CHAPTER- 3

HUMAN TRAFFICKING: A HISTORICAL PERSPECTIVE

This chapter provides a brief overview of the historical perspective to the modern day trafficking in human beings. It covers various aspects of human enslavement and human trafficking present throughout history particularly focusing on examples ranging from the ancient world to the present era and concluding with a discussion on anti slavery measures and responses. The main focus of this chapter is on the central characteristics linked with human bondage across time and space, and the situations in which human slavery and the cross cultural trafficking of men, women and children, has both persisted and flourished. Specific attention has been paid to the importance of gender issues and the unique experiences particularly of women and girls in the long and chequered history of human enslavement and human trafficking.

3.1 Human Slavery and Slave Trade

Human trafficking has been considered as a contemporary form of slavery. Historically, human trafficking was associated with slavery and bonded or forced labour. With the passing of time, it almost become synonymous with prostitution or commercial sexual exploitation.\(^1\) The origins of slavery are lost to human memory. It is sometimes hypothesized that at some moment it was decided that persons detained for a crime or as a result of warfare would be more useful if put to work or used in some way rather than if killed outright and discarded or eaten. But both if and when that first occurred is unknown.\(^2\)

Slavery has been a constant feature of human history, prevalent in almost every part of the world.\(^3\) Slavery has been recognised in various ways, but there are three essential criteria for knowing if someone is a slave or not. The first is the complete control of one person by another, through the use of violence, both physical

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and psychological. The second is hard labour for little or no pay. Slaves receive nothing beyond mere subsistence. The third criterion is economic exploitation making a profit for the slaveholder. No one enslaves another simply out of meanness, at least not at first. Slavery is about money. All three of these conditions are vital to the recognition of slavery, but the most crucial is violent control and the resultant loss of free will. When we aren’t sure if someone is, in fact, a slave, we should ask one basic question: “Can such a person walk away?”

Generally speaking, there is no consensus on what a slave is or on how the institution of slavery should be defined. Nevertheless, there is general agreement among historians, anthropologists, economists, sociologists, and others who study slavery that most of the following characteristics should be present in order to term a person a slave. The slave was a species of property; thus, he belonged to someone else. In some societies slaves were considered movable property, in others immovable property, like real estate. They were objects of the law, not its subjects. The slave usually had few rights and always fewer than his owner, but there were not many societies in which he had absolutely none. As there are limits in most societies on the extent to which animals may be abused, so there were limits in most societies on how much a slave could be abused. The slave was removed from the lines of natal descent. Legally, and often socially, he had no kin. No relatives could stand up for his rights or get vengeance for him. As an outsider, marginal individual, or a socially dead person in the society where he was enslaved, his rights to participate in political decision making and other social activities were fewer than those enjoyed by his owner. The product of a slave’s labour could be claimed by someone else, who also frequently had the right to control his physical reproduction.

Slavery was a form of dependent labour or other services performed by a non family member. The slave was deprived of personal life and liberty and the right to move about geographically as he desired. There were likely to be limits on his capacity to make choices with regard to his occupation and sexual partners as well. Slavery was usually, but not always, involuntary. If not all of these characterizations in their most restrictive forms applied to a slave, the slave regime in that place is

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5 Supra note 2.
likely to be characterized as 'mild', if almost all of them did, then it ordinarily would be characterized as 'severe'. Slaves were generated in many ways. Probably the most frequent was capture in war, either by design, as a form of incentive to warriors, or as an accidental by-product, as a way of disposing of enemy troops or civilians. Others were kidnapped on slave-raiding or piracy expeditions. Many slaves were the offspring of slaves. Some people were enslaved as a punishment for crime or debt, others were sold into slavery by their parents, other relatives, or even spouses, sometimes to satisfy debts, sometimes to escape starvation. A variant on the selling of children was the exposure, either real or fictitious, of unwanted children, who were then rescued by others and made slaves. Another source of slavery was self-sale, undertaken sometimes to obtain an elite position, sometimes to escape destitution.  

There have been two basic types of slavery throughout recorded history. The most common has been what is called household, patriarchal, or domestic slavery. Although domestic slaves occasionally worked outside the household, for example, in haying or harvesting, their primary function was that of menials who served their owners in their homes or wherever else the owners might be, such as in military service. Slaves often were a consumption-oriented status symbol for their owners, who in many societies spent much of their surplus on slaves. Household slaves sometimes merged in varying degrees with the families of their owners, so that boys became adopted sons or women became concubines or wives who gave birth to heirs. Temple slavery, state slavery, and military slavery were relatively rare and distinct from domestic slavery, but in a very broad outline they can be categorized as the household slaves of a temple or the State.  

3.2 Human Trafficking: Modern Day Slavery

In human history there are many examples of societies that were founded on slavery and on the exploitation of some people who were considered by others to be inferior.  

Slavery and the slave trade can be seen as the origins of modern day trafficking. Although the practices were common in the ancient civilizations of the Middle East and Mediterranean, they became more prominent during the period of the

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6 Ibid.
7 Ibid.
8 Silvia Scarpa, Trafficking in Human Beings: Modern Slavery, Oxford University Press, (2008), p.3
Roman Empire, and the legacy left by that Empire was said to have influenced subsequent practices in Europe and North America. Under the Roman law, slaves were treated as private property or chattels of owners or masters and were commonly used as maids, guards, cooks, partners in sex of prostitutes, and manufacturers of pottery, glassware, jewels, etc. They were usually placed under harsh conditions and did not enjoy a legal personality. Towards the end of the Roman Empire (Fifth and Sixth Centuries A.D.), the practices of slavery and the slave trade declined as masters started emancipating their slaves. Some freed slaves for moral reasons influenced by religion. Others let them go as the cost of holding them was high. Some slaves were also able to buy freedom from their masters by accumulating some wealth.9

The legacy of Roman slavery and the slave trade, however, was inherited by the successive Byzantine Empire (Eastern portion of the Roman Empire). The clear evidence of this is the Roman law codified by the Emperor Justinian. The code consisted of a mixture of senatorial legislation, imperial decrees and opinions of jurists, and existed until the Byzantine Empire ceased to exist. A section of the code stated that “slaves are in the power of their masters”. This shows that slave owners have the power of life and death over their slaves, and whatever a slave earned belonged to his master. This was used to justify the use of slaves. The code was retained throughout the middle ages, and served as a basis for legal codes of many European Kingdoms.10

The practices of slavery and the slave trade were common not only in Europe, but also in the Middle East and North Africa. These states were among the first to acquire slaves from Africa. The use of African slaves was common during the reign of the Ottoman Empire, and they were regarded as desirable among Arab states. Those African slaves were mainly used as gold and copper miners, sugar plantation workers or domestic servants, similar to the case of the Roman slaves.11

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Although slavery and the slave trade existed during the early part of the middle ages in Europe, the most significant expansion occurred in the fifteenth century, when the Portuguese made an advance into Africa with the initial aim of gaining access to gold. When they reached West Africa for the first time, they acquired a dozen Africans to be presented before Prince Henry as gifts. The Portuguese then started establishing themselves in the trade of both gold and slaves from Africa. From this point on, slavery and the slave trade of Africans spread to many parts of Europe, such as Russia, the Caucasus, the Balkans, and Norman England.12

The general attitude of slave traders and owners towards the slaves was not positive. The slaves were portrayed as ugly beings, infidels, or beasts and those characterizations served as a justification for the use of violence and other cruel means to maintain control over them. When slavery and the slave trade of Africans became prominent, a racial element was added to people’s presumption on slavery, in that their race and skin colour were commonly identified and associated with the status of slavery. This perception of slaves was prevalent not only in Europe and Middle East, but also in the United States of America. Slavery and slave trade of black people later came to be known as the old or the traditional form of slavery.13

The Universal Declaration of Human Rights reads, "No one shall be held in slavery or servitude. Slavery and the slave trade shall be prohibited in all their forms."14 And in spite of its abolition in the contemporary world, it still exists in various forms in both developing and industrial nations. Debt bondage occurs on a massive scale in South Asia, while descent slavery can still be found many countries. Child labor is prevalent in Central and West Africa and the trafficking of men for labor exploitation and of women and children for sexual exploitation is a form of slavery affecting almost every country on the globe.15

Kevin Bales, a leading expert on slavery and human trafficking, defines slavery as a state marked by the loss of free will. An enslaved person, forced through

12 Id. at 81.
13 Supra note 10 at 12.
14 Universal Declaration of Human Rights, 1948, Article 4
violence or the threat of violence, is incapable of freely selling his or her own labor. Slavery has three key dimensions: the appropriation of labor, control by another person, and the use or threat of violence. Trafficking is defined by its end result of the victim arriving in a situation of enslavement. "Traffic in persons is one of the means by which people or organizations bring people into, and maintain them in, slavery and forced labor. Human trafficking is not a condition or result of a process, but the process of enslavement itself."16

The traditional slave trade depends upon raids, wars, and forced abduction to obtain slaves, whereas trafficking relies to a great extent on false promises and deception. Returning to the definition set forth in the United Nations Trafficking Protocol, victims of human trafficking are recruited through means of threat or use of force, coercion, abduction, fraud, and deception: through abuse of power or vulnerability and through payments or benefits to a person in control of the victim. Studies often show that both children and adults are recruited through means of false promises rather than force. Once they are brought to their interim or final destinations, though, it is force, threat of force, or harm that keeps them prisoners and enslaved. It is at this point within the trafficking process that victims differ little from the seventeenth and eighteenth-century African slaves who were kidnapped, bought, and sold into slavery and servitude. Unlike traditional slaves of the seventeenth and eighteenth centuries, trafficking victims are often hidden in plain sight. They, too, however, are openly bought and sold, some in cattle markets or like foreign women sold in auctions to sex traffickers. Others are bought and sold through hidden means, such as through the internet, as models, escorts, and brides.17

Human trafficking violates political and civil rights that include the right to be free from degrading and cruel treatment as well as the right to be free from slavery like practices. Slavery had a significant role in the economies of many societies. As Bales observes, "it was one of the first forms of trade to become truly international." In the past, slavery found justification in racial and ethnic differences, but today the common denominator is poverty, not color or religion. It is a special economic institution, able to overcome revolutions, changes in political structures, adapt to a

16 Ibid.
17 Ibid.
changing world and thrive. It continues to do so today. In this sense, trafficking in human beings and modern-day slavery have rapidly adapted to the new global economy.\(^{18}\)

### 3.3 Slavery and Prostitution in India

Prostitution in India, like other societies, existed since time immemorial.\(^{19}\) Therefore, it is important to trace the long recorded history of human slavery, prostitution and sale of women for sexual exploitation to see how far the practices in the past account for the position of women in present day society and reinforce toleration of assaults on the dignity of women by sexual violence and forced prostitution.\(^{20}\)

Various prose, poetical and dramatical works and numerous erotic painting and sculptures refer to unrestrained sex practices since remote ages. There are passages in the Rig Veda which demonstrate its existence in the Vedic age. Prostitutes known as Veshya and Ganika happened to be one class of women who were not bound by the rules of and restrictions which limited the freedom of housewives. There were many poor and cheap prostitutes as well who would end their days as menial workers, but the typical prostitute of literature was beautiful, accomplished and wealthy, enjoying a position of fame and honor comparable to that of the Aspasias and Phrynes of classical hetaira, in Greece.\(^{21}\) History of ancient India indicates that there was a practice of the rich asking Nagarvadhu to Sing and dance, noted in history as "brides of the town". Famous examples include Amrapali, State courtesan and Buddhist disciple, described in Vaishali Ki Nagarvadhu by Acharya Chaturas and Vasantasena, a character in the classic Sanskrit story of Mricchakatika, written in the 2nd century BC by Sudraka.\(^{22}\)

During the Muslim conquests large scale atrocities were committed on women and they continued during the Mughal rule. Many women sexually assaulted by rulers and other men turned prostitutes as they were not accepted in the Hindu society.

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\(^{18}\) Ibid.

\(^{19}\) S.K. Gosh, *The World of Prostitutes*, A.P.H. Publishing Corporation, New Delhi, p. 18

\(^{20}\) M. Rita Rozario, *Trafficking in Women and Children in India*, Uppal Publishing House, New Delhi, p. 5

\(^{21}\) Supra note 19.

\(^{22}\) For details see: [http://en.wikipedia.org/wiki/Prostitution_in_India](http://en.wikipedia.org/wiki/Prostitution_in_India), (Accessed on 07.09.2013)
Prostitution was recognized and encouraged during Mughal rule and a large number of prostitutes were retained as concubines by the Mughal Emperors, their governors, officials and landlords. Singing and dancing girls and courtesans were in great demand during Mughal marriages and social functions. Prostitutes even accompanied Mughal ruler armies on active service. During battles they captured large number of women and girls and force them into prostitution and concubinage. During the reign of Akbar, according to the Ain-i-Akbari prostitutes at the capital were so many that they defied enumeration. Separate quarters were assigned to them in the city known as Shitanpara. A darogah and clerk were appointed for it, who registered the name of all those who visited prostitutes, or who wanted to take any of them to their houses. If anyone wished to have a virgin, he had in the first instance to apply to the emperor for permission. During Shah Jahan's reign, great liberty was given to the public women of whom the greater number was dancers and singers. All of them paid tax to the emperor. Aurangzeb, at the beginning of his reign, left masters in status quo but later he ordered that all prostitutes must marry or leave his dominions. That was the cause says Manucci, that the palaces and great enclosures in which they dwelt went to ruins little by little, for some of them married and others went to way or went underground.  

Goa, which was a former Portuguese colony in India, during the late 16th and 17th centuries, was a Portuguese strong hold where Japanese slaves, who were usually young Japanese women and girls were brought or captured as sexual slaves by Portuguese traders and their captive South Asian lascar crew members from Japan. During the British East India Company's rule in India in the late 18th and early 19th centuries, The British too set up comfort zones for British troops wishing to make child and women into sex tools to satisfy the urge of British soldiers who frequently set up their own prostitution rings. A write up by the BBC of England states that British troops helped established prostitution dens across India in capitals such as Mumbai which is now known for child prostitution, Indian lascar seamen who were forced into the British military to the United Kingdom copied the masters by joining the British forces on frequent visits to the local British prostitutes there. In the 19th and early 20th centuries, thousands of women and girls from continental Europe and

23 Supra note 19 at 20.
Japan were trafficked into British India, where they worked as prostitutes servicing British soldiers and other local Indian men.\textsuperscript{24}

Even after Independence from British rule prostitution/commercial sexual exploitation was prevalent. However, systematic attention has been given to the problem. Both preventive and curative aspects of the problem have been taken up for policy formulation and implementation of various policies. Appointment of the Committee known as the Advisory Committee on Social and Moral Hygiene was set up by the Central Social and Welfare Board as early as in 1954. There was some awakening among the leading social workers and reformers. This Advisory Committee toured different States. They interviewed magistrates, police officials, lawyers, doctors and social workers. They visited the institutions housing destitute women. Their field coverage was extensive covering almost 86 towns and over 100 institutions in all states except Manipur, Tripura and Kutch were included. The report of the committee brings out forcefully some characteristic features of this profession. It says, prostitution existed in every state of India. The brothels are often situated on important streets in cities. There is nothing clandestine about the display of the prostitutes. In cities like Bombay where brothels are illegal, a brothel system exists in a camouflaged form, so that prostitutes who practice quite openly, can get behind the law. They have all single room tenements and carry on this nefarious trade as independent individuals.\textsuperscript{25}

3.4 Devadasi Systems in India

The term 'devadasi' is a Sanskrit word that can be split into 'deva' meaning God and 'dasi' meaning female slave or servant of God. It is a religious practice found in some Hindu communities, especially in Southern India, whereby at puberty, a girl is married off to a Deity of a Temple. After the dedication ritual, the girl becomes acolyte at the temple.\textsuperscript{26} The institution and the women in the profession are known by various other local terms. For instance in Goa, devadasis are called Bhavin. They are also known as Kudikar, Bogam, or Jogin in Andhra Pradesh, Thevardiyar in Tamil Nadu, Murali, Jogaten and Diyar in Maharashtra, Jogats or Basavi in Karnataka,

\textsuperscript{24} Supra note 22.
\textsuperscript{25} Supra note 20 at 10.
\textsuperscript{26} V. Sithannan, Immoral Traffic- Prostitution in India, JEYWAN Publications, (2006), p. 16
Ganika in Orissa and as Nati in Assam. One reason for different usage of terms could be the diversity of traditions followed and language spoken all over the India.\textsuperscript{27}

There is no substantial proof of the existence of devadasi in ancient India. Some historians have suggested that the devadasi system was known in the Indus valley civilization deciphering from the evidence used in the bronze 'dancing girl' figurine. There is however, no direct reference of this in Vatsayana's classic Kamasutra (250AD) which refers to 'courtesans'.\textsuperscript{28} However the increasing references to temple prostitutes coincides with the rise in temple building from the 8th century onward all over India.\textsuperscript{29}

The devadasi system even until the colonial period was considered as an integral part of the Hindu religion and cultural life. Singing and dancing in the temple were important parts of worship, and these women were thus seen as performing a significant religious and social function. Devadasis were also perceived to be auspicious, as they were conceived to be Nityasumangalis, eternally married women who could never be widowed, and as such they were a necessary presence at all domestic festive celebrations. This role of the devadasis has to be seen in conjunction with the Hindu perception of the widow as a the harbinger of inauspiciousness.\textsuperscript{30}

The genesis of the devadasi cult and its regional variation is usually traced back to agricultural societies where young girls were voluntarily dedicated to God by their families to ensure soil fertility and to secure blessings for the community as a whole. It is believed that this custom of dedicating girls to temples primarily emerged as a substitute for human sacrifice. Another theory is that the system emerged from the belief that offering something propitiates the deity. Devotees visiting shrines with problems such as bad health, poverty, barrenness, etc. often interpreted these as the wrath of the deity. They thus offered one of their daughters to the deity and using the concept of divine desires, priests started demanding young girls from devotees. The development and popularity of the devadasi system in South India has also been

\textsuperscript{27} Sankar Sen, \textit{Trafficking in Women and Children in India}, Orient Longman, (2005), p. 157
\textsuperscript{28} Ibid.
\textsuperscript{30} Id. at 135.
linked with the interaction between the Brahmin patriliny and the strong tie of matriliny and matriarchal families in south Indian societies.\textsuperscript{31}

In South India, literary and historical records show that the devadasi system began to flourish during the Pallava and Chola dynasties from 6\textsuperscript{th} - 13\textsuperscript{th} century A.D. Devadasis were originally a special and venerated group of women attendants. Some of whom like the vestal virgins of Rome, were dedicated to the temple at birth of when they were quite young. They were required to participate in almost all the temples' daily rituals and occasional ceremonies. It was a matter of prestige for the temples to employ devadasis in good number. Being in the service of the deity the devadasi was accorded both ritual sanctity and social eminence. Important social occasions and functions were not considered auspicious and complete without the presence of devadasi. She was the welcome guest of every marriage pandal and it was the devadasi who prepared the tali (magalsutra) for the bride. However, in many temples, the devadasis were sexually exploited and their earnings were collected by temple authorities. In contrast city courtesans, who were usually highly accomplished entertainers were treated with deference and they had a certain freedom of movement, in that they could defy social restrictions to a greater degree as compared to other women.\textsuperscript{32}

It is interesting to note that culturally permitted practices such as that of the devadasi system prevalent in South India were not widespread in North India. However, in North India there exists a system of tawaifs, who were singers, dancers and often commercial sexual exploitation victims.

The term tawaif is a general one, but is mostly used for Muslim girls, while the Hindu branch is usually called patar, patur, paturia (patra- an actor). When they are nubile, the patar girls marry a pipal tree and then commence their career of prostitution. One of the numerous sub-caste is known as Raj-Kanya, which appears to be only one, whose members actually dance in the Hindu temples. Prostitution is said

\textsuperscript{31} Supra note 27 at 158.
\textsuperscript{32} Ibid.
to be rare among them. The Patars have Krishna as their personal God and Shiva in the form of Mahadeva, as their guardian deity.\textsuperscript{33}

Women belonging to a socially underprivileged classes continue to face exploitation under both devadasi and tawaif systems, according to a National Human Rights Commission's report published in 2004. The report found that the system is still alive in many parts of the country. The devadasi system was first made punishable under the Hindu Religious and Charitable Endowment Act, 1927, of Mysore, a princely state then. This was followed by a blanket ban on the systems by the British Raj in the 1930. The Karnataka government promulgated the Karnataka Devadasi Prohibition Act of 1982 to tackle the system. Activists, however, declare that the movement has only gone underground after it was declared illegal. Priests continued to convince mothers to marry their daughters to the temple deities covertly. Activists also claim to have evidence that girls are sold off to the brothels after a few years of living as devadasis.\textsuperscript{34}

Recently the Supreme Court of India issued notice to the Centre, Maharashtra and three Southern States (Karnataka, Tamil Nadu and Andhra Pradesh) on a PIL for checking sexual exploitation of Dalit girls after naming them as “devadasis” or those dedicated to the service of the temple deity for life. A Bench headed by Chief Justice P. Sathasivam also directed the Karnataka Chief Secretary to prevent a programme reportedly slated in Devanagar district for forcing women to become “devadasis” at the Uttarang Mala Durga temple in Harappanahalli taluk.\textsuperscript{35}

Public Interest Litigation filed by NGO S.L. Foundation states that the age-old abhorrent practice was still on at several places in these States, though the respective governments had abolished it by enacting laws on the lines of the 1988 Central legislation. An act of dedication of ‘devadasis’ is a matter of national shame which needs to be stopped forthwith in all parts of the country. Further, the right to life

\textsuperscript{33} Ibid.
\textsuperscript{34} Ibid.
guaranteed under the Constitution means that everyone had the right to lead a life of dignity and decency. The Centre and the States “are duty bound to ensure this”. 36

Thus, the analysis of literature shows that both devadasi and tawaif systems in South and North India is nothing than the sexual exploitation of women by the dominating class.

3.5 Concluding Remarks

The chapter discuss the historical perspective of the problem of modern day trafficking in human beings. Going through the historical perspective, it has been found by the researcher that the origin of slavery and human trafficking is lost to human memory. Slavery and slave trade has been a constant feature of human history in which control by one human being over the another through violence was prevalent. Humans as slaves were exploited for various purposes including prostitution, household or domestic slavery, temple slavery, state slavery and military slavery.

Slavery and the slave trade can be seen as the origins of modern day human trafficking. Modern day trafficking of human beings was common in Middle East and Mediterranean. However, it became more prominent during the period of Roman Empire. This legacy of Romans was inherited by the Eastern portion of the Roman Empire (Byzantine Empire). Practices of slavery were not common only to Europe but all over the world.

The researcher is of the view that slavery, slave trade and human trafficking like other parts of the world existed in the India as well. There is long recorded history of slavery, prostitution and sale of women for sexual purposes in India. There are various religious scripts which demonstrate the existence of it in ancient period. The medieval period as well has seen practices of slavery and slave trade. Even during British period various comfort zones were setup for British troops in which women and children were used as sex tools to satisfy their urge.

36 Ibid.
The practices of human exploitation in the form of forced labour, forced prostitution and other similar practices were prevalent even after the independence of our country. Most often it occurred in the form of devidasi and tawaif systems. Thus, it can be said that history is full of facts which clearly demonstrates the existence of slavery as a modern day human trafficking.