



HUMAN TRAFFICKING IN INDIA: ISSUES AND CONCERNS

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Abstract

Human Trafficking is the trade of humans for forced labour, illegal migration or sexual slavery, be it thrown into prostitution for commercial purposes or personal enslaved people. It has two types of prevalent Trafficking, forced labour and sexual exploitation. Trafficking in human beings, especially of women and children, has become a matter of grave concern in India. It is a serious human rights violation and a heinous crime affecting societies worldwide. Despite strong steps taken by the Government of India, the present article will discuss Human trafficking in India and related issues and concerns the researcher also examined the legal frame work and judicial response.

Key words: *Human Trafficking, Forced labour, Sexual exploitation, Human rights, Government of India.*

Introduction

Since the known history of humankind, Human Trafficking, slavery and absolute denial of rights, even minimum human substance, were/are prevalent in the name of gods or kings' wishes. In the modern age, with the advent of rationalism and liberalism, it was thought that this menace of humanity would perish and all equal liberated human beings would co-exist in fraternity with human dignity and happiness. However, surprisingly even in the present era, it is modern-day slavery. The earliest form of recognized human Trafficking began with the African trade of enslaved persons. We claim to treat everyone equally, but have we eliminated this evil? No human being is for sale, yet they are robbed of their basic rights and dignity. Innocent people get tangled in this web through coercion, false interpretation or trusting someone they should not have trusted. Trafficking leaves a lot of detrimental scars, especially for children, like long-lasting psychological trauma, substance abuse, suicidal thoughts, sexually transmitted diseases, identity disturbance and confusion.

Human Trafficking is the trade of humans for forced labour, illegal migration or sexual slavery, be it thrown into prostitution for commercial purposes or personal enslaved people. It has two types of prevalent Trafficking, forced labour and sexual exploitation. Men, women and children of all ages, races and backgrounds have been victims of this heinous crime, and it robbed them of their dignity and rights. It hinders the growth of any nation it touches; Trafficking and its black market are one of the biggest threats to the economic security of the nations. According to a report provided by the United Nations, Human Trafficking is the second largest and fastest-growing criminal industry in the world, with as many as 27 million individuals living in slavery-like conditions throughout the world.

Human trafficking is menace of trading being carried upon human beings which violates their human rights. In today's modern era there are many people who are stuck as slaves and are generating huge amount of money for their traffickers. Human trafficking undermines the security of every person in a state because it is an organized crime and corrupted. Human trafficking is modern day slavery that involves victims who are coerced, defrauded or forced into sexual or labor exploitation. The victims are being exploited in various forms due to the major factors like poverty, religious/traditional prostitution, lack of employment opportunities, child marriage ,sex tourism and other challenges that directly leads to human trafficking. On this note, this research paper deals with the various issues and



challenges which are revolving around the human trafficking. It talks about the process, extent and forms of human trafficking in India.

Trafficking in human beings, especially of women and children, has become a matter of grave concern in India. It is a serious human rights violation and a heinous crime affecting societies worldwide. Despite strong steps taken by the Government of India, the trafficking rackets and gangs have become more organised and expanded into newer arenas. It victimizes millions of women, men and children, including those most vulnerable amongst migrant communities, asylum-seekers, refugees and stateless persons, and is commonly associated with many other forms of exploitation, such as sexual exploitation, forced and bonded labour, forced marriages and practices like slavery. The brutality and injustice associated with trafficking in persons is immeasurable for each and every victim. The crime has expanded in such a way that today almost every state is affected with this social and criminal menace.

Trafficking takes place inside a nation state or might involve movement across boundaries. Globally after drugs and the arms trade, human trafficking is the third largest organized crime. Each year an estimate of 7,00,000 to 4 million people around the world are being trafficked for labour and sexual exploitation¹. It is a global phenomenon and has become an organized billion-dollar industry and its core investors include unscrupulous recruiters and corrupt public officials as principal participants. Fatalities of trafficking undergo a violation of fundamental human rights and are to be considered as persons in need of protection. Trafficking employs human tricks to abuse the vulnerable by depriving their dignity and self-worth.

Human Trafficking mainly means the "trade of people" for various purposes mainly involving the transfer, recruitment, transportation or harbouring of people by means of force, threat or other forms of fraud and abuse of power for the purpose of exploitation. Exploitation of people includes sexual exploitation, forced labour, slavery and practices and services of the same. Throwing light on the Human Trafficking of people in India, people are illegally trafficked through India for purposes like forced/bonded labour and commercial sexual exploitation. This issue, although illegal under the Indian Law still remains a major problem. According to the survey made by several NGO's, this affects approximately 20 to 65 million Indians! Human Trafficking is one of the worst abuses of Human Rights. Reasons for human trafficking are determined by various economic, political and cultural factors. In any country or region, there exist many factors such as poverty, unemployment, conflicts, lack of access to education and information, instability in political and economic areas, social conditions, etc. All these reasons are the result of migration of persons and human exploitation and abuse. To counter the crime of Human Trafficking in India, various Legal Frameworks have been designed on the part of the Indian Government. Some of them are- Indian Penal Code 1860, Constitution of India 1949, and The Immoral Traffic Act 1986, The Juvenile Justice Act 2000 etc. Various International Laws have also been framed as well which are- Human Trafficking and International Law (Article 4 of the Universal Declaration of Human Rights), ILO Convention concerning Forced Labour, etc. Every section of the society across the country must be made aware of Human Trafficking and its harsh consequences. The rules and regulations for Human Trafficking must be reinforced in order to prevent people from becoming its victims. Various measures can be taken to prevent Human Trafficking in India like fostering the spread of education, enforcing strict laws to prevent child trafficking, spreading awareness among various communities and groups about the issue, etc. Human Trafficking can only be prevented if the Government of India and the people of our country join hands together in order to eradicate this harmful disease from the society. This paper



intends to throw light on Human Trafficking in India, its causes and the various measures taken and the laws enforced to prevent the same.

Human Trafficking in India

Human Trafficking remains a significant issue in India although illegal under the Indian Law. People are now and again trafficked throughout the country for various purposes, some of them being sexual exploitation and bonded labour. Men, women and children are trafficked for various reasons. Where men are trafficked mainly for the purpose of labour and are exploited to serve as escorts, gigolos etc. Women are trafficked for the purpose of forced marriage and sexual exploitation. Large portion of children are made to work in factories as servants and beggars etc.

Human Trafficking is the third largest crime globally and is eventually increasing every year. Some of the main causes of Human Trafficking in India include gender discrimination, poverty, unemployment, unhealthy traditional and cultural norms, etc. The government of India launched an Anti-Human Trafficking Web Portal in Feb. 2014 with the hope to gain information from interested parties about this topic. The Salvation Army also developed a program that provides safe places for children of women who work in red districts in India. Many more such initiatives have been taken by the Indian Govt. to remove the toxic element of human trafficking from the country and to make India a peaceful and a better place to reside in. In this paper an effort is made to study the state of human trafficking in India and its causes and the prevention strategies adopted by the Govt. of India for the same.

India is a source, destination, and transit country for men, women, and children subjected to forced labour and sex trafficking. Women and children are the key target as victims of trafficking. Poverty and illiteracy make children and women belonging to the poor sections of society highly vulnerable to human trafficking. Females are trafficked within the country for the purposes of forced prostitution. Religious pilgrimage centres and cities popular for tourism continue to be vulnerable to child sex tourism. Women and girls from Nepal and Bangladesh, and an increasing number of females from Uzbekistan, Ukraine, and Russia, are also subjected to sex trafficking in India. There were increasing reports of females from north-eastern states and Odisha being subjected to servile marriages in states with low female-to-male child sex ratios, including Haryana and Punjab, and there are also reports of girls subjected to transactional sexual exploitation in the Middle East under the guise of temporary marriages⁸. Establishments of sex trafficking are moving from more traditional locations – such as brothels – to areas that are harder to find, and are also shifting from urban to rural areas, where there is less detection. 2.5% of prostitutes in India are Nepalese, and 2.7% are Bangladeshi. In India, Karnataka, Andhra Pradesh, Maharashtra, and Tamil Nadu are considered "high supply zones" for women in prostitution. Bajpur, Belgaum and Kolhapur are common districts from which women migrate to the big cities, as part of an organised trafficking network.

The problem of trafficking in India is complex and the human trafficking trade in India has certain "supply" and "demand" factors. Poverty, child marriage, no girl child are the "supply" factors. The "demand" factors are migration and sex tourism. Women and children living in rural areas of India or from other states are engaged as domestic helps or in small-scale establishments in urban centres. Women and children are sold into commercial sex trade market and these vulnerable groups are eventually exploited economically, physically and also sexually. People from Northeast India especially children from tribal areas are sold in faraway states of India for sexual exploitation and to work as bonded labour.

According to government reports almost 20,000 women and children were trafficked in India in the



year 2016 which was nearly a 25% rise as compared to the year 2015. According to a report published by the US Department of State, India is the destination country for Human Trafficking. According to the Ministry of Women and Child Development, nearly 19,223 women and children were trafficked in 2016 against 15,448 in 2015 which was the highest no. of victims which were recorded in the eastern state of West Bengal.

Review of literature

Vimal Vidushy in his research paper published in 2016 titled “Human trafficking In India: An analysis” stated that the focus on trafficking either as an issue of illegal migration or prostitution still dominates the discourse of trafficking, which prioritizes state security over human security and does not adequately address the root causes of trafficking and the insecurity of trafficked individuals.

Abhilasha Singh in her article “Analysis Of The Trafficking Of Persons (Prevention, Protection And Rehabilitation) Bill, 2018 stated that India is ranked among Tier II countries in dealing with trafficking in persons, meaning that though India has been true in its commitment to combat the evil of human trafficking, it has not been able to adequately deal with the problem of trafficking in persons, Ever since contemporary times, human Trafficking has been prevalent. It used to be disguised as devadasis or some other way to justify it. Now, we have democracy and freedom, yet Human Trafficking is a growing problem in our world.

Legal Framework on Human Trafficking in India

If we thought slavery was a thing of the past, perhaps we must stop looking at the world through our rose-tinted glasses. Different laws cover specific aspects of the prevention of human Trafficking in India, as mentioned in 'The Trafficking of Persons (Prevention, Protection and Rehabilitation) bill, 2018.. For instance, 'The Immoral Traffic (Prevention) Act, of 1956 was created to stop the sexual exploitation of women and underage girls, and they are being thrown into prostitution or being commercially exploited against their consent. Similarly, 'The Bonded Labour Regulation Act, 1984' and 'Child Labour Regulation Act, 1986.' deals with exploitation for bonded labour/debt bondage or slavery. Whosoever is a victim of bonded labour loses financial independence and is tricked into working for little or no pay. Each of these laws plays a different yet pivotal role in providing justice to the victims of Trafficking. Indian Laws and the Constitution have criminalized some forms of sex trafficking and labour trafficking. However, we do have a long way to go. We have grown so accustomed to the news and cases of human Trafficking that it has become normal. Where is the accountability? For years the identification of the victims of this heinous crime was not recognized by the law, and compensation was not provided to them. Section 370 The Indian Penal code (IPC) criminalized trafficking offences that included any form of physical or sexual exploitation. It deals with the offence of buying and disposing of any person as an enslaved person. Human Trafficking is a non-bailable offence under section 370, and there is a penalty of up to ten years of jail time or life imprisonment if it involves a child victim or a fine or both on the people found guilty of the said offence. However, Section 370 required a demonstration of force, so all the forms of child sex trafficking could not be criminalized in the said section.

Globally, one out of the five victims of human trafficking are children and mostly aged less than 12 years. Children at such a young age are robbed of their childhood and are sexually and physically exploited for someone else's gain. However, when they should be going to school and learning, these young minds are being exploited, and their youth is wasted. Section 372 and Section 373 Criminalize



the exploitation of minors through prostitution or illicit intercourse. These sections implement a penalty of a term which may extend to ten years and also make a person liable for a fine if found guilty of the offence.

The Constitution of India, 1949 talks about the Prevention of Human Trafficking in Articles 23 and Article 24. Article 23 states that the Trafficking of humans and forced labour is punishable under the law. Article 24 states that any child under fourteen should not work in or be exposed to hazardous employment like mines or factories. It protects the rights of several underprivileged and deprived people in the country. Everyone has the right to free choice, and no one should be exploited for the same. Anyone residing in any part of India, if found guilty of these heinous offences related to bondage labour, sex trafficking or other various kinds of servitudes for other's benefits, personal and financial, that are derogatory and affect the dignity of others, will be punished in accordance with the law.

Judicial View on Human Trafficking

Human Trafficking is a violation of several individual and community rights grouped. The role of law enforcement agencies is huge when it comes to the regulation and maintenance of peace and ensuring that the rights are not exploited by the people incognizant of the same. However, Trafficking is a penal offence, but exploiting a person who has been trafficked is also a penal offence. The judiciary of our Indian legal system has played a pivotal role in combating and fighting against the terror of human Trafficking. It ensures that the rule of law is applied evenly and everyone is held accountable to the same laws without any discrimination, be it the lawmakers and the leaders, and prevents the arbitrary use of power. Judiciary in India enjoys a very significant position since it is also the guardian of the constitution. Some of the significant landmark rulings of the judicial system for combating and preventing human Trafficking in our nation are:

People's union for Democratic rights v. Union of India: In this landmark judgement, the court held that the right against forced labour included the right to minimum wage. The Hon'ble Supreme Court defined 'forced labour' while discussing the scope of Article 23 of the constitution of India. It stated that any factor that deprives a person of this choice of alternatives and compels him to adopt one particular course of action might be regarded as a 'force'. If labour or service is compelled due to such a thing, it will be termed forced labour. When they are in no position to bargain with the employer, they would have to accept whatever is offered to them. The word force, therefore, must not only include physical and legal force but also force arising from the compulsion of economic distress, which leaves no choice of alternatives to the person in want when the remuneration provided to him is far less than the minimum wage.

Bachpan Bachao Andolan v. Union of India: In this landmark judgement, the Supreme court recognized Trafficking as an organized crime and defined it in accordance with the optional protocol of the United Nations Convention against Transnational organization crime (UNTOC). The court also ordered a total ban on children's use in circuses. It was also held that no child should be deprived of his fundamental right given under the Constitution of India and brought to child trafficking and subjected to abuse, be it physical or emotional.

Vishal jeet v. Union of India

This landmark judgement of the Supreme court dealt with child prostitution in human Trafficking and was one of the stepping stones to the same. The supreme court gave directions for protecting and



rehabilitating children sold by the pimps and brokers for the flesh trade and the ones pushed into the pits of devadasis by their families or for cultural reasons. The hon'ble court also held that the dealings of the cases of this delicate matter should also have a humanistic approach to them rather than a purely legal one. The court stated that this was not only a social but also a socio-economic problem. Therefore the measures taken should bend more towards the prevention of it rather than punitive. The court also directed the concerned law enforcement authorities to take appropriate and speedy action under the existing laws to eradicate child prostitution.

Bandua Mukti Morcha v. Union of India

This landmark judgement by the hon'ble Supreme court of India covers the rights of bonded labour. The court elucidated the rehabilitation of bonded labour and directed the Government of India to award compensation to released or rescued bonded labour under the provisions of The Bonded Labour System (Abolition) Act, 1976 After taking notes of serious violations of their basic fundamental and human rights.

Human Trafficking and Effects

Human Trafficking not only hinders the growth of a developed and a developing country, but it also harms the nation's economy. It is a huge threat to the economic security of a nation. It is also a threat to a nation's national security as profits earned from this can be used to fund other illegal activities as well. The huge profits incurred from this criminal business do not add to the GDP (Gross Domestic Product) of the nation. It is a crime of exploitation where the underprivileged are getting exploited on a daily basis. It also undermines the rule of law and harms the well-being of the nation, the people living in it, and the communities.

According to many reports and data published all across the globe, India is the region where Human Trafficking continues to thrive. According to one of the latest reports published in 2022, there is an estimated presence of around eight million trafficking victims in India, the majority of whom are bonded labours.¹⁶ Traffickers target the most disadvantaged sections of society, thus making them the most vulnerable ones as well.

Conclusion

The laws made for human trafficking must be revised and strengthened. People must be made aware about the harmful consequences of human trafficking in order to prevent the crime from happening at the first place. Various seminars and conferences can be conducted across the country so that people and the government together can stand together to prevent the heinous crime. The weaker sections of the society must be looked after by the Government so that they don't fall as victims to human trafficking. There needs to be an increase in the investigation, prosecutions and convictions of all forms of human Trafficking in India. We need to be more vigilant and aware of exploiting the basic human and fundamental rights of society's underprivileged and vulnerable sections. Fast-track courts should be established to address the issues of Trafficking and provide justice and compensation to the victims as soon as possible. Many victims wait years to receive government-mandated compensation. We also need to make people aware of this evil and its negative impacts on the nation. It is high time we treat everyone equally and give attention to the more vulnerable sections of society to make them less prone to fall into these traps. The government still does not meet the minimum standards to combat Trafficking in several areas. Human beings are not to be treated as commodities and they should not be offered for sale. Human trafficking reduces the significance of human life and harms the



society by violation of our belief in the human ability for a change. There is a need for stringent monitoring and implementation measures to break the networks of traffickers and strict disciplinary action against people involved in such crimes. To combat the problem of trafficking it is necessary to address the poor infrastructure and economic opportunities that create vulnerability in India.

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