

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi-Disciplinary
Peer Reviewed

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INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS

ISSN

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RESTORATION AND REHABILITATION OF VICTIMS OF IMMORAL TRAFFICKING – A COMPARATIVE STUDY ON INDIA AND VIETNAM LEGISLATIONS

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ABSTRACT

The growing number of cases of immoral trafficking highlights the critical need for victim restoration and rehabilitation programs. This research compares and contrasts the legal systems of Vietnam and India, emphasising the advantages and disadvantages of each country's legislative strategies for the rehabilitation of victims of human trafficking. The Immoral Traffic (Prevention) Act of 1956 is the main piece of law in India that protects victims from sexual exploitation; nevertheless, it is not always easy to apply and requires extensive victim care services. In order to properly handle victim identification and support, Vietnam's 2011 Law on Prevention and Combat of Trafficking in Persons has to be updated in order to bring it into compliance with international norms. This study looks at case studies, rehabilitation program effectiveness, and gaps in both legislative frameworks of several nations, providing suggestions to improve victim rehabilitation procedures. The ultimate goal of the research is to support the creation of stronger laws that give victim restoration first priority. This will be achieved by highlighting a victim-centered strategy that overcomes the challenges of reintegrating into society while advancing the rights and welfare of the affected parties. This article provides for comparative analysis of legislation relating to reformation and rehabilitation of victims of immoral trafficking in India and Vietnam.

Keywords: Victim, victimology, rehabilitation, immoral trafficking, compensation

INTRODUCTION

Immoral trafficking, referred to as human trafficking, involves illegal movement of individuals which includes men, women, and children who are abducted across borders or within countries for exploitative purposes. Immoral trafficking is a severe violation of human rights and encompasses various forms of exploitation, including forced and bonded labour and sexual purposes.

Definition of Immoral Trafficking

The act of obtaining removing, or coercing someone for the purpose of prostitution or other types of sexual exploitation known as immoral trafficking. This covers a variety of tasks like:

- **Forced Sex Work:** Women's trade Luring smugglers with false promises is one strategy to enslave people worldwide, including adults and children. Women and children who experienced extreme poverty and social exploitation due to their lack of education are more vulnerable to being trafficked into prostitution. Under some circumstances, the traffickers brought them to big cities to work as domestic helpers, construction workers, or in farmhouses in exchange for a bogus employment offer and false salary. After that, they pushed them into having commercial sex.
- **Domestic servitude:** Indoor or domestic slavery is the seemingly widespread practice of live-in assistance being used as a justification for mistreatment and control of another, generally by another. Although it is a type of forced or bonded work, domestic servitude may also be considered a form of slavery due to the unique conditions and complications it presents. When migrant labourers arrive in their target country and are required to pay a loan or recruiting fee in order to continue their journey, this is a type of slavery. During the course of the project, the agreement turns into a kind of slavery if the recruiter or supervisor demands unreimbursed expenses like accommodation or food.¹
- **Labour exploitation:** An estimate of 21 million people are thought to be forced labourers, many of whom are seized for the purpose of sex slavery and who are most likely compelled to labour in terrible conditions for no pay. The other forms of slavery include coerced and exploited women and children, child work, forced labour, and female servitude. People are subjected to unjust working circumstances by elected

¹ Shodhganga : a reservoir of Indian theses @ INFLIBNET, Inflibnet.ac.in (2024), <https://shodhganga.inflibnet.ac.in/bitstream/10603/391130/10/chapter-%202.pdf> (last visited Oct 01, 2024).

governmental authorities, business and other entities in order to unfairly gain from and exploit their careers, Any task or service that a worker does not voluntarily provide is considered forced or obligatory labour as defined by the International Labour Organization's (ILO) Convention on Forced Labour. Sexual services will also be imposed onto those who work under duress.

- **Organ Trafficking:** Sometimes human trafficking also involves the illegal trade of organs like kidneys, liver and corneas for transplantation purposes.

In India, the Immoral Traffic (Prevention) Act (ITPA) of 1956 aims to tackle these concerns by making prostitution and trafficking-related acts illegal. Prostitution is defined as the exploitation or abuse of sexual relations for profit. The Act seeks to shield women and girls from human trafficking and to stop the commercialisation of vices.²

HISTORY AND CONTEMPORARY OVERVIEW

Human trafficking goes beyond a long time that intertwines with social, economic and legal developments over the centuries. This overview will cover both historical and contemporary aspects of human being.

Origins and Early Developments

The transatlantic slave trade, which started in the 16th century, is where human trafficking got its start. Millions of Africans were forcibly transported to the America at this time in order to be exploited as labourers. This trade's heritage established fundamental beliefs about the exploitation of human beings. By the late 1980's, women being trafficked for the purpose of sexual exploitation was receiving a lot of attention. Around this period, the phrase "white slavery" first used, referring exclusively to the forced prostitution of white women. Moral outrage and reform initiatives with the goal of shielding women from exploitation resulted from this. One of the earliest international accords addressing human trafficking was the International Treaty for the suppression of the White Slave Traffic, which was created in 1904. Aiming to counteract the trafficking of women and children for illicit purposes, it reflected public worries on moral decline and prostitution.

Current Scope and Statistics:

Human trafficking is a ongoing global issue, with estimates suggesting that approximately 40

² admin, *IMMORAL TRAFFICKING*, IILS Blog (2017), <https://www.iilsindia.com/blogs/immoral-trafficking/> (last visited Oct 01, 2024).

million people are victims of slavery which includes forced labour and sexual exploitation. Around 5 million are said to be victims of sexual exploitation, which consists over 20% of that number. The human trafficking sector is one of the most profitable segments of organised crime, second only to drug trafficking and arms selling, with an estimated \$150 billion in revenue generated yearly. A large amount of trafficking takes place within borders, either national or regional. For example, rather from being trafficked over international borders, many victims are trafficked for exploitation within their own countries.

Victimology:

The study of human trafficking victims' needs, experiences, and difficulties is known as victimology. This area of study looks at the effects of human trafficking on victims, the causes of their victimisation, and the resources accessible to them for help. Although the origins of human trafficking victims are diverse, some groups are disproportionately impacted. Particularly at risk are women and children, who are frequently trafficked for forced labour or sexual exploitation. Susceptibility is increased by social marginalisation, low levels of education, and unstable economies. Significant psychological distress, such as anxiety, sadness and post-traumatic stress disorder(PTSD), is commonly experienced by victims of human trafficking. It can be challenging for victims of human trafficking to identify as such due to the manipulation and compulsion that traffickers employ, which can cause feelings of powerlessness and humiliation. Because traffickers manipulate their victim's minds, many victims are unaware that they are the victims of human trafficking. They can believe that they are to blame for their situation or worry that if they ask for assistance, the authorities or their traffickers would punish them.

NEED FOR RESTORATION AND REHABILITATION OF VICTIMS OF HUMAN TRAFFICKING

Restoration and rehabilitation are vital, diverse processes that cater to the unique needs of those who have experienced extreme trauma and exploitation as victims of human trafficking. In addition to helping the victims heal, this procedure is crucial for their reintegration back into society, which will enable them to regain their lives and dignity. An analysis of the particular difficulties experienced by victims of human trafficking, the elements of efficacious restoration and rehabilitation initiatives, and the wider social ramifications are necessary to comprehend

the necessity of efficient restoration and rehabilitation.³

Challenges Faced By Victims

Human trafficking victims frequently experience severe physical and psychological stress. Many have been subjected to coercion, aggression, and manipulation, which has had a lasting negative impact on their mental health. Post-traumatic stress disorder (PTSD), anxiety, despair, and feelings of guilt or shame are common psychological problems. Their inability to fully reintegrate into society may be hampered by these emotional wounds, since they may have trust difficulties and a dread of being victims again.

Additionally, prejudice and societal shame are commonplace for victims of human trafficking. Their experiences may cause individuals to become estranged from their communities, which makes it challenging for them to mend fences with friends and relatives. Another major obstacle is the state of the economy; many survivors do not have the means or skills needed to find steady work following their experience.

Importance of restoration and rehabilitation of victims of human trafficking

In order to address the severe trauma and exploitation that victims of human trafficking have experienced, restoration and rehabilitation are crucial. Human trafficking is a serious human rights violation, and after victims escape their circumstances, they frequently confront difficult psychological, social, and financial circumstances. Thus, for their recovery, reintegration into society, and to avoid becoming victims again, it is imperative to undertake efficient restoration and rehabilitation programs.

- **Psychological Healing** – It is one of the basic needs of human trafficking survivors. Most of the victims suffer from severe mental health problems due to the trauma they face during their exploitation. Survivors frequently have disorders such post-traumatic stress disorder (PTSD), anxiety, sadness, and feelings of shame. In order to meet these psychological demands, rehabilitation programs that include trauma-informed treatment are essential. These programs offer therapy and counselling services designed to support victims in processing their experiences in a secure setting. Survivors can start

³ Heather Clawson, Amy Salomon & Lisa Grace, *TREATING THE HIDDEN WOUNDS: TRAUMA TREATMENT AND MENTAL HEALTH RECOVERY FOR VICTIMS OF HUMAN TRAFFICKING*, <https://aspe.hhs.gov/sites/default/files/private/pdf/75356/ib.pdf>.

to restore their feeling of self-worth and autonomy over their life by creating a supportive environment.

- **Economic Empowerment** - Achieving economic independence is yet another essential component of successful recovery. Many victims of human trafficking are at risk of being trafficked again because they lack the knowledge or resources necessary to find steady work following their trauma. Programs for vocational training that are adapted to the demands of the local labour market can provide survivors with the tools they need to find work, promoting independence and lowering their chance of reverting to abusive circumstances. By lowering poverty rates, economic empowerment not only promotes personal healing but also the stability of larger communities.
- **Social Reintegration** – Social reintegration needs to be a key component of rehabilitation programs. When victims return home, they frequently experience prejudice and stigma, which makes it difficult for them to mend fences with friends and family. In order to promote empathy and support for survivors, community participation is a crucial component of effective rehabilitation projects. This might involve educating the public through awareness campaigns on the effects of human trafficking on both people and communities. Communities may provide a more supportive atmosphere for survivors and aid in their reintegration by encouraging empathy and understanding.
- **Long-term Support Systems** – Recuperation and restoration that are successful require long-term support networks beyond emergency care. Reintegration can be a multi-stage process that takes years to complete and involves crisis response, transitional support, and full reintegration into society. Every step has its own set of difficulties that call for constant support from service providers. In order to guarantee that survivors get the assistance they need while navigating the challenges of starting again, follow-up services are crucial.

INDIAN LAWS AND SCHEMES REGARDING COMPENSATION OF VICTIMS OF CRIMES

After independence, the Indian legal system changed to focus more on compensating crime victims. The Code of Criminal Procedure, 1898, only permitted compensation in cases where the offender was penalised, prior to 1974. Nevertheless, the 1973 statute of Criminal Procedure (CrPC) took its place after this statute was abolished in 1974. The Code of Criminal Procedure (Amendment) Act of 2009 introduced the Victim Compensation Scheme (VCS) by inserting

section 357A into the Code of Criminal Procedure. With the goal of ensuring rehabilitation for victims and their dependents, this system requires Indian governments to pay victims for their losses and injuries. After independence, the Indian legal system changed to focus more on compensating crime victims. Prior to 1974, reimbursement was only permitted in cases where the offender was penalised under the Code of Criminal Procedure, 1898.

The compensation amount is set by the District Legal Service Authority (DLSA) or State Legal Service Authority (SLSA) in accordance with the minimum and maximum limitations stipulated by their respective states. In the event that the victim still requires rehabilitation after an acquittal or release, if the accused's compensation is insufficient for rehabilitation, or if the perpetrator cannot be located, compensation may be given. The only way to get compensation is through a court recommendation, however victims can apply. The District Legal Service Authority (DLSA) or State Legal Service Authority (SLSA) is responsible for determining the compensation amount, based on the minimum and maximum limits prescribed by their respective states. Compensation can be provided in three situations: if the accused's compensation is insufficient for rehabilitation, if acquittal or discharge has been granted but the victim still needs rehabilitation, or if the offender is not traced. Compensation can only be provided by court recommendation, but victims can apply for it.

In *Ankush Shivaji Gaikward v. State of Maharashtra* (2013), the Supreme Court stressed that courts have an obligation to consider compensation in all criminal cases. The court contended that if victim compensation laws were disregarded, their intended purpose would be compromised. Only 2% of the 105 victims have gotten compensation under the Victim Compensation Scheme (VCS), according to the National Human Trafficking Rehabilitation Council (NHRC), and the victims' parents have not received any money from the program. Two victims were compensated through VCS, according to the study. One victim received 30,000 rupees from DLSA, which was enough to cover short-term requirements but not enough for long-term ones. 1,05,000 rupees was given to the other, helping to cover both immediate and long-term expenses. A criminal rehabilitation program's coverage and compensation amount closely correlate with its efficacy. The poor coverage of the system has been called attention, nevertheless. There is no uniformity in the amount of compensation since each state sets its own boundaries. Despite the minimum specified level, Rajasthan has a maximum restriction of 1 shortfall. Concerningly, just 27% of victims receive compensation after two to three years, compared to 71% who receive it in less time.

REHABILITATION AND REINTEGRATION OF VICTIMS OF TRAFFICKING UNDER VIETNAMESE LAWS:

Repatriation is crucial for victims of trafficking, especially women and children, according to the Training Manual for Combating Trafficking in Women and Children. It highlights the necessity of taking action to stop trafficking before victims go back to their native countries. The handbook has a strong emphasis on the social, political, and economic aspects of second- and third-time trafficking. Pre-departure preparations are very important because victims who return home may become powerful activists in their communities against human trafficking. The handbook was created as a component of an interagency UN effort on human trafficking in the sub-Mekong area. Help is needed for victims of human trafficking to heal from their trauma and reintegrate into their communities, especially women and children. Retrafficking and exploitation can be avoided with the use of services including housing, financial assistance, counselling, and career training. For these victims, particularly those with STDs, regulations pertaining to free medical care and housing are crucial. For victims who are children, special assistance and programs are required. Through legal instruments such as the Protocol to Prevent, Suppress, and Punish Trafficking in Persons, the Global Programme Against Trafficking in Human Beings, the 2002 UNOHCHR Guidelines, the United Nations Declaration of Basic Principles, and ILO 182, the international community has committed to protecting victims.

Over 1,200 victims of trafficking, mostly women and children, either self-returned to Vietnam or were deported from other countries during 2005 and 2006. This represents an increase in the number of victims of trafficking returning to Vietnam. According to data analysis, 25% of victims were deported formally, 5% were freed by traffickers after being charged, and 75% of victims self-returned. Only 8% of victims, meanwhile, made their way back to Vietnam, and the majority of victim receipt cases were handled covertly. Most of the women and children that are trafficked are from remote, rural, and hinterland areas. They frequently lack formal education and deal with poverty, hunger, and economic hardships. Shame prevents many women and girls who were employed in the sex business from telling their families and communities about their experiences. Many of them returned sick, suffering from illnesses brought on by their situations of exploitation, drug or alcohol misuse, or physical or sexual assault. The majority of them suffer from emotional or psychological issues, spine injuries, respiratory issues, TB, malnourishment, mental health issues, STDs, including HIV/AIDS,

assault-related injuries, and consequences following abortion.

COMPARATIVE ANALYSIS LAWS RELATING TO REHABILITATION OF VICTIMS OF HUMAN TRAFFICKING IN INDIA AND VIETNAM

The techniques, frameworks, and implementation mechanisms of the laws pertaining to the rehabilitation of victims of human trafficking in Vietnam and India exhibit notable similarities and variations when compared. Both nations have put in place legislative frameworks intended to protect and rehabilitate victims because they understand how urgent it is to combat human trafficking. However, depending on execution, available resources, and cultural settings, these laws' efficacy varies.

Legal Frameworks

In order to combat human trafficking, India's Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill, 2018 proposes to create Protection Homes where victims may get food, housing, counselling, and medical attention. In order to supervise rehabilitation initiatives, it also forms anti-trafficking groups at the district, state, and federal levels. Rehabilitation is not dependent on how criminal cases against traffickers turn out, so victims are supported no matter what happens in court. On the other hand, the 2011 Law on Prevention and Combatting Human Trafficking in Vietnam protects victims and makes trafficking offences illegal. Protection Homes are established, investigation and rehabilitation agencies are mandated, and measures.⁴

Rehabilitation Services

The legal frameworks of Vietnam and India place significant emphasis on the provision of rehabilitation services. The victim-centered strategy included in India's proposed bill includes long-term rehabilitation programs, medical attention, vocational training, and psychological assistance. Vietnam's strategy includes medical attention, secure housing, psychosocial assistance, and extensive support services. However, issues continue because victim aid staff members lack proper training.

⁴ Prsindia.org (2018), <https://prsindia.org/billtrack/prs-products/prs-legislative-brief-3046> (last visited Oct 06, 2024).

Challenges in implementing

Both nations have strong legal systems in place, but they yet have a lot of difficulties putting their different laws into practice. The successful provision of rehabilitation services in India is hampered by problems like insufficient money, bureaucratic inefficiencies, and a lack of cooperation between different government organisations. Even though legislation like as the Immoral Traffic (Prevention) Act have established protective homes, it is sometimes unclear to victims where they should be taken after being rescued. Although victim assistance services are clearly required by law in Vietnam, social workers and law enforcement personnel are not well trained. Effective attempts to curb human trafficking may be further complicated by government corruption, according to reports. Furthermore, the shame that society places on victims of human trafficking may discourage them from disclosing their experiences or asking for assistance.

Community involvement

Involving the community is essential to the success of rehabilitation initiatives in both nations. In India, awareness initiatives to lessen the stigma attached to trafficking survivors are used to promote community involvement. Local non-governmental organisations frequently have a significant impact on victim's rights advocacy and support services. Vietnam has acknowledged the value of community assistance in its efforts to combat human trafficking. In an effort to eliminate human trafficking, national action programs have been introduced to increase public awareness of the issue and encourage community participation. Nonetheless, more has to be done to promote an accepting atmosphere where survivors feel comfortable asking for help.

INTERNATIONAL COOPERATION AND CROSS BORDER ISSUES IN INDIA AND VIETNAM

For nations like Vietnam and India, international collaboration and cross-border difficulties in human trafficking pose serious potential and challenges. Both countries are impacted by the intricate dynamics of human trafficking, which are frequently made worse by open borders, differences in income, and cultural norms. This evaluation looks at the condition of global cooperation today, the measures in place to stop human trafficking, and the particular cross-

border problems that both nations deal with.⁵

Cross-Border Trafficking Dynamics

Vietnam's location as a nation of origin and transit is the main factor driving human trafficking in the country. Routes for cross-border trafficking are made easier by the lengthy and porous borders with China, Cambodia, and Laos. Organ harvesting, forced labour, and sexual exploitation are common reasons for victim trafficking. Ethnic minorities, women, and children are among the high-risk populations. Movement from northern Vietnam to China, from southern Vietnam to Cambodia, and from there to nations like Malaysia and South Korea are the three primary trafficking routes that have been discovered. Due to the socioeconomic divide between urban and rural regions, Vietnam must improve its border security and victim protection measures to reduce the risk of human trafficking.

Cross-border trafficking is another major issue that India must deal with, especially in relation to its neighbours Bangladesh and Nepal. Thousands of women and children are reportedly trafficked into India each year for the purposes of forced labour and sexual exploitation. The absence of strict border restrictions might make it easier for traffickers and their victims to move around, making the open borders between India and Bhutan a challenge to counter trafficking activities³. Furthermore, victims of human trafficking from many locations use India as a transit and destination countries.

International Cooperation Mechanisms

Vietnam and India agree that international collaboration is necessary to successfully combat human trafficking. The Vietnamese government has launched a number of national action initiatives to strengthen anti-trafficking legislation and improve victim care. International organisations that offer law enforcement authorities training and technical support fund these initiatives¹. However, due to inadequate training for staff members participating in victim aid, implementation flaws still exist. In order to stop human trafficking, India has also participated in international collaboration by signing a number of bilateral agreements. For example, the Memorandum of Understanding (MoU) that Bangladesh and India signed focusses on creating collaborative task forces, improving repatriation procedures, and broadening the definition of

⁵ Ngoc Bich, Nguyen & Mark Gordon, *Human Trafficking and Gender Inequality in Remote Communities of Central Vietnam*, 12 *Journal of Social Change* 134 (2020), <https://scholarworks.waldenu.edu/cgi/viewcontent.cgi?article=1259&context=jsc>.

trafficking. 4. UNODC-organized workshops have also made it easier for law enforcement officials in Bhutan and India to share expertise about how to enhance their border management systems.⁶

VICTIM-CENTRIC APPROACHES AND GENDER SENSITIVITY IN REHABILITATION IN INDIA AND VIETNAM

Rehabilitating victims of human trafficking necessitates a victim-centered strategy that places a strong emphasis on gender sensitivity, particularly in nations like Vietnam and India. These countries have particular potential and problems when it comes to meeting the needs of victims of human trafficking. In order to empower survivors and ease their reintegration into society, organisations like as the Vipla Foundation in India offer extensive support services that include psychiatric treatment, vocational training, and legal aid. In its National Strategy on Gender Equality for 2021–2030, the Vietnamese government has acknowledged the significance of victim-centered policies in order to improve women's involvement in a variety of sectors and address vulnerabilities that contribute to human trafficking. However, because of discrimination and shame in society, many victims still encounter major obstacles when trying to receive support services. Creating efficient support systems requires an understanding of these situations. Given that women and girls make up a sizable share of trafficking victims, gender awareness is essential to rehabilitation initiatives. Gender-sensitive techniques are included into rehabilitation programmes in India by acknowledging the distinct obstacles encountered by female survivors. For example, many programs for vocational training are designed with women in mind, and they handle concerns like childcare obligations and cultural expectations that could make it difficult for them to fully engage in economic activity. Gender inequality is still a problem in Vietnam, which makes women more susceptible to being trafficked. The Vietnamese Women's Union is essential in promoting women's rights and offering services of assistance that are specifically designed to meet the requirements of female victims. However, women's access to resources and decision-making processes are frequently restricted by strongly ingrained cultural norms.⁷

⁶ Jeff Otto, *YL Blog #61 - The Way Forward: How Vietnam Can Step Up Its Fight Against Human Trafficking*, Pacific Forum (2024), <https://pacforum.org/yl-blog-61-the-way-forward-how-vietnam-can-step-up-its-fight-against-human-trafficking/> (last visited Oct 09, 2024).

⁷ Vietnam Briefing, *Vietnam Implements Gender Equality Strategy but Challenges Remain*, Vietnam Briefing News (2021), <https://www.vietnam-briefing.com/news/vietnam-implements-gender-equality-strategy-but-challenges-remain.html/> (last visited Oct 10, 2024).

CONCLUSION

The rehabilitation and reintegration processes for victims of human trafficking in Vietnam and India are compared in this study. Both nations have legal systems in place to safeguard victims and offer avenues for rehabilitation and reintegration. However, social perceptions of trafficking victims, stakeholder cooperation, and the availability of resources all affect how successful these frameworks are. The infrastructure for rehabilitation in India is dispersed, with several plans and programs offering housing, healthcare, legal assistance, and vocational training. Overcrowding in shelters, poor mental health treatment, and uneven access to resources are among the problems. Successful reintegration is often hampered by societal stigma, especially towards women who are trafficked for sexual exploitation. Vietnam's Law on Prevention and Combat Against Human Trafficking and Decree 09/2013 provide explicit principles and a more centralised approach. Nonetheless, societal stigma and a lack of resources continue to prevent many initiatives from reaching their full potential. The long-term rehabilitation of victims and the cooperation of law enforcement, social services, and non-governmental organisations present difficulties for both nations. India's decentralised system has made it possible to provide a greater range of services, but its execution is inconsistent and uneven. Vietnam's centralised approach offers more transparent frameworks, but it has trouble guaranteeing enough funding and outreach, particularly in rural areas.

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