 6, 7 and 8. According to Meade and Slemick (2002), similar ethical challenges arise around research on homeless children where the preoccupation with demonstrating consent has resulted in less research and a consequent gap in the understanding of circumstances surrounding homeless children. In addition, the world of criminal intelligence is a ‘closed’ setting with respect to engaging with researchers, whereas

as an external ‘expert’ the government and civil society stakeholders were generally perfectly happy to talk to me. They did not, however, always feel comfortable with forms and research protocols, which many people associate with intrusive forms of bureaucracy rather than with the enlightened accountability that we in Western universities imagine it to be (Hammersley and Atkinson, 2007, p.210). In addition to the above issues, the world of anti-human trafficking is also a ‘closed’ world; the war against the growing dominance of criminal networks in global crimes carries with it the need for anonymity because of the serious risks and challenges faced by individuals working in this sector (see Chapter 4.4.2).

There are also serious international risks involved in such discussions, as some of the issues mentioned might have implications for the country, with respect to the sanctions regime and trade barriers utilised by Western countries. In the case of most agencies, including Justice and Care, the offices are non-descript and the website will not reveal the identity of frontline professionals working in the area of tackling human trafficking or any other organised criminal activity. In terms of achieving, what seemed to me, an ethically acceptable research practice, and one that was satisfactory from the point of view of my respondents, I made every effort possible to inform the officials with whom I spoke of my PhD and the fact that my past experience, my present field trips and, specifically, any meetings conducted during these field trips would contribute towards my thesis. They were fully aware that at any given point they could have refused the meetings or clearly told me that they could not be quoted on certain statements. I am confident that participants in my research gave voluntary and fully-informed consent, even if it was, on most occasions, culturally and/or situationally inappropriate to record this on a form (Australian NHMRC’s Human Research Ethics Handbook, 2001a, in Israel and Hay, 2006, p.69; Watkins, 2002, in Israel and Hay, 2006; p.70). According to Israel and Hay (2006) consent is unnecessary when public officials and public space is involved, or when harm outweighs any public benefit. Research undertaken on publically available information or observational studies undertaken in public spaces do not require informed consent (Brewster Smith, 1979, Reiss 1978), Israel and Hay (2006, p.73).

I have taken every feasible step to ensure that no participant is identifiable from anything written in this thesis. In addition to this informed consent, all the case studies and analysis engaged in for this thesis are derived from public documents and/or were all featured on the public blog I started and maintained throughout the course of my research. During the entire process of my PhD I did not see, as stated by Fluehr-Lobban (2000), informed consent as a form but rather an opportunity to engage with the participants about my research. Watkins (2002) has called for research to move from an equation of research by consent to mutually beneficial, collaborative and participatory practices (El Dorado Task Force, 2002). This captures in words the manner in which I have gone about engaging with my research participants. They have benefited from my research journey which is reflected in the successful casework, in tackling cross-border criminal networks, in giving feedback and developing law and procedures to tackle various forms of human trafficking in both India and the UK.

#### **4.4.3 The need for secrecy**

‘A promise of secrecy is equivalent to keeping silent or, possibly, to guarding a confidence.’  
(Israel and Hay, 2006; p.79)

The world of human trafficking and anti-trafficking is one that is hidden from the public gaze. Because of the high degree of risk involved, many of the agencies featured in this research at the frontline of combating human trafficking have unmarked offices to make it harder for perpetrators to be able to organise regular surveillance of them, some of them change their offices on a regular basis. The burden of confidentiality under such circumstances is on the researcher to ensure that no adverse effects befall the participant because of our entry into their lives (Lowman and Palys, 1999, p.30). When one studies hidden communities one has to pay attention to everything that participants express in interviews and conversations. Those being interviewed might be reluctant to reveal details about themselves if they think the information could be freely disseminated to third parties (O’Neill, 1996; Van Maanen, 1983). This is something applicable to all researchers (Holstein and Gubrium, 1995) but it is particularly important when studying organised crime, where tape recorded and transcribed interviews with some of these people, or direct reporting of the position they occupy, is sometimes simply not an option. This has a particular bearing on their personal safety. There is both the risk of information being leaked to the public as a disinformation campaign by organised criminal networks, and the fear of strict disciplinary action against them for violating their internal staff guidelines.

One of the techniques to be used in such a study is called the method of clues (Revel, 1995; Blee, 2006). During the course of conversations one must watch for clues that will help explore the real challenges and issues that the interviewee faces when dealing with human trafficking. Devault comments that ‘field work creates knowledge that brings the public into the reality of others’ (Devault, 2007, p.182). During fieldwork, when studying people on the frontline of combating crime, one must be careful that the reality that is exposed is accurate and not harmful to those studied. Researchers have commented that violence is central to the functioning of the drugs trade (Hobbs and Pearson, 2001). In my opinion, violence is central to the human trade as well. Therefore the need for caution in how the views and practices of interviewees are relayed is paramount.

#### **4.4.4 Confidentiality and consideration of harm to participants in interviews**

The issue of confidentiality is clearly a very important one. It is intrinsically linked to every person’s rights to privacy and autonomy (Beauchamp and Childress, 2001). In some cases, survivors of a crime see confidentiality as an impediment to securing sufficient recognition for the harm they have suffered (Israel and Hay, 2006). Similarly, social scientists may deem that confidentiality is not requisite for any work in the public domain. Israel and Hay (2004) treat it as a separate principle of ethics in its own right. As they observe, ‘if researchers do not observe the confidentiality of what is said to them, who would talk to them in the future?’ (Israel and Hay, 2004, p.94). Rik Scarce (1999, pp.980–981) in

Israel and Hay (2006) also states that, as researchers that gather, analyse and publish information around various areas of work, we should treat our data, the trust reposed by readers and by participants, informants and gatekeepers in the research with such integrity and value that their confidentiality should be protected at the expense, if necessary, of the liberty of the researcher. These problems are compounded in ethnographic research as, when a researcher's credibility is lost, this can lead to premature termination of an investigation, or an inability to gain access in the future (Bryman, 2008, p120). In order to get access to sensitive areas of work researchers should have reputations for loyalty, promise-abiding, and faithfulness to obligation, based on the relationship they have with the research participants. Significant danger is posed by what happens to the data, after it has been collected, during the process of analysis, publication and archiving (Parry and Mauthner, 2002). Adler (1985) chose to maintain a low profile throughout the course of the research.

Harm can entail a number of facets: physical harm, harm to participant's development, a loss of self-esteem, stress, and inducing subjects to perform reprehensible acts, as stated by Diener and Crandall (1978, p19) and Bryman (2008, p.118). The issue of harm with regard to academic research, in ensuring that no one comes to harm as a result of the research, can be further addressed by advocating care as an active principle over and above simply maintaining the confidentiality of records. This means that the identities and record of individuals should be maintained as confidential. This extends to taking care when the findings are published, that individuals are not identified or identifiable (Bryman, 2008, p.118). Confidentiality sometimes goes through a process of dialogue through the course of fieldwork, to determine the boundaries in any research undertaken in a constantly evolving crime such as human trafficking.

Some of the additional tools in restricting sensitive data through confidentiality are alteration and restriction. Alteration is a strategy that helps in the publication of the research, while restriction ensures a greater amount of detail available but in closed or restricted circles only (Israel and Hay, 2006). Redacting data is another strategy to secure confidentiality but is much harder to apply where ethnographic research is involved rather than where quantitative research methods apply where confidentiality safeguards can be incorporated at an early stage (Ellen, 1984, pp.148–149). A very good tool to protect data for researchers and analysts is to secure the database in countries that have strong data protection laws in place (Israel and Hay, 2006, pp. 92). Another strategy to secure confidentiality and ensure protection within the parameter of the rule of law is to place the data before authorities bound by data protection or victim protection laws (Israel and Hay, 2006). In areas of research involving organised crime, limited confidentiality to the authorities is affecting access and there is a dilemma if researchers adhering to strict confidentiality or internal ethical compliance would need to run the risk of court rulings against them (Israel and Hay, 2006).

As such, I have kept the identity of official sources confidential by removing names and identifying details from confidential data at the earliest possible stage (Hancock, 2001; Szklut and Reed, 1991 in



Israel and Hay, 2006, p.82) and in some cases will not specify names within a sensitive piece of information (Tunnell, 1998, p.208). I will only use their input and data as much as the permissions secured allow, and only to the extent to which it highlights the issue of human trafficking and addresses the research questions of the PhD. Since I have not divulged the nature and content of the informal and semi-structured meetings I have conducted with anybody other than my supervisors, it is unlikely that knowledgeable players, particularly the members of criminal networks operating in this field (in the unlikely event that they were to read my thesis) would be able to identify the source of information. This is an essential precaution to protect grassroots frontline practitioners currently tackling human trafficking under trying and difficult circumstances from any future crimes (Israel and Hay, 2006, p.83), risks from members of the criminal network (Adler, 1985, p.23) or corrupt elements within the criminal justice system or within agencies tasked with security (Feenan, 2002; Sluka, 1989).

#### ***4.4.5 Bias or partiality towards victims of trafficking***

Singer (1993) maintained that researchers need to take an active stand to combat social suffering. For many writers on social research, a ‘conscious partiality’, as Miers (1993, p.68) calls it, is celebrated. Particularly among feminist researchers, to do research on women in an objective, value-neutral way would be undesirable (as well as difficult to achieve) because it would be incompatible with the values of feminism. Instead, many feminist researchers advocate a stance that extols the virtues of a commitment to women and exposing the condition of their disadvantages in a male dominated society. Much of this research has been concerned with changing the situations of women and minors, as well as with heightening our understanding of the disadvantages they suffer. Some writers argue that this process of taking sides is pervasive in sociology (Bryman, 2008, p.131). Becker (1967) argued that it is not possible to do research that is unaffected by our personal sympathies. When we conduct research, we are often doing so in the context of hierarchical relationships. Becker felt that it is difficult in the context of such relationships not to take sides; instead, the bigger dilemma is deciding which side we are on. Often such research is more likely to be accused of bias, because the researcher is ascribing credibility to those that society shuns and, in many cases, abhors. According to Becker, a study stressing the underdog’s perspective is more likely to be regarded as biased, because members of the higher group are widely seen as having an exclusive right to define the way things are in their sphere, and because they are regarded as having a more complete picture. In other words, credibility is differentially distributed in society. Gouldner (1968) argues that Becker exaggerates the issues he describes, commenting that by no means does all research entail the need to take sides. He also argues that it is a mistake to think, simply because a researcher takes seriously the point of view of a section of society, that they necessarily sympathise with that group. Much more recently, Liebling (2001) has argued that it is possible to see merits of more than one side. Taking the case of prison research in the UK, she shows that not only is it possible to recognise the virtues of different perspectives, but it is also possible to do so without incurring too much wrath on either side, in her case the sides of the prison officials and the prisoners (Bryman, 2008, p.133). It is true that, as an activist, I have a bias

towards the victims of trafficking, compared with the criminal groups that traffic these victims and profit from them. However, I have taken steps as a researcher, through accountability by my supervisors, geographical distance, and a human rights framework and through the mixed-methods approach, to try to present a more balanced approach to the issue of human trafficking.

#### **4.5 Research bargains and objectivity**

As Van Maanen and Kolb (1985, p.11 in Bryman, 2008, p.404) observe, ‘gaining access to most organisations is not a matter to be taken lightly but one which involves some combination of strategic planning, hard work and dumb luck.’ One of the strategies I have used in both the UK and India is known as a ‘research bargain’ (Becker, 1970; Taylor, 1993; Giulianotti, 1995), where in order to get access to agencies and experts I offered them, in exchange, my expertise, knowledge and contacts in South Asia. A research bargain is defined as an agreement made between the researcher and a research participant, such as a gatekeeper or a respondent, regarding what a participant can expect from a researcher in return for cooperation with the research (Jupp, 1989). A viable research bargain helps build trust with gatekeepers, who are key informants and, as a result, pass or volunteer information about events and their analysis of the events. They help with supplying frontline observation, their experiences, support with evidence around a fact or discarding a rumour (Lazos, 2007).

My quest with this PhD was to understand the question of human trafficking as fully as I possibly could in its many-sided complexity. The reason for this was that, after spending seven years on the frontlines of tackling this crime, if I was to spend the rest of my life developing and implementing operating models that help bring this problem under control then I needed to gain a comprehensive understanding of it. After seven years of frontline work I also came to a point where existing models being used to tackle human trafficking were increasingly unproductive, not giving the desired results and I needed to understand why, by taking an objective view of things through action-based research. I needed to develop techniques that were flexible and varied enough to understand the problem and propose solutions. My advantage, I came to understand, lay in the opportunity that my position as both experienced practitioner and researcher afforded me to cultivate multiple roles and perspectives. One ‘hat’ was that of an experienced lawyer and legal counsel on criminal law and tackling human rights. This helped me in providing pro-bono legal advice to a range of government and non-governmental organisation in exchange for being able to observe and record information about human trafficking. I was able to both help them immediately with cases, and strategically through research, thus giving them an objective perspective to help evolve their strategies, a luxury they did not always have as frontline professionals. My second persona was that of an academic researcher, and this introduced me to a world of theories, debates and discussions. It helped broaden my contextual understanding of where human trafficking sits within a historical perspective (captured in my chapter on historic slavery), the broader context of studying and understanding criminal behaviour within criminology and what the various contemporary debates on human trafficking are. I was able to use my academic

role, and the access it provides, to engage with and analyse a range of models to tackle human trafficking in the UK and in the Netherlands, in addition to the access I already had in India. I was able to use my frontline experience within an academic framework to influence strategies, method tactics and models to tackle human trafficking at strategic points through my research focus on the countries of India, the UK and the Netherlands. My third ‘hat’ was that of an activist and strategist and involved leveraging my leadership within the anti-human trafficking sector to ensure that my research was contemporary, that I would have access to teams and casework at the very cutting edge of tackling this problem through the multidisciplinary model mentioned in the main findings chapters. Working with teams through the multidisciplinary model helped me understand the various reasons, captured in the literature, theory and main findings chapters, which contributed to this problem and the pillars that need to be targeted to bring it under control. It ensured that I could have access and a strong and secure standing among all stakeholders tackling this problem, not just as an individual but also as part of an established and recognised organisation that worked across my research areas. I was able to use all these hats with the necessary objectivity not just to understand what was going on and where we were going wrong, but also how we could course-correct to tackle this problem.

The values of Integrity and research ethics guided me in wearing all of my various hats on how I conducted my research, and the main goal was not just to achieve a PhD but to reach a comprehensive, proven model that can tackle human trafficking at a global level.

#### ***4.5.1 Using the Multidisciplinary model and my expertise in a research bargain***

In my main findings I have progressively focused on three critical components. The first, in Chapter 6, being a study of the various types of criminal networks that dominate human trafficking. A criminal network being a network of various stakeholders who are involved, interconnected through a matrix in profiting from human trafficking. The first part of Chapter 7 considers institutional failures in current efforts to tackle human trafficking and the different models of human trafficking criminal networks I have observed over the past 14 years. The second part of my main findings in Chapter 7 focusses on the strengths and challenges of different anti-trafficking models that I have observed. Chapter 8 is a focus on the multidisciplinary anti-human trafficking model. The reason for dedicating an entire chapter to the multidisciplinary model is that observing this model would enable me to document the challenges and successes of a next-generation anti-human trafficking strategy from the start of its implementation through the first five years of its execution. In order to understand how governing security, as a concept involving state and civil society partnerships is evolving, it was important for me to observe an evolving anti-human trafficking model from its inception and ask the following questions of its implementation:

- How would criminal networks react to an evolved next-generation anti-trafficking strategy?
- What would be the strengths and challenges of the multidisciplinary model?

- What is the best way to document the challenges faced in development sectors while implementing a new anti-trafficking model?
- How will those already working in the anti-trafficking field (i.e. the government and charity organisations) respond, react or adapt to the multidisciplinary model?

In terms of new emerging models of governing security in human trafficking, and possible contextualised solutions to a global problem in different regions with an international approach, I hope to focus on studying and critically analysing the multidisciplinary model and its implementation among other strategies, as possible replicable models for government-civil society partnerships around the world. The insight provided by analysing this program will also give the readers an understanding of the challenges and problems in the anti-human trafficking development sector today. To research the complex world of human trafficking and efforts to tackle it, I also needed an organisation that would support the development and evolution of the multidisciplinary model. I needed an accountable structure for my research bargain and analysis on the complexity of the human trafficking problem. I also want through action research study the impact of the multidisciplinary model from an end-to-end and holistic perspective. This required an organisation that would be committed to implementing the findings of my research, that would secure the resources for my research as well as the implementation of the models developed during the research. I also felt the key element for successfully researching and understanding human trafficking, similar to anthropological methods, was to be embedded, not just as an individual researcher, but as part of an organisation in the sector. This gives weight to the terms ‘research bargain’ and ‘action research’ and ‘access’ where it gives confidence to everyone involved that, as a researcher, I was part of The University of Edinburgh. In addition, I had an entire organisation that both supported the development and growth of the multidisciplinary model. The organisation through its implementation of the multidisciplinary model, supported me in gaining access to and understanding of the ongoing battle on the frontlines of the crime, and the ability to understand both the problem and its solutions from a research and implementation point of view.

Justice and Care, founded on the 15<sup>th</sup> of September 2008, gave me a unique opportunity to observe and analyse the findings in order to answer the questions put forth by the PhD research. In order to allay any concerns of bias, or of me influencing the implementation of the strategy, I took the following precautions. I based myself in Edinburgh, far from where the case work was undertaken in South Asia. This distance helped me achieve an appropriate balance between objectivity and involvement with the anti-trafficking work. Also, responsibility for the strategy was handed over to a team of experienced anti-trafficking leaders who ran the day-to-day functioning of the program. My role within the organisation, until the 6<sup>th</sup> June 2013, was to serve as a voluntary senior legal counsel and international director. On the 6<sup>th</sup> of June 2013, with my PhD drawing to a close, I took up the position of Chief Executive Officer of Justice and Care with a goal to implement the findings of my PhD, which I have continued to do. The board of Justice and Care have been fully supportive of the

autonomy of my PhD research and, along with my PhD supervisors, supported me through the past eight years, through the ups and downs of my PhD, the viva and the PhD editing phase.

#### ***4.5.2 Internal politics and the risk of 'going native'***

Researchers may also find themselves embroiled in the internal politics of organisations as factional disputes raise their heads. Sometimes they may find themselves as pawns in such clashes, if groups attempt to enlist them in getting a particular viewpoint across (Bryman, 2008, p.132). Participant-observers refer to the condition of 'going native' as a problem of over-involvement in the group being studied, with the consequence that the researcher is at risk of becoming more of a participant and less of an observer, and may also take statements and actions for granted rather than as data to be examined, questioned and treated as anthropologically strange. To avoid going native I have not, during the course of my PhD, interacted directly with either victims or members of the criminal network or directly been involved in any of the cases or operations that are dealt with by the multidisciplinary model and other anti-trafficking models profiled within this research and their partnerships with agencies of the state such law enforcement agencies among other and various civil society groups that I be involved with. As a precaution I have limited myself to advice and networking, and have kept myself geographically based in Edinburgh for objectivity and under the accountability of my supervisors.

#### ***4.5.3 Emotional connectedness and protective precautions***

Rebecca Campbell (2002) led a team that interviewed 100 survivors of rape over a period of two years. She studied her emotions and that of her research staff and found it emotionally costly to engage in the research. 'My research is not simply a route to an academic union card, but rather the center of my intellectual and emotional life at this point of time' (Tedlock, 1991, p.81). Over the course of the research I have maintained an emotional connectedness with the anti-human trafficking work in India and the UK. An emotional connection to the process and practices of fieldwork is normal and appropriate. It should not be denied or stifled but should be acknowledged, reflected upon and seen as a fundamental feature of well executed research. Having no connection to the research endeavor, setting or people involved is evidence of a poorly executed project (Coffey, 1999, p.159).

'Indeed [. . .] it is impossible for ethnographers not to become part of the society in which they spend a significant part of their lives. Ethnographers are drawn, often involuntarily, into the nets of significance cast by the people among whom they conduct research and are thrust into their discourse and debates.' (Ewing, 1994, p.578)

According to Becker (1967) it is not just difficult to achieve a distinction between the researcher and the subject, it is in fact a fundamental fallacy, a myth.

Lazos (2007) states that while researching human trafficking he started becoming interested in certain things that happen or do not happen in the lives and processes of his research participants, sometimes

wishing for an effort to succeed, other times for it to fail, which affected his position as a detached observer. At times similarly I found it was necessary to intervene, by spending or investing time through a research bargain process or through the good will that, as a researcher and a subject expert, I have, which affected both my status as a detached observer and the method or subject of my research. Even so, I felt it wise to take some precautions before initiating the research. One of them was to base myself in Edinburgh during the course of the research. Goldsmith (2003) wrote about the difficulties of juggling research and family with other commitments, which meant that he could only spend short periods of time on field research. On security grounds he decided to base his family far away from the field research areas, which necessitated adoption of unique methodology to meet the needs of research. The first field trip, for five weeks in January 2008, was particularly hard on my health and my emotional capacity, so subsequent field trips to South Asia were reduced to no more than two weeks or ten days, a duration I found much more able to handle. I have often kept aside one week after a field trip to recover from the physical and emotional exhaustion involved. The second precaution was to hand over my responsibilities of direct casework in South Asia to a team of experienced leaders, so as to be involved in an advisory capacity only. This helped a lot, as I was able to handle the doctoral research *and* be a consultant without getting burnt out and maintaining a separation between my role as a doctoral researcher and an anti-trafficking advisor. There were regularly hard times when, due to corruption, we were unable to save trafficked women and children, followed by moments of sheer joy when due to sheer perseverance several days later the team was able to save the same women and children through courage and perseverance. This I have discovered, during my years of experience, is an occupational hazard when one works with heavily discriminated and marginalised groups and one that, through experience and through seeking counseling support, it is possible to find ways of coping with. It was important to remember, though, that 'to remove such emotion would, however, distort their descriptions and remove potential key variables from their explanations' (Rosaldo, 1984, p.188).

A particularly hard phase was in August 2008, when one of my PhD funding bodies withdrew their funding, despite making a commitment to fund the research for the duration of my PhD. Their main reason for withdrawing this support was that I was no longer involved as a consultant with an anti-trafficking organisation affiliated with them, and that my continued funding was contingent on my continued involvement with the organisation. I could not continue with the organisation, as I needed to maintain a critical distance from the work if I was to be able to undertake the PhD. However, I was able to secure additional funding for my PhD from another donor. The donor was also willing to support one of the participant organisations in India, thus enabling me to have continued access to the work of anti-trafficking in India. However, I went through some very anxious times wondering if I would be able to continue my PhD studies into my second year. Both my family and I also faced serious health problems in 2012 and it was necessary for me to take some time away from the research to cope and fully recover.

#### **4.6 The inclusion of research on case studies and models prior starting my PhD**

Authors can be characterised in terms of the stances they take on social research ethics. A universalist takes the view that ethical precepts should never be broken and that infractions of ethical principles are wrong in a moral sense and damaging to social research (Erikson, 1967; Dingwall, 1980; and Bulmer, 1982). Bulmer (1982) points out, however, that there are some forms of, what appear to be disguised observation, which may be acceptable. One is retrospective covert observation, which occurs when a researcher writes up his or her experience in social settings in which he or she participated but not as a researcher (Bryman, 2008, p.116). An example would be Van Maanen (1991b), who wrote up his experiences as a ride operator in Disneyland many years after he had been employed there in vacation jobs. Even a universalist like Erickson (1967, p.372) recognises that it 'would be absurd to insist as a point of ethics that sociologists should always introduce themselves as investigators everywhere they go and should inform every person who figures in their thinking exactly what the research is all about' (Bryman, 2008, p.116). The case studies and models analysed from the period 2001 to 2007, before the start of my PhD, come under this category. They are all public documents accessible by any right to information request. The case studies have also been analysed by two major research projects during this period. The first research project was carried out by Nair et al. (2005) and simultaneously by Save the Children India during the same period. The case studies during this period are also narrated in biographical narratives by Haugen and Hunter (2010). All the case studies during the entire period between 2001 and 2013 have been extensively used by me in teaching materials while training state and civil society stakeholders across South Asia and Europe, hence, are sufficiently anonymous to be used.

#### **4.7 Sampling methods and triangulation**

##### ***4.7.1 Purposive sampling***

Purposive sampling is a non-probability form of sampling, which was chosen here. The goal has been to sample organisations, participants, and cases in a strategic way, so that those sampled are relevant to the research questions being posed (Bryman, 2008, p.415). In purposive sampling, sites such as organisations and the people within them are selected because of their relevance to understanding a social phenomenon. Examples of purposive sampling in qualitative research are snowball sampling and theoretical sampling (Bryman, 2008, p.415).

##### ***4.7.2 Snowball sampling***

In some instances I have used the snowball sampling method as a form of purposive sampling, especially within an organisation. If I meet a key informant within an agency, I place before them the possibility of my connecting with key informants in other agencies, undertaking similar work in the same or different jurisdictions. In some instances, if doors opened up within the organisation in which I was researching then I used the key informants there to introduce me to people higher up the command structure of the agency.

#### ***4.7.3 Theoretical sampling***

Another form of purposive sampling that has influenced this PhD is the method of theoretical sampling. Theoretical sampling is the process of data collection for generating theory, whereby the analyst jointly collects, codes and analyses his data and decides what data to collect next and where to find it, in order to develop his theory as it emerges. A crucial characteristic of theoretical sampling is that it is an ongoing process rather than distinct and single-stage (Bryman, 2008, p.415). Data gathering is where the process of identifying the data, people, agencies and cases is driven by the concepts derived from the evolving theory, based on the concept of making comparisons. Here, the purpose is to go to the places, people or events that will maximise variations among concepts and to densify categories in terms of their properties and dimensions (Strauss and Cobin, 1998, p.201). Data gathering is concerned with refining ideas rather than boosting sample size (Charmaz 2000: 519). Theoretical sampling refers to sampling not just of people but also of settings and events.

#### ***4.7.4 Stratified random sampling***

The cases analysed through organisations or strategies that feature as part of this research have been selected by stratified random sampling. During and prior to the research, the only criteria employed by the strategies or agencies analysed in India in dealing with a case of human trafficking was that it should either focus on a person below 18 years of age (i.e. a minor or a child as defined by the law in India) or that the person trafficked should be forced into it against their will. In the UK, in terms of cases quoted, they have been identified largely through purposive theoretical and snowball sampling methods, because I had no prior experience at the grassroots level in the UK. I was not a local citizen, which meant that I had to tread carefully and slowly through access issues. Hence my energies were focused on ensuring that my limited sample was fairly representative of the UK situation, and that I took the approach of using key informants to identify and research the most relevant organisations in the field of study. The UK has had a limited number of high-profile cases of trafficking. These were selected and analysed in this PhD to substantiate the observations and the semi-structured interviews. The number of cases is limited in the UK because of the comparatively smaller scale of human trafficking in the country.

#### ***4.7.5 Triangulation***

According to Lazos (2007), human trafficking cannot be researched using any one particular method and it is not possible to approach stakeholders in criminal networks or within the systems that tackle human trafficking with questionnaires. Researching human trafficking requires the application of various research tools and methods that are available in the social sector. Lazos (2007) found an analysis of historical and contextual knowledge very helpful in distilling the methods that could be used in research. Lazos (2007) used a strategy of structured and semi-structured interviews, and both peripheral and selective observation methods. I found research into human trafficking a time-consuming exercise, as is the case with most forms of field research. Local knowledge and rumour play a key role in researching hidden crimes such as human trafficking (Geertz, 1983 in Lazos, 2007)



and often the researcher and the constantly evolving subject matter find themselves to be part of the historical framework while researching the subject (Oldman, 1943, p.45 in Lazos, 2007). Quantitative and qualitative measures play a key role in understanding the subject, as qualitative measures help in providing micro points for generalisation, while quantitative measures help in measuring volumes and time periods. According to Lazos (2007), in researching human trafficking everything that is of importance and can be measured and analysed, should be measured and analysed. Human trafficking is such a fast and evolving hidden sector that a researcher's focus should, in Gouldner's (1968) classic terms, be about observing deviance rather than the whole problem itself. It is key in researching human trafficking to ensure a fine balance between quantitative and qualitative methods and to arrive at micro units of generalisations to complete the narrative. Quantitative methods find greater acceptance from government bodies, as they equate its measurement with science, but are data devoid of any expression or understanding of individual circumstances, the emotions, the intentions associated and the situational aspects of each case that completes the narrative. It is only by achieving a sound methodology, through a wide range of methods available within the social sector. A research narrative that uses variable nodes of narratives that both quantitatively and qualitatively generalise. That one is able to reveal the location of criminal networks, the mechanisms of transportation, the transit zones, the modus operandi of criminal networks. The varying types of criminal network operations, their structures and differentiations and the impact of geography and timing on their work. It is only by achieving this sound methodology that a researcher is able to map the future directions that the crime will take, for both those profiting from the crime of for those tackling it.

Triangulation entails using more than one method or source of data in the study of social phenomena. Triangulation can operate within and across research strategies. It was originally conceptualised by Webb et al. (1966) as an approach to the development of measures of concepts, whereby more than one method would be employed in the developments of such measures, resulting in greater confidence in the findings. In fact, ethnographers often verify their observations with interview questions to determine whether they may have misunderstood what they have seen (Bryman, 2008, p.379).

Regarding the organisations in the UK studied for this research, I used a series of mixed methods and clear criteria to substantiate the data gathered, based on a triangulation approach. Initially, based on UK government documentation, I compiled a list of all the anti-trafficking organisations and have regularly studied their websites, goals, objectives and news updates. After studying this data I selected the key, leading government and civil society groups to focus on using purposive sampling. The main criteria were that the groups had to be among the leading anti-trafficking agencies in terms of their reach at a grassroots level, their experience on the issue, their visibility within the media, the level of partnership with the state and other civil society groups, the level of influence they could exert on the state to impact the government policy on human trafficking and the level of access I could gain to achieve the goals of the PhD. This sampling was further substantiated by official research documents

of the state and of civil society groups, where they had undertaken a qualitative analysis of the available data.

In India, I continued to use a process of triangulation by employing several methods and clear criteria to create short lists, leading me to focus on key anti-trafficking agencies. This focus was also facilitated by my background knowledge of the South Asian region and my personal interaction with most of the anti-trafficking agencies there, prior to starting my PhD. After shortlisting the key agencies in the anti-trafficking sector I undertook an in-depth study of their strategies and their case work, followed by unstructured or, where the occasion permitted semi-structured interviews with the leaders of these agencies. The analysis of this data is supported by public data and information the organisations have put in the public sphere, such as annual reports, mission statements, press releases, advertisements and printed public relations materials.

During the course of the research I was able to use research bargaining as a tool to actively engage on cases of tackling various forms of human trafficking, while at the same time not being frontline and ensuring research objectivity. I was able to undertake this across a wide spectrum, and across organisations that operated widely varying models for a variety of reasons. Every casework engagement was cross-referenced by getting a high level analytical picture through interviews with key anti-human trafficking grassroots leaders from both state based agencies and civil society organisations on the societal impact of a particular model being implemented by an organisation as part of the larger mosaic of world of human trafficking and the efforts to tackle it. A range of methods, such as case studies, participatory observation, semi-structured interviews etc., was corroborated with quantitative methods such as data analysis, public documentation and assessments of the models, in order to give a 360° purview to anyone reading this research. The use of various hats – lawyer, activist, strategist, academic – and the ability to interchange them, has helped achieve a very deep and comprehensive insight into the very heart of the problem in South Asia and the efforts to tackle it in the UK and the Netherlands. In order to ensure that information generated from discussions with officials is authentic, I have cross-referenced it with similar information and experiences of the civil society groups that deal with government officials.

The data from NGOs was all checked by their own internal audits and governance systems. These checks included checking for clear strategic and casework measurements and quarterly evaluation of achievements against these measurements. These results were corroborated by comparing it with other organisations doing similar work through different models within the same sector. This data was then further corroborated and checked against government analytical databases of such casework, as all the organisations could principally work only if they partnered or were transparent with government mechanisms in the respective jurisdictions. This was further corroborated through mass-media articles and documentaries on public record, followed by global databases maintained by various organisation such as the US State Department and the United Nations Office on Drugs and Crimes. I was able to

put this in context with cases that I have advised, observed and engaged with historically and more recently, and within the larger contexts of how this fits with crime trends and theories developed in the academic world. This made the whole research as water-tight as can possibly be expected within ethical guidelines, over a wide geography, covering all forms of human trafficking as a crime within a dangerous and risky area of work.

#### **4.8 Methods of conducting fieldwork**

##### **4.8.1 Key informants and gatekeepers**

Access to the world of crime-fighting is usually mediated by gatekeepers, who are concerned with the researcher's motives, what the organisation can gain from the investigation, and what it may lose in the way of man-hours, other costs and potential risks to its image by participating in the research. Reiner (2000b) suggest that the police, for example, are usually concerned about how they are going to be represented in publications in case they are portrayed unfavourably to agencies to which they are accountable. Thus, gaining access is about trust and negotiation. The process of negotiation is sometimes referred to as a research bargaining. Once in the organisation, the researcher often finds that getting on in organisations entails a constant process of renegotiating what is, and is not, permissible. Thus, issues surrounding access become an ongoing feature of research. Some research participants, perhaps because they are suspicious or because they doubt the utility of the research, will obstruct the social research. As Holdaway points out, 'research and my previous experience of police work demonstrated the power of the lower ranks, not least their resistance to external control of their work. Any effective strategy would have to pierce their protective shield if it was to be successful' (Holdaway, 1983, p.4).

In both the UK and India, I used the ethnographic approach of developing key relationships with individuals known in academic research as informants or gatekeepers (Whyte, 1955; Taylor, 1993). One aspect of having contacts within a sector is that they create access for the researcher and may become key informants in the course of subsequent fieldwork. The ethnographer relies on a lot of informants, but certain informants may become particularly important to the research. They often develop an appreciation of the research and direct the ethnographer to situations, events, or people likely to be helpful in the progress of the investigation (Bryman, 2008, p.409). In the case of my research these informants were themselves senior experts in the field, who helped me in the UK, India, the US and the Netherlands to engage with various agencies and to get a deeper understanding of, and answers to several questions on, actual ground-level procedure in combating trafficking. Because I was a researcher researching a closed setting in a large geographical area, initially it was important that I use key informants to probe for answers to some of the questions I had on the organisational approach to trafficking and trans-national cases. The process that followed involved me emailing the informants/contacts with my questions, they would then forward my question to the key person in the organisation, a detailed response to my questions from the key person would then follow either directly to me or, if they were busy, through the informant/contact. Sometimes, during field

trips informants/contacts would facilitate appointments in which I could interview key individuals heading anti-trafficking agencies myself. Key informants can clearly be of great help to the ethnographer and frequently provide a support that helps with the stress of fieldwork (Bryman, 2008, p.409). Even so, during my research I have had to bear in mind the risks of using informants in order to ensure that I did not develop undue reliance on one particular key informant. By triangulating or combining various research methods, I have taken pains to ensure that the social reality on the issue is not seen solely through the eyes of the informant.

#### ***4.8.2 Field trips***

During the course of my research I would travel to India, the Netherlands, London and different parts of the UK to attend conferences, to speak about my experiences and undertake meetings with the key individuals in different organisations. Given my background and experience in the sector a lot of the initial meetings were about knowledge exchange. In India the field trips had two aspects, one being to meet and follow up with a lot of contacts and connections in the sector; and the second being to advise Justice and Care on the implementation of the multidisciplinary model. The meetings in the UK grew into developing the transnational casework between the UK, India and Bangladesh on travelling child sex offenders. I was always clear with everyone about my role as a PhD researcher and as a senior legal counsel and voluntary director for Justice and Care. This turned out to be a huge advantage for me as it reinforced to all involved that I was passionate about the issue and that my research was live and driven by a desire to understand more on the subject, and to use the findings to drive change in the sector in the quest for a solution to the problem. Each field trip ranged between a maximum of five weeks to a minimum of one day in length. I made an average of one or two trips to India and the Netherlands each year, and trips to London and other parts of the UK would come up about once a month.

In the UK, I chose the approach of engaging with charities, government agencies and donors by being a participant-observer during shorter field trips, of between two and five days per month. The groups I visited were based in London, Manchester, Glasgow, Edinburgh, Sheffield, Guildford, Helensburgh and Birmingham documented in Chapter 4.4.1 of this chapter. Some of the groups had a local role, some a national role, and some an international role in combating human trafficking. All were aware of my research and its objectives, which I made very clear to them whenever I met or contacted them. On several occasions the government agencies forwarded several official documents to me for my research. These documents, though being in the nature of public documents, were for restricted circulation only, due to the security concerns involved in fighting criminal networks. For reasons of their personal security, given the high degree of violence associated with the crime, and the desire on my part to get their honest and frank feedback without fear of being quoted, informants' identities will remain confidential to the general public outside of the completion of this thesis.

#### ***4.8.3 Recording research in the field***

During these trips I maintained a yearly diary, using a laptop computer, iPad and notebook, for jotting – scribbling down notes during field trips – for maintaining a schedule of the appointments or meetings with different stakeholders. I also noted down key points during interviews where possible – information gleaned from anti-trafficking conferences or spontaneous informal meetings with key people on the side-lines during a conference. I also used the notebook to write down key findings from my study of anti-trafficking articles, stories, and news coverage on trafficking in the print and television media. In addition to the above I documented my observations on the trip extensively through emails and minutes between the parties involved. In fact, this correspondence provides an important source of data for the ensuing discussion. I found it easier, because of the constant travelling, to document my observations on a laptop and place them on my hard drive, on a portable hard disk and in an online account which was safer and more secure than only carrying a notebook around. In addition I also backed up all my data and information on a fixed and portable hard disk, which I carry with me. This has enabled me to study and analyse information even during my field trips. I have followed a combination of mental notes, jotted notes and full field notes (Lofland, J and Lofland, L, 1995; Sanjek, 1990). As discussed above, the informal and involved nature of some of these activities, and the fact that I was, at times, very much a participant as well as an observer, posed particular challenges for developing an ethical approach to research practice.

#### ***4.8.4 Participant observation***

Observation is pivotal in researching human trafficking; it helps in confirming specific inputs that come through an interview process. Researching human trafficking is dangerous, irrespective of the level of influence your integrity and experience cause you to have within a community and irrespective of the level of risk taken or not taken. It is only through observation, at the locations where victims are trafficked from, transported, kept at warehouses and where they are available for service at the retail end, that, in the words of Lazos (2007) ‘will the heart of the trafficking inferno and its value emerge in its complete form.’

In observational research most researchers seek to be as unobtrusive as possible and consequently prefer not to obtain informed consent to observe behaviour. In public settings observational research does not require confidentiality pledges to be made to participant (Lowman and Palys, in Israel and Hay, 2006, p.152).

In terms of my role as a researcher I consider myself to be a participant-as-observer. This is based on the classification by Gold (1958) of participant observer roles. In such cases the members of a social setting are aware of the researcher’s status as a researcher and ethnographer. In my case those I have met and observed have known of my active role in the sector prior to me undertaking the PhD. Participant observation is closely associated with the ethnographic tradition in social sciences; a tradition which has its roots in social anthropology but which has played an important part in the

examination of institutions, communities and groups in modern industrial society (Jupp, 1989, p.57). Participant observation has also been used to penetrate the inside workings of the criminal justice systems, as in the work of Holdaway (1983), and Punch's studies of the Amsterdam police (Punch, 1979) and of police corruption (Punch, 1985). As a method, participant observation refers to the collection of findings by participating in the social world of those whom one is studying. This involves taking on some role in the social group, or in the fringes of it, and observing, reflecting upon, and interpreting the actions of individuals within the group. Characteristically, the participant observer becomes immersed in the field (Jupp, 1989: 58; Burgess, 1984). Participant observation progresses by a discovery-based approach in which there is a development, refinement and perhaps even reformulation of research ideas in accordance with what is discovered as field work continues. This is known as progressive focusing (Jupp, 1989).

During the course of the PhD I regularly interacted with people – government officials, civil society groups, and police officers tackling human trafficking – and networked with them by keeping them abreast of both the progress in casework and in my PhD research. This exchange included commending and congratulating them on a successful prosecution or operation undertaken by them. I also often shared with them the success stories observed with the anti-trafficking agencies that I had research bargain agreements with. During the course of the PhD research I found myself following the classification of Gans (1968) for participant observer roles. He outlines three roles that co-exist within the course of ethnographic research, with each one being employed at different times and for different purposes. The first is a total participant, in which the ethnographer is completely involved in a certain situation and has to resume a researcher stance once the situation has unfolded, only writing notes after the event. The second is a researcher-participant, whereby the ethnographer participates in a situation but is only semi-involved, so that he or she can function fully as a researcher in the course of the situation. The third entails observation without involvement in the situation, as in attendance at a public meeting or watching what is going on in a bar; when in this role, the researcher does not participate in the flow of events. The advantage of this classification is that it reflects degrees of, both, involvement and detachment, and that it deals only with overt observation and recognises that ethnographers do not typically adopt a single role throughout their dealings. In fact, according to Bryman (2008), a single role over the entire course of a project would be undesirable due to lack of flexibility in handling situations and people, and the risk of excessive involvement and hence of going native (Bryman, 2008, p.412).

During my field trips to India I adopted the role of a total participant. During my field trips and meetings within the UK I took on the role of a researcher-participant. In attending conferences within the UK and studying the impact of human trafficking there and in India through case narratives, newspapers, journals, media reports and the literature review process, I took on the role of a total researcher. In research bargaining negotiations with agencies during the PhD I largely limited my involvement to sharing ideas and good practices, and suggesting solutions and strategies if asked. I did

not involve myself directly by being personally involved in any of the rescue operations or post-rescue operations during the research period. While during the research I did not involve myself in any direct covert strategies or methods, they are justified in a limited number of circumstances involving extremist political organisations, illegal activities and work of powerful and secretive interests (Israel and Hay, 2006). A lot of the work to save lives affected by human trafficking, and to unearth criminal networks involved in human trafficking, child abuse or sexual violence, would require covert methods and strategies.

#### ***4.8.5 Interview methods used in the PhD***

The interviews in this qualitative research were a mix of unstructured interviews and semi-structured interviews. I could never predict who I would meet during a field trip; at times I made clear plans to meet certain people but often that did not work out or the meeting occurred with a more senior person than I had imagined. Sometimes the meeting would begin in a conference room and then graduate to a pub or lunch meeting. In such instances I adopted a totally unstructured interviewing technique, using an aide-mémoire as a brief set of prompts to deal with a range of topics. Sometimes I would just ask a single question and allow the interviewee to respond freely and I would simply respond to the points that were worthy of being followed up on (Bryman, 2008, p.438). Unstructured interviewing tends to be very similar in character to a conversation (Burgess, 1984). I absorbed the interview strategy used by Malbon (1999, p.33). The goals of a first meeting would be to put the interviewee at ease and to give them an opportunity to get to know me, my background and the research I am involved with, and to assure myself that they had voluntarily consented to the relevant level of involvement. I focussed also on understanding the interviewee's preferences, motivations and history. I would attempt to develop a rapport by offering the opportunity to exchange ideas, contacts and links in South Asia to tackle the trans-national human trade. The next stage of this first meeting, or a subsequent meeting, would consist of comments, discussions and questions about the issue of human trafficking and at times of questions about the gaps in the work on trafficking. I would seek the interviewee's personal opinions on ongoing negotiations and strategic decisions in this area and the potential impact. I would also explore their hopes, fears for the future and gain their insight and understanding of the social context and governance of crime within which future efforts to tackle the crime might fit. My approach was necessarily somewhat pragmatic, opportunistic and flexible, reflecting the demands of the situation. On a number of occasions, when I had an opportunity to know beforehand that a meeting would take place, I would prepare a list of questions on fairly specific topics to be covered, often referred to as an interview guide, but giving the interviewee a great deal of freedom in their reply. Questions often did not follow on exactly as outlined in the guide. As I picked up on things said by the interviewee questions would often arise which were not pre-planned. By and large, however, all questions from the guide were asked at some point in the interview and a similar wording was used in all interviews (Bryman, 2008, p.438).

During these trips I conducted a number of informal, semi-structured interviews with police officers, donor agencies, government agencies, and NGOs. In India I was able to draw from my interactions with a number of NGOs, but as the research progressed I became more focused, conducting semi-structured informal interviews with certain key agencies. I took pains to inform each of the agencies about my PhD during the course of my interviews and my interactions with them. I asked them clearly for permission to include my interactions with them as part of my PhD. Outside of my work with the agencies, I have continued to have regular email and telephone correspondences with the remaining charities during this period. All the key agencies played a critical role in securing funding for my PhD research. They wrote reference letters for research funding bodies. I have kept them abreast of my progress regularly, through emails and phone calls. I have regularly undertaken presentations about my findings during the course of my PhD at various levels in UK, the Netherlands and in India. My online PhD research profile and my presentation were always explicit about the goals, objectives and titles of my research. Many of these charities are waiting patiently for me to finish my PhD and share the findings and outcomes with them through knowledge exchange mechanisms and direct work. I have been able to interact with several high-profile donor agencies, a number of which I have been in regular contact with during the course of this research. These donor agencies between them include some of the biggest names in the donor world; some of them are associated with the US government, some the EU, some are affiliated with the UN, some are massive, private fundraising charities in the UK and some are specifically created, corporate social responsibility arms of large multinational corporations.

#### ***4. 8.6 Public and private documents***

In the previous chapter I categorised the literature review of available public documentation on human trafficking into the following categories:

- Human trafficking literature and reports by governments, UN agencies or civil society groups.
- Governing security literature by various authors.
- Literature on organised crime.
- UN (refugee, migration, development) reports.
- UK government and law enforcement data and analysis.
- The laws and procedures internationally and locally on human trafficking and the criminal justice process surrounding the issue.

All public and organisational documents used in this research have been evaluated on the following criteria: they can be read, have not been produced specifically for the purpose of social research, are preserved so that they become available for analysis, and are relevant to the concerns of the social researcher. In discussing the different kinds of documents used in the social sciences, Scott (1990) has usefully distinguished between personal documents and official documents and has further classified



the latter as either private or state documents. Scott (1990, p.6) suggests the following criteria for assessing the quality of documents:

- Authenticity – whether the evidence is genuine and of unquestionable origin.
- Credibility – whether the evidence is free from error and distortion.
- Representativeness and meaning – whether the evidence is typical of its kind or not and whether the evidence is clear and comprehensible (Bryman 2008).

Official documents derived from the state are a source of a great deal of potentially significant information for social researchers (Bryman, 2008). One of the goals of this PhD is to study the impact of state-civil society partnerships in governing security in the area of human trafficking. A key part of fulfilling this goal is to undertake an organisational ethnography as part of the investigation. There is a wealth of documents available on the various anti-trafficking agencies, such as newsletters, organisational charts, and minutes of meetings, case databases, correspondence, and manuals. In addition to observing these agencies and interviewing their leaders, examining official documents on strategy, policies and organisational changes, derived from private sources, can be very important for researchers conducting case studies (Bryman, 2008). Documents are interesting in bringing out the role and significance of sub-cultures within the organisation. Often cases on human trafficking are undertaken by the state, with support from civil society groups or charities. In such cases the state will often only record the evidence surrounding the crime, whereas it is the charities that record key issues such as why an operation failed, how the charity supported the state, what efforts the charity undertook to rehabilitate the victim, what victim protection measures were put in place, and what the charity's role was in supporting the victim during trial. It is the study of this data that gives insight into the role of the state-and civil society partnerships and how they are transforming what we understand as the state, how they are transforming criminal justice systems and how organised crime reacts to such partnerships. This study of this data, backed up by interviews and observation, is pivotal to this research.

#### ***4.8.7 Mass media***

As part of the research I have also looked at mass media outputs from newspaper articles, magazines, television programs and documentaries. I have used these sources particularly in my research in the UK and internationally to get a much deeper insight into the complexities of human trafficking outside India. Mass media outputs are potential sources for social scientists for qualitative analysis in particular as they allow for a greater sensitivity to the nature and content focused on specific themes. In mass media outputs representation is rarely an issue, since the corpus from which the sample is drawn is usually ascertainable (Beharrel, 1993). The evidence is usually clear and comprehensible though it requires a considerable awareness of contextual factors (Giulianotti, 1997). I consulted news agencies on a daily basis, such as Thomson Reuters, Agency France-Presse, the BBC, CNN, and the Press Trust of India. In addition, I used the Google search engine and RSS feeds to alert me on human trafficking news from any location in the world. As a result I studied about ten new articles per day. I

also studied specialist news programs such as Panorama, which produced three stand-alone programs on the issues of child trafficking in the UK, illegal migrants in the UK and the latest analysis on the European push back policy on migration, involving detention facilities in Libya, and summary 'stop and search' procedures in the UK and across Europe. I also studied detailed documentaries by Sky and the National Geographic channel on the UK Border Agency and the efforts of the Department of Homeland Security in the US.

#### **4.9 Conclusion**

This thesis employs a series of methods such as participant observation, semi-structured interviews, informal interviews, analysis of crime data through a case narrative approach and of secondary reports from various sources on the PhD subject matter. The flavour of this research lies in the practices, procedures and commitments of the researcher in a particular context and not, as with surveys and experiments, in the technical protocols which can be read in standard text books. One of the key, valuable, aspects of this research lies in the theoretical insights to be gained. This research is also valuable in that it attempts to overcome research constraints on the difficult area of human trafficking by taking a triangulated mixed-methods approach for the gathering and analysis of data over a long period of time. In this research great care has been taken to ensure that these potential payoffs are carefully balanced against harm to the participants, and to myself as a researcher. The research methodology had to be unique, given that this research thoroughly investigated various models of criminal networks and anti-human trafficking models in action on the frontlines of the fastest growing crime in the world. The methodology chapter played a critical role for me in both how I could link the chapters on slavery, the varying policy debates and theoretical arguments. It helped me to place in context years of frontline data and observations but also chart a path through the theoretical minefield. As a result, I have developed a framework, unique to this research, where the reasons for the spectacular growth of human trafficking (which are, in summary, the remarkable ability of criminal networks to infiltrate our society, and the institutional failures of the state and the civil society groups to tackle it) could be altered by a unique approach of governing both justice and security through state-private sector partnership. This partnership, through a unique, evolved, multidisciplinary model coming from the same area as the Indian model of emancipation and the contemporary civil rights movement, gives us a once-in-a-lifetime opportunity to replicate a proven, strategic, end-to-end anti-human trafficking model around the world, and bring this complex problem under control within this generation. I debate in detail the theoretical framework of my research in Chapter 5.

## **Chapter 5: Theoretical Framework**

### **5.1 Introduction**

The theoretical framework of this research is based on the hypothesis that institutional failures in anti-human trafficking models allow human trafficking criminal networks to better evolve and grow. The key tool in countering this is an innovative and flexible framework of cooperation between the state and civil society groups, which can dismantle criminal networks within communities and replace them with security and justice (governing security) as governance tools, which will then serve as the foundations of growth and development within communities and areas affected by human trafficking.

The first pillar of my theoretical framework is that current institutional responses to tackle human trafficking are hollow (Dewey, 2008). The second pillar is that we are faced with a highly evolved, truly global series of criminal networks (Morselli, 2009) that dominate the trade of drugs, arms and human beings and have resources, skills and influence far greater than one or several nation states put together. The third pillar is that the most effective method for tackling globalised criminal networks would come from successful state and civil society partnership or network models (Johnston and Shearing, 2003). These partnerships are based on joint or shared input, responsibility and accountability between traditional state structures and emerging civil society structures. Such partnerships would focus on isolating the criminal networks that have infiltrated and established a presence within communities, taking advantage of the absence or weakness, or in some cases complicity, of the state. They would also focus on accountability within the state where criminal networks have made significant inroads due to corruption and lack of involvement within the communities due to super specialisation within state structures. These state-civil society partnerships will ensure that future and current policy is driven by grassroots-level input and considerations rather than policy driven by a top-down approach, or purely theoretical foundations, or motivated by diverse ideological motivations. An explanation of this approach was first illustrated in the Zwelethemba model in the book *Governing Security* by Johnston and Shearing (2003). This model expounds how a community's need for security and justice in the absence of the state, can be met through innovative state-civil society partnerships that represent a feasible future for governance in an increasingly networked and interlinked world.

### **5.2 Policy paralysis in anti-human trafficking sector**

There are several ongoing debates on the issue of human trafficking, resulting in different ideas on the roles of consent, criminalisation or de-criminalisation of several forms of commercial exploitation such as prostitution and forced labour, and other issues. There is also the debate over criminalisation of migration enforced by creating an invisible security fortress surrounding a country and enforcing it through the paradigm of punishment, deportation of offenders compared to a more effective preventative approach by engaging constructively with the root cause of the problem in the source

country, followed by the safe repatriation of victims and prosecuting entire criminal networks that victimise innocents. These debates dominate and influence the discourse on tackling or influencing the growth of human trafficking. They polarise policy approaches in several countries resulting in a lack of unity on the issue of how to tackle the global problem of human trafficking. They have created rival camps, which have only served to help criminal networks consolidate the growth and development of their networks, in the midst of complete confusion among law enforcement agencies as to which policy their resources should be used for. At the same time, as my research will show, criminal networks have infiltrated and compromised sources on all sides of the debate within state and civil society structures, and that this is not just through our classic perception of kickbacks or corruption in cash and kind. There exists a strange fraternity of mutual support within criminal networks and among those who profit from the trade, which may include, and in many cases does include, regular and respectable members of society.

My effort through this PhD is to show through various existing models in India and the UK the potential institutional failures that can stem from a purely state-sponsored or purely civil society-sponsored intervention. It shows how criminal networks are able to evolve, have remarkable flexibility and are masters of adaptation, camouflage and infiltration. It indicates how criminal networks are at the forefront of adjusting understanding and adapting to an increasingly networked world. This is in contrast to the classic efforts of several countries that came together to create the notion of globalisation, but are today simultaneously investing significant resources in protectionist measures and artificial barriers or borders against the outcomes of a networked world. My research reflects on how criminal networks are driven purely by profit, are borderless, and not motivated by any ideology other than taking advantage on any lack of consensus or ideological divide in policy by the nation state.

I conclude Chapter 5 by reflecting on the type of theoretical framework within which new and innovative solutions to tackle sophisticated and complex modern crimes in a networked society can be developed. This brings me, principally, to the model espoused by Johnston and Shearing (2003), which talks about the need for state-civil society partnership, based within a legal regulatory framework but with civil society groups becoming more empowered to assist the state and even holding the state accountable for the implementation of the rule of law and the delivery of its obligations. The extension of this principle to a local, regional and international framework that can be applied in tackling all forms of human trafficking, and the description of different models within this framework through case studies and observations are the key foundations and contributions of this research. This thesis is indicative of how such state-civil society partnerships represent the future of governance, development, accountability and effective counterbalance to tackle the growth of criminal networks.

### **5.3 Institutional failures and human trafficking**

#### **5.3.1 Introduction**

Dewey (2008) highlights certain institutional failings that are key in understanding why the state has failed in its classic approach to dealing with the problem of human trafficking. While I do not always agree with what Dewey is suggesting, I find that many of her findings are relevant to understanding why current efforts to tackle human trafficking are facing significant challenges and failures. The key issue is to identify how developing solutions to resolve such institutional failures can be used to serve the needs of the victims of human trafficking. How can such solutions effectively tackle the criminal networks that underpin the human trade and help develop state-civil society partnerships in an effort to counterbalance the growth of criminal networks within communities? How can such solutions to institutional failures establish joint governance by state and civil society within the space currently dominated by criminal networks and previously vacated by a purely state model. These solutions have the potential to facilitate the creation of joint initiatives, between state and civil society, which are both low-cost yet very effective in dealing with criminal networks and those affected by them.

#### **5.3.2 Faceless bureaucracy**

Dewey (2008) raises the concept of 'faceless bureaucracy'. This describes how those working within the state are unable to have the freedom to implement the policies and ideas that they develop. Often it is a case of the system swallowing them and stifling their ability to make any impact. Dewey (2008) suggests that the state has become so separate from society that in most cases it represents a culture different from those around it. This culture within the state infrastructure creates its own set of rules which inform and constrain any elected person or individual working within the state to implement genuine grassroots-level policy. On several occasions while attempting to pioneer a joint state-civil society approach to the problem of human trafficking, it has been common for officials working within the state to share privately during conversations with me. That while, in principle, they would agree with me on the need for a joint state-civil society approach to tackle the problem, and the steps that such an approach would require in order to solve a specific human trafficking case. They were unable to pursue this course of action, due to the existing bureaucratic structures under which they served, which has interpreted the existing laws in a manner which excludes cooperation in any meaningful manner with the very community that they were created to serve. There are various reasons outside the ambit of the law that cause such lack of cooperation: security, personal ego, the need for control, lack of accountability, corruption, flawed interpretations in democratic countries of the primacy of the state and its executive over the citizenry of the country, flawed interpretation in the case of human trafficking victims of being a lesser human given the anti-migrant debate and issues surrounding the interpretation of the rights of a victim by its users, fear over loss of financial resources from the state, and intra-agency competition over financial resources. Interestingly, it is these very agents of the state that strongly advocate the state-civil society approach as a solution once they retire from their official positions. According to Dewey (2008), a victim of trafficking often finds themselves on the receiving end of such state institutions that are unable to understand the

circumstances surrounding human trafficking. A victim of trafficking may also be unable to receive support from state-funded charities or quasi-government bodies as the purpose of such support, as set out by the state, contradicts the needs of the victim.

One example of this is the state's effort to control its borders in both India and the U.K through the criminalisation of migration. Criminal networks take advantage of the traditional response of the state to deport such a victim if rescued. They use it as a tool of control and blackmail on victims to ensure that they never cooperate with the state or a civil society groups. A victim faces an uphill task in most countries to convince the state authorities that they fit the UN definition of a 'human trafficking victim' and were either tricked, or induced, persuaded with false promises, coerced, or drugged to come into the country where they find themselves as an illegal migrant. Here the state's policy in the U.K and India and many other countries that adopt a similar conflicts with the universal obligation to protect a person's human rights and support a victim of human trafficking. Instead, to pander to a local population, a state often takes a populist approach and in many cases summarily deports the victims, with few safeguards, back to their country of origin (US GAO, 2006; DeStefano, 2008; Deane, 2010; Askola, 2007; Williams, 1999).

### ***5.3.3 Disconnect from civil society***

The second point that Dewey makes is that in many nations the state has become such a powerful authority that they no longer take into consideration the concerns of their citizens. An example of this would be the relationship between Armenia and Turkey where, even though a large number of Armenian girls are trafficked into Turkey, Armenia refuses to have any diplomatic ties with the country, because of Turkey's refusal to acknowledge the genocide of Armenians during Ottoman rule (Dewey, 2008: 164; BBC, 2010). This places trafficked girls in a very vulnerable situation, with the dilemma of whether to seek help from Turkey or Armenia. Another way that Dewey's second point is manifested, is when the state starts to control the activities of its citizens and is so suspicious of an individual that the individual can do very little in the way of community empowerment or social justice activities without coming under the suspicion of the nation state. This approach is commonly seen in many countries around the world, but is more manifest in countries with limited accountability in their model of governance, such as could be found in a democratic set up. Former governments such as the Muammar Gaddafi regime in Libya (Asser, 2011) and the Hosni Mubarak regime in Egypt (BBC, 2011) are examples where the state had a huge infrastructure designed to keep tabs on individuals that worked towards community empowerment. Ironically these very governments spent significant amounts of money in endowments advocating better human rights for individuals outside their respective countries, such as the Gaddafi International Foundation for Charity Associations (GIFCA) and, Egypt, the activities of Suzanne Mubarak and her affiliated charities (Chrisafis, 2012). Several regimes with a similar lack of accountability face similar challenges, such as Syria (BBC, 2012), Russia (BBC, 2012; *The Economist*, 2012) and China (*The Economist*, 2012). It is not uncommon even within democratic regimes such as in India, Bangladesh, Pakistan, Nepal and other

parts of the world outside the Western sphere of influence, to find a perception that individuals who work towards community empowerment and social justice under the influence of intelligence agencies furthering a Western agenda if they exercise their democratic rights and oppose certain government policies. The ongoing investigation in India by the government against certain non-governmental agencies who are opposed to a nuclear plant built by the Russians is an example of such actions (BBC, 2012).

#### ***5.3.4 Anti-migration and development prejudices***

The third point Dewey (2008) makes regarding institutional failures is in pointing out how the anti-migration complex and the attitudes of developed nations towards failed states directly affect measures in tackling human trafficking. It tends to follow that measures to tackle human trafficking focus upon strengthening borders (Dewey, 2008: 164) rather than the effective management of the aspirations and desires of the local population in the source area, and addressing what makes them vulnerable in the first place. Dewey (2008: 163–181) goes on to comment on how the developed world approaches parts of the world that have suffered deep ethnic divisions due a breakdown of the state infrastructure. The example given is how the only available funding for Bosnia from advanced economies has been for the setting-up of a shelter home, without any provision for the day-to-day running costs. According to Dewey, the Bosnian state, divided as it is along ethnic lines, refuses to allocate resources towards a problem where they feel the victim belongs to one or other of the ethnic groups, for fear of being seen to favour one side over the other. The deep divisions in the community, following the war in Bosnia, has left the state in a state of utter collapse, ensuring that very little priority is given to tackling issues such as human trafficking (Dewey, 2008, 166–168). Based on my personal experiences, the same is seen even when addressing the needs of a victim of trafficking in India. It is not uncommon for one state within the Indian federal structure to insist on the immediate repatriation of victims from another Indian state in an effort to conserve the financial resources of a state. From my personal experience, and cases reflected in my research findings, this attitude is reflected even in the difference shown by law enforcement when investigating the disappearance of a local victim as compared to a victim that has been trafficked from another state within the same country.

#### ***5.3.5 Turning a blind eye***

Dewey focuses on the rationalisation that occurs among citizens of a nation state when they accept the fact that a child or adult lives in a certain deplorable state because of distinctions of ethnicity, class, caste, religion or race. It is this rationalisation that makes it easy for the ‘common man’ to understand measures taken by the state against a disadvantaged person, such as, for example, deportations, summary evictions and demolitions, executions and use of force as part of daily life. The words of a friend of Dewey are insightful about such a mind-set. ‘On seeing a child forage for food in garbage a friend stated . . . at some point we as individuals who make up our society have to say to ourselves, “this is an acceptable way for that child to live’ (Dewey 2008: 168).

The second statement was made when a woman's house was being torn down having been identified as an illegal establishment. The woman came running towards Dewey asking her to save her child who was limp and unresponsive. The friend's statement was:

'You can't help everyone. When you live with poverty and suffering every day, you have to learn to stop seeing things, or you won't be able to function.' (Dewey, 2008: 169)

A case undertaken on the 19<sup>th</sup> of May 2011, in Kolkata showcased this further. This involved an 11 year old child who was trafficked into domestic servitude. On several occasions, while the child cried asking for help none of the neighbours even bothered to call the local police to inquire into the matter. On one occasion while the child was being brutally beaten for making a mistake during the performance of her chores all the neighbours heard her cry out begging for help as she feared being killed. No one in the neighbourhood bothered to help. It was during one such event that the relative of a staff member of an anti-human trafficking charity mustered the courage to contact the charity. On receiving the tip-off, an operation was put in effect to rescue her and put her in a place of safety (Justice and Care, 2011). Of the several instances of severe physical violence meted out to her that she shared with us, one instance includes being starved for two days as a punishment for breaking a small bottle of oil. This case, once again, illustrates how a community turning a blind eye contributes to the growth of human trafficking and a break-down in the rule of law (Cohen, 2000).

### ***5.3.6 Structural adjustments***

The fifth point that Dewey makes is with regard to structural adjustment policies that a state makes, either by its own will or when imposed by external bodies, such as the International Monetary Fund (IMF) or the World Bank. Dewey expounds this further by giving the example of developing countries such as India that, according to her, after years of socialism now follow a Western brand of commercialisation or free market capitalism. This results in the state undertaking financial, commercial or social policies that are geared solely towards wealth-creation based on a Western-influenced capitalistic model. According to Dewey (2008: 170), these policies are particularly imposed on developing countries when, as a result of their poor fiscal management, they seek aid, borrowing or loans from international institutions and bodies such as the International Monetary Fund or the World Bank. Dewey argues that such a model does not take into consideration generations of inequality fostered by the caste or class system, or the manipulation of the tax system by the wealthy in developing the black market or the illegal economy.

In her opinion such a system is so ingrained in the minds of the people that even in the development sector they use organisational titles in a move to label a section of people, and that this has a negative impact (Dewey, 2008: 170). Dewey disagrees fundamentally in the decision by the government in India to ban the use of dance bars (the equivalent of a lap dancing bar in the West). In her opinion this



is an example of a state decision to bring about structural changes that are influenced by the advanced countries in the West such as, in this case, the US. I differ in my opinion from Dewey here. My take on this is that structural adjustments are dangerous when they blindly ape models that exist in more developed economies, and are implemented within a country without contextualising and adapting the model to a local situation through a consensus-based approach. Such blind application of a one-size-fits-all approach in policy development has a more pronounced impact in systems where class and caste are a predominant factor. As it ensures that those who benefit from such structural policies are the wealthy and the ruling elite, often at the cost of the poorer sections of society. For example, in my opinion, the development of organised housing for poorer sections of society in labelled zones, or on the outskirts of a city, is a flawed idea exported from developed economies. Unless such efforts are used to give the population a realistic chance to reintegrate and contribute towards society based on a principle of equality before law and equal protection of the law, rather than exploit them which is what currently takes place. Such policies, in my opinion, are among those that should not be blindly implemented in developing economies especially when the pure motive is to remove poorer sections of society from areas that have a significant appreciation in property value and, therefore, a prime target for real estate development that is largely dominated by a nexus of criminal networks, business groups and the ruling elite within a country (Kothari, UN Habitat, 2007; Patel, 2011). The poorer sections are often rehoused in specific areas that are far out of the city (Anand and Rademacher, 2011). In my opinion, such communities are then met by the same level of neglect by many arms of the state that they faced before being rehoused from slums. The only difference being that at least before they were rehoused they had better access to local government services such as schools, colleges and hospitals. This neglect results in the formation of fertile breeding grounds for criminal networks to occupy the power vacuum left by the government. Such criminal networks replace the state in every aspect from development and controlling petty crime, to recruiting youths for their criminal activities. Such neglect, as in the case study of the Mumbai riots of 1992–1993, would come to haunt any state with such policies in the years ahead, by which point it would have become too late to tackle the problem. In countries such as Mexico, such challenges as the parallel administration in several parts of the country by drug cartels, when full-grown, can cause instability and civil war within the state (*The Economist*, 2009; Grillo, 2012; Grillo, 2011).

### ***5.3.7 International pressure***

Dewey argues that international pressure, when placed on a local nation-state with a poor track record in transparency, can easily be manipulated by human trafficking networks to further victimise the victims of trafficking. There are numerous examples of this in the implementation every year of the compliance with the Victims of Trafficking and Violence Protection Act 2000 (TVPA) through the reporting cycle that includes the annual trafficking in persons report by the Office to Monitor Trafficking in Persons, The US State Department. If a country gets placed under Tier 3 of the US government trafficking rating system, at worst, it leads to sanctions being imposed on the country, and at the very least is a significant irritant in bilateral relations between the US and the country affected

by the rating downgrade. In my experience this has led to summary actions such as bans on lap dancing bars, massive sweeping operations by law enforcement operations, demolitions of unlicensed brothels, with a stated aim of showing tangible progress within the time span of a year when the next rating review takes place. This approach rarely has a direct or beneficial impact for the victims. What it does is to disperse the geographical concentration of the victims of crime in known areas, thus forcing it to go underground. This makes the victims more vulnerable to violent abuse, increased inter-trafficking or circulation of victims to several locations within a region. International pressure often results in summary actions such as deportation of victims as illegal aliens. In my experience, deportation as illegal aliens often has the beneficial impact of lowering the official records of the number of victims trafficked into the country (Harper, 2011; Israel, 2011).

International pressure also sometime results in the source countries refusal to acknowledge nationality of the victims due to fear of having to acknowledge the growing nature of the problem and the potential impact emigration clearances for its citizens will have on the dependence of the country on inwards remittance of its citizens working abroad. All these policy outcomes largely affect the victim with limited impact on criminal networks operational in the region. They also use these outcomes to dispose of victims that have no more value to them but for whom criminal networks would have been liable for criminal damages or a promise to compensate them for their time as a trafficked victim if rescued by the state they were trafficked to. Often, criminal networks await the deportation of victims that still hold value for them at the source location in an effort to re-traffic and further enslave them by adding the cost of re-trafficking them to the debt burden they already owe to the criminal networks. They increase the debt burden by piling on any legal defence-related costs to counter an anti-trafficking intervention that was targeted at saving them. This teaches a victim never to trust the government authorities and that the only way out would be to pay back an ever increasing debt burden which is written off in the accounting books of the criminal networks only when the victims has no more tangible value. It is very rare that the governments under such international pressure will be able to provide results within a short timeframe of less than a year. *The Trafficking of Women and Children in India, 2002–2003* by the National Human Rights Commission undertakes an evidence-based illustration of the several points I have made in the above paragraph on international pressure.

### ***5.3.8 International human rights standards***

Dewey's seventh point concerns how the implementation of the international human rights standards by nation-states has unwittingly benefited criminal networks in cases where it has been done without contextualising it locally. A clear example of this is the implementation of differing measures that form the strategy of groups asking for legalisation or criminalisation of prostitution. Clearly there are elements of each strategy in any location that can be immensely beneficial within a local or regional context. Those in the Coalition Against Trafficking of Women (CATW) consider prostitution inherently exploitative and thereby support the conceptualisation of trafficking to include all migration undertaken for sexual purposes, regardless of the level of volition involved (Jeffrey, 1997). By

contrast, those within the Global Alliance Against Trafficking in Women (GATW) would adopt the opposite position, seeking a clear distinction between prostitution, which they regard as legitimate, chosen and non-exploitative labour, and trafficking, which is forced labour and therefore exploitative. Thus, for GATW campaign groups, a reliance on the significance of consent remains necessary, since it prevents the normalisation of the exploitation experienced by trafficked persons and protects willing sex workers from the imposition of harsher anti-prostitution laws that would contribute to their stigmatisation. In several countries antiquated laws based on suppression of prostitution still charge trafficking victims who are trafficked into prostitution with fines on grounds of public nuisance or violation of the immigration acts.

The risk at stake in this argument is that penalising customers, unless well planned, without concrete evidence of rape or assault and without making it an integral part of dismantling a criminal network is impossible to implement, legally hard to prove, fraught with a resource expense to monitor that even developed economies today do not have. It also has negative consequences for the victims when pressure is placed due to compliance requirements that make them vulnerable at the hands of criminal networks. It risks the attention being taken away from criminal networks and focussed solely on the delivery end, between the victim and the customer. Given the ambiguity in the law on prostitution in several countries, most actions by law enforcement to prosecute customers are summary in nature due to lack of resources needed to gather concrete evidence from multiple destination locations where the abuse is taking place. The criminal networks also provide significant guarantees that the customer of its services will be protected in the same way that a victim will be protected by an anti-human trafficking agency. This makes it impossible, legally, to prove that a recipient of sexual services by a victim of trafficking was aware of the crime and still went on to rape the victim. This is often the cornerstone policy for groups such as the CATW that are opposed to prostitution. In the case of Sweden, specific financial resources were allocated by the government in the effort to tackle demand in prostitution. The prosecution of buyers was not limited to the customer but extended in principal to the entire criminal network with the inclusion of the customer as a part of the criminal network (Ekberg, 2004). This has shown early signs of success in tackling demand for street prostitution; however the verdict is yet to be reached with regards to other forms of prostitution. Street prostitution has a lower status than other forms of prostitution (Scott, 2002; Benson and Matthews, 1995; Hodgson, 1997; Matthews, 1993; Van Gelder and Kaplan, 1992).

At the other end, frontline elements of some groups which promote the legalisation of prostitution as a form of controlling HIV-Aids through the regulation of the health of women in prostitution, have in a number of cases colluded and worked with Tier-2 controllers of prostitution that have a criminal record for trafficking women and children into prostitution. In an effort to build closer relations and gain access and trust, they allow their structures to be manipulated and used in developing a front, often camouflaging the criminal network behind it. The reason criminal networks infiltrate these groups under the pretext of giving them access is to enable them to have a false front and the mask of

respectability, thus, making it easy for them to use a wide array of tactics, from mob violence to threaten the police or infiltrating a police station after a rescue operation under the guise of a social worker, to making false statements to children's tribunal and judicial magistrates as guardians of minor victims. There have been cases when criminal networks have infiltrated these groups or staff members from these organisations have been witnessed, in order to gain trust, providing alerts in certain geographical areas to perpetrators, based on access they have within state systems, particularly when an attempt is made to save a minor victim in a given area (case studies from my PhD research) (Raymond, 1998).

Not all organisations across the ideological divide represent the above characteristics. There is often a genuine attempt at both sides of the divide to work with each other to alleviate the pain and suffering of the victims in way that keeps the best interests of the victim at heart, their free will and individual circumstances. In my years of experience there have been a number of organisations, such as Save the Children India, Oasis Trust, Bar-Girls Union of Mumbai and Majlis that have worked on cases to identify victims of trafficking in prostitution.

### ***5.3.9 Development deficiencies***

Priorities within a nation-state can cause deep divisions and friction between civil society groups, as they compete for the meagre resources available. This can result in a lack of partnership between individual civil society groups. Dewey (2008: 173) further elaborates this point by talking about the short attention span of institutional investors in solving a problem and the impact of changing priorities in nation-states providing funding. One of the examples she talks about is the shutting down of the sole safe house in Sarajevo, as a result of the sudden change in focus of the US government following the start of the war in Iraq. This represents one of the biggest challenges the anti-human trafficking sector has had to face. It is a common saying within professionals working in the sector that the highest risk for frontline agencies comes from within the 'development circus'. I will be reflecting in-depth on these issues in the principal findings of my research. The problems range from corruption in the grant process, unnecessary bureaucracy, poor actual monitoring of grants, manipulation within relationships in the sector with an intent to cause harm to an organisation, misappropriation of grant money, outright fraud and siphoning of grants for illegal purposes, court litigations, 'rubber stamp boards', poor accountability and property grabbing. The problem is caused by manipulation of the state, donors and civil society and the constant attempts by criminal networks to undermine and infiltrate state-civil society partnerships.

### ***5.3.10 Corruption and collusion***

Dewey highlights the close, mutually benefitting partnerships that exist between criminal networks and the state machinery, where the latter basically puts a price-tag on violating the rule of law. The more serious the violation of the rule of law, the more sustained and higher the price for ensuring lack of accountability for one's actions:

‘The understanding and collusion between law enforcement and groups that break the law reveals how individuals can subvert the broader structure of government by creating their own systems that work in their favour.’ (Dewey, 2008: 173)

It is not uncommon to discover, during operations to rescue victims of trafficking, accounting books that reveal complex payment patterns depending on the degree of violation of the rule of law for corrupt members of the criminal justice machinery, lawyers and politicians and influential members of society, some of whom are active or sleeping partners in these criminal enterprises. The price varies on a case-by-case basis depending on the age and number of victims that are in the custody of the criminal network and how violent, widespread and profitable the criminal enterprise are (NHRC, 2002–2003).

### ***5.3.11 Globalisation and the crime-migration complex***

Dewey’s (2008) makes the case that contrary forces are unleashed by the enforcement of a free market economy, one which results in women being able to exercise more agency in their actions. Dewey (2008: 176) goes on to add that once they adopt migration as a way of improving their lives, the women who are able to exercise more decision-making in their actions clash directly with the increasing focus of several governments around the world, to control their borders and limit non-nationals from being able to tap the market. This classic problem is seen at the US-Mexico border (Segura and Zavella, 2007), in the concept of fortress Europe (civil society leader Selma Hadzihalilovic, quoted in Dewey, 2008: 126) and in gender based migration in South Asia (Siddiqui, 2008).

## **5.4 Criminal Networks and human trafficking**

### ***5.4.1 Introduction***

According to Morselli (2009), criminal networks are designed so that they are able to take advantage of opportunities to exploit new markets, in untapped geographical locations. It may be based on a single opportunity, a pioneering venture, or may come from within a more organised structure that exercises a degree of control over its participants. The reasons for a criminal network to have a platform of cooperation between its participants could be based on interpersonal relationships, past experiences, exploitation of resources, personality traits and skill sets. Sutherland (1947) was among the first to talk about the congregation of individuals into groups or networks based on value systems or actions that revolve around a profitable criminal enterprise. In his opinion this happens in a similar way to normal groups of individuals undertaking other activities for legitimate profit-making enterprise. According to Morselli (2009), since Sutherland’s (1947) time there has been a development of the concept of the geographical convergence of criminal activity, giving rise to research in such areas as vandalism and other aspects of environmental criminology. Research has also been conducted into the convergence of criminal activity into certain locations, termed in criminology as ‘hotspots’. Over the years, as research has progressed there has been a tendency to

categorise organised criminal activity into groups resulting in classic terms appearing, such as ‘gangs’ (Thrasher, 1927; Morselli, 2009), ‘crews’ (Adler, 1985, 1993; Morselli, 2009), ‘firms’ (Reuter, 1983; Hobbs, 2001; Morselli, 2009) and ‘criminal enterprise’ (Smith, 1980; Haller, 1990; Morselli, 2009). My research is very much in the vein of the work of criminologists that understand crime within the socio-network concept. Earlier works on this theme include Castells’s (1996) description of a networked society, and Watt’s (2003) comments on a connected age. My research will showcase the criminal response driving human trafficking and the potential antidote to this problem within the context of social networked structures.

The term ‘network’ here refers to a circumstance in which people across a shared community or cultural, political, criminal or economic space, link up with each other to share information and work together towards a common goal that can accommodate a wide range of factors. Networks in the sense are facilitated by greater and cheaper access to reasonable modes of communication and social media and other similar tools that secure privacy, protection, ability to reach a large or private audience to the inclusion of everyone or exclusion of certain groups. It seeks protection in large numbers of like-minded individuals, making it impossible for the existing institutions of the state to govern or comprehend.

Morselli (2009) describes criminal networks thus:

‘. . . as a network concept whether in a marginalised subset of society, a problematic neighbourhood, a deviant sub-culture, a criminogenic geographical space, or in a criminal market, networks are in place and it is within such organised systems that criminal opportunities are generated and collaboration to seize such opportunities is organised and executed.’ (Morselli, 2009)

There are several reasons why it makes sense to approach an understanding of human trafficking networks in this way. Some of the common attributes between human trafficking criminal networks and the general view provided by Morselli (2009) that I have observed are as follows: an inclusive and multi-faceted approach, resilience, ability to cross political, economic and cultural spaces, ability to operate across borders in an effective decentralised manner, oriented around a highly profitable product, ability to be structured informally yet have each participant know their respective roles, ability to maintain a covert approach and a low profile, flexible nature, linkages between criminal networks through influential brokers, and ability to capture the lessons learnt from senior and more experienced members of the network.

#### **5.4.2 Inclusive approach**

Morselli (2009: 11) describes a network as having the potential to include a variety of actors, which is very true for human trafficking. The chain of perpetrators who profit from human trafficking – the trafficker, the seller, the buyer, the end user, the financier, etc. – could include absolutely anyone

within society. Morselli (2009: 11) also describes a criminal network as being flexible, thus enabling them easily to replace relationships or points of convergence that are lost because of law enforcement activity. The key to tackling human trafficking is the necessity of securing the entire chain of perpetrators that profited, facilitated or used the individual or sets of individuals as a human product for hire, purchase or sale for profit and exploitation. As I will go on to describe from my findings, in a high proportion of cases only a small percentage of the criminal perpetrators are successfully prosecuted, which thus enables the criminal networks to easily regroup in a format more difficult to disrupt or dismantle, like a strain of bacteria or a virus.

#### ***5.4.3 Multifaceted approach and resilience***

Morselli (2009: 4) goes on to state that networks are resilient and multifaceted. This is once again very applicable to human trafficking. Human trafficking as a crime has been able to successfully withstand years of efforts to resist it, and yet thrive and evolve into new and emergent forms. Human trafficking today is defined to include, among other forms of exploitation, slavery or practices similar to slavery (UN Palermo protocol, 2000). There is also no doubt over the fact that each year we see new forms in which an individual might be trafficked or sold. On the 12<sup>th</sup> October 2011, a BBC television exposé was broadcast, highlighting the shocking reality of the trafficking of a number of African children into the UK to meet the increasing demand of spiritual healers, shamans and voodoo artists who perform a number of rituals using human blood (BBC, 2011).

Since 2000 the primary purposes for which trafficking of human beings was occurring was bonded labour and prostitution (Trafficking in Person Reports, 2001–2011). This has since evolved to include the buying and selling of human beings for any viable and profitable purpose, including as camel jockeys for racing in the Middle East, for illegal mining, organised begging, illegal organ harvesting, domestic servitude and for paedophile criminal networks (Trafficking in Persons Reports, 2002–2011). Each year law enforcement and civil society groups working in this sector discover a new purpose for which people are being sold for profit and exploitation. The annual publication of the trafficking in persons report by the Office to Monitor Trafficking of Persons by the US Department of State, documents the growing spread and diversity of human trafficking and the subsequent exploitation and abuse of trafficked victims for new areas, meeting both commercial and personal requirements of a business or an individual.

#### ***5.4.4 A Bridge across social, economic, political or cultural divides***

Another surprising fact seen in the application of the network concept, is that it can consist of individuals that cut across the class (Morselli, 2009) or caste divide. A human trafficking criminal network can contain people, both victims and perpetrators, of any religion, faith, background, class, caste or wealth. In my years of working as an activist and a lawyer on criminal cases against human trafficking criminal networks, what I have discovered is that the victims can come from any class or caste or religion, the perpetrators also straddle all class, caste or religious divides. The perpetrators are

also well represented with links within corrupt elements of the state at every level. The end users or clients of human trafficking are anyone and everyone within a society.

#### ***5.4.5 Wide geographical decentralised and empowering remit***

Another key feature of a network is that it does not have to be driven from within an urban context (Morselli, 2009: 4), nor does it need to be driven by economic design (Wasserman and Faust, 1994: 20). This once again fits human trafficking perfectly. Human trafficking thrives in all settings, whether in rural areas, towns, semi-urban or urban developments; it can, in fact, be found in virtually any context, even including underground mines or on the high seas.

#### ***5.4.6 Highly profitable product***

Human trafficking networks can easily drive up their profits by reducing the cost of their overheads. This makes them recession-proof in any given economic context. The networks lower overheads by not paying anything, or marginally paying, for the human trafficking victim. In fact in many cases getting the victim or their contacts to unconsciously pay for the cost of trafficking, by getting benefiting members of the community to pay for the product's use and abuse, and by ensuring that the number of users per product, directly or indirectly, is high, reducing the cost per client for the criminal network. The networks can procure a supply of products from any location, ensuring that the transport or sale costs are shared, varied or, in some cases, non-existent, whilst maintaining the illusion of them being high-cost operations to ensure the victim's long-term debt bondage. This is only a small number of examples of tactics the networks can use to drive up their profits (Shelley, 2003; Trainor and Belser, 2006; UN Gift, 2008).

#### ***5.4.7 Informal structures***

Lastly, contrary to our common understanding, a network does not have to be organised in a formal manner as legitimate organisations do. They are not limited by geography and don't require a common value system. This can certainly be said to be true of human trafficking criminal networks, particularly with regard to geographical limitations. These networks operate in 177 countries around the world, with increasing convergence and inter-linkages between criminal networks across the geographical divide (Trafficking in Persons Reports, 2001–2011).

#### ***5.4.8 Maintaining covert and low profile operations***

Criminal networks often work within a covert context where concealment, the management of risk, and security are all drivers that ensure greater cohesion and accountability (Erickson, 1981; Baker and Faulkner, 1993; Morselli, 2009). Criminal networks also have certain inbuilt mechanisms that respond naturally to protect the networks in the event of specific targeting by the criminal justice machinery. These measures include the creation of buffers that range from a legitimate business to spreading the risk by distribution of goods to decoy bank accounts or hawala banking, the decentralisation of management, and the limitation of communication (Baker and Faulkner, 1993 in Morselli, 2009).



#### ***5.4.9 Flexibility***

A key attribute within criminal networks, according to Morselli (2009), is flexibility. It enables a criminal network to be organised and decentralised at the same time, through the development of an organised hierarchy or structure, as required. The versatility of a criminal network is in its ability to be sustainable, whilst still making use of organised structures within, which may be dismantled over time (Lampe Von, 2003). In developing the flexibility concept further, it is important to understand that within criminal networks organisational structures are not predetermined but rather evolve on a real-time basis around interactions externally with law enforcement, government agencies and civil society; and internally by the mutual grassroots-level feedback from its members. This all occurs without the oversight of a prevailing centralised structure (Ebel, Davidsen and Bornholdt, 2003; Kleemans and Van de Bunt, 1999).

#### ***5.4.10 Clearly defined single, or multiple, roles for participants***

According to Morselli (2009: 12–15), a key aspect of a criminal network is the differentiation between the leader, central participants, and peripheral participants. The leader is the person with the knowledge, ability, experience, management expertise, self-control, and resourcefulness to manage the network; the central participant is a node with the highest number of contacts to other participants; and a peripheral participant is one of the many different parts of the criminal network that are all connected by the central node, and who may be a part of legitimate society. Peripheral participants could be lawyers, political contacts or money launderers, among many other things. Often, all three of these levels are handled by different individuals or groups within the network, this being the reason that, in attempting to take down a criminal network, one must be able to map and identify with concrete evidence, the leaders, the central participants and the peripheral agents. It's only by identifying all of these individuals or groups that one can understand the flexibility of the criminal network (Baker and Faulkner, 1993; Carley et al., 2001). To sum up, in most criminal networks, the key factors in measuring their sustainability are how flexible they are, how adaptable they are and how well they are able to incorporate feedback from well-positioned network members in taking advantage of emerging opportunities (Morselli, 2009).

#### ***5.4.11 Well-networked***

Castells' (1998, 2000) states that the networked system using crime as a precursor is a creation of varied criminal organisations around the world, with a focus on ensuring greater prosperity and being efficient within an increasingly globalised and technologically driven world. Morselli (2009) convincingly argues that criminal networks are highly flexible, having a remarkable ability to regenerate, being resilient, multifaceted, cross-jurisdictional, multicultural, able to cross borders and the urban-rural divide, and having the ability to be formal and decentralised when necessary. The network approach best explains how actors involved in human trafficking interlink and partner with those from other countries or regions. It also helps in understanding how criminal networks are able to

take advantage of legitimate cross-border arrangements and profitability across varied markets. This view differs from Castells's (2000) assertion that a global criminal economy is largely driven by established criminal corporations, based in key countries, such as Italy, Russia, the US, Turkey, Colombia, China, Japan, and Jamaica. Such an assertion cannot explain the depth and extent of the spread of human trafficking to 177 countries (TIP Reports, 2009–2011) around the world. Based on my experience and based on research documented and undertaken in India and different part of the world (NHRC, 2002–2003; UNODC, 2008; TIP Reports 2001–2011), human trafficking is not an activity largely driven by organised crime syndicates. Organised crime syndicates do have a stake in the crime and, in several instances, a large and profitable stake in transnational trafficking. However this discounts the spread of the problem, the role of corruption, the diversity, flexibility, resilience, inclusivity in criminal networks. A sophisticated organised syndicate may be a central participant, senior or experienced participant, facilitator or a key broker as a link between several criminal networks, but that does not make it a main driver in the growth in the crime, just one of the many important links in the maze of interlinked criminal networks. During the early part of my 15-year tenure on the frontlines of the crime, cases that resulted in prosecution often consisted of freelance traffickers linked with criminal networks in destination areas (NHRC, 2002–2003). They also include cells consisting of individuals numbering eight–12, that targeted specific, exit or entry points such as bus stops, railway stations, airports etc. (NHRC, 2002–2003). They were also linked with more sophisticated criminal networks that purchased the trafficked victims from these cells. The criminal networks would then bid for the highest price for first use by their clientele followed by ease of circulation to increase value of the commodity. There are also departments or dedicated cells within sophisticated criminal networks that supply victims of trafficking to influential clients with a particular need or demand or location, such as seen with child sex offender networks. These criminal networks had a sophisticated logistical set up to control and coordinate the entire process (UN Gift, 2008). These networks were often well-linked with a large number of similar networks in the region. None of these criminal networks has the stamp of well-known or established organised criminal syndicates, however, they all have in common active participation from very influential members of society and highly placed, corrupt and actively participatory elements within the state (UN Gift, 2008). The human trafficking criminal networks run by well-established organised criminal networks that are well known were rarely touched by law enforcement agencies. This was not principally because of the threat of violence or use of firearms, it had more to do with the level of influence within the state that these top end criminal networks enjoyed at various levels. In all of these observations the role of corrupt elements within the state, which fills the vacuum created by the removal of the non-state elements of criminal networks, is rarely documented or understood. In 13 years of my experience, several key players have been corrupt elements of the state that facilitated or, in several instances, took over the running of human trafficking criminal networks.

#### **5.4.12 Resilience**

Criminal networks are remarkably resilient in their ability to withstand heavy blows sustained during attempts to disrupt and dismantle them by rival networks or law enforcement agencies. They work in hostile environments and high-risk situations. They often factor a degree of operating loss into their growth strategies or goals. An interesting insight into criminal networks has been revealed as a result of the assessment of the hijacking operation behind the September 2001 terror attacks in New York. It was found that it was not the dominance of single leaders that led to the attack, but the commitment fostered through prior relationships that enabled the operation to be launched in secrecy and with resilience (Krebs, 2002). Morselli describes how the evolution of crime is based on the assertion that the bedrock of a criminal network is flexibility:

‘ . . . the continuity of crime at a collective level is not due to a criminal mastermind or dominant cartel that is able to control all participants within its network but rather due to the facts that the remnants of the previous dismantled criminal networks is always accessible for subsequent criminal networks to build upon...’ (Morselli, 2009, p.20)

#### **5.4.13 Law enforcement misconceptions about criminal networks**

A general notion within law enforcement and crime control policy is that crime is largely committed by one individual or by a gang, characterised by controlled activity in a close-knit and micro-managed set-up (Felson, 2006; Morselli, 2009: 21). It is this notion that has allowed criminal networks to evolve and thrive within a networked society. Research by Morselli (2009) indicates that the central participants identified by research on various criminal networks, based on data provided by the police, differed from the assessment of the individual main players identified by the police themselves. Evidence found that the key focus of the criminal network was oriented toward flexibility and hence, their coordination and organisation was based on such a concept, rather than the traditional view of a rigid organisation with a systematic and hierarchal work structure (Morselli, 2009). Morselli discovered that criminal networks are closer in nature to a ‘...simple co-offending network based on partnerships, rather than sophisticated criminal organisations’ (Morselli, 2009, Chapter 1: 1–21). Morselli also discovered that it is only terrorist criminal networks that exclusively operate under high security, whilst security is seen as a luxury for profit-oriented criminal networks. Such security is guaranteed through peripheral participants, who are influential facilitators within legitimate society. These legitimate participants insulate the central participant and the key leaders of a criminal network but also develop deeper links and growth for the network. Through his research, Morselli (2009) demonstrates how, when confronted by the criminal justice machinery, a criminal network is able to decentralise and network participants are able to take control of the situation without the presence of a key leader. These participants are able to maintain the structure and order of their profit-making enterprise in the midst of constant challenge from the criminal justice machinery.

#### **5.4.14 Brokers and inter-criminal network linkages**

A new concept in the evolution of the structure of criminal networks is the emergence of the role of broker. A broker is someone who has survived and developed within the criminal structure to a position of respect, achievement and strategic positioning, so that they are able to interconnect several criminal networks (Boissevain, 1974). Brokers are an indicator of a highly-evolved criminal network, as shown by a number of studies on drug traffickers, which have identified the presence of one or more brokers. Brokers in their positions in the legitimate world, can facilitate the flow of information between separate criminal networks, as well as have access to resources (Burt, 1992, 2005).

Morselli undertook research with street gangs and Hell's Angels and discovered that the key links between criminal networks came through criminal brokers who were not involved in the fixed groups but instead interlinked several criminal networks, showing remarkable flexibility in participating with the fixed structures. Even central participants in the fixed groups place themselves in a position where they occupy a niche or key position within partnerships linking several criminal networks. In the words of Morselli, it is time that criminal networks are seen as:

‘...fluid structures of criminal co-participation in which, over time certain participants come to position themselves better and more securely than other. Positioning is about fitting in loosely and not about taking control.’ (Morselli, 2009: 16–17)

There is still very little known about the interaction of the participants of criminal networks, the degree of their integration within society and how the emergence of a criminal network and their activities is facilitated within a society. In terms of their individual traits, Morselli (2009) suggests that collaboration is an absolute necessity between criminal networks, however it is competition and ambition that drives a network. In such a setting, a person who is able, as a broker, to leverage and manipulate inter-criminal network partnerships, is in a strong position and, as Morselli comments, has ‘... a capacity to exploit and take advantage when necessary’ (Morselli, 2009).

#### **5.4.15 Role of senior and experienced participants in a criminal network**

One of the key factors for the successful sustainability of a criminal network is the ability of senior experienced participants to be able to partner with new entrants and mentor them. According to Morselli (2009), researchers in the Netherlands have been able to prove ‘...that older offenders sustain the social opportunity structure for crime through their co-offending with younger offenders’ (Kleemans and dePoot, 2008). Morselli comments there are three stages in the career growth of an individual within a criminal network. The first stage is working at a grassroots level, directly involved in the criminal act; the second stage consists of a mix of both direct grassroots work and work of strategic depth; and the final stage is where the participant largely plays the role of an influential broker between criminal networks. The risk of being arrested and brought to justice is highest in the first stage and lowest in the final one.

#### ***5.4.16 Summary on the concept of criminal network***

So far, in this chapter we have looked at the role of institutional failures in the growth of human trafficking, and the development of the criminal network concept, an innovative mechanism that has helped the growth of both profit-led and non-profit crime (such as terrorism). Such networks have replaced the government in many spheres around the world, infiltrating and adjusting to state structures, and successfully blinding the criminal justice machinery tasked with dealing with their criminal activities. As I have discussed they do this by limiting the focus of law-enforcement crime detection to individuals, groups or gangs, so that they don't deal with the hidden components of the criminal networks, such as the broker or interlocutor, the central participants, the peripheral participants and the leaders. This leaves the criminal network with their flexibility, ability to adapt and deep links within state and society, the ability to resurge in an advanced form that is often several steps ahead of any ability that the state has to evolve and adjust within its framework.

Since the work of Castells (2000) and its development and application by Morselli (2009) on the networked society and its implications for thinking about crime we can no longer sensibly refer to human trafficking as an 'organised' crime in the classic sense.

In the next section I will outline why the idea of governing security is one that has the potential to enable more precise, targeted and effective interventions in relation to human trafficking than more conventional and less subtle theorizations of the problem.

### **5.5 Governing security and human trafficking**

#### ***5.5.1 Introduction***

The governance of security within the context of my research sums up the efforts to promote security and justice in the face of the growing dominance of criminal networks in human trafficking, given that crimes of human trafficking arise from human intentions and actions within the community. According to Johnston and Shearing (2003), expertise in tackling criminal network-led problems, such as human trafficking, is no longer purely contained within, or led by, the state. Community perspectives and participation, local knowledge and civil society strategies and structures, combined with specialist knowledge from the state, can form innovative platforms to deal with human trafficking.

While the criminal justice system is the institutional organisation we tend to associate with the governance of security, it is not the only structure or mechanism that is used to serve this end. It is clear today that policing, far from being the exclusive prerogative of the police, is undertaken by a complex network of public and private agencies (Johnston and Shearing, 2003). The recognition that the historical domination of the state through policing is 'under threat' elicits a defensive reaction with questions on how we can re-impose state control. This type of reaction leads to legislation that creates either platforms for genuine partnerships or platforms that are dominated by the state. In the UK, the

Child Exploitation Online Protection Centre (CEOP, <http://ceop.police.uk/>), an organisation that addresses child sex offender networks, online protection for children, and child trafficking facilitates state-civil society partnerships. In India, the multidisciplinary model of tackling human trafficking, featured in the main findings, is, similarly, an example of state-civil society partnerships.

### ***5.5.2 Existing concepts of state-led governance***

The criminal justice system is a set of institutions employed by the state to guarantee security. In order to meet the state's responsibility for guaranteeing values such as liberty, privacy and justice, the criminal justice system places constraints on the design of state security systems. It employs specialist professionals like police officers who are endowed with the authority of the state and the legitimate capacity to apply necessary force in order to preserve the peace. Key elements in the governance of security are arresting or restraining suspected wrongdoers, trying them before a judicial panel and punishing them if they are convicted. Within this broad framework, the governance of security is conceived as a response to collective conflict. This focus on conflict underlies the state's claim to possess a monopoly over the legitimacy of coercion. The state maintains its need to enjoy such a monopoly in order to fulfil their constitutional responsibilities for the preservation of the peace and for the maintenance of public order and security in the interest of public safety (Johnston and Shearing, 2003).

### ***5.5.3 The state-civil society paradigm in delivering justice, security and care***

In an alternative paradigm to the exclusivity of the state and its allied structures to deliver security, as mentioned above, security can also be regarded as no longer the sole, or even the primary, preserve of the state, its governance instead exercised under plural auspices. Here, the provision of security may be regarded as everyone's business.

‘Thus, while specialized agents provide professional skills and capacities, they also act as brokers or facilitators who assist in the mobilisation and coordination of the public. Furthermore, contemporary governance of security can reflect a mentality that prefers proactive prevention rather reactive punishment, and actuarial calculation rather than conventional moral prescription.’ (Johnston and Shearing, 2003)

In this alternative paradigm, the knowledge and skills required to govern security are no longer viewed as being owned by a particular set of persons or of institutions, but are seen as being widespread and accessible to all. Local lay knowledge is now regarded as important; indeed, it can be seen as more important than professional knowledge and capacity. Where the old paradigm seeks to mobilise specialist, often force-based, expertise, the new one seeks to mobilise and integrate a wide spectrum of resources, placing particular emphasis on local knowledge and capacity as a key ingredient in any governance program. This new paradigm is characterised by its openness to mixed mentalities, auspices and organisational forms. This thesis will utilise the concept of networked

governance and networked nodes to describe efforts to govern security in tackling human trafficking, using the approach of the new paradigm described above (Johnston and Shearing, 2003).

As Johnston and Shearing note, there has been an historical shift from punishment to problem solving within security governance. “This mentality of governance, referred to by Foucault (1977) as ‘the proper distribution of things’, captures nicely the problem-solving approach and its requirement to mobilise diverse capacities in the furtherance of order... The problem-solving approach also dovetails with the neo-liberal shift which has sought to promote responsible citizenship and which regards state-centered governance as ineffective and wasteful” (Johnston and Shearing, 2003: 73).

They also note that, “The decentralised forms of capacity and knowledge that exist today are embedded in organisational forms, which differ from the early forms of governing security present during Sir Robert Peel’s time. What is similar, however, between past and present forms of governing security, is the desire to promote local capacity and knowledge as the basis for effective governance. It is for this reason that contemporary writers have drawn attention to the reinvention of government (Osborne and Gaebler, 1993) and to the fact that governance is no longer monopolised by the state” (Johnston and Shearing, 2003:73).

#### ***5.5.4 The state as a regulator***

The challenge of how to govern security in a mixed market of public and private provision is now an important matter of academic deliberation (Johnston and Shearing, 2003; Loader and Walker, 2004, 2007). Whether the increasingly scattered providers of security are better understood via a horizontal market model (Dupont, 2004: p.79) or a state-centered vertical model (Crawford and Lister, 2004: p.426) is a matter of analytical dispute and debate about how security provision ought to be regulated. If, as Crawford and Lister (2004) argue, the state is more than merely one node among many, its role remains pivotal with respect to both its symbolic power and its regulatory capacity. If, on the other hand, the state is merely one node in an increasingly diverse security network, then the issue is less about who governs security than who provides it and who has the power to purchase. Shearing argues against a state-centered view of governance that excludes, or at least obscures, private governments (Shearing, 2006, p.13), and insists we recognise the state police as but one node or security provider among many (Shearing, 2006, p.27). Shearing (2006) also favours a residual role for the state, as providing the auspices under which security governance is devolved to private and communal providers operating within a free market.

According to Johnston, ‘the state is one player – albeit a crucial one – in a network of governing agencies. This is no mere descriptive statement, for it underwrites a clear normative refusal to give priority to any particular locum of power.’ (Johnston, 2006, p.34)

#### ***5.5.4 Nodal governance***

Whereas network analysis relies on claims of coordination between security providers, nodal governance makes no claim as to coordination and gives no set of nodes conceptual priority. Shearing and Wood argue for the need to stop giving conceptual priority to state nodes and to see security as best provided from the solutions developed at the grassroots level by communities, based on the challenges and problems they face. Although the emergence of these communal nodes can lead to the creation of unwelcome governance deficits, they can also produce new and potentially beneficial forms of communal self-rule through the enhancement of local capacity governance. They contend that adequately resourced, local community governance can deepen democratic control over the provision of security in ways that are consistent with its provision as a public good. They see the dispersal of security measures as creating spaces of greater civil participation in governance. The language of local capacity-building suggests a democratic dispersal of power to local communities and to others who have been previously denied access to formal processes of government (Shearing and Wood, 2003; Zedner, 2009). The possibilities of local capacity-building become particularly important when the state is weak or failing. Dupont suggests exploring the possibility of transferring mechanisms for the co-production of security from stronger states to those where the conventional security mechanisms are either poor or non-existent. According to Dupont, this has the capacity to arrest the decline of security in the least secure nations of the world (Dupont et al., 2003, p341). In India, the government has introduced the Panchayati Raj (local village or town council) system which delegates state power to the local community at three levels i.e. The Indian Constitution (Seventy-Third Amendment) Act 1992. The first is the district level (governance for the rural component of a district), the second is at the block level (constituting a governance body for a number of villages) and finally the village level. The entire process receives both federal and state funding. A number of seats are reserved for people from oppressed communities and for women. This has revolutionised development at a rural and local level (Assadi, 2005; Alagh, 1999). It is not the civil servants in New Delhi that dictate policy consideration or priorities for funding; instead, the decision is made at a level where those involved in the mechanism are also the beneficiaries, who will have a clear idea of what their needs are and where to target resources.

Taking the example of innovation in one South African township, Johnston and Shearing promote the Zwelethemba model of peace-making, peace-building, and the use of partnership to create sustainable, managed and regulated 'Peace Committees', charged with the local resolution of conflict and the building of a local capacity for security (Johnston and Shearing, 2003). These developments challenge the traditional role of the state to resolve criminal disputes, by claiming that the state here is too remote from the community to be able to serve communal interests adequately. Only by returning disputes to the community, it is argued, can the interests of all the parties be considered and met.

In India, the International Organisation for Migration (IOM), civil society groups, businesses and the Indian government developed the Economic Rehabilitation of Trafficked Victims programme



(ERTV). They developed four alternative career tracks for victims, keeping in mind the complexities and the physical and mental health challenges that a victim faces. The first career path was the management of the franchise of a reputed brand, the local equivalent of McDonalds, Costa, etc. ERTV would provide victims that it considered to have the requisite skills and abilities for such a role, training in the setting-up of the franchise. The second alternative was to help victims who were only able to work according to straightforward processes, so that they might find employment in a production set up (i.e. the manufacturing of soya milk, the binding of books, tailoring, etc.). The third career stream was to develop and invest in a business plan for a small-scale undertaking, such as a hair dressing salon, a transport service, and different types of food catering services. The final strand was the support of region-specific, income generation using micro-credit programs to train victims in dairy production, agriculture and livestock management so that they might use the skills learned to take care of themselves and their families. The Panchayati Raj and ERTV schemes show how the delegation of state power to communities and joint partnership between the state and civil society groups can provide innovative solutions to solve complex problems that the state, on its own, cannot solve (Dewey, 2008: 156–162).

#### ***5.5.8 Criticism of the state-civil society approach***

A criticism of the approach advocated by Shearing is that the local communities applying this model are often dominated by the security agenda and, as a result, there is a risk that local communities are governed through security only. This, in turn, could lead to less attractive forms of community justice (Zedner, 2009, p161). Furthermore, ceding power to punish errant members of the community introduces a risk of the adoption of less attractive forms of informal justice, such as vigilantism, private vengeance and the vilification of groups and communities on grounds of race, social status or transient morality (Zedner, 2009). Kemshall and Maguire observe that the interfaces between each organisation's accountability structure and those of other agencies are points of tension, as they enter the multiagency arena. The seamless joints are often more rhetoric than reality (Kemshall and Maguire, 2001, p257). Zedner (2009) wonders if Shearing has underplayed the professional differences and conflicts of interest inherent in the intersection between public and private agencies, national and local interests and even within local communities. She goes on to argue that the development of local, communal and private security provision has problematic consequences for democratic legitimacy (Zedner, 2009). Marks and Goldsmith (2006) question faith in nodal governance as a means of empowering the weak to direct their own affairs, stating that the promotion of local governance relies upon questionable assumptions about the ability of local communities to organise, to accord with the rule of law, and to share and implement a clear moral code.

I will argue that a joint state-civil society partnership is the way forward in solving several key issues on several fronts which governments around the world are facing today. There is no doubt that several of the criticisms of State-civil society approach mentioned above do exist but these come with pioneering new concepts and ideas. Historically, huge sacrifices and contributions by the common

man, whether during the American War of Independence and the development of the Bill of Rights, or the embodiment of individual rights in the Magna Carta, or the Indian struggle for independence and the development of its constitution, have been made to develop an advanced and increasingly global narrative of basic human rights and its subsequent check on state power. The important fact to note is that these ideas for today's existing systems of state have evolved from the people, by the people and are for the people. None of the advanced notions of basic human rights, fundamental rights or liberties came from the, then, existing institutions of the state. In fact, what constitutes the state, to date, comes from the struggle of the people against state institutions that had lost touch with the reality of the common person. If today's nation states are based on foundations of individual, community and civil society efforts then in alienating any real participation of civil society and communities in governance there is a real risk that the nation-state today has become so super-specialised that the common person no longer understands it and feels that such a system is disconnected from their daily reality and not fit for governance of society. It is this very notion that prompts people to rise up against the state in the form of peaceful protests, ethnic conflicts, riots or armed rebellion. This civil resistance is evident around the world today, especially in times of austerity, from developed to developing countries. State-civil society partnerships provide the space for civil society to express themselves, thus, feeding new ideas and innovations, examples of which are represented in my research. It is this mechanism of mutually benefitting partnership that helps the state to get better at what it does and makes a government that best represents the needs and requirements of a country's individuals and communities. In my opinion this partnership is only getting stronger, deeper and better and is the template for the emergence of new forms and tools of governance of the nation-state.

#### ***5.5.9 Principles for a regulatory framework over state-civil society partnerships***

Criminal justice procedure and law are areas in which the state can develop regulatory frameworks, and model state-civil society partnerships that deal with social justice, development, and the growth of communities. Such regulation can be made after a public debate on its provisions, ethical oversight and accountability in how related services are delivered.

Zedner suggests some ideas to ground such a regulatory framework such as they should be based on the principles of necessity, minimalism to ensure that such powers are used judiciously and that the delegation of extensive powers to models of state-civil society partnership are placed within adequate safeguards. The regulatory framework should ensure mutual transparency and accountability between the state and the civil society group with which it partners. (Zedner, 2009: 167-170)

‘The presumption of innocence or a presumption against threat to protect the interest of those whose liberties would otherwise be compromised by measures justified by a poorly found prediction of harm.’ (Ashworth, 2006, 123: 62-96 as cited in Zedner, 2009: 171)

The creation of such a presumption is critical to protect an individual against vigilantism or mob violence. There are very few boundaries between community empowerment and political power. The

concept of a nation is designed with checks and balances to protect the rights and liberties of every person, including members of a minority. Often if an issue captures the public imagination it can have the consequence of brushing off the concerns of the minority or can become a tool of oppression in the hands of the majority i.e. riots. Hence, it is critical that state-civil society partnerships are governed by the same principles of the rule of law as the state is governed by.

#### ***5.5.10 The balance between security and justice***

Governing security as defined by Johnston and Shearing (2003) takes the form of state-civil society partnership models that fill the vacuum left by the state, with regard to the provision of security and in ensuring that the rule of law is established within communities affected by this deficit. Often, it is the case that this vacuum is filled by criminal networks. This leads to them forming a dominant presence within the community. In contrast, one of the ways in which the rule of law is established in a community is by justice being delivered to those that have suffered from the violation of the rule of law (BBC, 'Italy's Bloodiest Mafia', 13<sup>th</sup> July, 2011).

I suggest that it is this balance between security at a preventative stage and justice at the reactive stage that helps restore the community's confidence in the state and begins the process of building trust, eventually resulting in cooperation that breaks down criminal networks. Hence, a relative balance should be maintained between security and justice.

'While tensions may exist between the two, such is their mutual interdependence that authorities wishing to govern security more effectively should pursue justice more diligently.' (Johnston and Shearing, 2003: 140)

In order to ensure the integration of security and justice, a risk-based approach could be combined with the mobilisation of local knowledge and capacity. The extent to which a risk-based paradigm is compatible with just outcomes depends upon the practices and principles with which it is configured. The integration of local capacity governance and risk-based approaches can promote outcomes that are seen and experienced as being just. Justice within a community context and in the lives of the people that have been affected or victimised by criminal networks encompasses everything from preventative intervention to ensuring that all perpetrators that make up a trafficking network are convicted and sentenced, within a reasonable period and according to the provision of the law, to the point where the victim is reintegrated as a self-sustaining member of society (Johnston and Shearing, 2003).

#### ***5.5.11 The governing security vacuum and filling the void with state civil-society partnerships***

Johnston and Shearing note that there is a big "differential in the quantity and quality of public security, delivered to rich and poor communities. In particular, the increased use and application of paramilitary police techniques in areas of urban deprivation (Davis, 1992; Kraska and Kappeler, 1997) means that poor people tend to receive the maximum quantity of police force and the minimum

quality of police service, or, to put it another way, the poor get justice and the rich get security. This situation is dangerous in two respects, First, there is the prospect that those with the loudest voice and the deepest pockets will demand access to the best services, in order that their insecurities are met. With the consequent inequity that this implies, comes the danger that security may become polarised, with the rich having access to both commercial and public police services, and the poor being left behind to enjoy the dubious benefits of a residual public police force. This potential future has been described by Bayley as ‘the poor police, policing the poor’ (Bayley, 1994, p144)” (2003:143-144).

According to Johnston and Shearing “One way to deal with this inequity is to enable the poor to participate in the security market through state-civil society partnership models (Shearing, 1995; Bayley and Shearing, 1996)” (2003: 144). One of the objectives of an optimal model would be to develop security as a collective good (Loader and Walker, 2001). In the past, the state has been regarded as the sole guardian of the collective good. It is no longer possible to view the state in this way. “Nowadays, the state is but one player in a complex network of governing agencies. The challenge for democratic government is to ensure that the actions of the various commercial and civil bodies, which participate in government functions as much as possible, fall within the collective good.” (Johnston and Shearing, 2003: 144) The governance of security is increasingly complex; concurrent with the devolution of state functions to non-state auspices, there also needs to be an emergence of new forms of governance outside of the state parameters (Elkins, 1995; Shearing and Wood, 2000; Johnston and Shearing, 2003). It is not merely that the boundaries between state and non-state institutions have become blurred, rather, those boundaries have been transformed, sometimes blended into particular models, sometimes dissolving back into themselves or into one another. The world of tackling human trafficking shows these blurred edges in state-civil society partnerships that I have categorised into different models evolved to tackle a growing problem. These range from innovations within judiciary where tribunal or judicial panels are staffed by civil society members but are regulated by the state (i.e. creation of the Child Welfare Committee under the Juvenile Justice (Care and Protection) Act, 2000 in India), to law enforcement bodies such as the Child Exploitation and Online Protection Centre (CEOP) in the UK that work with civil society groups across borders, thereby facilitating cross-border cooperation between different countries. This cross-border cooperation by joint state-civil society groups is based on sharing of practical knowledge, intelligence, expertise to tackle criminal networks and sharing victim safeguarding information. These joint state-civil society groups are principally with verified and credible civil society groups. As a matter of transparency and accountability the civil society groups in such partnerships are regulated by the local government, often have government representation within them (i.e. National Centre for Missing and Exploited Children (NCMEC) in the US), or are in close partnership with them i.e. the multidisciplinary model. These various hybrid emerging organisations will be profiled in my main findings chapters and I will further expound the concept of state and civil society groups, who are partnering together in ways that will result in a transformation of the way criminal justice system functions.

A key point made here regards the principles of borders and jurisdictions. As a crime becomes increasingly global and dominated by criminal networks, the state finds itself increasingly incapacitated to deal with such a crime, even among countries whose culture is based on a shared common value system within closely knit communities. An increasingly multi-polar world, with emerging economies, makes this even harder for the state. In an effort to deal with criminal networks that operate cross-jurisdictionally, countries today have developed the concept of extra-territorial prosecution, executed through mutual legal assistance treaties. However, as I will show in my main findings, this is an incredibly cumbersome process. This has led to greater cooperation between civil society groups and the nations across the world. This has helped nation-states to cooperate with each other at different levels, thus extending their capacity and increasing their sphere of influence beyond their existing jurisdictions. While this is thrilling for many state bodies, they are still unsure of where the demarcations lie within state-civil society partnerships. This is how I would define the blurred edges described by Johnston and Shearing (2003). In order to understand the linkages and relationships that connect state and non-state governance structures, it is necessary to dispense with the boundary-based model of governance, which is product of territorial-based state sovereignty (Elkins, 1995), and to instead look at a network-based approach. In short, it is necessary to adopt a state-civil society partnership model, rather than purely a state-centred conception of governance (Shearing and Wood, 2000; Kempa et al., 1999). There is much work that needs to be done in mapping this changing landscape of governance and it will be interesting to observe the institutions that emerge from state-civil society partnerships.

#### ***5.5.12 Summary on governing security***

In conclusion, the need for state-civil society partnerships as a model or approach to govern security attempts to reconfigure the conventional role of the state in providing security and justice in different ways. Firstly, the approach that communities affected by human trafficking are looking for should involve both a preventative approach that establishes security and the establishment of the rule of law, caring, rehabilitation and reintegration for victims with a goal of ensuring justice. In other words, the acts of doing justice and providing security, far from being separate and distinct, or even being in tension with one another, are mutually interdependent. In the world of tackling human trafficking, saving lives and breaking the cycle of crime go hand in hand, without this we are only laying the foundation for a greater resurgence of slavery in the next century.

Secondly, according to Johnson and Shearing (2003):

‘the state-civil society partnership model not only denies that security and justice are contained within the exclusive domain of the state criminal justice system, it also relocates the two to within the wider sphere of economic and political development, and, by doing so, confirms their mutuality.’ (Johnston and Shearing, 2003: 160)

The partnership, network or nodal model can help us to re-think relations between security and justice and, in the process of doing so, can enable us to reconfigure their governance. The main strength of governing security as a foundation for my theoretical framework is that it enables us to locate debates about governing security within a pioneering, strategic and normative framework. This framework will form the eventual foundation that will allow existing state structures to evolve into innovative forms, forms that can eventually help us be two steps ahead of innovative and flexible criminal networks.

#### **5.6 Models of tackling human trafficking featured within this research**

The main findings of this research will look at the evolution of anti-trafficking strategies and models over a 13-year period in India, with an impact on South Asia, and a 6-year period within the UK. The models are innovative state-civil society models that have developed and evolved over a period of time as a response to the flexible and innovative human trafficking criminal networks. These include the unitary model; the multi-agency, specialist model; the departmental model; the self-regulatory model; the community model; the nodal model; and the interdisciplinary model of tackling human trafficking. These models will be examined through case studies which will highlight the impact they have on intelligence-gathering, the criminal networks, the victims of trafficking, institutional change, civil society, policies and resources. They will be examined in a narrative format based on the chronological development of these models. I will conclude the research with an in-depth assessment of the evolved multidisciplinary model, which I believe, when implemented through an end-to-end strategy, can have a significant positive impact on the issue of human trafficking.

## **Chapter 6: Institutional failures and criminal networks**

### **6.1 Introduction**

The research journey started with a goal to assess all current operational models tackling human trafficking. The aim being to develop a model that was an evolved version of existing efforts and was able to tackle the crime in a comprehensive and strategic manner in what I call an end-to-end strategy. It took me a year to secure the necessary funding, after getting admission to study for my PhD at The University of Edinburgh in 2006. During the intervening period from 2006 to 2007 I worked towards the design, development and implementation of the multidisciplinary model. I began my PhD studies in September 2007, by which time the multidisciplinary model was a year into its design, development and implementation. The start of my PhD in the 2007 coincided with the 200<sup>th</sup> anniversary of the abolition of the slave trade in the UK. I was part of a series of campaigns, events and seminars organised to commemorate the anniversary. The timing could not have been more perfect, coming from an abolitionist practice background, being part of the event surrounding the 200<sup>th</sup> anniversary challenged me enormously and broadened my understanding of the origins of the problem, the reasons for its evolution and the shortcomings within the historical efforts to tackle it.

This journey of understanding is reflected in Chapter 2, on the history of slavery, which then led me to review various contemporary strategies and debates on the subject of tackling slavery and its contemporary form of human trafficking. The attention and interest generated around slavery and its contemporary forms brought about an explosion of academic literature on the subject, each espousing a theoretical strand of thought with varying forms of evidence, largely drawn from secondary sources driven mostly by policy researchers, academia and media personalities. This led to enormous challenges in developing a concise yet well-developed literature review chapter and a corresponding chapter on methodology. The desire to develop the literature and methodology chapters was driven by an attempt to be pioneering while constantly being grounded in what was transpiring on the frontlines of tackling human trafficking.

The theoretical chapter was developed with an aim to drive a middle ground through the various debates that surround human trafficking. These debates have ensured the lack of a uniform global response on human trafficking, leading to its growth. While contemplating a middle path through which to develop a theoretical framework for my research, I started with a look at historical and ongoing anti-human trafficking models and what stands arrayed against them. This led to a theoretical framework based on an understanding that the growth of human trafficking is largely due to the ability of various interlinked stakeholders who profit from human trafficking to infiltrate, develop, embed and develop deep-rooted linkages within the existing governance systems. Secondly, the institutional failures in the approach to tackling human trafficking and its foundational factors by existing state-civil society efforts directly contribute towards its growth. In this chapter, through the prism of my

methodological framework, I will go deeper into explaining how institutional failures by state and civil society models contribute towards the culture of growth in human trafficking. Institutional failures and infiltration of governance systems by criminal networks have common points of convergence. I cover this in the first part of this chapter, where various impacts points between human trafficking and measures of control within the criminal justice system are analyzed through case studies. This chapter then researches the various criminal-network operating models and their tools through actual casework. It looks at their ability to evolve their strategies and tactical measures through each intervention against them. It also reveals their growth through their networked approach to crime, in line with Morselli's (2009) work on criminal networks and Castells' (2000) development of the concept of a networked society.

The focus of this chapter is the analysis of the convergence between key institutional failures and the infiltration of state and civil society institutions by criminal networks, through anti-human trafficking casework from historical and contemporary approaches of tackling human trafficking in South Asia (India-focused casework with linkages to Nepal, Bangladesh, Sri Lanka, the UK and the Netherlands) and similar challenges observed in UK and the Netherlands. Most of this analysis is based on experiences over my 15 years of experience working in the anti-human trafficking sector. This gives me a ringside view of the gaps exploited in various anti-human trafficking models by the human trafficking criminal networks. As part of my role as an activist lawyer, I have previously, based on my experience in India, provided a skeletal version of this framework of gaps, resulting from institutional failures to various governments, and have written policy documents, plans of action, and books on standard operating practices and handbooks for law enforcement and victim protection protocols in India. However this chapter provides an updated summary of the failures frequently experienced by anti-trafficking efforts, and is based on past and ongoing cases that I have observed during the course of my research, which reflect both the existing institutional challenges and the evolving nature of human trafficking criminal networks.

I have used the term 'criminal network' for people networks involved in developing, instigating, perpetuating or profiting from the crime of 'human trafficking' as defined by the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime, 2000. The operational models of these networks typically involve an interlinked web of several networks, rather than a single independent hierarchal structure, as stated by Morselli (2009). The network includes various stakeholders and key players that have been developed, infiltrated or turned through bribes within both government, and civil society structures. Their role is one of the key contributory factors in the failures of anti-human trafficking measures. Their activities cause the system to fail at every level as a result of their position and influence, which both nullifies the impact of anti-trafficking efforts and feeds intelligence back into the network, allowing it to grow, evolve and evade efforts to disrupt it; this is achieved through their ability to control security within the communities in which they are



based, and to compromise the delivery of justice through the infiltration of institutional structures of society. A key element in the success of criminal networks is their ability to exploit in their favor a wide range of governance systems across various regional jurisdictions within a federal system and various countries with a region. Governance systems vary across a region such as South Asia or Europe driven by differing political ideologies, varying economic policies, varying historical interpretations, widely differing cultural and societal traditions and norms. One of the key attributes of a successful anti-human trafficking model is its ability to work across borders in an apolitical or bipartisan manner. Case studies from 2001 to 2015 show the versatile and flexible ability of criminal networks to thrive in governance systems that are driven by political ideologies of either the left, center-left, center-right or the right wing and, likewise, thrive under a socialist or a capitalist society during the period.

The next section is about the institutional failures in tackling human trafficking, charted from the confusion around defining a victim to the challenges faced in intercepting the trafficking of a person, through to operations and prosecutions to both save victims of trafficking and disrupt criminal networks. I also look at the experiences of the victims within the aftercare, prosecution and reintegration process. The second part of this chapter focuses on the evolving nature of criminal networks through their adaptation of different models and strategies to counter existing anti-human trafficking efforts. I also look at their ability to infiltrate the state and civil society systems and evolve, which directly contributes towards their growth.

## **6.2 Problems of definition, data and dependency**

### ***6.2.1 Who is a victim of human trafficking?***

Irrespective of the UN definition of what constitutes human trafficking, there is a lot of confusion surrounding its interpretation and implementation at the grassroots level. The practical challenges on the frontline are immense in this area. When tackling any form of human trafficking, how do you determine a victim when, at a preventative stage, the victim (either a child or adult) may have no idea what is about to unfold before them and, at this point, may still have implicit trust in the traffickers? Equally, if intervening at the point of transit, how do you spot the difference between those who are drugged to induce sleep, or those who are simply tired, not an uncommon occurrence for people undertaking long journeys?

The identification of a victim is one of the most difficult challenges in tackling human trafficking. Unless the guardians, parents, friends or members of the community file a missing person's report one can never ever know when, for where and for what reasons a child, adult or family has left a location. Trafficking networks, until the point of betrayal, often have strong, trusting, relationships with victims, even to the point that they can often be a relative, lover, husband, or guardian of the victim. Trafficking networks are often aware of the errors in judgment made by their victims, or any conflict they may have with local societal and cultural norms. They often use this information to blackmail

victims, in order to secure their cooperation. Often, in India, whether or not a child trafficked into a commercial establishment should be saved is determined by doctors, on the basis of a study of the external features of the child, to determine whether they are below the age of 14. Similarly, during the course of my research there were similar challenges in the UK, when at the early stages of setting up the UK Human Trafficking Center (UKHTC), during Operation Pentameter 1 and Pentameter 2, a significant proportion of those recovered from brothels were released the very next day as a number of girls turned hostile at the police stations and wanted to be released. It takes about six months in a safe environment and regular multidisciplinary input for a victim of trafficking to trust anyone, given the level of betrayal, abuse and violence they suffer before they are saved. Also a number of victims would have had immigration issues, debt bondage, or their families would be under the control or influence of the criminal network. It is also normal for criminal networks to be completely prepared, by ensuring that a mole is present at the police station or embedded with the rescued victims. All of these turn any victim completely hostile from the point of recovery. On a number of occasions the ability of law enforcement to secure the entire criminal network, teamed with the ability of the courts to deny the perpetrators bail in key cases, and the ability to secure the safety of victims' families plays a key role in gaining the trust of a victim of trafficking. These challenges were seen in Pentameter 1 and 2 and were reflected in the number of victims actually retained after the point of first recovering them. This was reaffirmed in subsequent conversations I have had with frontline workers working with women in prostitution in the UK, and those involved with the UK Human Trafficking Centre (UKHTC).

I have had conversations with frontline police officers which disclosed how, during conferences or meetings, they would be publicly targeted by people about their assessments of what constitutes a victim of trafficking. A similar instance arose in the Netherlands, where a number of children from Punjab in India arrived into the Netherlands unaccompanied. They subsequently were admitted into open shelters and then disappeared from there into other countries within the EU. As a direct result of the authorities becoming aware of such cases, loopholes in the adoption system as a pull factor for trafficking within the Netherlands were plugged and the arrivals of unaccompanied children stopped the very next day. However none of the children trafficked in this case have been recovered to date, and no one knows how the modus operandi of the trafficker changed with regards to trafficking children. The trafficking trail grew cold once they were dispersed from the borders of the Netherlands into the other European countries. The crime evolved and during a recent trip to the Netherlands I observed, from the feedback given by a local prosecutor, that the criminal networks this time were involved in trafficking adults from Punjab in India via a major city in the Netherlands to forced labour establishments bordering the country. In such cases ethnic minority-based religious institutions in the Netherlands were seen as key transit point. In both cases mentioned there appeared to be a universal lack of clarity over what constitutes a victim of human trafficking for each country tackling this global networked crime.

Among the biggest challenges in determining what constitutes a victim is the establishing of the victim's age. Age determines the victim's degree of ability to consent, the degree of punishment for the perpetrators, and the incentive for prosecution (which is greater when children are involved). On the frontlines in India, potential victims may fall into three categories. The first category is children; those below 18 years of age, exploited and/or abused commercially under the management, direction or control of criminal networks. The child's age may be verified, either as a result of an examination by a recognised age-verification specialist at the request of a judicial panel dedicated to safeguarding children, by a true record of the birth certificate, or by a judicial decision based on an enquiry into the background and circumstances of the victim. The consent of children for their own exploitation and abuse, particularly for those below 16 years of age, is immaterial in India as a defense for members of a criminal network when prosecuted.

The second category of potential victims are adolescents, for whom an adult judicial system will order the judicially-recognised age-verification specialist (due to the unavailability of birth certificates) to determine whether the victim might or might not be a minor. If the judiciary determines the age of the victim to be below 18, then favourable protective measures covering children apply, regardless of whether the adolescent claims that they are voluntarily engaging in such acts. If the judiciary determines the person to be above 18 years of age, then invariably they are released with very little prospect of rehabilitation or protection, unless within a short period they are able to trust the responsible authorities and confide in them their situation and how they came to be trafficked. This rarely happens, as it normally takes around six months or more for a victim to trust anyone within the system, having already been betrayed, abused and exploited, often at the hands of those meant to save and protect them.

The next category of potential victims are women above the age of 18, who claim that they are, through force or threat of force, required to perform acts of sexual exploitation, or are commercially exploited for any other purpose against their will. There is almost no provision, concretely available today in many countries for adults above 18 years of age, with the criminal networks openly exploiting this category of victims in many countries. The role of consent here unfortunately is implied or assumed by all stakeholders with regards to adults, irrespective of what the law states. It is assumed that unless a victim is kicking and screaming that he or she have consented to their own exploitation. There is often an implication that they, by their presence at the location, have given a specific as well as a generic consent to their exploitation. An adult has to overcome a cultural implication of being labeled as a person having poor judgment and character similar to what a victim of rape undergoes in order to secure help. Thus the battle-lines in the world of tackling human trafficking are largely focused on prepubescent children, and adolescents up to the age of majority (18 years) or age of consent. The battle for adults trafficked into any form of commercial exploitation and abuse is largely won by the criminal networks, with the principle tools used by governments being either executive tools (such as bans and prohibitory orders) or statutory tools (such as the

criminalisation of the purchase of sex, deportation, and immigration barriers to tackle the growth in the adult area of human trafficking). This only displaces the problem to neighboring regions or countries. The limited tools available to a civil society group are to help adults that flee the system or women who have no further value in the commercial trade. There are virtually no existing tools for the aid of adult male victims, with the exception of a small degree of financial compensation by some governments for being enslaved, and potentially some grants that may help them with a micro-credit loan and housing facilities. This is sporadic and scattered in its implementation and has no impact on the criminal networks.

The confusion around what defines a victim of human trafficking is a major institutional failure and contributes towards the growth of the crime. Among human trafficking victims, with very little happening for forced adults it frees up the criminal network to target the existing safeguarding mechanisms for a child victim of human trafficking, such as the judicial tribunals designed to protect them, their safe homes, the medical institutions that forensically examine them and their reintegration process, as I have observed in India, the UK and the Netherlands. One of the foundational institutional failures in tackling human trafficking is the confusion surrounding what constitutes a victim. Having discussed this in detail I will proceed to the starting point of the crime, i.e. when a victim goes missing from their regular day-to-day routine and how the failure to address this adequately has contributed towards the growth of human trafficking.

### ***6.2.2 Data on missing persons and trafficking routes***

Very little work has been done regarding how the issue of missing persons and human trafficking are linked. Almost every child or adult that is trafficked will at some point be missing from their regular, day-to-day life. If this incident were to be reported by the parents, siblings, relatives, or neighbors of the victim, or by members of the larger community within which the victim lives, and if this was transmitted to the police or a sector or area-specific NGO within a short span of time, it would, in many cases, lead to the victim's retrieval, often from the custody of members of a criminal network. It would also frustrate the operational ability of trafficking networks and facilitate greater inter-regional cooperation between stakeholders. Unfortunately, barring a few exceptions, such as the National Centre for Missing and Exploited Persons in the US or the UK's Child Exploitation and Online Protection Centre, there are few organisations working in the sector that connect missing persons with exploitation, abuse and human trafficking.

A human trafficking transaction has three points of reference: the source, transit and destination locations. A source is generally the location, from where a victim is trafficked, and destination is the location to which they are trafficked. The transit locations are the essential middle points of reference in the sequence of trafficking. These transit points could occur in source areas, at the exit points of a village, town, city or country, and could also include transit entry and exit points of other villages, towns, cities and countries en-route, and finally the entry points of the destination location. Very little

work has been done to link missing persons' information with a profile of the victims being trafficked through known transit points, but connecting the two could both aid in the rescue of victims and the prosecution of the entire criminal networks that trafficked them. When this works seamlessly, it brings great relief to the victims and disrupts the criminal networks significantly, as one is able to identify the link between the trafficking side of the criminal network and its purchase side through the transaction that occurs. The cooperation of the victims at transit points is also high, as at this stage, the reality of the betrayal is often clear without rape or abuse having been committed. Several countries are neither internally nor externally equipped to tackle this area and those that look at it from an immigration-control perspective end up targeting the victims, leaving the criminal networks largely unscathed.

During the course of my research I came across a number of case studies on the link between people who go missing and people who end up getting trafficked into various forms of exploitation. One of the case studies involved two children that went missing from the north-eastern state of Sikkim in India and were trafficked to Western India, via the transit point of Kolkata city. The father of the children is a local civil servant and was able to ensure that the information was passed to a multidisciplinary operational unit based in the west of India. The multidisciplinary unit was able to trace the two sisters at two different locations in the state of Maharashtra, both sold into prostitution. The children were rescued amidst several challenges and the entire criminal network involved, which included powerful local political leaders, were successfully prosecuted. The location where the missing children were sold was seized and shut down. The children were trafficked by a criminal network whose modus operandi had one of its members posing as a 'lover boy' to lure the elder sister. Once an emotional control was secured over the elder child the trafficker then manipulated the elder sister to lure the younger sibling and sold them both at different locations in the western region of India. The key to saving both sisters was the ability to trace them from the place where they went missing, through the transit point in Kolkata, to the west of India. A number of known locations to which they could have been trafficked were checked, leading to the tracing of the younger sibling who on being rescued by the police provided intelligence on the older sister being trafficked to a secondary town location in Maharashtra. It took over three months of work to trace the older girl among over 300 women and young girls in commercial sexual exploitation in the region. The older victim, as per her statement to the social workers and the police, narrated how over 130 men paid the criminal network to sexually exploited her over a 24-hour period, with each man only being given a three minute window to exploit her. It was by ensuring that the police had a 15-minute window, through the use of five decoys, that the girl was secured by the police. Despite this, the girl was taken away at the last minute to a locked premise in a deserted area over a rough terrain. It required members of the multidisciplinary team to get on the roof in order to get in and free her. The trial of the case was undertaken under armed escort by the police, during which two members of the multidisciplinary unit were waylaid en-route to court and brutally assaulted. The criminal network in the area was politically well connected, embedded within the local communities and had been fairly well infiltrated within the

local governance systems for years. Similar to the concept of governing security, it required a partnership between people of integrity within local communities and civil society, along with people of integrity within the police and judicial system, to achieve the goal of both safeguarding the children exploited, dismantling the entire criminal network and awakening communities in multiple states in the west and the north-eastern part of India to the vulnerability of their people to human trafficking. Prior to this case, the state where the girls were trafficked from would boast about the absence of human trafficking cases. It was a rude awakening for the whole state when two children of a local civil servant were trafficked into commercial sexual exploitation. A similar number of such missing persons cases led to the unearthing of a complex source-based human trafficking criminal network in West Bengal, that is mentioned in the chapter 8 on the multidisciplinary model and this chapter (6) in the section on criminal networks. The debate surrounding the definition of what constitutes a victim of human trafficking and the area of missing persons and its link with human trafficking are classic examples of how criminal networks are able to exploit institutional failures in both these areas. They often do this with the active collusion of corrupt elements within the state-civil society system by embedding themselves and systematically targeting communities that feel abandoned in the area of security and justice by the state, as described in the theoretical framework in Chapter 5. During the course of the PhD I have observed several case studies linking missing persons with human trafficking as part of the missing persons program within the multidisciplinary model.

As part of a case that has become a landmark for interstate civil society and law enforcement cooperation, a dynamic police officer from the Andhra Pradesh police force met me in Mumbai, on the 29<sup>th</sup> December 2003, with an interesting story. A father from a village within his jurisdiction had approached him about his daughter, who had gone missing. His daughter had suffered from a significant level of violence and abuse inflicted by her husband, who had issues with alcoholism. On investigating the matter the officer concluded that there were at least eight cases of missing adult women from the village. The common pattern he found was that all of them had suffered a high level of violence and abuse in their domestic situations, from either their husband or their father. On investigating the trail of trafficking it led to Mumbai and then grew cold. The indications were that the girls had been trafficked to a brothel in the South Mumbai area. We agreed to work with the police officer and the missing girl's father to trace the victims. The first location identified and infiltrated was known as 'Simplex' building. This was a notorious hot spot for buying trafficking victims. At its peak, the building would contain between 400 and 600 children and women engaged in prostitution. In an amazing twist of fate the missing girl was located in the first brothel, in a building containing as many as 85 individual rooms that function as brothels. The police officer from Andhra Pradesh took the intelligence we had gathered and approached the local Mumbai police (D.B. Marg Police). We then undertook a joint operation with the police forces of both states to rescue a number of girls; all from the same village and all trafficked by a particular criminal network. The network would map vulnerable families within the village and prey upon women with violent and abusive backgrounds. We realised that the trafficker was beginning to traffic adults rather than children here because of the

increasing crackdown on the sale of children into prostitution. This case study was promoted as a model across India, the US government also showed their appreciation of the work of this police officer by recognising him in their annual Trafficking in Persons Report (TIP Report), calling him a 'hero'. This casework led to a close casework arrangement with a civil society group known as Prajwala and the Andhra Pradesh police, that went on to pioneer work in rescuing girls who had been trafficked from the state of Andhra Pradesh to other parts of India.

In tackling various forms of human trafficking, case studies reveal the strong hold that members of the criminal network have on their victims, extending into the next generation with victims' children as well, and so the cycle repeats itself. This fact is rarely witnessed or understood by those who witness and study the areas of victimisation of survivors of human trafficking. In a number of cases the victims develop coping mechanisms to survive, even evolving to become offenders and then perpetrators of the crime and, in some cases, they go on to become key players within the criminal network. The lower to middle rungs of human trafficking criminal networks are at times staffed by male children of victims of human trafficking and survivors of the trade alongside others from the community that the criminal network is embedded in.

### ***6.2.3 Victim dependency on criminal networks and cycles of trafficking***

Generally, one comes to know of the victims of trafficking at the spillover stage, that is when the available supply is greater than the demand. Members of human trafficking criminal networks will often inform customers about their new arrivals to facilitate demand from clientele for the new victims at a faster rate than when the supply is slower or lower. This is because criminal networks focus on both sustaining and developing their clientele, for various forms of trafficking by focusing on higher turnover of victims, driven by both the need for lower costs, increased productivity, greater choice and reduced risk. A higher availability and turnover of victims at reduced costs for criminal networks reduces the 'shelf life' of the victim, due to increased exploitation adding to the already natural redundancy of the victim after they have been exploited for a certain amount of time.

Based on case studies, the length of time for which a person may be exposed to such abuse is between three years and 25 years. The victim who has come to the end of their 'shelf life' is dealt with in a range of ways. One is natural death, due to the health and trauma issues caused by slavery. For victims subject to mental illness, in general poor health, or with only a short life expectancy, if a risk assessment by the perpetrator concludes that the victim doesn't pose a threat to the criminal network, they are simply evicted or thrown out. Alternatively traffickers may choose to allow fringe, ambitious elements of the criminal network to re-exploit the older victims, that the fringe elements may learn essential skills of running the trade. Further profits may be made from other survivors, who would otherwise have no value to the criminal networks, by attempting to cater to the low-income customer base. I have observed criminal networks in commercial sexual exploitation that, after evicting the victim onto the street, would still earn an income from them by providing them with a room for sex

when they come with their on-street customers. They will also extort money from victims forced onto the street under the pretext of protection or threat of violence. In some cases the survivors of slavery may be incorporated into the criminal network to become traffickers themselves, taking on roles such as those managing new victims being sold, those responsible for breaking new victims, and those trusted with handling the finances of one or more locations. In fact, it is common to see criminal networks incorporate victims who are no longer profitable but who have other skill sets based on their survival skills and an understanding of the criminal networks' operations.

Criminal networks also thrive in dealing with children of victims of trafficking. This can include the sale of children born to women in prostitution. Such children can have a high value in the adoption sector or may even be commercially exploited directly by the criminal networks themselves, particularly if the trafficked victim is beautiful and a specific well-to-do, good-looking client has regular sex with her. In such cases, the criminal networks may ensure that this customer sleeps with the woman at her most fertile period without the use of birth control, resulting in the birth of a child with striking features, who could earn a lot of money for criminal networks in the years ahead, irrespective of their gender. There are a number of efforts by NGOs to help the children born out of prostitution, often by providing a crèche for children during working hours. In some cases NGOs may even purchase a child from the criminal network and take them to a residential educational facility outside the red-light district, providing them with medical care, counseling and any other needs. Even so, during the course of my PhD and beyond, during various meetings with the children of victims, I have seen that they suffer lifelong scars from their experience, and find a total lack of acceptance in mainstream society, resulting in a number of them struggling with suicidal urges, and many others joining the criminal networks as offenders themselves, or as victims. The criminal networks allow for the education of these children and for input from various NGOs, as it helps increase the value of the children without them having to pay for it. The criminal networks keep a strong control over the mother of the child and use her to gain back legal custody of the child. They secure the cooperation of the child by invoking the duty of the child to care for their mother, who by this time is ravaged by the health consequences of being in slavery, and whose only value to the criminal networks is as a bargaining tool that they can use to control her children for profit.

In a case study, for which I advised, the victim, a 19-year-old girl, was very ill; she had been diagnosed as being HIV positive, yet was still being forced to work in the brothels in Mumbai. She was the daughter of a victim who had been sold into prostitution, and had been born in the brothel in which her mother had worked. She was a victim of an attempt by the criminal network to exploit the children of women in prostitution. Under this strategy a victim who has been trafficked into prostitution is forced to get pregnant by a pimp or a customer, or another man of the network's choosing. The key being that both the victim and the perpetrator would have beautiful and handsome features with the aim that the victim would give birth to beautiful offspring. In this case, the victim was a beautiful child who, after birth, was handed to a NGO for her education and training. When the



girl was of age she was removed from the care of the NGO and sold by her mother's captors to the highest bidder in the sex trade. Her mother by then had died of AIDS, and she herself was HIV positive, also suffering from tuberculosis and skin diseases such as scabies. Even so, the criminal network was unwilling to spare her even to ensure her medical treatment as she had a pretty face and commanded a high rate from customers. This girl was saved through a sudden operation undertaken by the police and a local NGO and was put into protective care.

While this case study and this sub-chapter talks about victims of human trafficking into prostitution, during the course of my PhD, through case studies in trafficking for forced labour and other forms of trafficking, I have discovered that the circumstances of exploitation and abuse are the same, if not worse, for victims from other forms of human trafficking. In a number of case studies on victims of pedophile criminal networks the level of violent abuse are the same and often at a much younger age than victims of prostitution. In the case of victims of trafficking for prostitution the age band in which victims are exploited is generally, barring some exceptions, from the age of puberty, i.e. 13 years of age, to 25 years of age, depending on their ability to survive. The shelf-life is generally between six months and two years, as seen in most case studies. In the case of trafficking for pedophile criminal networks the interest is in much younger children, generally from four years to 12 or 13 years, i.e. when they begin puberty. In the case of trafficking for domestic servitude case studies show exploitation from two to three years of age up to 15 or 16 years of age. In the case of trafficking for child or forced labour the age band tends to be between four and 18 years of age with exceptions for cases involving seasonal labour, such as case studies in agriculture, brick manufacturing, construction, manufacturing incense and the clothing industry. The levels of violence meted out to victims of various forms of trafficking and their survival techniques reflect similar patterns as victims of sex trafficking. These forms of abuse include sexual violence, severe physical abuse, confinements in small work spaces, long hours of work, non-payment of dues, starvation, custody of younger siblings and parents, among other measures, and these are common to all forms of human trafficking.

Having reflected on the lack of an effective preventive mechanism to target the early stages of human trafficking at the point of source and the number of methods used by criminal networks to control their victims and perpetuate their exploitation into the next generation, I will now reflect on the challenges and institutional failures faced while tackling human trafficking within a criminal justice system.

### **6.3 Challenges faced in the Criminal Justice Process**

In this sub-chapter I will be reflecting on gaps within the Criminal Justice System that allows human trafficking to evolve and grow. Most of these tools, such as offender management, and protecting child victims from an adult justice system, exist but are either not used properly or just on paper. Some of these tools, such as having a common law and procedure to tackle all forms of human

trafficking are what is required for clarity in implementation of anti-trafficking measures at the grassroots level.

### ***6.3.1 Offender management***

During the course of my research I had the unique advantage of working between the developed and the developing world. I could see in the UK the advantages of an effective case management or offender management system, the documentation of related intelligence, and the analysis of this information. In the emerging and developing world such information is largely used by federal intelligence units, which focus on armed internal insurgency, terrorism, internal and external intelligence-gathering on neighbouring hostile countries and the organised criminal networks associated with activities that threaten national security. Very rarely is this utilised to tackle crime and criminal networks within the nation itself. This has led to years of neglect and the consequential growth of powerful criminal networks that work and operate in the shadows, and which have significant financial resources. They represent a deadly cycle of the investment of illegal gains and consequential high returns, with low risk attached. A growth of such forms of money laundering makes illegal income of any nature attractive, resulting in growing corruption. If such a spiral is left unchecked, it can lead to the eventual downfall of a nation, through a failure of governance or the destruction of its youth. I have, to date, not seen any such development of a law enforcement tool for the documentation and analysis at a grassroots level of intelligence on human trafficking criminal networks and individual offenders.

In the UK during the course of my PhD studies I was able to observe cases of offender management and, in a number of ways, it differed from what is seen in the South Asian landscape of similar cases. In one of the UK cases covered in the multidisciplinary model in Chapter 8, despite having a conviction for violent physical abuse of a number of children in the UK, the perpetrator was able to take on the identity of a dead person and travel abroad to abuse over 500 children from all walks of life. The perpetrator targeted children from elite schools and children orphaned by natural disaster. The level reached epidemic proportions when the perpetrator concerned would abuse upwards of 15 orphaned children each day. The perpetrator maintained a meticulously documented record of each and every abuse and would revisit them for personal pleasure. The person concerned is now serving a 21-year prison sentence in the UK. This reflected a failure to manage an offender who then went on to abuse hundreds of children in other countries. On the upside, in one of the UK-India cases involving two perpetrators convicted in India, one of them had a travel ban order of five years imposed by the court in the UK, thus preventing him from travelling abroad to abuse children after the person had served his sentence. Unfortunately the lack of cooperation by an Indian NGO led to the failure of the travel order for the second convicted person, which in many ways risked nullifying the impact of the travel order ban for the first convicted person, as the network concerned has operations in multiple countries and both persons were equally key players in the crime. In both cases the entire criminal network was largely left intact, risking resumption of their activities in an evolved manner.

### ***6.3.2 Initiating the criminal justice machinery***

The criminal complaint elsewhere, or the First Information Report (FIR) as it is known as in India, is a key tool of the criminal justice machinery in tackling human trafficking. It is the point where concrete intelligence is identified, categorised into evidence and presented to the law enforcement machinery, so as to mobilise their resources in order to bring relief to a victim of trafficking and dismantle the criminal network. The most common failure at this first stage of initiating the criminal justice machinery is the sheer absence of cooperation between the community in which human trafficking takes place and the law enforcement machinery. In many parts of the world there is a growing sense of disconnect between the institutions of governance and those that are governed. The growth of criminal networks is often directly proportional to the scale of this disconnect. In case studies handled in South Asia, a significant number of major cases are affected by crimes not being brought on record, or once there is an attempt to bring them on record there is significant victim tampering and pressure to ensure that either they don't cooperate or give a statement to the police favouring the criminal network. I have seen the same challenges in the UK and the Netherlands, whether under trafficking for sexual exploitation using grooming as a tool, or in the case of historical and current child abuse cases involving a large number of victims and influential power actors who are accused. In one of the cases that I personally handled, referred to later, the two child victims saved from the jurisdiction of the V P Road police station in Mumbai were significantly intimidated after they were saved, to give statements stating that they were willingly participating in prostitution. Once at the government safe house they disclosed to the government probation officer how they were intimidated and threatened to disclose statements that would favour the criminal network. The first child had to then give sworn testimony in court before a Judge to counter the statement she was forced to give at the police station. In this case the second child, who also gave evidence against the initial statement, disappeared and it is believed that she may have been eliminated by the criminal network as it was the second time she had been saved by the police and the criminal network had a strong hold on her and her family, despite the second intervention to save her. The case resulted in a conviction against the criminal network. During the course of the PhD I encountered similar situations both in the UK and the Netherlands. I frequently found that in anti-human trafficking operations any level of post-operational care was largely limited to EU citizens. On regular occasions, when I would enquire in an interview with a researcher from the Scottish Executive or with other stakeholders about the outcomes of those who were non-European Union victims, the response was that very little was known and in most cases there was very little record of them within the system. As the PhD progressed I discovered that in most cases the victims from non-European countries were taken to detention centres and then deported through either voluntary repatriation or forced deportation to the country of origin. I was contacted during the PhD by the International Organisation for Migration (IOM) to help with the voluntary migration of a trafficked woman from the UK to India. I was happy to help, provided all details pertaining to the criminal network from the UK police force was shared so that the criminal network in India that facilitated the trafficking could be dismantled and the circumstances of the

victim's rescue could be factored into their individual plan of care. This is important as in most such cases the criminal network is just waiting at an airport or entry-exits point to secure the victim back or re-traffic them to an alternative site. Also deportation or voluntary repatriation without dismantling the criminal network helps neither source or destination countries and, most of all, does nothing to help with the reintegration of the victims, in fact it drives them to trust the criminal networks, with fatal consequences for all concerned in the short, mid and long terms.

I observed similar challenges in the Netherlands where, in two instances, batches of over 100 children and adults had made their way from Punjab to Netherlands and then either disappeared from the grid or, in some cases, adults were found in forced labour establishments in the border areas of the Netherlands. While in the case of the adults a prosecution was mounted against the establishment indulging in forced labour nothing was done in the case of unearthing the criminal network that made this possible. In the case of the children the government changed the system of open shelter homes to closed shelter homes and the very next day children stopped coming through the Netherlands as a transit area. None of the children were ever found once they were taken out of the Netherlands due to jurisdictional problems.

### ***6.3.3 Covert surveillance***

The role of undercover operatives is critical to the success of understanding and tackling criminal networks in the human trafficking sector, through their action in the intelligence-gathering, operational, and judicial procedure and re-integrative phases. I find that they are rarely used in the anti-trafficking sector by law enforcement bodies which are still largely reactionary in nature, rather than proactive or preventative. During the course of my research, the only instance that I came across where undercover operatives were used was by the Serious Organised Crime Agency (SOCA), now known as the National Crime Agency (NCA). Moreover, even with SOCA, the focus was very much on tackling other forms of organised crime and people smuggling, rather than human trafficking. In all of my time working with several other agencies, the use of undercover operatives to tackle human trafficking was not a principle law enforcement tool (though there have been at least two civil society groups that have used undercover operatives to map and tackle human trafficking around the world with reasonable success). I have found corrupt elements of law enforcement on the pay roll of criminal networks doing everything within their power to expose or reveal the identity of undercover operatives at the intelligence-gathering and operational stages. There could be a couple of reasons for this. One reason may be that the evidence gathered targets the very heart of criminal networks, whose members include people working within the state (in police, prosecution, judiciary, and social work) and civil society. It uncovers human trafficking and its spread right under the purview of state agencies, showing the breadth and extent of the networks and how they have infiltrated state and civil society structures. The second reason for law enforcement reluctance could be the risks inherent in using undercover operatives, not least the risk of them going native, i.e. identifying more with the criminal networks than with the criminal justice system. With effective management and

accountability this risk can be well managed with excellent results, saving lives and breaking the cycle of crime. Despite this, during the course of my PhD, I found very limited knowhow or knowledge sharing on how undercover operatives can be effectively used and managed to tackle human trafficking.

#### ***6.3.4 Lack of a common law and procedure***

When I first became involved in tackling human trafficking in 2001, what I discovered was the diverse range of laws that tackled different forms of human trafficking. Some laws had provisions of punishment, some compensation, some procedure, some care and the protection of victims. Each law seemed to tackle one form of exploitation that people were trafficked for. Very little exists to tackle either the entire criminal network or to provide tools for the criminal justice system at a preventative end. Criminal networks, due to this wide disparity in laws to tackle a complex organised crime, having a similar modus operandi, often use this to their advantage to load greater levels of debt bondage on victims, and to help members of criminal networks to get away with fines or minor punishments. The law tends to be confused, as mentioned above, on what defines a victim, as a result in a number of cases it is the victims who are arrested and often bailed out by the criminal network, while very rarely are key players within a criminal network brought to justice. The networks also took advantage of the inability of law enforcement to follow procedure, which caused entire operations to be declared null and void or even illegal, thus releasing both victims and members of the criminal network into the custody of the criminal network. Some civil society groups specialised in tackling just one form of trafficking, using a weaker law with no procedure, resulting in the summary release of rescued victims without proper home studies, background information or proper plans of care for each victim. This allowed the problem of human trafficking to evolve undeterred because most efforts by civil society groups rarely focused on addressing the criminal networks. On the contrary, when agencies were able to use these multiple laws harmoniously, as the legislative and statutory interpretation of laws demanded, they could be a very powerful tool to bring relief for victims and cripple and dismantle entire criminal networks. This is an example of institutional failures, as illustrated by Dewey (2008), which directly contribute toward the evolution of human trafficking as a crime.

#### ***6.3.5 Witnesses and social workers***

One of the problems in tackling human trafficking, and the reason why many of the cases fail in courts, is the unavailability of independent witnesses to testify, regarding the evidence of the intelligence gathered and proper use of legal procedure in tackling human trafficking. The fear instilled by the criminal networks means that most members of communities within which human trafficking occurs rarely testify or inform the police about the activities of criminal networks within their jurisdiction. This highlights the low level of confidence the local community has in the ability of the state, the police or the judicial system to protect them. There are even fewer individuals that are proactive and willing to work with local police officers to provide legal accountability during an operation, to verify that all law and procedures regarding the gathering of evidence, and the protection

of the human rights of both the accused and the victims, are properly conducted. This often forces the criminal justice system to rely upon weak witnesses, who are often members of the criminal network themselves or police informers with a criminal record. It also forces the criminal justice system to rely upon members of rival criminal networks for information, which only helps further develop that network's connections with members within the state.

This is a reason for the growth of criminal networks in more powerful forms, as cooperation with the criminal justice system helps them to eliminate rivals and occupy the vacated space. The criminal justice system often has to work with its own members, i.e. police officers, who are weaker witnesses in a prosecution case because they are an interested party representing the state in the case. In several cases, law enforcement systems have been loath to use social workers to protect victims from the intelligence or operational stage. At this stage, the involvement of social workers would be groundbreaking in securing the trust and protection of victims against the criminal networks. However law enforcement units, while agreeing on paper that this is a good idea, very rarely use social workers as empowered effective tools to protect the victims of trafficking at an intelligence-gathering or operational stage. In conclusion, the use of independent witnesses within the communities affected by human trafficking and the use of social workers during the intelligence-gathering and operational phases of tackling human trafficking would be landmark opportunities. However, these processes are rarely resorted to, leading to poor trust levels from the victims towards law enforcement agencies and resulting poor track records in convictions. It also reflects how separate the state is now from the very communities through which it derives its legitimacy and power.

Other institutional failures include the inability to take the statement of the victim in a safe and secure environment. More often than not statements are taken at the police station when the victim is within the earshot of the perpetrators. Very rarely are their lawyers, social workers, or counselors allowed to be present while the victim narrates their evidence to the police. Often by simply delaying the statement until the victim is in a safe and secure location, and in the presence of vetted lawyers, social workers or counselors, the difference can be made between a successful prosecution and reintegration or failure and a victory for the criminal network.

### ***6.3.6 Placing a child in an adult justice system***

The outcome of a case is often hindered when a child is taken directly to a magistrate or sheriff who is designated to deal primarily with adults. The treatment of children in an adult environment destroys any confidence that a victim may have in the system and those that care for them. Instead, when a child is taken directly to a home meant for children, to a children's magisterial panel, or a child-friendly judicial system, it makes all the difference in gaining the trust of the child. Criminal networks always use their sources within both state and civil society to try to adversely influence which court the production of the child takes place in. Such efforts start with a battle by the corrupt elements of law enforcement that do their utmost to produce a child victim before an adult judicial system,

knowing full well the damage it will do and that such an act is a violation of the spirit of laws protecting children in need of care and protection. When that fails, the networks will use their sources within the homes to transfer the children into the adult system, by bribing the staff at the home, by using lawyers to adversely influence the judge, or by bribing the outcome of the medical forensic tests.

In another recent case, the criminal network and a journalist allied with the criminal network, moved an application in a regular court to amend the age of the minor victim of trafficking by producing a false secondary age-related document. They moved this application while filing a simultaneous application for the discharge of the case filed against the members of the criminal network, and as a result of the public admission of the application (done as a common legal courtesy), the journalist widely published the fact in a well-known newspaper, thus attempting to adversely influence the courts. The network also used the newspaper article to put pressure on the police and the partnering civil society group to disclose the location of the victim, so that they could target them to try and disrupt what would otherwise be a straightforward case against the criminal network. The criminal network, by using the best local lawyers, was able to extensively delay the case, forcing the court to release the accused on bail, and then the network was successfully able to gain control of the victim, and her child, and apply to the court for her testimony in court to be re-examined.

During the period after my PhD viva, a horrific case of sexual violence and murder, known as the Nirbhaya case, rocked Delhi on the 12<sup>th</sup> of December 2012 (Verma et al., 2013). Among the perpetrators who repeatedly raped a young girl, the most heinous was a juvenile under the age of 18. As a result of the law governing juveniles at the time, the boy who committed the most violent acts got away with less than three years imprisonment. The Government of India set up a judicial committee to recommend amendments to criminal law, which was published on the 23<sup>rd</sup> of January 2013. The collective outrage this caused led the government to amend the laws to mean that children between 16 and 18 years of age who commit the most serious offences can be punished with upwards of ten years within an adult legal system. No one disputes the fact that the juvenile involved in the Nirbhaya case could have been punished within a correctional program in a manner which both reformed the person and represented justice for the horrific crime committed. The amendment in the law represented a step backwards given that, of the 427 million children in the country only 1.2% of them actually committed crimes in 2013, and only 2.1% of the 1.2% of children who committed crimes were arrested for serious crimes such as rape or murder (Tharoor, 2015). Moreover, 77% of the children who committed crimes had families that earned only £50 (GBP) in a month, and 87% of the offenders had not even completed higher secondary school studies (Tharoor, 2015). This shows that the focus of the solution should be socio-economic improvement rather than trying children within an adult justice system, which will have a devastating impact on them, given the weakness of corruption, inadequate investigations, overburdened courts, and the many other challenges that plague the criminal justice system. The picture that never leaves my mind is in one of the prisons where I

worked, in which the juvenile offenders were housed in the same building as the adult serious offenders. One of the juveniles under trial approached me for legal aid but was interrupted midway by a violent adult inmate who forced him to stop seeking my help, as the juvenile was his sexual toy in the prison and he was not going to let him go. On the victim's side of human trafficking cases I frequently observe that a number of countries still use the correctional or probation system to help with the protection and reintegration of those affected by human trafficking. In the UK and the Netherlands Non-EU citizens who get trafficked are more likely to be detained and deported and until recently this involved minors. Exposing children to the adult justice system over the years has a devastating psychological impact on the children and more often than not gives credence to the threats of the criminal network that, not only would they have control and access to the children within such systems, but also that the victims are better off trusting the criminal networks than any member of the state or civil society.

### ***6.3.7 Bail of the accused***

Human trafficking is one of the rare global crimes where the criminal network has a high success rate in re-trafficking victims saved from its control. One of the many reasons that this is possible is that human trafficking is tackled under multiple pieces of legislation. More often than not, new sets of legislation relating to human trafficking are weaker than the previous ones, resulting in confusion in typical procedure for tackling human trafficking. This makes it easy for members of criminal networks to walk free on bail, after having committed one of the most brutal forms of crime. There have been numerous cases on which I have worked where the most cooperative victims of trafficking would hear of the bail status of the arrested member of the criminal network, and as a result would become hostile to any help from the state or civil society. One of the recent trends in this area has been the increase in instances when bail is denied by the courts in South Asia to perpetrators charged with human trafficking offences, while what I have observed through transnational case studies in both South Asia and Europe is extensive delays in disrupting criminal networks operating between Europe and South Asia.

### ***6.3.8 The role of lawyers***

Most criminal networks will have a network of connections within the legal profession to secure their interests at every level. They have professionals on their payroll that specialize in representing them at various levels such as the sheriff's/magistrate court, the bail court, the trial court, the High court and even the Supreme court. Networks may even have representatives that lobby on their behalf at a policy level, towards which very little action is ever taken. Dealing with the level of corruption instigated by criminal networks at an enforcement level can be challenging enough, but the connections of criminal networks within the legal world makes this doubly difficult. If this legal arm of the networks was simply protecting the rights of the members of those networks within the criminal justice system, this might be understandable but it often goes beyond that to direct criminal action. In *Prerana vs. State of Maharashtra* (Judgment citation no: 2002 ALL MR (Cri) 2400), the Bombay High



Court censured one member of the network involved, who was a lawyer, for having manipulated the judge in the Juvenile Court to release several minor children, who had previously been rescued from trafficking for prostitution. One of these children was traced to a high-end brothel run by a well-known criminal network and the victim testified how this same lawyer had escorted the child to the brothel building and asked her to proceed to one of the rooms. She told the police how the remaining children were separated and sent to different brothels owned by the same network in different parts of the city.

Unless the entire criminal network is identified and proper legal action is taken, there is little point in saving the victims of trafficking, because their chances of reintegration are reduced to very low levels. With each passing case the criminal network and its elements within the state and society grow stronger, contributing to the growth of one of the largest and longest forms of organised criminal activity. One way of stemming this growth is by turning the tables at the stage of bail, making it easier to identify and tackle other members of the network as they step in to fill the gap left by the imprisoned perpetrator. As the case goes through the process, the perpetrator will face increasing desperation, as their value to the criminal network only depends on how far they are able to manipulate and compromise the system.

### ***6.3.9 Risks during a criminal trial***

The trial itself is a dangerous time for a victim of trafficking, and those working against the criminal networks. Members of the network will only go into the trial if their efforts to pervert the course of justice prior to the trial have been successful. If that is not the case, the traffickers know when to cut their losses; they will ensure that their members abscond, disappearing under new identities. The only other reason a trial will take place is if the network has decided to cut its losses and abandon a member who has been denied bail. Victims of trafficking and members of civil society face severe odds to make the criminal justice system work, with very little protection being offered to them. Trials will often face extraordinary delays, meaning that a victim at an advanced stage of reintegration will suddenly have to stop everything, and go through a prolonged process of delays and humiliation within the judicial process. While there is no denying that there are sensitive judges, prosecutors and police officers, this is not common. In many cases, the judges are not sympathetic, and the prosecutors are poorly trained and paid, and are often more in favour of the accused than the victim. A good lawyer for the victim can be essential in protecting the victim's rights within the criminal justice system.

Physical threats towards victims of trafficking are a common occurrence. I have seen many forms of this during the course of my involvement; everything from armed members of the criminal networks surrounding the court, to the kidnapping of the parents of the victims, their neighbours or even community leaders, who are then brought to stand outside of the court in order to silence a victim from testifying. Religious curses muttered by the perpetrator just as the victim enters the court are

devastating to the victim and have turned many hostile out of sheer fear. This is particularly the case where the traffickers use religion as a modus operandi of human trafficking. Threats of physical action are boldly given by members of the criminal network within the court, without fear of recrimination. Many of the accused are allowed to remain seated while the victims have to stand for long periods to testify. Some sensitive judges and courts allow witnesses to have a break or to sit down while testifying but in South Asia this is a rare phenomenon. The victim, witnesses and lawyers for the victims are often humiliated and silenced during the cross examination by the defence lawyers. In many cases, the criminal network is able to influence the elements of the judicial system, from the prosecutor to the court attendants, the translators and even the judge. The networks are careful to engage only the most powerful and influential criminal defence lawyers, many of whom have positions of power, such as the chairperson of the bar association, giving the criminal network enormous influence. Despite all this, the fact that there are convictions comes down to the extraordinary sacrificial courage of the victims, some brilliant members of civil society (though far too few in number to make their presence and voice count), and a few brilliant individuals within the system; prosecutors or judges whose integrity makes the system work. In short, in many cases, it is almost miraculous that prosecutions are successful. This situation has to be addressed if the growth of human trafficking is to be checked. It is not uncommon for criminal networks to win upwards of 80% of the cases arrayed against them. When the state partners with civil society it becomes an even battle, with around 50% of cases being won by the criminal networks. More needs to be done, however, to reverse the trend and take success against criminal networks in between 75% and 90% of the cases brought against them. This is an achievable goal for the next five to ten years, through increased state-civil society partnerships.

#### ***6.3.10 Post-operational investigation and follow up***

One of the key failings during the whole of the intelligence-gathering, investigative phase is the poor follow-up once an operation has been conducted at a location, whether that is gathered by a civil society agency, from a 'tip off' by a police informant, or via undercover operatives. During the 13 years I have been observing cases, I have rarely seen much interrogation of perpetrators after an operation. Typically, there is very little follow-up and very rarely are traffickers, financiers and other members of the criminal networks unearthed or arrested. Criminal networks, as a direct result of poor interrogation and investigative follow-up after an operation, have ample time to suppress evidence, and resume operations immediately, diverting a portion of their income to finance the tampering of witnesses and suppression of evidence. Proper interrogation and swift action on the evidence given by the arrested perpetrators could lead to the crippling and disrupting of the criminal networks, leading directly to successful prosecutions, and the victims having greater confidence in the state and a greater chance of reintegration. Often in South Asia it is the perpetrators who dominate a police station, and openly threaten the victims and, at times, the members of civil society groups. In some cases they are better treated and more visibly cared for than the victims themselves. This has a devastating effect on the mind of the victim with regard to the influence the perpetrator is seen to have. Interviews of

victims in South Asia are among the most poorly conducted. Often they are done in the presence of the perpetrator, and in many cases statements from the victims are recorded without anyone even having spoken to the victim. In some cases they have even been copied across from previous cases. It is not uncommon for victim statements to be deliberately tampered with, so as to weaken the prosecution's case. This is part of the service provided by corrupt elements of the police force on behalf the criminal network. Most convictions in India pertaining to rape and sexual violence are largely dependent on the victim's testimony being able to withstand the rigors of cross-examination. This adds greater importance to victim interviews being recorded in a safe and secure environment, with adequate support provided because of the intense trauma that the victim has gone through. Such steps are rarely followed however, and the interview is carried out in the form of an interrogation. This carries on through to the cross-examination, making most victims terrified of the judicial process. There is no lack of statutory provisions or judicial precedents on the need for a safe and secure environment in which victims can be interviewed, but this is rarely followed in the case of the victims of trafficking in South Asia because of the stigma of prostitution, poverty, and the inferior class or caste often associated with trafficking victims. The victims are seen as expendable, when considering who should receive the state's care and protection, in a society of limited resources.

#### ***6.3.11 Forfeiture and seizure of criminal network assets***

One of the most potent tools against human trafficking is the closure of locations in which crimes have been committed; where it has been established that children have been trafficked through or to, and abused and exploited there. The closure of locations in which crimes have been committed can cripple the criminal network. Where this isn't done however, the networks are able to resume their operations at the same location, or to change the location and infrastructure in a short amount of time. They are able to use the resources earned from the location to fight prosecution efforts against them, securing finances from money laundering associates within the criminal networks to secure new consignments of victims for their ongoing activity. Closing a criminal location, seizing criminal assets, and freezing the channels of finances are similar measures to those used against criminal networks involved in terrorist activities. Other tactics, such as the disposal of the network's immovable and movable assets to a fund that finances victim protection and compensation, prosecution proceedings, and anti-trafficking operations, are those which, if chosen by nations to combat human trafficking, could completely change the current prevalence of the crime.

In 2003, in an effort to curb trafficking, the Commissioner of Police in Mumbai, in partnership with local police stations, conducted a range of operations on locations where children were known to be held against their will, based on information provided by the organisation in which I was working at the time. After the raids, the locations were shut down as the police had found several children there. The owners of these locations appealed to the High Court of Bombay, where the decision of the Commissioner of Police, based on solid evidence and a procedure to freeze the use of these immovable assets, was upheld. The criminal network then moved the appeal to the Supreme Court

where once again the ability of the state to seize the owners' immovable assets was upheld. By setting a precedent in this case, the same action can now be undertaken throughout the whole of India. This has had a monumental effect on criminal networks in Mumbai.

In 2014 and 2015 The Indian police in Bengaluru shut down three locations where children had been trafficked and commercially sexually exploited. The police went on to execute the orders of the judge, in front of both the television and print media, sending a firm message about the commitment of the state to deal resolutely with the issue of trafficking children into commercial establishments for prostitution. In May 2015, similarly, the Indian police in the town of Parbhani in Western India, after undertaking a training program on tackling human trafficking, went on to save eight children and adults from brothels operating in the area, and then went a step further to close down 13 locations in the area where the children and young adults were found trafficking and sold into prostitution. This is a good example on how the state and civil society can work together to tackle human trafficking. In all three cases narrated the police were able to achieve significant results due to close partnerships with civil society groups, under the multidisciplinary model of tackling human trafficking.

#### ***6.3.12 Exporting tools of the drug wars into tackling human trafficking***

A focus of American efforts to engage governments around the world on most organised crimes has been the creation of special police units and special courts. The challenge to this system is that it is not clear where accountability for these systems lies. There are also questions on whether such systems are easier to target for criminal networks that have already infiltrated the state and civil society systems, and whether they divert resources that would be better used within the generic law and order system. The challenge with specialised police units is dual in nature, firstly they are not multidisciplinary in nature and rarely work from an end-to-end perspective of tackling a complex problem such as human trafficking, secondly, for a criminal network that specialises in mapping and infiltrating country-wide governance and criminal justice system, a dedicated or special police unit allows them to focus their efforts on tracking, engaging and compromising the special police unit often with great success. Similarly, a special court that has a magistrate with lesser powers presiding over it, and where most of the offences charged against criminal networks are typically tried by a senior session judge, only makes it easier for criminal networks to use the system to their advantage. Such systems make it easy for the criminal networks to appeal against a conviction in a session court, whereas otherwise they would have had to appeal to the High Court or the Supreme Court. The likelihood that a session judge would overturn a magisterial decision is higher than the likelihood of a High Court overturning a decision of a session judge.

Special police units are very vulnerable to corruption (Katz and Webb, 2006). Where with regular policing, the returns for corrupt police officers are less because the proceeds of crime are spread over a larger group, a single unit with increased powers becomes more vulnerable to corruption because each member's share is greater. Even where units are not corrupt, their jurisdiction is limited

compared to that of the criminal networks. The reason special units are seen as a favorable option is, for policy makers, it is an easy and visible way of showing that action is being taken. Invariably, civil society groups that do not work on the frontlines or are withdrawing from frontline work need to show their investors some return for the enormous levels of resources they take from private donors. This leads to an unfortunate situation where those working on the fringes of people trafficking, who are unwilling to put the necessary work into tackling the problem comprehensively are rewarded, along with their donors, by huge publicity for something that rarely touches the criminal networks.

The investigative documentary 'The Secrets of Mexico's Drug War' by the BBC, shown in March 2015, shows the perils of adopting some of the strategies of the drug war to tackle other forms of organised crime such as human trafficking in other parts of the world. The investigative documentary highlights a close nexus between the US administration, through its specialised, dedicated investigative agency such as the Drug Enforcement Agency (DEA) that made a secret deal with the Sinaloa Cartel of Mexico to turn a more lenient or blind eye to their activities if in return they would play a key role in working with the US government against other Mexican drug cartels. According to the documentary, over a ten-year period the Sinaloa Cartel was least targeted compared to other cartels, for over 13 years one of its key players, Chapo Guzman, was able to evade the law. Over \$881 million (USD) was laundered by the Sinaloa Cartel, with the United States turning a blind eye to these actions. Undercover operations by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) that were investigating the purchase of firearms in the US by the Sinaloa Cartel for use in Mexico, where suppressed and the consignments of firearms, valued around \$250,000 (USD), was not only taken to Mexico but also used in killing innocent teenage party-goers in Juarez in Mexico. The teenagers were killed in a case of mistaken identity by the cartel, but also the firearms were traced to the killings of a US border guard who intercepted a consignment of drugs into the US from Mexico. Key members of the Sinaloa Cartel who were extradited to the US for murders and trafficking arms into Mexico and drugs supplies into the US received intentionally reduced sentences of 36 months. During the case there was the suppression of material evidence by the US government, on grounds of national security of a deal made between the Sinaloa Cartel and the US government, with the Sinaloa lawyer as the main go between. The documentary alleges that Chapo Guzman's arrest was also stage-managed by the cartel and the US and Mexican governments, as he had become too well known a figure. In the words of a cartel leaders 'when a key player in a criminal network becomes too well known you begin to smell like a dead person'. This is the reason attributed to explain how the world's most wanted man was caught with a single bodyguard in a house, when the norm was for him to be surrounded by at least 40-armed guards. Since the airing of this documentary Chapo Guzman managed to escape from his high security prison for the second time just as the Mexican President and key aides were on an official trip to France. According to the documentary such compromises between a specialised dedicated agency, such as the DEA, with an annual budget of over \$2.8 billion (USD) in 2014 and over 11,000 staff, and a Sinaloa cartel have resulted in the cartel becoming even more powerful than before, specialising in the trafficking of marijuana, cocaine and heroin, and being

involved in a death toll of over a 100,000 Mexicans in the five-year drug war. This illustration highlights the real damage that can be done when an institutional failure is exported as a successful model into other countries, the potential instability such mechanisms can cause to the countries where such strategies are built, and, in many ways, shows the real danger of state mechanisms partnering with criminal networks. They are dangerous partnerships because of the networks' greater control over the communities that they are embedded in, which in many cases is better and more effective than the local governance structures within that community.

In operations recently undertaken in a major Indian city, a large number of women and children, many of whom were infants, were rescued from a large criminal begging racket. Following the raid not a single member of the network was arrested, and as a result the entire strength of the criminal network was available to re-secure the victims the following day. The criminal network created mobs around the courts to put pressure on the local children's magistrate; they ultimately gave in and abruptly released all of the children back into the hands of the network. Within days the children and infants disappeared from the city entirely. These facts, however, were not made public and the international media wrote about the case as a success story, giving the impression that all of the women and children who had been rescued were in safe homes. The civil society group involved also continued to claim that the case had been a huge success, in order to raise resources on this basis. Indeed they went on to receive an award in the city, and were approached by a publisher regarding a possible book. There remained the question of where the children had disappeared to, and how many members of the criminal network were held to account. As a response to this criticism the civil society group involved, and elements of the police, showcased as evidence before the media a few isolated instances of children who remained at the shelter homes. These children had either run away from their homes because they were at risk, were caught in a police sweep or were unwanted by the criminal networks and left behind following the mass release of all other victims.

During the course of my research, one location in which no special units had previously operated suddenly had three of these units. Within a couple of operations all three units were so deeply influenced by criminal networks that it was impossible to work with them without putting members of civil society at risk. In another location the special police unit was disbanded when a senior officer discovered that the criminal networks were bribing his entire team. This led the officer to suspend the whole unit and work largely alone with the support of a number of civil society groups with well-known track records of success and integrity. In one instance the criminal network established their new base of operations in partnership with former officers of the anti-human trafficking police unit who were transferred to local police jurisdictions. This gave the criminal network protection from both the honest elements of the local police and specialised anti-trafficking police units through relationships with their former colleagues still serving with the special unit.

Such efforts are more likely to succeed if conducted in a way similar to that of the National Centre for Missing and Exploited Persons (NCMEC) in the US, which I observed as part of my research. Here, members of the concerned state agency were seconded to the civil society group, which was itself properly governed with a corporate structure, and regulated by statutory laws passed by the US Congress. These laws were based on the incredible track record of the civil society group, which had been protecting children for more than 20 years. This partnership is under the leadership of the civil society group with professional executive and independent vetted board members. It is regulated and governed by statutes and accountable to the parliament.

#### **6.4 The challenges of implementing good practices in victim protection**

One of the most significant gaps in tackling human trafficking is the absence of integrated aftercare and victim protection. There is still a reluctance to recognise the sophistication of the criminal networks that dominate this crime. Hence, human trafficking, barring a few exceptions, is not given the recognition of a serious organised criminal activity. The criminal networks often use all their resources to tamper with a victim once they are saved, with a dual purpose to damage the prosecution case, learn lessons and evolve from this experience and ensure that the message is very clear to existing and future victims that cooperating with the state or a civil society group is futile and fraught with serious consequences for them. In other words, the message is that it is better for the victim to cooperate with the criminal networks rather than with the state. It is to this end that elements of the criminal network within the state will intentionally disclose themselves to the victims in captivity, or will put a hostile display to civil society groups to indicate to the victim that they are solidly on the side of the criminal network.

##### **6.4.1. Infiltration and coercion**

The process of rescue and the way it is executed is often flawed. Human trafficking operations often involve dealing with severely traumatised and abused victims of the crime. This requires a completely different approach to other forms of crime and needs to be handled with a great degree of planning and care. However, the process is flawed in its approach, even at the implementation level, by the tactics used by both civil society groups and law enforcement. There are a number of instances where this leads directly to a failure to save victims, or to victims being saved in such a way that means they remain at a high level of risk because of the ability of the criminal network to reach them. Among the common risks faced, the first is the chance that members of the criminal network have sources in the police and, at times, even within civil society groups, who are able to alert the frontline members of the criminal networks, giving them adequate opportunity to hide, remove and even dispose of the victims, and the proceeds or evidence of the crime.

The second risk is the ability of the criminal networks to use their numbers to their advantage. In certain areas they will surround a location within ten to 15 minutes of the operation and use the surrounding geography and their superior numbers to pressurise the police into moving from a crime

solving mindset to a law-and-order mindset. Once this shift occurs in the mind of the police, the victims of trafficking are viewed as being less important than diffusing the perceived law-and-order situation. If releasing the victims saved at the location can achieve this, then the police will do this, just outside of the location, at the police station, or at the courts the next day.

The third risk is the ability of the criminal network to embed a mole among the victims that are saved, in order to enable the network to control their 'products' even once the police have rescued them. In nearly all the cases I have observed during the course of this research and beyond, the criminal networks have attempted, in some cases successfully, to embed members of their network as victims within those rescued. Many of them are incredibly good at playing the role of a victim in public but reveal their intent when in private with the victims. The networks also use this approach to infiltrate safe homes to tamper with witnesses in other cases, or even to recruit vulnerable children and young girls in the safe home. Such children have a particular value as potential victims, in that they are easier to handle than new victims, who need to be broken. Nothing impacts the victims of trafficking and their willingness to cooperate as much as the knowledge that members of the criminal network are not being held to account by the law and are in a position to intimidate them.

The fourth risk that is currently being deployed by the criminal networks is the use of a partnership between corrupt elements of the state and civil society as an effective tool. As a trend studied in a number of cases today, most criminal networks that have human trafficking operations have both a for-profit company registration and a NGO registration. While the for-profit registrations help with access to regular systems and structures necessary for any business to grow (i.e. access to banking systems, licenses and registrations for their operational premises, investment opportunities in legitimate finance, money laundering etc.), the non-governmental structure is absolutely vital for them to weaken the prosecution case against the criminal network and get access to the victim with an aim to re-traffic them. The non-governmental structure also gives them access to development-sector funds given by those who are ideologically against current anti-human trafficking models or those with an agenda to gain valuable information on grassroots reality in any country in order to help with trade or other diplomatic negotiations, or with an aim to fund both sides of a conflict to destabilise the region. The key here being the ability of the NGOs fronted by criminal networks to partner with corrupt elements within the state system to ensure that any child saved from any situation of human trafficking is immediately under their control at the government safe house, and they are able to threaten and punish the children to ensure that they don't cooperate with the criminal justice system against the targeted criminal network. Once that is achieved the NGOs run by criminal networks ensure that the children are trafficked back into the criminal network for their further exploitation. In addition to this they are able to tap into development funds from either a private donor or the state, which increases their income and respect but also gives them significant access to areas of legislative change and policy, to influence them in manner that will help the criminal networks to thrive. The



case study pertaining to this is in the chapter on the multidisciplinary model and is called Operation DJH.

#### ***6.4.2 Victim protection***

One of the fundamental operational principles during the process of rescuing victims of human trafficking is to separate the victim by sight and sound from members of the criminal network. This principle is openly flouted in most cases, because of the stigma of class or caste or culture associated with the victim, as a result of close collusion between members of the criminal network and their sources within the criminal justice system, as a result of apathy or a lack of application of mind by the authorised person handling the victim, or simply as a result of the lack of necessary infrastructure. This is one of the fundamental reasons why reintegration levels continue to be abysmally low for the victims of trafficking. The key flaws start at the location of the crime, where an open disclosure is made by corrupt elements of law enforcement as to who the victim is who has asked to be rescued, and to whom they communicated this desire. This helps the criminal network to focus their efforts at the time of rescue on that specific victim and their link with the member of the police force or the civil society group that is attempting to safeguard them. This is further compounded, at times, by physical violence, such as the slapping of the victim by the corrupt element of law enforcement in front of the members of the criminal network, indicating to the victim the power and connection the criminal network has. This helps in targeting the victim, and often is the single thing that causes the victim to panic, lose trust in their rescuers and sometime flee the location or turn hostile towards the genuine rescuers.

If for some reason the participating civil society group is very influential and there are more members of the law enforcement that are non-corrupt and keen to help, then the challenge moves from the location of the crime to transportation away from that location. Often the victims are brought together with the arrested perpetrators in the police vehicle. This is a key location where threats can be made and, by the time the victim reaches the police station from the location of crime, they may be in a deep state of fear, traumatised, panicked and even hostile. If the participating civil society group and upstanding police officers are able to provide a separate vehicle in which to transport the rescued victims, separate from the vehicle that transports the perpetrators, then the attempt to tamper with them switches to the police station where the victims and arrested members of the criminal network may be kept together. More often than not, the victim is kept in such a way that it is clear that the victim is weaker than, and not as important as, the arrested perpetrator. There have been so many instances where victims are kept in the same room as the perpetrator, with the perpetrators granted the freedom to move around, make calls, and threaten the victims. Meanwhile, the victims are only allowed a fixed location, with provisions of water of food largely made by the participating civil society group. In a case that I handled personally, a minor victim was made to sit below the table facing the shoes of the police officer, while the perpetrator was allowed to sit separately with dignity. On bringing the poor treatment of the child to the attention of the officer, he reacted with fury and

threatened to file a criminal case against the civil society group for obstructing the police officer from carrying out his duties. As a result of this, the victim was moved to a better location but was already terrified at the favour shown by the concerned officer towards the perpetrators.

Often the strategy of the criminal networks and their members within the system is to wait for the staff of the civil society group and the uncorrupt police officers to leave the police station out of sheer fatigue, in order to appear in court for the same case the next day, or when there is a change in duty timings. During this period, if the civil society group fails to be with the victim, the perpetrators are often given free access to the victims, allowing them to make threats and to force the victims to agree to be represented by lawyers financed by the criminal network. The next day, the victims will again be brought together with the perpetrators in the court, where again they are often forced by absconding or undetected members of the criminal networks to be represented by the lawyers of the criminal network. Members of the criminal will often surround the court and may have a vehicle waiting to take the victims away, if the network's lawyers are able to bribe the court or present false evidence about the victims. Again the network will try to agitate the victim into a state of sheer panic. This often results in the victim crying, screaming and shouting, and more often than not the court interprets this as being because they are unwilling to be saved and want to continue in whichever system they were sold into. This perception often results in the victim being released right into the hands of the criminal network. The Bombay High Court captured this method of operation well in the case of *Prerana vs. the State of Maharashtra* in 2002.

#### ***6.4.3 Place of safety***

Providing a place of safety is the most critical element of protecting a victim of trafficking. There has been a systemic failure in this area for several years, in both the state and the private sector. This failure is common in India, the UK and the Netherlands. This failure extends towards the law that regulates places of safety. A place of safety could be an interim regulated facility for the first 24 hours after the rescue of a victim of trafficking; a reception center, which is generally used for a period of three weeks to three months, during which time the plans for care and protection of the victim are drawn out; a long-term residential facility, part of the plan of care after it has been approved; or a training facility, hostel, or group home, etc. The provision of a place of safety is an area in which some progress has been made but there are still significant failures. It is an area where corruption, apathy, internal politics, the infiltration of pedophile networks, and unsustainable funds all work together to frustrate any attempt to help victims of trafficking reintegrate successfully back into normal life. This combination of barriers highlights why residential care is no longer considered a viable, sustainable or safe option for the victims of trafficking. The focus now is to develop safe and self-sustainable reintegration plans that involve reintegrating victims into mainstream society, avoiding any form of institutionalisation in residential care, other than for the bare minimum of three months needed to mutually develop an effective and sustainable individual plan of care. During the course of my experience of human trafficking, I have seen numerous case studies where there were

problems with the residential care system. There was one instance of a cook that regularly sexually abused children in a well-known residential care home in Mumbai. This was a home that catered for the children of women in prostitution. The method of operation of the organisation running the care home was to pay perpetrators for the liberty of the children of prostitution or the adult victims of trafficking for prostitution.

The main safe home for children trafficked in Mumbai was, for a significant period, home to a large number of children (between 75 and 100) packed into two rooms meant for 35 children. It took 12 years for a more suitable solution to be created. The children regularly struggled with skin diseases as a result of the lack of hygiene. In addition, a significant number of children were trafficked from the home through close collusion between corrupt elements of the administration and members of a criminal network. The home has been greatly improved today, only due to a sustained partnership between the good elements of the state administration and several civil society groups. However a lot more needs to be done in a sustained manner to prevent the conditions at this safe house from regressing which, during a recent visit, it showed early signs of due to infrastructural decay and a lack of proper maintenance of the physical facility. The care standards by the staff though have not deteriorated and continue to be maintained, thanks to continued state and civil society engagement.

The home for adult trafficked girls in Mumbai was also in a horrible condition for a long time. The adult home is generally the first place in which both children and adults rescued from trafficking for prostitution will stay. The children and adults are initially produced together in a regular magistrate's court where eventual segregation occurs due to medical age verification. In a number of cases, members of a criminal network were able to bribe the hospitals where the medical forensic examination were being carried out, resulting in most minors being categorised as adults. Most adults are only given a three-week reflection period in the home, which is hardly sufficient time to determine their background and circumstances, to undertake a home study, to track down members of the trafficking side of the criminal networks, and to provide adequate counseling. Most victims are lost due to this procedure, which in the case of India has been in place since 1956. For several years adult victims and minors who had not had their ages verified were brought to a facility that also housed destitute women taken from the street for begging. The situation was so bad that it was a regular occurrence for destitute women to die within the facility. The situation for women that become destitute on the streets is one of the most tragic I have encountered. When the women are brought to the courts to be remanded in custody, their hands are tied up with a rope or handcuffed, and the women are herded in like cattle. The lawyers and their clients flee the courts and the judge covers their nostrils because of the stench. Without even asking about their wellbeing or even looking at them, the judge will order for the women to be taken to this facility.

Victims of trafficking were previously exposed to this ghastly sequence of events, and because of this, the prospects of building trust with the trafficked women, reintegrating and rehabilitating them was a

distinct impossibility. The engagement between the state and civil society resulted in the facility being split between the beggars' home and a separate, walled facility for victims of trafficking. Eventually the federal government provided large grants for the state to build a better facility which, after several years and extended budgets, was built. Sadly however, this facility became known for its poor treatment of the victims of trafficking, and was associated with allegations of rape and corruption. There is still an ongoing corruption enquiry looking into the state of affairs in this home for adult trafficked women.

The capacity to care for boys trafficked for any purpose is virtually non-existent. Many are housed in poor accommodation for which the primary purpose is housing juveniles in conflict with the law. The boys housed here are regularly beaten, sexually abused by the staff, and deprived of medicine. Most victims of forms of trafficking, other than for prostitution are initially housed in a temporary facility, then shipped off to other houses with limited or non-existent plans of care other than the presentation of a certificate stating that they are free from slavery, and limited compensation of up to 30,000 Indian Rupees. Most would not even get that if a civil society group were not involved. The state of private homes is rarely better. With the exception of one or two, most are vulnerable to pedophile networks infiltrating the home, under the guise of major financial donors or their officials. Another facility observed during the course of my research was primarily used for women with mental illness. This has had devastating consequences on successfully rehabilitating victims of trafficking held in this facility. Currently civil society groups are working with the government to bring about change in this case. Another facility suffered from a split between the two partners who were running the facility, that resulted in a number of minor victims of trafficking being effectively returned to the brothel-keepers of the red-light district of Mumbai. I spent months desperately trying to trace these victims and bring them back to a safe place.

A number of facilities run by religious groups involve significant levels of corruption through local employees, and there are often serious allegations of religion being forced upon the vulnerable child and adult victims who comply as they are often dependent on such facilities for shelter. A number of locations run by well-known international religious charities have child sex offenders as founders, who over a number of years have abused the children under their care and protection. In many cases this involved a significant degree of physical violence being inflicted on the children, which resulted in the shutting down and sale of the locations but not the prosecution of those involved. In all of these examples, evidence was produced before the concerned authorities and action taken against the institutions, yet the issue of unsafe safe houses remains a recurring problem and is one of the key reasons for the continued growth of human trafficking. Victims who have been through the system make it very clear to other victims that they are better off being raped, abused, and used for profit than being rescued and placed in a weak residential care system. In all of the cases I have handled, or for which I have provided advice, as a matter of good practice we have always checked a facility before asking a court to place a child or adult there. When any problems have been experienced they have

been brought to the attention of the persons responsible for the home, with the threat of criminal action being taken against them. In many cases, members of the teams with which I have worked would live in the facilities themselves to provide constant security and safety for the victims. It seems clear that a victim of trafficking must be reintegrated in a sustainable, safe, protective and caring environment within society, with them spending the minimum possible amount of time in an institutional setting. This changes the attitude and increases the sense of responsibility of society towards the victims of trafficking. It makes good use of the existing systems, such as local police, the judiciary, social work systems and grassroots NGOs, all vetted to safeguard victims of trafficking being reintegrated in mainstream. Providing a safer space for trafficked victims within society is also cost effective and according to my research is seen as the best tool available for reintegrating victims into society. Long-term residential care in a secluded environment is unhelpful in the long run as it, more often than not, results in the inability of victims to cope with life beyond such facilities. In cases observed over many years, such victims are often left to fend for themselves once the residential facility is unable to support them or sustain itself.

#### ***6.4.4 Language***

In the following sub-chapters I have laid out cases of poor treatment of victims of trafficking after their rescue. Often such cases feature the use of harsh, vulgar and abusive language. On countless operations in South Asia I have personally witnessed the most derogatory use of words for children, young girls and women rescued from all forms of trafficking. This abusive terminology is largely used by a section of people working within law enforcement on operations, by personnel engaged in caring for the girls or boys in a residential care environment, and by defense lawyers. This has a huge impact on the reintegration of the victims, because many of the victims already carry a huge sense of guilt and fear. Members of the criminal network, to label break and control victims, use the very same language. On seeing the same language used within the exploitative environment, also used as a tool against them by corrupt elements of law enforcement, and the social work and criminal justice systems, tends to drive a deep fear into the victims as it indicates the extent, reach and influence of the criminal networks. This results in a breakdown of trust between the victim and those trying to save and reintegrate them, which in turn contributes to short-term, mid-term and long-term increases in exploitation, as the current victims are released back to the perpetrators and they, in turn, tell new victims not to hope that the state or society might ever help them.

#### ***6.4.5 Medical examination of the victim***

The medical examination of a victim of trafficking involves the determination of age, the detection of any injuries as a result of abuse and exploitation, and the presence of sexually transmitted diseases. Once a victim of trafficking is rescued, the next stage is to identify whether the victim is below the age of 18. If the victim is a minor then the Child Welfare Committee has jurisdiction over the victim for over four months. Thus, members of the criminal network lose any chance to engage lawyers on behalf of the victims and secure their release. No lawyers are allowed to appear directly before the

Child Welfare Committee (CWC), the panel of magistrates with power to secure the care and protection of any child below 18 years of age in India. If the victims are declared as majors, within three weeks of this declaration the social work officers have to file their report to the magistrates, and, most frequently, the victims will be released. This is because of a lack of proper rehabilitative measures for adults, and a time span within the anti-trafficking laws in India that is far shorter than is needed to determine any effective rehabilitative measure. Conversely, if the victims are declared as minors, any chance of the accused getting bail diminishes, at least within the magistrate's court. The offence also becomes much more serious, as it is punishable by a minimum of seven years in prison, rising to as much as a life sentence. If the victims are minor the punishment automatically doubles under most anti-trafficking legislation.

In the case of trafficking for begging or child labour, a government doctor is brought along as part of the operational team. They determine, from an external examination, whether the trafficked child is younger than 14. If this is not the case, and the child is 14 or older, that child is not given any debrief or provided with the care that they are due under generic child protection laws such as the Juvenile Justice (Care and Protection of Children) Act 2000, a law which is superior to trafficking law when it comes to the care and protection of an child in need. The forensic medical examination of a victim is one of the points when the victim is at their most vulnerable, and is most easily targeted by criminal networks for victim tampering. Victims have complained of being sexually abused by male doctors, of facing humiliating three-day examinations, of being made to wait for long periods without protection, of being forced to respond to questions and of being examined without their consent. Criminal networks are able to infiltrate most government hospitals where examinations take place. In most areas or cities the examinations are, more often than not, so compromised by criminal networks that scores of examinations that were influenced adversely taint even an occasional accurate examination by a doctor with integrity. In most cases, obvious minors are targeted and the results of the medical forensic tests cite the victims as adults. This makes it significantly easier for members of the criminal network within the police, courts and social care system to remove the children from care and hand them over to the criminal networks, perverting the course of justice.

The following case involved the manipulation of age verification results by the examining doctors after the rescue of trafficked children. The victim in this case was rescued by an agency on the 20<sup>th</sup> of December 2002 from the outskirts of Mumbai. A case under the local criminal and anti-trafficking laws was filed against the perpetrators. The main perpetrator, who owned the location, was arrested and then subsequently released on bail. The first age verification examination was conducted at the local hospital, on the 21<sup>st</sup> of December 2002. It stated that the victim had been examined by the concerned medical officer radiologist and found to be above 18 years of age. The wording of sections 372 and 373 of the Indian Penal Code (IPC), under which the perpetrators were charged, requires the girl to be below 18 years of age, so the certification of the girl as being 18 years or over nullified the effect of both sections 372 and 373. The medical officer's semi-drunk state at the time of examination,

led us to challenge the certificate by petition at the Bombay High Court. Subsequently, we had the local Child Welfare Committee (the Children's Magistrate) verify the age of the girl at another hospital, outside the jurisdiction from which the victim was saved. The second age verification examination was conducted on the 6<sup>th</sup> of February 2003 and, at this time, the doctor's opinion stated that the girl was definitely younger than 18, possibly around 16 years of age.

The second example of the manipulation of age verification results for children occurred in the case of another victim who was rescued by an anti-trafficking unit on the 29<sup>th</sup> of July 2002, from a brothel in Mumbai. In this case eight girls were rescued in one night from an up-market brothel in this location, run by an influential criminal network. Based on the order of the Judicial Magistrate, the victim was taken to a local hospital on the 30<sup>th</sup> of July 2002. On this occasion she was declared as being around 18 or 19 years of age. At this point the victims had spent more than two years in the brothel. The lawyers of the anti-trafficking unit, before the judge, made a fresh application for a re-verification of her age. As a very sensitive judge, he doubted the accuracy of the original age verification and demanded a re-verification at another hospital. This took place on the 2<sup>nd</sup> of September 2002, resulting in an adjusted verification result of between 14 and 16 years of age.

#### ***6.4.6 The victim aftercare process***

The whole process of aftercare, which includes the reception, home education, and the implementation of long-term plans of care for a victim of trafficking, is a significantly underdeveloped area. When done well, this might involve their repatriation, rehabilitation, and reintegration, the facilitation of self-sustainability (often through the development of business ideas), and the provision of regular follow-up and support. The whole process of aftercare in both South Asia and the West is disjointed and at times non-existent. It can involve a number of players, many of whom are unqualified, with most projects being unsustainable and dependent of government funding, which can change along with the ideology of incoming and outgoing governments and their allied civil society groups.

#### **Case Study 6.4.6.1: Victim tampering and re-trafficking**

Ms N\*<sup>19</sup> was a 15-year-old girl, sold into trafficking by her father on three occasions. On the first occasion Ms N\* was sold by her father and his mistress to two brothel keepers for 10,000 Indian Rupees. She was taken to a brothel in a major town in rural Maharashtra called Allahabad. She stayed in the brothel for one month and was asked to entertain the customers who came there. Another girl, trafficked at the same time as Ms N\*, fiercely resisted being sold into prostitution and the efforts of the perpetrators to introduce her to customers. As a result, during one such scuffle with the perpetrators, the girl was killed and her body buried in the brothel itself. The stench of the rotting corpse caused alarm among visitors, who alerted the police. Prior to the arrival of the police, Ms N\*, being a minor and valuable to the criminal network, was taken back to her father for two months by

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<sup>19</sup> \*Original names have not been revealed, to protect the victims, throughout this research.

one of the perpetrators who had originally purchased her. Her father and his mistress then sold Ms N\* to perpetrators controlling a brothel in Mumbai. Ms N\* was told this time that she would be sent to Mumbai to work as a maid. Unwittingly she travelled there with one of the buyers who, in order to buy Ms N\*'s trust, got her to perform some household work in her house before taking her to the brothel she owned in Mumbai. Once in Mumbai, Ms N\* was expected to entertain customers for sex, and was told that there would be no household chores or any other work in the brothel other than prostitution. When she cried and refused to engage in prostitution, Ms N\* was told that her father and his mistress had sold her for 10,000 Indian Rupees and that the money had already been paid. Following this, Ms N\* was regularly and severely beaten until she was completely broken.

Ms N\* regularly witnessed her father visiting the brothel to take his percentage of the earnings she was bringing into the brothel. Eventually, after six month of being forced against her will to engage in prostitution, Ms N\* was rescued in an operation conducted on the 7<sup>th</sup> of October 2001 by the V.P. Road Police team. Ms N\*'s father successfully used the local political influence of a political party that espoused the cause of the oppressed and marginalised groups of people, to pressure the authorities to transfer Ms N\* from the government safe home to a government hostel close by. Eventually, the victim was transferred to her brother's house instead. Her father then sold her for the third time, for 30,000 Indian Rupees, to the manager of a local sugar cooperative factory, as his private sex slave. Ms N\*'s father and the new owner came to the house of Ms N\*'s brother with a plan of having the new slave owner impersonate a police officer and insist that Ms N\* was required at the police station for further questioning. When Ms N\*'s brother refused to release his sister, he was brutally assaulted by her father and her new owner, and Ms N\* was kidnapped. It was at this time that one of our team received a frantic call from the brother to ask that Ms N\* be rescued. A member of our team was deployed to trace Ms N\* to the house of the sugar cooperative manager and once there, to mobilise the police to rescue her.

Ms N\* was rescued on the 1<sup>st</sup> of October 2002 in Miraj, a town in rural Maharashtra. We were able to relocate her to a safe home in Mumbai. A strong case was built against all of the perpetrators involved in all three criminal transactions. It was at this time that Ms N\* discovered that she had developed AIDS and that recovery was not possible. She courageously testified against all of the perpetrators involved, except her father. In her final days, she hoped that her father would show her some love and acceptance, as she had protected him by not testifying against him. We took Ms N\* to meet her father and she asked us to leave her alone with him. We did so but decided to check that she was okay the next morning. We discovered that Ms N\*'s father had refused to acknowledge her, and that, unable to fend for herself, she had been thrown into the corner of the house. We were able to intervene and carry her limp body to the local hospital, where she breathed her last in the arms of a social worker within the operational team. Ms N\* died in the Missions Hospital, Miraj, Maharashtra on the 18<sup>th</sup> of March 2004.



There were a number of points that affected us significantly regarding this case. The first was that we saw that the criminal networks would not stop exploiting and profiting from victims until their death. We also realised that in a broken and corrupt system, the upright and honest members of the state and civil society were the last barrier that stood between victims of human trafficking and the certain death that faced them. Incidentally, the upright police officer who worked with us on this case, Ashok Kamte, was shot dead by armed terrorists in Mumbai when, as a member of the anti-terrorist police unit, he made a valiant effort with some of his colleagues to protect the city from these terrorists. The third point that we took from the case was the sophistication of criminal networks in exploiting temple prostitution or the Devadasi system, to profit from female minors. Ms N\* had been dedicated, as a child, as a temple prostitute, as were two other victims with whom I worked, Ms K\* and Ms B\* (see Case Studies 7.6.1 and 7.6.2 for more details on these cases). In all three cases we observed how criminal networks were able to identify vulnerable families in small towns and villages, and have them dedicate their daughters as temple prostitutes. Once the girls have been dedicated, it is drilled into them that they are now married to the goddess, Yellamma, and have no hope of a regular marriage or a normal life. They are told that it is their sworn duty to satisfy every man that asks them for sex, for it is in this way that the goddess they believe in is fully pleased. This lie is drilled into their heads at every opportunity, and it serves the criminal networks well along with elements of the local elite that have used this system of ignorance to keep large numbers of marginalised and historically oppressed groups under their control.

#### **Case Study 6.4.6.2: Victim tampering and re-trafficking**

In one case, more recently, it was discovered that a rescued victim, Ms L\*, who was just 14 years of age, committed suicide because of continual torture by her mother. Shortly after the rescue of the girl, the NGO involved received evidence that the girl's aunt had been involved in her trafficking, though there was no evidence to signify the involvement of the mother. Even after the girl was released into the custody of her family, the NGO regularly visited or called Ms L\* to inquire about her progress. During one such visit, Ms L\*'s grandparents asked for help, stating that the girl's mother was hoping to re-sell her back into the sex trade. Sadly, this information came to us too late and the girl, who had also been secretly subjected to regular torture and pressure from her mother to go back to the sex trade, committed suicide. Ms L\* had wanted to study, get married and settle down and was worried that if her mother sold her into the sex trade no one would want to marry her.

#### **Case Study 6.4.6.3: Post-conviction victim tampering**

The 7th of October 2010 was a sad and painful day for all of us working in the anti-trafficking sector in India. A young girl, who had previously been rescued, died when she fell out of a moving train in Mumbai. The circumstances of her death were suspicious and there is a strong possibility that she had been pushed out of the train. The location where the girl was found was outside of her normal work routine and there was no reason for her to be on that train and in that location at that time. The child, Ms N\*, had been rescued from a brothel two years previously, having been sold into the sex trade by

her neighbour. Ms N\* was a young single mother, who had been sent to her aunt's by her parents when she became pregnant outside of marriage, for fear that that she would be condemned in their conservative surroundings. Ms N\* lost her baby when the child was just six months old. Her aunt's neighbour offered Ms N\* the chance of a fresh start, with the offer of a job as a maid in a city. Instead the neighbour sold Ms N\* to a brothel in Mumbai. In Mumbai, Ms N\* was moved to different areas of the city and to different brothels within these areas, never to be left alone for a minute. The aunt's neighbour used Ms N\*'s past history of getting pregnant to torment the girl, saying that she had already used her body for sex in an unacceptable way and that selling herself would be no different. She was abused and beaten into submission. Despite her trauma, Ms N\* bravely testified in court after being rescued. Her bold and consistent statement not only resulted in her aunt's neighbour and her accomplice being sentenced to time in prison but also in the judge deciding to shut down the brothel to which Ms N\* and another minor had been sold. After her rescue, we assisted Ms N\* to gain admission to a catering course, from which she graduated, going on to work at a trendy downtown café. Victim protection staff were at Ms N\*'s side shortly after her accident and she passed away in their presence. The comfort for all of us who witnessed her life was that Ms N\* died a free person and no longer a slave.

#### **Case Study 6.4.6.4: Victim tampering at the investigative stage**

In 2012, entire cases were being compromised by a criminal network that was using its enormous financial firepower to force children leave their safe homes in a victim protection program and go into the custody of their parents. They were able to do this because of the poverty of the parents, who are bribed with a monthly amount to suppress the testimony of their child. In some cases this was done by recording a video of the child retracting their testimony, with the assistance of lawyers and associate members of the criminal network. The criminal network then used a range of intimidating measures including the mobilisation of the community in which they were embedded to combat the measures taken against them by the state of civil society groups. The network also initiated a series of actions to delay and intimidate witnesses in their cases; raising complaints about the conduct of the police to derail the prosecution case and adversely influence the court; and attempting to gather a mob to threaten the lawyers prosecuting the case, to ensure that critical evidence that would expose the identity of the criminal network was not secured.

#### **Case Study 6.4.6.5: Intimidating the prosecution and lawyers representing the victims**

In another case, two operations conducted in 2011 and 2012 rescued a total of 55 children and young victims of trafficking from a massive criminal network, and secured the arrest of 51 individuals across South Asia. The network used their enormous influence, muscle and financial resources to compromise all of the anti-trafficking police units in the region, and to retrieve 25% of the victims who had been rescued from their custody. Furthermore, they acquired another 30 victims of trafficking between December 2012 and January 2013, and have since then compromised an entire court, adding everyone within the criminal justice system to their payroll. When charges were to be

filed against the network, the sitting judge started shouting and screaming at the prosecution for no reason, with the entire criminal network present in the court. Undercover operatives in the crowd in the courtroom heard the defence lawyer disclose to the criminal network that this was a stage show that he had arranged with the judge to intimidate the prosecution. Not a single prosecutor from the state appeared in the case as a result of the influence of the criminal network, leaving the civil society to fight a lone battle to protect the victims, and to stop the collapse of the criminal justice system within the state. The key player of the criminal network, though wanted by the police, and having absconding in several other major cases, moved freely in the court, laughing at the prosecution. This is the reality of the battle against human trafficking criminal networks that no one talks about and very few are willing to fight. If left unchecked, the actions of the criminal network have the potential to lead to a complete breakdown of law and order in the region. Already, partly as a result of this case, the region has gained notoriety as one that is changing from an advanced, educated, growing region to one dominated by criminal networks.

#### **6.4.7 Media guidelines**

In countering human trafficking, the role of the media has remained a challenging aspect of the work in the sector. This is the case, now more than ever, as issues relating to human trafficking, slavery, and child abuse are of high interest because of the enormity of the problem. One of the first challenges regards the division of media based on their political alignments and ideology, and whether they support political parties in power or in opposition. Because of this alignment, many media organisations have a serious anti-state agenda, which they vocalise over each and every action of the ruling administration. The level of proper investigative journalism that was once the hallmark of a free press is increasingly a rare phenomenon in a commercialised context, in which such journalistic integrity has been sacrificed for gossip and celebrity journalism. There have been criminal cases indicating that criminal networks in parts of the developing world have infiltrated the media sector<sup>20</sup>, and that cozy relationships exist between politicians, elements of the state and the media. The media rarely seek to protect the identity of the victims involved and, as such, cases are often vulnerable to a trial in the press, where they are sensationalised in the media, making the fairness of the process susceptible to challenge by the lawyers of the criminal network. At a personal level I have made a decision to maintain a low media profile in order to continue the work I am involved in unhindered.

##### **Case Study 6.4.7.1: Media guidelines and operations**

A press group came to India to shoot a documentary on trafficked victims. After being refused the permission to film on this sensitive topic by several agencies, they approached a grassroots agency struggling financially and promised a financial reward for being allowed to film, thus getting the go-ahead. The press group proceeded with a sole agenda of filming a sensational piece of television and

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<sup>20</sup> <http://www.theguardian.com/world/2012/feb/21/indian-journalist-charged-reporter-murder> (Links between criminal networks and journalist)

in doing so, created havoc at the scene of a live rescue, resulting in 15 rescued children being released back to the brothel amidst the chaos. While the programme made headlines it had a devastating effect on the victims, the agency and the police unit that undertook the operation.

#### **Case Study 6.4.7.2: Media guidelines and investigations**

In another disruptive attempt to gain publicity for a transnational case involving law enforcement in both the UK and South Asia, the media gained information leaked from a third-party NGO seeking to gain recognition in the area of anti-trafficking, who by indirect means had gained a level of information about an ongoing case. The media released the story during a very delicate time in the case, after which witnesses in South Asia chose not to testify. Once again victims were badly affected, as it was not possible to put them into protective care.

### **6.5 Conclusions**

Institutionalised failures in tackling human trafficking play a significant role in both the growth of the problem and the ability of human trafficking criminal networks to evolve. Dewey brings forth a number of such areas to highlight this point. Issues such as faceless bureaucracy, disconnect from civil society, anti-migration and development prejudices, turning a blind eye, structural adjustments, international pressure, international human standards, development deficiencies, corruption and collusion and finally globalisation and the crime migration complex are illustrated in Chapter 6 through a number of examples and case studies. As seen from the myriad examples throughout the entire strategic infrastructure that exists to tackle human trafficking, it is obvious that the challenge is not just in one area but also across multiple areas. Institutional failures in the area of human trafficking adversely influence the growth of crime in two broad strands. The first, as seen in previous sub-chapters, being the areas of such failures spread across the operational chain of a human trafficking network, across a wide geographical space and the system, processes and procedures within each region meant to tackle it.

The second impact of institutional failures is seen across the operating models that are currently being employed to tackle the problem. Their inability to adapt to the strengths or exploit the weaknesses of criminal networks. Their inability to overcome ideological or geographical barriers or structural and jurisdictional barriers that criminal networks endeavor to overcome; and how these anti-human trafficking models reflect, in many, ways the areas of institutional failures covered by Dewey (2008). This reflects both the extent to which criminal networks are able to infiltrate and compromise the current system as well as the inability of state and civil society models to adapt and evolve their strategies within a sufficient time period, to enable them to be more effective in tackling human trafficking. This is very rarely acknowledged as a contributory factor towards the growth of human trafficking as an organised crime.

I have reflected on a gamut of institutional failures in a holistic manner, running from tools of prevention, such as the registering of missing persons, and the managing of offenders outside the prison system; to the problems surrounding operations, reintegration and rehabilitative processes, forensic examinations, and court processes, external factors of re-trafficking, victim tampering by the accused and the adverse impact that the media can have on the issue. Having reflected on some of the institutional failures that contribute towards the growth of human trafficking I will now link it with the approach of human trafficking criminal networks and their models of growth.

## **6.6 Human trafficking and criminal networks**

### ***6.6.1 Introduction***

In this chapter I will reflect upon examples of how criminal networks have been able to evolve to counter anti-human trafficking models. The growth of human trafficking is based on two key factors, the first being institutional failures caused by a complex operating environment, flawed operating models, ineffective implementation of them and our inability to comprehend and implement a comprehensive approach to tackling the entire gamut of the crime in a consistent manner and to a high standard. This causes significant gaps that are exploited by the criminal networks. On the other side of this are the criminal networks which include members spread across and deeply embedded within key positions within both state and civil societal structures. These combined factors create a culture of growth for the evolution of slavery into its contemporary forms and its continued growth in the twentieth and twenty-first centuries.

This sub-chapter covers the modus operandi, tactics, strategy, operating structures and physical base of operations of various types of criminal networks, encountered during the course of my research and my professional career. The sections (6.2–6.5) on institutional failures demonstrated the loopholes through which criminal networks are able to successfully evade efforts to disrupt and dismantle them. In fact it showed how criminal networks actively partnered and infiltrated state-civil society systems to upset any effort to disrupt their operating models. In this subchapter, through case studies, I will be going in-depth into the world of human trafficking criminal networks to unmask their modus operandi across the entire chain of their operations, the strategies that they deploy depending on the operational model that they implement. I look at different types of criminal networks from vertical/hierarchical networks, to fixed-locational networks, criminal networks that dominate the world of trafficking for child labour, and criminal networks that are mobile and multi-locational. The criminal networks, as illustrated later in this chapter, shed light on a rarely studied and understood aspect of what is one of the strong driving forces behind human trafficking. Across the world the problem of human trafficking is still understood as a localised problem that is location-specific and largely led by a group of people breaking the law, which we understand as a gang. Morselli (2009) suggests this is a misconception and a myth and has helped governments and civil society around the world to underestimate the problem, and helped the criminal networks evolve and grow. I have, in analysing human trafficking criminal networks, found Morselli's (2009) description of criminal networks

remarkably insightful and a very effective theoretical framework to understand and describe their structure, strategies and functioning.

I start by giving a brief contextual understanding of criminal networks in one of the destination areas for a human trafficking criminal network in South Asia: the city of Mumbai, also earlier known as Bombay. This was the city that I was born and grew up in and the context is important to understanding why it served as a key area that influenced the partnership between the state (represented by the criminal justice system and the child protection system, among others) and key individuals that were part of the community largely dominated by criminal networks. It is also key to understanding how re-establishing the purpose of governing security became a driving force of this partnership that, today in South Asia, poses a potent threat to criminal networks. Similar to the Indian model of emancipation that served as a foundation for the global evolution of the crime, the models emerging from South Asia have the potential, once contextualised to different environments, to be game-changers in bringing human trafficking under sustained forms of control, similar to other serious crimes witnessed by society, such as murder, armed robbery and rape, and, even in some regions, criminal networks involved in other networked crimes such as arms, drugs and extortion etc..

#### ***6.6.2 Criminal networks and trafficking across source, transit to destinations***

In casework under the community intervention programme of the multidisciplinary model, captured in Chapter 8 of my thesis, I was able to observe and study the interconnectivity of criminal networks working between human trafficking at source, transit and destination areas of South Asia. This involved mapping of the criminal networks through information gathered through the reintegration process of victims of trafficking, working with the local communities to map the linkages between people that go missing and trafficking for various forms of exploitation. It tracked the common individuals involved in each person going missing across a geographical region. It also looked at mapping the cross-border operations of criminal networks between India, Bangladesh and Nepal. The case studies from this process debunked the common understanding that people are trafficked from developing regions to developed regions. It showed that concepts of source-transit and destination areas are much more flexible for human trafficking as it grows, based on profitability and the balance between opportunity and risk, in both developing and developed parts of a geographical region. It reflects the drive towards ensuring profitability through exploitation of a victim of human trafficking from the moment they are trafficked rather than wait for them to be sold in a destination location. It also showed the development of holding facilities within the region, as a victim is being trafficked from Nepal to the Middle East via the Delhi or Mumbai Airports. During the research an operation in Allahabad between 2014 and 2015 indicated a higher percentage of Nepali girls (including children) trafficked and being sexually exploited while awaiting the necessary travel papers to go to the Gulf region. The case studies showed the coordinating nodes of criminal networks in key cities on the trafficking routes. These nodes had a role to play, not just in facilitating operations but also in developing innovations, ideology, and precedents that are then passed on across the operating region

through their affiliates or partners. I explore this further in Chapter 6.6.4 on fixed-locational criminal networks. It reinforced the understanding that criminal networks are today masters of a globalised, multi-market world. In developing areas they have a high volume of victims to meet the demand but low profitability margins, but corresponding lower investments in protecting their business by infiltrating state and civil-society systems. In developed areas the evidence from the case studies shows a lower volume of victims backed by a high margin of profitability, but a greater amount of investment in infiltrating state and civil society systems. The investment in developed areas, such as the capital of state or a country, has region-wide implications as the criminal networks use their influence to improve their productivity in developed areas and leverage this influence in developing areas.

The trail started with communities in West Bengal and Bangladesh reporting cases of children and women going missing in the entire region. The operational units under the multidisciplinary model focused on multiple areas. The first casework was undertaken in the area to which the missing children were trafficked and were sold into, the second casework involved mapping out the criminal networks operating in the source area through the common links between children that went missing and their association with the criminal networks' members, directly or through their intermediaries that they were seen with. The third casework was to unearth the modus operandi of the criminal networks that work across both sides of an international border (Indo-Bangla). The fourth angle involved casework targeting the coordinating locations and holding locations for criminal networks operating across South Asia. I observed a multi-celled, inter-linked criminal network as described by Morselli (2009) which focused on mapping vulnerable individuals, families and communities within large geographical areas. Elements of the criminal network were involved in then trafficking them across the border, the next component broke them in commercial locations close to the border, while another secured the necessary travel papers before trafficking them onward to various primary and secondary sites of sale. In one case study a criminal network had mapped an entire area consisting of several villages and towns over a 900-mile radius, trafficking a number of victims from the area. Over 17 of these children who were missing and trafficked into sexual exploitation were saved in two separate operations conducted in the city of Pune in the western part of India. Depending on the strength of the community and their ability to infiltrate the systems, the criminal networks use a range of strategies. In cases where the civil society and governance systems have been completely infiltrated by the criminal network, they do away with the niceties and a number of case studies show the impunity with which they snatch and grab those they are interested in trafficking and exploiting. In a case study the community leaders of a border district in South Asia (locational identity not disclosed to protect the identity of frontline workers and community leaders) disclosed how, at a given point in the night, anywhere between 500 and 800 people are trafficked across the border, kept at holding facilities, brought before the local member of parliament the next day who would, on their letterhead, write a letter recognising the trafficked person as a citizen of the country they were trafficked into. Based on this letter the remaining documentation would be secured to prove that the victims were

local citizens and not trafficked from another country. In this border area young girls were conspicuous by their absence as according to local community leaders all the girls had been trafficked into various forms of exploitation across the region. One of the community leaders whose daughter had gone missing narrated their experience when they approached the local police to file a missing persons case. In her words:

‘They told her that they knew exactly where her daughter was and if she did not want to be exploited as well it was best that she kept quiet about the whole affair.’

There was deep fear across the entire area over how deeply embedded the criminal network was in this region. The multidisciplinary units were able to map the existence of a number of major criminal networks across the border between India and Bangladesh. In a number of cases the key players within the criminal network were well known in the villages next to the border, with the house being the most prominent and affluent in largely impoverished areas. In one of the cases observed between the border of India and Bangladesh at the North Eastern state of Meghalaya. I was able to observe a series of homes that were based right on the international border and often one section of the house opened up to India and the other section opened up to Bangladesh. Criminal networks trafficking children would regularly, with the active collusion of corrupt elements of the authorities monitoring both borders, traffic children and women while ensuring they increase profitability by smuggling various commodities on the body of a trafficked person, ranging from drugs, fire arms to even sugar, where a price difference or demand and supply existed between the two countries. The children trafficked across the border in the region were often used for mining coal in illegal coal pits on private land.

In summary, through various cases a number of inter-linked criminal networks were harvesting humans across several villages and towns in the region of West Bengal, Bangladesh, Nepal and North-East India, they then trafficked them across the border, with active support from corrupt elements of the authorities on both sides of the border, or across check points in each state. The criminal networks were well attuned to manage any checks by law enforcement or civil society across intra-state or inter-state borders. Once trafficked across a border there were a series of locations within 1 to 2 hours’ drive from a border area or any major entry, exit of key destination or transit location. In ‘Operation H’ undertaken from 2009 to 2014 there were a series of lodges within an hour’s drive of the border, that specialised in being holding and break-in facilities for children and girls being trafficked for prostitution. Similarly there were seasonal brick manufacturing factories in the region where local community leaders disclosed that the criminal networks during season would traffic a number of single mothers, along with their children (number estimated by the community leaders to be 12,000 single women and children during a six-month period) to temporarily work at the brick factories. Within six months the mothers and the children were separated and then trafficked onwards into other parts of India for various forms of exploitation. In the case study of ‘Operation H’ there were 13



locations that mainly broke the children and girls who had been just trafficked across the border, through rape by both customers and members of the criminal network. In 'Operation H' the criminal network was fully armed with firearms, knives, iron rods, bottles all strategically placed next to several doors to be used in case of an attempt by anyone to save the victims trafficked there or protect them from rival networks or poorly behaved customers etc. The entrance to the locations was barricaded multiple times and the backside of the locations was full of wet soil littered with broken glass and excreta to make it difficult to target the locations from the back. The criminal network was also deeply embedded within the local villages that were involved in the manufacture of illicit alcohol and serving as holding facilities for children and girls just trafficked across the border from Bangladesh. Most of these villages were inaccessible and rarely visited by the local law enforcement. The entrance of a number of these villages were surrounded by water bodies making it accessible only by a narrow single road giving the criminal network sufficient pre-warning when any one would approach them.

The criminal network in this case was also deeply embedded within the local governance system. One of the key players of this criminal network boasted of his close links with the local member of parliament (MP) and bragged that he was responsible, through extortion of local businesses and proceeds of crime from prostitution and sale of illicit alcohol, for raising funds for the MP. The criminal network was also able to infiltrate the local police with daily and weekly payments ranging between £2,000 (GBP) to £8,000 (GBP) with a surplus payment in case a location was successfully targeted and children were saved from the location. In fact the driver of the local police wireless unit was the son of one of the key players in the criminal network and played a key role in ensuring seamless communication from the local police on an upcoming operations to the criminal network. The criminal network during investigations would often complain that their business was becoming non-viable due to successful interceptions involving trafficked children by the multidisciplinary units and increased demands for bribes from the local police to cover up for them. From 2007 to 2014 a total of six locations owned by this criminal networks were targeted, saving more than 30 lives, with 17 members of the criminal network currently being prosecuted and one of the locations seized by the courts with the key perpetrators convicted by the court. In the case of the element of the criminal network trafficking victims from a 900-mile radius the key player along with her associates after a three-year long investigations have been arrested with their prosecution ongoing. Having discussed criminal networks in source and cross-border locations I will now press ahead to discuss how criminal networks manipulate religion, cultural, societal and patriarchal barriers to traffic people across the region. I will then look at the role of fixed-locational criminal networks in driving strategy, tactics and the growth of human trafficking, and their links with criminal networks in source, border and transit areas.

### ***6.6.3 Criminal networks and cultural-religious forms of trafficking***

Another, even more powerful, criminal network has exploited a cultural tolerance for the concept of courtesan dancers in order to kidnap and traffic young victims of human trafficking for prostitution. Historically, courtesan dancers were young girls inducted to dance for the courts of the ruling kings, nawabs and princes. In pre-independence India there was no shortage of patrons for courtesan dancers; in post-independent India, however, the fortunes of courtesan dancers diminished as the 'privy purse'<sup>21</sup> was abolished in the 1970s. The networks that provided courtesan dancers then evolved to provide girls for the new democratic rulers, wealthy business individuals and people with power. In most areas where children are sold into prostitution in the Indian sub-continent, these criminal networks dominate the lucrative upper end of the demand for children in prostitution. To a large degree they are untouchable by law enforcement and they dominate the supply, locally and internationally, of children trafficked and groomed for prostitution from a young age.

In a case, brought to my attention by one of the victims themselves, a girl came to my office for help. She narrated to me the way that the network involved would work, describing how she, as a victim, had been trafficked and abused. The girl told me that she could clearly recollect being kidnapped one day as she was playing outside her house. She had been kept at a camp set up by the criminal network close to the village. She was aware that her parents had made significant efforts to trace her, but to no avail. Her clothes were taken from her, torn in places and the blood of a goat sprinkled on it. This gave the impression that a wild animal had grabbed the girl, eaten her body and left only the dress behind. On the discovery of the dress, the girl's parents and their neighbours stopped the search and presumed the girl dead. She was then taken to one of the criminal network's facilities in Gwalior, Central India, where she was groomed to enter prostitution. She recollects seeing a number of other children that had also been trafficked and brought to that place. It appeared that members of the criminal network who were former courtesans no longer gave up their own daughters into prostitution, but instead ensured that they studied and were able to secure an alternative future to that of their mothers. In order to provide an alternative source of children, the criminal network would instead kidnap children from around the country, depending on the girls' looks and complexion, and then groom them to enter the sector. Once this grooming had finished and the girls had had their first menstrual cycle, they would be auctioned off to wealthy customers for the sum of around 450,000 Indian Rupees in 2005 (likely to be as much as twice this today).

Since the children would be kidnapped when they were just three or four years old, they would then be sent to centres run by the courtesan networks, where they would be groomed and manipulated until they reached puberty, at between 11 and 13 years of age. The manipulation is so complete that when the network sells the girls, they give an iron clad guarantee that if the girls are rescued, they would not

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<sup>21</sup> As part of the deal between the Indian government and the princely states in the British Raj it was agreed that if the princely states agreed to accede to India there would be a payment of a certain amount for the upkeep of the princely families. This is known as the 'privy purse' that was later abolished.

cooperate with the police. They back this up by saying that if a girl does cooperate the criminal network will eliminate her, squash the prosecution, and return all money to the buyer. The criminal network will hold a celebration as the girls are led to their first customers, who pay a premium to be the first to rape the virgin girls. Once this act has been done, the victims are taken to holding facilities from which they are sold repeatedly for a declining, yet still high price, until they reach between 19 and 25 years of age. Those still under the control of the criminal networks by this age only remain there because their exceptional beauty has maintained the girls' value to the criminal network. Once this value has ran out, the girl is discarded and left to fend for herself.

The criminal network described here has the best lawyers to advise them, the most sophisticated alerting system with local police stations, and the influence of politicians to intervene on their behalf and to ensure that the prosecutor is hostile towards the victim. It is currently impossible to rescue children sold into this network. This criminal network has two components to it, which divide the victims on the grounds of religion. One component specialises in trafficking and grooming Muslim children, to be sold largely to wealthy sheikhs in the Gulf and Middle East regions as a supply for prostitution, as sex slaves or as gifts to open doors of influence for the criminal network. The second component of this criminal network specialises in serving the political class and business community of India, and wealthy expatriate Indian-origin communities in the West. Since 2005, elements of the criminal network supplying the Middle East have started to connect with criminal networks in Nepal, to specialise in trafficking children from Nepal to Kuwait and Saudi Arabia. Our intelligence on this is based on cases from Nepal, referred to us in 2010, that link to this criminal network; the interception of children in Mumbai international airport since 2005, by organisations such as the Rescue Foundation, whom I advise on legal matters; and the confirmed news reports mentioned in the literature review that put the number of victims trafficked to the Middle East from Nepal, via India (Delhi or Mumbai airport), at around 50,000 victims to date.

#### **Case Study 6.6.3.1: Criminal networks and religious forms of trafficking**

Ms Y\*, was a 14-year-old girl, who had been dedicated as a temple prostitute. We were able to rescue her, on the 17<sup>th</sup> September 2002, from a red light district dominated by a criminal network that used the concept of temple prostitution to groom, traffic and control victims of trafficking. In Ms Y\*'s case we were also able to arrest the customer who was raping her at the time of her rescue. Hers was the first case where a customer having sex with a trafficked minor was charged with statutory rape. The age of consent in India is 16 years of age, with a couple of cultural and tribal exceptions. Ms Y\* was trafficked to Mumbai under the pretext of attending a cultural fair. She was initially taken to the office of a local NGO that worked for the care and protection of women suffering from HIV in the Bhandup red light district of Mumbai. The transaction to sell Ms Y\* into prostitution took place in this office. One of the key staff members of the NGO was a peer educator working for this organisation during the day, but operating two brothels that she also owned during the evening and night. Ms Y\* struggled to testify in court, as the criminal network surrounded the building just as she was entering and

shouted out a curse related to the temple prostitution culture she had come from. Though this initially terrified her, she has gone on to make a full recovery from her exploitation and abuse. When last I met her, she was doing well under her reintegration program.

In a similar case, Ms B\*, another 14-year-old girl, had also been dedicated as a child temple prostitute. We were able to rescue her from a large red light district that had hitherto gone unnoticed, and which was filled with children sold into prostitution. The criminal networks that controlled the area were linked, and owned several brothels in the Kamathipura and Bhandup areas of Mumbai. Every time police undertook operations to rescue children from prostitution, the criminal networks would transfer them to the Bhiwandi red-light district. One of the key things we learned from this case was the hold that the ceremony to dedicate a child to temple prostitution has on the victim. According to tradition, a temple prostitute can never be rid of her obligation to serve as a prostitute, until she finds a female child to replace her and, as part of the dedication ceremony, ties a ceremonial thread, earmarking a temple prostitute, to the child. Interestingly, all of the victims of this horrendous practice that the criminal networks had exploited were members of the oppressed class in India. In the case of Ms B\*, she was unable to focus on her reintegration until she was able to voluntarily remove the influence of this thread from her life.

In Chapters 6.6 to 6.7 I present distinct strategies through which human trafficking criminal networks evolve, all of which I have observed during the course of the past 13 years. It is not possible to record all of their strategies of adaptations in the main body of this thesis, for the sake of brevity. However, I will present here two common ways in which traffickers have adapted their practise in order to evade criminal liability. The criminal networks often design and use complex hiding places within their area of operations. The key point here is to try to ensure that the victims they victimise are not lost (hidden) during attempts by law enforcement to intervene.

#### ***6.6.4 Fixed-locational human trafficking criminal networks***

In a large city in South Asia, intelligence gathered on two locations unearthed a segment of a powerful criminal network that works according to a layered hierarchal structure. Comparing notes on these two locations across three separate prosecution cases in a given area identified this criminal network. A joint operational team of police and civil society members targeted these locations. The first location was targeted for the presence of children who had been trafficked into prostitution in September 2003. Nine victims of trafficking for prostitution were found at the location at that time. The same location was again found to contain trafficked victims in December 2003, this time with 11 victims found. In April 2004 an adjoining location in the same area was also located, containing another six victims of trafficking. In January 2004 one of the managers within the criminal network was charged with impersonating the owner and controller of all three brothel locations.

When investigated, it became clear that the criminal network, at its level of operation, had four layers of management. The first layer was the equivalent of the CEO (Chief Executive Officer) of the criminal network, followed by the COO (Chief Operations Officer), then the senior managers and assistant managers. At the final level, the assistant managers had enforcers and pimps working under them. The CEO controlled the elements of the criminal network within the state system (i.e. the corrupt elements within the criminal justice system) and the victim-procuring side of the criminal network. In the discovered elements of this criminal network, a total of 26 victims of trafficking were found, largely children (under 16 years of age) and young girls (16–21 years of age). Money was rarely kept for long at the location to which the victims had been trafficked; there were dedicated teams of people working in the finance side of the network at a managerial level, who would come to gather the funds from the location. The CEO was very rarely at the location for any significant period of time. On all three occasions on which the location was raided by police operations, it was the assistant managers or the senior managers within the location that had received the marked currency used by the operation. As a result the COO and CEO of the criminal networks were always protected.

As stated above, the locations of the network targeted by the police operation were in the prime area of a major city in South Asia. However, a disturbing fact was discovered through the presence of a small account register recovered from one of the locations that disclosed the vast reach of the network throughout the criminal justice system of the city. All departments of the law enforcement system within that city were proved to be receiving payments from the proceeds of human trafficking, according to a ledger book. Due to increasing levels of corruption within law enforcement systems, the unitary model civil society unit tackling human trafficking in the area worked with senior police officers to avoid using police involved in day-to-day enforcement from the local police station instead relying on police officers only involved in handling police wireless communication. It was understood that the key elements of corruption would be at the level of the local police station and special anti-human trafficking units. The police wireless unit being centrally controlled meant that those officers had no stake in the human trafficking criminal networks, and hence this was recommended as a possible solution to the problem of raising the manpower required to tackle the large human trafficking criminal networks. The disruption of the criminal network at this specific location was undertaken after a few successful operations using manpower from the police wireless unit. On closer examination, however, the ledger book had some markings of payments to the police wireless units; this showed that the criminal networks were evolving quickly. Due to the extent of the network of corruption within the criminal justice system that this ledger revealed, it became a serious liability to the unitary model unit in that area, so it was passed on to a federal law enforcement agency for appropriate action. Though it disclosed the extensive infiltration by the criminal network of the criminal justice system, nothing was done about it; the federal agency told the unitary model unit that, on closer examination of the ledger, there was insufficient evidence for them to proceed with the investigations. This revealed to me how grossly the criminal justice system had underestimated the strength of human trafficking criminal network. I have repeatedly observed the ability of these

criminal networks to compromise entire criminal justice systems. What would be the consequences for the common person if the rule of law were vitiated in such a manner? Should not all prosecution cases collapse when it is revealed that, barring a few exceptions, criminal networks are deeply embedded within the system? What are the consequences for a nation having to cope with serious challenges such as ensuring growth and developing, tackling internal insurgencies and terrorist attacks when criminal networks are able to compromise entire systems at its very foundational level?

Location-specific criminal networks are specialised in a particular region and have a deep understanding of the way everything within that location works. Criminal networks are also sophisticated in their capabilities to compromise the entire criminal justice or enforcement system in that area. This is at the very core of their business plan, to ensure security and safety for their clients and ensure that there is an early warning system in place to alert them on any potential attempts to disrupt them. In some regards this shows how the illegal economy undermines the stability of the governance structure of a region or country by recruiting elements of the state and civil society to their network through the sharing of criminal proceeds. The only way of countering this is by trying to make the systems of checks and balances within a governance system work more effectively by mapping the extent to which the criminal networks have infiltrated the system. This is done by a series of stress tests through actual casework to explore whether the concerned person would act to ensure the implementation of the letter and spirit of the law or would act contrary to the letter and spirit of the law. The stress tests would involve providing inconsequential yet important-sounding information to the suspected elements of the criminal network within the system and observing what that individual does with the information. It could also involve allowing individuals the opportunity to do what the law clearly stipulates should be done and observing whether they would act in a manner that is clearly against the letter and spirit of the law. The main goal here is to identify the key individuals of integrity within the local criminal justice system and support them. When a case succeeds it is important not to take any credit for the support given to these people of integrity. It is important to use good elements within the media and people in key places of influence to promote these key people of integrity within the system, thus ensuring that the key decision makers within the local authority are people who are honest. Once this system is in play it is important to provide evidence of corruption to these people now in key positions and support them accordingly, take action as per the law to prosecute people for corruption and causing a miscarriage of justice. It is in this gradual manner that over a period of three to five years one sees systemic overall change that has a massive impact, not just for victims of trafficking but also for all others that need the rule of law to work in an area.

#### **Case Study 6.6.4.1: Fixed-locational criminal networks**

For the region made up of West Bengal, North-East India, Bangladesh, Myanmar and Nepal, the problem of the dominance of human trafficking criminal networks is a significant one. The issue is that in this region, the criminal networks are easily able to source a large supply of human beings for trafficking to the more industrial, growth-oriented parts of South Asia. The gateway to this region is

Kolkata, now just as much as in the days of the Japanese invasion of India. In the area surrounding Kolkata there lies a formidable criminal network that stands guard to the source gateway and for years it has been impossible to do much in the region.

I have been highly involved in efforts to develop a coherent anti-trafficking mechanism in the region, including the preparation of training and the setting-up of a specialised unit under both the unitary and departmental models of tackling trafficking. I have worked with grassroots level organisations such as the Impulse NGO network and the North-East Police Academy to develop a user-friendly law enforcement handbook for all of the states in the north-eastern part of India. Each time the criminal network has been able to push back and hold its own in West Bengal. As a result of a change in the state government, there has recently been a sudden positive improvement in law enforcement activity, which in turn has resulted in the first cracks appearing in the armour of the criminal network here. In a recent case against this criminal network the multidisciplinary unit and Kolkata police were able, on the 11<sup>th</sup> of December 2012, to rescue an orphan girl, sold by her uncle on multiple occasions into prostitution, following a desperate message to the multidisciplinary unit that was verified by the local police. Following the girl's first rescue the safe home involved had handed her directly back to the traffickers. The girl had then been sold into a well-known red light district in Eastern India, where she had been forced to engage in prostitution for two years. During this period, the girl had attempted to escape on several occasions but members of the criminal network would catch her, brutally assault her and bring her back. The criminal network had connections to a civil society, which it used as a front, in the form of the local sex workers' union. This local sex workers' union, under whose protection the brothel fell, had given the girl a false identity card, stating that she was 19, to reduce the girl's chances of rescue. The union also played an active role in forcibly keeping the girl at the brothel, through its members. At the time of the girl's recent rescue, the sex workers' union gathered a mob to stop her from being saved, but in the nick of time the girl was taken to the police station. Again, the union gathered a mob around the children's tribunal to which she had been brought to put pressure on the authorities to hand the girl over. The girl was understandably terrified of being sent to a safe home, fearing she would again be handed back to the traffickers. To counter this, the case was filed incredibly quickly (within a matter of hours), the girl's main owner was arrested and that same day police started conducting round-the-clock surveillance of the criminal network, to disrupt and apprehend the traffickers.

The multidisciplinary unit, the Kolkata police and the prosecution have worked very hard over the last several months to target this powerful criminal network. In both cases raised against the network, their key members have been refused bail at every level and for a significant portion of time. This is the first time the multidisciplinary unit have seen this happen in their work in Eastern India, and it has led to a significant counter attack by the criminal network. In November 2012 the criminal network, through a member of the network who is also a journalist, filed a counter case with false evidence directed against the police and the multidisciplinary unit, publicising this news through their links to

the press. This was a deliberate attempt to manipulate the process of law and order to identify where the minor victim was being kept, so that they could threaten or harm her to pervert the course of justice. There was also an attempt from the criminal network to influence the judge who determined bail. Multidisciplinary unit lawyers, the police and public prosecutors worked together for three months to have this counter case dismissed. The lawyers also, on the 1<sup>st</sup> of February 2013, had an application dismissed to declare the child an adult, based on false certificates, and to identify her location. This has been a major breakthrough in efforts to tackle human trafficking criminal networks in West Bengal. The criminal network has since proceeded to file an appeal against the dismissal of their petitions in the High Court of Kolkata; the multidisciplinary unit is now actively tackling this at the admission stage. This shows that criminal networks are now simultaneously using both legal and illegal strategies to counter efforts to disrupt them. In addition to the measures mentioned above, the criminal network has continued to use mobs to attempt to disrupt operations and court appearances; false documents, to keep victims captive in their locations; surveillance mechanisms, to prevent the escape of minor victims within their custody; and distorted media articles, to pervert the course of justice.

The first case against the criminal network has now come up for trial, in which a female minor managed to escape from a brothel and after remaining in hiding for a few days, summoned up the courage to contact the local MDU. The MDU worked with the police to file charges against the members of the criminal network that kept the girl in captivity. Incidentally, members of the criminal network in this case are in fact related to the girl, as she was a child born in captivity and groomed by the criminal network for the sole purpose of gaining high profits from her commercial sexual exploitation. The criminal network have engaged the finest and most ruthless lawyer in the city, and have physically assaulted the husband of the victim (the girl married the boy she loved as soon as she turned 18). The MDU have had to draw up sophisticated plans to secure the girl's safety, as she has to travel in order to testify against the members of the criminal network. If these people knew the location at which she and her husband live, they would without a shadow of a doubt try to kill her.

In an update to the case in the previous paragraph, the criminal network managed to finally get control of the girl and her child from the location she was living with her husband. The criminal network through their lawyer applied to have the victim re-examined, however the multidisciplinary unit was able to trace the girl and her child in the custody of the criminal network but, by this time, it was too late. The victim alleged unfaithfulness on the part of her husband, handed over custody of her child to the state and went into hiding with the criminal network. The husband and father of her child and his extended family went out of their way to convince her to come back, but to no avail. The case goes on against one key member of the criminal network, with the second person being the father of the girl who died in custody. The girl has all but disappeared in the case and will either be killed or will be used to recoup the loss that she incurred for the criminal network, likely until her death. This is the complex and brutal reality of the fight against criminal networks.



#### **Case Study 6.6.4.2: Fixed-locational criminal network**

The D.B. Marg area in central Mumbai is a collection of around 28 buildings containing victims of trafficking, regularly sold into the brothels located in these buildings. Some, such as ‘Disco Building’ might have five brothels inside, each with an average of 15 to 30 children and adults engaged in prostitution. In some buildings, such as ‘Jamuna Mansion’, the ‘Simplex Building’ or ‘Congress House’, this number could rise into the hundreds. All buildings in this area would include children or young adults among those trafficked and sold to the brothels. The methods adopted by each building, and the type of clientele drawn to them is different for each one. The commonality, as discovered in a number of cases targeting the buildings, was the complete integration of criminal activity within the communities. In D.B. Marg and another nearby area, Santacruz, criminal networks are so deeply embedded in the community that the police stations for these two locations serve as a magnet for corrupt police officers who, in an effort to secure a posting at one of them, would bribe politicians for a transfer. Once they had secured a position in these police stations they would actively become part of the network controlling crime within the community by accepting daily bribes from networks, in exchange for acting as an early warning system when operations were scheduled to save trafficked victims from the network’s custody. Such officers would also play a role in actively sabotaging criminal cases at every stage, and in turning a blind eye when victims of trafficking escaped and were publically dragged back to the brothels.

I have picked out specific case studies highlighting this fact, to challenge the traditional understanding of criminal activity as being separate from the state, with the state, the community and civil society all acting against the criminals. This is not the case. The success of the criminal networks is down to the manner in which they have blurred the lines between traditional structures that govern society and the networks themselves. A criminal network is now a system where members are found in every strand of society, from civil society groups to law enforcement, from business groups to common men. Similarly, networks aiming to counter human trafficking must also now consist of members from every strand of society.

The first intelligence-led operations in the D.B. Marg area, of which I was a part, began with the operation on a building known as the ‘Dayanand Building’. This operation was conducted on the 18<sup>th</sup> of March 2002, and involved the rescue of 14 suspected minor victims of trafficking, of between 16 and 20 years of age. All of the victims were later medically verified as exhibiting signs of severe sexual abuse. What I remember most about this operation was the sudden appearance of several of the perpetrators who proceeded to start religious ceremonies at the entrance of several of the brothels within the building. The aim here was to use these ceremonies as a pretext to ensure that the police would not conduct the operation in that specific brothel. If the police did insist on entering the brothel, the members of the network would stall the police by insisting that they remove their shoes out of

respect for the religious ceremony being performed, or by requesting that the police officers wait until the ceremony was complete before searching the brothel. This gave the networks sufficient time for other perpetrators within the brothel to hide any children exploited there, in elaborate hidden locations designed specifically to ensure that victims were not discovered or to frustrate the police officers to the point that they would prematurely cease searching for victims as a result of the obstructions being placed before them. The perpetrators would often prefer to remove the victims from the locations altogether but if operations happened without sufficient warning, they needed to be prepared to hide the victims within the brothel itself.

One of the main challenges faced in this case was the level of opposition from the public prosecutor, who throughout the case allied himself with the defense counsel. Fortunately, I was able to gain a locus stand in the court to represent both the main complainant and the victims. However, the prosecutor that represented the state was hostile and regularly asked for bribes to do his job. He regularly gave the defense lawyer a free run of the court in return for the payment of a sum of money. On finding that, as a lawyer representing the victims and the complainant, I was able to accurately represent the facts before the magistrate and argue points of law; the prosecutor would rush in to silence me as he realised that the defense was losing the application on behalf of the accused. A more sinister approach by the defense was to attempt to coerce the rescued victims into agreeing for a defense lawyer, appointed by the criminal networks, to represent them, thus effectively silencing me in court. The prosecutor would not bring such coercive attempts to the attention of the judge. Finally our calls for the safeguarding of the victims and for custody to be provided for the police to interrogate the accused were heard, because of the willingness of the magistrate in the case to make decisions in line with the rule of law. He refused to listen to the defense counsel and prevented attempts by the prosecutor to silence me. The victims in the case were safely reintegrated back into society with their families, after verification that none of the family members had been involved in trafficking the victims. The process of learning how to evade criminal responsibility can be seen both through the ways in which criminal networks change their style of operations, and by tracing the ‘money trail’. The money trail provides evidence of the unseen part of the criminal networks, i.e. elements within the state and communities that actively support the growth and protection of criminal networks for their own personal gain.

#### **6.6.4.3 Fixed locational criminal networks and property development**

One of the key things gained through case studies between 2014 and 2015 has been the geographical mapping of multiple fixed-locational criminal networks based across South Asia. These locations were secondary destinations of sale and exploitation, developed around areas of transit on a trafficking route. The profit levels here were lower than the primary destinations, however the law enforcements resources available in secondary locations were less than in primary areas, leading to lesser interventions against the criminal networks. In areas with limited resources and greater geographical area the focus of governance is often on law and order rather than investigations of criminal activity.

In a number of victim statements these locations were used as locations where victims were broken and groomed before being sold into major cities, or were locations to which victims were transferred when law enforcement pressure increased in the primary destinations.

The geographical mapping was based on a multi-faceted approach involving identifying the presence of children trafficked into, and sold into, the various locations within that area, understanding entry-exit locations to the area, the position of each building controlled by the criminal network, the key triggers of law and order disorder within the location, the presence of law enforcement in the area, the access to the location from the town or city centre and the presence of key commercial establishments closeby. The key observations from all the case studies on fixed locations and, in particular, the multiple case studies of secondary locations in western India, highlight the following observations. The fixed-locational criminal networks often select their operational locations in a similar manner to any commercial establishments, with some additional extras. One of the primary indicators for fixed locations is the presence of a troika of religious institutions of various faiths at or near the location, the presence of law enforcement stations or sub-stations in the area, and the presence of a major commercial establishment such as a movie theatre or a shopping complex. The religious locations are key as they can often be a powder keg for flaring up communal tensions in the areas. A number of case studies reveal how, during an operation, when communal tensions flare up the priority is the reestablishment of peace and stability in the area. Criminal networks often use this to disrupt any attempt to save children and newly sold girls who are very valuable to them.

The second key aspect of fixed locations is the presence of a police station or a sub-station in the area. In all the case studies these units, based out of police stations at fixed-locational criminal networks, are often extremely compromised by the criminal networks. In fact, a number of case studies reveal that they undertake a back-up role at times for the criminal network when victims manage to escape and to reach the police sub-station in the area. They are often handed back into the custody of the criminal network. They also play a critical role in providing early warning to the criminal network on any upcoming operations against the criminal networks depending any communication they receive from the main police station they are attached to. The third key aspect is the ability to position themselves near to major commercial establishments, such as shopping malls or cinemas, in order to ensure a flow of people who would be interested in the victims for sexual exploitation. In all the case studies such an approach also has long-term strategic benefits. In a number of cases the bulk of the properties in the area ends up being owned by the criminal networks due to their low value or poor maintenance and condition. They are then able to sell these properties to developers for vastly greater sums of money than the criminal network initially paid. In either case it is always the victims who end up losing out.

#### **6.6.4.4 Conclusion on fixed locational criminal networks**

In 2001 I was involved in tackling largely fixed-locational criminal networks in and around the suburbs of Mumbai. I was witness, through case work documented in all three main findings chapters (6, 7 and 8), to the dilemmas faced by criminal networks which were keen to develop and grow out of the fixed-locational areas. During the period 2004–2006 I was involved in casework that tackled multi-locational mobile criminal networks that developed out of fixed-locational areas. The level of growth they achieved as a result of this innovation was nothing short of phenomenal and explosive. During the course of the period 2006–2012 while studying and observing casework I held the view that criminal networks were evolving from hierarchal to multi-celled fixed-locational networks and from there to multi-locational and mobile networks. The case studies of the ‘P’ criminal network convinced me that this was the way forward for criminal networks, as they were able to minimise losses, secure wide dispersments of their victims across a wide area within their various brothels, lodges, dance bars, short term tenancies, etc. while simultaneously developing new geographies to match the demand for their services and products. I would often state that prostitution districts such as the Kamatipura red light district, or the Amsterdam red light district were soon going to be museums. Similar to commercial enterprises I failed to anticipate how the fixed-locational networks would evolve themselves in the ever changing landscape. What I discovered through case studies between 2013 and 2015 was that the criminal networks had evolved themselves in fixed-locational centres to become key coordinating and operating centres for a range of criminal networks operating across South Asia and with international trafficking linkages. The first part of the strategy was to ensure ownership of the fixed locations, which they would exploit for massive margins as property developers worked with them to develop the areas as potential office premises or as residential properties. The second part of the strategy was to spread out their operating models across key cities and towns using the multi-locational model. The third part of their strategy was to invest in developing fixed-locational networks in new areas, particularly in developing areas in source and transit locations in the region. This involved purchase of property, and ensuring that a high percentage of children from 16 to 19 years of age were available at the locations. A number of these children would have been introduced much earlier and would have already completed nearly 70% of their ‘shelf life’ by the time they are brought to these new fixed-locational brothels. The fixed locations in key cities, both at transit and destination points, would serve increasingly as the locations to coordinate the strategy of various inter-linked criminal networks across the entire South Asian region. In other words, they serve as the regional head offices for a number of inter-linked criminal networks. Often this is a similar approach to those taken by companies or businesses as they grow from an entrepreneurial stage to a global multinational organisation. The coordinating centres play an active role in ensuring that the interests of both the new fixed-locational networks and that of the multi-locational networks are completely protected by coordinating their tactics and strategies to actively disrupt both state and civil-society efforts to disrupt or dismantle them. They also focus their efforts on coordinating criminal networks that have specialist approaches of trafficking children and young people, such as those that have a modus operandi to exploit and manipulate cultural, social, religious

and patriarchal systems to traffic and exploit human beings. The other key function is to actively engage with state and civil society systems at the highest level, under the guise of empowering women or fighting for the rights of women and develop activists' approaches to impact the law and judicial precedent in their favour. They also play an active role, seen through case studies, where children trafficked across borders are falsely age-verified (through ossification tests) as adults by doctors on their pay rolls, and the same certificate is then used to ensure that the child secures false NGO identity cards displaying a false age for use to secure their release when they rescued from the control of criminal networks. The same NGO identity card is also used to secure other forms of national identification such as voter identity cards and universal welfare benefits cards, known in India as 'Aadhar' cards. By 2015 case studies revealed that most criminal networks now had both for-profit registered companies or partnership firms and also a non-governmental agency (NGO) to help with their holistic strategy to secure properties (movable and immovable), launder money, ensure payments to compromise the rule of law and child protection systems and infiltrate state and civil-society systems at all levels and manipulate the laws in their favour through the respectable face of an NGO.

#### ***6.6.5 Multi-locational criminal network structure***

In 2003 and 2004 human trafficking criminal networks specialising in child prostitution in a city in South Asia started advertising in local newspapers for massage services at specific locations or at exclusive hotels. As a result of an extensive investigation into these newspaper advertisements, undertaken by the joint team of the police and civil society groups, we were able to map a key player Mr D\*, a long standing member of the larger criminal network, who controlled between five and six of the smaller criminal networks specialising in trafficking a record number of children and young girls into the city for high-end mobile brothels. These brothels supplied these victims direct to the house of a client, or to a series of hotels with which the criminal network had a prior arrangement to alert them in case of a police operation.

After five months of investigations, it was discovered that the children and young girls were kept in flats in well-known areas of the city. All of the addresses given in the newspaper advertisements were registered to a high street office run by a registered company. This company was registered in the name of a registered film and television production agency. Members of the criminal network that operated the office had fixed telephone lines installed. This gave the impression of legitimate activity being carried out at the location. There were several mobile phone numbers given in the news advertisements for massage services. These mobile phone numbers were manned by as many as twelve members of the criminal network, who constantly moved round the city, making it impossible to track and locate them. When a client, on reading one of the newspaper adverts, wanted to contact the advertised mobile number, their call would be directed to a cell phone in the possession of one of these constantly mobile members of the criminal network, who could be anywhere within in a large area. The member of the criminal network would confirm the identity of the caller, the location to which the victim(s) would be supplied, and the price of the delivery of victim(s). They would then call

the member of the network manning the fixed line at the retail shop, who in turn would call another member of the network who owned and maintained a pool of cars to transport the victims around. A car from this pool, with security in tow, would go to a warehouse location where between two and three victims would be taken from the warehouses and supplied to the customers at the location specified, either in their own home or at a series of hotels under the control of the network or with a prior arrangement with the client. The police were eventually able to get access to the phone records from the mobile companies and put together a massive volume of evidence that linked the mobile members of the criminal network, the members controlling the physical office location, the members controlling the transport, and the members controlling the locations where the victims were kept.

Finally, on the 16<sup>th</sup> of December 2003, two operations at hotels resulted in the rescue of five girls and the arrest of two key members of the criminal network. One victim was just 14 years of age and had been trafficked by the member of the criminal network that controlled the pool of cars. As per the testimony of the victim as part of the public evidence in the case, she had been kept in a flat in an affluent part of the city, starved, and forcibly raped by well-to-do professionals in the city, at their house or at a pre-arranged hotel.

During the course of the operation a number of other victims were rescued, and several mobile phones and a number of cars confiscated from several flats connected to the network. According to the police officer investigating the case, one of these victims was a postgraduate degree-holder, who had had a well-paid job in a multinational company before being trapped by this criminal network after responding to a newspaper advertisement looking for models for a fashion shoot. On responding to the advertisement the victim was trapped by the network and introduced into the prostitution 'supply chain'. Given the scale of the case, the flats, cars and other properties used by the criminal network were seized and forfeited to the state, as they were found to be proceeds of the crime. The arrested members of the network were questioned but could not sufficiently explain the source of income used to purchase these assets.

This was the first time police and a unit under the unitary model tackling human trafficking (discussed in Chapter 7) encountered human trafficking criminal networks specialising in child prostitution outwith traditional designated prostitution areas. The mechanisms under this network were sophisticated and highly developed as demonstrated by their use of a constantly mobile perpetrator network; camouflaged locations within mainstream and affluent residential areas where victims of trafficking were kept; the separation yet close coordination of different aspects of criminal activity; the blending of legitimate and illegal activity such as the use of a carpool registered as a private transport service; and the registration of a legitimate media company that enabled the criminal network to rent out properties across the city for their criminal activity. The successful dismantling of this criminal network was largely due to the joint working relationship between a unitary model unit and officers of integrity within the law enforcement system. It is however important to note that the

criminal network in this case consisted of members that owned or manned the hotels, shops, residential locations, those handling advertisements to make customers aware of the service and elements of local authority that ensured that, in the given locations or areas where the sex trafficking victims would be brought to be provided for customers, they would not be touched by local law enforcement. The traditional state system would have been unable to dismantle the entire criminal network and secure sound victim protection and reintegration on its own. It was a joint state-civil society system that enabled a successful mapping and dismantling of this network. This will be discussed in more detail in Chapter 8.

#### **Case Study 6.6.5.1: Multi-locational criminal networks and trafficking for prostitution**

The units working under the multidisciplinary model started investigating two referrals of missing people (one child and one adult) from a partner civil society group in Bangladesh. On investigating the entire trafficking route, the missing persons were traced to an escort service in Southern India. The units decided to investigate further and infiltrate the criminal network running the escort service for seven weeks to discover the full extent of their operations. The unit was able to trace the two missing people (one of whom was a 13-year-old girl who had disappeared from her village in Bangladesh a month earlier) to a barred warehouse, in which another 31 girls were being held. The victims included children and young girls who were supplied to various brothels and escort services from the warehouse by the criminal network every evening by 15 vehicles, each belonging to a member of the network who escorted the girls to the various prostitution outlets across the city. This was the first time in tackling this problem in South Asia that the multidisciplinary unit had been able to penetrate a criminal network far enough to trace the warehouse in which the girls were kept and from which they were supplied to the brothels and escort services of the city. The warehouse was in one Bangalore's most exclusive neighbourhoods, in a walled and gated compound. All of the windows were boarded up and barred from the inside. Only a select number of members of the criminal network were allowed access to the location.

On the 19<sup>th</sup> of May 2011, police and the Bangalore multidisciplinary unit after gathering substantive intelligence, rescued the 32 girls found there. A powerful South Asia-wide criminal network that specialised in trafficking children and women into prostitution had held the girls. All 32 victims were found locked in a stuffy room with plywood covering the windows so that all air and light was shut out. Many of the girls, who had been brought to Bangalore by a network of traffickers from Mumbai, Hyderabad, Punjab and Bangladesh, told the multidisciplinary unit how members of the criminal network had won their trust by befriending them and promising to help with securing good jobs in the city. The reality was that they were brought to Bangalore, ordered to have sex with customers, tortured and beaten into submission. Of the 32 women and girls rescued, 21 girls were from Bangladesh, four from West Bengal (Eastern India), one from Mumbai (Western India), two from Hyderabad (Southern India) and one from Punjab (Northern India). More than 40 members of the criminal network have been arrested across South Asia. One of the girls told a member of the MDU

that a similar operation had happened before, but that the criminal network was so well-connected that the girls had been released the next day and returned to the criminal network. The MDU mobilised all resources to make sure that the girls were safe and that the pimps and traffickers responsible for exploiting them would be punished. Acting on an application made by the MDU, the court did not allow the victims to be released back into the hands of the traffickers. Instead, it ordered the transfer of all the Bangladeshi adult victims to a home in West Bengal, where the language and culture was closer to that of their homeland; and the safe escort of all Indian victims back to their families. The court also asked the MDUs to act as facilitators for the repatriation of the Bangladeshi victims back to their country.

The MDU unit continued to monitor the criminal network after the first operation in May. The first operation had led to the rescue of 32 victims and the arrest of more than 40 members of the criminal network. During subsequent investigations three additional key players, including the person controlling the girls, the person handling the trafficking side of the activity, and the owner of the premises were arrested. We subsequently discovered that the criminal network was much larger than we had initially realised. They also changed their way of working in response to the operation; instead of keeping the victims in one fixed location, they now split their activity across a total of 18 locations, both mobile and fixed, with smaller number of victims at each location. This was so that any future operations to save trafficked victims would only result in limited losses. The MDU and the police, after months of gathering intelligence, undertook a second operation that took a total of 48 hours (from the 6<sup>th</sup> of February to the 8<sup>th</sup> of February), and included a total of 18 raids on cars (functioning as mobile brothels), three lodges and 12 houses. These operations resulted in the rescue of 23 victims, who had been trafficked into prostitution from across the whole of South Asia, and the arrest of 20 perpetrators.

This case continues to be one of the longest running complex operations undertaken with the police in South Asia against a powerful trafficking criminal network, with the last operation having taken place in May 2011. The criminal network responded by trying to recover the girls released from their custody. They made three attempts to physically kidnap the 23 victims rescued from safe homes in February 2012. The only way we could prevent this was by having the MDU staff living in the safe homes for several days to protect the victims as the criminal networks roamed outside. The next attempt by the criminal network to target the victims came in two forms: the first approach was to keep a number of victims who had been trafficked from outside India within residential homes in a form of a house arrest, despite the MDU's best efforts to secure their freedom and reintegration. Attempts were made to take the victims to court to ensure that they were handed over to the criminal network with the active collusion of corrupt elements of the safe home authorities, the police and lawyers. This was foiled by an MDU lawyer rushing to the court to inform the judge of what was happening. In addition, some of the victims, en-route to be repatriated in their home country, were arrested and sent to prison as illegal migrants, on the pretext of small disturbances in the safe homes in



which they had been staying during the journey. Subsequently, in intelligence uncovered at the time of the operation, we discovered a further 60 cells in operation connected to this criminal network. The networks had recruited various stakeholders within the criminal justice system onto their payroll, so that, as soon as an MDU member even stepped into the police station, the criminal network would receive a call.

Towards December 2012, the criminal network was able to source a further 30 victims from Nepal and Bangladesh, so that, at the time of writing, they have more than 100 victims under their control in a single known area. The criminal network has also been able to compromise the court where the trial is to take place, so that, on the day of framing the charges, the judge shouted at the MDU lawyers for no reason, with one judge threatening to debar them. The covert member of the MDU, working within the court, heard the defence lawyer for the criminal network state that the threats of the judge were at his request and had been designed to dissuade the MDU from pursuing or assisting the state in prosecuting the case. This one case is a perfect example of how human trafficking criminal networks can be a serious force to destabilise the entire criminal justice, care and protection machinery in a region, with serious implications to national security.

On the 12<sup>th</sup> of June 2013, the MDU traced and rescued in a matter of hours, a key victim who had been rescued by us in 2011 then successfully kidnapped by the same criminal network who had trafficked her initially. The victim had been kidnapped on her way to the safe house from her work place. She was rescued by the MDU as the perpetrators were attempting to rape her in order to silence her. It has been an uphill battle to secure a new safe place for her to stay, as most private or public safe homes do not want to take her because of the risk posed to them by a potential second kidnap attempt. This highlights the lack of proper care and protection programmes for minor victims of trafficking who reach the age of 18 and are then classed as adults. While the criminal networks maintain their interest in stopping the victims from testifying and in recovering them for their lost value, most private or public care programmes become unsustainable and lose their interest once a child turns 18. They instead prefer to care for children who ‘don’t cause them problems’, something rarely true for most trafficked victims, as a result of the trauma they have faced and the value they retain for the criminal networks.

#### ***6.6.6 Criminal networks and sophisticated locational hiding places***

One example of the evolving nature of criminal networks is the growing sophistication of hiding places in locations to which children and young girls are trafficked. A significant amount of resources, planning and construction takes place to ensure that the human consignment is not discovered by law enforcement agencies. This strategy has four levels: the development of high-level connections in the political class; the compromising of local stakeholders (such as the police, the judiciary, the prosecution and social work systems); the gathering of intelligence and use of surveillance systems on honest members of the criminal justice and social care system, and on the civil society groups that

work with integrity with state law enforcement systems; and internal safeguards to ensure that the victims of trafficking are not discovered.

Focusing on the third of these levels, the gathering of intelligence and surveillance of those attempting to counter human trafficking, this is becoming incredibly sophisticated. In 2012, one criminal network was discovered with a software intelligence-sharing system that helped them to identify all honest police officers, their informers and members of local NGOs. Traffickers also use mobile, vehicle and on-foot surveillance systems. Mobile surveillance systems include the verification of the registration of mobile phones of anyone they suspect to be an undercover officer. Phone numbers are sent to corrupt police officers involved in intelligence-gathering or who have embedded themselves in anti-human trafficking police units. These officers crosscheck the registration of the mobile numbers and their corresponding names against their records of trusted informers, police databases and local mobile phone companies. Once it has been confirmed that phone numbers belong to police informers, civil society members or police officers, the traffickers will either refuse to engage with the undercover operatives or will lure them to high-risk situations, in which their lives may be at risk. Criminal networks now are known to use a combination of on-foot and vehicle surveillance to track those they suspect to be undercover operatives. If their suspicions are confirmed then they send a warning signal such as a bouquet of flowers to the residence indicating their knowledge. The undercover operative and their family would need to evacuate the location in a matter of minutes to reduce risk.

In a case study the criminal network made use of the third and fourth levels of strategy described above. The third level involved a mixture of surveillance by the criminal networks and an early warning system maintained by associate elements of the criminal network within local law enforcement. The alerting mechanism was a police vehicle that would drive round the area of the criminal network's location prior to any police operation, with its lights flashing but with the siren off. To the members of the criminal network this was a clear warning that would trigger them to start moving the victims out of the location to their vehicles. If for any reason there was insufficient time to do this, then there were sophisticated hiding locations within the facility that the traffickers could make use of. The network would almost always have members within the police, who would join the operation. Their task is to distract and obstruct the operation at every level, by delaying it on such pretexts as other work, other law-and-order issues in the area, the absence of women police officers, vehicular inability, or a visit of a senior supervisory police officer to the police station. If these tactics did not work then their policy would change to complaining about every obstruction the operation faced, such as their inability to open locked doors. If due to the presence of officers of integrity the doors were opened then they would switch tactics again, attempting to rush the conclusion of the operation when victims are not found in the first search. During the course of my research and in my operational years prior to conducting this research, several locations have shown sophisticated hidden places, from one in a bedroom behind a massive mirror, to a complex two-storied space in a basement and a space in an attic behind two security doors. In the case the hidden space was a sealed-off cavity

in the toilet of a lodge, into which both children and adults had been shoved. It took the operational unit over an hour of detailed searching to discover the hiding place. Most of these locations do not have any level of basic ventilation and are often packed with 60% to 70% more people than the hiding place was designed for.

#### **Case Study 6.6.6.1: Criminal networks and use of sophisticated hiding places**

On the 1<sup>st</sup> of March 2004, during an undercover operation, children were discovered in a brothel known as ‘Talk of the Town’, located in Mumbai. We were immediately able to launch an operation to rescue these children. The brothel had a sophisticated alerting system that included the presence of elements of the criminal network within the local police station, who would alert the perpetrators prior to the arrival of the operational team. After several attempts by a team, consisting of non-corrupt police officers and civil society members, to save the children in this location, we planned an alternative course of action. First, we assembled at a police station 30 minutes away from the station in whose jurisdiction the ‘Talk of the Town’ brothel was located. We decided to indicate in the general briefing to police officers and civil society members that the target was a false location, a brothel known as ‘Khudadas’ which was known to have children inside it but which was not the targeted location on this occasion. We deployed undercover officers at both the false location, ‘Khudadas’, and at the real target. The locations were close to one another, so it would be possible to change the target in the last 5 minutes before the operation commenced and hit it unawares. On the way to the location we started to receive reports that minors and young girls were being hastily taken away in cars from the false target of the ‘Khudadas’ building, highlighting that a mole was indeed present among the police who were leading the operation. We abruptly stopped the convoy midway to the location according to the instructions given by the senior police officer, went to the lead vehicle, and informed the officer in charge that there had been a change of plan and that we would be targeting another location. The weather was bad that day and that the time of the disclosure to the officers about the change of location there was a torrential downpour, so there was no scope for them to argue with the decision.

When we arrived at the ‘Talk of the Town’, the perpetrators were caught completely unawares. As we rushed up the stairs, we found the customers for the brothel still waiting in the lounge. While there was initially no sign of the girls, we were confident from the reports of the undercover officers that the perpetrators had removed none of the girls. We had received a message from one of the victims within the brothel that they were still there and that the team should search for a hidden space behind a large mirror in the brothel. As we searched the multi-storied brothel, we found a mirror in the attic (the third floor of the brothel). On entering the attic we discovered the large mirror immediately next to door through which we entered. Clothing items belonging to the girls had been left on hooks adjacent to the mirror, highlighting the hurry in which the girls had left; we knew from this that they had to be somewhere in the room. We examined the mirror itself, and found hinges on the side attached to the wall, with the mirror bolted from the inside. We broke open the bolt to find a man in a small

passageway that was littered with clothing, shoes and bedding, indicating further the rushed manner in which the girls had been taken through. The perpetrator guarding the passageway was unwilling to disclose any information, despite immediate interrogation by the police. We proceeded to check each tile on the sides of the passage until, at the end, a set of four tiles in the wall gave way to a trap door behind which was a hidden cavity in which we discovered 25 victims, including nine children.

For me, the highlight of the operation came while taking the victims to a safe house. Outside of the brothel, one of the victims took my hand and thanked us, telling us that she was a postgraduate student in English Literature and had just been sold into the brothel four hours before we launched the operation. Had we not conducted the operation on that day and at that time the victim told us that the customers would most likely have raped her. The victim was grateful for the efforts of the team in persevering until the hidden cavity in the attic was found. The next day, the senior police officer ordered that the hidden cavity be demolished and the entire location be stripped bare of items for evidence.

#### **Case Study 6.6.6.2: Criminal networks and use of sophisticated hiding places**

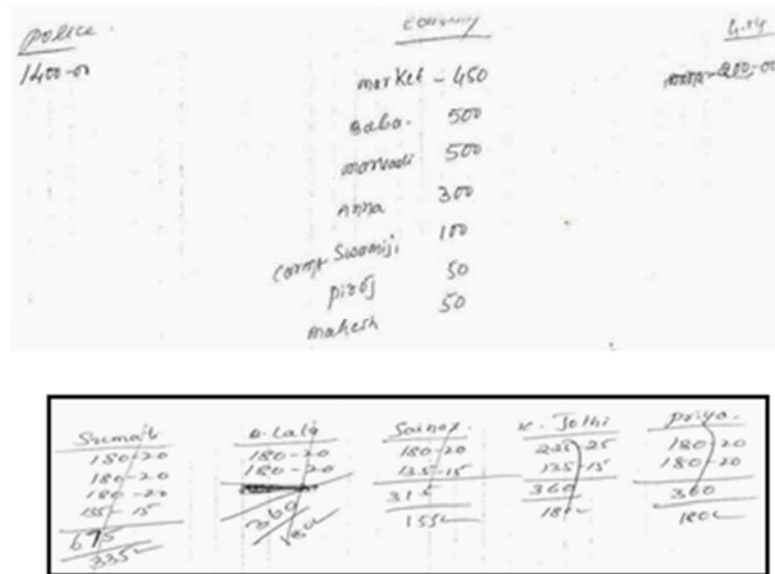
On the 7th of July 2010, in a dramatic operation, Bangalore police and the local Multidisciplinary unit (MDU) rescued eight girls, including one minor, from a brothel in Bangalore. All eight girls were rescued from a small cavity by a toilet in the brothel. The MDU helped the police to locate the hiding place, which was roughly four feet above the toilet seat, and had been boarded up and impossible to locate. On chipping away the tiles we discovered a false door, behind which we discovered all eight girls, squeezed in and locked up in the small cavity. All eight girls, including the minor, were from Bangladesh, Nepal and the bordering districts of West Bengal. All eight have been kept at a government safe home and the MDU are working with the authorities to trace their homes and safely reintegrate them into society.

The girls informed us that they were trafficked to the lodge under the pretext of getting work and then forced into prostitution. They have all expressed a desire to be reunited with their families. Three members of the criminal network were arrested in the case. One interesting aspect of this case was that, following the rescue, members of a civil society group, which we believe to be acting as a front for the criminal network, came to the MDU office under the guise of a sex workers union. On coming to the office they attempted to create a law-and-order situation but the MDU effectively engaged with them, showing them the evidence relating to the case and the conditions from which the victims were saved. The sex workers union had no response to this and quietly left the office. The MDU immediately changed its office location following this, as it was sure that the next attempt to disrupt the work of the multidisciplinary unit would be violent, after this initial attempt to create a law-and-order situation had failed.

The second criminal network strategy has the traditional hierarchal form of management structure described in Chapter 6.6.4, seen during the early stages of intervening in a fixed locational criminal network. This relies on the traditional form of using separate layers of members within the criminal network to perform different functions. These layers separate and protect the key player within that criminal network from any direct criminal liability for their actions. The final phase of evolution and adaptation is where the criminal network moves out of the traditional areas of operation and begins to operate on a mobile platform, bringing their services to the clientele at a location of their convenience. The mobile criminal network if left undisturbed has the ability to experience massive growth and grow into a multilocational model. I have reflected at length in Case Study 6.8 on the criminal network accounting system that often is the key to expose the entire criminal networks and its links within society and the criminal justice system.

#### ***6.6.7 Criminal networks and human trafficking finances***

The extract from the ledger in Figure 6.6.7.1 gives us a rare insight into the inner workings of a criminal network and the extent of its reach. It shows extracts from a ledger recovered during an operation conducted by the police and a civil society group. The area in which the operation was conducted has about 18 buildings, in which criminal networks traffic children and young girls for prostitution. These buildings can contain between 30 and 600 children and young girls, and house between one and 100 brothels. The criminal networks have a strong control of the area and look set to extend their domination by embracing more sophisticated forms and structures of human trafficking for prostitution within the city and on its outskirts. This location was targeted because of the presence of a couple of children between 14 and 15 years old, identified at the location. After a couple of failed attempts, the third attempt was successful, resulting in the recovery of both minor and adult victims of trafficking, sold for prostitution at the location. The civil society group that partnered with the police on the operation recovered a ledger. Evidence of this kind is rarely recorded in criminal trials in South Asia because of the extent of the reach of the criminal network within the system. The ledger, once presented as evidence, has since been used as a training tool for stakeholders within the state infrastructure.



**Figure 6.6.7.1: Debit and credit information, taken from a ledger entry of the criminal network for a single day.**

What the ledger shows is the debit and credit information of the criminal network for a single day. This ledger was recovered in an operation that I was involved with as legal counsel. A case study, based around the information given here, was then developed as a training tool by myself and Shri P.M Nair (Indian Police Service) for the book, *Trafficking of Women and Children in India*, for which research was conducted by the Institute of Social Services, the National Human Rights Commission India (NHRC), and the UN Fund for Gender Equality, and funded by the US Agency for International Development (USAID). The ledger shows at the top left hand corner the amount of money paid per day, per brothel, to the local police. The building referenced in the ledger alone has five brothels; the constituency overseen by local police here contained a total of 18 buildings, and several hundred brothels. One can only imagine the enormous amounts of money changing hands to associates of the criminal network within the local police station. This money is paid to the network's associates within the police force for them to act as early warning systems; to obstruct police operations; and to provide intelligence on civil society groups, police officers of integrity and their duty roster, and the location of victims and their movements. They may also attempt to disrupt the prosecution case by manipulating evidence papers and destroying evidence, and by connecting the criminal networks with influential lawyers, and providing access to the prosecutors and the judge if they are open to corruption.

The middle entries at the top of the figure show the expenses for the criminal network, documented as accounting entries. These expenses are broadly divided into four segments, the cost of maintaining the

human trafficking and exploitation operation, the cost of financing the network's operations (i.e. interest on finance extended by money launderers, who launder and generate revenue on profits earned by criminal networks and other sources of illegal income), payments made to the individuals Anna and Captain Swami, for enforcement and surveillance, and payment to the marketing arm of the network. The entries under 'Market', 'Baba' and 'Marvadi' show the interest paid per day for the financing of the human trafficking operation by the money laundering arm of the criminal networks. This laundering arm may deal with money earned through bribes, corruption and tax evasion, in addition to the profits of trafficking itself, and all sources of money that cannot generate interest within the legitimate economy. Such revenue streams will be the principal source of financing for the payment of the consignments of victims bought by the trafficking arm of the criminal network. The enforcement and surveillance arm of the network helps with the transport of victims, and with surveillance of anti-trafficking operations. They also deal with difficult customers, victims and undercover operatives.

The last segment, the marketing arm of the criminal network, is critical in vetting customers before they are brought to one of the network's locations to purchase the sexual services of the victims, to ensure that they are not police informers or operatives. The marketing arm also helps the network to understand the demands, tastes and requirements of customers, ensuring regular business is maintained from wealthy customers and helping to guide the criminal network in identifying the features of the victims that will secure the highest price from their clientele. The right hand corner of the ledger page has the expenses written as the total debt for the day. This includes clothing, food, and medical expenses plus any further costs of maintaining the victims each day. This also includes any re-trafficking expenses, for recovering the victim after any successful efforts of law enforcement to disrupt the operations of the network and remove victims from their custody. In an illustration a minor victim whom we had removed to a safe home informed us of how whenever she had felt ill due to the repeated rape and sexual violence that she endured, she would be taken under close escort to a doctor on the payroll of the criminal network. The cost of her treatment would be charged directly to her in the network's accounts. In fact a startling find from the ledger book was that when averaging the supposed earnings of the victims they would never cover the cost of the debt held against them. This resulted in the victim being in a state of perpetual debt bondage, despite earning huge profits for the criminal network.

In another illustration, children of women in prostitution have narrated how when their mothers contracted terminal illnesses (i.e. sexually transmitted diseases, tuberculosis or other HIV-induced medical conditions) as a result of the commercial sexual exploitation and abuse they suffered, the cost of caring for the mother was used both to create debt bondage for the child and to emotionally blackmail the child into prostitution. They would then spend the next 15 to 20 years in the same debt cycle, long after the death of their mothers, contracting the same types of illness as their mothers. The value of the children of women in prostitution increases if they are educated and well cared for, so in

many cases, the network will allow civil society groups to take the children from the custody of their parents, so that they can be educated and cared for. However, the moment the child reaches puberty, the criminal network will use the custody of their mother as a lure to draw the children into prostitution. This is an excellent result for the networks, as they have not had to pay for anything to maintain the child, the cost of which is undertaken by the development agencies in the hope that they may be able to break the vicious cycle of second-generation prostitution. Unless criminal networks are completely dismantled, any such efforts to rescue the children of women in prostitution are vulnerable to mid- and long-term failure, and can, in fact, play right into the hands of the criminal networks. The ledger entry clearly records the debt written against the victims for the day in question.

The lower segment of the ledger indicates the income of the location. The higher amount on the left indicates the income of the criminal network from the single purchase of a victim, for either a single act of sex, for an entire night or for a couple of days. The lower amount in the case of this location is indicative of the low amount paid to the victim keeping up the façade that they are earning money while simultaneously piling up debt. For victims that make it to the point where they are no longer of value to the network, these survivors may receive a small amount of money, in contrast to the large income received by the criminal network. However, in most cases, criminal network never pay the victim, and only use this form of bookkeeping for securing the consent of the victims, who feel that paying off their debts by continuing to work for the networks is the only path to freedom. In the words of one of the victims, those working in the sector are 'living but dead' by the time they reach the point at which they are no longer of value to the networks. Many victims don't reach this point.

The discovery of the ledger and the subsequent research conducted on it had two clear impacts. The first was that the previous practice of police fining women who had been arrested for prostitution as a public nuisance was brought to a halt a few years later. Any woman, girl or child engaged in prostitution was no longer arrested or prosecuted on public order or public nuisance sections of the law, but instead was treated as a victim. Adults were given a free choice after the first three weeks of multidisciplinary support, either to progress towards reintegration or be set free to proceed with their lives, with the offer of multidisciplinary support remaining available to them at any time, day or night, with the only condition that they would not intentionally place themselves again in the vulnerable situation of being trafficked into prostitution. The goal here was to target the criminal networks behind human trafficking, rather than the free, independent choice of a man or woman to migrate or work in a profession of their choice, free of any encumbrances. The dilution of Section 8 of the Immoral Traffic (Prevention) Act 1956 was a first in South Asia, in recognising the human rights of victims of human trafficking and women in prostitution.

The second impact of the exposure this ledger received as a training tool was that clear instructions were given to all police units to seize any such ledgers discovered during future operations. In most operations conducted after the recovery of this ledger, a specific police officer is designated to seize



the book of accounts and other financial documents with instructions not to let the participating civil society group have access to it. Police officers have said that the financial documents are seized for prosecution evidence, but this doesn't ring true as, in my role as a lawyer, and as the head of a team of lawyers involved in the prosecution of such criminal networks, these financial documents to date have rarely, if ever, been used as evidence. More likely is that the police destroy the financial documents in case they expose the associates of the criminal network hidden within the criminal justice system, state and civil society.

#### ***6.6.8 Criminal networks and infiltrating state and civil society identities***

The Mumbai MDU, at 9pm on the 16<sup>th</sup> of July 2012, received an information verification request from a senior police officer regarding trafficking into prostitution. The MDU was able to verify the intelligence the police had provided and as a result, an operation led by the police and the MDU was executed on the 3<sup>rd</sup> floor of a building with a long history of use for the trafficking of victims into prostitution. In all, 13 victims were rescued and six perpetrators were arrested from two rooms. Four of these victims, including a minor, were recovered from a hidden cavity in one of the rooms, where they were forcibly kept to avoid police detection. Victims originated from as diverse locations as Bangladesh, West Bengal, and Southern and Central India. As well as the minor, victims included the wives of traffickers who had used marriage to trap their victims, and mothers trafficked by their neighbours. Victim statements described a high level of violence, the drugging of victims, the absence of any payment for victims, and confinement among the measures used to break them.<sup>22</sup>

#### ***6.6.9 Criminal networks and use of advanced technology***

For several months the question hung over the MDU as to what was happening among the criminal networks in Mumbai. On several occasions, intelligence on the presence of children was coming back negative. A number of civil society groups were seeing the same results. We knew that this could not be the case, and that the reason for these results had to be that the criminal networks had evolved to such an extent that they were able to evade detection all together. After months of deep undercover investigations, the MDU and the Mumbai police identified the cause of the misleading information on the 7<sup>th</sup> of December 2012, through working together on the rescue of seven victims of human trafficking from a particular criminal network. This influential criminal network specialised in the trafficking and sale of children for prostitution. They used advanced logistics and technology to carry out their operations. All members of the criminal network were equipped with the latest tablet devices, loaded with information technology that could identify undercover operatives from the police or civil society groups.

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<sup>22</sup> DNA, 2012. Available at: [http://www.dnaindia.com/mumbai/report\\_dhoble-rescues-13-minor-girls-from-grant-road\\_1716311](http://www.dnaindia.com/mumbai/report_dhoble-rescues-13-minor-girls-from-grant-road_1716311)

The police and MDU operation was the second attempt to rescue the victims, the first having failed because the criminal network had been alerted to the possibility of an operation against them. The team showed extraordinary courage in infiltrating the criminal network once again, going undercover for more than three months, to win the trust of the criminal network, after the failure of the first operation. Throughout the night of the operation, some subordinate members of the criminal network had been observing the police and MDU team, by blending into the gathered crowd, making it impossible for us to arrest them without a law-and-order situation developing out of the crowd. At an early stage of the operation some of the victims had told senior police officers – the Indian equivalent of the Chief Constable of the region included – the circumstances surrounding their trafficking, sale, and subsequent abuse at the hands of the criminal network. The main owner and controller of the criminal network had been arrested and further arrests followed as investigations were carried out. The police charged the perpetrators with stringent provisions of the Indian Penal Code, combined with local trafficking laws that had the power to enforce sentences of ten years to life imprisonment. The MDU worked through the night in the police station to guide and advise the police on filing the right charges and protecting the victims. Our lawyers and social workers appeared in court to oppose bail and ensure that the rescued victims were transferred to safe reception centres, while the MDU studied the home situations of the victims and developed individual plans of care.

The MDU uncovered more information on this same criminal network on the 26<sup>th</sup> of February 2013, when it worked with the Thane police in an operation on the outskirts of Mumbai to rescue five victims of sex trafficking, and arrest two key members of the criminal network. Three of the victims were minors between 15 and 16 years of age, and the other two were girls of between 18 and 21 years of age. It was one of the minor victims' first day in prostitution, having been sold to the criminal network by her family. Another of the victims was found to be seven months pregnant. All five gave evidence to the police about the criminal network and their method of working. The criminal network lashed out at the MDU after the second operation targeting them. Since all office locations of the MDU are not publicised, the criminal network was unable to target the MDU at their base of operations, though we had been aware since the first operation that members of the network had been posing as journalists in an attempt to find the MDU base. Instead, the criminal network targeted the victims at different levels. First they managed to engage lawyers on behalf of the accused and the victims, then they managed to influence the hospital and a female police officer who had been tasked with guarding the victims. At the hospital the MDU unit met with a hostile medical officer who prevented members of the MDU from staying with the victims, while the forensic examination of the victims took place; we were forced to wait outside the ward. The hospital authorities then took five days to conduct these examinations, which would normally only take half a day. During this time, the criminal network surrounded the hospital with 15 men from their network, also bringing in people posing as parents of the children. These imposters were given free access to threaten and tamper with the children at the hospital, as all of the police officers involved in the case had switched off their phones. In fact, the female police officer guarding the victims even pointed out the MDU social

workers to the criminal network, identifying them as one of those responsible for removing the victims from the network's control. The 15 members of the criminal network then chased the MDU members, who had to hide in a hospital room before managing to safely exit the hospital. The victims were left deeply traumatised by the experience.

The hospital ensured that the age verification of three children identified two as adults. The MDU were able to order a second age verification examination to be taken place at a more secure hospital, where the remaining two victims were identified as children. Following this, the criminal network targeted the court with their mob tactics, on one occasion gaining free access to the victims through the judge. The network's brutal tactics once again show how serious a national security threat human trafficking can be and how, if left unattended and not controlled, it has the capacity to destroy the rule of law and the lives of the youth of the country, leading to the weakening of the country.

#### ***6.6.10 Criminal networks posing as organisations***

I conclude by suggesting that we need to grow in our understanding of organised crime and understand how it has evolved from hierarchal structures to a more evolved integrated network structure. The current approaches to tackling these criminal networks only help the networks to evolve, adapt and grow and the only way to tackle them effectively is by genuine partnerships between state and civil society which chrysalises into units, such as the multidisciplinary units that secure victims until they are self-sustainable reintegrated members of society, and take on and dismantle the entire criminal network by working through an end-to-end strategy.

#### ***6.6.11 Criminal networks and trafficking for begging***

Under the multidisciplinary model in 2009, around the time of the release of the movie *Slum Dog Millionaire*, intelligence reports indicated a growing presence of children between the ages of three and 12 being made to beg in Bangalore, a major city towards the south of Indian sub-continent. These children would often be seen performing acrobatics at traffic signals under hazardous conditions. Very little was known about the criminal networks involved in trafficking for begging. The movie *Slum Dog Millionaire* in many ways opened my eyes, and the eyes of the operational unit, to the realities of the criminal network that were behind trafficking for begging. During the course of the investigations it was discovered that over 19 children were being made to work from 7am till late at night. Ten members from the criminal network controlled these 19 children round the clock. They were kept in encampments on the outskirts of the city and were transported from this location to the various places in the city that they were made to beg. The police, with the support of the multidisciplinary team, undertook a pre-dawn operation saving all 19 children and arresting the ten members of the criminal network. The depth of the criminal network was revealed when the children were being taken to the children's protection tribunal for their safe custody. A large mob had gathered around the court to intimidate the police and social workers while safely escorting the children to the court. Their goal was to attempt to create a law-and-order situation and snatch the children from the custody of the

police and the social workers. In addition to this, politicians from the region from which the children were trafficked were contacting the social workers asking for the release of the children back into the custody of the criminal network. Finally, the criminal networks were able to engage four top-end lawyers to represent the perpetrators and ensure the summary release of the children to the criminal networks. The last thing we would anticipate when seeing a child begging is that there is such a powerful network behind the children trafficked and exploited to beg. All ten perpetrators were convicted in the case, and the 19 children were reintegrated into the community within the central state of India from which they were trafficked.

Similarly, during the course of the PhD the Metropolitan police in 2010 conducted 'Operation Golf' which involved safeguarding 168 children that were trafficked and exploited by Romanian criminal networks into Britain. A total of 26 perpetrators (six convicted) of a criminal network were arrested from 34 locations in Tandarei in southeast Romania. In addition to this they were able to seize four A.K 47 rifles, 12 hunting rifles, 12 shotguns, six handguns, cash (25,000 Euros, £25,000 (GBP) and 40,000 Romanian New Leu (RON)), 13 high-value cars, and six houses along with incriminating evidence linking the criminal network to activities across Europe. The Metropolitan police stated that the criminal networks earned £100,000 (GBP) pounds per children from making children beg and steal in London.

In a continuation of the operations in Bangalore, after the success of the operations in 2009, police and civil-society organisations undertook operations across the city to tackle the challenge of trafficking for begging across the entire city. The 'South Zone' multidisciplinary unit in the region was asked by the police to share its experiences from the 2009 operations and work with the joint teams to gather intelligence of criminal networks using children for begging within the city. The multi-disciplinary unit asked that the entire criminal network be completely mapped and disrupted, alongside the rescued children having long-term individualised care programs. If this were to be the foundation to the operations based on the experiences of the 2009 operation it would be a success. However, a decision was made to focus only on the children and not their exploiters baring the area in which the multidisciplinary unit was assigned to work with the police. One of the foundational facts in tackling human trafficking is the determination of the criminal networks, whatever the size, to get back the victim they have lost. It is often a 'dead or alive' situation for the victims the criminal networks have lost from their custody. Hence, as the outcome of this case study shows, unless the criminal networks are disrupted and dismantled there is only a limited chance for children or forced adults trafficked into any form of trafficking for a complete recovery through holistic long term reintegration methods. In the month of December 2011 the operation went ahead across all of Bengaluru city recovering over 300 children including more than 60 infants from begging criminal networks. The only area in which the criminal network was disrupted was the area tasked to the police and the southern multidisciplinary unit. As a result of failing to disrupt the criminal networks in the other areas, within 48 hours of the 300 children being recovered and placed in government safe houses, the criminal

network was able to mobilise all their members and surround the government safe houses and the police station. This led to a law and order situation that then pressured the police and the children's tribunal to release all the children to the criminal network. Within a couple of days the criminal network displaced its activities to another city. The only instance when this was delayed was where the multidisciplinary unit and the police worked together to disrupt both the criminal network and save the children from their control. It was through the home studies of these children that one was able to understand the inter-linkages of the entire criminal network and their ability to displace their activities intact to another location in response to attempts to disrupt them. Once the criminal network succeeded in securing all the children under their control that they lost. They started focusing all their attention on disrupting the last remaining cell of the criminal network and their children under the control of state. They succeeded in their measures and the entire network and their children disappeared from the grid. The NGOs involved, and some of the police officers involved, continued to maintain it was a complete success in both the press and through publication of books for a number of years, until recently one of the NGO leaders involved admitted that the operation was a failure as far as the children and bringing to justice the criminal network was concerned. This admission only came when the key people involved in the state, children's protection tribunal and civil society were no longer in those key roles. I will now look at the linkages between criminal networks and trafficking for forced labour.

#### ***6.6.12 Criminal networks and trafficking for child labour***

Since the start of the work to tackle human trafficking in South Asia, even within the unitary model, for reasons I have never been able to fully comprehend, the unitary models and the police always focused on each form of trafficking and exploitation separately. There have been fatal consequences due to these actions on effective measures to tackle human trafficking, to date that are captured in the next chapter on human trafficking and models of governing security. This lack of a uniform law and procedure to tackle all forms of human trafficking led to varying punishments for the crimes, varying procedures to tackle each form of trafficking and poor enforcement on various forms of exploitation for a common crime that has helped criminal networks evolve, and one that under the multidisciplinary model it was determined to correct. In the month of April 2010 the investigative discipline of the multidisciplinary model received report of a walled compound that housed multiple plastic recycling factories. On infiltrating the location, what was discovered was completely shocking. There were 36 children between ten and 14 years of age working 16–17 hours a day, being regularly brutally beaten and starved if they did not meet their daily production deadlines. The conditions in which they were working were completely horrific. On investigating further it was discovered that the parents of all the children were either forced to, or on a basis of trust agreed to, illegally hand their children to the criminal network for their further education and upbringing. The criminal network largely belonged to the higher caste and income strata and were through their measures of intimidation and violence were able to achieve a rich harvest of children for trafficking from regions of central India to the rest of the country. The operation was among the most holistic and successful casework of

its kind in South Asia that involved all departments of the government and various non-governmental stakeholders involved. The plastic recycling units were shut down and handed over to a major corporation that was listed on the stock exchange and on regular checks had no occurrence of child or adult forced labour. Each child had their own individual long-term plan of care that included their families. This plan was meticulously followed with financial support from both the governments of the region they were trafficked from and where they were trafficked. This casework helped me understand that there was not much difference in the way victims were trafficked and exploited in prostitution or begging or for child labour.

The multidisciplinary model continued to focus on ensuring that its resources were used to tackle all forms of human trafficking. A number of the criminal networks in this region moved their operations within areas of ethnic minorities to take advantage of the reluctance of law enforcement in most countries to tackle crime in such areas for fear of either a communal flare up or riots. They are also often concerned on being targeted and being branded as a racist or a communal police force by the media. The preferred option in some cases studies being to disengage with the community that is affected by the problem and engage with the key players of the criminal networks to manage the law-and-order situation. As the work against criminal networks involved with trafficking children for child labour grew I observed linkages between criminal networks involved in trafficking for prostitution and for child labour. In 2013 the police in South India and the multidisciplinary unit worked together to tackle, in 'Operation B', a major criminal network described in Chapters 8 and in the section above on the fixed-locational criminal network. One of the strategies adopted by the 'B' criminal network was to develop a mole/key player within the government safe house to disclose the location of the children that were rescued from the control of the criminal network. The mole unknown to the multidisciplinary unit at the time had deep levels of linkages within the governance system of the state. The mole/key player was able to inform the 'B' criminal network about the location of the victims who promptly dispatched their members with supporting lawyers to regain custody. The presence of mind and the intelligence-gathering system of the police and the multidisciplinary model ensured that this was disrupted and the mole was removed from the safe house. However, within a few weeks the director responsible for the women and child welfare in the state, who took affirmative action against the mole, was transferred out of the state and, not only was the mole reinstated as a unqualified counselor within the safe home, but was also approved by the state as a member of the child protection tribunal. It was during 'Operation DJH', undertaken in April 2014, that I fully understood how the criminal networks were infiltrating the state-civil society systems and how trafficking for any form of exploitation were closely linked.

In April 2014, in a system that was increasingly being compromised by the criminal network a daring police officer approached the multidisciplinary unit to work with him to tackle a major criminal network that was trafficking children below 14 years of age to work in factories manufacturing school bags, accessories and other household items. This criminal network was embedded within an ethnic-

minority area and for years no police force would dare target them for fear of causing a break down in law and order due to a communal flare up. In what was a textbook operation, all departments of the government worked together with the multidisciplinary unit and over 68 children were saved from ten bag-manufacturing factories. Over 22 members of the criminal network were charged in the crime and are currently being prosecuted with their bail applications repeatedly rejected in the courts. During the course of the operation the area was very tense and the entire community were lining the street as the children were being taken to safety. The reaction from the criminal network came the following day when the multidisciplinary unit was refused access to the children by a child protection officer who was a close associate of the mole from 'B' criminal network. The children were then punished for a period from the 24<sup>th</sup> of April until the 8<sup>th</sup> of May, during which time they were not allowed a change of clothes, any toiletries or a shower. The children, as a result, suffered further trauma and suffered from skin diseases and other related medical conditions. The multidisciplinary unit took up the matter with the federal and state authorities, the police, the courts, and civil society groups all to no avail. Finally, through a powerful local community group, the unit was able to ensure that the children at the government safe home received on a daily and weekly basis the required change of clothing, toiletries and anything else they required for their interim stay at the government safe house. Meanwhile, the multidisciplinary unit rushed teams to undertake a detailed study of each of the family backgrounds of the children that were saved. The mole/key player continued to consolidate the hold on the government safe homes by becoming the key person in the children's tribunal responsible for their protection. The key player now a quasi-judicial member of the children's tribunal with the help of the child protection officer developed deeper linkages within the both the state and NGO community. The network within the state system went deep right up to the ministerial levels with every level between the minister concerned and the key players fully compromised. The key players within the Government safe homes they brought a doctor on their payrolls to declare a no of the children saved as adults in order to secure their summary release. The multidisciplinary unit secured the official forensic results to stop the children from being released despite which they went ahead and, during the night, released four of the children from the safe house on to the streets. The multidisciplinary unit had ensured a perimeter security of the safe house so with the help of the police were able to take the four released children to the police station. At the police station members of the criminal network that controlled them came seeking custody of the four children, as it was all pre-arranged set up. The multidisciplinary unit managed to persuade the police to place them at a licensed shelter pending a move to the court to ensure their safe repatriation. The whole processes with regards to the four children ended well with them being repatriated to their families and are currently under their individual plans of care being reintegrated. Meanwhile the remaining children were summarily handed over to the key player/mole of the criminal network who by now had established a NGO to provide the legitimate cover for their activities. The child protection tribunal that handed over the children to the mole/key player had in addition to the mole a relative of the minister that was part of the network on the tribunal. They two, between them, fixed everything and took the children to the state they were trafficked from and, while on paper promising to care for them long-term, summarily based on no plan

of care or a study of their home situations released them to unverified individuals. As the multidisciplinary unit had already mapped out the families whose children the criminal networks had targeted they were able to secure as much of the children once they were released along with their families. The criminal network now had a strong hold on the entire city and the state with their infiltration of both the state and civil society rock solid. The key goals of the criminal network here were to ensure a complete stranglehold over siphoning of the financial resources of the state and the center dedicated towards the care of women and children. They created an elaborate structure of NGOs that would, on paper, be slated to undertake a slew of projects but in reality would be doing nothing; they would even undertake certain public events that were covered by the media to show that work was being done. This network would brazenly grab the data of any initiative between the state and the civil society for women and children that were working well and project it as their own. A large amount of government aid, meant for women and children, was being siphoned and laundered through such a structure that consisted of a perfect alignment of corrupt politicians, corrupt civil servants and fake NGOs. The system of checks and balance had failed. The criminal network now embedded within the state and civil society system now went about completely destroying and paralysing the work against criminal networks in the capital city of the state. Everything had a price, if children were saved from any form of exploitation or abuse and were brought to the government safe home for a price they could be sold back, released, and their futures destroyed to benefit the criminal network and ensure that no prosecution succeeded against the criminal network. As a direct result of this lawlessness started increasing in the region and soon a spate of violent rapes took place within well-known schools in the city. As a result of the public pressure some of the corrupt civil servants were suspended, but the corrupt politicians involved, the mole and the corrupt child protection officer were not removed. The state government approached the multidisciplinary unit to develop a standard operating practice for all stakeholders to ensure the protection of children in the schools, which was developed and implemented. However the criminal networks were able to consolidate the gaps quickly and, once again, had a stranglehold on the child-protection system in the city. As a result the work against criminal networks involved in all forms of human trafficking came to a complete halt. This led to a revival of human trafficking in the city and for the first time since the incidence of human trafficking was reduced in this region the multidisciplinary unit began receiving intelligence reports that revealed a growing presence of children in various forms of trafficking. The state expressed its helplessness and asked the multidisciplinary unit to leave its work within the city and work in surrounding areas, as the criminal network was too strong to be dislodged from within the system. The criminal network consolidated its hold further to ensure that every case involved victims of trafficking from outside India being repatriated from that city would go through them for a price and show that they were doing some work every vulnerable child coming through railway stations would be shown in their books.

As a result the multidisciplinary unit decided to develop an enveloping strategy to focus its work on all the surrounding states and this led to the operation on the 24<sup>th</sup> and 25<sup>th</sup> of January, 2015 where



over 388 children who were trafficked for child labour from central India to the state of Telengana were saved. Over 220 plus children were saved from four rooms within which they were locked and kept. The children were all used in manufacturing of women's accessories under extremely hazardous conditions. A number of the children were starved, had severe burns and marks of violence on them perpetuated by the criminal network. The bulk of the children were below 14 years of age. The work of the states involved in this case Telengana where they were trafficked to and Bihar where they were trafficked from was transformative. The multidisciplinary unit was able to work with both governments to ensure the effective rehabilitation of each child and mapping of the entire criminal network. For the first time, as each of the children was being reintegrated the multidisciplinary was able to evaluate why each of the social security benefits of the state had failed to stop the trafficking of the children. The analysis of this was given to the state to be able to understand where things were going wrong at the grassroots in terms of child protection and social change. The home and community study surrounding each trafficked child was studied to evaluate where the state education schemes, poverty alleviation schemes job schemes, housing schemes were going wrong. In addition the role of caste (social vulnerability) in trafficking, the role of the type of job (occupation vulnerability) that a guardian of the child had what role that played in their trafficking was analysed. The area-wide distribution of the children who were trafficked was analysed, to understand which were the most vulnerable districts and the age-vulnerabilities of each child trafficked. The most revealing was the medical trauma caused to the victim of trafficking – out of the 265 children trafficked from one state alone, 137 children were treated for anemia, scabies, vitamin A deficiencies, fungal infections, ear infections, tuberculosis, malaria, respiratory illness, molluscum, fractures, chronic wounds, aches and pains, neck rigidity, soft tissue injuries, chicken pox and tooth decay, directly as a result of their trafficking and exploitation. The biggest discovery was that, involved in the trafficking of the 388 children across multiple states, is an interconnected criminal network of which, through the study of the communities where the children were trafficked from, a total of 89 members involved in the crime were mapped. At the time of filing of the charges against the criminal network, only 28 members were arrested and the mapping of the criminal network revealed that these arrests had no impact on the criminal networks at all, as none of the members arrested were key players within the network. This leads to an assessment that criminal networks deliberately don't base their key players at the locations where the victims of any form of human trafficking are interfacing with the general public. As a result whenever law enforcement target these location the only loss are the victims and some of their lower-rung members, leaving the criminal network intact to learn from its mistakes, consolidate its hold within the system and reestablish much more powerful and sophisticated operations. These findings were shared with the highest level of governance within the criminal justice system. They were completely taken aback to realise the depth and strength of the criminal networks involved in trafficking children and adults for child labour or bonded labour, and were determined that the multidisciplinary operations should be extended across the entire state to cover all forms of trafficking – which is ongoing.

## **6.7 Conclusions**

Any description of criminal networks is incomplete without describing their greatest success, and their extraordinary ability in infiltrating every section of the state and civil society apparatus (see Case Study 6.9). Criminal networks trafficking humans are everywhere. Their success lies in being low-profile, incredibly well resourced and very influential. What we often see of a human trafficking criminal network is the tip of the iceberg of their actual operations. What traditional law enforcement may see as being just a gang is in truth connected to a larger mass of criminal activity that remains hidden. In contrast to key players before the turn of the millennium in 2000, now only a few members of the criminal network indulge in ostentatious displays of wealth. Most remain hidden, blending in with society, engaging in charitable works for the community, solving disputes, or helping poor families with financial support or jobs. Many members of criminal networks are widely respected in the communities in which they live. In my many years of working on the frontline of human trafficking, I have seen criminal networks infiltrate all arms of both the state and society. They have associates in the police, among the prosecutors, among the judiciary, among members of parliament, and among influential members of society in the media world and entertainment businesses. The list of roles that they may play is endless.

The most remarkable thing is how such criminal networks involved in human trafficking have been able to adapt themselves to mimic NGOs, displacing genuine organisations working to limit the spread of AIDS or providing medical care and counseling support for women in prostitution. Many of them make use of such structures to secure development grants created with the aim of stopping the spread of diseases such as tuberculosis, HIV and other sexually transmittable diseases. They have even convinced major donors to use them as models for stopping the trafficking of victims into prostitution, creating fronts that actually promote active obstruction of law enforcement efforts to save children or forced adults sold to them, and by consistently doing so making a case for the legalisation of prostitution.

In one case I was involved in, a trafficked child was first brought to an NGO, where the perpetrator (owner of a brothel) was a peer educator for AIDS awareness. The child was sold in the office of that organisation before being taken later that evening to the perpetrator's main business, one of two brothels that she owned in the outskirts of the city. I have seen numerous case studies of criminal networks posing as NGOs which, having secured development grants through falsified documents; obstruct operations to save children by serving as an early warning system. In addition, I have heard of other network members who have threatened child victims in police stations following rescue operations, by posing as social workers of an NGO working in AIDS prevention and awareness. In such cases, minors may even be given to the criminal network, because they are mistaken for a genuine NGO. This thesis would not have been complete without a description of the various types of criminal networks that anti-trafficking groups actively face, and examples of criminal networks that have adapted and evolved in response to the anti-trafficking models. Until one understands the

overwhelming odds facing anti-human trafficking organisations, and one experiences human trafficking at a grassroots level, very little progress will be made in resolving this massive global challenge.

Criminal networks involved in various forms of human trafficking fit with the concept as defined by Morselli (2009) in his edited work on studying various types of criminal networks. They thrive in the governing security (Shearing, 2007) vacuum created by the institutional failures of both state and civil society efforts to tackle human trafficking (Dewey, 2008). Over the past 15 years I have observed the remarkable ability of these criminal networks to use institutional failures and the infiltration of state and civil-society organisations to grow and become more flexible and versatile. They grow from hierarchal structure within fixed-locational criminal networks, to developing the multi-locational networks, to ensuring a multi-celled networked structure that links both fixed locations and the mobile multi-locational structures. This shows their ability, not just to develop new areas of work, but also consolidate the command and control structure from which they foray into new areas. I have found criminal networks to be extremely innovative and very hardy. They are increasingly showing the ability to bring down entire state and civil-society structures through their ability to infiltrate them and continue to develop a strong base within the communities they control. They possess a far more flexible financial structure and do not hesitate to use it to ensure their survival and growth. They have an extraordinary ability to adapt to all vulnerabilities that exist within societal and family structures across source, transit and destination locations. Their ability to partner with all stakeholders, who are driven by greed and exploitative profit, helps them to work with all institutions in both state and civil society, including companies and corporations within capitalistic and authoritarian societies. Understanding criminal networks and their ability to change and adapt their profile depending on their market requirements will be a defining tool to engage with countries around the world as they grapple with the effects of their ability to destabilise societies. Over the years, starting from trafficking for prostitution, criminal networks have become involved in all forms of trafficking and their widespread nature pose a serious national security concern to all stable countries and to all forms of legitimate income that sustains stable countries. Tackling these criminal networks will need a holistic end-to-end, constantly innovating, strategic, approach over a sustained period of time, which involves all stakeholders, undertaken within a human rights framework. The next two chapters are a journey towards that goal. Chapters 7 and 8 will reflect on the stages of evolution of various anti-human trafficking models that have been tried and tested over the last 15 years, culminating in a discussion of the evolved multidisciplinary model of tackling all forms of human trafficking. This model has evolved from the the successes and failures of several anti-trafficking models and their efforts and its continued evolution has been observed during the course of my research with the hope that it provides a real-time solution to various socio-criminal networked challenges, such as human trafficking, and may represent how the criminal justice system will evolve to adapt in the coming years.



## **Chapter 7: Governing Security models that tackle human trafficking**

### **7.1 Introduction**

The theoretical framework for my research had led me to look at three inter-dependent factors of human trafficking: institutional failures in anti-human trafficking models, the evolution of human trafficking criminal networks, and state/anti-trafficking organisation models of governing security. Chapter 6 reflected at length on both the institutional failures of approaches to tackle human trafficking and the evolving nature of human trafficking criminal networks, in the context of India and the UK. My conclusion is that failures across the entire framework of tackling human trafficking play a significant role in the way in which criminal networks evolve and grow. This has been the case, not just in the contemporary models of countering human trafficking featured in my research, but also in the models used historically to tackle slavery, as discussed in Chapter 2. I will now reflect on various anti-human trafficking models that have attempted to govern security. These are efforts by individuals of integrity within the state, and civil society structures to counter the security and justice deficiency caused by human trafficking criminal networks,

The narrative in this chapter is also the journey of these governing models as they themselves have evolved and adapted, mapping also how they influenced one other. It starts with the unitary model, and then shows the development of multiagency models, and the progression of these ideas into departmental models, highlighting innovation led by individuals both within the state and civil society from a grassroots level. I end the narrative with a multidisciplinary model that has grown out of the strengths of previous models and through the identification of their weaknesses. This model has been piloted during the course of my PhD research. The chapter starts with the unitary model of tackling human trafficking, this being a pioneering state-civil society model that often rises to tackle the growing dominance of criminal networks within the community. The work of the unitary model led to the intervention of the multi-agency model of tackling human trafficking. The unitary model was completely dismantled during the period of the multi-agency model, though one can see similar models arising wherever the deficiency of the state and the dominance of the criminal network causes the rise of such community-based initiatives that often seek to partner with the state. The multi-agency model collapsed as a result of inter-agency politics and lack of funding but left its imprint on the agencies that partnered together under the model. The departmental model rose from the ashes of the unitary model and continues to this day, but is largely successful in areas where the unitary model has not been used and against criminal networks that are in their early stages of growth. The remaining models have grown through this period and have had regular close interactions with the above mentioned models. The multidisciplinary model emerges from harnessing the lessons learned from the earlier models and evolving the model to mirror the strengths of criminal networks, thus enabling it to be constantly ahead of the evolving curve of the criminal networks, which is an area of vulnerability in this crime.

In my research there are two significant reasons for the growth of human trafficking, the first being the way that the criminal networks have adapted and grown and how they have expanded to infiltrate the society they are embedded in at every level, the second being the role of institutional failures facilitating the growth of human trafficking as a crime. This chapter reflects on this tension within the key anti-human trafficking models. The only way forward for the anti-trafficking models is to constantly evolve, which many of them fail to do making them ineffective and, often, a significant part of the problem as an institutional failure, or as part of the criminal network that is a key reason for the growth of human trafficking as a global networked crime.

**Case Study 7.1.1: Judicial activism**

On the 17<sup>th</sup> of January 1996, the High Court of Mumbai ordered the State Government of Maharashtra to use the rule of law as a tool to ensure that victims of trafficking for prostitution were rescued, in an attempt to restrict the spread of HIV within the city of Mumbai (Fernandes and Ray, 2005). The Mumbai Police responded with a series of operations on the 5<sup>th</sup> of February 1996, removing a total of 487 presumed minors from ten areas where commercial sexual exploitation within Mumbai was known to exist. Of the 487 girls removed, 218 were Nepali girls (45%), and 418 (86%) were repatriated back to the source areas of trafficking. As a direct result of this operation the state designated a specific location as a special rehabilitation centre for minor trafficked victims, a significant and positive step. Even so, as case studies from the unitary model will show, it took a large amount of work over a number of years for this centre to become even a basic solution to providing victims with interim accommodation, while long term rehabilitation plans were created.

Category	1996	1997	1998	1999
Minor girls rescued from prostitution	200	116	110	154
Adults in forced prostitution rescued	170	110	474	721
Crimes registered	244	80	264	203
Persons arrested	195	53	240	299
Brothel keepers arrested	180	47	195	148
Pimps arrested	54	32	77	38
Money lenders arrested	0	0	2	0

**Figure 7.2.1: Record of police actions – trafficked for forced prostitution between 1996 and 1999.**

Figure 7.2.1 is the result of a direct analysis of the operations undertaken by the police in a single police jurisdiction of the Mumbai Police between 1996–1999, collated by the Nirmala Niketan College of Social Work in research undertaken by Gracy Fernandes and Cecily Stewart Ray. The limits of this attempt were its sole focus on prostitution, the lack of intelligence-based, specific operations (instead the strategy relied on mass raids) and poor post-rescue measures for victims. At

the time of the operations, almost no dedicated facilities were available for victims. Even in 2001, the facility that the state had created for this role was not fit for purpose. The arrest records make it obvious that there was no focus on pursuing the entire criminal network associated with the trafficking and exploitation of the victims. The approach of only arresting some of the frontline members seen at the time of the raids made it very easy for criminal networks to recover and evolve into more sophisticated forms. The majority of the girls rescued were rehabilitated, with no long-term aftercare plans or with even a home-study undertaken before being sent back to the source of trafficking. With the trafficking network intact, the vulnerability of the rescued girls is obvious, though no study was undertaken to reflect on the re-trafficking of the repatriated girls.

## **7.2 Unitary model of tackling human trafficking**

### ***7.2.1 Historical background***

The work in Mumbai on tackling human trafficking started with a single person initiative; the efforts of one Deputy Municipal Commissioner, G. R Khairnar (1998–2000). He was well known in Mumbai for being a non-corrupt officer within the Municipal Corporation of Mumbai. He led a personal mission to take on senior political leaders in Maharashtra who were using their personal influence to amass wealth disproportionate to their means. Many of these political leaders, along with key players within the various criminal networks, invested their illegal gains into criminal activities, obtaining land and building illegal structures<sup>23</sup> for office premises, residential buildings and large shopping complexes. As a direct result of Khairnar's actions such structures started to be demolished. Because this was affecting the political elite, Khairnar was suspended from his service in 1994. He was reinstated in 2000 and retired from service in 2002. During the period between 1998 and 2000 he undertook summary operations, not entirely valid by law, to remove children that had been trafficked into brothels in Mumbai. Due to the risk associated with the demolition activity Khairnar undertook, the state government provided him with round-the-clock police protection. He would go with his close protection officers to the local police station and inform them of his intention to remove a minor victim of trafficking in an area of brothels. Often the police would scramble together a force, mainly out of fear that if something were to happen to Khairnar their jobs may be at risk. There was however, also a great deal of respect for Khairnar as he was considered fearless in his pursuit of the criminal networks.

In 1997, at the same time, an agency called International Justice Mission (IJM) was set up in Washington DC by Gary Haugen. IJM sent one of their staff members, Bob Moiser, an ex-US police officer, to visit India with the aim of identifying the potential scope of their work there (Haugen and Hunter, 2010). During that time, members of IJM met with Khairnar to witness his attempts to rescue underage girls from trafficking. It was from this scoping exercise that the work of IJM in India was

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<sup>23</sup> Several malls funded by the Underworld (NDTV, 2008). Available at: <http://www.ndtv.com/video/player/news/several-mumbai-malls-funded-by-underworld/35359>>.

born. In 2001, I made contact with Greg Malstead, the IJM Overseas Field Director for Mumbai (OFPD), who briefed me on their focus on saving children sold into prostitution. I had witnessed an incident a year earlier while returning from court one day, where I saw a minor girl flee from a brothel with her captors openly chasing her, with no fear of the rule of law. This experience stayed with me and I saw the opportunity to work with IJM as a way of doing something to address the ease with which such minor victims could be exploited. At this stage, not much was known about other forms of human trafficking in India, so the focus revolved predominantly around forced prostitution.

As a result of time spent working in a human rights agency (India Centre for Human Right and Law (ICHRL)), the following ten principles guided me in my involvement with anti-human trafficking models, starting with the unitary model in 2001.

1. To protect the rights of those victimised by criminal networks.
2. To focused on all forms of human trafficking and not just on prostitution.
3. To focus on implementing the rule of law and countering human trafficking criminal networks, rather than on ideological or moral debates surrounding prostitution and consent.
4. To focus on reinstating the freedom of choice for victims of human trafficking, supporting them through their decision-making process and not deciding their future for them.
5. To assist the state, rather than replace it.
6. To be low-profile, not taking credit for work done, other than the satisfaction gained by safeguarding communities, saving lives and breaking the cycle of crime.
7. To disrupt and dismantle human trafficking criminal networks, reclaiming the space they controlled within communities and empowering these communities and individuals within them with tools of governing security.
8. To counter the efforts of criminal networks which had, for years, infiltrated and paralysed the state and civil society mechanism from being effective tools for those victimised by these networks.
9. To be a voice for the voiceless; an effective advocate and instrument on behalf of victims.
10. To develop lasting processes and models within the system that could be used to tackle the problem of human trafficking in my absence.

The unitary model comes into existence when crime, dominated by criminal networks embedded within the community, grows unchecked and when the state is conspicuous by its absence. It consists of ordinary members of society who come together and want to do something to reestablish the rule of law and ensure credible care and protections mechanism are in place to protect the victims. In this endeavor they will partner with elements of the existing state system who are honest, and through actual cases come to be known for their ability to stand for truth whatever the cost. The unitary model is a powerful tool against criminal networks because the levels of commitment and resolve of the members are such that they can be an effective antidote to criminal networks. A unitary model tends



to collapse when it fails to evolve, if it becomes centrally controlled, or if it aspires to change into the very state systems whose failure caused it to exist. A unitary model is cost effective and, if carefully evolved, leads to effective anti-human trafficking or crime-fighting models because they are grassroots-inspired but can create effective common ground or linkages with existing government structures.

Between 2001 and 2006, the adoption of the unitary model occurred in Mumbai and its outlying areas, Thane and Bhiwandi, nearby cities such as Pune, and in casework-based follow-up operations in the Sangli district, all of which fall within the state of Maharashtra, Western India. The unit structure of the unitary model rarely exceeded nine people in a single ‘cell’. It was largely divided between those working in investigation (typically lawyers and police liaison officers), social work and administration. Each cell would be led by a single individual, most commonly a lawyer, creating a very centralised ‘command and control’ structure. All of the cases analysed under this segment are in the public domain in the form of court records, and as parts of research projects, such as the National Human Rights Commission’s ‘Trafficking in Women and Children in India’ (NHRC, 2005). I had a personal involvement in each of these cases, as a lawyer representing the victims and assisting the police and judicial system, as the cases made their way through the criminal justice system. My involvement in the cases occurred before the start of my PhD research in 2007. As a result of this work, there are a considerable number of case studies that I can cite, as seen from the perspective of someone working at a grassroots level. For the sake of brevity, however, I have limited myself to a number of cases, selected to highlight the different geographical locations involved, the embedded nature of the activity of human trafficking criminal network’s within a community, and the isolation of the state from the community.



**Figure 7.1: Basic structure of an early unitary model in 2001**

### 7.2.2 Analysis of the unitary model

The unitary model of work remains one of the most successful low-cost models of anti-trafficking intervention. In many parts of the world, including the UK and mainland Europe, when I consider existing strategies using a state-civil society approach to human trafficking, I still credit the unitary model as a relevant and innovative solution, with enormous potential. It can provide a useful framework<sup>24</sup> with which to map and identify specific networks, and be a foundational tool for developing interventions in destination locations, in order to save lives and disrupt the criminal networks prior to the spillover stage. In the UK, for example, the interventionist approach to tackling human trafficking is still driven by a reactionary rather than preventative ethos, which leads to dealing with either the spillover effects of the problem or with facing a human rights paradigm of providing legal aid for victims of trafficking, arrested for being accomplices of the criminal networks in the destination areas (i.e. as prostitutes or as managers of cannabis farms). The unitary model was foundational in pioneering state-civil society cooperation that uncovered and exposed human trafficking criminal networks in Western India, particularly in destination locations such as Mumbai. It showed the extent to which the criminal networks were both embedded within the community and the depth of their connections.

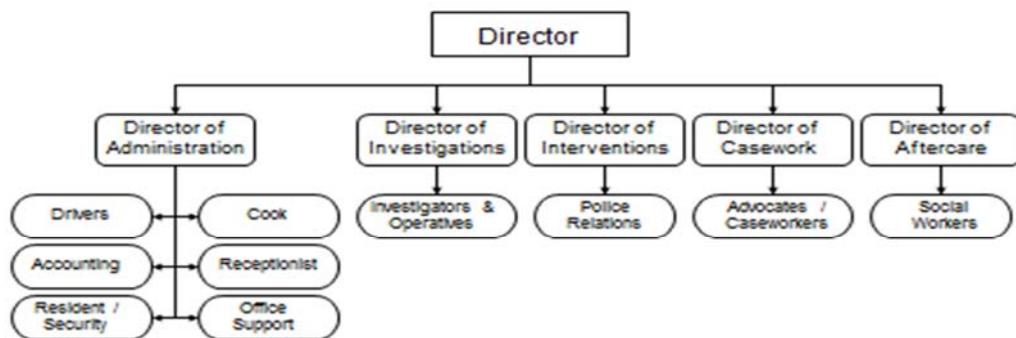


Figure 7.2: The unitary model structure by 2005

#### Case Study 7.2.2: The unitary model-cross state networks

<sup>24</sup> A unitary model as an interventionist model identifies the presence of children (most profitable to criminal networks) and forced adults (highly profitable at times, less so than children) at destination locations of human trafficking criminal networks, and provides the information to the police and works with them, the courts and the social services to save lives and break the cycle of crime.

The key area of work, initiated in 2001 and continuing until 2005, dealt with a criminal network based in Bhandup Sonapur, a suburb in the eastern part of Mumbai. This area had two lanes (Nepali Lane and Hijra Lane) dedicated to prostitution. The names of the streets indicate both the ethnic origin of the victims of trafficking and the criminal networks that controlled prostitution here. Nepali lane was notorious for prostitution controlled by the Indo-Nepali criminal networks, with victims largely trafficked from Nepal. The eunuch-run criminal network that trafficked victims from Tamil Nadu, Southern India, largely controlled Hijra lane. A series of operations were conducted in 2001 that would become the first of their kind, focused on the two criminal networks described above. The operations were spread over a year and had a devastating impact on the eunuch-led criminal network in particular. The mapping of victims rescued in Mumbai between 2001 and 2003 (see Figure 7.2) showed that 13% were trafficked from Tamil Nadu to Mumbai. This declined significantly between 2003 and 2004 and, for the eunuch-run criminal networks, continued to do so in subsequent years. Both police and independent civil society sources verified this through regular surveillance on the locations in Hijra Lane. On the 11<sup>th</sup> of April 2001, police in Mumbai, along with representatives of International Justice Mission (IJM) led by a victim of tracking, undertook an operation to rescue four victims of trafficking from criminal networks based in both Nepali Lane and Hijra Lane. The operation was based on the successful reintegration of a 14-year-old victim, rescued previously in a single-person initiative led by G. R Khairnar on the 17<sup>th</sup> of January 1999. The victim wanted to lead the police and civil society groups to other victims who remained within the control of the criminal networks working in that area. No case had been filed against the perpetrators in her own case, as the primary goal of the single person-initiative had been to save the life of the victim and not to break the cycle of crime.

Examining the individual cases of the four minor victims revealed that one 15-year-old had been recovered from criminal networks that trafficked children and women from Nepal, and that the other three minors (15, 16 and 17 years of age) had been removed from eunuch-dominated criminal networks. The victims, in witness statements available as part of the official report stated that, as children, they had been forced to entertain between 10 and 15 men each day, increasing to as many as 40 men per day during the festival season. All victims gave statements describing severe violence from both perpetrators and customers towards them. Two of the victims were found to have suffered such significant trauma that they were unable to fully recover from the abuse. The operation led to the arrest of three key perpetrators (two from the eunuch-led criminal network and one from the Nepali criminal network); on the 30<sup>th</sup> of January 2004 the perpetrators were sentenced to five years in prison and a fine of 5,000 Indian Rupees each. A third operation at the same location on Hijra Lane, took place on the 12<sup>th</sup> of July 2001 and the 31<sup>st</sup> of October 2001, rescuing 12 victims of trafficking. Three key players in the eunuch-led criminal network were arrested and denied bail, in the operation on the 12<sup>th</sup> of July 2001. The seven victims rescued during this operation were all recovered from a small trap door at the bottom of one of the rooms that led to a hidden cavity in the next room, where the child victims were kept to prevent them from being found by the police. The operation took a violent

turn when the eunuchs discovered the level of intelligence that the police and civil society groups had on their criminal network. The entire sequence of operations has been captured on film in an award-winning documentary called 'The Day My God Died' (Levine and Dreyfous, 2003). I came to understand the strength of this criminal network through my work on the prosecution cases on behalf of the victims. These children and young girls were at different stages of victim protection and reintegration back into society. They were spread across different secure locations throughout India; places that could protect them, and help them and their parents (where their parents were not involved in the trafficking) to reintegrate in a self-sustainable manner.

In the Bhandup case, the eunuch-led criminal network employed all of the above measures against the police and the civil society group that cooperated with them. The worst of these efforts were targeted at the victims of trafficking, all of whom were children. In addition to the threats the victims received at the police station, key players of the criminal network, not arrested by the police, visited the victims at the government safe home. The perpetrators would bring gifts for the victims, masquerading as well-wishers wanting to help but, to the victim, the perpetrators' visits conveyed a clear message that no place would be safe for them if they cooperated with the police or civil society group.

The perpetrators were often more careful when dealing with the civil society groups, working to tackle trafficking, than with the local police and staff of the government safe home, of whom they had no fear. The perpetrators in the Bhandup Sonapur case also visited the victims at the railway station, as they were being taken home to their villages in Tamil Nadu. How they knew the location of the government safe home, and the exact date and travel plans of the victims, was always a mystery to me. In both instances however, very little was done to stop the perpetrators from meeting the victims, with the exception of the incident at the railway station, where social workers from the civil society groups escorting the victims to their homes, put up stubborn resistance, forming a physical barricade to prevent the victims from being threatened or coerced. Such scenes are a daily reality for victims. The criminal networks are relentless in their pursuit of profit, with little regard even for the safety of their own members, let alone the victims of trafficking.

At one point in the Bhandup Sonapur case, there seemed to be a lull for several months in the activity of the criminal network activity. The fact remains that such networks will work at all hours of the day and night. One of the challenges that state and civil society groups face is how to counter this whilst working according to labour rules and regulations. Such organisations may work what to others might seem to be long hours, of between ten and 14 hours per day, across five or six days per week, but there are no such rules or regulations that govern the criminal networks in their pursuit of profit. This became apparent one day when, as part of the preparation for an upcoming trial, I visited a safe home where one of the key witnesses in the criminal case against the eunuch-led network was based. On reaching the location, I discovered that the victim had gone missing, presumed by the safe home staff to have run away. An initial assessment revealed that the victim, called Ms F\*, had been restless for

several days, as she had recognised an unmarked van that had been present in the area of the home for some time. She had understood that the criminal networks were undertaking a detailed assessment of the safe home, in preparation to storm the location at a vulnerable moment, or to intercept her as she was being taken to any of her daily activities, such as the vocational or educational training that is part of a program to help a victim reintegrate. Ms F\* had abruptly disappeared on a Sunday, after having been taken to a community event along with victims from other, different, cases. The unmarked vehicle had been present then too but as the occupants had taken no action, the safe home staff did not notice the van, or view it as a threat. I immediately reported the victim as high-risk and we reported the matter to the local police and concerned authorities. People frequently go missing in the Indian sub-continent and, sadly, unless the child is connected to someone influential, little progress is made. Knowing this, I formed a team myself and we scoured the local area to trace the victim, without success. I realised that, with every passing hour the likelihood that Ms F\* had been kidnapped, murdered and disposed of, was increasing. We decided to send a team to Tamil Nadu to assess the safety of the other victims who were at advanced levels of reintegration. These victims were under a rudimentary victim protection program set up by the civil society group, as the state had no such program for victims of human trafficking. This is the case even today in many parts of the world.

As we were preparing to deploy the team to Tamil Nadu, with the twin objectives of tracing Ms F and the other victims at different stages of reintegration, we received difficult news from another team that had been sent, prior to this, to check on the status of another victim, Ms C\*. The update from the team revealed that Ms C\* had died mysteriously of unknown causes, and her body cremated before any post-mortem could be conducted. Ms C\* was the most valuable type of ‘commodity’ for the eunuch-led criminal network. She was a minor girl, around 14 or 15 years of age and of fair complexion, which made her a favorite of the customers at the brothels of Bhandup Sonapur. At the time of the operation, the joint police-civil society team who discovered Ms C\* in a hidden location met with very strong resistance from the criminal network, to the point that the police had to launch a baton charge to secure the victim and disperse the members of the criminal network, during which several members of the operational team were assaulted. The criminal network continued to threaten Ms C\*, telling her that she could never hope for life as a free person. Ms C\* cooperated with the authorities, giving an extensive statement of how she had been trafficked and the level of abuse she had received at the hands of the criminal network. One positive aspect of Ms C\*’s case was that her parents had not been involved in trafficking her and had made efforts to trace her when she went missing. In response to Ms C\*’s cooperation with the authorities, the criminal networks made two attempts, at the safe home and at the railway station, to threaten her. The team that went to visit her discovered that a key player had visited Ms C\* and her parents at their house in Tamil Nadu a couple of days before her death. Ms C\* became seriously ill and passed away abruptly after this visit. After receiving this update we realised that Ms F\* and the other victims were at high risk, as the trial against the eunuch-led criminal network was due to start any day. We set two objectives: to secure the safety of the victims who had been rescued and were being reintegrated, and to ensure that the upcoming criminal

trial of the network members was a free and fair procedure, with secure processes in place to protect the witnesses choosing to testify and a prosecutor who had been adequately briefed for the case. What we discovered in pursuing these two objectives was the extensive level of tampering and intimidation that victims faced, leading to a serious risk of loss of life, irrespective of whether or not the victim chose to testify or turned hostile to the prosecutor during the trial. The criminal networks were able to engage the service of a number of high-profile lawyers to protect their interests within the judicial system.

The presence of an extensive trafficking criminal network in the source area of Tamil Nadu was also discovered through the work done on these cases. Here, the eunuch-run criminal network worked under the cover of religious sanction. During the course of investigating the disappearance of the girls involved in the cases, I was able to identify locations associated with these criminal networks that operated under the cover of religious institutions. Linked with these locations were facilities controlled by members of the criminal network. To the outside world these facilities imparted education to members of the public choosing to live the life of a eunuch. However, having infiltrated one such location, I found that the facilities housed a number of runaway or abandoned children that showed significant levels of abuse and trauma. Though the eunuchs had been accused of regularly supplying influential power brokers with girls for sexual services, nothing was done about the facilities they ran, as, according to member of the local community, the eunuchs that controlled these facilities were politically well connected. A suspended former local police constable that had several kidnapping cases registered against him headed another such facility.

In addition to the network's political power, they also maintained a strong surveillance network that targeted certain locations, such as regional bus stands, major train stations and vulnerable communities. It is not uncommon in India, when a child is born to a family, for the eunuchs to be the first to hear, arriving the next morning to claim money in exchange for a blessing of the child. Parents often pay the eunuchs out of fear that otherwise the eunuchs might curse the child, scarring their fortune for life. This level of infiltration and intelligence gathering is often at risk of manipulation by eunuch-led criminal networks. I myself witnessed the extent of the reach of this criminal network, when on several occasions we arrived at villages in which witnesses were located, to find the witness had gone and the villagers were hostile to our enquiries. On other occasions the networks held captive the village elders and the parents of the missing victims who were then made to stand outside of the court, surrounded by members of the network. The message was clear to the victims that if they chose to testify, there would be serious consequences for their family and the community of which they were a part.

Even so, efforts to disrupt and prosecute the criminal network resulted in a decline in the number of minor victims trafficked from Tamil Nadu to Mumbai. This is shown by that fact that the number of victims rescued from the region reduced to zero (see Figure 7.2). These efforts also secured jail

sentences for the majority of the key players of the network. Twelve years on from this collaboration of a local NGO and the police, intelligence continues to reveal no presence of trafficked victims for prostitution in Tamil Nadu. Sadly, only one of the victims from the cases described above survived the consequences of being sold as a slave. Most either died of AIDS-related illnesses, having contracted HIV from unprotected sex (an additional service for which the perpetrators could charge a higher price) or as a result of successful murder attempts, undertaken to prevent the victims from testifying. Such tactics also presented a message to the victims still under the control of the networks, about the consequences of seeking freedom.

The important fact that this case study underlines is that criminal networks are today well entrenched and embedded within the communities. They have a strong hold on the community, which they maintain through bribes, fear, and violence. As is the case with most of the case studies in this thesis, the state machinery to govern security and justice, because of the way they have evolved and as a result of limited resources within a growing population, don't have the same strong links with the local community as the criminal networks do. The success of the above case was primarily due to the fact that the NGO was part of the community, and was able to act as a bridge between the community and the state. This was achieved by focusing the attention of the state on the crime within the community, by providing intelligence and evidence according to the rule of law. The NGO could also support both the state and the community to improve security and justice by disrupting criminal networks, protecting the victims, and prosecuting the perpetrators. On many occasions, this method of working gave the community a chance to take over locations of crime and convert them to offices, community centres or places of commerce.

Over the next four years I was able to work with a team from a civil society group to pioneer new techniques and strategies. On the investigative front, for the first time in the South Asia region, new surveillance technology was adopted to provide greater insight into the hidden world of the trafficking network. During these early days, such technology was often cumbersome, and it took extraordinary courage from those willing to use it to record and expose the criminal networks. One of the first things that these courageous people revealed was the myth of empowered women in prostitution, which criminal networks often propagated to perpetuate their crimes. Trusted customers would be allowed into a secure brothel, after which the doors would be slammed shut and barricaded. Members of the criminal network would then assess whether the customer was genuine, conveying a message to the people controlling the victims only if they felt comfortable that this was the case. In the event that members of the network suspected the customer of being an undercover police officer they could produce an additional four to five adults, either members of the criminal network or others kept on standby to protest the absence of any minors or forced young adults in that location. Assuming the customer was identified as genuine, the victims would then be presented before the customer, and wearing suggestive clothing and having bright, flashing lights turned on them. Once a customer had selected a girl, the victims would be escorted back to their waiting area while the perpetrators would

negotiate with the customer. Once the price, type of service, and length of time had been settled, the customer would be escorted to a room in which the victim would be supplied and exploited according to what had been determined between the customer and the owner of the brothel. In several of the investigated cases, it was clear that payment for the victim's services was taken directly by the perpetrators.

***Case Study 7.2.3: The unitary-model – Falkland operations***

Falkland Road, where most operations under the V.P. Road police jurisdiction were conducted, was notorious for having a three-tiered prostitution structure. The criminal networks controlling prostitution in the Falkland area largely catered to the low-middle and low income categories in Mumbai. This is in total contrast to D.B. Marg police jurisdiction, where the criminal networks controlling the 20 or more buildings in which prostitution is conducted, largely cater to the powerful, rich and middle-income groups. At the top end of the market were the new entrants, or girls with better looks and a fairer complexion. The second tier brothels contained victims of human trafficking whose value to the traffickers had diminished, and who had hence been moved from the lower-middle-income client group to the low-income group. Once girls lost value at the lower level too they would be thrown out onto the streets to fend for themselves. Most of these girls would have serious problems with untreated sexually transmitted diseases, or with other diseases such as tuberculosis. They would be forced to sell themselves to very poor clients looking for a great deal at rock-bottom prices. Even with these clients the girl would need to take the customer to a brothel, where she would have to share her earnings with the brothel keepers for hiring out the bed. In most of these cases, the victim would be severely ill and the client would pay a paltry 20–30 Indian Rupees (£1 GBP is approximately 84 Indian Rupees). The brothel keeper would take as much as 15 Indian Rupees for the bed, with the remaining money being barely enough for the women to pay for a single meal. During the time in which I was involved directly in operations, police officers would often tell me that it was common for them to clear as many as 25 dead victims per month from different locations in Falkland Road, transporting them to the local government hospital for post mortem and disposal, as unclaimed, unknown bodies by the local Mumbai Municipal Corporation.

Ms V\* and Ms R\* in the case narrative below were rescued from a brothel owned by Narmada, who also owned a number of Tier-1 and Tier-2 brothels. The brothel in which Ms V\* and Ms R\* were found was a Tier-2 brothel. Both girls had a diminished value to the traffickers, and so were being moved from a Tier-1 brothel to a Tier-3 brothel at the time of their rescue. Mary Ellen Mark (1981) in her photo essay titled 'Falkland Road: Prostitutes of Mumbai' captured this entire area brilliantly. The photographs depict the different tiers as described above. It reveals the caged structures known as 'Pinjra' from which many girls in this area have been rescued. It also showed obvious minors in severe distress. The muscle of the criminal network largely dominates the street. These people serve the purposes of ensuring that trafficked victims have no hope of escape; of distracting police during an operation by creating a law-and-order issue, such as a riot or demonstration; and of helping the people



controlling the brothel to take away their most valuable merchandise (minor girls), while these distractions are taking place. When this tactic fails, the pimps turn to direct threats of violence against the victims or the operational squad. Such people have the capacity to mobilise a mob of up to 2,000 individuals within minutes of an operation taking place. The mob will start with an altercation with elements of the police, throwing stones or other objects at the operational squad. Following this there is a real danger of law and order within the area collapsing.

I often find that, in areas where rampant criminality or the violation of the rule of law are tolerated, there is a tension between criminal networks and the police. Corrupt politicians often exploit this tension between the two with the aim of creating a range of effects, from instability to the collapse of the local government, in order to cater to vote bank politics<sup>25</sup>, or make inroads into new areas of influence. Civil society groups in such instances either remain silent or, in a small number of cases, choose to do something to tilt the balance in favour of the rule of law. I have witnessed a number of instances when, during a shift in approach in an operation, from tackling the crime to dealing with a law-and-order situation, members of the operational squad have started to panic. When this occurs, the cordoned-off area will often collapse and the mobs of pimps are able to surge forward and snatch away the victims of trafficking just moments after their rescue. Once the victims have been snatched by the mob, there is little incentive for the brothel-keepers to be detained, and they are released. Thus, by using this strategy the criminal network is able to protect the perpetrators and secure the lost consignment of victims. There have also been cases where, if the mob is unsuccessful at the location of the crime, they will move in substantial numbers to surround the police station, demanding that the victims of trafficking and the perpetrators are handed over to them. In such cases, operational teams have been secured in the police station to protect them, while the mob has negotiated with the police. Often the mob will eventually secure the custody of the perpetrators and the victims and, in exchange, the operational squad will be allowed to leave the police station premises.

On the 11<sup>th</sup> of January 2002, an operation was carried out which rescued three minor victims of human trafficking. One of the victims, Ms V\*, was a 15-year-old girl who, through gaps in the system and a successful effort by the criminal network, was re-trafficked back to the same brothel following her rescue. Since she was only 15 years old, and the brothel was owned by a notorious criminal network called the Narmada (after the key player), the location was targeted once again for a second search-and-rescue mission on the 2<sup>nd</sup> of May 2002, by an operational team consisting of the local police and civil society members. The operation was successful once the police broke into the brothel that had been locked and barricaded. Two minor victims, including Ms V\*, were found along with the key player of the network. During the course of the operation there was a direct threat to life, with

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<sup>25</sup> Communities dominated by criminal networks are often coerced into being captive vote banks for political leaders who partner or associate themselves with the criminal networks. The term 'vote bank' also reflect votes cast en bloc due to caste or religious affiliations.

firearms used against one of the operational squad by a member of the criminal network providing protection to other perpetrators in the area. This occurred after the minor victims and the key player were discovered in the locked-down brothel. Law enforcement members became hostile to the civil society members of the operational squad following this discovery, and it was only at the insistence of the civil society members that the main door of the brothel was broken open. Though the main door was open, there was an iron chain-link barricade that proved more difficult to break through, so the team, remaining outside of the brothel, shone a bright torch into the building. The victims were found hidden beneath the beds of the brothel, and under the control of the key player. The hostility of the corrupt members of the local police on the payroll of the criminal network present with the operational team was so overt that, on finding that their alerting system for the brothel had failed, they refused to arrest or prevent a key member of the criminal network from openly threatening the life of a member of the unitary model unit assisting the police in the operation. The key perpetrator, Narmada, was openly advised to use a hatchway in the brothel to escape. The criminal network member told Narmada to take advantage of his threat against the operational team and walk away, as no one would interfere for fear of being shot.

Eventually, pressure from a senior police officer within the jurisdiction facilitated the rescue of the two minor victims and the arrest of Mrs Narmada. To my shock and dismay however, the following day I discovered that the unsigned statements recorded by the police on the night of the operation had been doctored to indicate that both victims were adults, above the age of 18, and that they were engaged in prostitution willingly. The intelligence we had on one of the minor victim, Ms V\*, who had been rescued in the previous operation, clearly indicated that she had been forced into prostitution and that she had been medically verified as a minor girl. Ms V\* found herself back in the brothel due to a concerted attempt by several criminal networks controlling brothels to ensure that a number of minor victims of trafficking, who were being kept at an unsecure safe home location, were trafficked back into the networks' custody. They achieved this by bribing staff at a local safe home and ensuring that a message was conveyed to the victims that at a certain date and time, the security at the safe home would be relaxed and the minor girls should run to an unmarked van close by that would bring them back to the brothels<sup>26</sup>. This problem was later solved by civil society efforts to fund, build and maintain fencing around the entire government safe home location, and to provide the home with round-the-clock private security.

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<sup>26</sup> Given the extent of the influence and infiltration of the criminal networks within the care and protection systems, the victim often has no choice but to cooperate with the criminal networks and get out of the safe houses. If they do not obey the instructions the criminal network often have a range of options, from blackmailing them, threatening to kill them, threatening to harm their family members, and threatening to use the connections within the criminal justice system to get the victims released back into their custody and then add the cost of releasing them to the victim's continued debt burden.

During the period after Ms V\* was re-trafficked from the government safe home, a customer slashed her face at the brothel. Ms V\* recovered well in the government safe home where she received legal aid, counselling and social work support. She was later reunited with her mother and at the last report, was doing well. According to Ms V\*'s statement, she was trafficked when she was just ten, by her lover/husband<sup>27</sup> and sold into prostitution for between five and six years before civil society members were able to bring her case to the attention of the police, and rescue her, not once but twice. Civil society members were also able to support her as she reintegrated back into society.

I had the honour of representing both Ms V\* and Ms R\*, as their lawyer in the prosecution of the criminal network members. Ms R\* had been trafficked by relatives of the key player of the criminal network, Mrs Narmada. A successful tactic adopted in this case was the use of signed statements, written by the victims in the presence of a government social worker, which were then presented to the police. They had to accept the signed statements, as in Indian law they are superior to the unsigned statements of the victim, recorded by the police. These unsigned statements were those that had been doctored, as described above. We were then able to work with the prosecutor of the case to ensure that more serious charges could be brought against the key player. The success of the case was the result of Ms R\*'s courage in proceeding under police escort, to identify her traffickers. This was the first time that something of this nature had been attempted in human trafficking cases in South Asia, operating through a joint state-civil society framework. The courage of Ms R\* during the trial secured the conviction of all perpetrators in the criminal network. The key player was sentenced to ten years' rigorous imprisonment and, in addition, was fined, and the traffickers were sentenced to serve three years in prison and were also fined. This was the first case of its kind where an entire criminal network trafficking minor children was successfully prosecuted. In all, five perpetrators were prosecuted in the criminal case, including Mrs Narmada, the key player in the network and the landlord of the brothel. While this sub-group was part of a larger criminal network, it was the first time that the police, prosecutors and civil society members had worked together to turn around a case that was on the brink of failure at its start, because of the initial refusal of the police to rescue the minor victims, and the intentional filing of the false, unsigned statements of the victims at the police station immediately after the conclusion of the operation. The trajectory of the case was changed by the cooperation of a sensitive senior police officer, and a public prosecutor who welcomed the support of the lawyers on behalf of the victims, acting in a pro-bono capacity. Together, they were able to make the case, one that was a landmark in India. The victims have continued to prosper and are, today, reintegrated members of society. Ms R\* travelled, by invitation, to the US to give her

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<sup>27</sup> Trafficking of a child or a minor girl by a trafficker is often undertaken under the guise of a marriage. In the West this is called a 'lover boy' tactic or sexual grooming. In India it is cultural more acceptable if the girl is seen as being married while she is being trafficked. Even though child-marriage is illegal in India it will still not raise many eyebrows from the general public if a 13–17-year-old girl is seen travelling with a man whom she, by a cultural ritual, considers to be her husband.

testimony to members of the US government, business groups and others who have used their influence and resources to support countries such as India tackle the problem of human trafficking.

One other case that occurred during 2002 highlights the complexities of tackling human trafficking. The first operation was conducted on the 11<sup>th</sup> of April 2002. In this case, two victims of trafficking were rescued. One of the victims, Ms S\*, during a routine medical check-up was counselled regarding her infection with HIV, and the medical support available to her to help her cope with the illness. She was so angry and bitter about having contracted the virus that she made it her life mission to infect as many men as possible with the illness, as a form of revenge for what had happened to her. Her determination saw her secure her release from the government safe home and re-enter prostitution with a goal to secure her revenge. All of the support, care and counselling was unable to protect her from the choice she made to re-enter prostitution, this time willingly, and have unprotected sex with the intention of spreading HIV as widely as possible. Her perception was that her life was now over, and what time she had left she would dedicate to ensuring that others had the same fate.

#### **Case Study 7.2.4: The unitary model – Kamatipura**

An operation was conducted in Kamatipura on the 25<sup>th</sup> of April 2002, and seven victims of trafficking were rescued from a brothel. One of these victims, Ms N\*, was 15 years of age, beautiful and fair, making her a valuable commodity to the criminal networks controlling prostitution in the brothel. I remember the case vividly, 13 years on, because of the aggressive manner in which the criminal networks attempted to retrieve Ms N\*; they were less interested in the arrest of fellow members of the criminal network, than they were in getting Ms N\* back into their custody. The case was unique with regard to how much the rescued minors were able to disclose about their circumstances and how they came to be trafficked into Kamatipura. The victims were also quite clear that the criminal networks would go out of their way to retrieve them, because of the victims' value to the criminal network. One local NGO offered a secure facility in which the victims could stay. The facility was outside the jurisdiction of Mumbai, in an area called Turbhe. Turbhe is a plot of land, covering a couple of hills in an area called Navi Mumbai (New Mumbai). It is completely deserted but adjoins the highway leading out of Mumbai. Because Mumbai was reaching the limits of its development, Navi Mumbai was earmarked as a new area of development, to alleviate the pressures on the growing city. The problem was that Navi Mumbai had never benefitted from the law enforcement resources that Mumbai had; police stations there had a rural policing mind-set. As such the area was ripe for an explosion in criminal activity.

There remains this flaw in Mumbai today, where areas surrounding Mumbai, in which aggressive development is taking place, are not provided with adequate law enforcement resources or infrastructure. This problem is compounded by the fact that for years, because of intense law enforcement activity in Mumbai itself, many criminal networks have based themselves on the outskirts of Mumbai, where they are able to establish themselves and operate with impunity. To make

matters worse, when dealing with corruption within the police force the easiest solution for a supervising officer is to make the problem go away, by suspending the corrupt officer and, as a matter of disciplinary activity, transferring them from urban to rural areas. As most of these errant police officers have families based in Mumbai, they have generally been transferred to the outskirts of the city, to places such as Thane and Navi Mumbai. This has inadvertently made these locations a place in which hardened, profitable criminal networks and corrupt police can thrive. Over the years the local state government has tried to correct this problem by posting non-corrupt police officers in this area, those with a good track record in countering corruption. While this has resulted in some progress since 2010, the criminal networks are well entrenched in these border areas of Mumbai, and there needs to be a more determined effort by all stakeholders (i.e. police, courts, politicians, and civil society groups) for long-term change to be seen.

In the case of Ms N\*, my error was that I did not personally check the facility in Turbhe. While the facility itself was good, it was on the outskirts of a new, large and developing red-light district that had strong connections to its counterparts in Mumbai. The courts passed orders for the girls to be transferred to this safe location, as most other options within Mumbai were deemed to be unsafe. While transferring the girls to the location, we discovered, to our horror, the proximity of the safe home to this emerging red-light area. What shocked me in particular was the number of minor children that were seen overtly soliciting from these brothels. We determined that we would transfer the three minor victims to another, yet to be confirmed, facility the very next day. In those days, as it is even today, it is incredibly hard to find the right facilities for victims of trafficking. While the number of facilities has increased, they are all disjointed – not integrated with one another – and do not reach out to those most in need. Also, even with the increase in facilities, those that do exist do not meet the demand for such facilities. The government of India has instituted central and local funds for the development of these homes but the distribution of these funds is so corrupt that currently only 60% of the allocated grants is used for the homes. In most cases, the administrative costs and the time that each civil society organisation has to put into getting these grants, make them ineffective at achieving any impact. The principal reason that any civil society group even accepts these grants is to tick a box with international donors; when these donors ask about local government participation and self-sustainability, the NGO can state that they have local government buy-in through the receipt of these grants.

The next day I went back to the operational base with the intent of creating an application to transfer the three minors to another facility. I was hoping that we would be able to keep moving them from location to location until the pressure from the criminal networks died down, and we could find a longer-term facility where the girls could settle down, recover and focus on their rehabilitation and reintegration. I was nervous throughout the night, as there had been a storm the night before, and I was hoping that all was well and that the children were safe. To my horror, I received a phone call in the morning to say that, because of the storm, the staff in the safe home that had been focused on

safeguarding the facility and on preventing it from being damaged. The minor girls, including Ms N\*, had joined the staff in protecting the facility. They were all exhausted by the end of the storm, and only settled down to sleep between 2am and 4am. It was during this time that the criminal networks struck, kidnapping the three minors. The staff of the home told us that at around 6.30am in the morning they discovered that all three girls were missing, with their clothing and other property left intact. Further checks showed that one of the back doors to safe home had been broken open. We did our best to try to trace the girls but to no avail. In some ways I think the victims in this case were more pragmatic than we were about the fact that the criminal networks would not let them be until they had exploited the full value from their lives. It's possible that they felt it was wiser to make their peace with the criminal networks and to let themselves be exploited, considering this their inescapable destiny. The positive aspect of the case was that, by sheer accident, we discovered an emerging zone for prostitution that the criminal networks had developed. The sheer numbers of minor girls sold into prostitution in this area highlighted that, prior to being sold in Mumbai, it was on the outskirts of the city that they were being held and broken, before being transported into Mumbai, when law enforcement activity in the city had eased off and the criminal networks could most safely resupply any lost stock. This case study is another example of how deeply embedded criminal networks are within the community, and how interconnected they are. It highlights the fact that criminal networks are not limited, in the way that police and courts are, to the concepts of jurisdictions. It also highlights how the state governance systems often seem outside of the local communities, in which the criminal networks are embedded, both geographically as well from an intelligence perspective.

#### **Case Study 7.2.5: The unitary model**

A few weeks after completing work in Kamatipura (see Case Study 7.4), a new location came to our attention. This location was known as the Santa Cruz unity compounds, and was a stone's throw from the famous Juhu Beach in Mumbai. Santa Cruz is a suburb in the west of Mumbai. The community principally consists of people working in the film and media industries, and in the business community, along with large pockets of people living in low-income housing. The 30 brothels in the Santa Cruz unit compound largely hold between 15 and 20 victims each, catering to the upper-middle class and the rich communities of the area. Each of the brothels were deeply embedded within the community at that location, so that one house might be a brothel and the house next door could be a regular upper-middle-class house next to the beach. This made any searches of the location very tricky. The other key aspect of this location was the presence of sophisticated hiding facilities in each of the brothels.

Male perpetrators controlled all of the brothels. The criminal networks had other locations nearby, within low-income areas, to which the girls would first be brought. Here the girls would be brought to be prepared for prostitution, through the brutal and focused raping of them, the act of which would be used to blackmail the girls into accepting a role in prostitution. Interestingly the locations in which the rape would take place also housed the families of the perpetrators, so that when the victims were first

brought there, they felt a degree of safety. It was only later, during specific times of the day when the children and women would be taken away, on the pretext of school or work, that specialist members of the network would come in, as a relative of the family, and rape the girls. The family would then come back to console the girls, so that the neighbours would not be alerted. Within hours of the action, the now broken girls would be transferred to the brothel at the Santa Cruz unity compound.

Girls trafficked into the sector were initially labelled as ‘seal pack’, meaning that the girl was untouched and came with a doctor’s certificate stating that she was a virgin and free from HIV<sup>28</sup>. The criminal networks would command the highest premium from customers who wanted the first act of sex with the girl, and there would be a huge celebration within the criminal network, following this act. After this, the girl would be labelled under a second category, ‘virgin’, which generally meant that she had been with between three and five prior customers. The cost for these girls would be lower than for a ‘seal pack’ victim. The next category was ‘item’, which generally meant that while the girl had been engaged in the sector for a few months already; she still had value for her beauty and figure. The criminal network might also use the term ‘new stock’ to refer to girls just received from another brothel connected through the criminal network. Such girls might have been exchanged or circulated from these other brothels to increase the girls’ profitability and the range of girls available for regular customers. A girl whose value to the networks was coming to an end, would often be used for a few days more, as ‘cheap items’, before being forwarded to brothels that catered to a cheaper clientele.

We discovered the brothels in the Santa Cruz unity compound completely by accident. One evening in July, a couple of us were returning from the local court of the D.B. Marg area, known as the Girgaom Court. This was the court that handled all matters from the V.P. Road and D.B. Marg police jurisdictions. As we were walking we were approached by a pimp who assured us of the availability of young minor girls in the brothel. What we discovered was a brutal brothel, for which the same method described above, of raping and abusing victims before they were introduced to the brothel, was used. This brothel catered to the lower end of the middle-income group. The minor that we saw showed signs of severe abuse and desperation. As a result of being shown this brothel by the unsuspecting pimp, we launched an operation on the 29<sup>th</sup> of July 2002, in the Kennedy Bridge area of the D.B. Marg police jurisdiction. During this operation, eight victims were rescued and two perpetrators arrested.

Among the eight victims of sex trafficking that were rescued, one was a victim called Ms D\*. Ms D\* told in her statement how she had been trafficked to Mumbai and sold to a brothel in Santa Cruz, along with her cousin, Ms M\*. Later, Ms D\* was able to go in disguise, and under police escort, to

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<sup>28</sup> Regular clients will pay a high premium for a girl who has not had sex with any other man. The criminal networks will produce a fake certificate from the doctor certifying that she is virgin and had not contracted the HIV virus.

show us the main location of the brothel and the location in the community, to which she and her cousin were first brought and broken, before being inducted into the brothel. On the 3<sup>rd</sup> of September 2002 we were able to identify a senior police officer within the jurisdiction that was upright and willing to implement the rule of law. An operation was conducted later that same day, leading to a general alert in the area. The moment the operational team reached the location the brothel was shut down and the lights were switched off. The normal process when this happens is for the corrupt elements within the police to delay the opening of the main door of the brothel, on the grounds that the brothel is closed and non-functional, or that it is a residential location with no one currently at home. A battle of wills commences in such circumstances, as the corrupt elements will continue to insist that the brothel is shut/non-existent, and the upright elements insist that this premise is incorrect and that the victims are still present inside the brothel; it is only the customers who are absent. Having a daring senior officer, who is not corrupt, as was the case here, tips the balance and the police will break open the door. Even so, the discussion alone can give the perpetrators sufficient time to place the victims in sophisticated hiding places. As we opened the door there was no sign of anyone in the first few rooms. There was proof of the room having been recently used, in that lots of footwear had been left there in haste. A couple of perpetrators were found, who, upon questioning, disclosed nothing. However, in one room, after removing the television from a wall cabinet, a false cavity in the wall was revealed. On uncovering this false cavity, we found that it led to a grill that, when broken, opened into a room in which 13 victims of trafficking were found. These victims had been locked up behind this iron grill, with no way of escape. Among those rescued was Ms M\*, the cousin of Ms D\*. The police charged two of the perpetrators, as a result of accusations by the victims.

The challenge in these cases is not just to rescue the trafficked children and girls but also to fend off attempts by the criminal network, at each stage of the legal process, to use their influence to disrupt the prosecution case against them and retrieve the consignment of victims. In this case, when it became clear that the victims had been found, corrupt police officers embedded in the operation became hostile, telling the civil society members to leave the operational squad. Following this, ten of the victims were released directly from the police station, with only the three girls, who were suspected to be children, sent to the safe home. The evidence on the police charge sheet disclosed the presence of 13 victims in the hiding place, but the version produced in court said that only three underage girls were found. The positive aspect of the case was that the local magistrate was not corrupt and was keen to implement the rule of law. This gave us a key ally within the system to support the non-corrupt senior police officer, who himself was a rarity within a police force in which most others were either under the influence of, or part themselves of, the criminal networks.

Another case within this area came to our attention when we received a request for help regarding two missing young girls from Eastern India. It was suspected that these girls had responded to an advertisement for medical support staff in a local nursing home in Mumbai. After the girls disappeared, concerned members of the family contacted us with the last contact details that they had



for the girls. On investigating this, we discovered, firstly, that the addresses and phone numbers belonged not to a medical nursing home but to a high-end brothel; and, secondly, that the brothel was in the same area of the Santa Cruz unity compound, and managed by the same key perpetrators, as the brothel from which Ms M\* had been rescued. Prior to my studies at the University of Edinburgh, my understanding of these as gangs would have been similar to the common rhetoric at a police station. We suspected them to be individual gangs with little or limited connection to one another. We often saw corruption as a separate issue, involving a different set of people, rather than an extension of the criminal network into the state. Now, after five years of broadening my understanding about the criminal networks, the potential of, and the need for state and civil society partnership, and the role of institutional failures in the growth of human trafficking, I have a clearer picture of what was happening in this case. What I now see, is that this case involved a criminal network led by a man called 'Sosva', a suspended police constable who had found the business of trafficking for prostitution so lucrative that he crossed the line of corruption, to the point that his job within the police force was untenable. It was because of his past links to the police that he enjoyed such a close relationship with everyone at the police station, baring the police officer in charge, who had been brought in to counter the corruption there. It was often a lonely battle for this senior police officer, though the partnership he had with members of civil society, determined to work within the system, enabled him to dismantle the criminal network in this entire location.

The first attempt to save the two girls who had been trafficked under the pretext of employment as nursing home staff, took place on the 23<sup>rd</sup> of January 2003. This first operation was unsuccessful; the brothels were emptied and the girls were seen strolling along the beach under the watchful eyes of the pimps and brothel managers. This was one of the most fascinating examples of how embedded perpetrators can become within a community, and how well they can blend in. As usual, the criminal network's alerting mechanism was outstanding. From the moment we reached the police station, they were aware of our plans and, as a result of this head start, they were able to ensure that any customers left the premises and that the location was closed down. They realised that even the sophisticated hiding locations within the brothel would not be sufficient to protect their consignment of victims, and decided to remove them from the brothel and take them to the local Juhu Beach. The beach was crowded with local tourists, as it is a popular location to visit in the city. At first sight the girls appeared free, with no perpetrators around, but gradually it became apparent that there were adult women controlling the minor girls and holding mobile phones in their hands. A few yards away we saw familiar faces identified during investigations into the pimps and brothel manager, who were acting as shepherds, choreographing four to six separate groups of minor victims. I myself saw how, once the operation had been called off, one of the perpetrators received a call. The perpetrator was just a few yards from where we were sitting, as they were unaware that we were part of the operational team. On receiving the tip the perpetrators started calling to other men and to the women controlling the girls. I could see them converging and slowly being led back to the brothel. When we attempted to

verify if the brothel was functioning once again, the perpetrators refused to entertain any customers and quickly dispatched enforcers to physically threaten us and chase us from the area.

On the 28<sup>th</sup> of February 2003 we made a second rescue attempt. Once again, we engaged with the senior police officer responsible for the Santa Cruz police station. We agreed not to meet at the police station but at a separate location near a hotel called the Hotel Sea Princess, near Juhu Beach at 6.00pm to carry out the operation. At around 6.30 pm the joint operational team entered a brothel in M. K. Palace, in the unity compound. As expected, despite taking substantial precautions, we found only two men in the brothel; there were no girls to be seen during our initial search. During interrogation, the men told us that they were cooks and cleaners working at the address, and that no girls were present in the house. We knew this not to be true; having undertaken surveillance at the location several hours prior to the operation, we had seen that the girls had not been taken out from the location. We had also seen two plainclothes police officers coming to the location to give them an alert, prior to the operation. As such, we knew that the perpetrators had not had sufficient time to remove the victims from the location, because of the paucity of time available to them. We were aware that they would have had to use sophisticated hiding places to secure the victims. After ten minutes of searching, we found that a bed in one of the rooms was slightly out of place, having been hastily moved. On moving the bed ourselves, we located a trapdoor beneath, which led down two steps into a basement room with seating space for five people. Eleven young girls were found squeezed into this hiding place, one of whom had fainted, as there were no vents for air in the hiding place. The girls were weeping and shivering as they were brought out. The rescued girls told us that they had been herded into the basement room to hide an hour prior to the arrival of the raid team. They also stated that a few of the younger girls had been taken away from the brothel at the same time to an undisclosed location. They stated that they had, at many times in the past during police-led operations, been forced to spend long hours in the room, where some had fainted from lack of air. The rescued girls told us about the owner of the brothel who employed Raju, alias 'Pudina', who ran the prostitution business for the owner, and was the key enforcer and manager of the brothel. Raju, under instructions from the owner, purchased the girls and brought them into the brothel. He also carried out all of the transactions with the customers and handled the finances of the brothel. Raju lived in the brothel itself, and employed three men, who worked as assistant managers and also lived within the brothel. These three men doubled up as pimps, managing the customers who visited the brothel.

In addition, those engaging exclusively in trafficking supplemented the perpetrators at the brothel. One of the rescued girls told us that she had been trafficked from Hyderabad, Andhra Pradesh, by a man named by the alias Sikandar. Another two of the rescued girls were sisters from West Bengal, who had been trafficked by Mintu, the husband of their older sister, who brought them to Bombay separately and took them to a house in King Circle, Mumbai, where he lived with them and a friend, before selling them to Raju. At the police station, following the operation, the girls started sharing their stories in one-to-one conversations with members of the operational team. Seven of the 11 girls

said that different traffickers had sold them to the brothel manager. The remaining four girls were girls who had formerly worked in lap dancing bars, and who had been lured into prostitution by Raju by the promise of earning more money. All of the girls were very relieved to be out of the brothel and none wanted to return. Two of the girls were found to have cigarette burns on their arms. We often found that victims were forced to smoke cigarettes and raw tobacco by the criminal network, with the aim of getting them addicted and dependent on the criminal network for future supply.

During the course of this operation we discovered that the criminal network had planted four of their member among the 11 rescued victims in an attempt to control the other victims at the police station, the courts, and the government homes. These women's job was to ensure that the victims didn't cooperate with the police or with the members of the unitary unit. They would goad the victims to refuse care and protection from us at every stage of the process. It was critical that these moles were identified as quickly as possible, as removing them might mean the difference between life and death for the remaining victims. In such cases, once the moles are removed from the group, the condition of the remaining girls improves remarkably; they grow in trust for those attempting to help them, and are able to make free and fair choices regarding their future.

One of the main challenges I faced in this case occurred on the day following the raid, when the criminal networks engaged an influential and leading local lawyer to defend their members in court and to attempt to appear on behalf of the victims. The local public prosecutor was ineffective, and under the influence of the lawyer engaged by the criminal network. This fact was recognised by both magistrates before whom the matter appeared; they proceeded to grant me the authority to represent an independent legal opinion, as an advisor or duty counsel to the government shelter homes of trafficked victims. One of the first arguments in court centred on the bail application of the arrested persons. The lawyer representing the perpetrators made impassioned arguments, stating that the accused were innocent bystanders, and had simply been walking along the road towards the beach when the police arrived. The prosecutor chose to state that he had no objection to bail being granted by the magistrate. When it came to my time to present arguments, I talked about the missing persons report relating to the victims trafficked under the guise of getting jobs in nursing homes; the horrific conditions under which the victims had been found; and the statements of the seven victims, all of whom had stated how they were trafficked and sold into the establishment. I talked about the four women who had been placed as moles within the group, and why it was critical to separate them from the genuine victims to ensure the latter group's successful rehabilitation and reintegration. On placing these facts and the evidence before the courts, I saw a puzzled look on the face of the magistrate. It dawned on us both that there had been an elaborate attempt on the part of the criminal network and their members embedded within the criminal justice system to ensure that there was no mention of the horrific conditions within the hiding place in which the seven victims had been found. Furthermore, also presented before the court were unsigned statements indicating that all of the girls had been engaged in prostitution willingly. These attempts were easily thwarted by showing the magistrate the

photographs taken during the operation, and by having the seven victims confirm the photographs as having been taken at the location from where they had been rescued. We were able to produce the girls before the magistrate, and they themselves informed the judge of the conditions from which they had been rescued, and how they did not want to return to the brothel. The entire court came to a standstill to hear the argument between the lawyer for the criminal networks and myself, in my capacity as legal counsel for the operation, representing the seven victims. In the end, bail for the perpetrators was denied, the four moles were separated from the seven victims, and the lawyer for the criminal networks was not allowed to represent both the accused and the victims. After medical examination, two of the seven victims were identified as children. The two successful operations mentioned above on the 30 brothels in the area, accompanied by an order to close down the locations where children had been sold, had a massive impact. When you drive through this part of Mumbai today, the entire area has been demolished and there is no further trafficking of children for prostitution taking place there. It is now mainly used for housing and retail.

***Case Study 7.2.6: The unitary model – D.B Marg***

As part of casework relating to the D.B. Marg police jurisdiction, we conducted an operation on the 9<sup>th</sup> of August 2002 that would strongly impact many of us within the operational team, and that would give the police a greater awareness of the circumstances in which victims of trafficking can often find themselves. We received intelligence of the presence of a 15-year-old victim of trafficking, Ms M\*, who had been sold into a building known as the Joshi Building. On receiving this intelligence, we launched a rapid operation to save Ms Y\*. While we were certain that this intelligence was correct, having verified that Ms Y\* was present in the brothel prior to our targeting it, we were unable, on conducting the operation, to find her, despite our best efforts. We realised that something was not right with the topographic intelligence we had of the building. Two of our colleagues decided to make one last attempt to save Ms Y\*. While the rest of the team left the area, these two stayed behind, in an attempt to identify if the victim was still present, once the rest of the team had left. We decided that, if the two team members were able to find the victim, one would secure her by taking her into one of the rooms in the brothel, while the second person called both the police and the rest of the team. This way, any internal mechanism used by the perpetrators to remove Ms Y\* before the operation began would be foiled. This plan was played out successfully. One of the operational team was able to identify and secure Ms M\*. Once he was safe with the victim in one of the rooms of the brothel, he bolted the door and sent out an alert. Immediately the second team member contacted us and the local police station to confirm that the victim was secure. We mobilised our entire team and proceeded towards the location.

The amazing fact about any well-connected criminal network is how quickly they are able to intercept, analyse and interpret intelligence. Even the act of just one of our team visiting the police station to inform them about the presence of the minor child, resulted in an alert being sent to the targeted brothel in the Joshi Building. As a result, the perpetrators within the brothel asked all outsiders to evacuate the brothel, to enable the criminal network to secure the victims before the operation took

place. The perpetrators knocked upon the door of the room in which both the minor victim and the undercover member of the operational squad were located. Finding it locked, and with the police being slow to mobilise their staff, the perpetrators were able to break down the door and take both the minor victim and the undercover member of our team prisoner. When the police finally reached the brothel, along with the second member of our team, the main door of the brothel was locked. Because no one from inside was responding to the attempts to open the door, the police refused to break it open. This gave the perpetrators a significant amount of time to hide the victim and our undercover team member.

On being unable to access the brothel, the police returned to the station and refused to do anything further. Meanwhile, the rest of the operational team had arrived. We had no way of knowing what had happened to our undercover team member, and so feared the worst. In our desperation, we successfully managed to mobilise the police team to respond again, leveraging connections higher up in the police force to put positive pressure on the police to act. This time the entire operational team, along with the police, reached the location and mounted a search of the whole building. After five hours of searching the location we were still unable to find Ms Y\* and our undercover colleague. It was in the midst of giving up hope that one member of the team happened to lean on a mirror at the same time that one of the perpetrators opened the latch behind it to see if the coast was clear. On realising his mistake, the perpetrator immediately tried to close the hidden door but it was too late; we were able to rescue two minor girls and the police were able to arrest the perpetrator. Our undercover team member was found tied and gagged, but safe; he had kept his cover intact until the end. The perpetrator had suspected that he was merely a zealous lover of the minor victim and had no clue that he was in fact part of the operational team. The operation opened the eyes of the police; as for the first time they were able to see for themselves the extent to which the criminal networks would go to ensure that their consignment of victims was not recovered. The police saw, too, that the minor victims had been kept in a small space, under the control of the perpetrator for more than five hours.

This case shows how state-civil society partnerships are able to go the extra mile in unearthing criminal activity within a community and, more importantly, in rescuing and safeguarding the victims of human trafficking. For both the victims and the perpetrators this can come as a shock, as the victims are used to members of the community coming to rape them for money; and the perpetrators are used to having members of the community as their client base, and the police on their payroll. Previously, the networks had been used to civil society action against them being restricted to one-man crusades, which might see the rescue of victims but which would be unlikely to impact them significantly. To see an organised state-civil society effort to rescue and safeguard victims, and dismantle the criminal network came as a shock. Such an approach remains today one of the best ways of effectively tackling human trafficking, if undertaken according to the due process of law, with the aim of building the rule of law and improving existing state institutions, through a process of committed engagement and support.

### ***Case Study 7.2.7: Successful prosecutions***

During the period between 2002 and 2004, there were a series of successful and pioneering convictions of criminal networks in which the organisation for which I worked directly assisted. In the first of these cases, a victim, Ms B, was rescued on the 21<sup>st</sup> of November 2000, from a brothel in Central Mumbai. She had been trafficked from a village in Central India where the trafficker had used her position as the mother of a local teenage girl to befriend her daughter's friends. One evening the trafficker invited Ms B\* over for a meal, along with the trafficker's own daughter. Ms B\* unsuspectingly accepted the invitation having grown up with the trafficker's daughter as a close friend. The trafficker drugged Ms B\*'s meal and when she woke up, in a semi-drugged state, she found herself on a train to Mumbai. She only fully regained consciousness in a brothel, after she had been sold to the perpetrator. Ms B\* was brutally raped by customers for ten days before a team, consisting of civil society and police members, located her. One of the first tasks undertaken was to ensure that Ms B\* had a clear plan of care with the local Child Welfare Committee (CWC). She was able to continue her education, which had been disrupted by the trafficking, in a secure location that had an in-house school and could offer her special support. This plan of action was put together after a detailed assessment had been conducted on the impact that the trauma of trafficking had had on Ms B\*. We were able to regularly visit her and, under advice from both a social worker and a counsellor, were able to brief her about the court procedures surrounding the upcoming trial. She had an opportunity to, under police protection, visit an unrelated court to prepare for facing the perpetrators. Ms B\* also had a lawyer representing her interests in the court during the trial itself. This triple layer of protection, of a safe and nurturing environment at the safe house, secure transport to the court, and support from a social worker and a lawyer during the trial, gave Ms B\*<sup>29</sup> the confidence to seek justice over her ordeal. During the case the perpetrators, assisted by the defence lawyers, attempted to delay the case and intimidate the victim. Despite this the judge stood firmly by the victim. In court, Ms B\* understood that she was protected, and testified truthfully and without fear, resulting in the perpetrator being sentenced to ten years in prison. In addition, the criminals involved lost their assets (both the brothel and the alcohol store) through the criminal prosecution. Ms B\* was provided with support even after she turned 18 and left the safe home. She was supported through advanced stages of reintegration where she received mentoring, and was supported in sharing an apartment with other girls with similar stories who also were seeking to be reintegrated into society. The last update I received regarding Ms B\* came before commencing this PhD; at that time Ms B\* had started working at a ladies hair salon.

The second successful and pioneering case in which the unitary model directly assisted was the first conviction of a trafficker since the start of the unitary model. In this case, Selima Jani Sheikh, a 22-year-old, trafficked her 12-year-old neighbour into the same brothel that she herself had been

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<sup>29</sup> \* Name changed to protect identity

trafficked several years previously. This case highlighted that the period during which a victim of trafficking for prostitution is of value to the traffickers is over by the time she turns 21. As Selima's value decreased, she managed to survive only through becoming a trafficker herself, tricking her 12-year-old neighbour, and selling her to Radha, the brothel owner. This case raised the challenge of dealing with a former victim, who remained enslaved, eventually becoming a trafficker. Selima became a trafficker through coercion from her brothel-keeper, but by doing so, perpetuated violent abuse herself on other younger victims. Criminal networks use former victims in a 'good cop, bad cop' routine, where they lead former victims to become violent with newly trafficked ones, presenting an opportunity for brothel keepers to come in and befriend the new victims. By doing so, the brothel keepers hope to gain the new victim's trust and get them to share important information, regarding plans for escape in particular. The case was successfully concluded – a historic conviction in that geographic region – with Selima sentenced to seven years in prison. It was a day of mixed emotions, of jubilation about the conviction, yet deep sadness that Selima had resorted to this crime when she herself had been a victim who had not been rescued.

In another case study, Ms S\* was trafficked from a remote location in Central India to Mumbai, by her lover. The lover purposefully abandoned Ms S\* at a major railway station in Mumbai where, being terrified of the big new city around her, she allowed herself to respond to the kindness of an elderly gentleman by the name of Abdul. Abdul approached her and offered Ms S\* shelter for the night, assuring her that he would help her to return back to her home. She was instead sold to a criminal network that specialised in trafficking children and young girls to the Middle East for prostitution. While they prepared the paperwork for Ms S\*'s travel to the Middle East, they also hired her out to high-paying customers in Mumbai. Ms S\* showed extraordinary determination in winning the trust of the criminal network and was soon allowed the freedom of taking clothes to the local launderette. She used this opportunity to run to a local police station. Fortunately for Ms S\*, there were local journalists at the police station that day, who assisted her and referred her to our organisation. We were able to work with the police and social work agencies to build a strong and credible case, and soon immediate members of the criminal network were arrested. We were able to secure a good witness protection and long-term reintegration plan for Ms S\*, and she was able to testify with boldness and confidence. All five members of the criminal network were sentenced to varying degrees of imprisonment and more importantly, an arm of the criminal network specialising in trafficking victims to the Middle East was disrupted. Each case like this provided us with deeper insight and understanding into how traffickers and these networks operate.

#### **7.2.7.1 Challenges faced while working under the unitary model**

There were a number of gaps within the unitary model that needed to be addressed. The criminal networks were increasingly able to counter the style of operation used in the unitary model. They developed and used a sophisticated, area-wide early warning system to alert them of operations taking place in the areas in which they were based. This system had several layers: a basic alert originating

from the police stations within the jurisdictions in which they operated; alerts from specialist law-enforcement units tackling human trafficking; and methods to counter operations undertaken by top-ranked police officers who did not use the jurisdictional police stations or special police units. Their surveillance extended to mapping civil society groups using informants and investigative research focusing on the civil society groups' key staff members. At one point two ledgers were recovered from criminal networks (one of which has been featured within this research, in Chapter 6.6.7; the other remains too sensitive to discuss here). These ledgers showed the level of criminal-network infiltration within the criminal justice system. Towards the end of the use of the unitary model, the situation worsened with success ratio of operations reducing to one in five. The second gap within the model was the poor focus on witness protection and the aftercare of victims. The focus instead had been purely on the number of victims rescued. Significant efforts were made to improve the infrastructure of safe homes, however, towards the end of the use of the unitary model, the success ratio for care and protection of victims during the 90 days after their rescue remained as low as 36%. The 36% represented the percentage of children and young girls that continued to remain safe at various safe locations with the community or where united with their parents that were vetted as safe. This statistic highlighted the context of aggressive resistance by the criminal networks to destroy prosecution cases and to get the victims back. The third gap was the inability of those working with the unitary model to disrupt or successfully prosecute the entire criminal network, as the focus was largely on the destination locations rather than the entire breadth of the criminal networks' operations. Even at destination locations the hidden arm of the criminal networks (their sources within state and civil society systems) and the networks' key players, remained, with some exceptions, largely intact.

In addition, increased funding as a result of the successes of the unitary model led to a shift within civil society groups to mimic the state in their recruitment, staffing and organisational structure. The preference was to recruit experienced personnel working from within different arms of Western governments. This resulted in greater control but a loss of indigenous talent, and of the partnership of experts from both East and West. As a result, the unitary model evolved into something more like an arm of the state than a pioneering anti-trafficking agency. Out of this evolution came the departmental model of tackling human trafficking (discussed in Chapter 7.4). The decision of the US government to invest substantial sums in tackling human trafficking also resulted in several experts, including those who had adopted the unitary model, coming together to design the multiagency model, featured in the next sub-chapter.

### **7.3. The multi-agency model of tackling human trafficking**

#### ***7.3.1 Introduction***

In 2003 and 2004, the US President, George Bush, allocated a \$50 million (USD) development grant to eight countries in which the problem of human trafficking was chronic (see Chapter 2, literature review). A significant portion of this grant was directed to regional initiatives in South Asia. I was part of a team of specialists brought together from different organisations to develop a strategy to



tackle the problem in Mumbai. I was also later engaged as the project manager/technical specialist, tasked with developing further, and implementing, a similar strategy in Goa. The strategy in Mumbai revolved around bringing together different stakeholders under three categories: the state (the police, judiciary, and social work departments); NGOs; and existing and potential donors. The three categories were brought together under the headings ‘Prosecutions’ and ‘Aftercare’. Prosecutions were divided into sub-categories of research, legal advice for victims, and training. Aftercare was divided into sub-categories of psychosocial support for victims, educational support, vocational training and employment, healthcare, and infrastructural development.

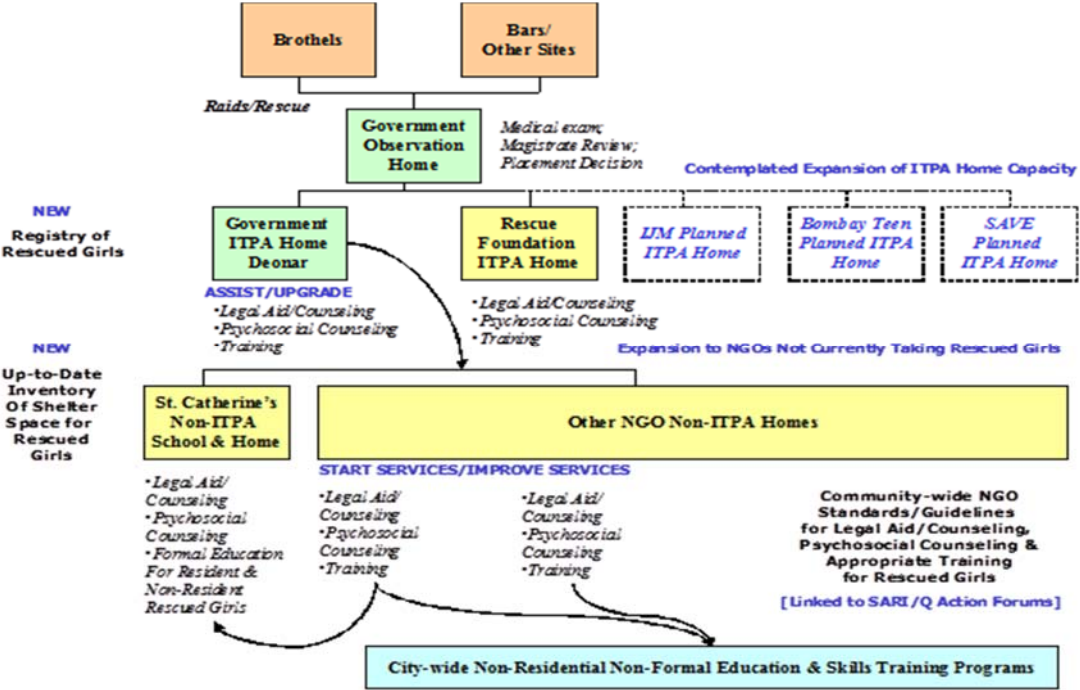
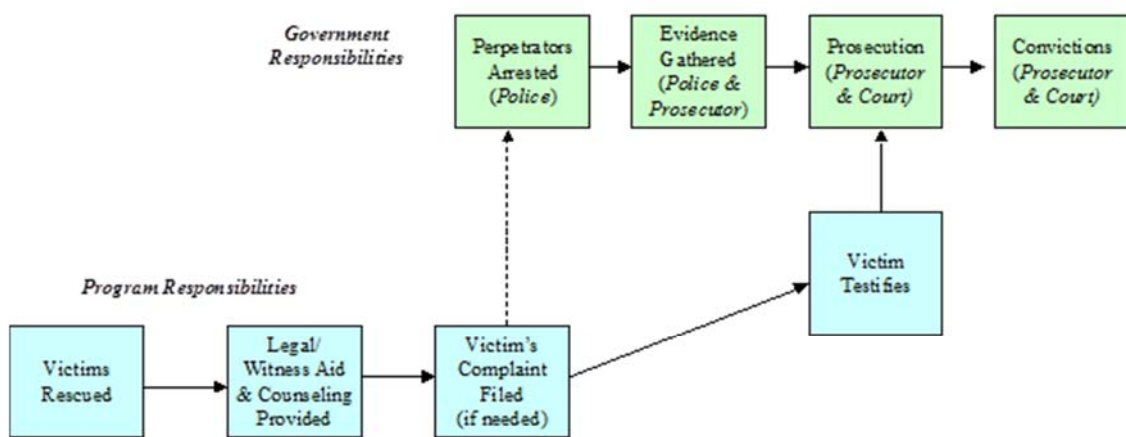


Figure 7.3.1.1 Diagram illustrating the strategy mentioned above, developed by the South Asia Regional Initiative- Equity Support Program of the Academy for Educational Development (AED) funded by the United States Agency for International Development (USAID) of which the researcher was a technical officer/project manager for development and implementation.

7.3.2 Structure of the multiagency model

A baseline analysis of the existing state of efforts to tackle human trafficking, and the care and protection standards in Mumbai for victims of trafficking, were measured by the Nirmala Niketan College of Social Work. In the area of legal research, the contract was given to Save the Children India, for them to organise the analysis of prosecution cases and judgment orders related to the trafficking of children by field and academic experts. This involved reviewing court orders in cases involving human trafficking to identify the key factors of a successful prosecution. A final report was then circulated as a workable tool to all stakeholders in the project. The area of training was assigned to the Tata Institute of Social Sciences who took on the task of developing a training curriculum for

police officers, prosecutors, judges and doctors. They prepared modules that were then tested and used to provide training for the trainers, in-depth training for a core group of the above-mentioned categories in the baseline analysis, and the training of all stakeholders in the project. Following this, an evaluation test was created to help understand the impact of the training, using pre-training and post-training indicators. The roll-out of the training itself was to be carried out by Save the Children India. The area of legal aid for the victims of trafficking was split, with lawyers specifically engaged under the multi-agency model providing legal aid for two groups: victims directly rescued by the police or referred from the state homes, and victims cared for through a civil society group. As part of this strand, a recording of the process in a common victim registry was to be set up, which would be eventually maintained by the state. Legal support here included the representation of victims in court for any legal procedure.

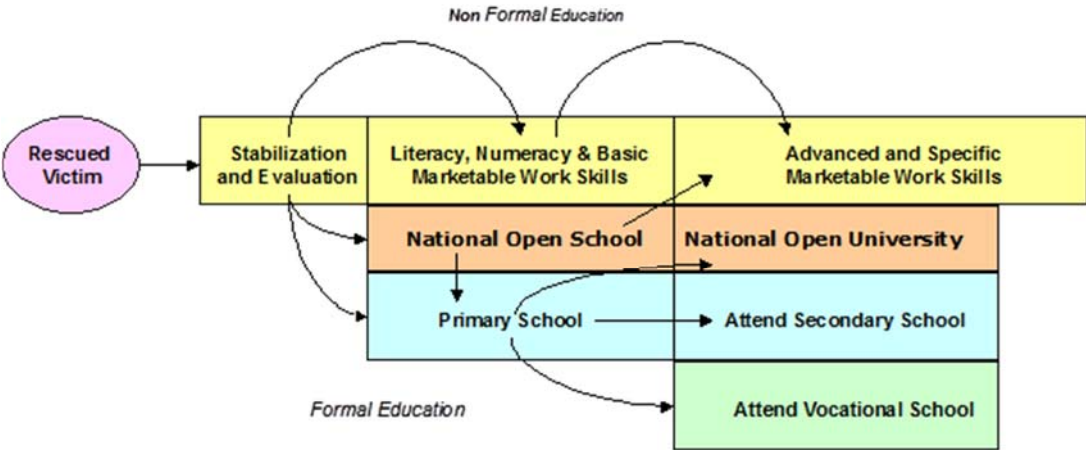


*Case Tracking System  
Will be Needed To  
Ensure Time Appropriate  
Legal Assistance and Victim  
Testimony*

**Figure 7.3: Indicates the legal process developed since 2001 and to be funded under the South Asia Regional Initiative Equity Support Program of the Academy for Educational Development (AED) funded by USAID.**

The area of aftercare was divided into psychosocial counseling, executed by Prerana, a civil society care provider, with training support from the National Institute of Mental Health and Neurosciences (NIMHANS). An independent specialist, Anjali Gokarn, supported by Save the Children India, developed the area of educational support. This area of education was split into formal and non-formal education for victims of trafficking. The formal education process was driven through the National Institute of Open schooling (NIOS) and the Indira Gandhi National Open University (IGNOU), both of which had an inbuilt flexibility to adapt to where the victim found themselves best able to rejoin the education process. The non-formal educational process was designed for those unable to re-enter the

education system and was linked to vocational training and support for developing basic and advanced marketable work skills for victims, so that they could secure jobs in the local labour market.

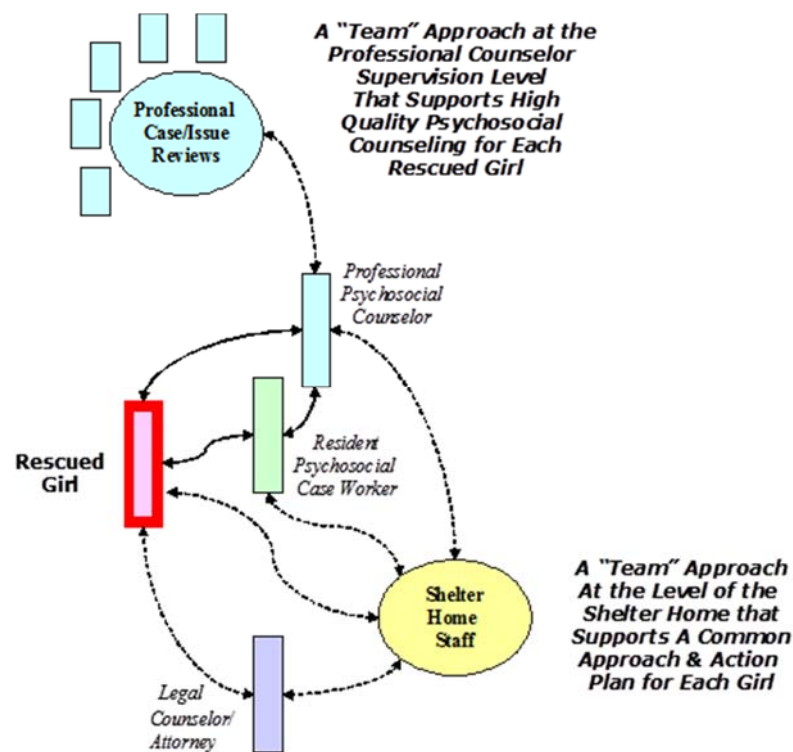


**City-wide Perspective on Rescued Girls Education and Training Continuum**

**Figure 7.4: Figure of the educational component of the South Asia Regional Initiative Equity Support Program of AED/USAID**

The area of vocational training and employment was assigned to Dr Reddy’s Foundation. The goal here was to study the local labour market, and match the areas where jobs were available with the capacity of the victims to do those jobs, based on their aptitude and interests. Once the two were matched, in-depth training was given to develop work and life skills, the ability to adapt to cope with a working environment, the ability to identify and grow in a career area, and skills to become an entrepreneur. All of this was underpinned by the creation of an alumni association initiated by successful pioneers, among victims of trafficking who had successfully made the transition to a working environment.

Within the area of residential care, the development of basic standards was identified as a key task, as was the training of all existing residential care staff, in both government and private homes, to meet these standards. The piloting of these standards of care would be done in a residential home, set up specifically for this purpose. Another area of focus under the category of residential care was the development of the infrastructural capacity of existing government homes. The concept of a transition home in the form of a ‘working girls hostel’, was developed to help those in residential care move to an intermediary location before being able to live in rented, independent units, according to the livelihood options that opened up for them.



**Figure 7.5: Indicates the planned psychosocial counselling interfacing with legal aid for the victim of trafficking**

The area of healthcare was addressed for the first time, with Oasis India tasked with developing this field. The concept was to develop medical disciplines in a frontline capacity, so as to care for victims of trafficking and assist with the prosecution of perpetrators through the documentation of the physical and mental abuse suffered by victims. As we can see, many agencies were involved in this model, and were expected to work together to tackle human trafficking on a number of fronts simultaneously.

### **7.3.3 Successes of the multiagency model**

The injection of resources into the anti-trafficking community in Mumbai helped the design and implementation of the multiagency model. This was a significant development from the unitary model approach to tackling human trafficking. It brought together nearly all stakeholders in Mumbai under the different disciplines described in Chapter 7.3.2 (i.e. the government, police agencies, the civil society sector, faith-based groups and shelter homes). The strategy was led by the US Agency for International Development (USAID) and the Academy for Educational Development (AED), and was funded by a consortium of donor agencies, foreign governments and various UN agencies, who invested nearly \$9.5 million (USD) over two years. The stakeholders were held together through a format of monthly and quarterly meetings, called case management meetings, led by the state government of Maharashtra, and through knowledge-sharing meetings facilitated by USAID and

AED. The case-management-style meetings are still held to date in government shelter homes, long after the conclusion of the multiagency model.

The multiagency model brought together various stakeholders across South Asia, to cooperate together for the first time on the issue of tackling human trafficking. It succeeded in identifying skills required by the local job market, and matching them with the capabilities of rescued victims and the training required to get them into local jobs. Many of the trafficked girls gained employment as customer service executives in banks, and as petrol station attendants, mobile repair technicians, call center executives etc. The area of psychosocial support was pioneered in some of the government and private shelter homes. Many shelter homes in Mumbai received quality in-house medical support and personalised attention from doctors and nurses. The strategy, through the research conducted, brought to light for the first time a baseline analysis of the level of care available across various disciplines in Mumbai.

#### ***7.3.4 Challenges faced while working under the multiagency model***

Working within the multi-agency model exposed me to the division of civil society groups across the various lines of political ideology. This came into play significantly during the implementation of strategy. These agencies were split across four general groupings. The first group was made up of a set of agencies that had a centrist, socialist ideology associated with the United Progressive Alliance. The Indian Congress party led it. The second group of agencies had a conservative, center-right ideology, associated with the opposition, National Democratic Alliance, led by the Bharitiya Janata Party. The third group of agencies had a left-wing, communist ideology. The fourth were made up of faith-based groups. The ideologies within these groups were deep-rooted and often played a key role in undermining cooperation between various agencies. In some cases political influence played a key role in a particular grant going to a certain agency. The other challenge for the model was the low attention span of donors. The entire grant supporting the overarching model was for a period of three years. In the time it took the main agencies to implement the grant, nearly a year and a half had passed. This left only 18 months to see any effective change in the situation at a grassroots level.

The way the grant operated was that a large tender was placed in Washington DC, for which a number of agencies would bid. I later discovered that this was the norm in most key cities around the world (in Washington DC, Brussels, London, and New Delhi, for example). Under the multi-agency model two large agencies, USAID and AED successfully bid for the grant. On average an international agency can charge anywhere between 15% and 30% of the grant as an administrative fee. The presence of two large international agencies along with their international staff, working on US pay scales increased the administrative cost right from the very beginning. This was further increased by administrative fees for establishing a presence in India to monitor the South Asian programme, the cost of conferences in five-star locations to attract local organisations to attend, additional administrative fees of the sub-grantees, and the cost of consultants. It soon became obvious to me that the grant had

significant overheads even before the stage of implementation. The model attracted a lot of development professionals to international agencies that had had limited exposure to human trafficking at a grassroots level, limiting their ability to effectively monitor or implement the grant. Furthermore, many of the sub-grantees did not have adequate infrastructure to handle a large-sized grant (typically upwards of \$200,000 (USD), with some receiving more than \$1 million (USD)). This poor administrative infrastructure led to the mismanagement of resources, much of which never reached the victims. Even factual reports of the limited capability of the recipient organisations, or a refusal of most of the organisations in Goa to accept grants, on political lines, did not lead the key decision-makers to change course or focus on where resources could be better used.

The multi-agency model resulted from a confluence of different lines of thinking and action, built on work undertaken under the unitary model. The multi-agency model was developed on two foundations, the financial support of the US government, and the coming together of experts from different organisations. It collapsed when these foundations fell apart: when the financial support from the US government ran out, and the experts from the different organisations ceased to work together. When the multi-agency model worked, it worked brilliantly, showing real potential to take the fight to the criminal networks, as the strategy of all stakeholders uniting against them was a very powerful one. In my opinion, if the US government had ‘cut out the middle-men’ and worked directly with grassroots organisations, with a small unit of highly-skilled experts monitoring and managing the grant, a much greater impact would have been possible, with resources stretching much further.

The best thing to come out of this model was the achievement of what had seemed like the impossible challenge of organisations coming together to work across the ideological divide. Even if this was only for fleeting moments, it was magical when it happened. Having done my best to work within the multi-agency model and make it sustainable and efficient, I left to go back to grassroots or frontline work. As, first and foremost, a grassroots professional, I could not in good conscience continue to be part of a project where there was such a stark contrast between the enormity and growing nature of the problem – the desperation and suffering of victims of trafficking and the strength of the criminal networks – and the enormous wastage of limited and precious resources under this model. I stepped down from my role within the multi-agency model when I realised that the project had become about spending the maximum amount of financial resources within the shortest amount of time, giving no attention to the post-project phase. I saw how, on a number of occasions, organisations and geographical areas were given money when they did not want them, or where they were not fit to receive the grant. While there were exceptions of good organisations and individuals, resulting in successes, they were a very small number when compared with the proportion of resources spent or wasted. Even this progress was lost once the project closed when the funding had run dry.

It was at this time an idea was born: what if we could bring all that we had been trying to achieve within the multi-agency model into a single organisation? Thus was born what I call ‘the departmental

model'. It involved designing and developing the best possible team of lawyers, social workers, investigators and administrative staff and bringing them under the leadership of individual experts. Thus the departmental model succeeded the multi-agency model as organisations focusing on the subject of human trafficking, and presented a more solid basis for tackling growing and complex problems such as human trafficking, rather than a project format with a limited shelf life

#### ***Case Study 7.3.5: The multi-agency model***

On the 13<sup>th</sup> of April 2005, 25 victims, including eight children, were rescued by Mumbai police from a dance bar and associated lodge in Mumbai. All 25 had been trafficked in order to be exhibited in the dance bar and sold to the high bidder for sexual exploitation in the lodge. In the normal course of events the children should have been produced before a panel of experts known as the Child Welfare Committee (CWC) that function as a bench of magistrates on all matters concerning children in need of care and protection. In this case they were produced before a judicial magistrate with no jurisdiction over children. The criminal network had engaged a capable set of lawyers and, as such, the prosecutor was unable to stop the adult victims from being handed over to members of the criminal network who had engaged the defense lawyers. It was at this stage that a government officer, Neeru Sharma, came to the multi-agency SARI Equity Project office to meet with me. For the first time in Mumbai we were able to bring together a wide range of organisations to prevent the eight children from being released to the criminal networks. These included a range of senior lawyers, the host of civil society groups engaged in the multi-agency model and the state itself. A team of lawyers, along with members of the government, debated the matter before the magistrate, leading them to a decision to place the children in safety. This showed that when different organisations worked together with the state, great successes could be achieved and the criminal networks isolated. This case electrified both national and international communities regarding the potential of state-civil society cooperation. Sadly, the resulting argument over who should take credit would affect the entire project in the days ahead, becoming one of the reasons that the multi-agency model never reached its true potential.

#### ***Case Study 7.3.6: The multi-agency model – Goa***

More than \$2 million (USD) had been earmarked for investment in the state of Goa. This was more money than any of the local civil society groups could accept or manage. Out of fear of losing their grip on the state, one of the agencies in South Goa refused to accept the grant, because of the agency's left wing political ideology. This effectively ensured, because of the agency's monopoly status, that no resources could reach the grassroots level in South Goa. The agency in North Goa, meanwhile, was willing to receive the grant but had inadequate infrastructure to manage the money and could not deliver the necessary capacity to deal with the sophistication of the pedophile rackets. After intense lobbying, a number of central agencies based outside of Goa received large grants for work in the area but due to an outsider mentality they received no grassroots level support. The boycott of central NGOs was such that the majority of their staff was based outside of Goa. This led to a complete

collapse of the multi-agency model. Donor agencies were warned of this possibility at the very start but the complex realities of lobbying by certain UN and central agencies meant that the donors went ahead with the grant anyway. As a result the multi-agency model has little or no impact on the field and pedophilia continues to be a key problem within the state. Even today the inability to find a professional agency that could work with the local government, and yet match the sophistication of the pedophile network, continues to be a significant problem in Goa.

#### **7.4 Departmental model of tackling human trafficking**

As discussed in sub section 7.2 above, from 2001 to 2004 the unitary model pioneered anti-trafficking work in India. In fact, the unitary model piloted in Mumbai was the flagship model for study and replication by a number of large international agencies such as International Justice Mission (IJM), USAID and others. A number of new agencies also copied and replicated the success of the unitary model governance structure. The unitary model gave way to the multi-agency model, out of which evolved the departmental model. In a departmental model there exists a common centralised command and control center, or 'head office'. Generally, such offices are located in politically powerful cities such as Washington DC, London or Brussels. There are several reasons for this but, among them, the principal reason is to be based in a country that has a reasonable outward projection of power, excellent global networks, and a reasonable respect of universal human rights. Such an environment will be supportive of organisations working globally in this field. The US, the UK and the E.U are among the foremost supporters of human rights as a key foundation of the nation state. The head office in a departmental model then branches out to set up an overseas field-presence through field offices. These field offices have ultra-specialised departments. For example, one such office in Mumbai would have a specialised legal department, with anywhere between eight and 12 lawyers who specialise in research, in the prosecution of traffickers, and in coordinating relationships within judicial and other quasi-legal structures. Within such an office there would also be a highly specialised team of investigators, a team of social workers and a team of administrators.

Departmental governance models are at their most cost efficient when the whole operation is purely controlled centrally. This is because a central body generally focuses on one field office to generate impact and publicity, with a large percentage of resources flowing into the selected field office. The high stakes of such an office succeeding often result in expatriate personnel being sent from the central office to oversee the work there, with local staff largely used for lesser tasks. The other offices receive finance generated from general donations given by individuals impacted by the stories of the flagship office, along with the global presence of the agency.

The departmental model develops a high degree of sophistication in the way that each team functions as a discipline. However they are dependent on good inter-departmental communication to succeed. In the absence of such communication, each team becomes super-specialised but also isolated in their functioning. The departmental model is unable to see the whole picture from the viewpoint of a



victim. Often departments will compete with each other, to the detriment of the victims and other stakeholders in the anti-trafficking sector. The departmental model of governance serves a centralised control approach. Since the departments often compete with one another they are unable to present a uniform voice. Because of this, departments are only able to function if governed by a central authority. This concentrates power into the hands of a few senior executives. In many instances specific protocols even ensure that departments do not communicate with each other under the veil of professionalism, secrecy, and victim protection.

One positive aspect of a departmental approach is that such organisations are able to focus on an issue from all angles of a human trafficking case within a respective discipline. They are also able to provide higher-quality input for a victim within a department. A weakness, however, is that because of the excessive level of central control, their turnover of staff at a grassroots and local-leadership level tends to be high. Also, because the departments are unable to look at a case from a multidisciplinary perspective, and are either unable or unwilling to seek support from one other, this results in a lower success margin per case and less job satisfaction for motivated staff. In models of departmental governance analysed by the researcher, the success rate was reduced from one successful operation per week to one successful operation every five months. Rather than changing strategy, organisations using departmental models will often have a decreasing output per annum, eventually having cosmetic value only. Such models may find it hard to recruit motivated staff but will not lack resources in the short term.

#### ***7.4.1 Challenges faced while working under the departmental model***

The challenges experienced under this model come in two forms. The first is that anything that works in the development sector often results in envy and jealousy, and serious attempts are often made to undermine or dismantle the progress or to take over the work. In the latter case, the person attempting to take over the work may not be qualified to properly oversee the growth but may instead be focused on the short-term goal of using the hard work of others to achieve career progression. This generic issue, among others, often undermines effective long-term growth in the development sector. I personally observed this during my time working under the departmental model.

The second challenge is more specific to the departmental model of tackling human trafficking, and resulted from the rudimentary manner in which, because of limited resources, the aftercare and legal disciplines had historically worked together. The investigative discipline, up until the departmental model was developed, had fallen under the legal discipline. These became disaggregated under the departmental model. However, the departmental model resulted in all disciplines becoming so specialised that they became separated from one another. While previously a lawyer might oversee the investigators under the unitary model, in the case of the departmental model a chief of police would be brought in to develop the investigative discipline. The challenge in developing a strategy is to ensure

that you don't absorb the very errors of the mainstream criminal justice machinery that you are aiming to avoid.

One of the problems in mainstream law enforcement in India has been the gap between the police and prosecution. Prior to the 1974 amendment of the Criminal Procedure Code, the two worked closely together. Since the amendment, the prosecution has been considered separate from the police, acting as a check against police action. The problem now is that police in India have limited access to good legal advice, which previously had been taken for granted. This gap between policing and prosecution had been filled by lawyers working for civil society groups, working to ensure that police had the best possible legal advice. As a result of this gap, policing today in South Asia largely revolves around law and order and the security of VVIPs (very, very important persons), so that security with intelligence gathering has largely been delegated to federal and state intelligence agencies and a few enterprising police officers. Crime detection, as a result, has shown a drop, reflected in statistics. The unitary model addressed these gaps through its mode of operation, as quality intelligence, vetted by lawyers, was converted into actionable evidence leading to the saving of lives and the breaking of the cycle of crime. The departmental model, in an attempt to specialise the discipline, made the same error as previously undertaken by the state, by breaking the link between law and intelligence. Henceforth, the legal, intelligence and aftercare disciplines functioned separately and with very little interaction between them. Even though the heads of each of the disciplines worked well together, this did not trickle down to establish inter-disciplinary cooperation. Each discipline became a bastion of knowledge that was never fully shared with the other disciplines, thus directly affecting the outcome for a victim of trafficking.

However, it was during this period that efforts to tackle traffickers started to show promise. The goal had been to tackle the link between the seller and the buyer of the human commodity. In cases involving criminal networks that focused solely on the trafficking end of the market, and not the exploitation end, there is a degree of vulnerability, as they often have to deal with multiple buyers and keep options open for working with new buyers with higher purchasing power. They are also often happy to compromise the health and condition of the trafficked person by allowing for hire purchase and short-term-lease transactions before the final sale in an attempt to optimise the person's value. This vulnerability can be tapped if the criminal networks are breached at the points of contact where they attempt to sell the victims in their possession. The key question is how to go about intercepting the transaction in order to disrupt the criminal network to the highest possible extent. The method of operating piloted under the departmental model was to infiltrate the buying zone and divert the human commodity at the sampling or purchase phase via 'decoy buyers'. The use of buying locations was piloted largely in locations and areas where the criminal networks had possibly undertaken previous transactions and so were comfortable with the terrain. Often this might be specific hotels, or lodges, where the networks either had a personal connection with the management, or owned the place themselves. The criminal networks would bring the trafficked victims to display at the location.

Almost all of them were children. The members of the criminal networks would bring with them certificates indicating the virginity and age of the children, and medical certificates indicating that the victim was free of any transmittable diseases, such as HIV. They would even agree to a 'sampling' of the merchandise before the final purchase.

The method the anti-trafficking agencies used was a 'sting operation' technique, used successfully in drug operations to catch members of the network red-handed in the midst of the crime. A mixture of independent, decoy<sup>30</sup> and police witnesses, undercover video recordings, the capture of transaction money, and statements taken from the victims regularly led to the conviction of the perpetrators. Even so, these operations were not without challenge. In the majority of cases only frontline traffickers and pimps were apprehended, rather than the key players of the criminal network. Furthermore, the operation needed to ensure it was on the right side of the thin threshold between entrapment and the genuine capture of a criminal transaction. This could prove difficult, as the legal discipline was not able to provide legal advice on the case until the operation was complete and the case handed over to the lawyers. This meant that a number of actions that could have helped the case, and which could have been initiated had legal advice been sought at the intelligence stages, were missed, resulting in cases being handed over for prosecution with flaws present. Such flaws often came from the blind adaptation of a process, rather than the dynamic adaptation of processes to meet the requirements of a successful prosecution.

Eventually the departmental model failed to build upon the successes of the unitary model and increasingly began to replicate the state structure, in that its functioning depended on the sheer political power of the organisation implementing the model in order to secure the might of the state in its existing form to pursue criminal networks. Criminal networks are experienced in dealing with this approach and as a result productivity was again reduced. The criminal networks were largely unaffected and, with the attention diverted away from them, they were able to evolve to more sophisticated forms of operation. Understanding this fact led me to leave the implementation of the departmental model, as while it could have some brilliant moments in the pursuit of individual disciplines, it ultimately made little impact on the problem of human trafficking at a grassroots level.

Any model of tackling human trafficking requires two key foundations. The first is the operational end of the strategy, i.e. how to tackle the frontline challenges at a grassroots level when faced with criminal networks, corruption, the vast distances involved, and the poor standards of care at the shelter homes, etc. The second part of the strategy is the organisational structure that is developed to deliver

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<sup>30</sup> A decoy witness is someone who works with the police and two independent witnesses to confirm, by acting under the guise of a customer, that the criminal network will in the ordinary course of their day-to-day business and without any entrapment, provide a customer with a human trafficking victim verified by the independent witnesses.

this. In my opinion, the departmental model focused too much on the organisational structure, paying little attention to the operational end of the strategy in the face of changing criminal networks.

This model continues to be used today and when targeting semi-organised, rural criminal networks running bonded labour-based brick kilns, or stone quarries, it achieves significant operational success. However, in my opinion, the victim protection end of the operation faces the same challenges as that of the unitary model<sup>31</sup>. In urban and semi-urban settings where criminal networks are more organised, the success rate drops dramatically. During the course of my PhD, I have observed a drop down to zero successful operations in five months under the departmental model. To counter this, some departmental units have tried to use operational strategies that bordered on the illegal (i.e. picking up children from brothels based on intelligence of trafficking and police support, taking them to locations where a counselor, lawyer, or social worker would debrief with them, and only then making complaints against the criminal networks). These cases, when they reach the prosecution stage, are vulnerable to counter charges of kidnapping and abduction from the criminal networks.

It is also important to reflect on the challenge that I personally faced under this model, which was two-fold. Firstly, under this model an internal case-management system was being designed and implemented from the US, which meant that all casework was stored and analysed in the US, without any input from the local units. The bulk of the information was used to provide analytical reports of violations of specific US laws involving human trafficking and labour, with regard to international trade and sanctions by the US. Under the unitary model this was done in the form of non-compliance reports, which local staff had the right to refuse to send. Under the departmental model this right to refuse was taken away, as these non-compliance reports were now being developed in the US directly from documented casework in other countries. I could not in good faith, based on the excellent relationships that I enjoyed with the governments with which I have done casework, been part of such a programme. The second challenge I faced was the discrimination between expatriate and local staff members in the unit. An expatriate staff member would be paid around \$200,000 (USD) per annum, while a local staff member would be paid between \$1,800 (USD) and \$9,000 (USD) per annum for undertaking more work than the expatriate staff member. With a couple of exceptions, expatriate staff members were not present as partners but rather as part of the control mechanisms that were the hallmark of both the unitary and departmental models. This discrimination often resulted in expatriate takeovers of locally built initiatives, in order to justify their salary. This is exactly what happened with an expatriate who took over the legal department within the departmental model after it had been completely and successfully developed.

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<sup>31</sup> The success rate for care and protection of victims over the 90 days following their rescue remained as low as 36%.

The increasing trend seen within the departmental model is that it, in fact, leads to an increasing focus on the specialist model, discussed in Chapter 7.6, in which the decision is made to recruit people largely from the US government or a law enforcement background into operational positions. These roles may also be extended to people from European law firms or US. The result of this trend is that it leads to a transfer of law enforcement measures used in these countries against organised crime or drug enforcement. In my experience, one of the hallmarks of the organised crime or drug enforcement practices in the US has been the establishment of special units and special courts. This has translated into civil society group becoming largely staffed by experienced former or seconded government employees, or else has seen civil society groups dispensed with altogether, and government and development funding instead being directed into supporting dedicated anti-trafficking units, courts or judges and prosecutors, depending on the law system.

#### ***Case Study 7.4.2: The departmental model***

I had the opportunity to work under a departmental model of tackling human trafficking following my involvement in the multi-agency model promoted in South Asia under the South Asia Regional Initiative Equity Support Program. The attraction of developing a departmental model was the freedom given to me as a lawyer to create a world class team of lawyers that could potentially have made a massive impact on the issue of tackling human trafficking. I took up the challenge because of the perceived free hand I would get in developing the team, and a heartfelt desire to replicate and develop more people in the legal field to take up the challenge of tackling human trafficking. I felt I succeeded over the years in the latter objective but I found that the former hope was wishful, idealistic thinking.

During this phase I was able to recruit and train six new lawyers. Each of them was assigned a new area of work depending on their skill set. The areas of focus were as follows:

- Courts
  - Representing victims of trafficking before the magistrate, sessions and high court.
- Police relations
  - Providing legal advice pertaining to operations, intelligence-gathering and their powers as an executive magistrate.
- Shelter homes
  - Providing legal advice to victims and to the staff of the home and representation of the home and its staff in the courts.
- Children's tribunals
  - Representing children in need of care and protection.
  - Representing the children's tribunal during appeals against them.
  - Taking up referrals from the children's tribunal of children requiring legal representation.
- NGOs

- Providing legal advice to NGOs
- Representing their legal prosecutions
- Representing them on all other occasions
- Governments
  - Providing legal advice
  - Drafting policies and laws
  - Representing their position in court
- Research
  - A legal brief providing up-to-date answers and case laws for every challenge in the area of tackling human trafficking, and making them available to a wide audience.

Development of this strategy led to enormous progress and, for a phase, this team was among the finest group of lawyers, both nationally and globally, focusing on human trafficking.

### **7.5 Evolution of structures and practices from judicial activism, unitary model, multiagency model to the department model.**

In the case of the judicial activism model the response or reaction of a High Court Judge within the powers conferred within Constitutional Law or Criminal law triggered the responses from both State and civil society institutions. The trigger point for judicial activism is often research undertaken by an academic institution or a non-governmental organisation. In fact in South Asia a College of social work or Law are often incubators for innovative social ideas that start out of the debates between teachers and students. The close relationship between some of the social work colleges and law schools and their pioneering projects with the communities around them often leads to judicial activism. In order to sustain and further develop the directives from the judiciary that is based often on research undertaken by academic institutions unitary model institutions are set up. In the city of Mumbai organisations like ‘Prayas’ that started work focusing on juvenile detention and ‘Prerana-Anti trafficking’ that developed directly out of the judicial intervention in Mumbai mentioned in Chapter 7.1.1.

A unitary model also emerges from initiatives of members of the community who have struggled with the embedded nature of the criminal networks within their communities. A common thread running through these initiatives is the support or motivation from any of arms of the state such as the exhortations from the Prime Minister of a country, such as seen with the ‘Big Society Idea’ of David Cameron in the UK, or the ‘Save the girl, educate her’ campaign, or the ‘Clean India’ campaign lead by the Shri Narendra Modi, Prime Minister of India. In a number of cases the initiative would be led by a parliamentarian or the police officer responsible for the area. In Mumbai the ‘Mohalla Committees’ was the brainchild of Shri Julio Ribeiro, the Director General of Police for the state of Maharashtra and Punjab in India. This was an initiative to use community dialogue and engagement as a preventative tool to avoid communal clashes caused due to rumours, the crazed actions of radical

members of an ethnic community or political mischief to divide the community for electoral gain. In summary, the unitary model can often be preceded by direct or covert support of the state in its various forms for its development. The anti-human trafficking movement would not have its growth and leverage today if the unique network of academic institutions, arms of the state such as the judiciary, civil service, law enforcement agencies and community groups did not initiate it. The judicial activist model served as the primer, or provided the legal sanction and the innovation necessary to initiate theories, thoughts and words about a growing problem to action. The challenge with the judicial activist model is that though well intentional it does take into consideration the structural challenges within both the criminal justice system, community governance systems of the care protection systems in place.

As a result all the factors mentioned in detail in the institutional failure components of Chapter 7 come into play in full force and at a large scale. The challenge I have discovered with state-initiated schemes is the lack of long-term focus required to develop a holistic and see through a solution for complex social issues. A number of anti-trafficking cases due to their complexity take a long time to achieve a significant outcome but the patience of stakeholders such as state and institutional donors rarely exceed three to four years. It could be the limited tenures of democratic systems due to the process of elections or transfer of civil servants or judges who play a role. It is an area worth researching further and it does have a devastating impact on initiatives to tackle complex social challenges that need a consistent long-term focus.

The unitary model directly emerged from the outcomes of the judicial activism model. In the early years its structure was focused on a low cost-high efficiency framework. The staff structure was kept at a bare minimum of representatives of four key disciplines such as legal, aftercare, investigations and administration. The unitary model largely targeted destination areas of trafficking of sexual exploitation and forced labour in major cities such as Mumbai and Chennai. As described at great length through case studies the unitary model played a pioneering role in highlighting the role of criminal networks and their involvement in trafficking of children and forced adults into commercial sexual exploitation and abuse. The unitary model played a massive role in bringing about a change in the way law enforcement engaged with children and women in prostitution. It was only after the efforts of the unitary model that serious legal reform was initiated to ensure women or children in prostitution were not prosecuted but considered as victims. The unitary model played a key role in reforms within the child protection system with both improvements made to the physical and support structures at the government safe homes. They also played a key role with developing the child protection mechanisms by guiding the child welfare committees (children's protection tribunal) in establishing the protocols and procedures to ensure the repatriation and reintegration of child victims of trafficking. The successful prosecutions under the unitary model played a key role in the openness of the judiciary to understand this problem at a deeper level. The trainings initiated as a result of this led to greater sensitivity towards the delay caused by the defense in a trial and the impact this has on the confidence

and ability of a victim of trafficking to testify. It was the work undertaken under the unitary model that prompted the partnership between countries in the Indian sub-continent and the US that formed the backbone of the multi-agency model. The basic tracking mechanism for the children and forced adults saved that are in the process of being reintegrated was developed under the unitary model. This was to become the backbone of the case management systems being developed to provide victim protection. The unitary model collapsed under the weight of its own success. The success of the unitary model led to increased interest in both leveraging its success by building up on its strategy and implemented it through various stakeholders that were undertaken in the multi-agency model. The direct scale up of the unitary model was also undertaken in the departmental model described above.

The multiagency model grew out of the further development of the unitary model that was backed by the support of the US Development agency (USAID). The multiagency model built upon the track record of the unitary model and focused on two key areas. The first being the scaling-up of the unitary model by building a coalition of various NGO and government stakeholders with clearly designed areas of work. The areas of work ranged from training of stakeholders, literacy, and legal aid for victims, counseling, employment-creation etc., described in great detail in the section on multi-agency models. It was a holistic strategy and in many ways expanded the work of the unitary model and was part of evolution that led to the multidisciplinary model. The great thing about the multi-agency model was the incredible diverse strength and expertise it brought to the subject of tackling human trafficking. This expertise was across a whole range from academic experts, to leading lawyers, jurists, aftercare specialist, educationists, government stakeholders, residential care specialists, employment experts. The second part of the multi-agency model was to bring together government and private sector stakeholders across South Asia to develop good practices into protocols and standard operating practices across the whole region. The multi-agency model was developed by bringing various stakeholders from the unitary model together and by both documenting their good practices and further developing the strategy to achieve scale and leverage through various stakeholders. The challenges with the multi-agency model came with the limited attention span of the investors in this case the US Agency For International Development (USAID) and these intense lack of trust and politics between the various stakeholders both private and government such that it became impossible for them to work together even though that was the best way forward.

This led to the eventual folding up of the multi-agency model after the funds dried up. The level of financial accountability within the multi-agency model was nothing short of inadequate. This is one of the biggest weaknesses of project based funding where all the stakeholders are fully aware of the time limitation for the implementation of the grant. They realise that for most stakeholders it is about making hay while the sun shines as the likelihood that a program will continue to receive funding is remote. A vast percentage of the funds is eaten up with high administrative costs, high salaries, conference costs with very little trickling down towards grassroots impact. In some cases the grant is decided based on an internal understanding or based on favours as to who would receive the grant.



Negative due diligence reports are set aside if the stakeholder is influential, or if the right percentages are exchanged from the grantee to the key person within an implementing agency. The collapse of the multi-agency model led to the funding of the scale-up of the unitary model through the departmental model and the development of the specialist government only model. The biggest achievement of the multi-agency model was to bring together various stakeholders from both government and the private sector across a spectrum of services for a victim of trafficking. It also established a forum of dialogue between state and non-state stakeholders that continues today.

The departmental model and the specialist model came as the phase of the multi-agency model drew to a close. The departmental model being a scale up of the unitary model within a single entity but with deep levels of specialisations across the principal four areas of input in the unitary model i.e legal, aftercare, investigations and administration. The specialist model developed from the key partner of the unitary model, which was a team within the police that historically investigated organised crime around prostitution, manufacturing of illicit alcohol and piracy of intellectual property. The unitary model partnered closely with this branch of police historically known as the anti-vice squad of the crime investigations division (CID) within the crime branch of the Mumbai police. The work of this police team in Mumbai and dynamic actions by police officers from Hyderabad in Andhra Pradesh lead to the development of anti-human trafficking police units also known as AHTU. The AHTU were specialist police units that were led by a police officer of the rank of Assistant Commissioner of Police and would consist of a police officer of the rank of Inspector of Police, a number of sub-inspectors and assistant inspectors of police along with male and female constabulary to assist them. The number of officers varied from unit to unit. During the course of my PhD, over 300 such units were formed across India. The performance of each unit varied according to the local priorities of the chief of police within that jurisdiction. The police officers were rarely vetted before they became part of the specialist police unit. In some special units tackling corruption the police officers that opted to work there were vetted to a certain degree but equally importantly received a one step-up promotion for being willing to work in the anti-corruption squad. No such incentive was in place for the specialist trafficking police unit. Often the AHTU's became of magnet for attracting officers that found this unit a plum posting to partner with criminal networks to earn rich rewards. The specialist police unit had the powers to undertake a search for trafficked victims across police jurisdictions in some cases across a major city and in some case across an entire state. This enlarged the geography across which a corrupt police officer could tie up with a criminal network. It also helped a corrupt police on being transferred out of the specialist police unit to provide the criminal network with a safe haven in the local jurisdiction that the police officer was transferred to and with their connections in the specialist police unit were able leverage the influence to safeguard the criminal network. While across the world where such concepts have been applied there is no doubt that there have been some outstanding officers that have put their life on the line to save and safeguard victims of trafficking. Overall, the specialist police unit without a high degree of vetting was a perfect set up for criminal network and as seen in the chapter on the multidisciplinary model and the chapter

on criminal networks have played a key role in the growth of the problem rather than curtailing it. The other challenge with specialist models were their inability to work with other disciplines necessary to have a successful outcomes for both the victims and against the criminal network. It was answer to this problem that lead to the development of the nodal model. The nodal model created sub environments outside a traditional police station for members of other disciplines such as the medical profession, the counseling and social work disciplines to interact with the female and child victims of crimes involving offences against the human body. The departmental model that developed also from the unitary model played a key role in developing the super specialisms required for the service provided by the disciplines of law, social work, investigations and administrations. A departmental model with a NGO and the specialist model within the law enforcement infrastructure often work together due to the complimentary nature of their relationship. A departmental model often has been 14 and 20 professionals working within a single discipline in an institution or organisation that have multiple disciplines that are separated from each other through physical and procedural barriers. Each discipline within a departmental model has the ability to super-specialise the various functions required for a single discipline to perform as seen in the case study to the departmental model. The challenge within a departmental model is the utter lack of communication between the disciplines, the creation of physical and procedural barriers that require multiple disciplines to work together. The productivity within a departmental model slows after the initial few months, and has a risk of each department being too concerned with internal politics, causing a lapse in concentration on the real reason for their work.

#### **7.6 Specialist model of tackling human trafficking**

The Immoral Traffic Prevention Act in India is a piece of legislation formulated in 1956, as a follow-up to the ratification by India of the International Convention for the Prevention of Immoral Traffic. Part of the implementation of this legislation was the setting-up of anti-vice police units around the country. These were specialised crime-detection units that focused on the control of anything that was considered a vice, including the brewing of illegal liquor, gambling and prostitution. The international attention to the 'war against drugs' led to the setting-up of a specialised unit called the Narcotics Control Bureau (NCB). In 1999, as the historical narrative above unfolded, the work was largely led by public-spirited citizens with local police forces playing a supporting role to prevent law-and-order situations. In 2001, with the joint initiative of civil society groups and the police, a law that had existed since 1956 but had rarely been implemented against criminal networks, was utilised through a well-developed process through case work that brought about a smooth synchronisation of the various laws and procedures that govern human trafficking. In 2003 and 2004, for the first time, the former anti-vice unit of the Mumbai police decided to enter the area of tackling the problem of human trafficking, along with civil society groups.

Technically one positive aspect of the introduction of this unit to combating human trafficking was its ability to target criminal networks spread across locations in multiple jurisdictions across the city of

Mumbai. The unit had the ability to override the local police units particularly at a point when an operation against criminal networks in that jurisdiction was ineffective due to significant level of infiltration by the criminal network into the local law enforcement systems. A lot of the specialist unit would have command structures that would report directly to the highest-ranking operational officer, generally a Chief Constable or Chief Superintendent, of police rank. This positioning was helpful in protecting the unit from powerful members of the criminal network embedded within the system. The UK has specialised, federal-organised law enforcement units in the Serious Organised Crime Agency (SOCA) and the Scottish Crime and Drug Enforcement Agency (SCDEA), with federal powers to combat trafficking with a sizable budgetary allocation. It also has the UK Border Agency (UKBA) which looks at the immigration and trafficking picture across the UK. Furthermore, it has the Child Exploitation and Online Protection Centre (CEOP), which is linked to SOCA, with a UK-wide child trafficking mandate, which at the moment is research-limited. Similarly, India has a designated unit at a federal level, with the Central Bureau of Investigation (CBI) comprising more than 500 recently designated specialist anti-trafficking units, with 360 of them being functional (functional is not the same as effective).

The growth of the specialist model occurred during my time in India and the start of my PhD in 2007. As such, I have observed the successes and challenges of the specialist model during the course of my PhD research. I have also had the chance, during this period, to observe the multi-agency meetings, popular in the UK. The emphasis on development aid and government efforts in India, the UK and the Netherlands during this period was based around the specialist model. In India, during the period 2007 to 2010, the US government gave a large grant similar to the one given for the multi-agency model to the United Nations Office on Drugs and Crimes (UNODC) for a project 'IND/S16', which contributed towards the creation of nine specialist anti-human trafficking units, and training for more than 14,000 police officers in India (UNODC ROSA Brochure, 2011, p.40)<sup>32</sup>. This shows the shift in focus from a civil society-led, state-civil society multi-agency model to a largely state-led specialist intervention model and a departmental model, which, though it may have a charitable structure, is led by either former or seconded government employees.

#### ***7.6.1 Challenges faced while working under the specialist model***

One weakness of this approach was that at various times and in many ways it disempowered or demoralised local police forces. This reflected itself in the poor level of cooperation that civil society groups received from local police officers, following the implementation of the special unit. The ground rule was that, if a special police crime unit identified children or forced adults in situations of human trafficking, it would lead to an automatic transfer or suspension of the police in charge of local

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<sup>32</sup> UN Office on Drugs and Crimes (UNODC ROSA), South Asia Brochure, 2011. Available at: <[http://www.unodc.org/documents/southasia/reports/UNODC\\_ROSA\\_BROCHURE\\_2011.PDF](http://www.unodc.org/documents/southasia/reports/UNODC_ROSA_BROCHURE_2011.PDF)> (Last accessed on the 10<sup>th</sup> of July 2013).

the police station. To a large extent, however, special crime units tended to undertake operations but largely leave the registering of the case and the prosecution of the criminal networks to local police, making the relationship between the civil society group partnering with the special police unit and the local police unit a difficult one. Another challenge frequently faced with this model was the preference of special police units for operations that, on basic intelligence, seemed to have the greatest potential for positive publicity. It was not uncommon for calls made regarding one to three children sold into prostitution to be politely refused or referred to the local police. Special units also rarely tackled all forms of human trafficking, preferring instead to tackle cases regarding prostitution only. High-profile operations relating to high-end prostitution, involving members of the film industry, or targeting up-market clubs, were those most desired by the special police units. It was also easier for criminal networks to focus their efforts on influencing special units and on mounting surveillance on their actions. Invariably, these police units become so compromised that they tended to harm more than support the countering of human trafficking. There were always exceptions, when officers with integrity, honesty, intelligence, drive and passion took over the unit and did exceptional work, but they became increasingly isolated in their efforts. In 2012, it even reached a point where an officer of integrity leading the unit had to remove virtually every member of his team that formed part of the police force, relying instead on public-spirited citizens to support him. Eventually he himself became so isolated that he was inevitably transferred out from the special unit to a different post.

The experience of working with specialist police units gathered under the unitary model, independent observation of the specialist model and the departmental model from 2003 to 2007 was repeated again under the multidisciplinary model from 2008 to 2013 when, as a result of local police and civil society collaboration, the previously hidden but growing nature of the problem of human trafficking in a state in South Asia was revealed. This prompted the setting-up of two specialised police units, one with jurisdiction for the entire state and one with jurisdiction for the capital of the state. After undertaking a few operations with these units, the multidisciplinary model units started to receive regular intelligence about the extent to which they had become compromised by the criminal networks. It was not uncommon for us to receive calls from members of a criminal network within minutes of a meeting with a police officer from one of the special units. In such cases, the network member showed explicit knowledge of the details of the meeting. Intelligence also emerged on the leaking of information to members of the criminal networks regarding the identity of people cooperating with the special police unit. This led to a reduction in the intelligence shared between civil society and the police, as our trust for one another had been breached, and further cooperation increased the risk for those working on the frontlines.

After years of experience, of seeing what does and does not work, I am in favour of empowering local police forces across a country to be actively involved in anti-trafficking efforts rather than creating a specialist police unit. A case of human trafficking involves source, transit and destination locations, and multiple buyers and sellers. A specialised police unit is often city- or state-limited in its

jurisdiction, thus making it an ineffective tool in the mid -to long-term in tackling human trafficking. It is also more vulnerable to being watched and targeted by organised crime. A single unit, even in cities like Mumbai and London, is less able to be in multiple locations at the one time when compared to local police stations working on local beats. In my opinion, it is always better if several police forces in India and the UK are case-trained to combat trafficking, rather than just one unit. In a number of special units, such as those described above, the officers are often in circulation every two to three years. This creates a cycle where a well-trained officer is moved on just as they begin to understand the problem.

Where counties have limited resources, it is arguably preferable that the government give sufficient money to all police units, with whom civil society groups can work across all jurisdictions, rather than having just one unit receive funding and the rest of the country suffer. Moreover, specialised units themselves have limitations from jurisdictional issues, as in most cases they conduct raids and leave the investigation and prosecution to the local police unit. While there may be a case for specialised, cross-jurisdictional, multidisciplinary state-civil society teams, this is very different from a purely law enforcement-led unit. In my opinion, units in both the UK and India look at the problem of human trafficking from the crime-immigration perspective, and, to date, ignore the victim protection-criminal network perspective. This gives criminal networks substantial space to evolve into more sophisticated forms of trafficking, which current law enforcement tactics will be unable to counter.

In 2006 and 2007 my transition to Edinburgh coincided with the emergence and rise of the advocacy network model. There is a close association between advocacy network models and the specialist unit models. Specialist unit models often prefer to work on their own, with accountability largely provided by the structure within that unit. They rarely prefer a level of accountability where one can journey with them through cases and identify gaps in their casework and strategy. This is particularly true for specialist model units that have been predominately staffed by corrupt elements who are, in effect, the inside members of the criminal network within the criminal justice system. Similarly, advocacy network models prefer to be involved in campaigns and policy lobbying rather than grassroots work, hence, in order to gain legitimacy in the eyes of their investors they need a partnership with specialist models units.

***Case Study 7.6.1: The specialist model – UK Human Trafficking Centre (UKHTC)***

In 2007, with the 200<sup>th</sup> anniversary of the abolition of the slave trade approaching and with increased pressure from the US for its close allies to be seen to be undertaking work to counter human trafficking, the UK Human Trafficking Centre (UKHTC) was set up in Sheffield, England. It was designed to be a coordinating mechanism between civil society groups and law enforcement. Mostly is was staffed by officers from local police forces and from the Serious Organised Crime Agency (SOCA). I was able to meet the leading officer of the center, along with the head of a local campaign called ‘Stop the Traffik’, which aimed to raise awareness on trafficking. While it may have been the

case that the center was initially set up as the result of local and international pressure on the UK government, I found the SOCA officer to be a sincere person, keen to undertake something valid on the subject during his time there. He was frequently targeted by members of the English Prostitutes Collective, who felt the police targeted them rather than the criminal networks who thrived on them. I had the opportunity to engage with him on the subject and share with him the ways we had been able to cope with challenges in South Asia. Our discussions culminated in the opportunity to attend a nationwide conference, bringing together organisations and people to create a greater understanding of the subject of human trafficking. This conference turned out to be a significant milestone for the UKHTC. The then Labour administration sanctioned a large grant to further develop the UKHTC as a coordinating agency for human trafficking in the country. During this period two countrywide operations, named Pentameter 1 and Pentameter 2, occurred.

My next set of meetings with members of the UKHTC took place around 2008. These were day-long meetings that included the head of prosecutions, the head of the UKHTC and its head of operations. I attended, along with the head of 'Stop the Traffik' and other representatives. I found the UKHTC team very receptive to engaging with ideas from the state-civil society partnerships in South Asia. However, they were still at a point where they were, as yet, unwilling to engage with civil society at the level seen in South Asia. They even went to the extent of suggesting that any action to develop intelligence on criminal networks within the community could invite the provisions of the Regulation of Investigatory Powers Act (RIPA, 2000). They gave the particular example of the efforts of Chris Rodgers, an investigative journalist for the BBC, and of how his investigative report on human trafficking (including undercover footage) could violate the provision of RIPA, and that as a result he could have been arrested. What I gathered was that they were largely interested in engaging with civil society groups in discussion forums and panels, and containing them within these locations. There was no serious interest in engaging with civil society groups to seriously impact human trafficking criminal networks.

Over the years I found the UKHTC engaging in a referral mechanism called the National Referral Mechanism (NRM), that, to date, I still fail to understand. It largely serves as an intelligence-mapping tool, to present a picture of the ethnic trends of victims of trafficking, and as a decision-making mechanism to verify victims of trafficking from a referral. According to my understanding of the problem, this was largely a futile exercise that would not significantly impact the reality of the problem in the UK. The National Referral Mechanism (NRM) was widely opposed by a range of civil society groups and that remains the case to this date.

More recently I had the opportunity to meet with officials now responsible for the organisation. There had been a number of changes since the elections in May 2010 and May 2015. Among the first of these changes was a decision to do away with a number of quasi-autonomous non-governmental agencies known as 'Quangos', to which the previous government had devolved powers. The UKHTC

was one such agency. It was merged into SOCA, with elements absorbed into the Child Exploitation Online Protection (CEOP) Centre. I was able to meet the officers concerned with the transition into SOCA. The meeting was cordial and respectful due to the amount of work that I had undertaken over the years. However they were still closed to any level of cooperation with civil society groups to counter the problem of human trafficking, despite overwhelming evidence of its benefits in different parts of the world. The problem in the UK continues to grow and the unwillingness of the state to cooperate in a state-civil society partnership, based on a clear strategy and regulation by the government, contributes to its growth through the resulting lack of coordination.

### **7.7 Advocacy network model of tackling human trafficking**

The advocacy network (AN) model is largely a civil society-led initiative that has mobilised communities and companies, connected civil society groups around the world, and supported victims of trafficking, through limited residential support, among other things. It has also put pressure on governments and multi-national corporations to ensure that their products have not been made by trafficked and bonded victims. Furthermore such models have allowed for the distribution of grants, and the undertaking of research, distributed through the publication of a number of books, videos and movies. It is common for AN organisations, which may be led by either civil society groups or the state (i.e. UKHTC's 'Blue Blindfold' campaign, and the UN's 'Blue Heart' campaign, for the latter) to be largely the domain of socialites, public speakers, politicians, religious leaders, musicians and authors. It is not uncommon for many of these forums to be named in such a way or have to public appearances from victims, to suggest that survivors of human trafficking are involved in their management. While I am sure there are survivor-led, anti-slavery organisations I have yet to come across – such leading organisations where direct survivors really are key members within the senior management. The AN model today is the mainstay of civil society efforts to tackle human trafficking. The majority of well-known campaigns in the anti-human trafficking world, such as 'Free the Slave', 'Not for Slaves', 'Love 146', 'Stop the Traffik', and 'The A21 Campaign', fall under the umbrella of this model.

#### ***7.7.1 Challenges faced while working under the advocacy network (AN) model***

The first example of this approach can be seen through the activities of Croydon Community Against Trafficking (CCAT). My contact at CCAT was the founder, Duncan Parker. Our discussion, from the early stages of the program, oriented towards how the concept of the mobilisation of a community can be combined with a policy of focused intervention to protect children and women vulnerable to abuse, violence and exploitation. My thoughts on this theme have evolved to consider how, in addition to mobilisation and intervention, we can add components of public engagement, multi-agency input and micro-business to create a single strategy for empowering communities in urban, rural and border areas to tackle the various issues that make women and children vulnerable to trafficking and other issues.

During the course of these discussions I discovered that the AN model was vulnerable to being usurped by public perceptions of morality and public nuisance, to be used against prostitution rather than the criminal networks. I appealed to Parker to re-orient the strategy to tackle human trafficking rather than prostitution, as in its current form all the strategy would achieve otherwise would be a displacement of the trafficking for prostitution from Croydon to other boroughs where criminal networks also maintained a presence. Most AN models were largely implemented in middle-class locations, and the members of these communities that had children were unhappy with the presence of locations of vice, along with the associated criminal elements, being on their doorstep. Such establishments, where prostitution and alcohol mix, are vulnerable to public-disorder disruptions and conflict with middle-class morality. They automatically reduce both rental income and the cost of purchasing property in an area, which prompts the community to draw together in an attempt to rid the area of prostitution and improve its outlook and value. This strategy does nothing to tackle the criminal networks behind the development of these locations. With their resources left intact, the criminal networks eventually find novel ways of accommodating the public intolerance of not having brothel locations in middle- to higher-income residential areas. The key players of criminal networks are themselves vulnerable to public pressure, as many of them aspire to live in the same areas in which AN models are initiated, wanting to be seen as being as respectable as the other residents. Such people are not interested in labour values as long as the community looks at the victims as a commodity rather than as human beings. This ultimately leads to the further exploitation of victims, removing them further out of the reach of help. In response to this criticism, CCAT attempted to create temporary homes within the community to house those victims that most urgently needed help. There were candid admissions, however, that very few approached CCAT for help when the group's direction was so overwhelmingly against prostitution rather than to help the victim.

The CCAT model has as a result had little impact on the crime; it has pushed the criminal networks underground, displaced existing criminal networks from Croydon to the surrounding council areas. There was no measurement of the impact of the model on lives affected by human trafficking, or on the criminal networks that operated in the area. Even so, it was hailed as a success<sup>33</sup> in the UK by centre-right groups, consisting mostly of a coalition of feminist and faith-based groups. A decision was then made to replicate this approach across the rest of the UK, and other parts of the world, by setting up what are known as ACT groups, an acronym that stands for 'Communities Against Trafficking'. This was largely spearheaded by the Oasis Trust under the banner 'Stop the Traffik', a coalition of a thousand organisations of different shapes and sizes, and Hope for Justice, a similar organisation that focuses solely on the UK.

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<sup>33</sup> Duncan Parker, 'Ending slavery and trafficking in Croydon'. Available at: [http://www.ilo.org/wcmsp5/groups/public/@ed\\_norm/@declaration/documents/meetingdocument/wcms\\_142858.pdf](http://www.ilo.org/wcmsp5/groups/public/@ed_norm/@declaration/documents/meetingdocument/wcms_142858.pdf)



AN organisations have limited impact on the criminal networks behind the growth of human trafficking. Their benefits are that they present a good model for raising public awareness on the subject and for putting pressure on governments and multinational corporations to improve their response to human trafficking. In India, the UK and the Netherlands, this model dominates<sup>34</sup> the anti-trafficking landscape. This model, however, has had limited impact on trafficking itself and no impact on the human trafficking criminal networks. The efforts of organisations using this model to lobby governments for changes in the law have often led to flawed legislation being passed that, in fact, contributes indirectly to the growth of the problem, or a reduction in the gravity of the crime. I base this last comment on my experience of events surrounding amendments to the Indian Penal Code in 2013. The provisions passed under intense pressure from advocacy organisations in India have serious flaws, including the diminishing of the crime of organised rape in commercial sexual establishments, so that it is now less punishable than the offence of rape or gang rape<sup>35</sup>.

Advocacy networks are often only loosely connected to the frontline issues of human trafficking, yet still associate themselves with the publicity surrounding successful cases undertaken by the government or grassroots organisations. The 200<sup>th</sup> anniversary of the abolition of the slave trade was one such event for which many issue-chasing organisations raised their, otherwise declining, profiles and funding from the public to tackle human trafficking. I have observed during the course of my research that association with such events often catapults media-savvy individuals with no knowledge or expertise on tackling human trafficking onto the world stage. I have also observed funds raised going directly to support redundant and dying projects within their charitable structure, which have very little to do with tackling human trafficking except an assertion to this fact by the recipient charities. More recently, the media has reported concerns surrounding terrorism, a frustration over checks and balances to the power of the state from human rights legislation, polarising religious ideology, and the poor integration of immigrants in mainstream society. Stories such as the grooming of ethnic white girls for sexual exploitation are brought to the fore, and advocacy groups pursue the story, commenting on the evil face of human trafficking in the UK, without doing much to counter the problem. The issue of human trafficking is widespread and needs to be addressed by a strengthening of the legal framework, through casework based on a partnership between the state and civil society groups, rather than through the creation of a media furor with an unclear outcome. This latter strategy

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<sup>34</sup> During the course of my research, India had just three operations-focused NGOs, the UK had just one and the Netherlands had none at all. The dominant groups of charities were involved in advocacy-networking, followed by self-regulatory groups involved in care for women in prostitution, followed by charities providing residential care. This fact in the UK was recognised in a recent Centre for Social Justice report, 2013, p.57. Available at:

<http://www.centreforsocialjustice.org.uk/publications/it-happens-here-equipping-the-united-kingdom-to-fight-modern-slavery>

<sup>35</sup> The Criminal Law Amendment Act 2013 punishes sexual exploitation of a trafficked minor or adult under section 370A, to a lesser degree than it punishes rape or gang rape under section 376 of the Indian Penal Code. Available at: [http://egazette.nic.in/WriteReadData/2013/E\\_17\\_2013\\_212.pdf](http://egazette.nic.in/WriteReadData/2013/E_17_2013_212.pdf)

has the potential to lead to a lop-sided and simplistic focus on the subject, which, in reality, has many facets in the UK. A more holistic approach is needed, not a populist one that provides no impact.

Having reflected on the advocacy network model which to a large degree is focused around advocacy, research, campaigning, lobbying and community mobilisation, I will now reflect on the self-regulatory model which is found in areas where the criminal networks dominate and the state has withdrawn its involvement to a large degree. In the midst of this, one sees variants of the self-regulatory models some initiated as fronts by criminal networks themselves, other by passionate grassroots activists who are doing their best to support victims through friendship, counseling and medical care.

***Case Study 7.7.1: The advocacy network (AN) model – Croydon Community Against Trafficking (CCAT)***

The CCAT model was developed in the UK through an initiative led by Duncan Parker, who had previously worked with the Salvation Army. The innovative element of this model was that it explored what a community could do using only the resources contained within it, when faced with the problem of human trafficking on its doorstep. In the case of CCAT, members of the community decided to work together to identify the locations where off-street prostitution using migrants was taking place within their locality. The assumption was that if foreign migrants were found in locations of prostitution, there was a high likelihood that one would also find victims of human trafficking. The group gathered interested members of the community, among whom were lawyers, doctors, nurses, estate agents, and community workers, with a strong commitment to tackling the problem. Having gathered a team, the next stage was to undertake an assessment of the problem, using communication (telephones, mobile phones) and social media tools (websites). The group targeted various locations such as brothels, flats, lap dancing bars, and parlours, plus those relating to escort services, and sex-chat hotlines. The contact information for these locations was identified and collated from the different forms of advertisement used by these networks, in newspapers, local shops, public phone booths, and on pornographic and social media websites. Further research was then undertaken to triangulate the phone numbers to locations in and around Croydon by verifying the address and phone numbers through information publicly available in phone directories and other public databases.

Once this information was collated, the team called the collated phone numbers to establish whether the location in question sold sex, how many individuals were based at the location, what was their ethnic identity, what was the cost of sexual services, and what was the physical address of the establishment. The team identified the language to use in these conversations by studying the blogs of those that frequently visited these locations. A minimum of three phone calls was made using anonymous pre-paid mobile cards, in isolation of each other, by the same or different volunteers. The volunteers were then interviewed by a supervisor who cross-verified the written documentation with the volunteer's mental assessments of their conversation with the establishment. This helped to fill some gaps that had previously not been recorded, because of the intense nature of the conversations.

The analysis of the conversations involved mapping the locations of the establishments, estimating the number of people in the brothel, and the ratio of British women to those of other nationalities. The next stage of the CCAT was advocacy and lobbying; engaging with all stakeholders within the state infrastructure and civil society groups, local members of parliament or the legislative assembly, and local councils (municipal/town administration). This stage provided the state and local civil society groups an opportunity to analyse the information provided with the hope that they would act upon it. Following this, the community reflected on the previous stages, and sought to identify the main problems in the area, the level of response from the stakeholders contacted, and the level of knowledge of the problem within the local civil society groups.

Based on the reflection above, the group drew conclusions on whether and how to continue. They considered whether it was in the power of the community to make a real difference and whether it could develop a response to the problem. The group then identified the financial and personnel resources available to the community and accordingly developed a response, housing it within a charitable structure to ensure accountability of resources and action. The CCAT then took the information they had gathered into the public sphere, engaging with schools to encourage young people to take an active interest, and creating a range of public-awareness tools that can be used by the individuals involved. Films on trafficking were used, where appropriate to the nature of the audience and their desire and ability to engage with the issue. A website was also developed and this, combined with a range of social media tools, engaged the online world. The group also pursued all local media outlets (newspapers, and radio and television stations), using publically available avenues, such as letters to the editor, and citizen-reporting for media channels. Furthermore, the CCAT sought to organise loose tie-ups with other local civil society pressure groups, and faith-based groups of all religious denominations. This stage also involved assessing which of the larger coalitions of civil society groups to pursue. Beyond this, the group needed to sustain their existing efforts by keeping key issues at the top of the list of things the local community thought should be acted upon. A range of strategies were employed, from writing letters to the press and local government, to demonstrating outside media houses and centres of government authority in the area, to putting pressure on the authorities to crack down on specific establishments identified as openly conducting activities linked to human trafficking. The group also set up petitions to authorities, putting specific pressure on executive, administrative or legislative action. It even explored the possibility of a 'name and shame' campaign against individuals using services or products reliant on human trafficking.

### ***7.8 The self-regulatory model of tackling human trafficking***

The hallmarks of groups working to a self-regulatory model are that they are often grassroots, widespread, semi-organised and populated by activists. They depend on powerful people in the area to grant them permission to work, and are vulnerable to infiltration by criminal networks. They are not dependent on the state and, while they are very sympathetic to the victims, they are often unable to do more than to offer support within the parameters allowed by the criminal networks. Even so, the level

of intelligence and insight self-regulatory groups have is critical in developing anti-trafficking strategies that work.

Self-regulatory groups work within communities that are dominated by criminal networks. To a large degree their work in the area is dependent on the permission given by the criminal networks. I have observed several instances where even though they are aware that children or forced adults are being commercially exploited within the area by the criminal networks. They maintain a strategic silence and often, in private conversations, actively oppose the dismantling of criminal networks dominant in the community through the rule of law, as this directly affects their ability to work, yet officially and on their websites they remain vocally against human trafficking. They do this because, in the parts of the developed world that are governed by the rule of law and where the regulatory groups raise their resources, it would be unacceptable to say that trafficked children or forced adult sold into any form of trafficking should not be saved, or that human trafficking criminal networks should not be disrupted. Negative forms of self-regulatory groups include those staffed by members of the criminal network that have organised themselves to oppose police interventions in a democratic setting, and those who raise funds to prevent the spread of HIV but direct the money towards covertly or overtly opposing state-civil society interventions. There are also those who vacillate between partnering with criminal networks to get access to victims – training the networks in the law to avoid police interventions, so that they can help with palliative care for dying victims and provide banking and other financial services for those still living – and providing detailed intelligence on specific children or adult victims for whom they feel compelled to act. Case Studies 7.17 and 7.18 are positive examples, with mixed success, of self-regulatory groups. A number of the practices of such groups are highly suspect, in my opinion, violating the law. They may tip-off criminal networks about operations, help children or adult victims to be returned to the traffickers by misrepresenting the case before the judges, or mobilise mobs outside police stations to pressure the police to release victims in custody. They also lobby at the highest levels for loopholes within existing legislation or to oppose new legislation, demanding the de-criminalising, but not the legalisation or regulation of the crime. There are also those that provide additional employment for local women in the area, selling the products created by the victims of trafficking, while actively opposing any intervention in areas where children are openly exploited. Case Study 6.9 is an example of self-regulatory groups that are largely fronts for criminal networks.

Self-regulatory models largely stem from areas that are dominated by criminal networks. The self-regulatory models are largely split into three types of genuine grassroots groups. The first type, through relationships with both members of the criminal networks and their victims, try their best to support the victims and their children through this difficult time. They are terrified of law enforcement due to having to work in areas dominated by criminal networks but will, when conscience compels, report on the presence of children or forced adult victims of human trafficking. The second type of group is a local team of a large international organisation working in the area. These groups recruit members of the criminal network as part of their staff to get greater access. They tend to project both

sides of the coin, vocally against human trafficking outside the areas they work in but actively in support of criminal networks in the areas they do work in. The last type of group is predominately made up of criminal networks themselves that have an NGO front, they tend to have the maximum number of children under control of criminal networks in the area and are actively hostile towards any attempts to save the children or forced adults in the area.

#### **Case Study 7.8.1: The self-regulatory model – Scarlet Chord**

During the course of my research, I was able to observe the ‘Scarlet Chord’ project, operating in the red light districts of the Netherlands. This project was led by the larger-than-life figure of Toos Heemskerk-Schep. Heemskerk-Schep had worked in the Dutch prostitution sector for more than 25 years and she knew it, throughout the Netherlands, in great detail. The Dutch government relies on Heemskerk-Schep’s expertise to guide them in engaging with those within the sector on the issue of regulation. She knows every brothel, every house, every flat and every club, also knowing both the victims and the perpetrators involved.

During my conversations with Heemskerk-Schep, she described the Amsterdam red light district to me. At the time of our meeting, it was largely divided into three sectors: the older South American sector, the Eastern European sector and the Dutch sector, with the bulk of women who are trafficked into Amsterdam being based in the Eastern European and Dutch sectors. According to Heemskerk-Schep, before the fall of the Soviet Union, the main supply of victims would come from South America. This trade route collapsed with the fall of the South American countries’ communist allies. More recently, criminal networks specialising in victims from two vulnerable groups have dominated the red light district in Amsterdam. Trafficked women in the first group come from Bulgaria, Romania, Hungary and the former Soviet Union. When first trafficked to Amsterdam, these women would often be under 18 and so would be supplied to the escort and call-girl sector as, because of their age, they couldn’t be displayed in the windows of the red light district. Instead they would be supplied to wealthy customers who do not like coming to the red light district. The day the women turn 18, they are placed in the windows of Amsterdam for low-cost mass sexual exploitation. The high value of the women is largely recouped through private supply chains and, though their value is not as great, because of their existing experience with a number of private clients, they are now made available for commercial exploitation by the masses. Most of these girls would be terrified to speak to Heemskerk-Schep. She would often find them under the control of armed members of the criminal networks during her visits. Her approach was largely to support the girls in the area with counseling, medical support and through attempting to make the area more bearable for the victims. Heemskerk-Schep would not involve herself in the any rescue, intervention or prosecution of the criminal networks.

The police largely vanished from the red light districts of Amsterdam and it is now known as a stronghold of criminal networks dealing in the trafficking of human beings and drugs. I was shown a number of windows where girls from Eastern Europe had just been introduced, having recently turned

18. The second sector contained young Dutch girls, groomed by criminal networks from Northern Africa and Turkey, largely consisting of Muslim men. These men would charm young girls of school age, under the pretext of love, to groom and break them, then introducing them to private clients and, following that, the windows of the red light districts. A section of the prostitution district in Amsterdam is now dominated by Dutch girls trapped by criminal networks using this method of entrapment. The girls in these windows were all young and were closely monitored from a local café by the men who had trapped them. According to Heemskerk-Schep, they are so closely monitored that if a customer or care worker were to attempt to hold a conversation with them, the victims would soon be contacted by phone and told to stop talking. The main role of the work that Heemskerk-Schep, through 'Scarlet Chord', has undertaken has been to befriend the victims, and provide them with peer support and counseling, medical care and any other services to make their lives more bearable. She attempted to save a woman from the district only once, by reporting a desperate case to the police. The ruthlessness of the criminal network, their access to arms and the absence of proper policing in the area has led Heemskerk-Schep not to attempt this again, as the risk to her following this initial attempt was very high for several months. The main focus of the work of 'Scarlet Chord' work has been to prevent the grooming of Dutch girls by the criminal networks, by making them aware of the dangers and methods of the men who may try to entrap them. They have also attempted, in some cases, to help girls saved by the state to reintegrate into the countries of Hungary, Bulgaria and Romania but found that criminal networks heavily infiltrated the civil society groups in these countries. In some cases, the main civil society leader was actually a brothel keeper herself. This made work on reintegration almost impossible to achieve.

#### **Case Study 7.8.2: The self-regulatory model – Aruna**

The Aruna model is similar to that used by 'Scarlet Chord' but is largely implemented in an Indian setting and so has many similarities to other self-regulatory models existing in the Indian sub-continent. It involves a team working in a red light district and focusing on building relationships with the people that own and control the brothels in the area. By building these relationships they are allowed access during non-business hours to adults in prostitution in the area. They are never given access to minor or new victims brought into the area; their access is restricted to those that have been in the sector for a few years or those who are of limited or no value to those controlling the trade. They also reach to the male children of women in prostitution, who often become lower-rung members of the criminal networks, working as pimps or watchers. As part of the relationship-building exercise, the Aruna teams provide legal and medical advice, banking and other financial services to women who have the freedom to get out of prostitution. They provide a crèche for single mothers in prostitution, schools for their older children, and community support services, including the maintaining of a community hall in which people in the area can go to meet. They undertake this outreach work every day for a few hours in the afternoon. In addition to the above they have a halfway house and more permanent residential care for women. The halfway house is for women who are no longer of use to the criminal networks as a result of their diminished value and illness related to the

trade. These women are initially brought to the halfway house before being taken to a residential facility. If the women are able to recover they are brought back to the halfway house and then helped back into society by getting them into shared housing and jobs, at each stage of their reintegration. The challenge with this model is that for every 500 women on the verge of retirement from the business, Aruna were able to bring only five to 15 women through to the point at which they have been reintegrated into society. The majority of women were never released, as the policy of the criminal networks was often to profit from the women until they were dying or irreparably damaged. The five to 15 who were able to survive the trade, could do so largely because of their resilience and ingenuity, because of compromises they were able to make with the criminal network, and because of their potential value within the organisational structure of the criminal network, because of a specific skill such as management or accounting. Financial deals were undertaken by the civil society group to compensate the criminal network for adults with diminishing returns being taken out of the trade for reintegration.

Such models are found in most red light districts in the Indian sub-continent, with small variations. Almost all of these models are created with the specific objective of containing the spread of HIV by ensuring that prostitution is practiced within the red light district only, and that the spread of the virus is contained by use of condoms distributed freely to the brothel keepers. These condoms are rarely given to the girls in the brothels however, as the majority of customer dislike using them. If they are used, the brothel keepers will charge the customer for them, or else charge the customer extra for not using them. Children born to the women in prostitution are also treated to reduce the transmission of the virus from mother to child. In an effort to contain the HIV epidemic and to get access to the brothels, the civil society groups have to form partnerships with the criminal networks. The groups therefore see law-enforcement action as hostile to their efforts in containing the spread of the virus by keeping the women in the same area. These models almost never get access to the more valuable aspects of prostitution, particularly to children and new adult girls brought into the trade. These partnerships give the criminal networks a taste of how to use the civil society structure to protect their interests and, both practically and ideologically, to counter any efforts to help women in the sector without their cooperation.

In the absence of the unitary model, which specifically develops a proactive approach, involving intelligence-gathering, intervention, prosecution and victim protection, the indigenous models that emerge involve components of outreach, using existing legal defense tools that can either help victims of trafficking through their rescue by the police, or can lead to their prosecution by the state, on grounds of immigration or other penal crimes committed during the course of the victim's trafficking. I refer to this as the outreach legal practice (OLP) model of tackling human trafficking.

### ***7.9 The Outreach legal practice (OLP) model of tackling human trafficking***

This is the dominant model that affects almost all victims in the UK or the Indian sub-continent. This is largely oriented around outreach work in prisons and for women engaged in street prostitution. There are a number of organisations that work to this model. Self-regulatory model organisations regularly tie-up with groups employing an OLP method to fill the gaps they have in securing access to the legal system. The OLP model is a great tool to protect victims of trafficking from a miscarriage of justice or a misapplication of law, or to act as a check against arbitrary use of state power in favor of populist policies that focus on moral arguments, public nuisance or the crime immigration policies of the state. They have no impact on the criminal networks that form the basis of the crime; they are unaware of intelligence surrounding the criminal networks and their influence in their dealings with the victim. They tend to have an anti-state approach which can even lead them to partner with criminal networks or apathetic members of the state to unconsciously or even knowingly to take or dismantle state structures, policies or strategies. Groups operating under OLP models are often made up of genuine, well-meaning individuals and, in certain cases where the state is operating against a victim, they can be a bulwark that defends the rights of the victims. Even so, in the long run, such groups strengthen the criminal networks, creating another front for positive elements of the state to counter. They also provide the perfect excuse for those within the state not wanting to take the risks associated with truly countering the criminal networks. Their inability to comprehend the criminal networks, to address the long-term needs of the victims, or to see the benefits of dismantling criminal networks through intelligence-led operations, make them a dangerous model to replicate on their own elsewhere. However, as part of a holistic strategy, and where nothing else exists, they are a critical first step taken by the community in the fight against the criminal networks and their deepening links within state structures.

#### **Case Study 7.9.1: The OLP model in the UK**

In the UK, the OLP model involves outreach work undertaken in prisons and for on-street prostitution by an array of both left- and right-leaning organisations, who refer cases to corresponding left- or right-leaning law firm or lawyers. These lawyers focus on fighting against the state to improve its track record on the protection of human rights and individual liberties. The Anti-Trafficking Legal Project (ATLEP) is a team of left-leaning lawyers who take referrals from victims of trafficking who have been arrested during immigration raids by the UK Border Agency (UKBA) and other law enforcement agencies. They also take referrals from charities that visit prisons or work with women engaged in on-street prostitution and identify cases of victims with an element of human trafficking. The victims are mostly citizens outside of the European Economic Area (EEA) and are assisted by the legal groups, who address any criminal cases the victim may be involved with or any public order/public nuisance cases filed against them. The legal groups also help them with their immigration status by securing temporary or permanent residency through the asylum process. Almost all victims of trafficking from outside the European Economic Area that manages to evade the UKBA removal process, secure the legal groups' help and support through this process. Such groups are often



intensely hostile to the state and its agencies, such as the UKBA, as their work is often seen as challenging the immigration control policy of the government in power. The state rarely cooperates with the OLP model but it does play a key role in supporting victims of trafficking from outside of the EEA. One state-civil society approach to this is government funding and support of large organisations, such as the International Organisation for Migration (IOM), which supports the voluntary removal of victims of trafficking within the UK to their source countries, by providing a humane form of exit from the country. In cases in which I have interacted with the IOM in the UK, they have shown no interest in dismantling the criminal networks or securing the safety of the repatriated victim in the source country from which the trafficking criminal networks operate. In one case, the IOM UK wanted to refer cases to me where victims from India had been trafficked to the UK, then identified and removed from their place of exploitation by a local UK police force. I assured them that I would help, provided that they were willing to secure compensation for the victim and provide me with the facts on what led to the victim being trafficked, so that we could identify and prosecute the elements of trafficking in India, without which any repatriation or reintegration would be meaningless. They were not interested in pursuing the perpetrators, however, and were purely interested in the voluntary repatriation of the victim to India, irrespective of the risk to them, and the lack of concrete follow-up available. Such an approach would inevitably result in the victim being re-trafficked to another destination. IOM UK was funded by the government per successful voluntary repatriation, and while there is no doubt that the IOM process is more humane than a forced deportation, it does nothing to tackle the criminal network or give the victim a realistic chance of mid-term self-sustainability.

During my meetings with the 'Poppy Project' they focused primarily on victims referred to them from prison outreach work and from groups working with women in on-street prostitution. According to them, this was the primary manner in which victims of trafficking were identified in the UK. These mainly addressed adults trafficked into prostitution; very few organisations have a clear picture of children trafficked in the UK.

#### **Case Study 7.9.2: The OLP model in India**

During the course of my research, I came across an organisation based out of Southern India. The organisation primarily focused on representing women in prostitution housed in the local government safe house. Prior to 2007, all operations were aimed at controlling prostitution without tackling criminal networks or supporting the victims of human trafficking. This meant that the normal method of working was to conduct operations on locations where prostitution was carried out, with a view to prevent its spread. This approach tended to focus on prostitution as a public nuisance and would receive attention around elections or sporadically between elections. During this time, lawyers of the NGO would visit the government shelter, which for adults was incidentally housed in the asylum for women with mental illness. The atmosphere in the shelter would devastate the victims, and so they would flock to the lawyers of the NGO. These lawyers would represent the girls in court and use an

array of legal arguments, largely focused on gaps in the police investigation, to set the victims free. However, this would often put the victims back into the hands of members of the criminal network, who would be waiting outside the court. These women would then spread the word among those in prostitution that there was no point in seeking help, as they would be put straight into an institution for mentally ill women from poor backgrounds. Victims here would often be given the same medication that the mental health patients would receive. As a result of the negative stories the victims heard, they would instead identify ways of compromising with the criminal network, hoping that they could survive because of their value to the criminal network and interest from their clients.

This state of affairs took a turn for the worse when the multidisciplinary model started working with the local government in the region. The multidisciplinary approach differs from a focus on prostitution. Instead, it seeks to save the lives of children and adults exploited against their will and to dismantle the criminal networks that traffic them. Within the five years that this approach has been applied, a change in the attitudes of local government and police has slowly taken place. While there is still a long way to go and many challenges, there is a clear positive trend in the attitude and engagement of government and civil society groups towards victims. This has resulted in a decline in funding and clients for the NGO, and in support for their approach, which, through liberating women in prostitution, has been to convince the government that the only way to deal with prostitution is to legalise it, irrespective of the existence of children and young adults as trafficked victims.

The government shelter now consists largely of trafficked victims, only differing from this while the police continued to conduct isolated raids focusing purely on prostitution, and without intelligence. In a defiant act, the lawyers from the NGO started approaching trafficked victims in the shelter from other neighboring countries, such as Bangladesh, and misrepresenting them as who were women willingly in prostitution and from India. They would ask the girls to falsely state this as the price of their immediate freedom. The criminal networks would immediately take the girls released from the courts back into prostitution. There were a number of instances where the court realised the approach the NGO was taking and rejected their applications to protect victims. Even though the forum was well meaning, this is good example of how criminal networks are able to manipulate ideologies to achieve their ends.

There are similar groups in India, also well-meaning but ultimately manipulated by the criminal networks. In a major city in India there was a thriving dance bar (the equivalent of a lap dancing bar) industry, employing between 50,000 and 100,000 girls. In 2005, the state government decided to ban the industry as a public nuisance, but without considering an appropriate care plan for the girls employed. The result was the trafficking of girls in the sector to the Middle East, to South East Asia and to Southern India. The main attractions of the dance bar were minor girls, between 14 and 16 years of age, with adults employed largely as props, to dissuade law enforcement action. When selected by a wealthy and powerful customer, one of these minor girls had no option but to be sold by

the bar owner for the night or a period of a day or two. The violent rape and abuse that would take place would occur in farmhouses, lodges or hotels owned by the criminal network. The girl would be given a chance to rest and brought back to the bar for further 'employment' after that. Rather than dealing with the criminal networks and protecting the victims, the government opted for a complete ban. This merely shifted the problem elsewhere. To challenge the ban, a union of bar girls was formed and represented by an NGO. Unknown to the NGO, the girls in the union continued to be controlled by the criminal networks. They would often approach me for help to save the children and forced young adults in the custody of the criminal networks. They never denied the reality of what was happening and the control of the criminal network but those that had survived and were of less value to the criminal networks felt forced by circumstances and the power of the networks to form the bar-girls union to cloud the real facts that the dance bars were fronts for trafficked girls to be commercially exploited and abused.

### ***7.10 The nodal model of tackling human trafficking***

This is a new variation of state-civil society partnerships, a hybrid model of the specialist, multi-agency and departmental models, that takes one of two forms. The first (see Case Study 6.19) is an initiative led by a single discipline, but having various specialties that create a single cell or team to guide a victim of violence or abuse, particularly children and women, through those various specialties through a single point of reference, thus protecting the child or women from managing the different agencies themselves and from receiving potentially differential, insensitive and delayed treatment from each. The second variation is an attempt by any single discipline (see Case Study 6.20) to create a structure outside of the physical structure housing the discipline, in order to facilitate greater interaction between the victim and other disciplines in a friendlier environment. The nodal model is designed to cater to victims of violent crimes. It creates a non-threatening atmosphere led by a single discipline, largely the medical discipline where a victim can come directly or be referred. The victim is then guided by a social worker associated with the nodal model through the investigative and prosecution procedures within the case, if the victim decides to pursue justice. The nodal model also provides the innovative procedure of keeping the evidence of the crime secured from the physical examination of the victim safe as per local evidence regulations. This provides the opportunity in the future for an effective prosecution against the perpetrator at any stage that the victim is willing to take it forward.

#### **Case Study 7.10.1: The nodal model – UK Sexual Assault Referral Centre**

The UK Sexual Assault Referral Centre (UK SARC) system has been in existence in certain police force jurisdictions for several years. It was brought to my attention in 2010–2011 by a senior police officer in the Sussex police force and a senior counsellor who ran a civil society group that specialised in caring for the victims of rape. While I have been invited to visit the location of the SARC in Sussex, I have so far been unable to do so, though I have had in-depth conversations with people involved in setting it up, and have made use of these facilities in the Sussex region. My understanding

of their description of a SARC is that it is an idea developed by the police to create an atmosphere different to a regular police station for a sexual assault victim, with the hope that this will facilitate greater inter-disciplinary cooperation with other organisations, particularly the social work and civil society groups providing various aftercare service for victims of sexual assault. What struck me most about this engagement was the feedback from a counsellor of victims of sexual assault on how this change in surroundings, from a police station to a separate annex of the police station, improved the response of victims of sexual assault and their willingness to come forward and engage with the police, with social workers and with the criminal justice system. I understand that within the London Metropolitan jurisdiction, this concept has been developed to include input from the medical forensics team, improving the gathering of corroborative expert evidence in a victim-friendly setting. There is, however, little evidence of the impact of this universally throughout all police forces in the UK and so far, its use has not been publically extended for human trafficking victims. There is also little evidence of how this model enables long-term aftercare through individual plans of care. This is largely a model where the social work and medical disciplines interact in a closer format, with police taking the leading role for the case and the development, maintenance and growth of the centre. Currently the model is to have one centre annexed to a local police station for an entire jurisdiction (i.e. one centre for the Sussex police, one centre for the London Metropolitan police force, etc.).

#### **Case Study 7.10.2: The nodal model – UNICEF-Nair Hospital project**

This was a project sponsored by UNICEF in Maharashtra, India. It involved a small team of social workers who created a cell within a hospital. Every child that was a victim of violence or abuse was referred to the cell by the state and civil society structures. The cell then took over the care and protection of the child. They guided the child through the various assessments undertaken by the different disciplinary departments of the hospital in a sensitive and child-friendly manner, so that all of the departments interacted with this cell when providing their feedback. The key success of this form of the nodal model was the ability to secure an accurate medical report surrounding the age of the child and the abuse they had faced. It prevented the criminal networks from infiltrating the hospital and bribing doctors to provide a false expert's report that favoured them in re-securing the custody of the child and diminishing the ability of the state or civil society groups to prosecute members of the criminal network. The weakness of this model was that it showed limited interactive ability with other disciplines outside of medical care, such as legal, investigative and aftercare disciplines. As a model it was not widely used and limited to a single hospital, enabling criminal networks to bribe doctors in the remaining government hospitals, who became hostile to any efforts by the government to introduce the nodal model there. Because of the hostility of the doctors to introducing this model within their own hospitals, the courts would only refer the case of children suffering abuse and violence to these other hospitals and not the Nair Hospital, where the project had been implemented. Finally UNICEF decided to close the project, to encourage the government to take the initiative in setting something up themselves. Sadly, nothing resulted from this action. In my opinion, the current need is for civil society groups to develop the medical discipline as part of efforts

to provide both medical care and medical forensic abilities. This should be part of an integration of other disciplines, monitored through a case management system that supports a victim from the initial intervention, to their reintegration, and the dismantling and successful prosecution of the criminal network involved. The nodal model is a fascinating one, where leadership is provided by the state but this is done through the creation of nodes outside of the usual organisational or physical state structures, to create an interface or nodes of engagement with all stakeholders. The challenge faced by groups working under this model is the same faced by groups working under the departmental model, where the initiative is led by a particular discipline within the state structure, rather than a genuine multidisciplinary engagement with other disciplines, both within the state and with civil society groups. Such a model can result in the process becoming a box-ticking exercise for the central discipline in response to criticism over a lack of engagement with local communities. When the model works, however, it provides effective results, creating a positive impact on the victim's experience of engaging with particular disciplines. Despite this though, the nodal model remains insufficient to challenge the criminal networks, as it does not disrupt their activity.

***7.11 Structure and evolution from the advocacy network model, self-regulatory model, outreach legal practice, and nodal model to the multidisciplinary model.***

Chapter 7.5 details the structural changes and evolution of anti-trafficking models from the unitary model to the specialist models. In this chapter I journey through the structures and structural changes and evolution leading from the specialist model through the advocacy network model, self-regulatory model to the outreach legal practice model and the nodal model and how that set the stage for the evolution of the multidisciplinary model. In the UK, through the course of this PhD, the focus has been on the multi-agency model for inter departmental cooperation often with the police or the prosecution and in some cases the parliamentary sub-committees playing a key role in leading or facilitating inter-departmental cooperation. Hence, to begin with in the UK I largely observed the existence of the departmental model with the multi-agency model being the coordinating mechanism that brought together various government departments. Over the years the creation of quasi-executive or quasi-legislative bodies better known as 'Quango's' led to a degree of innovation, which I observed, with areas of child exploitation and abuse. These innovations were largely nodal models as mentioned in the paragraphs above. The change in government from Labour to Conservative led to a change in approach with the 'Quango's' largely is consolidated within the main institutions of state that they grew out of. The self-regulatory model and the advocacy network model have largely fizzled out with concentrations in minor pockets across the UK. All specialist units were also merged within the mainstream policing structures. The crowning glory for the advocacy network model was the passing of the Modern Slavery Act in 2015 which was based largely on research undertaken by the Centre for Social Justice a Conservative party think-tank. While it has interesting provisions within it concerning representation for victims it was not based on a comprehensive casework approach across the UK to understand what the gaps were with regards to existing implementation of the law both against criminal networks and for victims of trafficking. It failed to be holistic in nature to tackle all

forms and the various factors surrounding human trafficking. The historical movement of William Wilberforce influenced a number of people associated with it where passing of a law was the main highlight of the movement to tackle slavery. The then law abolishing slavery barring the actions of the Royal Navy did very little against criminal networks or for rehabilitation of victims or to stop the evolution of the problem. In fact a no of officials as highlighted in the chapter on slavery played a key role in partnering with those that profited of slavery to help them evolve the problem from chattel to contractual in nature. One can say that while well intentioned the Modern slavery law in the UK has several gaps and comes it across as a mish mash of various agendas that have little to do with human trafficking. The key challenges of tackling all existing and emerging forms of trafficking, the transnational nature of it, the need for a multidisciplinary effort, the problem with separating human trafficking from a desire to control immigration, the area of deportation, the sensitivities surrounding global trade, the lack of understanding on the areas of intersection between global multinationals and human trafficking making it difficult to intervene at the right places are just some of the major gaps in the law. I have dwelt on this in the earlier chapters with the caveat that it is still early days of implementing this law. The key insight for me was when I was asked to talk about human trafficking in 2015 to a group of information technology companies, members of the drafting team of the slavery bill among other stakeholders in an event organised by the US government and the UK Home office. All the stakeholders involved were completely taken by surprise to understand the grassroots realities of the problem around a range of factors which made me wonder what was thinking in drafting this law if the stakeholder involved in drafting did not have a complete understanding of the realities of an evolving problem within the UK with global linkages. The UK today continues to have nodal models, such as the sexual assault referral centers, a number of local council-supported charities under the self-regulatory model, and various government law enforcement and prosecution agencies continuing to work under the departmental model. The ‘Big Society’ idea is rarely talked about and limited support is given to the Salvation Army to disperse grants and provide a degree of aftercare support for those victims approved to be a victim under the National Referral System. The specialist model known as the UK Human Trafficking Centre has all but disappeared within the consolidation occurring within the National Crime Agency, while the Child Exploitation and Online Protection Centre grew to be a dedicated command within the National Crime Agency due to the growing nature of the problem surround child sex offender networks within the UK. However it functions more as a complete state entity today rather than a blend of state and non-state actors that it used to be taking us right back to the problems that we talked about in the theoretical framework on governing security.

The Netherlands scenario was different where the super-specialisation of the state continued to grow during the course of my research. In the traditional red-light districts of the Netherlands the self-regulatory model still remains the principal focus of work. The criminal networks continue to consolidate their hold on the crime with the demography of victims changing to largely Bulgarian, Hungarian and Romanian girls, among others from countries once behind the iron curtain. Also the use of grooming was widespread, with criminal networks using the ‘lover-boy’ strategy to traffic and

exploit Dutch girls for sexual exploitation and abuse. There were some notable successful prosecutions both in the UK and Netherlands reflecting strength in the prosecution systems, but due to lack of multidisciplinary cooperation and limitations of work cross-border in a crime that is largely global its impact on the criminal networks were limited.

Having reflected on the impact of these models within the UK and Netherlands I revert back to the narrative on the structure and analysis of the models from my conclusion with the specialist model in part one of my analysis, on the varying anti-trafficking models captured in Chapter 7.1. The advocacy network model emerged from the events surrounding the celebrating of the 200<sup>th</sup> anniversary of the abolition of the slave trade in the UK. The aim being to leverage upon a historical celebration of the abolition of slavery and use the public interest generated to bring attention to contemporary forms of human trafficking and generate private financial support for initiatives to address it. One of the big gaps for advocacy groups is their lack of engagement with any level of grassroots movement which they compensate by undertaking trips to visit grassroots level organisations promising them funds and gather all the information necessary to come across as a well-informed agency. They then further cement that credibility by forming a network of smaller advocacy or networking organisations that to a large degree are paper tigers (strong on paper, weak in practice). The advocacy network model then ties up with the media using celebrity endorsements to both advocate certain positions and raise significant amounts of money. Surprisingly their structures are exactly what I said earlier 'paper tigers'. A prominent advocacy network organisation with a network of over 1000 partners and profiled at the UN summit, having billboards across major roads, airports, railway stations, reviewed a number of times in leading newspapers and channels with dramatic events such as public displays of people in chains was, when their office was visited, just a team of one full-time, one part-time and two volunteers staff members. At times the advocacy network model would tie up with community-based groups to address their concerns surrounding prostitution in their area. There was always a concern that this had more to do with common fear surrounding immigration and the public nuisance concerns that prostitution-based activities often generate within an upmarket family-friendly area. One of the outcomes of an advocacy-network model in the UK is the 'Modern Slavery Act'. What started as a tie-up between advocacy-based groups and individuals and a think-tank lead to a research on the basis of which the law was created.

The self-regulatory model is often a response to areas that are largely abandoned by the state as seen with the governing security theoretical framework in Chapter 5. In prostitution districts of India and the Netherlands I have observed the self-regulatory model. For a community often neglected by state and the private sector, the self-regulatory model in its purest form undertakes a yeoman's service to adult victims of sexual exploitation and to the children of women in prostitution. The critical challenge arises when, having seen the benefits of organising themselves and the potential rewards from donors interested in the health-based initiatives, the criminal network infiltrate and often takeover this model and use it to further their goals of consolidation, protection and expansion. The

self-regulatory model often worked with the unitary model to discreetly gather information about children or adults that were trafficked or being exploited. The use of the law to save the trafficked child or forced adult was applied only after several efforts by the members of the self-regulatory model for a peaceful resolution with the criminal network to extract the victims would fail and the victims continued to be abused and exploited. The unitary model would then work with the police to save the victim using the due process of law. The advocacy network model also linked up with the unitary model to provide technical advice and to add credibility to the work often on the assurance of grants for the grassroots work of the unitary model, which were rarely fulfilled. The self-regulatory model often found it strategic to tie up with outreach legal model with an aim to secure their protection and ensure rights for the adult victims of trafficking and to secure policy leverage for the good practices from the self-regulatory model. The outreach-legal model often consisted of just a single lawyer, a pro-bono arm of a law firm, or a law firm specialising in asylum cases. The outreach-legal model is fantastic for adult victims of trafficking and even to advise on the good practices of a self-regulatory model, but it all gets compromised when the criminal networks infiltrate the self-regulatory model and, potentially, the outreach-legal model. During the course of my research I have recorded case studies of the real danger when this happens.

The nodal model is a fascinating development, where the specialist model often realises the inadequacies of their single-discipline approach and attempt to fill this gap by either partnering with the departmental model or creating a node, still within their control but a middle ground, where both the victim and partners from other disciplines can work with them to increase the impact their work. The nodal model does have a significant impact on the victims with regards to the disciplines that cooperate but still restricts itself if a discipline only partly partners and intends to reserve its decision on the way forward without regular day to day consultation required for a victim or for a case to succeed. Its impact on the criminal networks is negligible though in individual cases and development of good practices for one or two close partnering disciplines it has a tremendous impact.

In 2001, the first model that attempted to target criminal networks in demand areas was the unitary model. The progress made through the unitary model between 2001 and 2003 and the challenges it faced led to the creation of the multi-agency model. The multi-agency model had a lifespan of two years, between 2004 and 2005. This, in turn, led to the creation of the departmental model, which peaked in 2005/2006 but continues to be used. The specialist model has remained a consistently applied model from 2003 to the present, receiving a boost in financial support in India and the UK through a time of economic growth. The advocacy network model received increased funding as a result of the 200<sup>th</sup> anniversary of the abolition of the slave trade in the UK, and through the UN Gift summit held in South Asia and Europe, among others. The self-regulatory model has been consistently applied since 2001, emerging from a substantial investment in efforts to control the spread of AIDS. Groups adopting the advocacy network and specialist models have often partnered together and have themselves been influenced, at times, from the case work outcomes of the unitary,



multi-agency and departmental models. The appeal of outreach legal models in India has been weakened because of a preference for the outcomes of the unitary, multi-agency, departmental and specialist models. In the UK, however, the outreach legal model remains the main operational model, providing a source of help for victims of trafficking, due to the absence of other operational models. In the UK, the nodal model remains focused on the victims of rape, with no known application for the victims of trafficking. In India, use of the nodal model has declined through a lack of funding and the desire of the state to retain hold over the medical forensic outcomes in casework.

The models captured within this chapter are serious attempts to tackle the growing dominance of human trafficking criminal networks within the community. This dominance in many areas corresponds with the decline in the traditional ability of the state to tackle the problem on its own. The unitary model had a successful three-year cycle before the criminal networks evolved. The success and failures of the unitary model led to a multi-agency model which had potential, if the coalition of the various state bodies and organisations could work together. Inter-organisational politics and lack of funding eventually dismantled the multi-agency models but several strands of it within various organisations continue to be carried forward. The focus in tackling criminal networks then moved towards the rise of the departmental model and the specialist models. These models largely changed the implementing agencies and the organisational structures but did little to address the evolving nature of criminal networks and how deeply they were embedded within the very social and criminal justice systems. These models achieved individual success in certain areas of disciplines but had very little impact on the criminal networks and eventually these models were overwhelmed by the growing reach of criminal networks. While in the case of specialist models people of integrity were honest to admit that the specialist units could not be trusted, in the case of the departmental models they would revert to a claim that there were no more children being sold as victims of human trafficking in a given region, a fact that is easily disproved by the success of the multidisciplinary model. The self-regulatory model provides a degree of support to a victim in a situation of slavery but is rarely able to change the exploitation and abuse that the victim suffers at the hands of the criminal network. More often they too either succumb to, or become an embedded part of, the criminal network, giving it legitimacy and access to the criminal justice system where before this would be denied as they would be considered the perpetrators of the crime. The advocacy network model has its uses in keeping the subject in the minds of the public, but it is rarely grassroots-inspired, has very little impact on criminal networks and is a serious drain on limited resources to tackle this problem. There is also the real danger that they will be unwitting players in facilitating political agendas, crime and immigration paranoia of any dominant ethnic group in any of affected countries. The outreach legal practice models are key in handling victims at the spillover stage of the crime, however if they are largely motivated on ideological grounds they pose a real danger in aligning themselves against the state and alongside the criminal networks, and the victim is at serious risk of becoming an end to achieve these ideological victories. Any anti-human trafficking model must evolve itself before the criminal network evolves in order to stay relevant. If they do not they are at a real risk of either becoming an

institutional failure or being heavily infiltrated by the criminal networks, both of which are significant contributory factors to the culture of growth in human trafficking.

In Chapter 8, I work with a team of specialists to design, develop and implement an evolved anti-human trafficking model, based on an assessment of the strengths and weaknesses of the various anti-trafficking models described here, along with lessons learned from the institutional failures described in Chapter 6. I have called this model, the multidisciplinary, end-to-end strategic model. Chapter 8 will describe a pilot of this model over a five-year period, from 2008 to 2013 and analyse the strengths and challenges in its implementation. Based on the outcomes witnessed through this implementation, I will present the multidisciplinary model as a real-time alternative to existing models, which has the potential to be contextualised and further developed by others as an effective solution in countering human trafficking.

### ***7.12 International agendas and infiltration of anti-trafficking models***

The key challenge for all anti-human trafficking models is how to balance out an international agenda and protect themselves from being infiltrated by criminal networks or other corporate agendas. It is often a minefield to navigate the world of human trafficking in a way that both saves lives and breaks the cycle of crime with one's integrity remaining intact through the whole process. As captured in Chapters 2 and 3, both from a historical perspective surrounding slavery and the contemporary debate surrounding human trafficking that led to the Trafficking Victims Protection Act in the US and the protocol to tackle trafficking in persons by the UN, the subject remains at the heart of both the local and global agendas of all countries. The unitary model, as a pioneering model, has involvement and funding from the US, from both private and government funding bodies. At the very heart of this was the requirement in the US Trafficking Victims Protection Act that required mandatory reporting from all US embassies and consulates on how each country was faring in its effort to tackle human trafficking. The US as a global superpower also had an interest in ensuring that no product or service which involved any form of human trafficking be provided for anyone in the country, as a product made by the efforts of slavery would always be cheaper than a product made with high standards of care towards employees. This would cause unfair competition and would destroy both the local market in the US and all legitimate exporters in other countries. As a result of this non-compliance, reporting or information-gathering was always part of any funding arrangement involving US government stakeholders and there was always a risk that funding from private stakeholders in the US would also result in the data gathered being forwarded for the same purpose to the US government. This often pitted organisations, working under any model of tackling human trafficking, against the local government if they received any US funding. This challenge pervaded all models of tackling human trafficking that depended on either direct US funding or received funding through private stakeholders in the US or any allied international funders including funds received through various UN agencies that had its source of funds from them. During the course of the PhD I observed the same agenda was behind European Institutional funding where for reasons best known to them

contingent on their funding was information to be given on both non-compliance with International/European standards of tackling human trafficking but also on the state of affairs with policing within the country. It came as a surprise to me that while Europe enjoyed significant data protection, the same standards were often not followed for information from Non-European countries. Eventually the government in India, as it grew from a developing to an emerging economic powerhouse, started severe crackdowns on civil society groups that receive any international funding from either state or state allied institutional donors. State allied also included institutional donors that were foundations of major philanthropists. In the multidisciplinary model one of the key principles of functioning to not take any funding from international government stakeholders or institutional donors associated or partnering with international governments. In 2015 at the time of writing this paragraph over 15,000 NGOs had their license to receive international grants revoked on various grounds of non-compliance. Even major institutional donors such as Ford Foundation could no longer disperse grants without the prior permission of the Indian government.

A similar challenge arose with taking local government funding from developing countries. The high levels of corruption meant that over the course of the PhD between 30–50% of the grant from a local government had to be given as a bribe. Most NGOs I spoke to during the course of the PhD mentioned that the only reason they applied for local government funds was for the stamp of credibility that it provided in securing private institutional grants. The levels of corruption grew each year to the extent captured in the chapter on criminal networks where corrupt elements of the state and civil society organisations and criminal organisations formed a master criminal network that hold a stranglehold on an entire region ensuring that no government funds trickle down to people, that criminal networks have a complete undisturbed sway in the entire region and for any victim unlucky to be saved there would be a guaranteed deal with the criminal network to either silence them or hand them back to them. It is this kind of a minefield that any anti-trafficking model mentioned in this chapter or even the multidisciplinary model has to navigate with integrity to ensure its sustainability and growth.

### ***7.13 Conclusion: Theoretical framework and anti-trafficking models of governing security***

The hypothesis of my theoretical framework is that the culture of growth for human trafficking arises from the ability of criminal networks (Morselli, 2009) to infiltrate and impact both state and civil society systems both procedurally as well and through constantly evolving networked models captured in Chapter 6. The second critical part of my theoretical framework is the roll of institutional failures (Dewey, 2008) within efforts to tackle human trafficking described through various models above play in the contributory growth of the problem (Dewey, 2008). This chapter also captures the response of a community isolated from the state and with embedded criminal networks within it that have often replaced the state. The judicial activist model leading to the unitary model, the journey from there through the multi-agency model, the departmental model, the specialist model, the advocacy network model, the self-regulatory model, the outreach-legal model and the nodal model documents the remarkable journey of various community stakeholders to tackle this crime but also

how a number of these models because of their inability to be flexible, innovative, networked as a criminal network is are not just failing but being infiltrated by the very network they are designed to tackle creating a formidable national security nightmare with potential to weaken and break down a state because of their impact on the rule of law, the criminal justice system, the compromising of borders, the future generations of the country destroyed in the harvest of women and children for commercial exploitation being just some of the challenges. The multidisciplinary model is an effort to address both these challenges and to capture the letter and spirit of the solution in governing security by (Shearing and Johnson, 2003) where the state institutions and civil society groups work together within innovative models like the multidisciplinary model to develop contemporary and holistic solutions for modern, global and networked crimes such as human trafficking. I now reflect on the multidisciplinary model that represents the most cutting edge evolution in the efforts to tackle human trafficking and develop an advanced solution keeping the principles of governing security in mind and being aware of the twin challenges of both institutional failures in past efforts to tackle the problems and to create a model that is holistic, operating across the entire operational system of human trafficking as a crime is victim centric and is always several steps ahead in the of the abilities of the criminal network to evolve.



## **Chapter 8: Multidisciplinary model and human trafficking**

### **8.1 Introduction**

In 2006 the frontline situation in tackling human trafficking came to a standstill with the criminal networks well-versed in successfully countering existing anti-trafficking models. At a personal level, I felt the need to take time off from the frontlines of tackling this crime to go back to the drawing board and develop an evolved strategy to tackle this problem. Studying for a PhD represented the best opportunity to fulfil this, among other, objectives. It took me a total of two years, from 2006 to 2008, working with a team to get the multidisciplinary model of tackling human trafficking to a place where it began to be implemented. The multidisciplinary model builds upon the strengths of all the models discussed so far in this thesis and mirrors all the strengths of a criminal network on the side of the rule of law, yet would be flexible enough to adapt and learn from the other existing models revealed during the course of my PhD. This flexibility would be essential in keeping ahead of the criminal networks as they themselves adapted to the various programs used by the newly developed multidisciplinary model against the networks' scope of operations, and against the network itself, anywhere throughout the entire trafficking route. The multidisciplinary model covers casework in South Asia (India, Nepal, Bangladesh and Sri Lanka), Europe (the UK and the Netherlands), the Middle East and Central Asia (preliminary case work done) and the US (preliminary base established). This chapter sets out the evolved version of the strategy as it stood in 2013. The second part involves the analytical component, with corresponding case studies and quantitative measurements of its performance.

### **8.2 The challenges and gaps addressed by the development of the multidisciplinary model**

As discussed in chapter 5, Johnston and Shearing (2003) highlight the need for state-civil society partnerships, with civil society groups becoming more empowered to assist the state and even holding the state accountable for the implementation of the rule of law and the delivery of its obligations. The extension of this principle to a local, regional and international framework – the multidisciplinary model - that can be applied in tackling all forms of human trafficking, is indicative of how such state-civil society partnerships represent the future of governance, development, accountability and effective counterbalance to tackle the growth of criminal networks. This framework provides the eventual foundation that will allow existing state structures to work in partnership with communities and evolve into innovative forms, forms that can eventually help us be two steps ahead of innovative and flexible criminal networks.

The multidisciplinary model is an evolution from anti trafficking efforts over the past 15 years, captured in Chapter 7, and seeks to address the below-mentioned strategic and procedural challenges that have emerged from a growing depth of understanding on the subject and the constantly evolving nature of criminal networks with a fluid market scenario. The gaps have been addressed at length in Chapter 6 and have been summarised below before delving into the structures and strategies of the

multidisciplinary model. It seeks to address the following challenges and gaps at a strategic and procedural level:

- Absence of an effective region-wide strategy to tackle people and children that go missing and are trafficked into various forms of exploitation.
- Lack of mechanisms to tackle the modus operandi employed by criminal networks to secure supply for various forms of trafficking at a pre-sale level.
- Absence of effective community-intervention strategies that holistically addresses the problem in rural, urban and border communities.
- Absence of effective interventions that can disrupt the trafficking routes and mechanisms.
- Once the victim is brought into destination areas there is an absence of effective targeting of criminal networks in destination areas as they are often seen as too big to fail, critical to the psychological balance of the city, key source of investment for money launderers, services clients widespread across the city.
- Very few cases unearth entire criminal network across its entire chain, from source to destination.
- To date, barring rare exceptions, money-laundering mechanisms are untouched involved in priming human trafficking criminal networks. It serves as the key source of influence and investments bringing high returns in the world of trafficking.
- Deep levels of infiltrations within state and civil society mechanisms. The new models of infiltration are complex and cover all shades of society. Most major conferences and policy initiatives in the anti-human trafficking sector have criminal network assets present that mask their true intent behind the divisions and ideologies that rivet the sector or tap into the vulnerabilities of sector for influence and financial resources.
- The services of a criminal network through various forms of exploitation have a wide appeal and a significant user base at various levels across civil society that serve as the mass base of counter influence and balance out support from the community for anti-human trafficking advocacy campaigns.
- Remarkable ability of criminal networks to exploit multiples markets and products. Without coordinated action criminal networks will continue to grow despite significant effort to tackle them.
- Criminal networks are masters of globalisation with an ability to overcome ethnic; religious divides thus being porous across any border with an evolving ability to evolve into the online world.
- Criminal networks have significant ability to exploit tensions across borders or division across religious and ethnic lines and with ease can destabilise a region from a law and order and governance point of view.
- A complete lack of integrated victims/witness protection program in most countries.
- Lack of seizure of criminal network assets and a focus on prosecuting the hardest of cases.

- In some cases inter-religious rivalry directly contributes towards either creating or fueling the problem.
- Almost nonexistent efforts to tackle the prevalence of adults in the trafficking world.
- No understanding or mapping of the evolving nature of criminal networks in fixed locational or multi-locational areas.
- Resources almost rarely trickle down in communities in urban, rural or transit areas that dominated by nexus of politicians corrupt law enforcement and criminal networks.
- The dispute over land, water and other essential resources or natural disasters directly fuel policies or cause disintegration of society that criminal networks patiently tap into.
- No common legislation creating offences and procedures to tackle the problem through a state-civil society format. Legislations created more often than not fuel the problem and take so much time to implement that criminal networks have sufficient time to adapt to them.
- Multidisciplinary teamwork through a joint end-to-end strategy through vetted partnerships is the only way in the mid- to long-term to tackle the problem.
- There is a complete lack of understanding at an implementation level on what constitutes a victim of trafficking. The definition of human trafficking remains complicated, interpretation hotly contested in various circles and largely irrelevant at an implementation level in the absence of independent multidisciplinary team.
- The whole area of missing persons and analytical mapping and disruption of routes used by human trafficking criminal networks is ad-hoc and can be easily overwhelmed by criminal networks.
- A criminal network has its claws deep into the victim and its family and has various methods of control that are rarely understood or comprehended by those tackling the crime.
- A complete non-existence of offender management whether out on bail or post-conviction or to tackle absconding offenders.
- The criminal justice machinery is rarely initiated unless the same is held to account by an independent body and supported by a multidisciplinary unit.
- Covert methods of gathering intelligence are not part of mainstream tackling of crimes. It is used largely by intelligence agencies and what is gathered can rarely be used in the court of law. In fact most countries are using rules surrounding privacy to heavily limit covert methods of gathering evidence directly benefiting criminal networks and pushing tackling criminal networks into the realm of intelligence where actions have limited accountability and boundaries are blurred.
- The area of tackling human trafficking is spread into minor legislations covering varying aspects of the crime, a loose definition that struggles often to fit into surrounding legislations and varying aspects of the crime due to it evolving nature that have not yet been accounted for. Most modern legislations for namesake have the definition of human trafficking in them without the corresponding tools to effectively tackle it.



- Human trafficking and its various forms being an organised crime witnesses rarely come forth compared to the extent of the crime. These include independent witnesses within society who are terrified to testify about the crime. The status of those that support victims particularly the essential services such as social work, legal aid and medical support is unclear leaving them unable at times to protect the victims at their most vulnerable.
- An area of enduring concern is under what forum should children in need of care and protection be produced and monitored. Across South Asia there is serious concern on the impact of the treatment of children within an adult criminal justice system or within a child protection system that either reports to the executive and lacks independence or has been heavily infiltrated by the criminal network.
- The area of bail and lack of a system to trace and deter an offender to abscond is critical to the success of tackling human trafficking. Bail should not be granted to repeat offenders and to those where the prima facie evidence of seriousness of the crime and tampering of victims exist. Provisions to trace and deter absconding offenders are nonexistent and if present is rarely or never applied.
- Human trafficking is a major investment base for money laundering and lawyers and other professionals play an absolutely key role in developing models and strategies to disrupt the criminal justice system and evade the law. Very little enforcement exists against both money launderers and those within key professions such as accountancy, banking and law that support them.
- A criminal trial often lacks the level of protection, sensitivity and at times the fairness to a victim and other witnesses to be successful. The key concerns here are delays, death threats on witnesses, corruption, poor safe housing, transportation and a weak prosecution system etc.
- Till date very few cases of human trafficking have investigations beyond the operation to rescue a victim. In a vast majority of cases the criminal network is left intact.
- Forfeiture of assets, closure of premises, restriction of movement, use of organised crime legislation, bonds/tools to prevent recidivism are rarely used to tackle crime more so in the case of human trafficking.
- One of the greatest risks are the blind use of tools used in an advanced country or from experiences the war on drugs etc. in the case of tackling human trafficking i.e. the concept of a 'drug czar', special police units (largely single discipline and prone to corruption in many countries or an information gathering tool in advanced countries), special courts without appropriate judges or whose independence in decision making is subverted by the corrupt elements within the system.
- As mentioned above the complete lack of a proper victim protection system is one of the key factors in the growth of the problem. Some of the issues are the high levels of infiltration of the criminal networks within both the state and civil society, significant levels of bribes and

violence used to tamper a case, a complete lack of any integrated victim protection program with excellent safe house facilities to tackle an organised crime, the language used on both the victims and their non-state protectors.

- The lack of or limited capacity of an integrated safe housing program that are regionally integrated is a serious issue hampering efforts to tackle the crime.
- Medical institutions are extremely vulnerable to corruption, lack of safety thus fatal in its impact both on the victim and the case.
- The victim aftercare process till date is limited, restricted, caters largely to children with very little possibilities once they are adults, heavily preyed upon by pedophiles and criminal networks and completely disjointed. In most cases where a good NGO is not present the loss rate back to the criminal network is often total.
- While Media can play a positive role the criminal network using power, money or ideology increasingly infiltrate them and have their assets in most forms of paid news. Often pressure from such sources disrupt both an investigation, expose confidential assets and conducts a trial by media that directly benefits the criminal network and helps push the crime undercover by pre warning the members of the criminal network in key positions. Exposure in the media of a victim is often always fatal at an investigative or trial stage.

The multidisciplinary model was the result of the need to evolve a next-generation anti-human trafficking strategy based on learning from past errors and an increased understanding of the criminal networks, through a targeting of their bases of operations in destination locations, resulting in victims increasingly disclosing the nature of the criminal network that had trafficked and exploited them, its scope and area of operations, and its method of operating. Several years' of case work resulted in a detailed mapping of the criminal networks' scope of operations across South Asia, the Middle East, Europe and Northern America. Increasing interventions against the human trafficking criminal networks started to uncover secondary and transit locations, trafficking routes and key sources areas. Increased cooperation between the state and civil society groups across the regions meant that the multidisciplinary model started to target the criminal networks with greater precision across the length and breadth of the region, and the war against trafficking spread from the established battlegrounds in destination sites, to all areas in which the criminal networks operated. While there is not yet the capacity to take on the entire extent of human trafficking criminal networks, the adoption of a strategy by the multidisciplinary models units of focusing on the most powerful human trafficking criminal networks, presented a level playing field for larger forces of the rule of law, economic development and state-civil society partnerships to move into areas evacuated by the criminal networks within the community.

The overarching aim in this process was to understand the full extent and nature of the criminal networks and then tackle them in a holistic manner, based on thorough knowledge of their strengths and weakness, and dividing the criminal network through the use of every single tool that the law

provides. This led to an increased focus on the point of origin of the criminal activities of this crime, in order to answer questions regarding why particular areas were targeted by the criminal networks and how the criminal networks acquired their victims. The multidisciplinary model also drove efforts to combine attempts at tackling criminal networks in destination areas with a move upstream to tackle them at their transit sites (sites for the storage of victims, the training of the network and of alternate lower-profit sites for the sale of victims), and their supply sites (the location of the population that the networks were targeting).

Casework and research had indicated that the starting indicator of the methods of human trafficking was at the stage when a person goes missing. Similar to drug trafficking, where source areas are identified by the presence of the cultivation, processing, or manufacturing of the illegal drug, in the case of human trafficking source areas were revealed by the mapping of missing people across a region. The mapping process showed the extent and depth of the source, supply and trafficking routes of these criminal networks, and the local, regional and transnational dimensions of these elements.

### **8.3 Key elements of the multidisciplinary end-to-end strategy**

The multidisciplinary end-to-end strategy focuses on source areas, border areas, transit routes and destination areas. It considers both the virtual world of the internet, and communities in urban, rural and border areas. It also incorporates a flexible victim protection program. In summary, the strategy involves breaking the cycle of crime by disrupting and dismantling the entire criminal network, through prosecution. It provides a training program associated with follow-up casework, implementation, and refresher courses to keep ahead of the ability of criminal network to evolve. It also incorporates a grassroots-influenced advocacy drive that helps create an innovative, flexible and adaptable policy framework, to ensure that legislation helps state-civil society institutions to counteract criminal networks before they can evolve. The entire strategy has at its core an innovative, flexible, extendable multidisciplinary-unit structure, linked to local communities, the media, the criminal justice system and civil society groups. This core structure is then replicated and connected across other regions and countries to tackle local, regional and transnational variants of entire criminal networks and their operations.

### **8.4 The evolution of the multi-disciplinary model from other anti-trafficking models**

As outlined in Chapters 6 and 7, the development of the multidisciplinary model is an evolution of the efforts to tackle human trafficking criminal networks and ensuring that every vulnerable or captive victim of this crime is journeyed with till they are a market leader back in society. The evolution occurred from a journey across four strands of work. The first strands being the nature of the crime and growing complexity, reach, growth and evolution of criminal networks that dominate this crime. It focuses on the manipulation of culture, the environment, the economic environment, creating of macro trading environment that facilitate the movement of both financial resources and people across borders that are conducive towards the growth of the crime. The second strand is the role of

institutional failures (Dewey, 2008) in both the manner in which the problem was being addressed both procedurally (Chapter 6) and through various operating models (Chapter 7). It also looks at how the criminal networks both exploit the loopholes and the platforms of engagement through these institutional failures to infiltrate the state and civil society systems and ensure that the impact to them is limited, damaged and at time even supportive of the culture of growth they need to develop their markets. The third strand outlined in Chapter 7 develops the theory of governing security where in the classic case of the super specializations of the state operating apparatus a number of communities are often ignored, abandoned or have limited contact by the state. These communities, due to a complex range of factors (isolation, lack of economic opportunities, cultural, religious and societal traditions), are manipulated and infiltrated by criminal networks that then dominate these communities. Shearing and Johnson (2003) reflect on this dilemma within a South African context to further expound their concept on governing security, which is deliberated at length in my theoretical Chapter 5. According to them in response to this dilemma, individuals within the community develop approaches to resolve this governing security vacuum. These approaches among a range of models by both civil society and the state is deliberated at length in Chapter 7. It looks at the merits and demerits of various approaches and models to the complex problem of human trafficking within the lens of the theoretical framework of governing security. It also charts the evolution of state and civil society partnerships in varying shades of involvement and cooperation. The multidisciplinary model represents the convergence and evolution at the same time of an approach that grew from all the three strands mentioned above. The fourth strand of the evolution towards the multidisciplinary model is the constant inclusion of various different strands of issues and problems that contribute towards the problem of human trafficking across its entire operational paradigm. This is captured in the end-to-end strategic approach to the complex problem through the multidisciplinary model. The multidisciplinary model works through a number of program that address the root causes of the problem, the role of criminal networks and the focus on being victim centric and pro human rights in one's approach.

In September 2015 the multidisciplinary model will have been in existence for eight years. In the eight years of its existence it has worked with governments to save 1,543 lives, assisted the police in over 679 arrests, assisted both victims and government prosecutions in over 64 convictions, assured that over 1,157 victims of various forms of human trafficking are being cared for as part of the care protection and reintegration programme, assisted in the repatriations of over 828 children and women back to their homes, and trained over 8,800 police officers, public prosecutors and community leaders. During the period of 2014–2015 the multidisciplinary model grew from 46 multidisciplinary staff to 216 multidisciplinary staff from 13 different disciplines (lawyers, social workers, investigators, administrators, researchers, networkers, analysts, forensic experts, doctors, nurses, close protection officers, security officers, educationists) supporting governments and civil society with casework across South Asia (India, Bangladesh, Nepal, Sri Lanka) and casework support for law enforcement in Europe (UK, Netherlands and France). The model currently handles 15 transnational cases between Europe and South Asia, involving harm caused to 1,200 children by transnational/travelling child sex

offender networks (TCSO). Over an eight-month period from September 2014 to April 2015 the multidisciplinary unit, as part of its holistic end-to-end strategic efforts in the care protection and reintegration programme, undertook 606 counselling sessions for 138 survivors, undertook for the governments home study reports (key to long-term reintegration plans) for 431 survivors, undertook over 3,184 follow-ups for 441 survivors at advanced levels of reintegration, and undertook 327 repatriations, among a host of other after-care initiatives. In total during this period, over above 531 survivors that were directly saved from human trafficking criminal networks by the police and multidisciplinary units, who were also tasked with caring for 2,238 survivors that included lives directly saved by the police alone. During this period over 750 government and civil-society stakeholders were trained in the law and practices of the multidisciplinary model. Over 5,700 community leaders from various sections of society where engaged from source to destination areas with tools to identify and work with local police units to dismantle and disrupt human trafficking criminal networks active in their areas. During this period over 36 research documents were developed relating to various issues surrounding human trafficking for government stakeholders and multidisciplinary units to act upon. In addition to over 200 partnerships that have been developed over the past eight years across community groups, state stakeholders, civil-society groups and media groups, over 50 new partnerships were developed during this period and 89 new key power actors engaged in case work across the four areas mentioned above. The performance measure indicators mentioned in the paragraph above are set based on three years strategic goals and targets for an entire region i.e. South Asia based on which capital is raised in three year cycles mainly from individual philanthropists and communities concerned or affected by the problem. The three-year strategic goals and targets were then developed into detailed annual goals and target against a budget that was cleared by a governance board of experts from various disciplines. The targets to actuals against the budgets to actuals was analysed throughout the period of the multidisciplinary model for every two months by a sub-committee of the international governance board and the detailed targets to actuals were analysed every quarter by the entire governance board alongside other detailed reports on finance, human resources, aftercare, etc. In addition to this the entire year's work was also reported to the various local statutory bodies in the countries where the multidisciplinary model is functional at various levels.

The impact of the multidisciplinary model has been charted through case studies in Chapters 6, 7 and 8. Chapter 6 focuses both on the deep insights into criminal networks received from the work of the multidisciplinary model and the contemporary insights into procedural failures in efforts to tackle human trafficking. The work of the multidisciplinary model and its engagement with models in the UK and Netherlands gave deep insights into both the subject of human trafficking and the core focus of my thesis in both these countries. I was able to use the multidisciplinary model as platform to engage with multiagency, specialist and departmental models in the UK and with the self-regulatory and departmental model in the Netherlands. In 2007 and 2008, through the casework-based engagement of the multidisciplinary model, the UN Office on Drugs and Crimes (UNODC) and the

government of India designed the standard operating practice manual for prosecutors and investigators across India to tackle all forms of human trafficking. Through the efforts of the multidisciplinary model casework around tackling transnational criminal networks that sexually abused children was developed between Europe and South Asia leading to the first extra-judicial conviction of one such member of a network in the UK for actions committed in India. The work around this area of work got a rare recognition from the Serious Organised Crime Agency (SOCA) now the National Crime Agency (NCA) for outstanding contribution towards international child protection an honour normally reserved for law enforcement, military, companies and state involved in a range of security services around tackling organised crime. The multidisciplinary model pioneered casework in all forms of human trafficking leading to the most legally accurate and victim-centric, end-to-end casework pushing the envelope towards the end goal of a common law and procedure to tackle all forms of human trafficking. The multidisciplinary model was involved in assisting the state in undertaking the largest prosecution against a human trafficking criminal networks when 89 members of a powerful criminal networks were prosecuted for trafficking over 40 child and young people into trafficking for prostitution. The multidisciplinary model pioneered the development of cross border cooperation between countries to tackle human trafficking. This lead to victims of trafficking from Bangladesh into India and vice versa no longer being arrested as illegal migrants and deported but instead they were treated as victims according to law, policy by the court and the police stations. This lead to the first proper court to court recording of victim testimony from Bangladesh to India facilitating greater trust between countries, prosecution of criminal networks active between the two countries and ensure that victims saved from criminal networks could be repatriated quickly to their home without any concern by the courts that they will not testify once returning to their home environment. The multidisciplinary model was involved in changes to the way victims were treated at a hospital once saved where before they would be endlessly detained increasing the risk of criminal networks targeting them at the hospitals. The manner in which some doctors or hospital staff would deal with a victim also changed with the protection provided to a victim through the multidisciplinary model. The development of a first of its kind case management system that kept track of an entire end-to-end strategy is being pioneered by the multi-disciplinary model in partnership with a private stakeholder. The development of a case based training system was successfully developed under the multidisciplinary model for all stakeholders across all source, transit and destination areas within a huge geographical region like India. A constructive engagement with affected communities by working with them to develop a preventative intervention program to trace children and adults that went missing under suspicious circumstances and are prima facie at risk of being trafficked or facing harm was developed across India and Bangladesh and has huge potential to form the backbone of a missing persons program within the country. The engagement with the community also through the partnership with each survivor and supporting them as they become market leaders back in society also has tremendous preventative potential as many of these survivors often recruit other vulnerable victims into their entrepreneurial programs. The other significant area of work has been with the development of the victim protection program known within the multidisciplinary models as the care

protection and reintegration program (CPR). In most countries and historically the lack of an integrated victim protection program that included phased manner of safe housing at periods of high risk for a victim and witness that lead to a community based reintegration focussed on the self-sustainability of a survivor or vulnerable victim and opportunity of making them leaders within their community supported through the entire period by a multidisciplinary team is a cost effective and huge innovation in the effort to control the cycle of crime within this century. This has been successfully pioneered by the multidisciplinary model in a sustainable manner and makes the whole strategy when contextualised to each region a very realistic solution to bringing human trafficking under control at a global level.

## **8.5 The multidisciplinary model and source locations of human trafficking**

### ***8.5.1 Introduction***

On mapping both primary and secondary sources of information regarding trafficking networks (with primary sources being direct intelligence gathered through casework, and secondary sources being police records, national statistics and research findings), a clear picture emerges of the human trafficking network, their routes, and their methods of operation. Through a mixture of direct intelligence and closed-circuit televisions it is even possible to place members of a criminal network whilst they are on the move with their victims. This information leads to the start of an intervention into cases of missing persons.

### ***8.5.2 Multidisciplinary operational units***

In every village, town and city there are vulnerabilities that exist within the basic unit of protection for a woman or child, that is, their family. Under certain circumstances, this basic unit can undergo varying levels of stress. This could be as a result of natural (earthquakes, famines, flooding, etc.) or man-made (infrastructural decay, low, or conversely, unplanned economic growth, corruption, dislocation, etc.) disaster. Such triggers can disrupt a family unit through greed, violence, sickness, culture, or religion. Criminal networks based within communities map and analyse every family in the community and target those most vulnerable. They are able to exploit such vulnerabilities because mechanisms within the community to safeguard those at risk, and the links between the community and local law enforcement, are tenuous, if non-existent. The missing persons' network and community-intervention networks elements of the multidisciplinary strategy, both described in detail below, are designed to address the gap of human trafficking criminal networks targeting vulnerable people within communities in rural, urban and border areas of a region, i.e. South Asia.

The key operational components of the multidisciplinary model are composed of the multidisciplinary operational units, an intervention unit, and the investigative/surveillance unit. In a given region the multidisciplinary is the key command and control of operations, depending on resources a multidisciplinary unit can consist of multiple intervention and surveillance units. What defines a multidisciplinary unit is the existence of various disciplines as enumerated below, an intervention unit

has the legal, social work and investigative discipline, while a surveillance unit consists principally of the investigative discipline with a networker as part of it, if resources allow. In many ways it works like an umbrella, with the person holding the umbrella being the multidisciplinary unit, the handle of the umbrella being the intervention unit and the cover being the surveillance unit. Through this model entire regions can be covered, with the multidisciplinary unit managing the intervention units, and the intervention units managing the investigative components or the surveillance units.

Multidisciplinary units (MDUs) have their central bases in known demand areas. A MDU consists of specialists working in legal, intelligence, intervention, close protection, aftercare, medical, and management disciplines. The key feature of the unit is that all specialist disciplines (legal, social work, investigative, medical, counselling, management/administrative, victim protection and reintegration specialists) provide equal input at all stages from intelligence, through intervention, prosecution and victim protection, to long-term aftercare. The specialist disciplines are managed through a case-management process, as a single unit, with a single multidisciplinary output for each case, overseen from start to finish by the management specialist. A multidisciplinary output is the combined input of all the specialist disciplines on every single case from the stages of intelligence-gathering, investigations, prosecutions, victim protection, residential care, repatriation, reintegration, counseling and business development support. The multidisciplinary units are mobile in nature and have oversight of a particular region of one or more states (e.g. the western region of the Indian sub-continent). Their operational base in a key destination city is necessary in order to maximise the efforts of the MDU through taking advantage of the infrastructure that these cities already provide, to allow ease of deployment, and to provide access to the administrative headquarters of governments and law enforcement agencies, to international agencies present in the city, and to the embassies of various key countries.

### ***8.5.3 Intervention units***

Intervention units (IUs) are sub-units of the multidisciplinary unit, which work within the region that the MDU is responsible for. They may be located in either key transit locations or secondary places of operations for the criminal network, and are equipped to intervene in a situation of trafficking in that transit point or secondary location. Typically criminal networks have a primary market or base of operations (which is where the MDU should be based) and secondary markets, to which they will bring consignments of victims for their exploitation, albeit at a lower profit level than in the primary market. These secondary markets are often based in locations where there is a diminished law-enforcement capacity, so that they can be used for the breaking or manipulation of the victims to suit their purposes. Each IU will have even smaller sub-units made up of the investigative, legal, aftercare, and administrative disciplines. The fundamental task of the IU is to be a forward-operating unit of the Multidisciplinary unit, with the ability to intervene when a victim of trafficking goes missing, is being transported, or is being stored ready for future demand. The IU focuses on the individual victims, saving lives and disrupting criminal networks further up the supply chain, compared to the MDU,



which is focused on disrupting the main base of operations of the criminal networks in the major or primary cities where their strength is greatest.

#### ***8.5.4 Investigative units***

A surveillance unit (SU) on an investigative unit (INV-U) is essentially a sub-unit of the intervention unit, consisting of an intelligence-gathering, close protection and police liaison discipline, with an embedded lawyer. An investigative discipline consists of the head of intelligence who governs intelligence and investigative strategy, followed by a senior manager who manages day-to-day activity, followed by field agents who are investigators, or close protection agents or intervention specialists, and cover the key aspects of investigations (intelligence-gathering, conducting operations with the police and, finally, protection for the victims, units and the operational and safe house locations). SUs are embedded within the communities in which human trafficking criminal networks are most strong, or which they most regularly and repeatedly target. An SU maps and shadows the trafficking arm of the criminal network within that region. They also work with the community to safeguard potential victims in vulnerable families in source areas. They infiltrate criminal network strongholds and help to accurately target criminal activity and safeguard potential victims, thus developing a realistic and practical prevention system. An SU will be the first to gather and record intelligence from the location where a vulnerable person is reported missing and will network with local law enforcement and community leaders to bring information relating to the missing women or child to their attention. They will then relay this information across the multidisciplinary units and it networks (criminal justice systems, community systems, civil society systems, and the media systems) and will initiate the tracing mechanism of the missing persons' network, which will activate intervention teams at exit points of the area from which the person has been trafficked, the area the person may be being trafficked through, or the area to which they may be being trafficked. Human trafficking criminal networks are embedded within communities. The difference between a location within a community owned, and controlled by the criminal and one in which an innocent person lives, is incredibly hard to distinguish without the concrete evidence of criminal activity unearthed by a well trained and experienced investigative unit.

These units not only gather the evidence but, when operations are conducted, guide the operational units to the right location within the community in such a way that the operation respects the human rights of the individuals and of the community as a whole. This helps in driving a wedge between the links of the criminal network with the community. If the intelligence is poor and an operation targets the wrong location, it has potential to build up the resentment of the whole community against the state for its absence within the community, and may serve to strengthen the bonds between the criminal networks and the community, if the community feeling that the criminal network best serves their interests. The risk to the multidisciplinary unit itself would be severe because it consists of people from the community and, if the state gets the intelligence and evidence wrong, the anger of the community will be taken out against the multidisciplinary model or any of its components, such as the

intervention or surveillance units. It is for this reason that the surveillance unit is critical in mapping and evidencing how embedded the criminal networks are within the community

#### **8.5.5 Networking**

Each of the units above will focus on networking to establish a close working relationship with the key stakeholders in the region. This supplements and maximises the existing criminal justice systems and the victim care and protection systems run by local authorities. The key stakeholders in any regions are the criminal justice system, media networks, local governance systems, civil society groups and community integration systems (both cultural and religious). I will broadly classify these groups as the local government, the media, the community and civil society groups. For networking to succeed it has to function operationally and structurally with the multidisciplinary operational units. The best way for networking to be effective would be for it to be driven by the casework targeting well established criminal networks and the mobilisation of networks of influence within the business, political and community that are willing to weigh in to support the state and multidisciplinary units to counter the similar influence of criminal network on each of the hardest cases we take us. In due course this will lead to requests by the state at a local and federal level to help then with legal reform, trainings and multiplying the impact by aligning the operational units to manage larger operations in partnership with the state. The tool of communication and research would be used internally to engage with people at the highest level to encourage and support them to tackle human trafficking and externally to mobilize people through positive stories of success. Being embedded with the multidisciplinary unit will secure the networking discipline, secure its credibility about its knowledge on the subject, will protect it from risk (criminal networks, biased anti-state agenda, ideological based political and international agendas), and ensure effective real time strategic guidance, case based momentum and rapid growth. It will also highly motivate the members of the multidisciplinary advisory board and members of the networking discipline and open doors within the system that are otherwise closed to an advocacy group. It will bring the state solidly on the side of what the multidisciplinary model is trying achieve. It will directly impact lives, disrupt criminal networks and will bring about a significant momentum.

##### **Case study 8.5.5.1: The leverage achievable by networking**

On the night of the 18<sup>th</sup> of November 2014 in a breakthrough operation, a multidisciplinary unit and police saved 22 lives from a notorious red light area in Uttar Pradesh, Northern India. This was the first operation of its kind in the region and nine accused were arrested. The operation led the team to another brothel where five more girls were found hidden in a tiny, well concealed, loft compartment. The girls were suffocating in the small space, and it was their loud gasping for air that alerted the team of their presence. During the course of subsequent investigations it was discovered that the location was a transit location for children from Nepal being trafficked to the Middle East via Delhi airport. On the next day after the police completed all formalities as the survivors were being produced before the local magistrate the court came under pressure from the lawyers linked with the local bar to release all

the victims or send them to specific safe homes despite the persons in charge of the homes clearly stating that they would not accept any victim of trafficking for prostitution rescued by the police. This being a clear strategy to ensure that all the victims would be released at the court itself out of exasperation with not effective aftercare options available. In this case effective networking prior to operation meant that all the key stakeholders within the entire state were mapped and engaged to be able to respond in case of such risks. As the information of the predicament reached the concerned key Government stakeholder they were able to work with the Judge and the concerned safe homes and ensure that the children and adult victims were taken to a secure safe location for a period of 28 days for adults and three months for children during which long term plans of care can be drawn up based on their home situations. This showed the potential that effective networking could have in engaging key stakeholders with grassroots casework. Unfortunately the criminal networks had preempted this by ensuring that key persons in charge of the safe home, a mole within the victims rescued and a corrupt element of the police escort team meant that 13 of the children saved who were from Nepal en-route to being trafficked to the Middle East disappeared one night from the government safe home. Once again due to effecting networking with key stakeholder immediate disciplinary action was taken against the person in charge of the safe house and a fully-fledged inquiry was initiated against the infiltration of safe houses by criminal networks. In the latest updates the key stakeholders are keen to replicate the multidisciplinary model of functioning across the state and the child protection officers are being trained across the entire state by a multidisciplinary unit on how to ensure effective compliance of child protection laws.

#### ***8.5.6 Case management system***

A key platform connecting the various units and stakeholders at various levels, is the flexible and innovation-friendly case management system (CMS). The case management system is a platform to manage intelligence at a missing persons level, and at transit, destination, community and online levels. It needs to be able to monitor a rescued victim through the casework process, through the intelligence and operations stages, the pre-trial investigative process, the trial and post-trial appellate process, and the aftercare and reintegration process. It must be flexible to allow the entry of a victim at any level of the process and to cater for individual plans of care. Equally, it must be able to manage an offender-tracking system, assessing risk and accountability pending conviction from members of the criminal network that are being prosecuted. The risk assessment of the perpetrator, including the accountability of the perpetrator's actions, and their impact on the safety and security of key witnesses, should be undertaken regularly at every stage of the prosecution, with a focus on the victim. The CMS should also provide a clear mapping of the area of operations, scope and strength of a criminal network, along with its connections to other criminal networks operating in a particular sphere of human trafficking, based on connecting threads of intelligence and casework. It must have the capacity for intelligence to be uploaded at any location into the system, the ability to monitor a case against a criminal network, and the progress in care and self-sustainability of a victim. Since 2008, after many challenges, such a system has been developed through a close partnership between a

major, multinational, corporate house and Justice and Care, the vehicle under which the multidisciplinary strategy has been implemented.

#### **Case Study 8.5.6.1: The case management system**

In 2007 we started the search for a technical partner to develop a case management system for tackling human trafficking under the multidisciplinary model, that would be a unique tool for managing intelligence, prosecutions, and victim protection, and to keep track of both the actions of offenders, and the reintegration progress of victims. The case management system had to be able to receive information from each of the programmes within the model, analyse it, and transmit it securely to stakeholders. It had to facilitate the monitoring of cold cases, and the tracking of operations, investigations and prosecutions. In short, it would be the skeleton that held the multidisciplinary model together and make it work with transparency, speed and integrity. Senior management of Justice and Care in which the multidisciplinary model is based explored a range of partners, including Microsoft, but finally chose to work with Tata Consultancy Service, part of the wider Tata Group. In 2012, after nearly a year of work by both members of the Tata Consultancy Services and the case management members of the MDU in all three units, we were able to roll out a piece of sophisticated software that tackled all the parameters mentioned above. The software is currently being piloted over the period of a year, as we develop the tool specifically for the multidisciplinary units that tackle the trafficking networks. The Tata Consultancy Services have committed to help with the maintenance and development of the case management software for the next five years.

#### ***8.5.7 The missing persons and the community intervention networks***

The missing persons system was initiated by setting up multidisciplinary operational units at regional hubs of the criminal network within a region, followed by intervention units at the key transit and secondary areas of operation, and surveillance units in constant rotation at source locations where criminal networks secure their supply of victims. Secondary areas of operation are locations on the trafficking route through which victims are trafficked, potentially broken and commercially exploited before being trafficked onwards to major destination locations. This is done to minimise the discovery of trafficked victims and disruption of criminal networks in key destination locations. This disruption often happens if a new victim is brought and broken at the destination locations. Powerful criminal networks dominate these secondary locations and since they are secondary towns or cities the law enforcement resources in these areas rarely match the strength and capacity of criminal networks. Within a vulnerable source location, the community intervention programme works with vetted community leaders to host training, with the aim of identifying vulnerable households, and potential community leaders capable of identifying the trafficking trigger-points within these households, and of mapping the criminal networks targeting these households. The moment the criminal network takes any action that may lead to the trafficking of a community member, or violates the rule of law, leading to a medium to high risk for individuals within identified households, the community leaders activate

a system involving the surveillance units and the local law enforcement, so that they can track the developing situation using regular non-intrusive discreet checks, intervening if any act in violation of the law takes place, or if a potential victim goes missing. The goal of the community intervention program is to empower vetted community leaders and build strong connections of partnership and accountability with local law enforcement, with a civil society group acting as a bridge-builder. The community intervention programme is designed to target the underbelly of criminal networks – the sourcing of vulnerable people for trafficking. Transit/secondary and destination/primary areas of operations are strongholds for the criminal network, so the above strategy targets limited intervention resources at the part of the criminal networks that are most vulnerable.

If, for any reason, the community intervention system fails and a person at high-risk of trafficking goes missing, it is vital that the circumstances surrounding the victim's disappearance are investigated, the evidence of trafficking is documented, and a missing persons' report is filed with local police. The information gathered then needs to be disseminated to the multidisciplinary unit's bases along the criminal network's trafficking route, as ascertained from preliminary intelligence. The multidisciplinary unit will then disseminate the information gathered to intervention and surveillance units, and will also initiate action in local criminal justice systems, media systems, local communities and civil society groups, based on continuing intelligence on the movement of the victim by the trafficking network. This makes intelligent use of the intervention mechanism, and gives it the ability to target the criminal network during the transportation process, as it moves the victim to a secondary or primary area. It enables those groups countering human trafficking to work upstream of the post-sale, main destination or primary areas, where the majority of the work has previously been carried out.

Currently, in South Asia it is a real challenge to even get a missing persons case registered by the police. Even if they are, the most that happens is that an entry is recorded in a police diary, a flash report is sent to all police stations and the case is reported on national television for a limited cycle. However, such action alerts the criminal network, which takes evasive measures, increasing the risks to the victim. It may also create a deluge of information which cannot be sifted through without massive resources being diverted for that purpose. In most cases nothing is done, and no serious attention is paid to the case, since, as discussed previously, many law enforcement systems are corrupt, understaffed, under developed, and have limited resources.

The above mechanism solves all of those problems by making an intelligent use of limited resources, and identifying the right people within a local society with whom to engage, to present the best chance for the immediate tracing and rescuing of the missing person. The case management system and close coordination between the various MDUs ensures that action is taken faster than the criminal networks are able to traffic the victims to their designated areas. It also helps fight prejudices within local law enforcement, where often a child in forced labour, domestic servitude or prostitution is not a priority.

The presence of a missing persons' report filed in another police station elicits a very different response to where one does not exist, often resulting in a quicker reaction to rescue the victim where their location has been identified. The multidisciplinary model targets the human trafficking criminal network across source transit, destination and online locations. Having laid out the strategy to tackle criminal networks at the point a victim goes missing and at the point of vulnerability within communities, I will now look at the strategy of the multidisciplinary model at transit and destination locations of a human trafficking route.

#### **Case Study 8.5.7.1: The unearthing of a source trafficking network**

This case study describes an ongoing case in which police from Maharashtra and West Bengal, along with the MDU and its partner agencies, are working towards arresting several traffickers within a criminal network working in the source areas of West Bengal. The MDU has worked for more than six months, across villages covering a 150km belt, concluding that several villages in West Bengal had a significant number of missing children and young adults. On linking these villages, the MDU discovered that there were common themes in many of the missing children's stories. From this intelligence, the MDU was able to map an extensive organised trafficking network, with a single person at its head. This individual has managed the trafficking network through a known group of associates spread across India. Initially, when we submitted the detailed report to the police, they showed a lot of interest and there was some discussion of setting up a joint task force. Even so, because of looming elections, a possible change in government, and a lack of any direct evidence linking the missing children with the trafficking network, the MDU realised that there was only a small possibility that there would be the will or power to interrogate accused persons or trace the missing victims, following the arrest of any traffickers. Instead, the MDU continued their work to trace the missing victims themselves, locating two minors and one missing 18-year-old girl in Pune. The MDU brought the parents and family members of the missing girls to Pune and were able to motivate the local police to organise two operations to save the three missing girls. These girls then provided the police with information that led to a further 18 children being rescued by the Pune police. The civil society group 'Rescue Foundation' worked closely with our Mumbai unit and the Pune police on this case, working in Maharashtra as the destination point for the trafficked victims. On the 3<sup>rd</sup> of May 2013, based on further intelligence, the main associate of the network-leader was arrested in West Bengal. As mentioned, this case is still ongoing and other live cases are currently under investigations by the MDU unit in West Bengal. Some of the rescued girls are now back in West Bengal and are working with the MDU to trace the rest of the network.

#### **Case Study 8.5.7.2: The 'lover boy' trafficking modus operandi**

In the middle of 2007, the multidisciplinary unit in Mumbai received a case referral by an NGO called Impulse, regarding two young sisters who had been trafficked into Srirampur (a town in Maharashtra, Western India). One of the sisters had been rescued from a brothel in Mumbai by law enforcement and the Mumbai MDU, and based on the information she provided, on the 28<sup>th</sup> of August 2007, police and

the Mumbai MDU rescued two girls from Srirampur, and arrested four perpetrators. Through this operation we heard evidence for the first time of how victims were raped by as many as 150 clients within the course of a day, with each client (who were largely truckers) given only three minutes to complete the sexual act on the victim.

During the operation, the MDU team had to chase members of the criminal network through a field to a house, in which they had locked the victims. The roof of the house had to be opened up to allow entry to the house, and to free the slaves kept there. Over the next 17 months, the public prosecutor and MDU lawyers diligently followed the case through the court, completing the required paperwork. The rescued girls bravely testified in court, which significantly strengthened the case against the perpetrators. The criminal network brought 30 members to the court every day, trying to find a way of eliminating or threatening either the victims or the MDU members. The police provided an armed escort for the victims and the MDU team but, even with this in place, a lawyer, who was also an investigator with the MDU, was brutally assaulted by the criminal network.

On the 18<sup>th</sup> of February 2009, the court passed a judgment that the charges against the accused had been proved under the Immoral Traffic Prevention Act (ITPA) and the Indian Penal Code (IPC). The accused persons were convicted under sections of the ITPA and the IPC with a sentence of seven years' imprisonment and a fine of 5,000 Indian Rupees for each offence proved. The conviction was upheld at the appeals stage. The victims had all been trafficking from Sikkim to Mumbai where, until this case, no one accepted or believed that trafficking took place.

The victims are doing very well, and are back in school and progressing well with their studies. When members of the Kolkata MDU visited them, the general public of Sikkim, all of whom were very grateful for the rescue of the girls, treated them as royalty.

I realised that the starting point of any strategy to tackle human trafficking had to be to map and target intervention resources at the point where trafficking networks targeted, kidnapped or recruited their human 'product'. Intervention at the moment victims went missing would involve reacting quickly to intercept the network before they could remove the victim from the source area. The key to this was the ability to transmit information on missing persons as quickly as possible to vetted stakeholders coordinated by specialist units, who could intercept the transaction of the victim before, or at the point of, sale to the network. This would be the starting point of the multidisciplinary end-to-end strategy to tackle human trafficking described later in this chapter. The journey of implementing this strategy over the last six years is recorded in this chapter. I begin by describing the key elements of the strategy before going on to analyse the successes and challenges faced in its implementation in the following pages.

## **8.6 Features of the multidisciplinary model at transit and destination locations\_of human trafficking**

In addition to the community intervention system, and the missing persons system, two other systems working in parallel are the transit surveillance/intervention system and the destination intervention system. I will also discuss the online and transnational intervention system in Chapters 8.4.3 and 8.4.4.

### ***8.6.1 The transit surveillance/intervention system***

In the transit surveillance/intervention system, there are four points at which an intervention can take place. The first is the exit points of the location from which the trafficked victims are taken. Each of these locations may have one or more exit points, such as truck, bus and taxi stands, airports and shipping dockyards. One of the common things, when these locations are mapped, is the presence of traffickers from various criminal networks. Former street-children, who from a young age have lived in these locations, and who have been cared for by civil society groups, are recruited, trained in surveillance and deployed at these locations. They in turn develop a daily informant relationship with other key stakeholders working there. This is the classic deployment of the multidisciplinary operating system consisting of the Multidisciplinary unit, the Intervention unit and the Investigative unit. The former reintegrated street-people, now intelligence operatives, work to a surveillance system that monitors exit, transit and entry systems. They have access to intelligence reports on those who have gone missing, but also bring their own knowledge of these locations from their personal experiences. As a result they are easily able to identify members of the criminal networks and their methods of operation at these locations. The surveillance units are also trained in profiling the groups normally found using these exit, transit and entry systems, to help identify members of the criminal networks. The moment that a missing person is identified being taken to any of these entry/transition/exit points by the criminal network, or a child or young person is spotted there in the company of know perpetrators, the SU alerts the IU, who in turn initiates action with the local law enforcement to intervene. This can be done to a high degree of accuracy, as the SU will follow the suspected trafficked person until the intervention can take place.

Such systems improve the security and rule of law at these exit/transit/systems and provide an effective filtering mechanism for a fraction of the amount currently being spent by the state and some NGOs. The impact on children and vulnerable persons rescued is immense. The challenge is that most criminal justice systems are not equipped to deal with interventions at this preventative level. Often, as the child or young person has not yet been sold, they are still under the impression that they are safe, as they have not yet suffered harm at the hands of the member of the trafficking network. The typical 24-hour period of detention for the member of the criminal network is not sufficient to gather intelligence from other police stations about the activities of this criminal network. Most police units at these entry/transit/exit locations are reluctant to register cases against human trafficking criminal



networks simply due to the volume of work that this will involve, given that their mandate is largely to maintain order at these transport facilities, rather than to detect serious crime.

For the above reasons, there is also a second variant of intervention, where the SU follows the identified victim or missing person until such time as they are taken to the location where they are to be sold for one of the various purposes for which a human being is trafficked. The location, once identified, is surveyed and infiltrated. Once the victim has been, or is just about to be, sold the SU transmits the information to the IU or the MDU, who along with the local law enforcement intervene to rescue the victims at that point. The reality of the harm caused by their situation breaks the bond of trust between the victim and the trafficker, resulting in sufficient momentum to disrupt the entire criminal network at that location.

#### **Case Study 8.6.1.1: The MDU work on tackling cross-border trafficking**

In 2012 and 2013, the Kolkata MDU was able to engage with community leaders in a critical border district in West Bengal where, on average, 400 people are trafficked across the border from Bangladesh to India, through a single checkpoint, each day. According to local community leaders, many of whom have had a family member trafficked and are in hiding for fear of the criminal networks, corruption is rampant, with local stakeholders, up to the highest level, reputed to be receiving between five and 30 million Indian Rupees per day. We are currently working on a strategy to protect the community leaders, and to begin interventions in the area in the safest possible manner. There are factories in the West Bengal area that specialise in trafficking as many as 20,000 single young girls with their children over a period of six months. During this period, criminal networks come and identify which of the mothers and children they consider to be the most valuable, purchasing about 10,000 of them for prostitution and other ends. Work under the community intervention program is continuing in this area, along with three other targeted districts in the border areas between Bangladesh and India.

#### **Case Study 8.6.1.2: Haldia operations**

On the 18<sup>th</sup> of November 2009, the Kolkata MDU and local police rescued a 13-year-old girl and three other young girls after they had been trafficked into prostitution in Haldia, West Bengal, India. The 13-year-old girl had been missing since the 23<sup>rd</sup> of September 2009. The Kolkata MDU was able to trace the girl to a location in Haldia, 150km away from Kolkata. The first attempt to rescue them was called off after more than 20 armed members of a local insurgency group were found guarding the brothels in the area. The Kolkata MDU persevered along with the police and made a second attempt to rescue the girls. The brothel was a place used by the traffickers to break the girls and condition them to serve in other brothels across South Asia. Despite a high risk of violence from armed members of the criminal network, the Kolkata MDU and police successfully rescued the 13-year-old girl who had only just been sold into the sex trade. A total of four trafficked girls, including the 13-year-old were rescued, and the police arrested three key perpetrators. In the latest update the multidisciplinary unit

worked with Police and State prosecution to secure multiple convictions on the 8th of September 2014 when the court sentenced two perpetrators to seven years in prison for trafficking and exploiting victims of human trafficking saved on the 18<sup>th</sup> of November 2009. The survivor saved today works in the catering industry today as a cafe manager.

#### **8.6.1.3: Case study on the need for transit intervention**

The MDU in Bangalore, while trying to verify the location of a 15-year-old victim from an earlier rescue attempt, called Ms M\*, encountered a young girl, Ms A\*, on the 18<sup>th</sup> of November 2010, who had just been trafficked into a brothel. Ms A\* had pleaded with members of the MDU intelligence discipline to save her. Within hours, the MDU mobilised the police and launched a rescue operation. In the interim period, Ms A\* was brutally raped by three customers, leading to severe bleeding which meant that, as the MDU were undertaking the operation, the brothel-keeper admitted Ms A\* to hospital. On learning this, the MDU went to several hospitals to find Ms A\* but were not able to trace her location. Over the next three days the MDU launched several further attempts to rescue Ms M\* and Ms A\*. After a number of days, the MDU and police finally located and saved Ms M\* and arrested the brothel-keeper and his wife, but they discovered that Ms A\* has been moved from the hospital to another brothel, and sub-contracted to another brothel keeper and her pimp for four days.

Ms A\* had originally run away from home after being raped and abused by her uncle and father. As she arrived in Bangalore station she was surrounded by a group of men who attempted to rape her. The intervention of the crowd saved her, but she was vulnerable to further attacks at the station. She accepted the help of two elderly men in the crowd who had offered her shelter but these men, instead, sold her to a brothel in Bangalore. After seven days and four attempts, the Bangalore MDU was finally able to save Ms A\*, though during this time she had suffered terrible injuries at the brothels. The brothel-keepers of the two brothels, and two pimps were arrested as part of this case and are currently being prosecuted. The two members of a criminal network who had sold her were sentenced in August 2013 to seven years in prison and fined, on eight charges of human trafficking, thanks to Ms A\*'s brave testimony. She is recovering well under victim protection, she chose hospitality training by an Indian software giant, as a result of which she got a job and worked at a café, and just recently got married.

#### **8.6.2 The destination intervention systems**

The destination intervention system is designed to map the entire main base of operations of the criminal network in both their primary and secondary areas. For each location, it maps the entire operational activity recorded for every criminal network involved in all forms of trafficking. This includes their connections within the local police, the hospital, the courts, the social welfare systems, and the political systems, also recording money laundering systems that the networks use, their client bases, and their movable and immovable assets. Once this information has been carefully mapped then a clear strategy is developed to target those in clear violation of laws, such as those with children in

their custody or young adults who have clearly stated that they have been trafficked, sold and forcibly exploited. The related locations and the entire network is taken through the intelligence, intervention, prosecution and protection systems, i.e. intelligence is gathered, on which an intervention is conducted, after which victim protection is designed and a successful prosecution is mounted.

Often major primary areas have very powerful criminal networks, which cannot be touched without serious loss of life to the operational unit or the victims. Most of these have children in their custody. In such cases, by targeting the subsidiaries or affiliates of a criminal network, a significant volume of evidence can be established, so that the major criminal networks lose their hidden nature. This causes sufficient momentum and public support for the state to feel strong enough to target them with its limited resources. In such cases, the civil society group will support victims, who against all odds manage to escape the networks. This also weakens the public face of the criminal networks. The strategy at the primary and secondary areas of operation for the criminal network has to contend with engaging with a large number of victims who have already been sold, and for whom abuse is ongoing, or whose value to the network is nearly at an end. As a result for human trafficking victims – those for whom their value to the criminal network is coming to an end – the multidisciplinary model have pioneered the counselling intervention program (Para 8.6.3) and the referral intervention program (8.6.4) to clearly target those who have been sold and not rescued for a significant period of time, in areas where the problem of trafficking has grown too big for the state to effectively intervene.

#### **Case Study 8.6.2.1: Bastion of human trafficking criminal networks falls**

The P Lodge was a bastion for human trafficking criminal networks, located in the heart of Bangalore. Over the previous four years almost every criminal network working in the centre of the city had been disrupted in some way, with the exception of the criminal network that ran this location. It had become the centre of a coordinating mechanism for other criminal networks that could source victims of trafficking but didn't have the retail facilities to sell them. The criminal network operating the P Lodge sourced their own victims of trafficking but also leased sections of the location to other criminal networks. After months of undercover investigations, the MDU had identified that at the heart of this complex 'network of networks' lay this location, used by 15 other criminal networks, with victims kept across three separate residential locations, with between 40 and 60 victims in each one. Targeting all 15 networks would have been an impossible task, so the focus was to disrupt the nodal location (P Lodge) and the main criminal network controlling it. On the 18<sup>th</sup> of October 2012, the MDU and Indian police worked together to rescue nine victims of sex trafficking, five of whom were children, all trafficked from Bangladesh to India for prostitution. Six perpetrators were arrested, including the owner of the building.

The victims are now safe with the MDU social workers, but they have told us of their fear, because of the extensive influence of the criminal network. The P Lodge location remains closed to date, though the main offender in the case has spread the word throughout the criminal network that he is willing to

pay as much as necessary to settle the prosecution case. In order to do this, the criminal network has focused its energies on calling into question the age of the five children who were rescued. They have succeeded in doing this, by bribing the medical officers involved in the forensic examination. Once this was done, the criminal network worked with a charity in order to enter the home in which the children were being kept to arrange for the network to legally represent the victims, with the aim of having the victims released back into their custody. This close collusion between the criminal network, and members of the safe home and local police was disrupted only by the timely vigilance of the MDU lawyers, who were able to rush to the court and make a proper representation of the facts of the case before the judge.

### ***8.6.3 Counselling intervention systems/Fixed locational intervention program.***

The first component of the Counselling intervention program is to develop a specialised mobile aftercare team that secures access at all human trafficking locations. Such teams focus on getting access to victims and providing them with counselling support to make a free choice regarding their situation. If they exercise a free choice to leave their exploitation and abuse, then these aftercare teams make this possible by developing a clear plan of reintegration that helps the victims reintegrate into mainstream society. This does not involve law enforcement action unless the criminal networks intervene, which they often do when an adult in their employment tries to exercise their free choice.

This also involves providing a caring environment for the many in the last stages of life due to the extensive abuse they have suffered throughout their enslavement and exploitation. This strategy is known as the counselling intervention program. It involves stationing a counselling unit (CU), which consists of social workers and doctors. The CU is connected with a transitional unit (TU) that takes on cases referred by the CU that do not involve obstruction from the criminal networks. An intervention unit (IU) may become involved when the criminal network obstructs the freedom of the adult. Trends recorded by the different units are constantly analysed for effective policy implementation by the regional MDU, with the overarching goal being the complete removal of organised criminal activity and exploitation in the region.

The CU undertakes daily visits to major locations of exploitation in a phased manner. Most such locations, due to their massive size, cannot be targeted by law enforcement action. Adults who exercise their free choice to walk away from exploitative situations are removed from the location to a safe house for an interim period of three to six months, where they receive multidisciplinary support to achieve self-sustainability and freedom. Those who are dying are taken to a well-run hospice, with the best standards of care. They are given dignity and respect in death, and are provided with help in fulfilling feasible dying wishes. Those that survive are provided with training in jobs within regular society and are housed in a phased manner, in a working hostel while they are being trained or just starting their jobs, in group housing when they reach a more advanced stage of their employment, and later in self-rented accommodation within a caring community. They are given support if they choose

to marry and may finally go on to live in an independent housing unit, with a sustainable job in a well-established caring and loving community. This approach targets adults and prevents the type of mass operations prompted by powerful real estate development groups, which cause major human rights violations and have nothing to do with the dismantling of the criminal networks or caring for the victims.

#### ***8.6.4 Referral intervention system***

In addition to direct intelligence-led operations and counselling interventions in destination areas, the next system involves the development of a referral intervention system for the MDU, which provides multidisciplinary support to all stakeholders working within the system and takes referrals of cases involving human trafficking, abuse and rape from the police, the courts, safe homes and civil society groups. Direct interventions tackle criminal-network bases in destination areas, the counselling interventions provide victims who are at the spill-over stage the support they need and at the same time helps with the eventual mapping and gathering of intelligence on the modus operandi of the criminal networks, and helps to use this information to shape effective public policy on the problem. The referral system engages with the work done by the police, NGOs and judiciary, and provides the victim and the system the support they need, which without the referral system they would not have.

The referral system provides a clear parameter for direct impact on cases initiated by stakeholders within the criminal justice system outside the multidisciplinary model and ensures the same quality of casework as undertaken for direct cases handled by the multidisciplinary model. This provides two layers in which a multidisciplinary model can have an impact. The primary impact, through direct casework, forms the core of improving the local systems, and is further strengthened by the multidisciplinary units having a secondary impact through their referral and counselling systems, which focuses on further strengthening the system, by extending the same quality of case work and successful good practices from the primary impact into casework undertaken outside the multidisciplinary model, by all stakeholders in the criminal justice, and care and protection systems. The primary impact and secondary impact interventions supported by the multidisciplinary units, work in tandem over a period of time, having a significant sustainable impact on the human trafficking situation in a region.

The next two systems of the multidisciplinary anti-trafficking strategy represent two emerging areas of enormous growth for human trafficking criminal networks. One of these areas concerns the virtual world of the internet, through which criminal networks can now provide a range of new services to their clientele. These include pornography, online chat rooms, discussion boards, picture, video and other file-type sharing forums, mobile platforms, websites, and secure email servers. The second system is the transnational casework system, where casework is undertaken to safeguard victims and dismantle criminal networks that operate globally, across jurisdictions between regions involving multiple countries i.e. Europe and South Asia.

#### **8.6.4.1 Case study of trafficking for various forms child labour**

On the 24<sup>th</sup> of January 2015, during a routine check on major criminal networks prior to the Republic Day celebration, the Indian police to their horror discovered about 220 children crammed into four rooms in a single location. All the children were trafficked from five states across Central and North India to South of India to work in the women's accessories industry in the manufacturing of bangles and in the leather bag factories, some of them where en-route to being trafficked further. The police initiated further operations in total saving 340 children trafficked into child labour from various factories. The following day the multidisciplinary unit deployed at the request of the government stakeholders concerned with the case. The state, civil society groups and the multidisciplinary unit worked together to undertake detailed home studies for all the 340 children that were saved in the various operations against trafficking for child labour, based on these home study reports long-term plans were drawn jointly by the state and the multidisciplinary unit and orders to implement them were passed by the child protection tribunals. The multidisciplinary unit through the reintegration process worked with the state stakeholders in the source region to identify where the state welfare measures to address the roots causes of the vulnerability were not working. The multidisciplinary unit were able to analyse the reasons for the lack of impact of government housing schemes, job creation schemes, educational initiatives, which geographical areas where more vulnerable, what age groups were targeted, what role like societal and cultural structures play in increasing their vulnerability, the weakness in poverty alleviation programs, role the size of family play in increasing or reducing vulnerability, the vulnerability caused by the type of job the guardians of the children had. The case also highlighted for the first time the medical trauma caused on children from their trafficking and exploitation. The multidisciplinary model was able through individual assessments of each child highlight the hidden serious medical conditions that the children suffered as a result of their exploitation and abuse. The impact of this joint casework partnership led to the state (12<sup>th</sup> largest in India with a population of 35 million) asking the multidisciplinary unit to work with them on what we call operation Muskan (Smile) which targets all commercial establishment across the state for the presence of trafficked child below the age of 14. The multidisciplinary unit were split into smaller sub units of ten members each split into ten units supporting all the stakeholders across all ten districts within that state to ensure that everything is done both according to the rule of law but also according to a very good child protection standard. Since the last of operation on the 1<sup>st</sup> of July at the time of writing this over 89 operations were conducted saving the lives of over 200 children trafficked into various forms of child labour.

#### **8.6.5 Online intervention system**

There are established connections between advertisements for sexual services and actual consumption, which involves the transfer of the victims or the creation of a secure haven in which the client can exploit the victims. This is true for links between creation of demand through pornography, where trafficked victims are exploited for the entertainment of an online audience, and the localised targeting

of identified demand through location-detection software that are present on these websites<sup>36</sup>. While a demand already exists for the supply of human trafficking victims, it is important for the criminal networks to generate sufficient demand and a safe exploitative environment for users to tap into the services the network provides. Just as Pirate Bay taps into the existing habit of sharing items, by creating an environment in which this habit is given a commercial angle that can be monetised through the inclusion of advertisements, there are other habits and desires (such as for prostitution, labour, organ transplant, pornography) that criminal networks tap into, to create highly profitable commercial multinational business. The desire for sex generates a demand for increasingly depraved forms of fulfilment, many of which are supplied for low costs on a large scale by victims of trafficking, despite the pro-legalisation image of glamorous and empowered individuals that is often presented.

Online intervention units (OIU), as a component of the multidisciplinary model unit, focus on targeting the trafficking and exploitation of human beings in all its forms in the online world, and the subsequent disruption and dismantling of the criminal networks' base of operations, from which this form of trafficking and exploitation reaches a wide audience. The OIU, depending on resources, can be a dedicated multidisciplinary unit by itself or one of the many activities taken on by the multidisciplinary unit, alongside casework from the other systems. Over the last six years, I engaged with, and studied two OIU units. One is based within the National Centre for Missing and Exploited Persons (NCMEC), in Washington DC, which I had the opportunity to visit in 2006. It has an OIU unit focusing on instances of abuse and sexual exploitation of children online, and the identification of the locations and people involved. This intelligence is then passed to police units for further law enforcement action. The second OIU was based within the Child Exploitation and Online Protection Centre (CEOP) in London, with whom I have worked closely for several years. The NCMEC OIU claim to have investigated 90 million child-porn images since it was established in 2002<sup>37</sup>. The NCMEC OIU has pioneered the use of facial recognition software. Their weaknesses lie in the fact that they just review and analyse the online images, the casework is left exclusively to local police to carry out. Under the multidisciplinary model the units go further and execute the casework with stakeholders in the criminal justice system. The CEOP OIU is another pioneering OIU that does exceptional work in the UK. It is a close partner of the units under the multidisciplinary model. It is under-resourced and under-staffed for the problem that it is faced with. The hope is that, with its merger into the National Crime Agency later this year, there will be more resources and assets at its disposal.

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<sup>36</sup> The recent trend I observed in 2013 involved the abuse of children, based on specific demands made by perpetrators anywhere in the world via the internet and see them being fulfilled on the victim at a different location. The abuse is shown live through the internet. The next trend is for pornography sites to have location specific services for customers who visit a website, view the pornographic material and want to further the experience by participating in actual activity. This demand is met by advertisements that specifically target customers according to their location.

<sup>37</sup>Key facts on the work of the OIU in NCMEC. Available at: <http://www.missingkids.com/KeyFacts>

#### **Case Study 8.6.5.1: Link between vulnerability and trafficking for pornography**

On the 28<sup>th</sup> of May 2012, the Bangalore MDU intervened to help the 15-year-old daughter of blind parents, who had been kidnapped, drugged and repeatedly raped for 15 days. The rape had been filmed and sold to pornography distributors. The victim told us of other children who had also been confined, drugged and raped for pornography. Police under the influence of the criminal network have been hostile towards the victim and her parents, but the MDU is currently safeguarding her and her family as they unearth the entire criminal network and its operations.

In May 2015 the multidisciplinary unit in Mumbai worked along with State to secure the conviction of a criminal in a Mumbai court today. The team had been relentlessly pursuing this case from 2011 when two sisters aged 16 and 13 years old were brutally raped and filmed, the films were sold as pornographic material. Despite strong opposition from the defense counsel the team persevered and brought about the conviction. The girls are doing well in the victim/witness protection program and are now pursuing their graduation in commerce and nursing

#### **8.6.6 Transnational intervention system**

Tackling the evolution of criminal networks has two clear components. The first is targeted at the activities of the criminal network online. On recovering or mapping the activities of the criminal networks online, action has to be taken on the physical components that carry out the activities. For example a travelling child-sex offender (TCSO) network that abuses and exploits children tends to use the online forum for communication, information-sharing, grooming of victims and abuse etc. Once this is mapped and analysed it is key to take action against the TCSO network and this is possible through the transnational intervention system (see Case Study 8.25). Human trafficking criminal networks are, by nature, borderless and multinational. They have innovative and flexible, yet complex and sophisticated networks and business arrangements between their various spheres and regions of operation. They have long realised the loopholes in inter-state and intra-country cooperation and have thrived within that space.

Conversely, existing arrangements between countries are slow, bureaucratic and vulnerable to corruption. To date, most intra-country cooperation to tackle multi-national criminal networks works through special arrangements within a bloc of countries (such as the EU), through bilateral information-sharing arrangements between countries, or through the Interpol system for countries with no such arrangements. Most of these systems are riddled with bureaucracy, causing delays, and are vulnerable to infiltration.

A transitional intervention system is designed to map and understand the layers of operations of criminal networks within the countries affected, and the points of integrity and efficiency of the criminal justice systems tackling them. It aims to bridge the gap between agencies operating between



two countries and through that process, to identify and disrupting the criminal networks, safeguarding the victims affected by them. Such an approach is revolutionary in that it generates sensitive, contextual and international cooperation by knowing exactly how to go about such cases, and who to involve, across different cultures and legal systems. It safeguards victims by complying with the requirements of victim-protection laws in both countries and, finally, brings to account the operations of the transnational criminal networks. This strategy has been piloted as part of this research and has been successful in identifying the gaps in which the criminal networks had operated, disrupting the networks, facilitating close intra-country cooperation and, most importantly, safeguarding victims affected and enabling them to seek justice, multidisciplinary support and self-sustainable reintegration into society.

The transnational intervention system can be delivered by a multidisciplinary unit under the multidisciplinary model. The system described above intervenes throughout the entire operational phase of the criminal networks, from preventative work at the procurement phase for the criminal networks, to the transportation phase, and at primary and secondary points of sale and exploitation. Once an intervention is complete, at whatever stage this occurs, it is critical to break the cycle of crime by disrupting and dismantling the entire criminal network and its supporting infrastructure, through a program of prosecution, as we will now explore.

One of the key outcomes of the multidisciplinary end-to-end strategic model that has taken place over the course of my research, has been the development of transnational casework between countries through a partnership framework, creating a flexible, non-bureaucratic platform through which law enforcement of two countries can understand one another's local sensitivities, culture, and requirements of the law. As part of the research for this thesis, I discovered a number of points regarding the tackling of transnational, travelling child-sex offender criminal networks (TCSO networks), when working between two or three different countries. Because of confidentiality agreements with law enforcement agencies, I cannot talk about the specifics of these cases. I have, however, analysed an extensive number of cases throughout my PhD research and the summary below has been presented before the heads of the judiciary, prosecution and police forces of European nations at Eurojust, in September 2011 and Europol, in 2011. This work was also acknowledged by the Child Exploitation Online Protection Centre, affiliated with the Serious Organised Crime Agency, when they awarded the multidisciplinary model with an award for Outstanding Contribution to International Child Protection<sup>38</sup>.

I found (TCSO networks) to be nothing more than customer-driven criminal networks that are widespread, innovative and interlinked, developing their own tools to secure what they want. During

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<sup>38</sup> Edinburgh Law School, University of Edinburgh, 2013. Available at: [http://www.law.ed.ac.uk/other\\_areas\\_of\\_interest/news/news\\_item?id=8984](http://www.law.ed.ac.uk/other_areas_of_interest/news/news_item?id=8984)

the course of my research, I discovered that TCSO networks use interlinked shelter homes as a front for abusing children. In one of the cases I observed, the TCSO networks had set up charities that raise funds from the community to set up shelter homes in developing countries. Once the shelter homes – created for orphans, children of single parents, street-children, or children affected by man-made or natural disasters – have been set up, the TCSOs take over, abusing the children within the shelter homes with little or no accountability for their actions. The Anchorage Shelter Homes case<sup>39</sup>, and the Freddy Peats case<sup>40</sup> in Goa are examples of this.

TCSOs are also known to use dedicated hotels and lodges as bases where they lure and abuse street-children, or children drawn in under the promise of acting as child stars, of studying abroad or simply of receiving a good meal and shelter for the night in a good hotel. I have seen at least three case studies that substantiate this, the first of which is the Martis<sup>41</sup> case, or the ‘Swiss Couple’ case as it became known in India. The Swiss couple in question targeted urban cities in India and attracted street-children by promising them a free meal and access to the luxuries of a five-star hotel. The couple would then take photographs of them having sex with the children, and sell the pictures to child-pornography sites worldwide.

In another case, spanning Bangladesh and the UK, which the multidisciplinary unit handled during the course of my PhD research, the TCSO network lured children under the pretext of being film stars in a BBC or independent film production, then travelled with the child across South Asian countries, abusing them as they travelled. In the Goa case (see Case Study 8.9) mentioned above, a member of TCSO network infiltrated a local charity, posing as a volunteer going to identify a family to sponsor. They then abused multiple girls between nine and 14 years of age, while sponsoring the education of a boy. In a number of cases, the TCSOs acted as major Western donors, so as to infiltrate charities’ work with trafficked children, and gain access to the children themselves. I personally witnessed this myself in a couple of cases, and was able to warn the charity and help them to put measures in place to reduce their vulnerability to such donors. Many TCSOs fake marriage to a poor, local woman and keep a couple of vulnerable children with them as they travel across India. To the outside world, this presents a picture of a married couple with two adopted children, but is actually a front for the TCSO to sexually abuse the children without arousing suspicion. A number of TCSOs use fronts of educational consultancies to infiltrate international and boarding schools and abuse children within them. The Derek Slade conviction<sup>42</sup> in the UK is a good example of this. Human-trafficking criminal networks also provide children to TCSOs, either delivering them to the TCSO, or promising a safe

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<sup>39</sup> Childline India Foundation. Available at: <http://www.childlineindia.org.in/anchorage-case-history-updated.htm>

<sup>40</sup> Tehelka.com, 2004. Available at: [http://archive.tehelka.com/story\\_main5.asp?filename=Ne080714The\\_original.asp](http://archive.tehelka.com/story_main5.asp?filename=Ne080714The_original.asp)

<sup>41</sup> *The Indian Express*, 2005. Available at: <http://www.indianexpress.com/oldStory/67597/>

<sup>42</sup> BBC, 2011. Available at: <http://www.bbc.co.uk/news/uk-england-14215425>

location in which the TCSO can abuse the child, with iron-clad guarantees of protection from law enforcement.

Transnational casework between countries to investigate, prosecute and care for victims must incorporate a state-civil society partnership approach, multidisciplinary team work, and incredible patience, as transnational casework can take, on average, between three and 12 years to complete. Transnational cases also require MDUs to persevere against hostility. TCSO criminal networks have enormous resources and community support at their disposal, and it is inevitable that they will use these to target those working to safeguard children from their abuse. In one such case the TCSO network targeted the MDU in both countries (UK and India). They targeted the governance of the MDU, the charity commission where the MDU was registered, MDU lawyers fighting the case, and have bribed the parents of the abused children so that the children will not testify against the criminal networks. A successful transnational casework involves various stakeholders in different countries; the unity of all stakeholders throughout the highs and lows of the casework is absolutely critical. In order to disrupt the TCSO criminal networks, the investigation and prosecution must be comprehensive, prosecuting the members of the criminal networks, seizing their finances and assets, and dismantling their structures and their support base. If this is not done, the case will prove to be futile and a total waste of resources. In addition, transnational casework must be victim-centric and innovative.

A successful transnational case must be flexible enough to use a wide range of innovative tools and tactics to prosecute criminal networks, including the setting of legal precedents. In the case of the Anchorage Shelter Home, the prosecution resulted in a precedent from the Supreme Court of India which created a watertight case law that could be used in similar later cases. In another transnational cases, between the UK and India, the use of extra-territorial prosecution under the Sexual Offences Act (UK), resulted in a life sentence for a TCSO in the UK, for a crime committed in India<sup>43,44</sup>. Using this tool, a human trafficking criminal network can be effectively prosecuted in both nations for a variety of offences, crippling their activities. These offences may include money laundering, the misappropriation of funds, violations of foreign exchange regulation, and the registration of artificial corporate bodies. This approach of having separate prosecutions for the various crimes, occurring in separate jurisdictions, through a close coordination between law enforcement agencies is known as the strategy of multiple prosecutions. An entire criminal network operating in multiple jurisdictions around the world can be effectively disrupted through such a strategy. It may also include the use of multiple laws and multiple courts to drain the criminal network of its finances, so that regular market forces then overwhelm it. In the case of transnational casework, mapping and leveraging institutional

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<sup>43</sup> Child Exploitation and Online Protection Centre, 2013. Available at: <http://ceop.police.uk/Media-Centre/Press-releases/2013/UK-man-sentenced-for-abusing-boy-in-Cambodia/>

<sup>44</sup> BBC, 2010. Available at: <http://www.bbc.co.uk/news/uk-england-beds-bucks-herts-11971829>

systems before undertaking an operation is critical for its success. One must know the reach and extent of the criminal network within the existing institutional systems, and the quality of the care and protection system involved. This approach helps in navigating a victim safely through the local criminal justice, and care and protection systems during the course of casework. In a strategy to tackle transnational casework it is helpful to have a core and buffer approach. The core is the actual case, where the criminal network is prosecuted for the trafficking, enslavement or sexual abuse of the victims. This is followed by the buffer, where other civil and governance agencies work to tackle the network's structure, taxation, banking and finance. Such an approach relieves pressure from the core case against the criminal network. The success of transnational casework also depends on the level of trust between the two different law enforcement agencies. A key error that most developed nations make in engaging with emerging or developing nations, is to approach the case with a superior attitude. This will only harden the attitude of the law enforcement agency of the emerging or developing nation and will limit the effectiveness of cooperation. Instead, if the focus is on mutual knowledge-sharing, casework, and the protection of the victims, the effectiveness of transnational cooperation between the countries is likely to be increased. Another key approach is to engage with all forms of the state and civil society, such as politicians, law enforcement agencies, prosecution agencies, the judiciary and foreign services. Intra-country cooperation cannot be built on links between one single agency in each country; all stakeholders need to be involved.

In 2003 and 2004, the US explored increased engagement with the Indian authorities on the issue of tackling human trafficking. The traditional approach of the US when working with India had been to engage India on the basis of the requirements of the Trafficking Victim Protection Act 2000 in the US, and the need to ensure that exports to the country were free of forced or bonded labour. An US-India civil society group engaged with the US diplomatic service to develop a new approach, where the engagement was based on the platform of a mutual problem, and knowledge- and resource-sharing between both countries. The engagement was based on ground realities that had been identified before the US and Indian leaders met, to determine what they could agree on. The meeting was a complete success, with stakeholders in both countries able to agree on five areas in which they could work together to tackle human trafficking.

The challenges in every transnational case remain: the political climate between the countries involved in the case; inadequacies within the criminal justice, and care and protection systems to deliver results, due to poor infrastructural investment in either country involved; and the role of cultural differences between countries. Cultural differences occur as a result of the different historical experiences of the countries involved. They may take the form of religious conservatism, or a patriarchy that fails to understand sexual abuse conducted by TCSOs on boys, categorising it as homosexuality, and penalising both the victim and the abuser. Similar attitudes may impact female victims as well, through the impact of abuse on family honour, through the effect of the caste system, or through the lower status of women in conservative patriarchal societies. Equally, bureaucracy

remains a significant obstacle to transnational casework. There may be months and years of interdepartmental coordination on a case within a country, followed by significant delays resulting from the Interpol mechanism between countries, and a further interdepartmental delay once the intelligence reaches the recipient country. This causes a time-delay whereby a prosecution case can take anywhere between three and 12 years.

One other serious challenge to transnational casework is a lack of child-protection measures in the media. During a recent case, the leaking of an ongoing operation to the media by the local children's magistrate led to the criminal network being alerted to efforts to prosecute them. They reacted immediately by tampering with the remaining children in their custody and using mob-violence to intimidate the investigative agency and children's magistrate. Many children abused by the TCSO in this case were lost to the influence of the criminal network, directly as a result of the criminal network responding, with an effective strategy, to the advanced warning they received by the press's coverage of the story, sub-judice.

Most transnational casework also struggles because of a lack of communication between the agencies that gather intelligence and the prosecuting agencies, poor coordination with local agencies during the operational phase, and very poor or non-existent aftercare and victim protection. The other challenges affecting transnational casework are that law enforcement agencies from a developed country do not often realise the value of mapping of local criminal justice and victim care protection systems before an intervention occurs. Summary deportation of victims is also a challenge in handling transnational casework. The move to deport a victim often occurs because of their immigration status, or from a lack of adequate resources for the care of the victim, leading to the country where they are found repatriating them at the earliest possible opportunity. Such victims are returned to the country or region from where they originated, in some cases, with the cooperation of the very criminal network that first abused and exploited them.

In transnational and regional casework, it can take a long period of time to prosecute a case. One of the biggest challenges to transnational and regional casework remains the exploitation by criminal networks of the huge operational space available to them by the principle of jurisdictions. This concept limits only the state and its agencies and aids the growth of human trafficking and TCSO criminal networks. One further key area of learning in developing casework, is the necessity of being well prepared, as in each and every case, the criminal network will react when victims are rescued from their control. This may take the form of the mobilisation of a mob to create a law-and-order situation in the vicinity of the police stations, courts, shelter homes or hospitals that deal with the case. The criminal networks are fully aware of how vulnerable stakeholders are if a law-and-order situation is created in these locations. The priority will always be to restore law and order, over and above investigations into a criminal network or the protection of their victims. Criminal networks are able to mobilise their extensive networks once an operation has been conducted, using contacts ranging from

influential members of the clergy, to politicians, lawyers and other stakeholders. They are particularly good at mobilising the media in their favour, through the planting of false stories.

In most cases, criminal networks have huge financial resources available to them in order to deal with any contingencies, and remain free to use them as law enforcement, rarely targeting their finances. They are experts in identifying independent people or organisations to act on their behalf, and remain highly skilled at mapping and developing their supporters and members in ever more in-depth levels of local systems. The criminal networks are also often sophisticated in the development of legal teams that include the best minds to deal with each level of the court through which casework passes. These lawyers are brilliant in how they guide cases to the right judge and the right court. Their legal teams mix a potent combination of both offence and defence. Furthermore, criminal networks have a strong track record in keeping the parents and relatives of their victims under their control; they groom and manipulate them with monetary compensation, and use their power to intimidate the families, so that they rarely cooperate with police agencies. Criminal networks also excel at both religious and emotional manipulation of victims, leaving many of them struggling with deep mental issues. Lastly, the highest risk in tackling human trafficking and TCSOs, is to the victims of the abuse and exploitation. The criminal network's first focus will be to retrieve their lost victims, or to silence them altogether, so that they will not reveal anything about the criminal network's activities.

#### **Case Study 8.6.6.1: Travelling child sex offender network**

In the week leading up to the 19<sup>th</sup> of April 2010 the leadership MDU of the multidisciplinary model successfully assisted police in gathering evidence for our first transnational case of trafficking for sex tourism between the UK and India. The travelling child sex offender was based in the UK, but travelled to India in order to abuse several girls within a family, aged from nine years old upwards, over a 12-year period. The offender used the pretext of supporting the education of a male child in the family to gain the trust of the parents and to manipulate that trust in order to gain access to the female children. He typically abused them from the age of nine years old until they reached puberty. The main victim, now 13 years old, was nine when she was first raped. She testified to the police regarding the extensive abuse she had suffered. The MDU were able to assist the police in securing an age verification certificate, confirming that the girl had been nine when first raped and abused. The girl was grateful to the law enforcement agencies and social workers for the support that enabled her to talk about the abuse she had suffered as a child. The police forces benefitted from the interaction, learning a lot about each other, including aspects of extra territorial prosecution.

On the 26<sup>th</sup> of May 2010, as a result of this historic cooperation between the law enforcement agencies of the UK and India, facilitated by the multidisciplinary model, the offender was charged with a series of child-abuse offences, including the rape of a child under 13 years of age. This was a pioneering prosecution under Section 72 of the Sexual Offences Act, 2003 in the UK. On the 8<sup>th</sup> of October 2010, in the first transnational prosecution of a travelling child sex offender operating between the UK and

India, the multidisciplinary model secured a conviction, in a case led by the Hertfordshire Constabulary, and supported by the Goa police, the Crown Prosecution Service, CEOP and SOCA. On the 10<sup>th</sup> of December 2010, the UK-based perpetrator was sentenced to life in prison at St Albans Crown Court, Hertfordshire, UK<sup>45</sup>.

### **8.7 Prosecuting entire criminal networks**

Human trafficking criminal networks must not be left with a single person or location left unaccountable, as failure to bring them to account can easily allow them to re-emerge in more deviant and powerful forms. A prosecution system must include pre-operational and post-operational investigations, and involve criminal and civil trials, appeals, training and the use of alternative prosecution tools. In my experience very few cases involve the prosecution of the entire criminal network. The investigative phase must include denial of bail for members of the criminal network. In every single case I have encountered, members of human trafficking criminal networks have taken advantage of bail conditions to attempt to tamper with evidence or victims, or to abscond if neither proved possible. Corroborative evidence is rarely gathered or investigated in South Asia in human trafficking cases. There is a dire need to develop and use advance techniques for gathering, documenting, recording and safeguarding evidence of human trafficking crimes. A successful prosecution of human trafficking should involve the use of multiple laws to tackle the various forms and various crimes that take place within human trafficking. A prosecution must take into account the entire criminal network, using the wide array of legal tools available through different cases until the criminal network is completely dismantled. A good prosecution system must have a sound and flexible victim protection program to support the victims from intervention through to reintegration. It must be understood that victims remain in danger from several human trafficking criminal networks, and not just the criminal network by which they were initially exploited. A good prosecution system must, above all, be able to attract the best, the brightest, the most talented and the most committed lawyers, talented in the prosecution of human trafficking criminal networks. Invariably, the prosecutors in cases of human trafficking in the developing world lack the innovation, motivation and skill of the lawyers representing the criminal networks. Often the best lawyers, limited in supply, are involved in advising governments or major cases that are important to the government and to their own careers. Human trafficking cases are rarely, if ever, the priority for the prosecution system<sup>46</sup>,

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<sup>45</sup> *Watford Observer*, 2010. Available at:

[http://www.watfordobserver.co.uk/news/8179508.Watford\\_man\\_charged\\_with\\_raping\\_a\\_ten\\_year\\_ol\\_d/](http://www.watfordobserver.co.uk/news/8179508.Watford_man_charged_with_raping_a_ten_year_ol_d/)

*This is Local London*, 2010. Available at:

[http://www.thisislocallondon.co.uk/news/8178474.Watford\\_man\\_in\\_landmark\\_child\\_abuse\\_charges/](http://www.thisislocallondon.co.uk/news/8178474.Watford_man_in_landmark_child_abuse_charges/)

*Deccan Herald*, 2010. Available at: <http://www.deccanherald.com/content/71182/uk-paedophile-goes-trial.html>

<sup>46</sup> The priorities for the prosecution tend to be crimes related to terrorism, murders and certain cases of gang rape. Human trafficking tends to be associated with prostitution and depends often on the testimony of the evidence of the victim as a direct result of poor investigations and lack of proper recording of witness statement and their protection, and poor maintenance of circumstantial or

despite the fact that they are serious cases with national security implications. Criminal networks meanwhile are able to use the best possible defence counsel and are easily able to intimidate prosecutors or even adversely influence them with bribes, due to what is often the poor quality of prosecutors and their accompanying professional and financial insecurities<sup>47</sup>. Such prosecutors act as a tool on behalf of the criminal networks and may even disrupt lawyers acting on behalf of the victims. Human trafficking crimes can be vast, complex and difficult and require a sharp and intelligent legal mind to prosecute them, yet the social stigma associated with various forms of slavery, and the complexity and determination of the human trafficking criminal networks, succeed in dissuading many from prosecuting the whole network.

A good prosecution system also makes effective use of legislation on organised crime and applies it successfully to prosecute the entire network. As soon as the initial intervention is complete it uses a range of legal tools to disrupt the activities of the network. These tools may include the use of bail, the seizure and forfeiture of all movable and immovable criminal assets, the closure of premises where children or forced adults have been found, and the use of an efficient crime management system to monitor members of human trafficking criminal networks. Such people are prone to becoming habitual offenders. Most return to the crime the moment they get bail, or else abscond before a trial to operate in another jurisdiction in which the criminal network is active. Successful tools in targeting the members of the networks themselves include banning<sup>48</sup> them from the primary or secondary areas of the network's operations, securing a significant conditional bond from them, so that if they participate in slavery again they risk serious financial damages and the loss of liberty. In the words of Abraham Lincoln (April 6<sup>th</sup>, 1858), 'those who deny freedom to others, deserve it not for themselves.'

Furthermore, a robust prosecution system has an effective form of sustaining itself by disposing of the proceeds of crime. As long as the current system is paid for by the tax payer<sup>49</sup>, there is no incentive to

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forensic evidence alongside other societal and cultural barriers. In the absence of good victim protection and a lack of civil society support, most victims are easily intimidated to either turn hostile or refuse to cooperate with the prosecution, this often disillusiones the prosecutors who feel the case is a waste of their time and resources.

<sup>47</sup> The prosecution systems in the Indian sub-continent are no match for expert criminal defense counsels. Human trafficking criminal network have in place a sophisticated network of well-paid top counsels guiding them through the court system right up to the highest level. They often use a mixture of being better versed in law and strategy to intimidate the prosecution systems. When pro-bono or civil society lawyers join up with the prosecuting lawyers this can be a game-changer, however it is often at this stage that corruption is used as a tool to ensure that the prosecuting lawyer completely sides with the defense. Often in such cases, the judge is the sole means of ensuring that justice prevails and if this fails the appeals procedure can be resorted to but, in grassroots terms, it is a victory for the criminal network.

<sup>48</sup> This involves a judicial order or injunction, by an executive or judicial magistrate asking a serious perpetrator not to visit the location of crime or to stay away from a jurisdiction where the criminal network has its principal base of operations.

<sup>49</sup> In the current recessionary climate, in terms of resources and priorities or demand for those resources, the state is unable to create a level playing field against a criminal network system that



dismantle the infrastructure and income of the criminal networks. However, such resources can be used both to sustain intervention against human trafficking criminal networks, and to support the sustainability of victim protection and the reintegration of victims of trafficking. There is a need for efficiency-savings and for operating a self-sustainable lean system of prosecution. This might be achieved by turning the tables on the criminal networks by making all, or part, of the funding of the prosecuting of these criminal networks by the State dependent on the confiscation of their proceeds and infrastructure<sup>50</sup>. This is rarely done, as, while there is a high degree of advocacy, there is little real action to see this change implemented. A successful prosecution and an effective anti-human trafficking model depend on victim protection and aftercare as the most critical foundations for their success. The multidisciplinary model is dependent on ensuring the equitable distribution of the valued of being victim-centric and the need for justice for both the victim and the community affected by the crime and the dismantling of criminal networks embedded within the community to ensure the rule of law and long term security. The next component of the multidisciplinary model in Chapter 8.8 describes the care protection and reintegration program that is a vital part of the success of the model. Care-protection reintegration program has long-term victim protection and multidisciplinary support for a human trafficking victim, that is, to date, not a priority in either the Indian sub-continent, the UK or the Netherlands.

#### ***8.7.1 Case studies on prosecuting entire criminal networks***

Under the multidisciplinary model the implementing units have worked with multiple stakeholders of the state to tackle several powerful criminal networks that have been described in detail in Chapters 6 and 7, and in this chapter. The units worked with a southern state in South Asia to tackle the P criminal network from 2009 to date. The network is operational across South Asia, in the first instance over 30 children and young people were saved from a warehouse controlled by this network, over 45 members of the criminal network have been arrested, the case is currently being prosecuted. In the second instance involving the same network 21 children and young people were saved from 18 different locations, over 23 additional members have been arrested and are being prosecuted. During the course of further investigations this criminal network was discovered to have over 60 interlinked cells with over 300 victims under their control. At this stage the governance in this region is being completely dominated by the criminal network, as described in detail in Chapter 6, making this an uphill battle though all the children involved forced adults saved from them in the first two operations are doing well and have also testified against the criminal network. The key player here is suffering from HIV and takes great pleasure in personally breaking through the act of sexual violence meted on

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tends to have deep pockets, and longer perseverance than the state because weakening the criminal justice system is in their part of their long-term operational strategy.

<sup>50</sup> At the moment there is a lot of rhetoric, but not political will, to undertake this action. The quantitative measurements of the multidisciplinary model show the success in implementing the law of closure and seizure of criminal assets. The lack of political will translates down to lack of willingness to undertake anything that takes much effort, and when one adds the tool of corruption to this it becomes impossible.

each girl trafficked into his network. One of key players in the criminal network is a literature lecturer at a local college.

The multidisciplinary unit also worked with vetted elements of the police in the same region at their request subsequent at a training workshop for multi-stakeholders to work with them to disrupt and dismantle a major criminal network involved in illegal iron ore mining as well as sexual exploitation. The inter-linked criminal network in this case is so powerful that they had the financial firepower to disrupt governance if any attempt was made to disrupt them. In due course their arrogance was so complete that they felt that they did not require a tie up with major political parties and decided to stand as independent candidates. This was a major miscalculation as they only secured one of the multiple seats available with the majority going to the main political parties. They corrected this mistake in the federal elections held in 2014 in the region with their main spokesperson winning the seat to parliament. The multidisciplinary uncovered a presence of more than 40 victims in over 40 plus locations in the area more than half of them were children. The first operation to save the children and disrupt the criminal network was a complete disaster when the dedicated anti-human trafficking police unit instead of saving the children made a deal with the criminal network to pre-warn them whenever any attempt was made to save the children. In addition to the special police unit even key corrupt elements with the local governance system colluded to ensure that the children were not saved. The payouts going to the criminal networks increased after the first attempt. The second attempt involved mapping the local police system and identifying a dynamic new chief of police of the area who was willing to work with the Multidisciplinary unit to save the children and disrupt the criminal network. None of the members of the local police were used, the police party was drawn from cadets at the local police academy and the personal trusted staff of the chief of police and the multidisciplinary unit monitored the criminal from a neighboring location. Despite taking several precautions the criminal network still got a pre-warning and moved the children and forced adults to about 15 safe house locations they had embedded within the community. The head of police showed dynamic leadership and resolve to order the breaking down of these locations to save over 44 children and young people from the criminal network, over 89 members of this powerful criminal network have been arrested. The police chief then went on to undertaken six other operations completely disrupting the criminal network. The children and the adults were moved to unknown government safe housing within hours of saving them. The criminal network went all out to adversely influence the case at every single stage but people of integrity within the system along with the multidisciplinary unit held their ground. The battle then shifted to the courts where the criminal network fought against the prosecution and the lawyers of the multidisciplinary unit all the way to the Supreme Court of India to secure favorable grounds of both anticipatory bail and bail for various members of the criminal network. They lost this battle too with the apex body confirming that the concept of anticipatory bail is not meant of habitual hardened members of the criminal network but rather to protect innocent people from the abuse of power. The High Court of the state and the head of prosecution then started closely monitoring the case leading to a high level of accountability. The trial despite several death

threats has progressed well and the bulk of the witnesses and the victims have testified bravely in court and the case should conclude in 2015 potentially leading to the biggest prosecution of its kind against human trafficking criminal networks in the world. However one can never underestimate criminal networks and their ability to adapt. Between May and June 2015 both the police chief responsible and the judge involved in the case were transferred. The new people in charge of the police and the court are promising, but the trial has slowed down. This reflects both the success of the multidisciplinary model and the complexity of human trafficking and the depth of strength and reserve of the criminal networks involved.

In South Asia the multidisciplinary unit was able to work with multiple state to slowly work towards disrupting a power global criminal network. In the first instance the unit based on a missing persons report in the eastern region of India to trace six children that were trafficked to the main recruiting location of this global criminal network in the Indo-Nepal border region. A total of six victims were saved from this criminal network whose modus operandi was to traffic children into this area, keep them confined and forced at various physical locations. Everyday the children and young girls would be forced to undertake lewd dance on platforms mounted on moving locations. Once this attracted substantial attention they would then be taken to the physical location where clients would rape them for money. In this case the mother of one of the child daringly went to the place to save her daughter but was forced to flee when threatened by the criminal network brandishing firearms. The multidisciplinary unit worked with the police team from two states to map the criminal network and the victims and secure their safety. A number of other sub-units are functioning in the same area that will in a phased manner be tackled by the police and the multidisciplinary unit. It is in this state that the state government based on the track record of the multidisciplinary unit is working together to develop the multidisciplinary model across the state by piloting such units in seven districts of the state. The concerned state has 75 such districts with a total population of 200 million people. Working with the state to implement the rule of law in the main recruiting ground for a major criminal network in any of the areas of networked crime such as arms, drugs or human trafficking is the first step in weakening the hold of the criminal network. In the second phase the State of Maharashtra through a judicial child protection tribunal (Child Welfare Committee (CWC)) requested the multidisciplinary unit to help a family whose 14-year-old daughter was kidnapped from her house and raped by two persons with strong links to the same criminal network. After the first act of rape they continued their violent actions against the child for a year through blackmail till she was eight months pregnant. When the family discovered this they took the matter to the local police station who instead filing a case against the rapists worked with the accused persons and a politician with strong links to this criminal network to forcibly marry the child to the rapist. The accused persons then fled the country to Dubai, which is one of the stronghold of this criminal network. The multidisciplinary unit by legally representing victims in the Bombay High Court to ensured that not only bail was denied to a key politician linked with major criminal networks but also he was denied the right to contest elections for his involvement in tampering the case of a 12-year-old child that was exploited as a sex slave. The

police have issued a red-corner alert for the rapists that have fled to the gulf region. The father of the child has received several death threats from the criminal network for both reporting the crime against his daughter and for proceeding against the politician who was a key to the control the criminal network had on that community. During the bail hearing for the politician key members of the Mumbai criminal networks along with their supporters were present and several threats were made to the lawyers of the multidisciplinary unit representing the child. The state in this case played a huge role in denting the impact of the criminal network despite them having the best lawyers on the case. At one point the threat levels were so high that the state allowed for a dedicated exit meant for judges to be used by the multidisciplinary unit. The key reason for this change was that the elections were around the corner and the political party slated to win the elections were ideologically opposed to this major criminal network whose members were principally from the minority ethnic community in that region.

On the 6th of November thanks to four years of untiring efforts by the multidisciplinary team, the Sub-Divisional Magistrate and the Karnataka Police over three operational bases owned by criminals of human trafficking were seized and closed in Bangalore. In 2010, a total of ten girls were rescued from two of these locations, and in 2011 six victims were saved from the third location. Since undertaking these operations with the police, the multidisciplinary units worked with the state together against several challenges to ensure the closure of these bases. This is a first of this kind of multiple seizure and simultaneous closure carried out by the police and the multidisciplinary unit in this region. The police ensured the case is showcased live in the media, in order to deter other human trafficking networks.

The Bangalore MDU achieved a milestone conviction on the 14<sup>th</sup> of July 2010, regarding a case where her mother sold a two-and-a-half-year-old child to a family as a domestic slave. When the child refused to be forced into work, three members of the family she had been sold into burnt her with a hot pan on her hips, face, neck, back and other parts of her body. She was also stabbed all over her body and burnt with a hot poker. At the request of the children's magistrate, the Bangalore MDU intervened and worked with the police and state prosecution to secure the long-term safety and rehabilitation of the child. The MDU lawyers then worked with the police and the state prosecutor to prosecute the three accused perpetrators for the attempted murder of the child. On the 14<sup>th</sup> of July 2010, after two years' of hard work, the judge sentenced all three of the accused to ten years in prison, without scope for parole. They were fined a total of 10,000 Indian Rupees each, with 15,000 Indian Rupees earmarked as compensation for the child. This was a pioneering conviction in India. The child is now four-and-a-half-years-old, and is still extremely traumatised by the torture she went through.

### **8.8 Care-protection-rehabilitation-repatriation-reintegration (CPR) programme**

One aim of the multidisciplinary model is the creation and execution of a care-protection-rehabilitation-repatriation-reintegration (CPR) victim-protection programme, including a

comprehensive aftercare package with a detailed rehabilitation and reintegration plan, tailor-made for each trafficked victim in collaboration with government authorities, law enforcement and partner NGOs.

The victim protection programme provides expertise through a multidisciplinary unit that addresses the following areas:

- Close-body protection from physical and emotional harm from the criminal networks in their efforts to threaten or re-traffic victims post-operation
- The tracing and arrest of the entire criminal network, to reduce further risk to the victims
- Psychosocial care, to help victims deal with the stress and trauma caused by trafficking and exploitation
- Counselling and casework support, to guide the victim through the criminal justice system and their reintegration process
- Sustainable-entrepreneurship support, business development and job creation
- Educational support for victims who are academically inclined
- Medical care and forensic support to help diagnose and treat medical complications that arise from the victim's trafficking and exploitation, and documentation of both physical and oral evidence for an effective prosecution against the criminal networks
- The provision of a lawyer and paralegal support for each victim and case, to ensure legal accountability for the aftercare of the victim, and to ensure a successful prosecution, and the disruption and dismantling of the entire criminal network
- Individual plans of care and reintegration, designed around home- and background-study reports with the input from the victim. The individual plans of care should include periodic follow up and repatriation support
- Victim protection support through phased housing, through interim safe homes, working hostels, group housing, rented accommodation and finally house ownership.

The victim protection programme is made up of three phases.

#### ***8.8.1 Phase 1: Intelligence-intervention-investigations***

This phase requires the MDU to network with shelter homes and known government authorities to ensure the care and protection of the victim. This is at a stage of operations and investigations when the child or woman is very vulnerable to victim tampering and threats from the criminal network. As such, the MDU creates a regularly updated risk assessment, perpetrator accountability<sup>51</sup> and an

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<sup>51</sup> As soon as a victim of human trafficking is saved operationally, there follows a period of 90 days of intense risk for a victim. This is often driven by the time provided by law and the courts in each country for the investigating agency to complete their investigations, and the law and procedure prescribed by law for securing the safety and long-term reintegration of the victim. Risk assessment

intensive care programme (covering a period of three weeks for adults, or three months for children) as a precursor to a clear long-term care and protection programme. Tasks conducted at this stage include a study of the victim's family, home and background, and the development of the individualised plan of care, mentioned above, which is created with the input and consent of the victims. A judicial order approving the care plan will also be created at this point.

#### ***8.8.2 Phase 2: Rehabilitation-repatriation-reintegration-trial***

In the second phase, the MDU provides safe repatriation for victims after a court and, where appropriate, the children's tribunal has ordered their rehabilitation. Such decisions are based on an effective background study, an assessment of risk, and an effective long-term individual plan of care agreed jointly by the MDU, the victim and the government social service department. If the victim chooses to testify during the trial of the perpetrator, the victim will be kept at a safe home, in an aftercare facility, or in some other secure location until the trial takes place. Throughout the process, the MDU will work with the police<sup>52</sup> to ensure the safe transportation of the victims to the safe house, and to and from court. They will provide a sufficient security escort, so that the victim is not intimidated in court and counselling and care support during the trial to deal with the trauma of relating their experience in an open court and being cross-examined by defence lawyers. The MDU will ensure that the victim has the best possible legal aid to protect and safeguard their interests, according to the law and procedure in place.

#### ***8.8.3 Phase 3: Appellate process-reintegration-self-sustainability***

The aim of this phase is to ensure that safe, sustainable and victim-centric reintegration takes place over an intensive five-year period, post-trial, followed by an extended, less intensive period during which support is made available to a reintegrated victim for as long as they need it. It is key here to ensure that the victim is aware that this help, through the multidisciplinary unit, is available whenever they require it. By providing such support, the aim is to reduce the incidence of re-trafficking of victims, and increase support, leading to the eventual reintegration of the victim into a caring environment within society. The component includes a comprehensive reintegration package of multidisciplinary support. This will include regional economy-based research on job vacancies, leading to victim-oriented vocational, entrepreneurship and/or educational training, culminating with job placements and post-job alumni support, or assistance in setting up a small-scale business. The multidisciplinary model depends not just on the effective implementation of the operational strategy

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determines the value of the victim to the criminal network and the extent to which they will go to either silence the victim or get them back under their control. Perpetrator accountability consists of ensuring after mapping the entire criminal network on who among them are still absconding or not brought to account and pose a serious risk to the victim.

<sup>52</sup> Increasingly this process is led by the multidisciplinary model units under the direction of the police officer who is not just non-corrupt but willing to implement the rule of law. Once under the direction of the officer and judge of integrity, the multidisciplinary model can, under law, execute the transportation safely.

but also in the ability to use the multidisciplinary units as support mechanism to institutionalise its experience within the local criminal justice system. To this effect it uses the training system of the local authority to undertake an on field case based training.

***Case Study 8.8.4: The CPR programme – survivors’ support network***

Under the multidisciplinary model, the MDU in West Bengal has set up the first survivors’ support network of its kind, through which 15 rescued victims now fully reintegrated back into society came together with their families – their husbands, children and parents – to enjoy a day out with members of the MDU. Some of the members of the MDU declared this to be the best day of the entire year for them. Three of the survivors expressed a keen desire to join the MDU, to assist the rescue of others, despite now having families and other commitments of their own. The multidisciplinary units are keen to have a number of the unit leaders be those who have survived human trafficking, or those who are reformed ex-offenders or former street-children. The next meeting of the survivors’ support network will be an overnight event according to the wishes of the survivors themselves.

***Case Studies 8.8.5: The effectiveness of the CPR programme***

On the 12<sup>th</sup> of June 2013 the multidisciplinary unit traced and rescued in hours after a successful kidnapping attempt of a key victim witness rescued in 2011 from the same criminal network. She was kidnapped on her way to the safe house from her work place. She was saved by the multidisciplinary as the perpetrators to break her made attempts to rape her. It has been an uphill battle to secure a safe place for her as most private or public safe homes do not want her back because of the risk posed to them by a potential second attempt to kidnap her. It reflects the complete lack of proper care and protection programs for minor victims of trafficking that turn adult at the age of 18. While the criminal networks retain interest in stopping them from testifying and getting them back for their lost value, most private or public care programs remain unsustainable and lose their interest once a child turns 18. Often they prefer children or girls who ‘don’t cause them problems’ which is not true for most trafficked victims due to the trauma they go through and the value they retain for the criminal networks.

The multidisciplinary unit, Karnataka police, and government labour department undertook carefully planned and coordinated operations on the 15<sup>th</sup> of May 2013, on eight school-bag manufacturing establishments in Bangalore, India after months of groundwork, saving 37 children in slavery, and causing 12 perpetrator to be charged with trafficking and slavery. Child slaves endured horrific conditions, children found hidden under mounds of finished bags dumped on them, many children did not even know where they were taken from. The bulk of the children trafficked from Bihar and Nepal. The units have been hard at work to ensure the safety of the 37 trafficked children rescued on the 15<sup>th</sup> of May 2013. Numerous attempts were made by the criminal networks to get them back. We were able to foil a number of these attempts due a 24/7 presence at the safe homes and the courts, but lost a few battles after 17 of children were summarily released in three batches despite our opposition at the

children's courts (CWC) to unknown individuals. Fortunately we have identified all their families in time and are able to intervene at the source (villages) locations of their trafficking and intervene and save them again en-route, as they are re-trafficked. Our units are in the process of repatriating 20 of them back to Nepal and Bihar where we have completed all □ their home assessments and have long-term care plans in place for the reintegration of all 37 children.

Two key members of a criminal network were sentenced to seven years in prison and fined on eight charges of human trafficking thanks to the brave testimony by a 16-year-old child. During investigations the multidisciplinary unit identified her just as she was sold. It took seven attempts over three days to save this child in November 2010. She was trafficked and sold to a brothel by a well-wisher who acted as a good Samaritan offering her shelter just as she managed to free herself from a gang rape attempt at a railway station, she found herself vulnerable to traffickers and rapists since she had to flee her home to the railway station after she was repeatedly raped by her father and uncle. She is an amazing survivor, under multidisciplinary CPR protection she chose hospitality training by software giant Infosys, she got a job as a Barista in a coffee shop as a result of the training provided and just recently got married. The CPR program is partnering with the Infosys group to replicate this job-creation model in a phased manner in the western regions of India.

The multidisciplinary unit was also able to work with the Supreme Court of India and various state and central government departments to ensure that a victim of sex trafficking who was dubbed as the worst case of brutality inflicted on a trafficked person was nursed to full health. The entire multidisciplinary unit ensured her perpetrators were arrested and denied bail, her family located and she has been united with them to pursue her full long term reintegration. This was a horrific case of brutality involved in trafficking for prostitution. Just the previous day the multidisciplinary unit at the same location in the western region of India worked with the police to save a child just sold by her mother to prostitution based trafficking criminal network. The child had made a number of attempts to escape but each time because of the strength of the criminal network and corrupt elements of the local police was returned back. On successful completion of this operation within hours the multidisciplinary unit received intelligence inputs on a horrific case of trafficking. The victim in this case had made several attempts to escape but each time was caught and brought back, according to her statement she was chained and kept to a pillar at a local religious institution. In an attempt to break her she was raped on several occasions, cigarette butts were shoved both in her anal and vaginal region and her breasts were slashed. Despite this she made a final valiant attempt to escape and was secured by non-corrupt elements of the local police who worked with the multidisciplinary unit to safeguard the girl. Her level of trauma was so intense that the local police and the local hospital advised that she be admitted to mental health institutions, which in countries in South Asia are not advanced, or well developed when it comes to the general public. The multidisciplinary unit on its assessments felt that the girl needed to be transferred to a super specialty hospital for better all-round care. Despite fierce resistance from the criminal network that felt that publicity this case was receiving would affect their



entire operating structure in area, the victim was escorted to a good hospital. For a period of six months the multidisciplinary unit worked round the clock to safeguard her as well as provide the multidisciplinary support she needed. The criminal network did everything within its power to tamper with her including using political pressure and sending their members to the hospital to harm her. The only thing that stood in the way was members of the multidisciplinary team and the doctors of the hospital. After six months of intensive care she was transferred to the second super-specialist hospital in another major city. Due to the efforts of both hospitals, people of integrity within the police and the judiciary, the intervention of the Supreme Court of India and the extraordinary efforts in the care, protection and reintegration discipline of the multidisciplinary unit, the victim was reunited with her family in Bangladesh and is at an advance level of reintegration closely monitored by the multidisciplinary unit in Bangladesh. The multidisciplinary unit in this case also helped both the governments of India and Bangladesh to trace the family of the survivor, undertaking a detailed home study to assess the prospects of risk and reintegration within her home environment that helped expedite the entire process. While the Supreme Court of India ordered compensation for her, the entire costs of the care and reintegration was borne by the multidisciplinary unit to help ensure that the compensation was set up in way that provided her financial security as she worked towards self-sustainability within the reintegration process.

### **8.9 Training**

One of the biggest failings in anti-human trafficking work is the enormous amount of resources poured into poor training tools for the criminal justice system and other stakeholders on the frontline of tackling human trafficking. Most of this training, with some exceptions, struggles as a result of some fundamental errors. The organisations that undertake such training generally have little, if any, experience in tackling human trafficking criminal networks at a grassroots level, and so have a limited understanding of the problem. These organisations often mix their ideologies with training materials of a basic standard, which are often based on secondary research material<sup>53</sup>. The resulting training may be loaded with statistics and powerful emotive words but often has very little of substance for frontline professionals. Instead, training based on a knowledge exchange and the transfer of advanced tactics and techniques needs to be delivered to the grassroots agencies that are on the frontline of tackling human trafficking. Money invested in training should be focused on the training itself, rather than on the setting in which the training is delivered. The vast majority of training I have attended has occurred in expensive hotels, leading to a waste of development grants, made up of money donated by

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<sup>53</sup> I have observed, during the course of my research and my experience prior to the PhD, that training assignments are often secured by international organisations through grants from Western countries. These organisations have no grassroots experience or understanding of the sector and often their trainings are driven by office-based research rather than actual experience of what is happening at a grassroots level. I have observed this in the UK where a majority of the trainings are carried by charities with very limited understanding of human trafficking criminal networks. I also experienced this under the implementation of the multi-agency model and the specialist model of tackling human trafficking.

hardworking people in developed countries. During the period that I have been involved in tackling human trafficking I have seen the same batch of stakeholders receiving multiple training sessions on tackling human trafficking, with limited impact on the countering the crime on the frontline. The need in training is to first identify vetted members of the local criminal justice system within a given area. With limited resources, training should first be prioritised for vetted elements of the local criminal justice system and partner civil society groups, which are responsible or work together in controlling the level of crime in their respective jurisdictions. Once the classroom training is completed, within weeks intelligence should be gathered by the multidisciplinary units on human trafficking criminal networks in the areas in which the trainee operates and should be taken to them for them to act on, with support from a multidisciplinary to help them undertake effective casework and develop a good process based on rule of law and victim protection. Such casework will ensure that limited resources are used for training vetted member of the local criminal justice system and civil society groups, so that these vetted trainees are supported and able to effectively tackle challenges at all levels. Initial training would then be followed-up with a refresher course that helps to map the changing nature of the crime and to develop training tools, tactics, procedures and strategies that are based on the casework the trainee's (government stakeholders and civil society groups) themselves have initiated in their respective areas.

***Case study 8.9.1: Training and case work follow-up***

In addition to the casework mentioned in the previous sub-chapter, the period 2012–2013 was a year in which governments sought out the MDUs for an increasing amount of training for stakeholders in the criminal justice system. In Karnataka state, this involved training for every single district in the state and all stakeholders in the criminal justice system (impacting nearly 30 districts, covering more than 61 million people). The goal in this, for the MDU, was to follow-up with each district on casework. The following case study gives an example of how this form of training can work.

***Case Study 8.9.2: Casework-based trainings***

On the 16<sup>th</sup> of December 2012 an MDU in rural Karnataka (the district name has been withheld due to a need to protect the victim, and because of the active nature of the investigations) was able to intervene with local authorities to save a 17-year-old orphan, who's immediate family, on the death of the child's parents, usurped her property and sold her into prostitution. The girl managed to escape from the brothel to which she had been trafficked, and was found in a drugged condition at a local bus stand. The local children's magistrate, who had recently been trained by the MDU, was able to rescue her, secure her protection and file charges against the criminal network, with the support of the MDU. Charges were also filed against the girl's stepmother, who had trafficked her, and her uncle. During the course of the investigation, we also stumbled upon a massive racket that specialised in trafficking such vulnerable girls from Karnataka to Mumbai. The damage done to the victim, and the risk to her, was immense. It was decided to move her from the rural area to the city, where the MDU would be better able to secure her safety. There was a high risk that sparse law enforcement resources in the

rural area could mean that the criminal network would easily be able to overwhelm the security of the victim. The victim is currently suffering from serious physical and mental health issues, arising as a direct result of her trauma.

### ***Case Study 8.9.3: Case study on casework-based trainings***

In the first quarter of 2015, government multi-departmental stakeholders in the State of Maharashtra invited the partnerships and training discipline of the multidisciplinary unit to share their experiences on the multidisciplinary format of working and the benefits of state and civil society. As a direct results of the sharing of experience, the police unit in the town of Parbhani, Maharashtra undertook a major operation saving nine children and five adults, and ensuring that seven members of the criminal network were arrested. According the police the children were saved from a location that has ten to 12 major premises within which each premises were further divided into eight to ten sub-premises. A total of 100 victims were trapped within these locations. The common modus operandi of the criminal network is to keep the victims confined at the location for hire-purchase purposes but once the deal is done the victims are taken to multiple locations across a wide geographical area that is hard to track. The greed of the criminal network meant that the police were able to save all the children and adult victims from their holding location where they were made available for sexual exploitation. The police contacted the multidisciplinary unit to work with them and other government stakeholders to both help dismantle the criminal network and secure the long-term reintegration of the children. On assessing the strengths of the criminal network and assessing the risks the victims would be in it was decided by both the police, the child protection body to transfer the victims to a more secure location in a major city. Meanwhile the legal discipline with the multidisciplinary unit successfully worked with the prosecution and the judiciary to ensure that bail was not granted to the perpetrators involved. Given the large no of children involved this was well supported by the judiciary. The police then shut down the 13 locations in a single day where the children and adults were saved more. This case study shows the incredible benefits of case based trainings that involved an excellent balance of classroom and frontline grassroots training. It also shows how the multidisciplinary model has potential to bring together multi-state and civil society stakeholders together through a case and ensure a holistic and long-term outcome for a victim.

## **8.10 Analysis of the multidisciplinary strategy**

The multidisciplinary model is being implemented from 2008 through three multidisciplinary units that cover casework in southern, western and eastern regions of South Asia. The four multidisciplinary units are overseen by a senior multidisciplinary unit and take on transnational casework between South Asia and the UK and the Netherlands.

### ***8.10.1 Building a multidisciplinary team***

The foundation of the strategy was laid through an initial stage of identifying recruits and assembling a team of experienced individuals. It was important to gather a team who could identify with the need

for change, and adapt to the evolution of the crime. The team needed to be willing to go against the grain to create and manage teams containing different disciplines, getting them to work together from start to finish through the different stages of tackling human trafficking. The measure of success at this stage was not the formation of a perfect team of leaders, but that overtime the leaders would be able to absorb, adapt, implement and develop the strategy. This measure was met, and the interesting fact is that the leaders, who succeeded in this, took their time to study the strategy, to question it, to bring changes to it and to implement it, taking full ownership of the strategy as their own.

The challenges at this stage were multiple, but could be roughly summarised in four questions:

- How much impact would the culture of previous agencies and models have on the team?
- Would the team be able to cope with the challenges of pioneering a new strategy?
- Would specialists be able to develop skills to provide both technical direction, and managerial oversight to the multidisciplinary teams?
- When success came, would the team be willing to withstand attempts by larger international agencies to poach them for more lucrative assignments?

The loss, due to staff turnover, of some of the leaders of the multidisciplinary during the course of the implementation was a directly result of the four questions mentioned above, with previous culture, the pressures of pioneering a new model, and the conflict between specialism and management being the foremost factors leading to the attrition of leaders through the implementation of the strategy. This underlines a key principle in recruiting leaders for an effective anti-trafficking movement: to avoid recruiting from other anti-trafficking agencies, instead seeking individuals with unique skills observed in their natural environments and respective professional circles. One of the common institutional failures in tackling human trafficking is that, rather than recruiting skilled and talented individuals from the community, the temptation is to recruit people from anti-trafficking models that have failed and in doing so, if such people are recruited in sufficient numbers, they will replicate the failures of the previous models.

#### ***8.10.2 Implementing an independent and accountable governance structure***

The next stage of these early years of implementing the multidisciplinary strategy was to house the model as a project within the legal structure of an existing charity, which could provide a platform, accountability, integrity and the freedom to implement the model. Working this way would also save the time it would take to register a new charity, allowing us to focus immediately on raising resources and implementing the strategy. Sadly, this approach proved to be a mistake, as the charity that initially housed the project had a different organisational culture and set of values to the project itself. I learnt that starting something from scratch was a better method, as it allowed me to shape the culture, values, identity and integrity of the anti-trafficking charity that became Justice and Care.

### **8.10.3 Partnerships**

It is important to pick the right partners to work with on the model across the entire geographical area. The integrity of our partners and their ability to work in the best interests of a victim of exploitation and abuse are key to a successful approach in implementing the multidisciplinary strategy. While the multidisciplinary leadership team was being assembled, it was decided that we would pilot partnering with some well-known anti-trafficking organisations in the Indian sub-continent and the UK. In 2007, one such pilot operation involved us providing support to an agency as they saved a total of 19 victims of human trafficking. The gaps in the operation shocked us, and we discovered that both best-practice procedures<sup>54</sup> for anti-trafficking operations and the law itself had not been followed, so that the case was an illegal operation. Furthermore, the integrity of the intelligence was questionable, as the prospective partner agency gathered intelligence by paying customers to have sex with those engaging in prostitution in a traditional red light district. This included women and children trafficked into prostitution. The intelligence in such cases was sufficient to identify children sold into prostitution, as criminal networks implicitly trust regular customers, in this case showing them the latest and youngest victims to have been trafficked into prostitution. The problem was with the way we found out that these victims had been sold into prostitution against their will and raped by members of the criminal networks, corrupt elements of the criminal justice system and by other mainstream customers.

In law, when you gather evidence in such a manner, the customer who is the informant ought also to be prosecuted on charges of rape. While there are significant risks to the life of intelligence operatives who do not partake in criminal activity by having sex with potential victims whilst undercover, integrity is the bed rock of gathering intelligence that is convertible into evidence when a criminal network is infiltrated. Gaining information in this way is clearly unethical, which made it impossible for us to trust and respect the working practices of this ‘partner’ agency. As such, under this or any model, there has to be zero tolerance of any participation in criminal activity or the blurring of boundaries by undercover or intelligence operatives. Under the implementation of the multidisciplinary strategy intelligence operatives are always sent in twos, overseen in close proximity by the intelligence manager, and accompanied by covert equipment when possible. It was decided after this operation not to partner with this agency, despite the fact that this partnership would have provided the strategy with the vast existing infrastructure that this potential partner possessed.

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<sup>54</sup> The most significant illegality in this case was the use of informers that secured their information by gaining the trust of criminal networks by having sex with girls under their control. This would amount to a case of rape if it was a human trafficking victim and would add to the violence that they experience. The intelligence gathered in such a manner would be inadmissible in court and the informer would potentially have to be prosecuted and the intelligence-gathering system exposed to the criminal network.

#### **8.10.4 Working with institutional donors**

In the early days of implementing the multidisciplinary strategy, we also faced the challenge of raising resources to fund the work. This has proved to be a most significant area to address throughout the whole of the implementation of the model, and working with institutional donors has been a particularly difficult task. A large proportion of funds raised by institutional donors are spent on the high salaries of their employees, in endless bureaucracy and on contracts to third parties. Our first experience of working with such donors was with a large international agency that raised the bulk of their funding from corporate and EU grants. Our negotiation began with them wanting to fund the full implementation costs of the entire model. After a few months, this dropped to cover 75% of the costs, then 50%, and finally, after nearly a year of discussions, this dropped again to 13%. For funding 13% of the cost of implementing the model, the agency wanted to claim responsibility for 100% of our results. We struggled to see how they could claim with integrity to have contributed to 100% of our results, when only donating 13% of the costs, and felt unsure as to how this would affect the remaining 87% of investors who would contribute. More importantly we felt that we would be dishonest ourselves if, by accepting the grant, we allowed the agency to claim that it achieved so much, when the actual costs were so much more.

Such cases happen frequently in the development sector and this is one of the factors leading to failure and wastage in the distribution of development grants. Incidentally, this international agency discontinued its operations in 2012, but not before presenting the same dilemma to another anti-trafficking agency, one that did not have the luxury of refusing. This closing-down of their operations was largely due to the recession in the EEA and the perceived growth of the South Asian economy. This led many international agencies to shift focus away from India to other developing countries. The reason for this was that they no longer felt they could justify the distribution of resources to a country where the economy was growing by between 6% and 9%, that has money for large defence and space programmes, and a large number of billionaire residents. Such a view however, does not take into consideration the population size of India, and factors of poverty and corruption, among other challenges, that are more widespread than in most of the developing countries that these large agencies now focus on. A study by the Oxford Poverty and Human Development Initiative, which featured in the UN Human Development Report, cites that in just eight of its states, India had an estimated 421 million poor people, more than the 420 million poor people found in the 26 poorest countries in Africa (BBC, 2010).

Our experience of working with institutional donors proved to be similar when working with another large international agency where, after infrastructural and salary costs were deducted, all that was left of the grants was \$100,000 (USD)<sup>55</sup> to cover work across an entire state in Western India. After a number of conversations, it was decided by the development agency to allocate these resources

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<sup>55</sup> As disclosed by the program manager of the agency.

towards training in rural parts of Western India. This was an area already saturated with training, where what was actually needed was an investment in casework, as the locally operating grassroots-level organisations and local police had a lack of experience in tackling human trafficking in that region. Under the multidisciplinary model we recommended limiting training to a refresher course, as the area had been inundated with training over the previous eight to ten years, without any tangible progress in tackling the problem. Instead, we asked that the available grants of \$45,000 (USD) be allocated to just five cases against the human trafficking criminal networks. The idea was that through these five cases we could easily create an operational procedure and model, through which the local grassroots organisations could work together to tackle the criminal networks within that rural region, and build up a good procedure of care and protection for victims that would last far beyond the \$45,000 (USD) spent. Unfortunately, the international agency refused to accept this model and went ahead with allocating the whole \$45,000 (USD) to another round of training. Here too, the child protection programmes of this agency have been phased out or closed down for the same reasons as mentioned above. This narrative of huge wastes in development grants, of corruption, secondary donor agendas, and of being buffeted by changing global economic cycles, leading to a withdrawal of sustained funding, is commonplace in development circles. It is now a known fact that development grants rarely trickle down to where they are needed most.

#### ***Case Study 8.10.5: Changing the system***

On the 28<sup>th</sup> of September 2011 police and the Bangalore MDU conducted a major operation in which they targeted six establishments in Bangalore that were using child labour. The MDU found that boys as young as nine were being made to work from 9.00am to 1.00am to manufacture laptop and sports bags and lunch boxes. The children were crammed into tiny rooms, some in basements, with little or no ventilation, living, working, cooking and eating in the same place. At night the children moved the machinery to the side of the rooms to clear small spaces in which they slept. 35 boys were rescued, of whom 13 were below the age of 14. The majority of the children were from Bihar in North India, and some had been working in these conditions for as long as a year, without a break. Many of the boys told our team that a man from their village had approached their parents and asked them if they wanted to send their children to the city to work for ‘good pay’. One child said that his mother had been given an advance, the equivalent of approximately £66 (GBP), before he arrived in Bangalore. Because of this, the boy didn’t receive his salary (of around £20 (GBP) a month), until this was accounted for. Ten members of the criminal network were charged with the enslavement and exploitation of these children.

The main challenge of this case occurred when the rescued children were brought to a local government safe home. Here they suffered significant violent physical abuse from one of members of staff there. The abuse included the withholding of desperately needed medicine from the children. The MDU was able to bring this abuse to the attention of the authorities but initially no action was taken. On taking the matter to a higher judicial authority, so as to hold the system accountable, the authority,

rather than using the power given to it under the law, decided to publish the matter in the newspaper. While this improved the situation for the children and led to the removal of the abusive staff member, the MDU was forbidden from entering the home again. We managed to transfer the children out to safer homes and focussed on improving the system. Eventually, the system, on realising that we had nothing to do with the press article, allowed us to work with them again and we were able to conduct a number of sessions for staff to improve how they engaged with the children. The system is still not perfect today but it is much improved. This case highlights how the adoption of the multidisciplinary model can improve the system through casework.

***Case Study 8.10.6: Trafficking for child labour***

In early 2010, the multidisciplinary team, in the course of its investigations, identified a single enclosed compound with four plastic recycling units. When they gained access to the compound what they saw inside shocked them; within the plastic recycling plants were a large number of people, mostly children, who had been confined in the compound and were working under inhumane and dangerous conditions. The team documented these conditions: that the children were in slavery, had been trafficked to the location, and had been tortured and starved to meet recycling deadlines. None of the children were being paid; all were being made to work from early morning until midnight, and often through the night as well. The perpetrators regularly beat them with a wooden stick if they failed to meet their targets. All of the children had been trafficked for forced child labour from Central India (Bihar/Jharkhand) to Southern India (Bangalore) by a single criminal network, who had targeted a cluster of villages in Bihar, Central India, by promising the parents of the children that they would be provided with free education and boarding at a school in Southern India.

The multidisciplinary unit, after gathering evidence of the violation of Indian penal laws and child protection laws from the intelligence sources, brought the matter to the attention of the authorities. For the first time, the multidisciplinary model was able to bring together various stakeholders from the government, including labour and child protection departments, police units, and the children's tribunal. In addition to bringing together all of these government departments, the model also brought together various civil society groups. The outcome was that on the 16<sup>th</sup> of April 2010, the multidisciplinary unit, through the relevant arms of the state and civil society, was able to rescue 36 children, between ten and 14 years of age. By April 2011, continual follow-ups and the prosecution of the criminal network under the multidisciplinary model led to the entire plastic recycling establishment being shut down. The land was sold to a new owner, who started a well-regulated plant nursery, with no bonded child or adult labour used there.

Units working under the multidisciplinary model continued their follow-up under individually developed long-term aftercare and victim protection plans. By October 2012, implementation of these plans, which included weekly phone calls, follow-up trips, and a partnership with another NGO at the villages of the 36 children, ensured their effective reintegration back into the caring environment of



their villages, and readmission to school. The families of the children were provided with employment under government job-creation schemes; the children received financial support and compensation from both the state from which they were trafficked, and the state in which they were enslaved. The individual plans of care, given that their families were found to be safe during the home studies, included both the child-victim and their family. They were designed according to the circumstances of each child, both within their family, and within their local cultural and economic context. At the time of writing this chapter, the latest update on the case confirmed that a number of the children rescued in 2010 are now approaching the point of becoming sustainable members of society<sup>56</sup>.

#### ***8.10.7 Multiplier impact: An extension of the trafficking for child labour case***

In early 2013, units working under the multidisciplinary model came across an entire area where a number of the industrial units had child-slaves in them. After investigating several of the units and documenting the evidence of trafficking, abuse and bonded labour, an operation was carried out on the 3<sup>rd</sup> March 2013 that led to the rescue of nine children, and the arrest of the slave owner. During the course of the operation, a number of the children were found under a large pile of school bags, which had been dumped on the children to hide them. If the police and multidisciplinary had not intervened when they did, it's possible that the children would have died from asphyxiation. In one location, the slave owner was caught having sex with one of the bonded male victims. Slave owners in a number of surrounding locations locked the children in the industrial units and fled the area.

Following this operation, the multidisciplinary unit continued to track the criminal networks in the area. The networks changed their tactics, with the industrial units operating largely at night. During the day the facilities were locked, with the children held captive inside. In May 2013, the multidisciplinary unit, along with the police and members of the state labour department undertook an operation on eight of the industrial units, saving 37 children from these locations. The key aspects of this case were the manner in which the criminal networks had evolved before the operation, and how they resisted afterwards. Their strategy of resistance was two-fold: firstly, they focused on securing bail for the key slave owners arrested; they then brought the parents of the children from the villages from which the children had been trafficked, sponsoring their travel and accommodation, so that the parents might appear before the children's tribunal and secure the custody of their children. This was done with the aim of suppressing any chance of the children testifying about the crimes committed against them, and of potentially re-trafficking them. They succeeded in their first aim; their lawyers were able to get bail the very next day for a paltry financial bond. In their second tactic, they were able to adversely influence the children's tribunal to release the children, in batches of one, six and 11, to parents under their influence. The children's tribunal, who for the two years previously had secured

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<sup>56</sup> Justice and Care, 2011. Available at: [http://www.justiceandcare.org/Articles/330345/Justice\\_and\\_Care/News/Real\\_lives/Latest\\_story/Two\\_years\\_after.aspx](http://www.justiceandcare.org/Articles/330345/Justice_and_Care/News/Real_lives/Latest_story/Two_years_after.aspx)

the protection of children, all of a sudden started making decisions to hand them right back into the hands of the criminal network from which they had been rescued. This completely paralyzed anti-trafficking operations in the Bangalore area, as no further work could be undertaken with a compromised children's tribunal, until the new members were sworn-in in August, 2013. The multidisciplinary model once again showed its flexibility by moving its units at a rapid rate to identify the families of each of the children, undertake a detailed home study, and create plan of care for each of them. On the third successful attempt of the criminal network to have the children released to parents under their control, the multidisciplinary unit worked with the state to remove the children from the jurisdiction of the flawed children's tribunal to the jurisdiction of the children's tribunal where they were originally from, in Nepal and Bihar. In addition to safeguarding 20 of the 37 children from the criminal network, amid the compromising of the children's tribunal, the units were also able to safeguard a further nine children who had been released to the criminal networks but had not yet been re-trafficked. Furthermore, the multidisciplinary unit brought to the attention of the state the spate of flawed and illegal decisions made by the children's tribunal. The matter is currently sub-judice and is being investigated. This case study shows the ability of the multidisciplinary model to get the state and civil society groups to work together to counter the evolving nature of the criminal networks, and to disrupt their efforts to undermine the prosecution case and re-traffic the victims<sup>57</sup>.

### **8.11 Conclusions**

This research exercise has been foundational for me, while I reflect on that at greater length in my conclusions as I conclude this chapter my thoughts reflect on both the impact that the theoretical framework has had upon both my research journey and on grassroots change. The theoretical framework of this research reflects on certain key areas. The first being institutional failures within existing anti-human trafficking models and the traditional approach of the state towards crime that facilitates the growth of human trafficking criminal networks. The multidisciplinary model captures this principle as a key driver for its innovative approach, partnerships and flexibility. It is when models that tackle crime refuse to innovate and are inflexible that criminal networks are able use these very strengths of innovation, networking and flexibility to grow. The multidisciplinary model counters this by constantly innovating; showing flexibility to adapt, it is the only known model that tackles the entire human trafficking criminal network operating along a trafficking route by using an end to end strategy. In doing so it has captured the strengths of the various models in Chapter 7.

The second theoretical area of my research was the evolving nature of criminal networks. The multidisciplinary model adopted the term 'criminal network' in its efforts to prosecute groups involved in human trafficking as a crime. Prior to this human trafficking was principally considered as

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<sup>57</sup> Justice and Care, 2013. Available at: [http://www.justiceandcare.org/Articles/362951/Justice\\_and\\_Care/News/Real\\_lives/Latest\\_story/37\\_children\\_rescued.aspx](http://www.justiceandcare.org/Articles/362951/Justice_and_Care/News/Real_lives/Latest_story/37_children_rescued.aspx)

a crime committed by a groups of individuals that were found controlling a location of crime. The adoption of the term criminal network was revolutionary on the frontlines of the crimes as for the first time a human trafficking networks was seen as consisting of an entire network of seen and unseen members. The unseen members being the financiers, elements of the criminal justice system on the payroll of the criminal networks, politicians that are part of the criminal network, the trafficking component of the network. Previously this was never seen as interlinked but on adopting this concept it began to unearth entire criminal networks. It is for this reason that the cases undertaken under the multidisciplinary model started showing a high percentage of arrests in every case. It soon became obvious that for about 821 victims of human trafficking, over 542 members from 159 criminal networks were charged.

The final key area of the theoretical framework was the concept of governing security that brought the need to govern the need for justice and security in communities dominated by criminal networks and where the state was conspicuous by its absence. The multidisciplinary model that began its journey as the unitary model evolved into the multi-agency model, then into the departmental model it then captured all the strengths of the remaining models to morph into the multidisciplinary model. At its heart the multidisciplinary units are staffed by civil society or community members all from communities blighted by the problem of human trafficking. The multidisciplinary model has, today, 120 partners across the spectrum of stakeholders within the criminal justice system, the local communities, civil society groups and media groups. In doing so it represents how the communities can partner with the state to dismantle criminal networks within them and can innovate to develop structures such as the multidisciplinary unit that will become the cornerstone of effective tackling of socio-criminal problems by equally focussing on the victim and the criminal network through casework. Casework will become the forum of partnership between state and communities but also an innovative platform that will continue to innovate, be flexible and effectively institutionalise the learning to create a multiplier impact of the rule of law for society as a whole. In doing so governing security has, despite the debate, evolved far beyond what it was conceived as by Shearing and Johnson (2003).

In many ways the journey of this research has been an integral part of my quest to find a holistic, end-to-end holistic replicable solution to the complex global problem of human trafficking. Each chapter within this thesis is about the questions I have had in mind to understand about the problem and the academic process I have used to keep me grounded, objective and practical in the endeavour to understand, comprehend and document various shades of the problem and how it is key to any comprehensive and replicable solution to the problem. The introduction to this thesis helped me with securing clarity on summarising the framework of questions that I was seeking to answer within this research. It helped me along with the history of slavery and the literature review to get an in-depth understanding into the subject of slavery and its evolution into human trafficking. It helped frame my understanding into the manner in which slavery and today human trafficking is evolving. The fog of

debates and arguments and approaches within which the crime evolves with maximum penalty for a victim of slavery or trafficking and maximum profit and impunity for most key people involved in the crime. I endeavoured through the literature chapter to understand the various dynamics involved around the subject of human trafficking, the international agendas and the role of organised crime that make it hugely impossible to actually do a very simple thing which is to help a victim become a market leader or a community affected by the crime to be able to govern themselves in a manner that enable the principles of justice, security and growth to bring life and energy within that community for the greater good of peace, stability and prosperity with a region, a nation state and in the world. The development of the theoretical framework through the history of slavery and the literature review was a journey in that endeavour to find a middle path of progress to a very complex crime this world faces today that is very much a cancer that has a very high risk of becoming terminal if not dealt with the kind of consistency, perseverance, patience, care and attention it deserves. The minefield of how slave owners that perpetuated so much of slavery could wrangle compensation using the principle of the right to property despite the enormous profits they have earned and how they could transcend political ideologies and changes is key to the solutions we seek in tackling human trafficking. The compromise the abolitionists made for complete emancipation in allowing the perpetrators to secure huge levels of compensation has its reflections even today as seen with the compensations manipulated in India by the large landowners in the country's desire to reform its historical system of slavery whose foundations were based on the concept of property. The theoretical framework helped me understand what I was seeing at a grassroots level through the concepts of the role of institutional failure (Dewey, 2008), criminal networks (Morselli, 2009) the development of the concept of governing security by Shearing and Johnston (2003).

I have then developed these separate strands of theoretical concepts into a common framework and have developed it further through case studies observed over the past 15 years. The theoretical framework is developed further to bring together the common intersection of years of procedural lapses that I frequently observed from both state and civil society efforts in their efforts to disrupt and dismantle the criminal networks and in the gaps exploited within the victim/child protection systems. I would always question why, when we were so close to achieving a solution, things fall apart or the criminal networks be allowed to evolve. Why were we regularly failing victims of trafficking? The development of institutional failures gave me deep insight and helped use it to bring together a series of intersections where within the procedure both the concept of institutional failures and the infiltration of criminal networks was helping the growth of human trafficking. The development of the concept of criminal networks was foundational in understanding both their ability at growth, their flexibility, resilience, ability to withstand enormous damage to their operations and bring to light what we are not seeing or understanding of criminal networks. This has been keen in understanding the evolution of criminal networks over the years through the various models they use to both counter efforts against them but at the same focussing on growth across multiple markets. The key aspect of the journey is how it began with tackling children found in prostitution to their key role in human trafficking and exploiting multiple markets to both traffic and exploit human being for various forms of exploitations. The violence, the modus operandi, the profits their networked structure is remarkably similar for all forms of exploitation that people are today increasingly trafficked for. I worry a lot on what I see on the frontlines and the impact this crime is having on entire families, countries and future generations. Keeping this in mind, I chart the journey, in Chapters 7 and 8, to the growth and evolution of various models that tackle human trafficking both by the state and civil society, on their own or in partnership with each other. I chart the success and challenges they faced as they dealt with

counter models and strategies of criminal networks amidst a range of other contributory factors. Chapters 7 and 8 not just charts the continuing role of institutional failures and criminal networks in the efforts of the anti-trafficking models in Chapter 7 but more importantly begins the journey of the evolution of the multidisciplinary model through the framework of governing security. In the journey of the multidisciplinary I chart the response and efforts of communities through various models to work with the state to drive a solution to the complex problem of human trafficking where criminal networks have embedded themselves and in some cases dominate taking advantage of the governing security vacuum caused by the withdrawal or absence of the state. The multidisciplinary model evolves from the lessons learnt from the strengths of the criminal networks over the years and the successes of the models that counter them. It address the complexities of the operating environment and the role of institutional failures and drives forward a holistic, strategic, comprehensive and innovative platform of state and civil society partnership to help address global challenges such as human trafficking that thrive within an interlinked and networked society. It drives solutions for the future of the criminal justice system, the care protection system, preventative mechanism against major crimes, integration of varied geographical region and societal structure through shared values, procedures, laws, practices within the multidisciplinary form of functioning. It represent the next generation evolution of the theoretical framework of governing security.



## Chapter 9: Conclusions

The focus of my PhD has been to study and analyse the various anti-trafficking models and their interplay with criminal networks within the framework of governing security, i.e. cooperation between the state and civil society to overcome the domination of criminal networks within communities that has resulted from a security and justice deficit caused by the absence of the state and a breakdown of the relationship between communities and the state. My research highlights the fact that two of the greatest contributory factors in the growth of human trafficking are the evolving nature of criminal networks that consist of a network with deep routes within governance structures and society as whole, and, on the other hand, institutional failures in current anti-human trafficking models and current state approaches to tackling the problem, represents a direct contributory factor to evolution and the rapid growth of the crime. The solution to these twin contributory factors is to create a model such as the multidisciplinary model that represents evolution, innovation, and flexibility which arises from efforts of members of the community affected by the dominance of the criminal networks and absence of the state to create the template for the future of criminal justice systems as the world become a smaller and more well networked place.

To understand contemporary human trafficking, I felt it was necessary to examine the world of historical analysis of slavery. This revealed to me the dominant strand of the Atlantic and Eastern slave trades, epic in contemporary terms due its sheer scale, profitability and how it was allowed to evolve. This historical analysis shed light on how the rehabilitation of victims was never a priority under efforts to tackle the Atlantic slave trade, it also shed light on the whole aspect of the Eastern slave trade and how religion and control of procreation dominated this trade. If there was ever one model under which both these divergent models of slavery met, it was through the Indian model of emancipation. Slavery in India was developed for centuries under the Eastern slave trade before the region came under the control of the British Empire. The idea of a colony was largely a profit-making business which was showed with the initial companies that manage large profit-making enterprises with the Indian sub-continent. Even during the transition to British raj the primary goal was to maintain the Indian sub-continent as the largest source of raw material for the industrial revolution and the expansion of the empire. This lead to the Indian Model of Emancipation that blatantly allowed those that profited out of slavery to change their approach from the chattel to the contract form of slavery. The Indian model of emancipation was replicated around the British Empire, which was joined by all the other colonial empires that set the template for modern-day slavery.

The anti-slavery movement, similar to the Indian model of emancipation, was an outstanding tool to give a body-blow to slavery and, backed by hard-won legislation in Great Britain and the unique role that the Royal Navy played, in an interventionist approach brought about the tipping-point for the chattel form of slavery. This anti-slavery movement that is a precursor to the contemporary anti-human trafficking movement, has had a similar evolutionary path as the journey of slavery to modern-

day slavery. One sees the blurred boundaries, the impossible dilemmas even in the conflict between abolitionists and slave owners. In a similar manner as with modern-day trafficking where it not a battle between traditional structures of state versus the criminal network but about how the criminal networks have infiltrated and developed deep roots within the traditional state structures and civil society groups and institutions. These often-successful efforts of the criminal network are being tackled by people of integrity within traditional state structures and within civil society using a wide range of innovative methods and models that have evolved into the multidisciplinary model.

The literature review navigates the complex world of human trafficking statistics and reports, presenting the current picture of human trafficking from various perspectives. Undertaking this review gave me a foundational insight, which included the debates surrounding the UN efforts to bring consensus on the subject and the US efforts to tackle this issue globally through their legislation. The relevance of the underlying debates on prostitution cannot be ignored, and I could see merit and challenges in both the pro-legalisation and criminalisation sides of the prostitution debates. My journey throughout my research was to find a middle-ground solution and renewed perspective on the issue. The literature review also revealed to me that corruption was one of the greatest tools of criminal networks to infiltrate and undermine the state. This was reinforced by the research summarised in the literature review that shows the direct correlation between corruption and the countries that were ranked in the US Trafficking in Persons Report. A criminal network that works through corruption undermines governance in society, if left unchecked this can lead to a deficit of governing security within the communities that house the criminal networks, who effectively take over the governance of that community.

This led me to understand that one of the biggest reasons for the explosive and global growth of human trafficking was the institutional failure in existing efforts by both state and civil society groups in tackling the issue. I go to some length to show the impact of these institutional failures, both through my theoretical framework and the main findings chapters. Institutional failures directly lead to the emergence of criminal networks and I believe there is an absolute need for us to change our basic understanding of how this crime of human trafficking operates. The traditional existing understanding of this crime as being a gang-related crime, or one committed by an isolated group of people, needs to change. In both my theoretical framework and my main findings I lay out the evolved, flexible, networked and emerging criminal structures and practices. If we are to have any real chance of tackling this problem we need to dismantle the entire criminal network, and this includes identifying everyone within the state and civil society that is directly connected to this criminal network. Anti-trafficking strategies often identify only the locational criminal network members at the time of a basic operation and fail to disrupt and dismantle the entire criminal network. This gives them the chance to learn and evolve in forms that most states today will struggle to tackle.



If institutional failures facilitate the growth and evolution of human trafficking criminal networks, then what is the solution to this challenge? The theory of governing security is a powerful approach to this complex problem. It advocates the bringing-together of state-civil society groups within communities through different anti-human trafficking models to tackle the criminal networks that represent an alternate governance structure within communities where the state has all but withdrawn, for various factors. The models that are generated from this cooperation form the DNA-template for how existing state structures must change if they are to have any real chance of tackling the dominance of criminal networks.

How does one research the complex hidden problem of human trafficking, with all the accompanying ethical challenges? I wrestled with this thought during the course of my research and it is clearly reflected in the methods chapter. The solution was to study the implementation of various existing anti-human trafficking models of governing security, to study the counter models that criminal networks were using, and to map the strengths and challenges through both the institutional failures within existing models and case studies that provide a deeper insight.

The world of tackling human trafficking opened up for me in 2001. It started with the unitary model of tackling human trafficking. This was the first of its kind of unit that worked closely with the criminal justice system and the communities, to tackle the criminal networks that dominated various communities. This approach was effective in identifying, mapping, disrupting and dismantling criminal networks that controlled victims of human trafficking within various communities. In the words of an Indian police officer, this was the first time that a single unit had undertaken so many focused operations to save lives and break the cycle of crime in the area of tackling human trafficking.

The growing knowledge about human trafficking brought forth by the unitary model, led to the multi-agency model from 2003 to 2005. It showed the incredible strength that could be brought into the effort to tackle human trafficking if various civil society groups, donors and the governments came together under a single model and strategy. At the same time as the unitary model led to the multi-agency model, during the same period the criminal networks evolved from single-location criminal networks, i.e. seen through trafficking and commercial exploitation of victims for prostitution in specific areas, into mobile and multi-locational criminal networks.

The multi-agency model eventually gave way to the departmental model, which showed the strength that a single specialised discipline could bring to tackling human trafficking, but it also showcased the challenges of the lack of communication and cooperation within existing state departmental structures. During this period, each of the three models interacted with other models of tackling human trafficking, such as the self-regulatory, specialist, nodal, advocacy network model and legal practice models.

During the period 2006–2007, the criminal networks began to dominate the sector through their evolved models and the rate of success for existing models began to decline. This led me on a journey to undertake objective research on the subject and look at various angles and debates surrounding this issue and, through that journey, come to a place where an effective solution could be provided for grassroots-professionals and policy-makers. The endeavor was also to pursue academic rigor, understanding and the foundations to be more effective in the lifetime commitment I had made to tackle this complex and global crime.

Taking the strengths of various models of tackling human trafficking, innovating through the weaknesses of these models and mirroring the evolving capabilities of the criminal network led to the creation of the multidisciplinary model. In five years of its implementation, its success has time and again shown that with respect to human trafficking, the future of the criminal justice system needs to be designed around the model of the multidisciplinary unit. The concept of a multidisciplinary unit through a joint state-civil society format will revolutionise the fight against human trafficking criminal networks, and can be used alongside a human rights framework to tackle serious issues emerging within the community with full state support, cooperation and involvement. The multidisciplinary model implementing an end-to-end strategy showed the importance of a holistic region-wide strategy targeting the entire criminal network and its route of operations, by focusing resources on missing people, and having the innovative ability to disrupt criminal networks at transit routes, by working with communities in rural, urban and border areas, and by targeting criminal networks in the online world. It showcases the need for a solution for victim protection. The multidisciplinary model and its strategy is a good tool for all countries, both within a regional framework and an international framework, to develop and synergise indigenous yet innovative solutions that all come together through a global framework to bring human trafficking under control, and on a par with the resources allocated to other serious crimes such as murder, rape, armed robbery and terrorism.

In summary, my thesis seeks to address the complex forms assumed by the problem of trafficking in human beings in the contemporary world and, in particular, to analyse and overcome certain identified shortcomings in existing models of intervention. It begins by locating the problem historically through its foundations in slavery, including the incomplete nature of the abolition of that institution. These observations provide the context for the emergence of contemporary forms of exploitation. The complexity of human trafficking is reflected in the variety of approaches to intervention thus far attempted, and the lack of consensus in debates among stakeholders concerning the effectiveness of competing models. The tendency towards institutional failure in current approaches, and the consequent growth of the trafficking phenomenon, is compounded by the ability of criminal networks to infiltrate and corrupt the very systems that are meant to safeguard vulnerable populations. This thesis argues that shortcomings of existing models are themselves evidence that one of the foundational reasons for the emergence of human trafficking as a networked global crime is the security deficit created by the replacement of the structures of state with criminal networks embedded

within communities. These observations are supported by empirical evidence in the form of a detailed review of records relating to a number of prosecutions, and first-hand observations and interviews with officials and civil society organisations in India, the UK and the Netherlands. I argue, in conclusion, that the evolution of models of intervention leading to the creation of a preferred multidisciplinary model, show that this security deficit is best countered by emergent partnerships between the structures of the state, communities and civil society groups. Such innovations prefigure new hybrid structures that offer a degree of hope for holistically tackling common global problems and networked crimes such as human trafficking.

### **9.1 Future direction**

The PhD research I have conducted has been a living instrument for me. It has helped me to contextualise and understand the impact of the work currently being undertaken in the field, and to understand and explain several of the challenges organisations have faced whilst working at a grassroots level. Following on from this research, I plan to continue to work with civil society groups to develop anti-human trafficking programmes under a flexible and evolving multidisciplinary model in South Asia (India, Nepal, Bangladesh, Sri Lanka, Myanmar, Bhutan, Pakistan and Afghanistan). I will also continue to develop anti-human trafficking models in Europe and to build on the ongoing transnational casework between South Asia and Europe.

The conclusion of this research unearths several strands that can be further developed by new researchers in this sector. We are today only beginning to scratch the surface of our understanding on the subject. Further research will be needed to keep pace with the evolving world of human trafficking and the efforts to tackle it. My hope is that through this and subsequent research, a close and mutual institutionalised relationship can be established between civil society groups, governments and the academic world. This would benefit all stakeholders; the research would be conducted at a grassroots level, it would help inform the change required and would advise on the benefits and problems of ongoing work. Such partnerships would give a deeper understanding of a world about which so little is known. Independent research would help channel scant resources towards efforts that are successful and would contribute significantly to finding a middle path in some of the contentious debates that have paralysed uniform progress on tackling human trafficking.



## Appendix

### Interview headings as an aide-mémoire for the semi-structured and informal meetings in the UK and India:

- Questions on the capacity of the organisation to tackle human trafficking.
- Questions on the partnerships the organisation has with the state and with other organisations.
- Questions on the challenges the organisation faces fighting against organised crime (the manipulation of forensic evidence on age, the infiltration of state and private sector agencies by organised crime).
- Questions on the levels of corruption and its impact, and continuing official and general-public apathy to the problem of trafficking.
- Questions on the status of and challenges for victim protection.
- Questions on the impact of resource allocation before and after a recession.
- Questions on understanding the level of risk and perpetrator accountability for a victim of trafficking, from the stage of rescue, through prosecution of the perpetrator, to the stage of reintegration.
- Questions on policy input and the driving force behind changes to the law in the UK and India.
- Questions on the major points of debate in tackling human trafficking, such as deportation, legalisation of some aspects of trafficking, push-back policies by governments, mass raids as a solution to the problem.
- Questions posed to understand the impact of international pressure on tackling human trafficking, particularly from the USA, on the UK and India.
- What is the impact of the economic recession on the work to tackle human trafficking?
- What is the pressure from donors on implementing agencies, and vice versa, and how does this impact grassroots-level anti-trafficking work?
- Questions on challenges for those doing the work and how those involved cope with the pressures.
- How do organisations partner with governments and how do they lobby at local-council, national, regional and international levels to impact laws and policies on trafficking?
- Questions on the opinions of those interviewed on the multi-agency and multidisciplinary working models of partnership.
- Where do interviewees see challenges to overcome in the anti-trafficking sector?
- Questions on the scale of the problem and the lack of focus on forms of trafficking, other than sex trafficking.
- Questions on the challenges interviewees face in day-to-day operations, confronting perpetrators and with rising corruption.

These would be the broad headings; I would go in-depth and ask a series of questions to build up to each subject area and to probe deeper, in order to understand the reality of working on the frontline of tackling this crime.

## List of abbreviations

1. ILO-International Labour Organisation.
2. TIP-Trafficking in Persons report by the US State Department.
3. GTIP-Government Trafficking in Persons.
4. SOCA-Serious Organised Crime Agency
5. CEOP-Child Exploitation and Online Protection Centre affiliated with SOCA.
6. IJM- International Justice Mission
7. DWC-Department of Women and Child Development (India)
8. HRW-Human Rights Watch
9. UNDP-United Nations Development Program
10. ISS-Institute of Social Studies
11. CRG-Child Rights Goa
12. USAID-United States Agency for International Aid and development
13. AED-Academy for Educational Development
14. SARI Equity-South Asia Regional Initiative –USAID-AED initiative.
15. MDU-Multidisciplinary operational units
16. IU-Intervention units
17. SU/INV-U-Surveillance and investigative units
18. SACMEP- South Asia Centre for missing and exploited persons
19. NCMEC-National Centre for missing and exploited persons
20. IMADR- International Movement Against All Forms of Discrimination and Racism
21. WGCFs- UN Working Group on Contemporary forms of Slavery





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