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Working Document

Bride Trafficking: Policy Interventions for an Under-Reported Plague

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Policy Action | Research Advocacy | Citizen Empowerment | Democratic Engagement



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About the Organisation

LexQuest Foundation (LQF) is an independent, non-profit, research and action organisation, established in 2014, in New Delhi. We are striving to create, advocate and implement effective solutions for a diverse range of development issues.

To endorse participative governance, we engage with a broad spectrum of stakeholders, from various sections of the society, to ensure that policy-making remains a democratic process. We utilize pragmatic and futuristic research to disseminate actionable knowledge to decision-makers, experts and the general public.

Our key activities include capacity and skill-building workshops, policy advisory programs, public outreach, and stakeholder consultations. We collaborate with the government, other organizations and individuals for impactful policy formulation and execution.

By employing sustainable and equitable solutions through our multidisciplinary, intersectional initiatives and programs, we are constantly working towards creating empowered communities.



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Background

We believe that in the world's largest democracy, effective public participation can turn policy making into a transparent, accountable and smooth process where the government can acknowledge issues that the people heed and demand to be resolved. We highlight the significance of this aspect in policy making, through our initiative, **Civic Architects: The Policy Workshop**. The said initiative intended to focus on people eager to make a difference by changing the discourse of public participation and demystifying the idea of active citizenry. At the first edition of The Civic Architects, we took up the subject of **Bride Trafficking**.



During the Bride Trafficking policy workshop organised by LexQuest Foundation in New Delhi



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Bride trafficking is the illegal industry of purchasing brides as a property for due consideration. Organized traffickers sell girls and women as brides who are conned into a life of abuse, exploitation and slavery. Be it Haryana, Assam or Rajasthan, the Indian “Bride Bazaar” predominantly flourishes in parts of the country where the sex ratio is abysmally low and poverty stricken families are reluctant to spend on the dowry and marriage of their daughters. Unfortunately, there are no significant laws and policies to wrestle bride trafficking and its accompanying human rights violations in India. Though the Constitution of India strictly prohibits all forms of trafficking, comprehensive laws that specifically prohibit and penalize the practice of bride trafficking are yet to be implemented. Evidently, in the absence of a concrete legal and policy framework, the problem of bride trafficking skilfully persists in India.

At the Civic Architects, through our interactions and facilitator sessions, we extended a better understanding of and awareness about the issue of bride trafficking from a legal, cultural, social and economical perspective. We undertook **a day long training cum discussion session** full of insights, intense discussions and revelations to make sense of the gender disparity, gender inequity and commodification of women’s minds and bodies in the society that contribute to the complex landscape of Bride Trafficking in India.

This Working Document is an outcome of our research, in the follow up to the said Policy Workshop. It is aimed at addressing this compelling concern of Bride Trafficking in India and contours effective policy suggestions that can assist in identification of trafficked brides and effectively differentiate between arranged and coerced marriages besides offering witness and victim protection.



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Origin and Causes of Bride Trafficking in India



Image Source: Global Citizen

From the time of Aristotle's state of nature, when women were considered incapable of civilization and rendered to the domestic sphere, they have been considered inferior beings. The domination over them, and the negative connotations attached to being a woman –being weaker, not worthy of agency and respect have been carried till today in the 21st century. The above formed the basis of **justification for exploitation of women and enslaving them for sexual and domestic labour**. The modern-day manifestation of sexual and domestic slavery plaguing the society even today is the phenomenon of 'Bride Trafficking'. In a society where **female foeticide and infanticide are rampant**, there is an **acute shortage of the female population**, to the extent that in some villages there are no



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more women left to marry the men. Where marriage is the law, there is no other way to life, a desperation to find a bride, and mindsets that believe women to be commodities to be bought and sold, bride trafficking is a lucrative business. **States with dreadfully low sex ratios according to the 2011 census are Punjab, with 895, Delhi with 868, and Haryana with 879, along with Uttar Pradesh, Rajasthan are the destination States, that pay money to bring ‘purchase brides’ from source States such as Odisha, West Bengal, Jharkhand and the North Eastern region of the country especially.**

The UN Office of Drugs and Crimes (UNODC) has identified organized bride trafficking rings increasingly in the States of Haryana and Uttar Pradesh. The phenomenon extends itself to inter country trafficking as well wherein **men from Gulf countries come to cities like Hyderabad to marry underage girls and women.** Treating women literally as chattels, as if buying and selling them is not dehumanizing enough, they are called by derogatory terms such as ‘paro’ and ‘molki’ meaning ‘purchased’. They are taken away by force at the age of 13-14 years and raped by the kidnapper so as to make them ‘submit’ and not rebel. These kidnappers, who call themselves ‘marriage brokers’ sell them to be married to men who are twice and thrice their age and sometimes to men who have been widowed but have children to be taken care of. When the old man dies, the misery does not end, as these **girls are trapped in the cycle of being sold and resold till they are young and have their reproductive capacity.** Some are abandoned and left to fend for themselves and their children. These girls are abused and treated like domestic slaves, and the families they are sold into don’t accept them as their own. They are verbally abused and looked at with disdain in the community, though the ‘buying family’ is not made victim to social derision.

Skewed sex ratio and social approval for child marriage form the basis for horrifying practices like ‘bride trafficking’, but the causal factor is mainly economic deprivation. Households mainly in underdeveloped States such as Assam, Odisha, Jharkhand, in midst of a debt crisis barely able to find 2 meals per day, agree to marry off their daughters to men in distant lands for exchange of money. In rural areas, unmarried daughters are considered a burden and ensuring timely marriage is the father’s sacred duty. They



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believe that such a transaction is beneficial as they save the cost of marriage and are rid of a huge responsibility that looms over their heads. Though aforementioned is the case for some families, **a large number of girls are either kidnapped by so-called ‘marriage brokers’ and relatives who take them away with the promise of getting them a job and sell them into forced marriages instead. Lack of data along with powerful community links enjoyed by the traffickers allow them to be protected from arrests** and their ‘buyers’ are able to flee their homes on being tipped off by the ‘village fraternity’ in case the police manages to reach them.

Approaching law enforcement agencies in these situations becomes very difficult as the women are not fluent in the regional language, as most of them come from distant places, their identification documents are seized from them, and they do not have a support system in the region where they are forced to live.



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Current Mitigation Policies: Scope and Limitations

Examining the Scope & Limitations of the Legal Framework



Image Source: Feminism in India

Article 23 of the Indian Constitution prohibits human trafficking. **There is no specifically targeted Central or State legislation in place that recognises Bride Trafficking as a criminal offence**, which has resulted in the ‘bride trade’ to run wild. The Constitution of India in upholding the fundamental right against exploitation, abolishes all forms of trafficking under Article 23(1). However, stringent and comprehensive laws are required to give further impetus to this provision and tackle specific forms of trafficking.



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Indian Penal Code, 1860 (hereinafter “IPC”)

There are various Sections of the IPC that **make certain components of bride trafficking a punishable offence**. Moreover, provisions that specifically **address the relevant form of exploitation have been introduced under the Criminal Law Amendment Act, 2013**. Some of the relevant provisions under the IPC are as follows:

- Kidnapping, abducting or inducing woman to compel her marriage (Section 366);
- Buying or disposing of a person as a slave, procurement of minor girl (Section 366 A);
- Importation of girls from foreign country (S. 366B);
- Kidnapping or abducting in order to subject person to grievous hurt, slavery (Section 367);
- Trafficking of person for any act of physical exploitation, sexual exploitation, slavery or practices similar to slavery and servitude (Section 370); and
- Exploitation of a trafficked person (Section 370 A)

Immoral (Traffic) Prevention Act, 1956

This legislation deals exclusively with brothels and women sold into sexual slavery, and since **bride trafficking involves marriage, it often escapes the ambit of this Act**.

Juvenile Justice (Care and Protection of Children) Act, 2015

This inter-alia identifies a child in need of care and protection as one **who is at imminent risk of marriage before attaining the age of marriage and whose parents, family members, guardian and any other persons are likely to be responsible for solemnisation of such marriage (Section 2 (14) (xii))**. However, this Act primarily deals with the procedure for dealing with children in conflict with the law, or children in need of care and protection, their rehabilitation and adoption, and other such measures. Thus the problem of **trafficking for the purpose of marriage is not addressed directly**, though it identifies



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minors who may be pressured into such marriages as children in need of care and protection.

Prevention of Children from Sexual Offences Act, 2015

This legislation is aimed at protecting children below the age of 18 from sexual assault, sexual harassment, and pornography. **In cases of bride trafficking where the girl is below the age of 18, as they are in many cases, this Act can be applicable if the handlers of the girl force her to engage in sexual relations.** However, this becomes complicated if the minor girl gets married against her consent and then forced to engage in sexual relations, as the person is legally her husband and **Section 375 of the Indian Penal Code that deals with rape is not applicable if the intercourse is between a man and his wife, as long as the wife is over the age of 15 years.** In the 2017 case of *Independent Thought v Union of India*, the Supreme Court held that **sexual intercourse with any woman below 18, even if she is married, is marital rape, thus closing the loophole that was available under Section 375 of the IPC.**

The Prohibition of Child Marriage Act, 2006

The Act makes child marriage voidable at the instance of the child who has been forced into marriage, upto a period of two years after they attain majority. In cases **where a girl has been trafficked to get married to an older man, this might be a legal option for her, if she has the ability to exercise it.** This Act also provides for the punishment for the adult man marrying the child (Section 9) and the person solemnising the marriage (Section 10). Further, if it can be proved that the child was taken from its lawful guardian, compelled to go to any place, and is forced into marriage, the marriage is not just voidable, it is void. (Section 12)



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Trafficking of Persons (Prevention, Protection, and Rehabilitation) Bill, 2018
(hereinafter called the “Anti-Trafficking Bill”)

The Anti-Trafficking Bill was passed by the Parliament in 2018 and in addition to making certain acts offences, it also aims at establishing institutions at the National, State, and District level to combat all forms of trafficking. It includes a special class of trafficking called ‘aggravated form of trafficking’ that includes **trafficking women or girls for the purposes of marriage or under the pretext of marriage**. It also looks at setting up a National Anti-Trafficking Bureau in order to streamline coordination with local law enforcement authorities, as well as share information with international intelligence agencies regarding trafficking. The Bill further provides for setting up designated courts to prosecute offences under this act in a time bound manner not exceeding one year.

Since many of these women are forced to become labourers by the men who buy them, they might fall under the purview of the **Bonded Labour System (Abolition) Act, 1976**. However, since this **usually involves a credit transaction, it could be hard to prove in court, especially when marital relations are involved**. By the same logic, children employed to become labourers can fall under the protective ambit of the **Child Labour (Prohibition and Regulation) Act, 1986**. However, prosecution under this law is possible only if the child is below 14 years of age and is made to work in certain occupations and processes specified under the Act.

Analysing the Case of Hyderabad: Scope for Legal Protection

Until a few years back in Hyderabad, it was very common for young girls from poor families to drop out of school to marry a much older person from the Gulf, enticed with promises of riches and a steady maintenance amount for their family in India. However, they were married only for the duration of the man’s stay in India, and before he left, he would sign divorce papers and leave both the girl and her family stranded. In some cases, the **divorce papers would be post-dated and signed at the same time of the marriage, and handed over to the marriage broker**. The girl and her family often had no idea about



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the impending divorce. In other cases, the girl would be taken to the Gulf and lead a life of misery there, often being subjected to physical and sexual violence, with her passport taken away from her by her husband. While this **did not involve kidnapping the woman, the girl is literally sold to the man, and it involves exploitation and sexual slavery**. Even though this business-like transaction has been going on since the 1970s, there is no legislation in place to tackle this problem. **States could consider specific amendments to the IPC or come up with specific legislations to tackle problems particular to their territory, as all States might experience the same problem of trafficking, but it could manifest itself differently in various regions of the country.**

Further, India also needs to preempt that like other countries, the **future of forced marriages would be through website portals and online avenues. We thus have to start scrutinising websites that offer matchmaking or matrimonial alliances and in the event it is discovered to be a guise for a bride trafficking operation, it can be brought under the ambit of the Information Technology Act, 2000 read with relevant provisions of the IPC.**

Insufficiency of the Legal Provisions

As per our current legal framework, the idea of rehabilitation for women trafficked into marriages is restrictive, and while the Anti Trafficking Bill 2018 and Immoral Trafficking (Prevention) Act, 1956 do provide for Protective homes and Special Courts, the **provisions don't do much for the reintegration of rescued women into the society as independent and self reliant individuals**. Moreover, there is no mention of compensation from the government or any scope for receiving damages by the husband and the family that bought the girl. India became a signatory of Convention on Elimination of all forms of Discrimination against Women 1979 (CEDAW) and Convention on Rights of the Child 1989 which prohibit forced marriages. The **CEDAW recommended that India work on root causes as well as improve the investigative mechanism against and prosecution of traffickers**. Yet, in a country where the practice of bride trafficking is so rampant, the lawmakers have failed to devise specific penal provisions addressing and prohibiting it.



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Trafficked brides have **piecemeal remedies under India’s criminal law provisions, and there is no legislation that is specifically directed at addressing this quandary.** The existing provisions contain certain remedies, however, there is a **need for a specific legislation that deals with this particular problem as unlike other forms of trafficking, trafficked brides will also have to exit a marriage, while being rescued.**



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Schemes and Initiatives Addressing Bride Trafficking



Image Source: The Guardian

It is important to note that unlike other countries, in India the diversity within States, linguistic barriers, and deeply ingrained patriarchal notions make it **difficult to directly implement a uniform legislation concerning forced marriages**. Thus, while there are various NGOs and law enforcement agencies trying to rescue brides who have been trafficked or sold, **State governments have experienced some success with grass root level movements**.

Gaining Trust in Law Enforcement Agencies (West Bengal): The ‘Share a Secret’ initiative helps prevent girls from being trafficked or married against their will. In **2016, West Bengal accounted for 44% of human trafficking cases reported in India and**



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also had the most missing children report. What started as a letter box in a discrete corner of one school led to a scheme that was implemented in over 200 schools reaching over 20,000 children. Children can anonymously post threats in the box, which the police in plain clothes later examine and assist the children with. The anonymity associated with the box gave children the bravery to confide to law enforcement with things that they wouldn't have otherwise been comfortable talking about. **The main law enforcement barrier to the fight against trafficking is the lack of information, as the cartels and underground handlers are an extremely organised network.** These tip offs not only helped police officers help students, it also **helped them identify the most at-risk areas, and enabled them to focus more on these areas.**

Using Networks of Social Trust (Uttarakhand): Another instance of mobilising the citizenry to fight against bride trafficking comes from Uttarakhand. **Village Pradhans in Uttarakhand were asked to keep an eye on the girls who were married to men living in a different State.** The Pradhans have to submit a wellness report of the girls once in three months. In the event they do not hear from the girls, the Pradhan can contact the police and law enforcement would reach out to the husband and in-law of that girl. This project has been launched in Uttarkashi, and some of the more tech savvy Pradhans even stated that they have **Whatsapp groups with the girls and enquire about their well being from time to time.** Thus, a **decentralised system which derives its power from already existing social relationships would also aid law enforcement officers, as the police and other agencies may seem like outsiders to people who come from the close knit fabric of villages and small towns.**

Beti Bachao Beti Padhao Scheme: The Central government initiative was specifically meant for States where low Child Sex Ratio (CSR). Its aim was to increase CSR and empower girls through education. While outcomes for education did improve, inclusion of women in the labour workforce did not, leaving them constantly dependent. It has been argued that the scheme failed and the hope that it would eventually prove effective in curbing instances of bride trafficking, has not yet materialised.



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Ujjawala Scheme: It was brought out in 2007 by the Women and Child Development Ministry with the goal of **preventing trafficking and commercial sexual exploitation, rescue, rehabilitation and reintegration of victims.** Two noteworthy aspects of the scheme were that **Non Governmental Organisations (NGOs) were the main implementation agencies and its beneficiaries were not only victims, but women and children who are vulnerable to trafficking.** Prevention being the key, the said Scheme proposed to set up **Community Vigilance Groups, Sensitivity Seminars and ‘street plays’ to impart necessary information.** Rescue operations provided incentives to deploy customers and informants. Inclusive Rehabilitation includes shelter, medical assistance and counselling, educational and vocational training (wherein the cost of supplies will be incurred), basic amenities and legal aid. **It has a 3 tier monitoring system in place at the Block, State and Central level.** In case of violation of duty, the Scheme requires the States to initiate criminal proceedings against the officer/implementing agency, after lodging FIRs. As of 2014, 151 Rehabilitation homes have been established and 273 projects have been supported under the Scheme.



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The Plight of Trafficked Brides across Nations



Image Source: The New York Times

South Asian, South West Asian, Middle Eastern and African countries, where poverty is acute and gender parity grave, young girls are considered an economic liability and their marriage to a much older man can be a survival strategy for the family. In Africa, families of the bride, belonging to traditional societies in sub-Saharan Africa, may receive cattle or other forms of financial aid from the groom. Women and girls may be trafficked because of the increasing demand for young and virgin brides. The practice is mainly reported in western Kenya, Zimbabwe, Niger, Egypt and parts of Ghana. These women are trafficked to South Africa to be sold as child brides. In many South Asian countries, though there



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are high incidents of trafficking for the purposes of marriage, there are no specific legislations against bride trafficking. However, there are many United Nations programmes and other internal organisations that are working towards reducing instances of trafficking in those regions. These countries rely on international and regional cooperation instruments that help identify cross border trafficking. Countries like Vietnam and Indonesia, have a high incidence of trafficking of women in rural areas so they can be married to men in China who are desperate to find wives, have legislations regarding trafficking in general, but nothing that deals specifically with bride trafficking.

China

China has a large bride trafficking problem to tackle with. Research has proven that owing to its **one-child policy in force from 1979 to 2015, most parents felt that if the law allows them only one child, that child should be a son.** This led to a demographic disaster over generations where **China had 30 to 40 million more men than women.** This gender imbalance inevitably led to **bride trafficking from neighbouring countries like Myanmar, Pakistan, Cambodia etc.,** where the woman faced extreme poverty, discrimination or lack of opportunities necessary for a dignified life. This is confirmed by Human Rights Watch's investigation of bride trafficking from northern Myanmar into China where most of the women in that part of Myanmar belonged to an ethnic minority vulnerable to conflict and displacement. **Each year hundreds of women and girls are deceived through false promises of employment into traveling to China, only to be sold to Chinese families as brides and held in sexual slavery, often for years.**

United Arab Emirates (UAE)

The UAE also faces a severe challenge of bride trafficking. Under the garb of legal marriages, girls, as young as eleven years old are trafficked into the country. According to a 2015 report, men from the **United Arab Emirates purchase Egyptian women and girls for “temporary” or “summer” marriages for the purpose of forced labour or prostitution.** It is noted that these marriages are more often than not, facilitated by the parents of the victims and marriage brokers profiting from the transaction.



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Nepal

Nepal and India share 1850 kilometres of open, porous borders, and thousands of women and children are trafficked into India every year, where they are forced into prostitution, marriage, or other forms of modern slavery. Nepal's domestic legislations like the Human Trafficking and Transportation (Control) Act do not deal with trafficking for forced marriages in specific.

Nigeria

Nigeria also has a prevalent problem of bride trafficking. According to UNICEF, Nigeria's rate of child marriage in the world is the highest and it is 14th highest in the number of child brides – 676,000.



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Combating Bride Trafficking: International Best Practices



Image Source: This Week in Asia

The Philippines

The Philippines has gone beyond mere enforcement of its anti- trafficking legislation, and has enacted laws against certain marriage schemes recently, through a legislation called the Anti-Mail Order Spouse Act. Under the provisions, **advertising women for marriage in any form; on websites, print, post, soliciting personally, is illegal.** In addition to punishment, the Act also provides for implementation of rehabilitation schemes for the victims. Anti Trafficking laws in the Philippines offer a **comprehensive definition of what**



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trafficking entails, and the various modus operandi and alibis used to lure minor girls and eventually trap them in a cycle of sexual exploitation, including prostitution, debt bondage, involuntary servitude and forced marriage. It not only includes provisions that punish forced marriage and bride trafficking under the pretext of getting them employment, but also tackles selling them off for slavery on the pretext of promising marriage. The Act is not only extensive but consists of remedial provisions for the benefit of the victims. It stipulates that if the **trafficked person files a Civil complaint for payment of damages then they would not have to pay the fee for filing it.** Mandatory provisions that have to be provided by the government irrespective of the nationality of the trafficked person include: shelter and appropriate housing, medical assistance, psychological counselling, educational assistance, livelihood and skill training and free legal aid. Repatriation of victims of trafficking irrespective of whether they are documented or undocumented is the responsibility of the authorities. If repatriation will make the victim more at risk then the concerned agencies will make representation with the host country for appropriate residential permit and protection.

China

Article 240 of China's Criminal Law prohibits abduction and trafficking of women or children and gives harsher punishments if forced prostitution is involved. Additionally it also prohibits buying abducted women or children, forced labor, forced prostitution, and luring girls under fourteen into prostitution.

The Ministry of Public Security (MPS) is the primary body accountable to combat crimes of trafficking. Hence, the National Plan of Action against trafficking women and children was launched in 2008 which was revised later in 2013. The plan sets out an establishment of a **ministerial-level joint meeting led by the Ministry of Public Security (MPS) and 28 agencies, including the Ministry of Civil Affairs, Ministry of Labor and Social Security and the All-China Women's Federation (ACWF).** The plan coerces local regions to establish offices with the purpose of combating trafficking. The plan also establishes national information to be made available with the help of reporting systems. This is done to improve the mechanism for information collection and exchange on



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combating crime. It encourages the public to report any trafficking related practices. Prevention of trafficking-related crimes is one of the prime focus of the plan. This is set out to be **done through poverty alleviation programmes, education and vocational training programs suited for at-risk sections of society.** This would encourage more participation of women in the community and increase public awareness of laws and regulations of trafficking. Another major focus is to combat crime by encouraging **public security agencies to strengthen efforts to combat trafficking by launching anti-crime campaigns.** Rehabilitation of victims is also considered important by providing training, aid, medical treatment and training personnel at these institutions. The Ministry of Foreign Affairs, the MPS, the Ministry of Commerce, and the ACWF are tasked by the 2013–2020 National Action Plan which aims to coordinate with international organizations and foreign countries for providing joint anti-trafficking training programs.

Intergovernmental body of Greater Mekong Sub-region



Image Source: This Week in Asia



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The Coordinated Mekong Ministerial Initiative Against Trafficking (COMMIT) is an intergovernmental body of the Greater Mekong Sub-region- Cambodia, China, Lao PDR, Myanmar, Thailand, and Vietnam. They are **collectively together to commit to a response to human trafficking, highlighting the need for multilateral, bilateral, and government-NGO cooperation to fight human trafficking.** According to the Annual Progress Report of the United Nations Action for Cooperation Against Trafficking in Persons 2014, their training workshops are financially supported by the Chinese government.

United Arab Emirates (UAE)

The UAE has **set out to abolish any kind of child, early or forced marriage by 2030 in line with the target 5.3 of the Sustainable Development Goals.** The anti-human trafficking law, Federal Law 51, was the first of its kind in the region, providing the legal framework for officially beginning the country's effort to abolish this crime. The law offers harsh punitive measures such as life imprisonment. It covers all forms of human trafficking, not just overt enslavement but also sexual exploitation, child labour and commerce in human organs. Further, a Cabinet order led to the establishment of the UAE National Committee to Combat Human Trafficking in April 2007. The committee includes representatives from Foreign Affairs, Labour, Health and Social Affairs, as well as State Security and the UAE Red Crescent Society. The responsibilities of the Committee include reviewing human trafficking legislation in accordance with international standards, preparing and studying reports on policies undertaken in the UAE to fight human trafficking, in coordination with other authorities and relevant bodies in the country, taking relevant action and coordinating with government authorities. It also undertakes **public awareness campaigns with the help of conferences, seminars, brochures and training.** The United Arab Emirates adheres to the Convention on the Rights of the Child of 1997, which sets 18 as the a minimum age for marriage and Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which **coerces States to ensure free and full consent to marriage.** It also agrees to abide by the provisions of Article 16, which ensures equality in marriage.



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Egypt

The Government of Egypt demonstrated efforts to reduce bride trafficking and other forms of trafficking by funding the National Coordinating Committee on Preventing and Combating Illegal Migration. This Committee initiates trafficking investigations, prosecutions, awareness campaigns and dedicates a group of prosecutors that exclusively work on trafficking cases.

Zimbabwe

The 2013 Constitution of Zimbabwe outlines gender equality and provides for justiciable rights. The Section 78 of the Constitution (Marriage Rights) **sets 18 as the minimum age for marriage and prohibits forced marriage.** Additionally, Section 26 of the Constitution asks the State to ensure that **no marriage is registered without the consent of the spouses. Marital rape has been criminalised** and legislation against human trafficking has been adopted in 2014. In 2016, The Zimbabwe Trafficking in Persons National Plan of Action was launched to criminalise any form of human trafficking. **This is done through four pillars- Prosecution, Prevention, Protection and Partnership.** Prosecution refers to **constantly reviewing prevailing legislation with respect to international standards.** Prevention refers to **raising public awareness campaigns, researching, documenting crimes and carrying poverty alleviation programmes.** Protection refers to identifying and assisting victims. Partnership refers to **coordinating with other countries and international bodies to regulate the process.**

Nigeria

The Trafficking in Persons (Prohibition and Enforcement) Act 2003 has established through it The National Agency for Prohibition of Trafficking in Persons to address the evil of trafficking in the country, and under the obligation of Trafficking in Persons Protocol under United Nations Transnational Organised Crime Convention. The functions of the Agency include **administration and enforcement of the Act throughout the country, adoption of effective measures for eradication of trafficking in persons, facilitate rapid exchange of information concerning this Act, conduct research on**



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factors responsible for internal and external trafficking, carry out public awareness programmes, investigation of all cases of trafficking etc. Such an agency to support an anti trafficking law is a very effective mechanism as it will be responsible for the above tasks solely and specific crimes of trafficking (including bride trafficking) will receive the prevention and rescue aid they require. Nigeria also established the African Union Campaign in 2014 to End Child Marriage.

Nepal

Nepal has developed a system where coordination with international organisations like UNICEF and local NGOs work together to reduce instances of trafficking. An NGO called Maiti has 11 transit homes in various border towns, where along with law enforcement officials, they **identify women at risk who could be trafficked and prevent the same from happening.** It also has a legal aid cell which deal with problems faced by the survivors like rape, child harassment, polygamy, and domestic violence.

Australia

Human trafficking comprises of offences like slavery, forced labour, and forced marriage. Australia has criminalised forced marriages under the 2013 amendment to the Commonwealth Criminal Code, 1995. Under this, forced marriage offences carry a maximum penalty of seven years' imprisonment, or nine years' imprisonment when the victim is below the age of 18. **Legal remedies to a forced marriage includes declaring the marriage void under the Commonwealth Marriage Act, 1961** if it can be shown that (i) there was no consent, (ii) one party was below the age of 18. The Australian Law goes a step beyond statutory remedies and **recognises that in cases of forced marriage, the person can also be taken overseas to get married against their will.** In light of this, the Federal Circuit Court has the power to issue orders to prevent a passport from being issued to a child, require the surrender of a child's passport or the passport of the adult accompanying the child to the court, and place the child's name on the Airport Watch List and prevent the child from leaving Australia. Further, the **Australian Federal Police are also trained to assist the victims of forced marriages** and there is plenty of information



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available on the public domain and on government websites that outline helpline numbers and legal remedies to victims of forced marriage.

Sweden

Sweden is a destination State for trafficking in women and children for purposes of commercial sexual exploitation. **Majority of the victims are migrants who are seeking asylum in Sweden from countries such as Afghanistan and Africa.** Taking cognizance of this crime Sweden has recently established a National Referral Mechanism (NRM) to increase referral and ensure better protection and assistance to victims. The NRM **functions based on a manual which prescribes the responsibility of each authority for referral.** Sweden has also established a Gender Equality Agency whose mandate is to **analyse, coordinate, follow up and produce knowledge which will help support implementation of National Gender Equality Policy.** Further their National Action Plan for Trafficking in Children and Trafficking in Human Beings for Sexual purposes **strives for increased understanding by public authorities, professionals and children themselves about risks of becoming trafficked** as well as larger contribution by Swedish authorities for international cooperation regarding preventing trafficking and assisting trafficked victims.

United Kingdom

UK, the Forced Marriage (Civil Protection) Act, 2007 amended the Family Law Act, 1996 and brought in the **concept of forced marriages into existing family legislation.** It also recognises the **intersection between trafficking and forced marriages,** and provides assistance for victims of the same. In 2017, the **government introduced lifelong anonymity for victims of forced marriage, in order to encourage more victims of this hidden crime to come forward.** The UK has also established a Forced Marriage Unit which operated both in the UK and abroad to reduce the incidence of forced marriages. Further, as a legal remedy, **victims of forced marriages, or people who feel like they would be forced into marriage at some point in the foreseeable future can apply for a Forced Marriage Protection Order from the family court.** This contains legally binding



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terms that can prevent the person or people from trying to coerce an individual into a forced marriage.

United States of America

In the US Section 5 of the Trafficking Victims Protection Act **stipulates for Prevention of trafficking through educational partnerships.** The Secretary of Education and Homeland security are to coordinate with State, Local and Tribal law enforcement entities to fund Human Trafficking and Child exploitation programmes. The women and girls being trafficked belong to economically deprived families and areas. Thus identifying Source States and especially holding such seminars there would be of huge help. **Initiating such awareness schemes in various Village Upliftment programmes that are organised by NGOs and offered under Social Sector Fellowships allow a wider reach, reaching households.**



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Policy Recommendations



Image Source: The Guardian

While trafficking of human beings cannot be justified for any reason, we must hold the government responsible for ensuring that no person is forced by their scarcity of resources to indulge in any exploitative activity. Thus bringing to life Article 39E of Directive Principles of State Policy, along with the clause of activities such as trafficking for marriage, is imperative.



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❖ Formulating Stringent and Specific Laws

The current trafficking laws have fallen short of grasping the reality as they have not included explicit provisions to deal with ‘Bride Trafficking’. **By inculcating provisions that deal with the phenomena, the act will be made more relevant and will ensure justice for more victims of a kind of trafficking that remains hidden.** More punitive punishments under the current Anti Trafficking Bill, until a separate criminal offence and definition for ‘Bride Trafficking’ is made for ‘Aggravated’ crimes committed such as physical and sexual violence by husband and other family members. When there is a separate law prohibiting and punishing bride trafficking, this provision can be made relevant to that as well. Specific legislation against bride trafficking, because unlike human trafficking, it involves a complex intersection of personal and criminal laws, and thus requires special legislative treatment. Inclusion of the provision for compensation to be paid by the government under the rehabilitation clause and damages to be paid by the family who ‘bought’ the girl/woman according to the injuries caused and medical assistance is necessary.

Rescue missions are a debilitating process, thus **special officers, trained and equipped to deal with perpetrators of cases of bride trafficking should be mandated under the relevant law.** Moreover, they should be given the power to search any premises (if they are suspicious that a household may be hiding the trafficked bride) without a search warrant. The provisions should empower the searching officers to use necessary force if the accused and other accessories do not cooperate in the arresting process. The UNODC has made a Model Law for Trafficking in persons. The Article 3 in it describes the basic principles. India can take aid from this law and form the principles as the basis while formulating it.



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❖ Training for the Relevant Remedy and Rescue Authorities

Lawyers empanelled with the District, State, and National legal service authorities need to be trained and made aware about bride trafficking and how to deal with the criminal and family law aspects of the same, **as many of the trafficked brides who want to take legal remedies may not be in a position to hire a lawyer and would have to turn to legal aid for assistance.** Similarly, Protection Officers who can be approached by victims of harassment under the Domestic Violence Act need to be well trained to know how to respond and help the victims at their disposal. They can help **identify women who have been married as a case of bride trafficking and refer them to counselling alongside filing the domestic violence incident report.** This is important as many women who have been trafficked for marriage end up in extremely abusive relationships, and it is possible that they can turn to the Protection of Women against Domestic Violence Act, 2005 for legal remedies. Police officers are usually the first in line while encountering women who may have been forcibly married after trafficking. Currently, there is special training given to law enforcement officials to deal with dowry cases, domestic violence incidents, etc. If police officers are trained to identify indicators like physical violence, lack of important identification documents, lack of proficiency in the regional language, they should be in a position to either help the victims or direct them to social workers and other NGOs that can assist them.

❖ Increased Inter Departmental, Inter State and InternGovernmental Efforts

The Anti-Trafficking Cell under the Ministry of Home Affairs must help with implementation of the policies attached to a specific legislature for bride trafficking and **sanctioning a mass public campaign would instill fear in the perpetrators and make the rights of the victims (and potential victims) apparent.** Since this Cell conducts meetings with the Nodal Officers of Anti Human Trafficking Units nominated in all States/UTs periodically, **they would also greatly help in identification of bride-trafficking cases in their own States and divisions.** Once



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such a legislature is passed, the Ujjwala scheme designed for anti-trafficking and rescue of victims under the Ministry of Women and Child could then further help in rehabilitation of such women with financial aid and training programmes. In this respect, India **must also take inspiration from Coordinated Mekong Ministerial Initiative Against Trafficking (COMMIT) and consider joining an intergovernmental body with members from countries that can serve as destination or source regions for bride trafficking at an international scale.** Even though the SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution of 2002 exists for the same purpose, establishing an active taskforce dealing with the situation using multilateral, bilateral, and government-NGO cooperation would help the cause.

❖ Mechanism for Reporting of Confirmed Cases

Cases of bride trafficking often don't get reported as even after being cognizant of the fact community members don't report it. Thus incentivising informants monetarily might increase instances of reporting. Source States such as Andhra Pradesh have undertaken **certain capacity building and enforcement strategies which have increased reporting, public discourse, information insemination.** Similarly, for reduction of cases from Source States, Community Vigilante groups and Balika Sanghas (groups for adolescent girls), school campaigns etc., can prove to be effective tools. Such community based mobilisation can have a higher impact in curbing the problem, as has been seen in the case of Uttarakhand. **Appointing village heads and local governance authorities to check on women who have been taken from their respective villages in promise of marriage in other States should be mandated through a Central level policy, with relevant State level changes in the same,** to maximise the impact. Periodic reports to law enforcement agencies regarding the status and well being of such women should also be an imperative part of this mitigation policy.



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❖ Improved Rescue, Rehabilitation and Reintegration Policies

There is a dearth of statistical information regarding victims of bride trafficking, as organisations and government agencies try to document the information for trafficking in general. Thus, there needs to be **more organised and focussed data collection regarding specific forms of trafficking, that can help assess the situation better and monitor the regions where this problem is most prevalent.** Moreover, to ensure smooth reintegration of rescued victims of bride trafficking with their families, the **government managed toll free helplines for victims and families looking for them could be started for every district of the country. These numbers should be displayed in every government office notice board across the country.** Documenting the victims information in the government database and providing them with government identity cards would help them with the rehabilitation process with access to rights and social security benefits.

There are also instances where due to stigma attached to abandoned and ‘violated’ women, families refuse to take them back after they are rescued. To address this concern, the government **should ensure appropriate housing facilities for victims who cannot be united with their families.** NGOs should be facilitated to run such shelter homes for victims of bride trafficking, as currently the shelter homes available aren’t well managed or maintained. As a result, the current rehabilitation policies are poorly executed in most parts of the country. It is important that the rescued victims of bride trafficking get access to good living facilities where they can be trained, counselled and facilitated for reintegration in the society. To improve the quality of psychosocial rehabilitation being provided to victims in shelter homes the **UNODC along with the Women and Child Development Ministry, Government of India and NIMHANS had initiated a caregivers capacity building Programme.** In 2010 States like Karnataka, Tamil Nadu and Andhra Pradesh undertook these workshops. Such workshops should be carried out by the government amongst caregivers and law enforcement agencies especially in destination States.



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❖ Using Technology as a Foolproof Preventive Tool

India needs to preempt that like other countries, the **future of forced marriages would be through website portals and online avenues**. We thus have to start **scrutinising websites that offer matchmaking or matrimonial alliances**. IT cells of law enforcement wings of the government should be instructed to watch out for websites that post **profiles and information of women soliciting marriage** and enquire about the websites' credibility and ensure that they verify the people who register with them, as this is one of the many ways women are trafficked in the internet age.

❖ Effective Policies Addressing Acute Poverty and Lack of Economic Opportunities for Women

Marriage is supposed to be a voluntary optional institution that provides a source of love, companionship and support. The twisted societal norms around marriage and stigma around unmarried girls has led to practices like selling pre teen girls for a life of domestic and sexual slavery bearing offsprings when they are themselves children. **Bride trafficking not only deprives girls of their bodily integrity but traumatises them to the core, a suffering that they endure for the rest of their life**. While criminalizing the practice and punishing not just the buyers, but more importantly addressing the concerns of the 'sellers' is the dire need of the hour. **Initiating developmental programmes in source States and increasing reservation in employment opportunities for women is necessary**. Had there been enough opportunities available for the woman to provide for the family by herself- cases of bride trafficking that occur due to the desperation to attain monetary benefits attached to them would cease to be an issue. This could be carried out by the government by offering well planned free training programmes targeted for women living in acute poverty. The goal of economic independence can become a reality women and young girls can be trained to **create effective SHGs for village or block level employment opportunities through the aid of micro financing**.



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Concluding Remarks



Image Source: The Guardian

High time that the government, after due consultation with all the stakeholders, comes out with a foolproof legislation and policies that can effectively wrestle with the issue of bride trafficking. Such legislation/policies must be coordinated with the already existing laws to ensure maximum efficacy. However, legislation is not a complete solution in itself. The problem needs to be eliminated from its roots and to do that, people must be educated about the long-term implications of female foeticide. The State Governments must strive to improve the sex ratio in their respective States. All in all, persistent measures to prevent bride trafficking need to be undertaken so as to ensure a safe environment for women.



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However, in this context, we need to acknowledge that while bringing in comprehensive legal remedies can at best deter the practice of bride trafficking, our policy solutions will have to look far beyond fixing the mere legal loopholes. At the root of this wretched practice is the inequitable economical, deluded social and contentious cultural status quo of our country that runs from the rustic floodplains of Eastern India to the vast crop fields of Northern India, and till the time we resolve these hushed up concerns, bride trafficking shall remain a crisis in continuum.



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