

Title: Modern Slavery Practices in the Asia-Pacific Regions

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“Modern Slavery Practices in the Asia-Pacific Region”

- Siddharth Sunil & Sathvik Chandrashekar¹
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I. INTRODUCTION

One would be mistaken if one were to confine her/his understanding of modern slavery to an imagery of shackled men and women doing the bidding of those wielding power over them. Modern slavery represents much more than this; the shackles might not be present any longer, but an innate sense of entrapment still subsists. It is pertinent to note that there is no definitive definition of modern slavery, and various organizations such as the International Labour Organization³, Anti-Slavery International⁴ have provided their own versions of the phrase. Modern slavery is observable in myriad forms. Some of the more conspicuous ones are noticed in business supply chains, harbouring, deceptive recruiting, debt bondage, forced marriage, forced labour, trafficking and servitude, among others. The most common manifestations of modern slavery include sexual violence, the withholding of passports and other documents, imposition of unjust financial penalties/fines, physical violence, withholding of wages, being locked up in one's living/work quarters, threats against one's family, deprivations of food/sleep, threat of legal action, coerced inebriation/intoxication, and so on. The sectors that propagate these (and a whole range of allied, and invisible, practices) are hospitality and food-servicing,

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³ *What is forced labour, modern slavery and human trafficking*, International Labour Organization, <http://www.ilo.org/global/topics/forced-labour/definition/lang--en/index.htm>.

⁴ *What is modern slavery?*, Anti-Slavery International, <https://www.antislavery.org/slavery-today/modern-slavery>.

domestic work, wholesale and trade, agriculture, forestry, fishing, manufacturing, construction, begging, mining and quarrying, among others.

Modern slavery, as a phrase, is extremely dynamic and all-encompassing; it is but inclusive, and has scope for perpetual expansion, based on the discovery of novel practices that involve coercive underpinnings. There has been a paradigm departure from the traditional notion of slavery- which entailed the occurrence of slavery at the instance of those who propagated it- to a situation today where, owing largely to helplessness and a desperate need for money, victims of modern slavery get entangled in the slavery quagmire at their own instance; this is truly a development of the modern world, where advancements in the economy and technology have played major roles in the exclusion of persons from certain walks of life. However, the common thread that links modern slavery to traditional (or ancient) slavery is an irrefutable lack of agency coupled with the undeniable presence of coercion.

Modern slavery has been internationally recognized as an immediate and existent threat, and has found a place in Goal 8 of the United Nations Sustainable Development Goals. Among the objects of Goal 8 are to take effective measures to eradicate forced labour, child labour, human trafficking, precarious working environments for all workers, and various other facets of modern slavery.⁵

⁵ *Goal 8: Promote inclusive and sustainable economic growth, employment and decent work for all*, United Nations, <https://www.un.org/sustainabledevelopment/economic-growth>.

The prohibition against slavery and the slave trade is, globally, seen as a fundamental human right. The Universal Declaration of Human Rights⁶, adopted in 1948, proclaims: “*No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms*”. Due to its importance in human rights law, the protection of individuals from slavery is considered as an obligation erga omnes held by all states towards the international community as a whole. Obligations erga omnes were first defined by the International Court of Justice in the Barcelona Traction decision⁷ of February 1970, wherein the Court included the protection from slavery as one of the four examples of obligations erga omnes that have emerged in contemporary international law, along with outlawing of acts of aggression, of genocide and the protection of individuals from racial discrimination. Slavery is defined by the 1926 Slavery Convention as “*the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised*”⁸.

The authors vide this paper have attempted to exhaustively shed light on the various incumbent exploitative practices across eight jurisdictions and the safeguards (or lack thereof) to tackle the issue of modern slavery in these nations, with special attention to the Asia-Pacific region. This is followed by a brief section on the observations and conclusions drawn by the authors on the strength of existing literature and statistics on the prevalence of modern slavery practices in the various nations surveyed. The authors have analysed India, Australia, China, Russia, Bangladesh, Philippines, Thailand and Myanmar

⁶ *The Universal Declaration of Human Rights*, United Nations, <http://www.un.org/en/universal-declaration-human-rights>.

⁷ *Barcelona Traction, Light and Power Company, Limited, Judgment*, I.C.J. Reports 1970, p. 33.

⁸ *Slavery Convention*, United Nations Human Rights- Office of the High Commissioner, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/SlaveryConvention.aspx>.

using five parameters- constitutional/legal safeguards, redressal mechanisms available, the interplay of gender, discourse around the practices and the respective processes that led to the manifestation of modern slavery as prevalent today.

II. MODERN SLAVERY PRACTICES IN THE ASIA-PACIFIC

INDIA

“No one can imagine such a painful life. There is much torture on me and I am punished even for my minor mistakes like a child. My family is always living under threats. There is also physical violence against me and my family members”

- A respondent to the Global Slavery Index, 2016⁹

Commonly labelled as one of the worst havens for modern day slavery, India occupies a [dangerously high rank of 4](#) on the Global Slavery Index, 2016, indicating that slavery is not a pre-colonial myth but a harsh reality for millions. In terms of numbers, India has more people enslaved than the total population of the Netherlands, as has been estimated by a [news report](#). Despite far ranging economic and social changes, a certain section of the population leads lives strife with oppression, characterised by a lack of agency leading to an undignified existence. [Various manifestations of modern slavery](#), including bonded labour and sexual exploitation are prevalent in India on a rampant scale.¹⁰

⁹ Global Slavery Index 2016 Country Study, India, Walk Free Foundation, <https://www.globalslaveryindex.org/>.

1. Constitutional/Legal Safeguards

A perusal of the Indian legal framework on modern slavery practices reveals [a paradox](#); India has strong constitutional protections and a number of legislations that hit out at enslavement but continues to have one of the highest rates of slavery. While the law itself has safeguarded the interest of those affected, the enforcement institutions created are extremely flawed and have even worsened the situation of the victims.¹¹

Indian Law takes a fragmented approach to modern slavery practices. Rather than having a single legislation which hits out at slavery as a whole, there exists different laws for different forms of slavery.

[Article 23 of the Constitution of India](#), prohibits and criminalizes forced labour and human trafficking. The Supreme Court of India, [in 1982](#) has stated categorically that any extraction of labour for wage below the minimum rate constitutes forced labour.

The amendments to the Indian Penal Code in 2013, has seen the introduction of Section [370](#) and [370 A](#), which have been inserted to counter human trafficking in any form, including for physical exploitation and forced removal of organs. A more specific legislation enacted to prevent exploitative practices that largely arise from human trafficking such as prostitution is [the Immoral Traffic \(Prevention\) Act, 1956](#).

The primary legislation enacted to tackle bonded labour, is [the Bonded Labour System \(Abolition\) Act, 1976](#). The Act, adopts a broad definition of bonded labour.

¹¹ Swagat Baruah, “*Slavery & Casteism in India: No Road to Freedom?*” , Oxford Human Rights Hub Blog, (9th October 2017) ,<http://ohrh.law.ox.ac.uk/slavery-casteism-in-india-no-road-to-freedom>.

To constitute an act of bonded labour, there are two requirements that need to be fulfilled, Firstly, there must exist a creditor-debtor relation. Secondly, the debtor must undertake to mortgage his or his family's service, with or without pay and this must be accompanied with the lack of freedom to choose an alternate livelihood. The lack of freedom can also be in the form of a restriction on movement. The legislation attempts to provide for the rehabilitation of the affected person, by ensuring that he is freed immediately and by allowing him a rehabilitation grant. In this manner, the legislation has installed sufficient safeguards to ensure the affected person is not further victimised and to support his future existence.¹²

Another prominent legislation that prohibits a modern slavery practice is [the Child Labour \(Prohibition & Regulation\) Act, 1986](#). The Legislation prohibits the engagement of any person below 14 years in any hazardous employment. It does not prohibit child labour in occupations which are not hazardous. At the same time, it contains stringent regulations to ensure that the child is not exploited and receives the rightful wages.

Apart from the above legislations, [a National Policy for Domestic Workers](#) has also been drafted by the Government. If given approval by the Cabinet, the policy would guarantee a minimum salary to persons employed in domestic help and will include various benefits such as paid and maternity leaves, the right to form unions and social security. It will also protect the workers against other exploitative practices such as sexual harassment and bonded labour.¹³

¹² The Bonded Labour System (Abolition) Act, 1976, To read more about the Act: http://pblabour.gov.in/Content/documents/pdf/rti/rti_chapter18.pdf.

¹³ A copy of the Policy can be found here: <http://pib.nic.in/newsite/PrintRelease.aspx?relid=176973> .

2. Redressal Mechanisms

While slavery has not been accorded recognition as a crime, Indian Law criminalises various modern slavery practices such as bonded labour and child labour. The penalty for engaging in such practices is [usually a term of imprisonment usually ranging from a month to three years](#). Along with the prison sentence, there is usually a nominal monetary penalty imposed.

The authority constituted under the Bonded Labour Act, to look into violations of the legislation is the [Vigilance Committee](#), consisting of both the District Magistrate and the Sub-Divisional Magistrate. Courts at the district level, which are competent to try criminal offences can exercise jurisdiction over slavery practices at the first instance.¹⁴ The High Court and the Supreme Court primarily answer questions of law, which arise with respect to any human right violation. However, there is a need to provide for special courts to assume jurisdiction over these offences, as the above courts face a huge case load.

3. Gender

Indian law has acknowledged and has attempted to redress the more vulnerable position of women. Some of the legislation in this regard are the Commission of [Sati \(Prevention\) Act, 1987](#) and the [Dowry Prohibition Act](#). Despite the existence of these protections, women lead an undignified existence across the country, facing a high risk of sexual assault and domestic violence. This is especially prevalent among women from the Scheduled Castes and Tribes.

¹⁴ *Supra* 13,

Furthermore, women [are far more susceptible](#) to be victims of practices such as forced marriage. The [Global Slavery Index](#) reports that more than 50 percent of women in India are married before attaining legal age. A large proportion of women are employed [as domestic help](#), often overworked and paid below the minimum wage.

4. Discourse

The literature around modern slavery in India has attributed the high prevalence of such practices to [the informal nature of the Indian economy](#).¹⁵ Certain sectors of the economy have been left completely unregulated and unmonitored. The workers in these sectors are extremely vulnerable to physical and mental exhaustion.

Another notable observation that has been commonly made is [the interplay of several factors](#) such as caste, class and gender, determining the level of vulnerability to be victimised by such practices. There continues to remain occupational activities along caste lines, with practices such as manual scavenging being performed mostly by the lower castes.¹⁶

5. Evolution

Slavery is said to have existed in Indian society as a prevalent practice [even before colonial rule](#). This has been attributed to the sharp division of social classes. Religious laws and other customs created and legitimized the caste system.¹⁷ Every caste had its own occupation and was expected to restrain itself to the performance of certain specified vocations. This created a system of hierarchy, wherein the lower castes were

¹⁵ *Supra* 9.

¹⁶ *Caste, Gender and Forced & Bonded Labour*, International Dalit Solidarity Network (June 2015), <http://idsn.org/wp-content/uploads/2015/06/Caste-Gender-and-Modern-Slavery1.pdf>.

¹⁷ Devin Finn, *Bonded Labor in India*, Topical Research Digest: Human Rights and Contemporary Slavery, p. 8. Available at: <https://www.du.edu/korbel/hrhw/researchdigest/slavery/india.pdf>.

forced to engage in sub-human practices such as manual scavenging and the disposal of human corpses.

This situation did not improve with colonization. Under the colonial regime, there were [a number of slaves entrapped in the oppressive agrarian system](#). The Zamindari system, which created intermediaries to collect tax, impoverished and enslaved a large number of people. These economic practices created a tradition of bonded labour which continues up to this day.¹⁸

While India has made an active effort to eradicate oppressive institutions and undertake affirmative action programmes, various slavery practices continue to exist due to poor implementation.

AUSTRALIA

“Slavery is an elephant in the drawing room of civilized debate”

- [Stephen Gray](#)

In Australia, [the existence of exploitative practices in industries, both local and abroad, and across a range of Australian supply chains and businesses](#), has been identified as an instance of modern slavery. [The Global Slavery Index 2016](#) ranks it at 57 out of 167 countries.

According to Dr. Jennifer Burn, director of Anti-Slavery Australia, slavery has never been a bigger problem in Australia than it is right now. Between 2004 and 2007,

¹⁸ *Bonded Labour: A Historical Retrospect*, Available at: http://shodhganga.inflibnet.ac.in/bitstream/10603/127693/10/07_chapter%202.pdf .

Australian Federal Police looked into more than 900 allegations of human trafficking and slavery. Dr Burn says between 2016 and 2017 the AFP has taken 150 referrals and investigated close to 100 of those. She says that [no longer can we ignore what's plain and clear](#).

1. Constitutional/Legal Safeguards

Slavery as an umbrella concept had been recognized as a criminal offence in Australia since 1824, when the [Slave Trade Act](#) was enacted. The provisions of the Act were applicable to Australia since the latter was a part of the British Empire.

As of February 2018, Australia has no legislation in place to protect against slavery or to penalize the practice. However, based on the [UK Modern Slavery Act 2015](#), Australia has [commenced](#) proceeding towards combating modern slavery vide the publication of a Parliamentary Joint Standing Committee Report (titled *Hidden In Plain Sight*¹⁹) which has recommended that the Australian Government introduce a Modern Slavery Act in Australia based on, and improved from, the UK Modern Slavery Act 2015²⁰.

The proposed new law would require the country's biggest companies to report on their practices and policies to prevent forced labour in their operations and supply

¹⁹ *Hidden in Plain Sight*, Parliament of Australia (Dec. 2017), https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Foreign_Affairs_Defence_and_Trade/ModernSlavery/Final_report.

²⁰ Scott Crabb, Lauree Coci, *Australia's proposed Modern Slavery Act taking shape based on (and going beyond) the UK Modern Slavery Act model* (Dec. 21, 2017), <https://www.claytonutz.com/knowledge/2017/december/australias-proposed-modern-slavery-act-taking-shape-based-on-and-going-beyond-the-uk-modern-slavery-act-model>.

chains. The government wants to ensure that consumer products like food, electronics, and clothing – whether they're made abroad or domestically – are not produced by people forced to work against their will.

2. Redressal Mechanisms

Slavery in Australia has been a criminal offence since 1824 due to the application of the [Slave Trade Act 1824](#) (UK). In 1999, slavery offences [were inserted](#) into Division 270 of the [Commonwealth Criminal Code](#). These offences apply to all persons, regardless of whether the conduct occurs within, or outside of, Australia. These offences have a maximum penalty of 25 years imprisonment.

Under the Criminal Code, all courts, viz., Magistrates Courts, County Courts, District Court, Supreme Court, Court of Appeal, Federal Court and the Australian High Court (the highest on the Australian courts' hierarchy) have jurisdiction to hear slavery-related offences.

3. Gender

On 27 February 2013, the Australian Parliament passed the Slavery Act, which amended Divisions 270 and 271 of the Criminal Code to make sure the broadest range of exploitative conduct is criminalised. Among other things, the Act introduced the new offence of [forced marriage](#) as a slavery-like offence into the Criminal Code.

On 27 November 2015, the Australian Parliament passed the [Crimes Legislation Amendment \(Powers, Offences and Other Measures\) Act 2015](#), which among other things amended the Criminal Code to strengthen Australia's legislative response to forced marriage. The Act increased the penalties for forced marriage from four years to seven years' imprisonment for a base offence, and from seven to nine years' imprisonment for an aggravated offence. The increase reflects the seriousness of

forced marriage as a slavery-like practice, a form of gender based violence, and an abuse of human rights.

4. Discourse

The literature on modern slavery in Australia is visibly inadequate. While there are a handful of works that trace certain aspects of modern slavery in Australia, and which have been relied on in this survey, the general lack in dedicated and comprehensive writing on the subject is quite disconcerting, to say the least.

5. Evolution

Australia's slaves worked in all essential industries, [from the 1840s through to the 1970s](#). The first slaves to reach Australia from the South Sea were used as shepherds on properties in southern New South Wales, but died from the cold. When the American Civil War [cut off the world's cotton supply](#), Australian slaves were used to establish cotton plantations in southern Queensland. A strong male would cost the modern equivalent of between \$5 and \$19, while women, particularly Tahitians, who were regarded as the most attractive, often fetched \$32. Between 1842 and 1904 more than 60,000 men and boys from the South Pacific islands, and an unknown number of women and girls, were kidnapped and brought to Australia to work as slaves on the sugar plantations that still dot the country's north-east coast. Between the 1860s and the 1970s, Aboriginal people of all ages were taken from their homes and sent to work on cattle and sheep properties all across Australia. Several such schemes were run by

colonial and state governments, theoretically²¹ to protect Aboriginal Australians from mistreatment.

Today, the potential for increasingly hidden forms of slavery is being recognized, with the understanding that even apparently voluntary working-arrangements could have an element of coercion in them, thus making for unconscionable bargains. Australia has explicitly recognized the potential for modern slavery practices in the business sector, having solicited [submissions from stakeholders](#) while conducting the [Inquiry into Establishing a Modern Slavery Act](#). Further, vide several [amendments](#) to legislations such as, inter alia, the Criminal Code and the Crimes Act, Australia today combats a broad range of exploitative conduct, such as forced labour, forced organ trafficking, forced marriage, sexual servitude & deceptive recruiting for sexual services, victim-harboring and broadened the definition of “slavery-like practices” to prosecute a broad range of exploitative conduct.

CHINA

“It is very difficult to solve a problem you do not understand, and more so if the problem is called by a different name every generation”

- [Kevin Bales](#)

The [Global Slavery Index](#) estimates that nearly 3,388,400 persons are victims of modern slavery in China. The primary cause for the prevalence of modern slavery in

²¹ Jens Korff, *Stolen Wages, Creative Spirits* (Dec. 18, 2017), <https://www.creativespirits.info/aboriginalculture/economy/stolen-wages>.

China is attributed to disparities in employment opportunities, which has led to the creation of [a high population of migrants](#), thus opening up various avenues for trafficking. The various facets of modern slavery observable vide reports range from the [trafficking of children](#) for sexual slavery, illegal adoption, forced begging; the trafficking of women for forced marriage and the sex trade²², to [forced labour](#) and scattered compliance with labour standards (which has [improved](#) in recent years).

The U.S. Department of State's [Trafficking in Persons Report 2017](#) downgraded China to an extremely low ranking and accorded it the "tier-three" status, thus indicating the appallingly grave concerns of the prevalence of modern slavery in China.

1. Constitutional/Legal Safeguards

The Chinese Government has, in a bid to tackle the prevalence of modern slavery in China, issued the [National Action Plan to Combat Human Trafficking](#) (Action Plan) for 2013-2020. Further, as per [field sources](#) that contributed to the Global Slavery Index 2016, the National People's Congress effected an amendment to Chinese Labour Law(s) to increase the stringency of penalties on employers failing to pay their employees the wages contracted; forced labour, hence, is illegal in China, and non-compliance is punishable in cases of both registered and unregistered defaulters. The [Action Plan is branched out](#) to identify areas requiring special concern, viz. disable persons, women, and so on.

²² Alice Cuddy, Neil Loughlin, *Weddings from hell: the Cambodian brides trafficked to China*, The Guardian (Feb. 1, 2016), <https://www.theguardian.com/global-development/2016/feb/01/weddings-from-hell-cambodian-brides-trafficked-china>.

It is, however, [lacking](#) when it comes to addressing violations pertaining to adult men, and has hardly any mention of them.

2. Redressal Mechanisms

It is a difficult task to retrieve accurate data on the Chinese mechanisms to redress, owing to the lack of official and disaggregated statistics²³ on the extent of modern slavery. This difficulty is compounded by the [twin predicament](#) of accessing the hidden nature of forced labour, and the challenge of accurately segregating victims from the general populace of those engaged in legitimate work. Thus, data on the actual operation of redressal mechanisms is, largely, inaccessible.

However, a perusal of the [Criminal Procedure Law of the People's Republic of China](#) would reveal that, under Article 108 of the same, the victim shall have the right to report/file a criminal complaint to a public security organ, a People's Procuratorate or a People's Court. Further, per Articles 19-21 of the same Code, the Primary People's Courts, the Intermediate People's Courts and the Higher People's Courts shall have jurisdiction to act as courts of first instance, largely, in case of criminal complaints affecting individuals at varying degrees of heinousness. According to Article 23, People's Courts at higher levels could also try criminal cases over which People's Courts at lower levels have jurisdiction as courts of first instance, either owing to the complexity of the case, or on a request by the higher People's Court.

²³ Bonny Ling, *Human Trafficking and China: Past and Present*, NUI Galway (Jun. 2014), <https://aran.library.nuigalway.ie/handle/10379/4730>.

3. Gender

Owing to the after-effects²⁴ of the erstwhile [One Child Policy](#) and the [cultural preference for boys](#) as children, China today reveals concerning imbalance in gender. Especially in rural China, a shortage of women generates a demand which is only satisfied by the trafficking of women from neighbouring nations into China, to be sold as cheap brides. For poor men in rural China, this is an inexpensive option vis-à-vis the expenses (dowries and wedding gifts) required to marry a Chinese woman. This fact is exacerbated by the significant domestic marriage migration of rural women who choose to wed urban men in [hope of a more comfortable life](#).

Due to the gender imbalance, both indigenous and non-indigenous women are subjected to forced marriage in China. The vulnerability of women from abroad, whose origin countries include [Thailand](#), [Vietnam](#), [Laos](#), [Cambodia](#) and [North Korea](#), is extremely high because they are usually classified as illegal immigrants, which leaves them with few avenues to seek redress from the local government. Further, owing to increased awareness of deception as a trafficking tool, gangs increasingly rely²⁵ on coercion and abduction. Because of this use increased of physical force, Chinese women are [more vulnerable](#) to slavery than before. Increasingly more victims are being sold to traffickers by none other than friends and kin. The Yunnan province is [particularly active](#) in the trafficking of women between China and Southeast Asia because it shares borders with Myanmar, Laos and Vietnam. The Henan province is a high recipient destination for women because of its low population of women vis-à-vis to men, as well as the Fujian, Guangdong and Shandong provinces.

²⁴ Casey Hall, *How has the end of its one-child policy affected China?* (Feb. 2, 2017), Al Jazeera, <https://www.aljazeera.com/indepth/features/2017/01/child-policy-affected-china-170129130503972.html>.

²⁵ *China*, United Nations Action for Cooperation against Trafficking in Persons, <http://un-act.org/china>.

4. Discourse

Several commentators, within and outside China, have written on the prevalence of modern slavery in China. According to [Anqi Shen, Georgios Antonopoulos and Georgios Papanicolaou](#), a direct impact of the increasing migrant population has been that 58 million children have been left behind by their parents, who have migrated to urban areas in search of work. This puts both, the desperate parents, and the uncared-for children, at great risk of being subjected to modern slavery. According to [Liang Zai and Ma Zhongdong](#), this ‘floating population’ of migrants has decreased access to social services when outside their registered place of residence. Further, according to [Anqi Shen, Georgios Antonopoulos and Georgios Papanicolaou](#), this floating population is the most vulnerable to modern slavery.

Also, interestingly, [certain authors](#) have identified student interns as victims of modern slavery! This is but indicative of the dynamic and all-encompassing meaning that the phrase has come to have in the contemporary world.

5. Evolution

According to the [League of Nations Commission of Enquiry in 1931 concerning the traffic of Chinese women](#), the movement of women was not arbitrary and was linked to Chinese male emigration. For instance, when male emigration to North America was, during the 1860s, at its peak, the migration of Chinese females to the United States far [outnumbered](#) the migration of women to the British Straits Settlements. This pattern was the subject of a paradigm shift following the enactment of the [Chinese Exclusion Act](#) of 1882 in the United States. With a majority of Chinese male emigrants moving to the British Straits Settlements, the migration of females also

reversed the pattern demonstrated hitherto, increasing by great numbers to Southeast Asia. By the 1890s, a study²⁶ estimated the migration of Chinese women to the British Straits Settlements at 54,752, vis-à-vis 1,059 to the United States. Today, such a gendered pattern of emigration is not as obvious²⁷, given that cases of human trafficking out of China cover an extensive list of countries and span every continent.

China's endeavours to tackle slavery demonstrate a legacy with a heavy focus²⁸ on the trafficking of women and children, much to the neglect of the labour exploitation of adult men. During the [late-Qing period](#), the contract recruitment of Chinese coolies abroad was but disguised cases of forced emigration, wherein several men were abducted and shipped to the Americas. Some might have emigrated voluntarily, only to later find themselves bound to their contracts in a manner of exploitation not different from that of chattel slavery, without access to redress. In southern China, a form of male domestic servitude known as [hsi-min](#) (a term that means "little people" or "minor people" and which is used to distinguish male slaves from other categories of purchased persons), which shared similarities with the [mui tsai](#) practice of selling girls into domestic servitude, took hold in certain localities during the Republican period. *Hsi-min* was an inheritable status passed through the patriline. As represented by both of these cases, the exploitation of men was largely an area of neglect during both the late-Qing and Republican periods. The vulnerabilities of adult men, even today, [do not feature significantly](#) in the People's Republic of China's efforts to tackle labour exploitation and forced trafficking in various sectors.

²⁶ Bonny Ling, *Human Trafficking and China: Past and Present*, NUI Galway (Jun. 2014), <https://aran.library.nuigalway.ie/handle/10379/4730>.

²⁷ *Id.*

²⁸ *Id.*

RUSSIA

“I am particularly suspicious, particularly distrustful of a Russian in power – a recent slave himself; he becomes the most unbridled despot as soon as he is given any authority over his neighbour”

- [Maxim Gorky](#)

The Walk Free Foundation’s Modern Slavery Index [estimates](#) the prevalence of 1,048,500 modern slaves in Russia. This prevalence is most increasingly manifested in forced labour practices, viz. construction, drug production, manufacturing, domestic work, agricultural work, and so on. An appalling instance of forced labour in Russia is the exploitation of military soldiers, who are exploited by their commanders and other superiors; the soldiers that manage to escape are [charged with desertion](#), which is an offence under Article 328 of the [Criminal Code of the Russian Federation](#). Further, there have been numerous instances of commercial sexual exploitation, among both [women](#) and [children](#). It is quite concerning that Russia is not a signatory to the [Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography](#), and that Russia has, as of 2018, [not criminalized child pornography](#). The only step taken towards combating child pornography was a proposal, in 2016, to shut down legal entities creating conditions for, inter alia, child pornography. However, this measure doesn’t provide for any penal consequences, and it is unclear whether this amendment has been adopted in the [Code of Administrative Offences of the Russian Federation](#) thus far. Other facets of modern slavery in Russia are [begging](#), [recruitment of children](#), and marriage. However, there is [limited research](#) on forced marriage that could be relied on.

1. Constitutional/Legal Safeguards

The remedies available to victims of trafficking are [inadequate](#) at best. There is no dedicated human trafficking law in Russia. There are, however, provisions in the [Russian Criminal Code](#), viz. Articles 127.1 and 127.2, which prohibit the use of slave labour and human trafficking. Further, Articles 240 and 241 provide against the inducement and organization of prostitution. These Articles are [usually used](#) to prosecute offenders.

In June 2015, Russia enacted a new law on 'undesirable foreign organisations', authorising the extrajudicial banning of foreign groups which allegedly undermine Russia's security, defence, or constitutional order.²⁹ This followed the enactment of the [2012 Law on Foreign Agents](#) which required Russian civil society organisations to register as 'foreign agents' if they engaged in political activities and accepted foreign funds. In June 2014, amendments to the law gave the Russian Ministry of Justice the power to brand groups as 'foreign agents' without their consent, thus rendering the operation of many NGOs in Russia uncertain and precarious. This is pertinent in light of the fact that [no NGO](#) in Russia is currently devoted purely to anti-slavery efforts and no NGO working with victims of forced marriage exists. [Government-funded care remains unavailable](#) to victims of trafficking. The [2018 report of the Human Rights Watch](#) paints a similar picture, with authorities continuing to demonize, vide the 2012 law, “foreign agents” advocacy groups that accepted foreign funding.

²⁹ *World Report 2016: Russia*, Human Rights Watch, <https://www.hrw.org/world-report/2016/country-chapters/russia>.

2. Redressal Mechanisms

Article 31 of the [Russian Criminal Procedure Code](#) lays down that, according to the various stipulations laid down in the said Article, a justice of the peace, the district court, the Supreme Court of a Republic, territorial or regional court of a city, the court of an autonomous area, the Supreme Court of the Russian federation or the garrison military court can hear criminal complaints and pass adjudicatory orders. Article 42(2) of the same Code stipulates the various rights the victim possesses with regard to the trial. Article 42(6) stipulates what the accused is not permitted to do.

There are certain non-governmental organizations that work to address instances of trafficking, with the setting up of dedicated helpline numbers. Two of these are [NGO Sisters](#), an [ECPAT](#) affiliate (a network of global civil society organizations working to address the sexual exploitation of children around the world) and [Angel Coalition](#), a network of various organizations.

Article 22 of the [Russian Criminal Procedure Code](#) permits the victim or his legal representative, or both, to take part in the criminal prosecution of the accused, and it is not the case that the State takes over the entire prosecution to the exclusion of the victim.

However, a survey of existing literature reveals that there is no functional national referral mechanism that would provide for enslaved persons to seek adequate medical, social and judicial assistance and redress. The victim has to, invariably, seek recourse to the criminal justice system, which has wide operation.

3. Gender

Commercial sexual exploitation affects women to a very great extent in Russia. The dimensions of abuse have ranged from prostitution to pornography, and there is evidence that Russian women have been victims of these practices abroad.

Further, a comprehensive domestic law has been stalled in Russian parliament since 2014. Also, notwithstanding increasingly high rates of domestic violence against women in Russia, the Russian government, in February 2017, [enacted a law](#) decriminalizing acts of domestic violence not leading to serious injury (read, being admitted to a hospital). Russian victims of forced prostitution have [ended up in various countries](#) in the EU (Spain, Germany and Italy, among others), the Middle East and the Far East. Further, women from various parts of the globe have been [identified](#) as victims of commercial sexual exploitation in Russia.

4. Discourse

Laura A. Dean & Anastasia Dovgaia [pose](#) an existential question; they contend that human trafficking is a political issue, and that there is no consensus in international policymaking on anti-trafficking and human rights discourse.

Maxim Tucker [writes](#) that forced labour extends to victims from Ukraine even in the sorting of clothes, the illicit packaging of vodka and domestic servitude. The International Organization for Migration [reveals](#) some evidence of Russians being trafficked overseas in countries like Ukraine, Kazakhstan and Belarus, as well as Israel. Vitalu Shevchenko talks about [reported instances](#) where Russian separatist forces in Ukraine have deceptively and coercively engaged children in situations of conflict. Matthew Luxmoore [talks](#) about a [new migration law](#) that the Russian Government implemented in January 2015, which required foreign workers to follow

a series of compliance requirements to work in the country. He says that the law is a targeted attempt to exclude certain migrants, with one effect of the law being that workers from Tajikistan already in Russia have neither the right to leave nor the right to remain in Russia, which is a concerning paradox in itself. Catherine Chevalier [talks](#) about a notion referred to as ‘contingent labour’, which employers achieve by outstaffing their employees, viz., tasking the latter to fulfil work for a third-party individual or entity. Chevalier suggests that employment agencies indulged in ‘renting out’ of employees for third-party entities, rendering them with barely any labour rights, thus creating the setting for increased vulnerability to trafficking. This practice was outlawed by a January 2016 amendment to the [Labour Code](#), the Tax Code (part [one](#) and [two](#)) and the Federal Law on Employment.

5. Evolution

In Kievan Rus (which the people of Russia, Belarus and Ukraine claim³⁰ was their cultural ancestor) and Muscovy (the predecessor to modern Russia), slavery was legal, and the system was known as [kholopy](#), and the slaves were referred to as *kholops*. Their owners were entitled to treat them in any manner they pleased. Russian girls were legally allowed to be sold in Russian controlled Novgorod to Tatars from Kazan in the [1600s](#) by Russian law. Germans, Poles, and Lithuanians were allowed to be sold to Crimean Tatars in Moscow. In [1665](#) Tatars were allowed to buy from the Russians, Polish and Lithuanian slaves. Before [1649](#) Russians could be sold to Muslims under Russian law in Moscow.

³⁰ Serhii Plokyh, *The Origins of the Slavic Nations: Premodern Identities in Russia, Ukraine, and Belarus*, CUP, http://assets.cambridge.org/97805218/64039/excerpt/9780521864039_excerpt.pdf.

Slavery in Russia, or *serfdom*, as it is otherwise referred to, was formally abolished after the [conquest of the Caucasus](#) in the 1860s and the [conquest of the Central Asian Islamic khanates](#) in the 1870s.

There are [reports](#) from early in the 21st century that indicate that the Chechens and the Ingush kept Russian captives in slave-like conditions in the northern Caucasus mountains.

The modern forms of slavery that have manifested later in the 21st century, and which are contemporarily relevant vis-à-vis this paper, have been addressed in the previous sections.

2018 is quite relevant, because it brings with it increased concerns³¹ of forced labour and exploitative practices, with the 2018 FIFA World Cup, being hosted by Russia. Workers on stadiums being built for the World Cup reported exploitation, including the absence of contracts, non-payment of wages, and retaliation for reporting abuses. The Building and Woodworkers International trade union reported [at least 17 deaths](#) on stadium sites since construction began.

BANGLADESH

“The rights of children as domestic help remain inside the room, outside the law”

- [Nishat Mirza](#)

The Global Slavery Index 2016 [estimates](#) that 1,531,300 people are affected by modern slavery in Bangladesh. The most prevalent forms of modern slavery in Bangladesh are that of forced labour and human trafficking for labour exploitation,

³¹ *Russia/FIFA: Workers Exploited on World Cup 2018 Stadiums*, Human Rights Watch (Jun. 14, 2017), <https://www.hrw.org/news/2017/06/14/russia/fifa-workers-exploited-world-cup-2018-stadiums>.

which are manifested in, inter alia, manual labour, construction, drug production and farming. According to [Accountability Hub](#), the further forms that labour exploitation takes range from under-payment and excessive working hours to precarious working conditions, and even include physical and verbal abuse. Victims of human trafficking for labour exploitation include those working in the garment industry, brick kilns, the construction industry, and even the fishing sector.³²

Other significant facets of modern slavery in Bangladesh include forced marriage, commercial sexual exploitation, forced organ trafficking³³, child labour, child marriage, and so on. [Roughly 3,90,000 people](#) (nearly 3% of the population of Bangladesh) are affected by forced prostitution.

Amongst the multitude of factors that contribute towards the prevalence of modern slavery, poverty (31.5% of the population was [below the poverty line](#) in 2010), social and environmental instability (natural disasters displaced [nearly 5,43,000](#) Bangladeshis in 2014) a combination of which drive most victims into trafficking, forced deception and prostitution, which are seen as last-ditch attempts at subsistence. Thus, workers in sectors such as manufacturing, construction and fishing are compelled to work in extremely precarious conditions, which were epitomized by the [Rana Plaza tragedy](#) in 2013, wherein a major garment manufacturing factory collapsed, claiming the lives of nearly 1,134 workers in what was Bangladesh's worst industrial disaster ever. According to the [Clean Clothes Campaign](#), nearly 700 workers lost their lives to factory fires between 2005 and 2012.

³² *Bangladesh*, Accountability Hub, <http://accountabilityhub.org/country/bangladesh/#top>.

³³ Nigel O' Connor, Bangladesh organ trade continues unabated, targeting children, the poor, Al Jazeera (Dec. 26, 2014), <http://america.aljazeera.com/articles/2014/12/26/bangladesh-organtrafficking.html>.

1. Constitutional/Legal Safeguards

Articles 14, 34, 34, 34 and 38 of the [Constitution of the People's Republic of Bangladesh](#) provide that, inter alia, it is the responsibility of the State to place prohibitions on all forms of exploitation, forced labour and remove restrictions to the freedom of movement, assembly and association.

In the aftermath of the Rana Plaza tragedy, the Bangladesh government, owing to international pressure and support from the ILO, adopted a [National Tripartite Plan of Action on Fire Safety and Structural Integrity in the garment Sector](#), which sought to improve the working conditions of workers in the garment industry (which employs nearly 4 million workers). However, [NGOs](#) believe that the National Tripartite Plan is inadequate, and does little to address the safety and well-being of workers and the systematic violation of workers' rights guaranteed by the [Bangladesh Labour Act of 2006](#) (which provides a range of protections such as, inter alia, [minimum employable age](#), [minimum wages](#), [a safe working environment](#)) and other national legislations. Apart from the National Tripartite Plan, private sector initiatives such as the [Alliance for Bangladesh Workers Safety](#) (formed by North American retailers) and the [Accord on Fire and Building Safety](#) (an agreement between two global unions) were developed to address the safety of workers in the garment industries of Bangladesh. Various Bangla legislations impose criminal liability on those indulging in practices of human trafficking. The Criminal Code [imposes](#) a 1-year imprisonment for indulging in [forced labour](#). In 2012, the government enacted a dedicated anti-trafficking law titled the [Human Trafficking Deterrence and Suppression Act 2012](#) (Suppression Act), which [criminalized all forms of human trafficking, forced labour and debt bondage](#) and imposed a [minimum of 5 years of imprisonment, extendable to life](#).

While the Suppression Act did not adequately address the issue of deceptive recruitment (by not, per se, prohibiting deceptive recruitment of labour migrants), [the Overseas Employment and Migrants Act 2013](#) established elaborate guidelines to curb fraudulent and exploitative recruitment practices, by putting in place provisions such as, inter alia, the need for a license to recruit migrant workers and the conditions under which such a license could be revoked.

2. Redressal Mechanisms

The [Suppression Act](#) provided that the government may, for the speedy trial of trafficking offences, establish an Anti-Human Trafficking Offence Tribunal, which would be empowered to issue protective orders and would expedite the hearing of matters before it by concluding trials in 180 days. In May 2015, then Bangla Law Minister Anisul Huq [announced](#) that seven such tribunals would be set up at seven divisional headquarters of the country, and in the interim, matters under this Act would be heard by the [Nari O Shishu Nirjaton Daman Tribunal](#), which is present in every district of Bangladesh. According to the Suppression Act, a victim of human trafficking is entitled to, in addition to initiating criminal proceedings, sue for compensation in any civil court against the offender(s). The Act further provided that the government shall set up a fund to support the victims of human trafficking. However, according to the [US Trafficking in Persons Report of 2015](#), there were merely 146 investigated cases of sex trafficking and 12 cases of forced labour under this Act, thus resulting in an abysmally low rate of convictions.

3. Gender

According to an ILO-endorsed survey conducted by the [Walk Free Foundation](#), forced labour affected 85% of men while forced marriage affected a greater share of women (nearly 88%) than men. Nearly [29%](#) of girls under the age of 15 are married, along with [2%](#) of girls who are married before the age of 11. According to the Global Slavery Index 2016, there are four million Bangla employees in the garment manufacturing industry alone (which contributes the most to forced labour), and nearly 85% of these employees are women. Further, there are nearly 3,90,000 persons involved in forced prostitution in Bangladesh. While there is no official gender-wise breakup of this number, a [report from 2015](#) found that most victims of forced prostitution were girls aged 9-10, many of whom work in [Daulatdia](#), Bangladesh's largest brothel, which has an [estimated 1600 prostitutes](#) working within it, with the [average age of new entrants being 14](#).

4. Discourse

Baher Azmy, in a paper on modern slavery and the thirteenth amendment in the United States of America, cites an example of Marjina Khalifa, an illiterate, poor woman from Bangladesh who worked in a textile factory; she was, vide deceptive means, persuaded by the owner of the factory to work as a domestic servant in his daughter's home in New Jersey. Azmy refers to this situation as "third-generation slavery". He posits that there is little that separates this from what he refers to as "first-generation" slavery (chattel slavery in the United States) and "second-generation" slavery (the holding of American Blacks and immigrant whites to long period of debt bondage, known as peonage) in that, while the "third generation" of slavery undoubtedly differs in intensity, duration and venality, it also shares several

fundamental attributes with its antecedents, such as coercion, complete dominion over virtually every aspect of life and severely demeaning conditions under which the servitude is exercised. The “third generation” of slavery as posited by Azmy is synonymous with what is today known as modern slavery, and is an interesting formulation that, while it departs from standardized nomenclature, adds significant perspective to the discourse along the way. This theorization is part of a very small sample space of academic works that include the pervasiveness of modern slavery in Bangladesh.³⁴

Lipika Pelham writes on how normalized discourse on bonded labour has become. She cites the instance of her home in Bangladesh, where the 10-year old daughter of the domestic help carried on the “duties” of her mother after the death of the latter. Pelham writes that, albeit her own mother, along with tens of thousands of South Asians would scream in denial, this is but bonded labour, and is a form of slavery. She further goes on to posit how those inflicting slavery tend to believe that they are protecting the victims from worse adversities, such as prostitution and trafficking; however, the sheer lack of autonomy and consent (which is, in most cases, unconscionable even if it exists) make it another face of modern slavery, which can express itself in myriad forms: domestic workers, errand boys in offices, flower sellers at traffic junctions, and so on.³⁵

³⁴ Baher Azmy, *Unshackling the Thirteenth Amendment: Modern Slavery and a Reconstructed Civil Rights Agenda*, 71 *Fordham L. Rev.* 981-1062 (2002)

³⁵ Lipika Pelham, *Enslaved Abroad, Oppressed at Home*, *The New York Times* (Oct. 29, 2014), <https://www.nytimes.com/2014/10/30/opinion/linka-pelham-modern-slavery-in-bangladesh.html>.

5. Evolution

There is not too much to write on the evolution of modern slavery as a notion in Bangladesh. This is largely due to the fact that Bangladesh, as an independent nation, only came into existence in 1971, and a lion's share of modern slavery practices as elucidated in the aforementioned sub-heads have existed since then. The only change worthy of consideration is [increased sensitivity towards the issue](#), by locals and non-locals alike, who have begun expressing genuine concern over the plight of those stuck in the modern slavery quagmire and have offered to help alleviate the problem. International and national governments and civil society organizations have also played pivotal roles, as mentioned in the foregoing sub-heads, to take steps towards eradicating modern slavery in Bangladesh.

THAILAND

“I worked days and nights, in the rain, in the heat and in the storm. We were not fed sufficiently. We had to work even injured and sick. They gave no medicine and treatments.

Sick people who could not work got shot.”

- Maung Htay, a Burmese slave in the Thai [fishing industry](#)

About [0.63 percent of the total population](#) of Thailand is estimated to live in conditions of modern slavery.³⁶ While this number is small, when compared to countries such as India or Bangladesh, Thailand occupies a rank of 20 on the [Global Slavery Index](#). The primary manifestation of modern slavery is the prevalence of

³⁶ *Supra* 9, Country Study: Thailand.

forced labour [in the fishing industry](#). It has gained a notorious reputation internationally for enslaving [a large number of Burmese and Cambodian](#) immigrants, through human trafficking rings, subjecting them to forced labour.³⁷

The workers are made to endure [inhumane working conditions](#), including excessive working hours, sleep and food deprivation and even forced drug (Methamphetamines) use. There have also been reports of incidents involving captains murdering the workers on the ship and even abandoning them at sea when thrown overboard. These practices have become harder to regulate for the State, as the ships are usually situated near the shorelines of neighbouring countries creating jurisdictional issues for Thailand.

Apart from forced labour, Thailand is also reported to have a high incidence of commercial sexual exploitation, [especially of children](#) including boys and girls. Almost half of the victims involved in such practices are from [neighbouring jurisdictions](#) including Cambodia, Myanmar and Laos.³⁸ There have also been instances of children being [recruited for combat](#) in the Southern borders of Thailand.³⁹

1. Constitutional/Legal Safeguards

The human rights framework in Thailand has invited criticism, primarily by virtue of [Article 44](#) of the 2014 interim Constitution, which has not been repealed in the 2017

³⁷*The Mekong challenge - underpaid, overworked and overlooked: the realities of young migrant workers in Thailand* (Volume 1), International Labour Organization, Available at: http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_bk_pb_67_en.pdf

³⁸ Trafficking in Persons Report 2015, Available at: <https://www.state.gov/documents/organization/243562.pdf>.

³⁹ *Promotion and Protection of the Rights of Children*, United Nations General Assembly, Report of the Secretary General, Available at: http://www.un.org/ga/search/view_doc.asp?symbol=A/69/926&Lang=E&Area=UNDOC.

Constitution. The provision allows the exercise of absolute power by the National Council for Peace and Order (NCOP) without being subject to fetters or controls. This provision has enabled [a number of rights violations](#), without the officials in power being made answerable. The Thai Constitution does contain guarantees of [equality, liberty and dignity](#). However, due to the overarching structure of the Constitution, these remain mere declarations on paper.

The Government has enacted regulations to counter the rising incidence of forced labour in the seafood industry. The 2015 [regulations](#), provide for maximum working hours and leaves for the workers. They also provide for [the registration](#) of migrant workers and their families. To improve implementation, the Government requires [monthly reports by the regulatory agencies](#) on the progress of implementation of various human rights legislation. The agencies have been given a period of 60 days, to ensure there are no violations of the Fisheries Act.

Apart from these regulations, various amendments have been inserted into the Anti-Human Trafficking Act 2015, which allows the relevant authorities to immediately shut down [work places or suspend the operating licenses](#) of any factory or work places, where evidence of trafficking is found. The office of the Prime Minister has issued a Notification, which came into effect in 2015, which cast a legal obligation [on owners of workplaces](#) including factories, entertainment facilities and even vessels, to monitor and oversee the prevention of human rights abuses of their employees. There is also a requirement to sensitise employees to the rights of victims of such abuses by organising training sessions.

There has also been an amendment to the Fisheries Act, providing for more [surveillance and control](#) over fishing vessels. There is a categorical prohibition on the employment of illegal workers with a severe punishment attached for non-compliance. Furthermore, there have also been changes made to the Labour Protection Act, which now provides that all migrant workers are entitled to equal protections.

2. Redressal Mechanisms

Thailand has taken several steps to increase the effectiveness of the criminal justice system to combat human trafficking and labour violations. [A special Human Trafficking unit](#) within the Criminal Court has been created. The decisions given by this special court is appealable to [another appellate court](#) and not the Supreme Court directly. Only when the verdict of the appellate authority is unsatisfactory, an appeal can be made to the Supreme Court, which will be entertained only on certain grounds provided in the Act. With respect to legal policy, [an ad-hoc committee](#) has been created by the Prime Minister, consisting of senior judges, prosecutors and police officers, to suggest reforms in judicial proceedings associated with human trafficking.

The Government has also introduced the Trafficking Procedure Act, which has introduced various procedural reforms to improve the expediency and efficiency of trafficking prosecution. Any trial initiated to prosecute human trafficking will now [use the Inquisitorial system](#). Furthermore, depositions need not be given within the Courtroom, and can be given through [video conferencing](#) from a foreign country as well. The safety of the witnesses and the victim has also been taken into consideration, by providing for more [stringent bail provisions](#) for the accused

perpetrators. There has also been a provision for [punitive damages](#) where the victim has suffered severe physical damage and torture.

3. Gender

A [strict reading of Buddhist doctrine](#) has relegated women to a subservient position as compared to men.⁴⁰

There is a system of hierarchy based on a belief that social position is indicative of good deeds in a past lifetime. Therefore, being born a woman was perceived to be a fate given to those who sinned previously. Women were even traditionally viewed as [the property of men](#) and could even be sold.

Among the countries in the Greater Mekong Sub-Region, Thailand has emerged as the [top destination](#) for cross-border trafficking of women. Most of these victims are from Cambodia, Myanmar and Laos. Women, notwithstanding that they may not have been trafficked, are an integral part of Thai economy. They form the dominant part of the workforce engaged in agriculture, fishing and manufacture sectors. If not for these sectors, they are engaged in work as domestic help to middle class families. As mentioned before, they experience exploitative work conditions in all of these sectors, including long working hours, use of hazardous equipment without any protection and even restrictions on movement.⁴¹

⁴⁰ KEVIN BALES, ZOE TRODD, ALEX KENT WILLIAMSON, MODERN SLAVERY: A BEGINNER'S GUIDE (2009).

⁴¹ Allan Beesey, *From Lao PDR to Thailand and Home Again: The Repatriation of Trafficking Victims and Other Exploited Women and Girl Workers - A Study of 124 Cases*, International Organization for Migration, 2004, Available at: <http://bit.ly/1R5DSeG>

Commercial sexual exploitation is another practice that women are far more vulnerable to in Thailand. [The Global Slavery Index](#) reports that women from the age of 15 onwards are found frequently in bars, hotels and other entertainment locations.

4. Discourse

Most of the literature around the vulnerable position has focused on the [supply chain](#). A major chunk of the academic literature has largely focussed on the socio-economic conditions that lead to women and children leaving their places of origin. There has been no real focus on the conditions prevalent in these labour destinations.⁴²

There have also been [links drawn between trafficking and forced labour](#), without viewing them as isolated, distinct modern slavery practices. It has been found that the migrants from neighbouring jurisdiction are in a far more vulnerable position and are subject to far more exploitative working conditions.

The mainstream media outlets like [The Guardian](#) have largely focussed on the fishing industry, without much coverage of other forms of slavery such as child soldiers and sexual exploitation. There is a lack of academic literature with an exclusive focus on Thailand.

5. Evolution

Slavery in Thailand can be traced back to the [Sukhothai](#) era.⁴³ There were numerous categories of slaves, each having their own set of rights and obligations. A slave was treated like property and could be sold or leased. Owning slaves was a common

⁴² *Supra* 37.

⁴³ Nitaya Onozawa, *The Labor Force in Thai Social History*, Available at: <https://www.tsukuba-g.ac.jp/library/kiyou/2002/3.ONOZAWA.pdf>.

practice among the nobles and these practices were legitimised by the [legal structures](#) prevailing during that period.⁴⁴

[Women in particular, were more frequently enslaved.](#) They were given to soldiers as rewards for their services. This began a tradition of sexual exploitation. Another prevalent practice during the 19th century was the [concept of a war slave](#), who were deployed in the military and used by the King for long conquests.⁴⁵

During this period, there did not exist a concept of bonded labour and slaves were given the right to [purchase their own freedom](#), and this freedom was given to both the slaves by birth and the traded slaves.⁴⁶

Slavery was formally abolished only in the late 19th century. However, the practice continued, due to the [abounding socio-economic conditions](#). Despite being freed from their masters, communities that were previously bound by servitude did not have the requisite economic resources such as property or any kind of wealth to survive. These circumstances forced them [to return to exploitative livelihoods](#) such as prostitution. This only continued after the 20th century, as Thailand became a capitalist economy. Another commonly discussed factor for the rise of commercial sexual exploitation in Thailand is [the Vietnam war](#), which saw the use of Thailand by American soldiers as a recreation centre.

⁴⁴ History of Prostitution and Sex Trafficking in Thailand, End Slavery Now Blog, Available at: <https://www.endslaverynow.org/blog/articles/history-of-prostitution-and-sex-trafficking-in-thailand>.

⁴⁵ *Supra* 43.

⁴⁶R.B. Cruikshank, *Slavery in Nineteenth Century Siam*, Available at: http://www.siamese-heritage.org/jsspdf/1971/JSS_063_2j_Cruikshank_SlaveryIn19thCenturySiam.pdf.

PHILIPPINES

“She was 18 years old when my grandfather gave her to my mother as a gift, and when my family moved to the United States, we brought her with us. No other word but slave encompassed the life she lived. Her days began before everyone else woke and ended after we went to bed. She prepared three meals a day, cleaned the house, waited on my parents, and took care of my four siblings and me. My parents never paid her, and they scolded her constantly. She wasn’t kept in leg irons, but she might as well have been.”

- [Alex Tizon](#)⁴⁷

The [Modern Slavery Index, 2016](#) estimates that 4001,000 people are enslaved in the Philippines, constituting 0.40 percent. Philippines occupies a relatively high rank of 33 in the Index. All forms of modern slavery exist in the Philippines, but the [most prominent manifestations](#) are forced labour, recruitment of child soldiers, commercial sexual exploitation and pa’aling fishing.

The issue of forced labour is one that affects Filipinos working abroad. It is reported that [almost half of the Filipino women](#) working abroad are unskilled and uneducated, consequentially working in the domestic service sector. A large number of workers in this sector face exploitation in the hands of their employers not only abroad but even within the Philippines.

⁴⁷ Alex Tizon, *My Family’s Slave*, The Atlantic (June,2017), Available at: <https://www.theatlantic.com/magazine/archive/2017/06/lolas-story/524490/>

Another prevalent slavery practice is commercial sexual exploitation of young women and children. There has been a proliferation of massage parlours, bars and brothels which have become fertile grounds for prostitution rackets, usually led by organized crime syndicates.

A unique practice, found in the Filipino fishing industry, is [Pa'aling fishing](#).⁴⁸ The technique used is highly hazardous which requires the fishermen to dive without adequate oxygen. The lack [of any legal protection](#) has resulted in numerous instances of exploitation.

1. Constitutional/Legal safeguards

[The Philippine Constitution](#) prohibits involuntary servitude of any form, in Section 18(2) of Article III. It also contains guarantees of equality, liberty and life.

[The Migrant Workers and Overseas Filipinos Act of 1995](#), was enacted to clamp down on fraudulent recruitment. It requires the recruitment activities carried out by brokers to be licensed, failing which it imposes both a civil and criminal liability, whether the broker is a natural or legal person.

The Act also attempts to counter rights violations faced by migrant workers by making the employer and the recruitment agency [jointly and severally liable](#).

The Government has also made rules and regulations, providing for an Employment Agency Database. Apart from monitoring the recruitment agencies, a [standard employment contract](#) has been created for different occupations. The clauses in the standard agreement contain protective covenants such as minimum wage, overtime pay,

⁴⁸ Timothy Allen, Pa'aling Fishing, Human Planet, Available at: <http://humanplanet.com/timothyallen/2011/01/pa-aling-fishing/>

accommodation, transportation and termination with reasons. Every service agreement has to contain the above protective covenants.

The [Philippines Penal Code](#) criminalises slavery, child debt bondage and involuntary servitude. Article 104 of the Code, prescribes civil liability for corporations and employers for the offences committed by their officers in the course of their employment.

To counter human trafficking, the Government has enacted the [Anti-Trafficking in Persons Act](#) in 2003. The Act prohibits human trafficking for the purposes of forced labour, debt bondage and involuntary servitude. The Act prescribes both individual and corporate liability for any such offence.

The Government has also been credited for undertaking various measures to ensure that its citizens working abroad are not exploited. These include providing for [resource centres](#) abroad to support Filipino workers when in distress. Measures have also been taken requiring the employers to open an [ATM bank account](#), in order to ensure the minimum wage is paid.

The Government has also enacted [various legislations](#), to protect children from recruitment into the armed forces and to prevent the use of schools for military purposes. On an International level, Philippines is signatory to various treaties and protocols, such as the [Convention on the Rights of the Child](#) and its [Optional Protocol on the Involvement of Children in Armed Conflict](#).

2. Redressal Mechanisms

A [National Human Rights Commission](#) has been created to receive individual complaints and to ensure they are heard by the relevant judicial bodies. There also exist

other human rights bodies such as the [Inter-Agency Committee](#) that has been entrusted with the function of investigating human rights violations.

The [highest Court of the land](#) is the Supreme Court, which hears appeals from the lower Courts and decides important constitutional matters. Below the Supreme Court is the Court of Appeal and the *Sandiganbayan*, which is empowered to [hear both civil and criminal matters](#). Steps have been taken to ensure Courts are more accountable while adjudicating human rights issues, by requiring Courts [to submit information](#) on the cases pending judgment.

3. Gender

As mentioned before, women occupy a more vulnerable position, as they are more likely to be [employed in unskilled labour](#). Being in such a position, they are usually employed as domestic help. This sector has most instances of exploitation.

Sexual exploitation is another practice that disparately affects the women. The Philippines has emerged as one of the [most sought-after](#) destinations for prostitution and has attracted a large volume of commercial sex tourism. Women are trafficked frequently under the [guise of marriage](#) and end up being subject to sexual exploitation. Another phenomenon that has increased the vulnerability of women to enslavement is the high incidence of natural calamities. Attention has been raised to [enhanced vulnerability](#) of both women and children in the wake of such calamities.

4. Discourse

The image of the Filipino slave received global attention, after the Atlantic carried [an essay](#) by Alex Tizon, a Pulitzer winning journalist, on the Filipino slave that his family had kept for several decades. The central point of the essay is Lola, a slave who served

the author's family for the entirety of her life and the essay details the physical and mental abuse that she was subject to.⁴⁹

The essay sparked off a debate on the narrative around slavery, and there have been [multiple views](#) discussing the experience of the author.⁵⁰ Apart from the journalistic literature, the academic scholarship around Filipino slavery has focussed on the construction of the Filipino worker, working abroad. Neferti Xina M. in [her article](#), argues that the construction of the Filipino worker is either as a hero sending remittances to aid the country's income or as the victim subject to the toughest of working conditions, but never as a subject with "*collective creative power*".⁵¹ Similarly, Katherine Gibson in [her article](#) points to the limitations of the dominant representation of Filipino women as heroes or victims. She advocates an anti-essentialist Marxist analyst in order to enable a more complex discussion of the multiple class processes that allow the workers to distribute the surplus labour in the most innovative ways.⁵²

There have also been [studies](#) of resistance movements against slavery in the Philippines. Apart from the above, there are very few theoretical expositions of slavery practices in the Philippines. A large volume of literature focuses on setting out factually the prevalent slavery practices in the Philippines and the legal framework governing these violations.

⁴⁹ *Supra* 47.

⁵⁰ Therese Reyes, *Filipinos are defending Alex Tizon from Western backlash to his story "My Family's Slave"*, Quartz (May 17th, 2017), Available at: <https://qz.com/985614/the-atlantics-my-familys-slave-cover-story-filipinos-defend-alex-tizon-from-western-backlash/>.

⁵¹ Neferti Xina M, *Domestic Bodies of the Philippines*, 12(2) Journal of Social Issues in Southeast Asia, pp. 153-191, p. 154 (1997).

⁵² Katherine Gibson, Lisa Law and Deirdre McKay, *Beyond Heroes and Victims: Filipina Contract Migrants, Economic Activism and Class Transformations*, 3(3) International Feminist Journal of Politics, pp. 365-386 (2001).

5. Evolution

Slavery is said to have existed in the Philippines before it was colonised by the Spanish. During the pre-colonial era, there [were 2 categories of slaves](#), differentiated on the basis of the extent of their autonomy. The first category was known as the *Alipin Namamahay*, a slave who had a significant level of autonomy and was only expected to serve the master during certain periods during the year.⁵³

The second category was the *Aipin Sagigilid*, who was expected to live with the master and was at his beck and call, at all times. This was not a rigid or perennial system, but was characterised by flexibility, as the slave had the option to move out through marriage or other commercial pursuits.

With the advent of colonial rule, this system of slavery was abolished and was replaced with an [officially legitimised system of forced labour](#). Another factor that seemingly led to the reduction of slavery was the state of the economy and [the theological beliefs](#) of the Spanish Catholics.

After the Spanish-American war, Philippines became a territory of the United States of America, where there [was a resistance to slavery practices](#) as a larger movement against freedom from colonisation. Dean C Worcester authored a report on the prevalent slavery practices and advocated for its abolition, which was heavily opposed by Filipino nationalists and attempted to [rebut the existence of slavery itself](#).

Despite this resistance, as shown above, slavery continues to exist in hidden forms, within and outside the country, to this day.

⁵³Vicente Rafe, *Lola's Resistant Dignity*, The Atlantic (May 31st. 2017), Available at: <https://www.theatlantic.com/business/archive/2017/05/lola-unconquered/527964/>.

MYANMAR

“One evening whilst we were watching a video in my village, three army sergeants came. They checked whether we had identification cards and asked if we wanted to join the army. We said we were underage and hadn’t got identification cards. I said no and came back home that evening but an army recruitment unit arrived next morning at my village and demanded two new recruits. Those who could not pay 3000 kyats (9 \$US) had to join the army... My parents could not pay, and altogether 19 of us were recruited and sent to Mingladon”

- [Ko Aung](#)

[0.95 percent](#) of Myanmar’s total population is estimated to live in slavery. Myanmar is [ranked 9th by the Global Slavery Index, 2016](#). The primary manifestation of modern slavery is [forced labour of migrants](#) from Myanmar working on Thai boats. Apart from this, there is a [high incidence of slavery](#) among the Rohingya Muslims situated in the Rakhine state. Children have also been recruited into armed groups, due to the high youth unemployment rate. Myanmar, according to [a report](#) of the Human Rights Watch has the highest rate of child soldiers. The main sources of recruitment are non-state armed groups such as the Tatmadaw and the [Kachin Independence Army](#). Human trafficking is also quite common, in order to provide [cheap labour to fishing boats](#). The average age of the victims was [30 years and a majority of them were male](#).

1. Constitutional/Legal safeguards

[The Constitution](#) restricts the applicability of fundamental rights only to Citizens and imposes correlative duties on them. There is an express prohibition on enslavement,

trafficking and forced labour. Myanmar has enacted the [Anti-Trafficking in Persons Law](#), to suppress trafficking and aims to achieve this through coordination with international organizations. Notably, trafficking has been defined as the recruitment, transport and transfer of persons for the purpose of exploitation. An extremely broad definition of exploitation has been used, including activities such as prostitution, debt bondage and forced labour. There also exist [various safeguards](#) to protect against exploitative labour practices such as the Internal Workplace Regulations and the Child Labour laws.

2. Redressal Mechanisms

[The judiciary in Myanmar](#) consists of the Supreme Court, the Regional High Courts, State High Courts and the lower courts. All of these courts have the competence to decide human rights issues. Myanmar also has [a National Human Rights Commission](#), which has the power to accept individual complaints, where there is a violation of constitutional rights. On the international level, Myanmar [is a signatory](#) to the CEDAW, CRC and its Optional Protocol on the Sale of Children, Child Prostitution and the Child Pornography, which provide another remedy before an international forum for the victims. It is also a signatory to the ILO's forced labour convention.

3. Gender

Women have been disparately affected by the armed conflict in Kachin and northern Shan. They have been [subject to rape and other forms of sexual violence](#). A prominent instance of forced labour related to armed conflict, is when the SPDC used villagers as [human minesweepers](#) to ensure safe passage for soldiers. Women have also been used as [porters for the military](#) and are made to transport heavy loads of weapons. As

mentioned before, there is also a wide incidence of human trafficking, especially of women for commercial sexual exploitation in the neighbouring jurisdictions.

4. Discourse

Most of the discourse around modern slavery in Myanmar has centred on the [recruitment of child soldiers](#). An especially highlighted practice is the forcible recruitment of child soldiers where the family is unable to pay a specified amount. It has also been reported that once recruited, it is impossible to get out due to psychological pressure and physical reprisals, usually resulting in drug addiction. Another highly discussed slavery practice is trafficking and has been connected to the SPDC regime. The living standards plummeted when the SPDC rose to power and led to large groups of stateless immigrants who have become easy targets for trafficking.

5. Evolution

Prior to British colonial rule, Myanmar was governed by a Buddhist monarchy, as part of the Mongol Empire during the 11th century and subsequently as a satellite of China in the 14th century. Both regimes required [unpaid community service](#) as a norm. Buddhist rulers conscripted workers on a regular basis, for [military assistance and various varieties of construction projects](#).⁵⁴

These practices continued in the early phase of colonial rule. There were enactments such as the British Colonial Villages Act and the Towns Act, furthered this existing system of unpaid service, as it required village headmen to “[provide](#)” individuals to perform uncompensated public duties including relocation of villages and construction.

⁵⁴ Howard Tolley, Jr. Anne Lawrence, *Doe v. Unocal: Forced Labor and Corporate Liability*, Available at: <http://homepages.uc.edu/thro/doe/doe-unocal.pdf>

After [international condemnation led by the League of Nations](#), the colonial authorities initiated the process of knowledge seeking into the prevalent indigenous practices and eventually abolished the practice of slavery across the nation and even took [mass liberation actions using military force](#).

The practice of unpaid community service continued even after the colonial regime, with several Governments [forcing villagers to work on roads and dams](#). The same practice continues up to this day.

III. CONCLUSION

The authors' preliminary observation from this exhaustive data survey is the reliance on a similar set of parameters to analyse modern slavery in all countries (despite differing historical evolution and socio-cultural settings) by most studies such as the Global Slavery Index. The authors submit that this is not a pragmatic approach, as it entails the risk of misrepresenting and neglecting several traditions, customs and other practices that are indigenous to the different countries surveyed. The larger shortcoming of this approach is that it seems to find its roots solely in the Western understanding of barbarism and civility, which might be problematic while trying to appreciate diverse cultural practices.

Keeping aside the problems with the modes and analysis of data, the data collected appears to demonstrate that slavery is an institutional phenomenon. The study of how slavery has evolved in each country reflects continuity between the past and contemporary forms of slavery. For instance, in Myanmar, the earlier practices seem

to centre on unpaid and coerced community service, which continue to this day. Similarly, in India, sub-human work was centred on caste-lines, which, again, is prevalent to this day. Therefore, mere legal reform toward equality is of little consequence, in a grander scheme of things. A different, more nuanced move towards eradicating oppressive institutional conditions is the need of the hour.

Furthermore, the authors submit that reliance on Government responses must find little space in this discourse. If a part of the empirical data collection collects Government responses, it must involve incentives for truthful and accurate disclosures; anything less would make the exercise but a futile one. As observed earlier in this paper, these studies tend to become more political rather than empirical; thus, there is a pressing need to minimize any kind of mischaracterization, which is only possible by a neutral verification of claims made by Governments.

The authors also observed the poor implementation of legal reforms in most countries. It is submitted that nearly every nation that was analysed has taken active legislative steps towards curbing slavery practices, but these legal protections have contributed little towards making any observable difference. Therefore, there is an urgent need for States to look at possible avenues of effective and expedient implementation.

Further, most the nations with high rates of enslavement tend to be either politically or economically unstable. This strongly points to the conclusion that high rates of unemployment and poverty usually trigger enslavement and help perpetuate the practice. The bigger question, thus, is whether the solution lies in legal reform at all, as the larger political and economic realities continue to remain unaddressed.

Finally, notwithstanding that the UDHR is today a universally acknowledged document, and has attained the status of a custom, there continues to be a struggle by most nations to realise some of the basic goals envisaged by it. It is high time that nations across the globe came together to make human dignity a reality, by implementing in practice what is guaranteed in principle.