SEX TRAFFICKING IN INDIA:
A LOOK INTO THE CULTURAL AND LEGAL FACTORS THAT CAUSE AND
PERPETUATE SEX TRAFFICKING OF FEMALES

By

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Abstract

Human trafficking is an increasing problem worldwide; however, sex trafficking, as the most profitable, is one of the most difficult forms to combat. India faces a particularly high rate of sex trafficking. This paper identifies underlying causes sex trafficking in India, arguing culturally oppressive attitudes towards women, government corruption, and an under-resourced criminal justice system drive India’s sex trafficking problem. In terms of culturally oppressive attitudes, the devaluing and oppression of Indian women hinders women’s ability find work and increases their dependence on men. The reduced power position of women escalates vulnerability to trafficker’s tactics. The sexual freedoms granted to men in Indian society creates a further demand for sex that is often not filled voluntarily, driving sex trafficking. Likewise, the failing public justice seems means many public officials are often willing to take bribes that favor traffickers and public officials lack the resources and policies to make effective cases against traffickers. This is compounded by the dire lack of resources in India’s court system to take cases effectively and efficiently to trial. To address India’s growing sex trafficking problem, the country requires an integrated solution focused changing cultural attitudes towards equality and restructure a well-resourced criminal justice system towards accountable and efficiency. These long term goals should be complemented with an immediate on increased consequences for corrupt police officials and creating a female task force that would not only empower women, but would be less prone to corruption and thus help sex trafficking victims more.
Introduction

Human trafficking is becoming an increasing problem worldwide; however, sex trafficking, as the most profitable, is one of the most difficult forms to combat. Victims of sex trafficking are found all over the world, from every country in the world. Although most victims are women and children, they can be any gender or age. Of the victims in the world, there is a huge concentration of trafficking in South Asia, specifically India. These victims are forced or deceived into sex trafficking, lose freedom to make choices for themselves through a variety of tactics, and are then subject to a variety of physical, psychological, and emotional injuries. Although almost every country in the world has laws in place to penalize sex traffickers, very few are big threats to criminals, and not all are enforced. There is a common consensus internationally that more needs to be done to combat sex trafficking; however, theories and ideas differ.

This paper focuses on the best way to combat sex trafficking in India. It takes the stance that a comprehensive approach would be the most effective for India’s specific sex trafficking factors. If India implements a program that focuses on combating government corruption, changing culturally oppressive attitudes towards women, and increasing public justice system resources, the number of sex trafficking victims will decrease and the number of perpetrators prosecuted will increase. It is expected that a decrease in government corruption will increase policy enforcement, and will thus deter sex traffickers from continuing or pursuing this avenue of work. Furthermore, if attitudes towards women shift toward a more equal stance, fewer men will be willing to buy or accept sex work, and demand will decrease, thus decreasing the number of victims trafficked for sex. If the public justice system in India is fueled with better and more
efficient resources, it will be able process sex trafficking cases fairly and efficiently, further deterring sex traffickers from their current line of work.
Literature Review

Human Trafficking

Human Trafficking, also known as modern day slavery or human bondage, is at an all time high in human history. Although many Americans believe that slavery was abolished in the 19th century after Lincoln signed the Emancipation Proclamation and the thirteenth amendment was added to the US Constitution, it was never truly eradicated; it instead became a hidden crime, deceiving many around the globe as to the true nature of the problem. There are an estimated twenty-seven million slaves in the world today; of this, the most are concentrated in South Asia with an estimated fifteen to twenty million slaves. However, even with the ignorance of many people around the world, slavery and human trafficking is occurring all over the world.

Human trafficking has a variety of different definitions; however, they are all characterized by a loss of personal freedom. Kevin Bales, a known scholar and activist in anti-trafficking, writes that “Slavery can...be defined as a relationship in which one person is controlled by another through violence, or psychological coercion, has lost free will and free movement, is exploited economically, and is paid nothing beyond subsistence.” The enslaved person may be physically threatened, be fearful for the lives of their friends and family, or may be physically unable to leave their situation, all of which amounts to the loss of freedom to make their own choices about their life. Another definition of trafficking is from the United Nations in Article 3, paragraph (a) of the Protocol to Prevent, Suppress and Punish Trafficking in Persons as “the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of

1 Bales, Trodd, and Williamson, Modern Slavery, 16-45.
power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.”\(^2\) There are numerous ways of pulling victims into trafficking, as well as a variety of tactics to exploit them. What is common in nearly every definition is that the trafficked person has lost all freedom. Human trafficking is essentially about stripping victims of the ability to control their own lives. Victims of human trafficking are deceived or forced into slavery, and consequently lose their freedom and are subject to various forms of exploitation.

Different researchers have identified a number of factors that have contributed to the growth in human trafficking. Kevin Bales writes, “a number of factors have led to its expansion, including insufficient penalties against traffickers, the growing deprivation and marginalization of the poor, restrictive migration laws, and lack of information about the realities and dangers of trafficking.”\(^1\) Most countries in the world do not have strict punishments for human trafficking, and many others do not enforce the laws period. Additionally, an increase in the number of those in poverty, as well as tight migration laws have left many people unemployed and desperate for work; these people are easy victims for traffickers who often use stories of education or jobs to deceive victims into trafficking. Although these tactics are used time and again, few people are aware of them, and those who are aware can do little about it. The Trafficking in Persons Report, the U.S. government’s tool to gage the extent of human trafficking in every country, writes that “trafficking is a fluid phenomenon responding to market demands, weakness in laws and

penalties, and economic and development disparities” ². They are identifying the insufficient penalties as well as the role poverty plays in trafficking; cultural factors create a platform in which market demands are increasing. Research has identified “the most significant predictors of trafficking from a country, in decreasing order of importance…the level of a country’s governmental corruption; the country’s infant mortality rate; the proportion of the population below the age of fourteen; the level of the country’s food production; the country’s population density; and the amount of conflict and social unrest the country suffers. This means that population pressure and poverty (indicated by infant mortality and food production) are important push factors in trafficking.”¹ Most sources agree that poverty, including the increase in the population living in poverty, is one of the largest causes for the increase in trafficking. However, profit plays a significant role in the increase; slaves cost an average of $90, less expensive than ever before, making the needed capital minimal, and the subsequent profit great.³ Traffickers can acquire slaves easily, and make significant revenue on them, making this an attractive business. There are numerous causes for trafficking; however, poverty, light penalties, high profits and gender discrimination are the major overarching reasons.

A number of strategies have emerged in efforts to address human trafficking, with mixed results. The Palermo Protocol calls for governments to incorporate the “3P” paradigm into their responses, including prevention, criminal prosecution, and victim protection.² Governments need to find a way to prevent traffickers from doing their work, as well as from people being trafficked, hold criminals accountable, and protect victims through rehabilitation programs. This may be an effective paradigm, however researchers have many differing viewpoints on what exactly needs to be done regarding criminal prosecution. Moises Naim writes that “governments

³ Bales, and Soodalter. The Slave Next Door, 6.
need not only laws they can enforce but specific policies that drive the value—the money—out of business. They need to drive up the risk and down the reward that traffickers get from human trade.”  

4 The best way to prevent traffickers from their work is to make the risks outweigh the benefits. Almost every country in the world has outlawed human trafficking; however, these laws are often not enforced, or are so minimal the risk is worth the rewards to traffickers. Despite efforts that have been made, “No country has yet attained a truly comprehensive response to this massive, ever increasing, ever changing crime. Ten years of focused efforts is the mere infancy of this modern movement; many countries are still learning about human trafficking and the best responses to it.”  

2 Countries need to invest more into researching human trafficking in order to find the best way to combat it. The fact that policies are ineffective and incomprehensive may be partly because countries that have enacted specific laws have not been evolving their laws in response to new information and developments. According to the Trafficking in Person Report, “A trafficking law passed last year must be implemented and improved this year. The lessons learned from last year’s prosecutions should inform and improve this year’s law enforcement response.”  

2 Every country’s policies need to change with new information and new tactics created by traffickers. Although there are a lot of theories on how best to combat human trafficking, the fact that it is still such a significant issue indicates that laws need to be implemented, enforced, and changed as needed.

Sex Trafficking

Although there are a variety of different types of human trafficking, sex trafficking is the most profitable form of human trafficking, and thus the most difficult to discourage. The United States department of Health and Human Services states a commonly accepted definition of sex trafficking:

trafficking; “Sex trafficking is a modern-day form of slavery in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such an act is under the age of 18 years.” Commercial sex is commonly accepted as the buying and selling of sexual services. Victims of sex trafficking can be male or female of any age or background; however, the majority of victims are women and female children. Although statistics differ depending on the source, Kevin Bales writes that females “account for ninety-eight percent of forced sexual exploitation.” Women around the world are being trafficked for sex at astounding numbers.

Sex trafficking affects victims in a variety of physically, psychologically, and emotionally damaging ways. Victims are often “conditioned” to be more cooperative; they are repeatedly physically and sexually abused until they submit to their captor. Survivors have told stories of “starvation, confinement, beatings, physical abuse, rape, gang rape, threats of violence to the victims and the victims’ families, forced drug use and the threat of shaming their victims by revealing their activities to their family and their families’ friends.” Traffickers don’t necessarily want to lock their victims up both because it would look suspicious to outsiders and because it takes more effort then to find ways to psychologically condition them to submit. Furthermore, sex trafficking victims are at danger for a range of risks covered by The National Human Trafficking Resource Center:

“Physical risks include drug and alcohol addiction; physical injuries (broken bones, concussions, burns, vaginal/anal tearings); traumatic brain injury (TBI) resulting in memory loss, dizziness, headaches, numbness; sexually transmitted diseases (e.g., HIV/AIDS, gonorrhea, syphilis, UTIs, pubic lice); sterility, miscarriages, menstrual

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5 Department of Health and Human Services, “Sex Trafficking Fact Sheet.”
problems; other diseases (e.g., TB, hepatitis, malaria, pneumonia); and forced or coerced abortions. Psychological harms include mind/body separation/disassociated ego states, shame, grief, fear, distrust, hatred of men, self-hatred, suicide, and suicidal thoughts. Victims are at risk for Posttraumatic Stress Disorder (PTSD) – acute anxiety, depression, insomnia, physical hyperalertness, self-loathing that is long-lasting and resistant to change (complex-PTSD). Victims may also suffer from traumatic bonding – a form of coercive control in which the perpetrator instills in the victim fear as well as gratitude for being allowed to live.”

Victims are easily replaced, so any damage that may occur is of little consequence to the trafficker. Victims of other forms of human trafficking are at risk for many physical and psychological injuries, but the sexual harm associated with sex work in conjunction with a general worldwide acceptance and toleration of violence against women increase sex trafficking victims risk for injuries significantly.

Sex trafficking has grown to be one of the more popular forms of human trafficking for a variety of reasons. One of the major reasons for its popularity is the potential profits traffickers can make in this specific line of human trafficking. “Sex trafficking is a lucrative international business, second only in profits to the drug and weapons trade.” Sex trafficking brings in the most profit, and thus is the most appealing to many traffickers. Kevin Bales writes that “the highest profits are made from forced sexual exploitation (around $28 billion).” However, these statistics differ depending on the source, as Iris Yen believes that “Global profits from sex trafficking are estimated to be $7 to $12 billion dollars annually and growing rapidly.”

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6 Tiefenbrun, "Sex Sells but Drugs Don't Talk," 186-94.
the true number of profits is unknown, it is clear that sex trafficking is a multi-billion dollar international business. Iris Yen writes that “In the sex trafficking business model, the victims are ‘expendable, reusable, and resalable cheap commodities’ to be exploited for the sole profit of their owner.”8 Victims often have sex or perform sexual acts with multiple men each day; they are a reusable commodity and this equates extremely high profits. Sex trafficking generates more revenue than any other form of trafficking, attracting many exploiters to this field of human trafficking.

A major factor into sex trafficking expansion is the light penalties for sex trafficking as well as the fact that many countries don’t enforce the policies they do have. In many countries current laws are rarely enforced, and even in countries where the public justice system is more functional the penalty is rather insignificant compared to other criminal charges. The United States has raised its maximum imprisonment for human traffickers from 10 to 20 years, which is insignificant compared to life sentences criminals risk when caught with trafficked drugs.8 With such a light maximum sentence, traffickers do not feel that the risk outweighs potential benefits. Tiefenbrun also believes that “It is precisely because the penalty for sex trafficking is light that the sex trade industry has become particularly attractive to the powerful networks of international organized crime.”7 When compared to the penalties of other criminal acts, sex trafficking carries a minimal risk. Additionally, it is easier for sex traffickers’ victims to blend in with “voluntary” prostitutes and strip club workers, proving difficult for officials to identify victims; the chance of getting caught is not extremely high. Iris Yen writes that sex trafficking is the most popular form of human trafficking “Given its low investment costs, quick returns, very high profit margins, low risk of arrest, and relatively high profit-to-cost ratio among comparable
Traffickers know sex trafficking is the most profitable form of human trafficking; this knowledge, combined with the fact that traffickers run little risk of penalties, creates a platform for sex trafficking expansion. The low risks of getting caught and low penalties if caught make sex trafficking an attracting business for those involved in criminal activity.

Although sex trafficking victims are found from every country and background, there are certainly more victims from certain areas of the world. Iris Yen writes:

“The most common factors that promote sex trafficking include: an increase in poverty and unemployment in developing countries, the lack of educational and economic opportunities for women and the consequent feminization of poverty, the rise of globalization and increased mobility, the expansion of transnational organized crime, the widening economic gap between developing and developed countries, and gender-based social inequalities.”

Those in poverty or in unequal situations are more at risk for trusting traffickers who use the guise of a job or the promise of an education to deceive victims; generally the majority of people who are in these situations are women and children. Yen writes that “Traffickers primarily target girls and young women who live in economically depressed countries and who are desperate for any employment opportunity.” These women generally are given the opportunity for an education, and are not respected in many different employment fields; thus, they fall victim to traffickers who promise job opportunities as a façade for their trafficking scheme. Since women and girls are more likely to be trafficked into sex work, poor women and girls living in poverty stricken areas are the most at risk for becoming victims.
India

India has developed rapidly over the past century, leading to a variety of social, economic and political changes; with these changes come developmental issues. India is unique due to the fact that it is exceptionally diverse; “India is a mosaic society composed of varied regional, caste, ethnic, and religious communities spread over a land area of 1.3 million square miles.”\(^8\) However, these differences can lead to issues with competition for resources, political power, and social status. The fact that it is semi-developed gives India a distinctive set of problems:

“It has one of the lowest per-capita incomes in the world; it has limited financial resources and it has low levels of urbanization, literacy, and life expectancy. At the same time, it has a large and increasingly prosperous middle class, the third largest pool of scientific and professional talent in the world, and the most extensive industrial infrastructures in the developing world outside of China.”\(^9\)

The fact that India has now added socio-economic diversity on top of the many historically diverse factors has only added further complications to its development, a theory which is supported in the 7\(^{th}\) edition of India: Government and Politics in a Developing Nation:

“Almost every known societal division can be found in India: The Indian people are divided by religion, sect, language, caste, dress, and even by the food they eat. These divisions are compounded by the chasm between the rich and poor, between the English-speaking elite and the vernacular mass, and between the city and the village. These differences have become an increasingly difficult challenge to the development process.”\(^9\)

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\(^8\) Hardgrave and Kochanek, *India: government and politics in a developing nation*, 4-15.
This diversity is increasingly challenging to reconcile in the political arena, which in turn affects many other important aspects of life for these many groups. With everyone vying for their own group’s interests, not only are many groups ignored, but the original point of attempting to gain equality and work toward progress is often lost with the pursuit of gaining political leverage. This diversity and its inherent problems sets the stage for not only government corruption, but also for struggle with political agendas that could improve the country as a whole. However, this is not the only thing that remains a challenge for political agendas:

“On a general and noncommittal level [the Indian government] freely and almost passionately proclaim the need for radical social and economic change, whereas in planning their policies they tread most warily in order not to disrupt the traditional social order. And when they do legislate radical institutional reforms—for instance in taxation or in regard to property rights in the villages—they permit the laws to contain loopholes of all sorts and even let them remain unenforced.”

Current officials are not making efforts for social change that could create equality and better standards of living for many Indian people; whether because of their own agendas or because they are afraid to upset deep-rooted Indian tradition, little is being done to advance India’s society. The fact that many of India’s historical rulers and politicians have come from the elite only furthers the idea that social changes are not being enacted because the rulers favor the status quo. There have been some social advances; “Identities based on religion, caste, and language have strong appeal and have challenged the ability of the political elite to manage them effectively.” However, these advancements have created more chaos and confusion than ever before. The diversity unique to India has contributed to its currently precarious political
structure, as well as much resistance to political change or policy enforcement, mostly based on the many diversities that make India unique.

A further hindrance to India’s development has been the population explosion. Since the world, including India, has seen advancements in health care and health technology, India’s population has grown immensely. There were some campaigns in the 60’s and 70’s aimed at reducing or controlling the number of children a family could have, as well as help control the time between births, by using a variety of birth control techniques. However, in the 70’s Indira Ghandi’s family planning campaign was riddled with problems of forced sterilization in order to meet national quotas. Family planning was thus looked at with suspicion and skepticism for many years, and has only recently been gaining more momentum. As it currently stands, India is the second most populous country in the world, following China, and projected to surpass China if current trends continue by 2050. “This ‘population bomb,’ as it has been described has a devastating impact on limited resources, political management, and planned development.” With so many people to govern, and so few resources, it will be a challenge for India to secure development for much of its people.

The population explosion, poverty, and the diversity leading to political chaos and political standstill have been some of the factors setting the foundation for human trafficking in India. As previously discussed, sex trafficking often proves the most beneficial form of human trafficking, and this is no different for India. “A recent government report commissioned by the Department of Women and Child Development (India) estimated the number of persons trafficked for [sex trafficking] in India to be around 2.8 million, an increase of 22% from an earlier estimate.” Although this is only an estimated number, the fact that millions of people are being trafficked for sex, and that the number is increasing, either by new information or by
societal trends, speaks to the lack of political response in India. Only 53.7 percent of women were literate in 2001, more than 20 percent less than their male counterparts. Women’s education is not a priority in many households, where the male family members are viewed by the family and society to be more useful when educated than female members. Socio-cultural and macro-economic factors “heighten the vulnerability of women and girls to being caught in the growing web of sex trafficking in the region, taking them into situations which remove the last vestiges of choice, violate their human dignity and security, and further increase the risk of exposure to HIV/AIDS.”

Women and girls are vulnerable to not only deceit and falsehoods due to the fact that they have little opportunity for employment, but are subject to a huge demand in India for sex work.

Researchers have found a variety of trends regarding sex trafficking in India. “[India] is witnessing an alarming trend of increasingly younger girls being trafficked into the sex trade. The majority of trafficking in India, both trans-border and in-country, happens for the purpose of sex work, and over 60% of those trafficked into sex work are adolescent girls in the age group of 12–16 years.” One reason for this trend is a common myth that sex with a virgin can cure sexually transmitted infections and HIV/AIDS, further spreading these diseases to the trafficking victims and their countless partners. “Interstate trafficking represents 89% of trafficking for [sex trafficking] in India… The biggest supply states include: Andhra Pradesh (16/23 districts affected by trafficking for [sex trafficking]), Bihar (24/38 districts affected by trafficking), Madhya Pradesh, West Bengal, Karnataka (16/27 districts affected by [sex trafficking]), Tamil Nadu, Maharashtra, and Uttar Pradesh.”

Many of these states either border other poverty stricken countries such as Bangladesh and Nepal, or are located in Southern India, which is

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9 Huda, “Sex Trafficking in South Asia,” 374- 381.
10 Shah, Brar, and Rana, Layers of silence, 4.
known to be poorer than Northern India, further indicating that it is easier for traffickers to locate victims who are poor and less educated. Furthermore, “Trafficking from neighbouring countries into India account for about 10% of trafficking for [sex]. Bangladesh and Nepal are the biggest suppliers, respectively accounting for 2.17% and 2.6% of the international traffic for CSE into India.” Immensely poor bordering countries like Nepal and Bangladesh are easy targets for traffickers who can deceive poor families and easily get girls and women across the border and into India. Research has found that “Trafficked victims are initially kept in West Bengal, Assam, Orissa, or Tripura. There, they are 'graded' according to their age, beauty (e.g., light or dark skin), and sexual status (e.g., virgin), initiated into commercial sexual customs, and sent to new destinations, including New Delhi, Agra, Mumbai, Kolkata, Goa, or Pakistan (Karachi and Lahore).” Sex traffickers have dehumanized these people into categorized products, and have been disrupted long enough to develop a system of supply, categorization, and shipping to the demand.

An article printed in the International Journal for Equity in Health states that:

“Trafficking in India has become an international business and, unless stringent action is taken, is unlikely to slow down, given the enormous potential profits for organized crime syndicates and independent traffickers. Such an approach requires the systematic development and implementation of policies and programmes that address the socio-economic, political, environmental, and cultural factors that increase vulnerability to trafficking at the local, regional, state, national, and international levels.”

While these are worthwhile in the fight against sex trafficking, implementing policies and programs in a system where current policies are not enforced would do little good. The actual Indian law, called The Suppression of Immoral Trafficking Act of 1956, and renamed the

Immoral Trafficking and Prevention Act in 1986, is the most current anti-trafficking legislation in India. “The act criminalizes pimping and brothels, yet pimps and brothels are everywhere…brothel owners receive no more than 3 years’ imprisonment and a maximum fine of forty-four dollars, pimps receive half this penalty, and there is no incremental fine for sex trafficking or for ‘detaining a person in the premises where prostitution is carried on’” 13. This law is insignificant and far from deters sex traffickers from their work; with such little prison time and such light monetary penalties, even a sex trafficker who is convicted faces trivial punishment. However, most of the time traffickers are able to bribe their way out of any of these penalties, making the law of little or no importance.

13 Kara, Siddharth, “India and Nepal,” 45-82.
Methodology

This paper used government sources including Indian governmental documents that were translated into English, United States government document, as well as inter-governmental organization documents and research papers. These documents could have some bias in the country specific information due to political ties that cause alteration of certain conclusions so as to not offend a certain countries that have strong political ties. Furthermore, governmental documents analyzing one’s own country may be altered in order to present better statistics to other countries. Additionally, the factual side of these arguments may eliminate the human face of trafficking victims, causing the reader to get lost in numbers and forget about the bigger picture; to combat this problem, I will also include specific information about treatment of victims/survivors.

This paper also synthesizes existing scholarly research and literature on a more general level, as well as Indian-specific. It combines a variety of sources including professors and consultants to get a holistic perspective on issues. To avoid personal tendencies to sway information, this paper will include a range of sources to ensure these thoughts are consistent from a range of researchers. This paper does not include research on sex trafficking of men or other non-woman identified individuals such as those considered two-spirited in India, possessing the spirit of a man and a woman; however, that does not mean that those individuals are not trafficked for sex. This paper focuses on females to limit the information and give a more focused presentation of information.
Research and Analysis

Gender Based Inequality

The marginalization of females in Indian culture, and the acceptance of violence against females in Indian society is a huge underlying cause for why sex trafficking persists and thrives in India. Generally, females are viewed with disdain as they are more costly and culturally more demanding than men; furthermore, this disdain often leads to violence against women. “Gender-based violence and discrimination have long been recognized as underlying causes of trafficking and commercial sexual exploitation of women and children (especially girls).”\(^\text{14}\) A society that accepts discrimination and violence against females would hardly be bothered by the sex trafficking of females, a crime which has its roots in female degradation. Furthermore, India's culture inherently gives sexual freedom to males but limits the freedom of females, creating the demand for a group of females who can supply the sexual demand of males. This demand, in conjunction with India's discriminatory practices against women creates the breeding ground for the sex trafficking of females.

Females around the world, especially those that live in patriarchal societies, are not considered to be equal to the males in their societies. For women in developing nations such as India, this could mean that they are not fed as well, not educated, and subjugated to a variety of unjust behaviors. This is due to a variety of reasons, one of them being that in some societies for females are seen as burdens to the family. Noeleen Heyzer, Executive Director of the UN Development Fund for Women, writes:

“In countries with patrilineal family systems, daughters are perceived as a liability by their families, who are obliged to marry them off well, ensure their pre-marital sexual

\(^{14}\) Todres, Jonathan, "The Importance of Realizing 'Other Rights' to Prevent Sex Trafficking," 6.
purity, provide substantial marriage expenses and continue to offer material resources to the daughter’s marital family on auspicious occasions.”

Females receive the stigma from birth that they are a nuisance due merely to cultural traditions that have been around for centuries. They are seen as more expensive and more demanding than males to raise, and thus carry this stigma for life. This is more than true in India, where females are born into a society whose tradition perpetuates disappointment in their sex at birth. The view that females require more supervision is corroborated by Leena Abraham, who conducted a study on gender differences and cultural constructions in youth in urban India. Abraham reports:

“Menstruation is seen as the marker of female sexuality. The girl and her family become actively involved in the management of her sexuality. As a result her physical mobility is curtailed, her interaction with male members of the family becomes restricted and monitored and she is often escorted.”

In India tradition, females must be guarded closely to ensure that their virginity is intact, which is a requirement by most men for marriage. This requires more attention than males, who are traditionally freer and whose behavior is not monitored as closely. Indian society inherently marginalizes females by dictating the behavior of the female, while allowing freedom and acceptance for behavior of the male. The family of the female must not only pay more for the inevitability of marriage, but they must also supervise the daughter more, pushing many families to favor male offspring over females. This idea is supported by Martha Nussbaum, a law and ethics professor at the University of Chicago, finding that “In some regions [in India], the sex ratio is as low as 75 women to 100 men—a figure indicative of the differential nutrition and health

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care for girls, sex-selective abortion, and, probably, outright infanticide.”¹⁶ Rather than carry what they see as the burdens a female child brings, some families abort or give up the infant. Those that keep the female infants do not make nutrition or schooling for the female a priority, especially if the family has male offspring who are seen as less expensive, and more promising to the family wealth and reputation. India is a patriarchal society that marginalizes women in the name of cultural tradition, leading to more restrictions for females, as well as a variety of disadvantages and unjust treatment.

In India, not only are women underprivileged and marginalized, but they are not socially permitted to be free with their sexuality. Females in Indian society almost always must be chaste in order to wed, a social expectation of nearly all people in India. In contrast, men are permitted to be sexually free, creating a sexual gap in which men can have sexual relations [with women], and often want to in order to fit in with social norms, but are generally unable to express their sexuality with female peers. A different group of women must then supply this demand developed out of this cultural phenomenon; sex workers usually fill this void. Furthermore, many sex workers are actually sex trafficking victims; since many women strive to remain chaste, only those who are very poor or those who are sold or forced into sex trafficking become sex workers. Donna Hughes, a lead international researcher in trafficking of women and children, and a professor at the University of Rhode Island, reports:

“The global sexual exploitation of women and girls is a supply and demand market. Men create the demand and women are the supply...In receiving countries or sites where

¹⁶ Nussbaum, “Sex, Laws, and Inequality,” 95-106
men’s demand for women and girls in prostitution exceeds the supply in the local area, women and girls must be recruited and imported.”

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In India, there is a definite demand that surpasses the supply, creating and perpetuating the want for trafficked girls and women. Men cannot fulfill their sexual desires with most of the women in their society who are told to stay chaste; this in combination with cultural norms dictating men’s entitlement to females, pushes men to seek women who simply do not exist of their own will. Most women do not choose prostitution, they are forced, coerced, or deceived into actions and lifestyles that they have no means of escaping.

The previously illustration cultural inequality creates a much different societal norm for females and males regarding sex. Females are often not even permitted to socialize with males because of their perceived sexuality. Leena Abraham reports:

“The practices of segregation [in India] are underlined by the ideological construct that perceives women as being simultaneously dangerous and in danger. Women are dangerous because, their sexuality is seen as uncontrollable. If uncontrolled, their sexuality poses a threat to the social order. They are in danger because, the violation of their sexuality brings dishonor and shame not only on themselves but also to their families and the extended kin group…the double-edged ideology, then, neatly confines women to the spaces socially prescribed for them.”

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Indian society believes that women must be controlled in order for them to keep their virginity, which is threatened by the perceived inability to control their urges. This myth creates an easy excuse to control and thus subordinate females. Many of these females are taught at a young age

to be afraid of their own sexuality and many are not taught anything resembling sexual education, either because their parents do not want them to know, or merely do not know themselves. Girls and women thus listen to the males in their family, many conditioned not to ask questions. As this has become the societal norm in India, most females are treated in the same controlled and inferior manner, and accept this as a part of tradition. This creates a power dynamic where the males have the upper hand and are generally not questioned about their decisions or their own behavior. Abraham corroborates this notion, finding that “Girls themselves believed that it was all right for boys to engage in premarital sex but certainly not all right for girls.” Females accept the traditional male dominance over their sexuality, not questioning why, but merely accept that premarital sex is not acceptable for women. The belief that every woman’s hymen will break and bleed during her first sexual intercourse encounter further scares females into refraining from premarital relations, while accepting their male counterparts’ premarital sex. These women perpetuate the idea that women must refrain from certain freedoms that are permitted to men, not only limiting themselves, but giving power to males to act how they wish, and to dictate female behavior by what they find acceptable.

India’s patriarchal society allows sexual freedoms for men not granted to women, and this inequality not only creates the niche for sex work, but grants men with a power over women that can often turn violent. Leena Abraham writes that “Within the traditional cultural ethos, male sexuality in India is viewed in liberal terms, in the sense that, it is neither defined by or confined to the social institutions of marriage and monogamy.” Men are permitted to have premarital and extramarital affairs merely because their society dictates that it is acceptable. Young males often do not think of this as an inequality, but simply as the way things are, and how their society works, and thus do not question the behavior that they witness older males
enacting. They follow what they perceive as normal behavior, and perpetuate this inequality generation after generation. Abraham reports:

“Heterosexuality being the societal norm [in India], boys were early to extend their explorations to include the opposite sex. They begin by ‘touching’ and ‘pushing’ girls in crowded places, often in an aggressive manner. Accounts of any resistance on the part of girls/women towards such acts were completely absent in the boys’ narratives, although some of them found themselves in embarrassing situations. As they had not encountered any resistance from girls, boys took this as their approval and some even believed that girls liked such advances. Further, boys did not consider their behavior ‘offensive’ or ‘indecent’ in any way, rather, they described it as ‘normal male behavior’ and a part of ‘growing up.’”¹⁷

Even at a young age, males in Indian society are cognizant of the supremacy they have over females; they perceive touching women as a right they have, and do not even think of the females resisting because that is not a right that women and girls have. They live in a culture where this offensive and demeaning behavior is not only tolerated, but accepted as normal; a culture where men limit the freedom of women, and limit their power by making decisions for them, while have multiple freedoms and ‘entitlements’ of their own.

Furthermore, the fact that most women and girls are guarded to be kept ‘pure’, but that males are allowed sexual freedom, creates a demand for women who are willing to have sexual relations outside of marriage; sex workers. Abraham reports that “The qualitative data showed that the sexual history of the boys was marked by multiple partnerships, which included long and short-term partnerships with peers, older women and [female] commercial sex workers.”¹⁷
Although a small number of females in India defy the societal norm and have premarital or extramarital sex, many males have sex outside of marriage mainly with sex workers. They are the most accessible sex for men to turn to, and are often of a lower caste or from another country, which men use in conjunction with their sexist ideologies to justify objectifying and using sex workers. Males are permitted a power in Indian society, and try to support this power by exerting dominance over sex workers; these workers are often sex trafficking victims who have little choice regarding their bodies, or poor women who have no other choice than to sell their bodies for money. E. Huda verifies this, stating that although some who buy sex are pedophiles or have other such problems, “a great majority are ordinary men who buy sex to reinforce their masculinity and exercise power over the weak and vulnerable.”

Many men who buy sex in India do so because most sex workers are poor and thus very vulnerable, making it easy for men to exercise power over these women. They live in a society that dictates that men are better than women, whether for economic or other reasons, and feel entitled to what they want; if they want sex and dominance over a woman because that is what they perceive is normal, their society makes it completely accessible and acceptable.

Indian cultural gender inequalities limit females in ways that shift the balance of power to males. Females must be guarded, are more expensive, and are conditioned to believe that male dominance is normal. Males accept this power to control and dictate the lives of females, and express their authority over women not only by expressing their own sexual freedom by subjugating a group of females, but limit the sexual freedom of another group of females. This degree of gender inequality and double standard demonstrate the social and cultural constructions that control and subordinate females and female sexuality. Inherent in Indian societal structure is the inferiority of females, and the superiority in males. Males use this to their
advantage, and express this double standard in their sexual acts; inequality not only between men’s sexual freedom and women’s limitation, but also between the groups of females that men who purchase sex believe females should be pure, and those that are accepted as inferior enough to sell their bodies. This sexual inequality demonstrates larger social marginalization between males and females that give males unearned privileges. “The gender asymmetric sexual experiences can be understood and explained only through an analysis of the societal arrangements that differentially allocate access to opportunities on the one hand, and the cultural and ideological constructs that legitimize such arrangements on the other hand.”

Sexual inequalities mirror many other gender inequalities in India, including but not limited to access to health and education. Furthermore, social norms dictate male advantages not available to females; with a culture that inherently put females at a disadvantage, as well as social constructs that make female independence difficult or impossible, women have to rely on men for survival. Thus, women are forced to accept male dominance and their subordinate status in order to survive.

The violation of women’s rights goes hand in hand with violence against women and girls. In a culture that already devalues women, violence against women is unsurprising; if women do not hold a certain amount of respect, a person who holds dominance over her would have no hesitations to harm her. “Women’s vulnerability in terms of violations of their rights and violence against them increase as their marginalization increases.” Sex trafficking of females, as well as other infringements on their human rights, is enabled by a society that devalues it’s women and accepts violence against them. Violence against women is just another contributing

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factor to the cultural discrimination and degradation of females, and the subsequent sex trafficking of them.

India’s male dominance over women, and the societal and cultural structures that make women dependent on men and thus accepting of their behavior, creates a culture in which gender based violence is tolerated. Females are often not in a position to combat violence against them due to the fact that they are marginalized, and the fact that violence against them is regarded as normal or insignificant. Abraham writes in her gender and sexuality study that

“Girls reported being ‘touched’ by the opposite sex very early on. They expressed anger at unwanted male advances, and felt both humiliated and helpless. According to the girls, they did not protest when such incidents occurred as they felt it would attract public attention towards themselves...For most girls, there was also the fear that the men would ‘take revenge’ if they resisted.”

Male dominance over women often equates to male violence against women; furthermore, in cultures where this dominance and violence is accepted, women often have no resources to combat these issues. Females in India accept their maltreatment because they know no resources that can help them, and are culturally conditioned into accepting men’s behavior without defiance. Even in situations of violence, women do not culturally have a ‘right’ to contest their treatment, and many of the women around them reinforce the cultural idea of male dominance. This cultural conditions that allow this violence, also allow and lead to the trafficking of girls and women for sex.

Females in India are devalued, and thus are vulnerable to gender based violence, as well as to trafficker’s tactics. Furthermore, men’s sexual freedom as well as the expectation of
females to stay chaste creates a demand for women who sell sex, further perpetuating sex trafficking in India. Gender inequality clearly drives sex trafficking; however, the plight facing sex trafficking victims is further compounded by problems in India’s criminal justice system. India’s legal, regulatory, and policy framework around the criminal justice system is systemically skewed against sex trafficking victims.

Public Justice System Deficiencies

Police corruption contributes immensely to sex trafficking in India. Criminals who perceive the police force as weak view criminal activity as a low risk endeavor and are more likely to engage in sex trafficking than in countries where police corruption is perceived as minimal. Likewise, sex traffickers who view police as bribable or at least tolerant of many crimes are more likely to be comfortable venturing into the sex trafficking business.

The Indian police service’s historic connection to British colonial rule fosters contemporary corruption. Arvind Verma, a researcher at Indiana University’s Department of Criminal Justice, observes:

“The sub-culture of the Indian police was assiduously built by the British for the purpose of establishing their Raj. The police were meant to suppress any dissent against the British rule, a situation that gave unlimited power to the police officers. Consequently, corruption became endemic and rampant in the police department. Unfortunately, after
independence the system has not been reformed and police culture and organizational practices remain unchanged.”

British authorities created the colonial-era police force to protect the Raj, and by extension British colonial interests, by any and all means possible. Colonial police were vested with virtually limitless power to do as they wished and use any techniques to keep citizens under control. Without a system for oversight and supervision, excessive abuse of power for personal benefit was an unintended, if not unavoidable, result. The colonial police became a tool for corruption rather than a means to protect the public from crimes.

India’s independence saw the continuation of these corruptive policies and concentration of power in police hands, perpetuating a system of police abuse and corruption which continues to plague India. Verma further notes, “corrupt practices are now part of the Indian police system and are found in every department, in every rank and in every police institution including training colleges. The malaise has spread all over the country and in every aspect of policing.”

While it is not surprising that a force that is built on inherently flawed and corrupt ideals does not evolve into a functional and honest police force, the enshrinement of classical liberal principals in India’s constitution resulted in relatively little practical change in authority structures. The author, through his own personal experience working in India, found police officers were motivated to enter the force merely because of the lucrative money to be made off of bribes and illegal acts.

Such a system of corruption, fueled by the concentration of unregulated power, puts citizens at a disadvantage for not having a law enforcement system that will protect them from

crime, and puts criminals at an advantage for having a police force they can count on to accept bribes in order to continue their criminal activity. The effect this has on Indian victims is vast as “the middle ranking officers, junior inspectors and inspectors who do most of the investigation work, prey upon the common people by misusing their powers to extort money from complainants, witnesses and naturally the accused.” 21 Victims must have a decent wage in order to pay the extortion fees for registering a crime; furthermore, they must make more money than the accused. If the alleged perpetrator is able to offer the police a higher bribe, then the complaint may not even be registered. Sex trafficking victims have little hope of being able to register a complaint even if they had the opportunity given their poverty relative to perpetrators.

Several structural and procedural flaws in India’s police system enable exhortation to flourish. Police can alter cases easily since “there is no legal requirement for tape recording and no agreed or systematically trained set of interrogation strategies.” 20 The lack of oversight for police records and mandatory reporting requirements makes it easy for police to take bribes to alter cases in favor of the highest bidder. Likewise, Verma finds:

“In the absence of a telephone system like the 911, citizens have to go to the police stations to register their complaints about criminal incidents. It is usual for the SHO, [Station House Officer], or his officers to demand money to register any citizen complaint.” 21

Victims are not only charged money, limiting registering a complaint from poorer individuals, but they cannot receive quick aid, as they would if there was a phone system in place. For victims who need real-time responses, or citizens who want to report a crime they witnessed, the

20 Alison, Sarangi, and Wright, “Human rights is not enough,” 89-106.
Indian police system fails to protect and serve them. The system is centered around the convenience of police rather than the victims, making it easier for corrupt police who have less expectations and responsibility. The police are not necessarily required to respond to victims needs and can thus focus on their own. Moreover, lack of standard procedures and oversight allows offices to mistreat and re-victimize survivors. While this can easily take the form of extortion, many women who report rape cases are raped by the police to whom they report the case. Nicholas Kristoff, who reports and writes about female oppression, states that “One woman went to the police [in India] to report that she had been gang-raped by [a trafficker] and his thugs; the police responded by gang-raping her themselves.”

Victims of sex trafficking are placed in a vulnerable position if they want to seek help through legal means. Moreover, corruption goes all the way to the top, giving sex trafficking victims little chance of getting justice even if their case makes it to the courts. As a recent report observed, “In India, like in many countries in the developing world, judges and magistrates sometimes solicit bribes in exchange for favorable verdicts or, in other cases, to continue the case indefinitely.” This is largely because, “the decision to send any case for trial is also that of the superintendent and prosecutors have little control over the cases sent for trial.”

Judges can either sway the case in favor of the perpetrator, or continue the case until the victim no longer wants to pursue charges, which often happens in cases involving violence against women. Because prosecutors have little decision in which cases go to trial, the cases that are sent do not necessarily have a good possibility of winning. This flaw in the procedures can make prosecutors waste time on cases that are lacking instead of trying cases that do have a strong enough evidence to win. The

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22 Haugen and Boutros, “And Justice For All,” 3.
corruption inherent in the public justice system creates huge consequences for sex trafficking victims, as well as sex trafficking as a whole in India.

The system is not set up for accountability in the first place, and there is no system to manage officials or provide accountability. As Verma notes, “there is no departmental practice of evaluating the performance of the investigators in terms of the cases investigated, cleared and prosecuted. The manual system of maintaining records also has made it impossible to do any kind of performance appraisal.”21 Without evaluations, officials can continue in corrupt practices without anyone finding out, or without fear of being prosecuted or dismissed from the position. Collectively there is little incentive for officers to operate honestly or even efficiently. This idea is corroborated by Jon Quah, an anti-corruption consultant based in Singapore, who states:

“The constitution has justly given the guarantee to all officials that they cannot be dismissed, removed or reduced in rank except after an enquiry for which they will be given a reasonable opportunity of being heard. However the procedures involved in such enquiries have become so complicated and dilatory that the protection intended for the honest official has also become the loophole for the corrupt to escape. … When punishments are not prompt and deterrent, they cease to be disincentives for the dishonest.” 23

Not only are procedures for an inquiry for corrupt officials complicated, but without standard legal procedures, proving such a case against police officers is difficult. Without any consequences for corrupt action in place, corrupt officials have little incentive to deter them from corrupt practices.

Consequently, public faith in India’s criminal justice system is nearly non-existent, making criminals more confident in their activities, and leaving victims with almost no place to turn. Quah reports that “As the probability of detecting and punishing corrupt behaviour is not high in India, the public perceives corruption as a low risk, high reward activity as those involved in corrupt practices are unlikely to be detected and punished.” 24 For criminals, this means that there is low chance of being detected, and even if they are there is a significant chance that they can bribe the officers who detect their crimes. Criminals are cognizant of these loopholes, and thus have little to discourage them from criminal activity so long as their crimes are more profitable than the bribes they pay. Furthermore, victims of these crimes know that the police can be bribed, and have little hope of bringing their perpetrator to justice. Siddharth Kara, a fellow on Human Trafficking and the Kennedy School for Government at Harvard University, documented comments from women in India, quoting that “‘They do these raids to make money,’” Silpa said. ‘‘The police are the most corrupt in India.’’”15 In the end, victims of sex trafficking have little hope of being protected by police or access to services that can help them.

Finally, rampant corruption is reinforced by a general lack of resources. India’s criminal justice system lacks the resources it needs to run effectively and efficiently including: forensic resources, lawyers and judges, and basic materials. Verma reports that “A serious lack of forensic assistance, poor training and dearth of facilities for collecting and preserving physical evidence have implied that most evidence is in the form of witness statements.” 21 Not only does this make corruption easier among officers, who know they can rely and modify witness statements, but a strong court case needs more than just witness statements. Without forensic and physical evidence, cases are often too weak and are dismissed.
Lack of resources is further evident in the problems facing Indian judges. Gary Haugen and Victor Boutros, both lecturers at the University of Chicago Law school, report that “Some courts [in India] do not even have access to the applicable legal texts, and judges consequently reach decisions without consulting the relevant legal standards.” Judges who do not know the law, especially newer laws or court cases that can set precedents for newer cases, can often rule in favor of the wrong defendant, as dictated by Indian law. This lack of knowledge and resources is hugely detrimental to victims whose cases, and often ultimately lives can change based on the ruling of a judge. For example, the Indian Supreme Court ruled in 2000 in an unprecedented case that declared rape to be a violation of the fundamental right to live with human dignity, under both the Indian Constitution and the Universal Declaration of Human Rights. A judge who is not up to date in the more recent cases and decisions can be very regressive in a ruling, without even knowing.

Even if a case makes it to the courts past corruption and bribery, getting the case actually tried is a huge undertaking in the Indian court systems. “According to the U.N. Development Program, India has 11 judges for every one million people. There are currently more than 30 million cases pending in Indian courts, and cases remain unresolved for an average of 15 years.” The fact that judges may not be up to date on current laws is vastly overshadowed by the fact that there just are not enough judges in Indian to efficiently try cases. Haugen and Boutros put this time in another perspective, stating “Some experts, for example, have estimated that at the current rate, it would take 350 years for the courts in Mumbai, India, to hear all the cases on their books.”

The consequences of so few judges in India is vast; potential innocent people wait in jail for years before being cleared, potential criminals are sometimes on the streets, continuing illegal
activity while awaiting their trial, and victims must wait for years for justice to be served. Nussbaum reports that “In general, delays in the criminal justice system often create a lapse of ten years between rape and court date, making it very difficult for women to pursue their cases, even when they want to.” For a victim to wait ten years and with the fact that forensic evidence is either not gathered or is not properly handled and thus becomes inadmissible, victims often do not want to testify once the case is finally up for trial. India is seriously lacking the resources needed to expedite cases, and the consequences for victim’s justice and for crime in India are dire.

A failing and corrupt public justice system does little to deter sex traffickers from their very profitable line of work. Traffickers are able to take part of their enormous profits to bribe more than eager officials all the way to the top, and thus continue their business as if police bribes were just an added fee. Furthermore, a lack of resources to make a solid case, as well as a lack of court personnel to process cases, presents a weak government in general and gives traffickers the ability to stay on the streets continuing to traffick, as well as deterring victims from testifying. India’s public justice system provides little real consequence for trafficking women and girls for sex, and presents a weak and chaotic front that does nothing to dissuade traffickers from sex trafficking.
Conclusion

Inherent in India’s culture is discrimination against women as well as violence against women, leading to a culture that accepts and tolerates buying sex, as well as sex trafficking. Women are inherently devalued in Indian culture, as well as controlled by their male counterparts, leading to attitudes that treat females as dependent property. Moreover, the sexual dynamic in India creates a significant demand for sex workers. These factors all lead to a society that accepts and tolerates mistreated of women, and ultimately encourages the trafficking of females for sex.

Furthermore, a failing and corrupt public justice system does little to deter sex traffickers from their very profitable line of work. Traffickers are able to take part of their enormous profits to bribe more than eager officials all the way to the top, and thus continue their business as if police bribes were just an added fee. Furthermore, a lack of resources to make a solid case, as well as a lack of court personnel to process cases presents a weak government in general and gives traffickers the ability to stay on the streets continuing to traffic, as well as deterring victims from testifying. India’s public justice system provides little real consequence for trafficking women and girls for sex, and presents a weak and chaotic front that does nothing to dissuade traffickers from sex trafficking.

The fact that India’s culture discriminates against women and girls means that females are marginalized in a plethora of ways, including jobs and careers. Thus, there are few female police officers and even fewer female officials as the level of significance increases. Such a male dominated field rampant with corruption, combined with India’s inherently female discriminatory society, makes sex trafficking victims easy prey not only for traffickers, but also
for police officers. India needs a holistic solution that not only works toward changing cultural attitudes, but also lessens corruption in the public justice system and provides it with more resources. Longer term goals should focus around PSAs that encourage equality and discourage violence against women, as well as restructuring the public justice system to include specific standard procedure for collecting information for cases and evaluating officers. This will help reduce the number of men buying sex, the number of women most susceptible to be trafficked, as well as reduce the number of corrupt officials and strengthen the criminal justice system as a whole. Furthermore, short term goals should include increasing the consequences of corrupt practices among officials, which will not only increase the risk factors associated with being a corrupt official and thus decrease the number of corrupt officials, but will also increase the risk associated with being a sex trafficker. Officials who are not deterred entirely by the increased consequences will have to increase the bribes to make the risks associated with the corrupt practices worthwhile. Sex traffickers will thus be deterred by the strengthening public justice system, as well as the increased bribes which will decrease profits from sex trafficking. India needs to implement policies to make these long and short term goals a reality in order to reduce the colossal and growing problem of sex trafficking of girls and women.

Future research should be conducted more thoroughly on the weaknesses of the public justice system and how this affects certain crimes in India, including how it affects sex trafficking of girls and women. More research should also include a better illustration of the correlation between violence and discrimination against women and how this contributes to the trafficking of women for sex. Further evaluations should be made of the resources and procedures of the public justice system in order to better find a solution that will make it more efficient and less corrupt.
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