

ISSN: 2582-6433



INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS

Open Access, Refereed Journal Multi Disciplinary
Peer Reviewed 6th Edition

VOLUME 2 ISSUE 7

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INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS
ISSN

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HUMAN TRAFFICKING

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Introduction

Human trafficking is a sore wound on the modern civilization, an offence against humanity and justice. It is a classified form of modern slavery and is now also a part of the organized crime. It is not only inclusive of physical abuse but also leads to mental and social prosecution. Today we have a pressing need to discuss this grievous offence as according to National crime records bureau 2019 report 2260¹ cases of human trafficking were reported and this number keeps on increasing with each passing day encompassing in itself innocent lives, vulnerable due to societal Malfunctioning.

In order to reduce human trafficking UN has listed a few countries as tier 3 countries which are the worst hit by the menace of human trafficking and require immediate attention for improving conditions. Russia in order to expand its bilateral relations with North Korea has allowed labor camp for workers within Russian borders, this activity has promoted human trafficking and has thus pushed Russia along with China, Iran, Belarus, Venezuela into the 3-tier list.

Causes and modes of human trafficking

In today's fast paced world there are innumerable reasons and causes for human trafficking. Not only do they change from country to country but also vary in intensity with a change in state and location. Causes for human trafficking are influenced by social economic and cultural factors.

One of the most dominant causes for human trafficking is the urge of the poor and down

¹ National crime records bureau, *Crimes in India* (Tuesday, January 1, 2019)

<https://ncrb.gov.in/sites/default/files/crime_in_india_table_additional_table_chapter_reports/Table%2014.1_5.pdf> accessed 16 July 2022

trodden to migrate and improve their living conditions. This desire to migrate is not only limited to the marginalized section of society but also to individuals who immigrate to foreign countries and to more prosperous societies. This migration is characterized by initial corporation replaced by more repressive means when the person gets dependent on the facilitator. There can be various reasons for migrations, major reasons which promote this dominant reason are poverty, oppression, lack of human rights, political instability.

Children and majorly females are more vulnerable to human trafficking. Destabilization and displacement are seen as major reasons which force vulnerable kids into the mud of human trafficking, some parents not only for money but also, in the hope of a better and secured future of their children sell their kids to these organizations dealing with human trafficking.

One of the most prominent social factors which aids human trafficking is the male chauvinist society, the devaluation of women combined with objectification of them and seeing them as property are all characteristic features of a patriarchal society. This Low-key treatment and lack of respect experienced by female members of the society often forces them to be at the mercy of these traffickers. ill managed Borders, corrupt governments, International organized criminal groups, lack of adequate legislations and political will are some of the political reasons favoring human trafficking. History also has not been so kind to these vulnerable section racism and legacy of colonism, the one which favors slave trade is also a support to this heinous crime of human trafficking.

Transporters usually use modes of addiction of drugs, allurement of opportunity as ways of persuading people to get into this vicious cycle. Bride trade, demand for cheap labor, need for sexual labor, lack of education are other reasons which promote this practice of human trafficking in the interiors of India. Many people join this industry as facilitators or transporters, the main reason for which they join this industry is the huge margin or the large profit offered by this work.

Analyzing northeast India

In India the worst affected states are the eight sister States of North East, all these states are vulnerable because of their geographical location. They are in a landlocked region sharing 98% of India's border with Bangladesh, China Myanmar and Bhutan. The reason being lack of opportunities of good education and employment alongside complex ethnic conflicts have led to northeast becoming a source, transit and destination of illegal trafficking.

These States do not have a conducive environment for steady employment and social stability because of the economically weak population, regular armed conflict and political movements for autonomy. These reasons have made this region of the country unsuitable and unsafe for women and children. Lack of education has led to lack of social awareness and knowledge about the prevalent trends of human trafficking thus making the people more susceptible to this inhuman trade.

Skewed sex ratio in states like Punjab and Haryana provides incentive for flesh trade and this becomes a major reason for kidnapping and trafficking of young girls as brides specially from Assam to regions of West India. It is to overcome these practices that the compensation scheme was launched by the Manipur government.

In the region we witness uneven development between urban towns like Kohima & Dimapur and other far-flung districts. This difference in the degree of urbanization has also created a new demand for home help thus pushing the children from backward regions into child trafficking to satisfy this newly created urban demand for help. Long drawn political instability, ethnic difference, rural urban divide, lack of consciousness dearth of unemployment and poverty make people vulnerable to false opportunities, forcefully leading them into the viscous cycle of commercial sex and trafficking

New trends can also be observed in this industry of human trafficking, there is an expansion of network with development of new routes. Often traders act as missionaries to get control of children using the naivety of unaware parents, promising them quality education and a life full of virtues.

This can be better understood by reference to the case study of Grace Home. 8 Children from Nagaland were rescued from Grace home, a human trafficking center in Jaipur Rajasthan. These children belong to remote village area of Peren district. The minor girl among the children was raped and molested. The children were never sent to school and were kept in unhygienic places in starved conditions.

Government initiative to combat human trafficking

Initiatives by ministries

The Ministry of Home affairs has initiated anti trafficking nodal centers in various States, the centers are effectively working in the states like Assam, Maharashtra, Andhra Pradesh and many more places. These centers have led to the formation of integrated anti human trafficking units (IAHTU). These units are a unique structure to ensure cooperation between various units of government in order to protect the structure of human protection. These units act as a relay center between the police department, development department and civil society. Composition of the department comprises sensitive officers and NGOs. It is for the better functioning of these departments that grants are provided for post rescue cases, for electronics support in terms of computer systems and transportation assistance by provision of vehicles.

3 IAHTUS have started functioning in Andhra Pradesh in the regions of Eluru, Anantapur, Hyderabad. Units are also established in regions of West Bengal with the main aim of creating a link between all the state shareholders, conduct raid and rescue operations and for organizing investigation on cross border crimes, not only this but the organization works for creating awareness among the population by holding regular public meetings and rallies. To understand the functioning, we can take the example of Maharashtra IAHTU which recently caught hold of a Swiss couple in Mumbai for child trafficking and child pornography for distribution on the internet.

The ministry of labor and employment has implemented various legislation for reduction of human trafficking, they have implemented the Child Labor (Prohibition and Regulation) Act, 1986 which prohibits employment of children under the age of 14 in hazardous activities. It is through this legislation that they aim at reducing the number of children trapped in human

trafficking as often children are abducted for forceful employment in hazardous industry for example bangle making industry, firecracker-based industry.

The ministry of women and child development has initiated for protection of human trafficking victim's various schemes, ujjawala scheme is one of them which focuses on rehabilitation and reintegration of victims who were employed in the inhuman activity of commercial sex, swadhar and short stay home scheme is also an initiative by the ministry to provide housing food and shelter facilities to the victims majorly women and children.

legislative safeguards against human trafficking

Bonded labor system (abolition) act, 1976 was enacted for abolition of physical, mental and social exploitation of laborers and protecting them from bonded labor. This practice is known by various names in different regions of the country some of the prominent names it can be recognized with our Adiyamar, Baramasia, Basahya, Bethu, Bhagela, Cherumar, Garry-galu, Hali, Hari, Harwai, Holya, Jana, Jeetha, Kamiya, Khundit-Mundit, Kuthia, Lakhari, Munjhi, Mat, Munish system, Nit-Majoor, Paleru, Padiyal, Pannayilal, Sagri, Sanji, Sanjawat, Sewak, Sewakia, Seri, Vetti. This act also provides for a punishment ranging from imprisonment up to 3 years to fine up to 2000 rupees for an act which can be considered as bonded labor according to section 16 and 17 of this act.

Indecent representation of women (prohibition) Act, 1986 according to section 3 of this act nobody should publish any form of material which promotes human trafficking of women as these terms are inclusive in the definition of as given in the act the landmark judgement of *State of Bombay v. RMD Chamarbaugwala*² the supreme court found that an illegal or indecent trade does not come within the meaning of trade commerce or inter.

Human trafficking in India is also prohibited by the means of the constitution. As the Indian constitution through fundamental rights guarantees certain human rights and therefore leads to the protection of people from the inhuman act of trafficking, article 21 of the Indian constitution provides protection to life and personal liberty, article 23 of the Indian constitution ensures

² 1957 AIR 699, 1957 SCR 874

prohibition of trafficking of human beings and forced labor. It is by the interplay of both these rights that an individual is protected from human trafficking and can seek remedies for its violation. The Indian penal code provides protection from sexual exploitation under section 366a IPC, section 366 b, section 370a and section 374.

Section 366a IPC deals with inducement of a minor girl under the age of 18 years for any kind of illicit intercourse, this section makes this activity a punishable offense. Section 366 b of the IPC deals with importing any girl under the age of 21 years only for the motive of illicit intercourse with another person, the person who will be indulged in such an activity will be punishable by this section. Section 370 of IPC gives the definition of the offense of trafficking while section 374 deals with unlawful compulsory labor which can also be of bonded labor. In the case of People's union for democratic rights v. union of India³ the supreme court defined the meaning of force labor.

Juvenile Justice (Care and protection of child) Act 2000 is also a key legislation made for protection vulnerable kids, Karnataka devadasi (Prohibition of dedication) Act, 1982 also protects any girl with or without consent of the dedicated person engaging her in activities related to illicit sexual exploitation. Goa children's act, 2003 is an act Solely dealing with trafficking and sexual exploitation this act also includes in its ambit sexual assault and takes into account managers and owners of these trafficking gangs.

International instruments

There are various kind of international instruments having direct and indirect influence on the human trafficking protection mechanism in India.

Some of the international instruments signed by India are the international convention for the suppression of the traffic in person and of the exploitation of the prostitution of others 1949, this convention was signed by India on May 9 1950 it was in response to this convention that various redressal mechanism, reintegration system was developed in India. The convention on

³ 1982 AIR 1473, 1983 SCR (1) 456

consent to marriage. The convention is based on article 16 of the universal declaration of Human rights⁴ the convention reforms that consensual nature of marriage and requires the parties to it established a minimum marriage age by law and to ensure the registration of marriage. This convention was enforced with effect from 9th December 1964. Instruments Pertaining to Child Smuggling, Children are frequently fooled, compelled to abandon their homes, traded, or pushed into employment, such as convict leasing or sexual objectification, after which they are put to work. Although there is a global risk of human trafficking for men, women, and children, this risk is greatest for daughters. This agreement, which was ratified in 1989, makes all forms of human trafficking illegal. According to Article 39 of the treaty, nations must conduct all reasonable action to stop child exploitation. The 1949 UN Convention to Combat Traffic in Persons and the Subjugation of Prostitution of Others. It became effective on July 25, 1951. The United Nations General Assembly did, however, ratify it in 1949. As per Article 1 of the convention, stakeholders who approved it concurred to prosecute anyone charged and convicted of: (1) Procuring, enticing, or leading away other parties for the purpose of commercial sexual exploitation, even with that partner's knowledge; (2) Exploiting the sex workers of another person, even with that individual's consent.

The regional level also has protocol for prevention of trafficking. The two instruments which India is a part of our SAARC convention on prevention and combatting traffic in women and children for prostitution, 2002 and SAARC convention on regional arrangements for the promotion of child welfare in South Asia 2002. Both these instruments aim at providing protection to children and women from sexual harassment, and providing them with conducive environment for their reintegration and development.

Judiciary has also played a key role in implementation of these mechanisms within the country. The honorable Supreme Court in two of its leading judgments held that even in the absence of domestic legislation if a country is a part of an international treaty of convention the convention would be applicable through the course discretion.

Landmark cases relating to human trafficking

⁴ United Nations, *Universal Declaration of Human Rights*, 1948.

Vishal Jeet v. Union of India⁵: The above writ petition was filed as a public interest litigation under Article 32 of the constitution. The main concern was to safeguard victims of sexual subjugation and help them find professional treatment, support, temporary housing, professional training, and mentoring in range of disciplines of daily existence so that they could choose a more respectable lifestyle.

Bandhua Mukti Morcha v. Union of India⁶: This decision was made in opposition to labor exploitation. The Judge Ruled the authorities to compensate rehomed bonded workmen under the Bonded Labour System (Abolition) Act of 1976. It was also deemed a profound abuse of human rights by the court. The court stated that if bonded workers are not rehabilitated, their situation will deteriorate far beyond what it was before the recovery process.

Gaurav Jain v. Union of India⁷: The panel was mandated by the Supreme Court to investigate child prostitution, rescue efforts, and rehabilitation. Main goal is to arrest immoral traffickers of women under the Immoral Traffic (Prevention) Act through inter-State or Interpol arrangements and a nodal agency such as the CBI. In response to the Supreme Court's order in the Gaurav Jain case, the Central Government established a Committee on Prostitution, Child Prostitutes.

*Budhadev Karmaskar v. State of W. B*⁸: The establishment of a public assistance panel and career training are both involved in this case. The Supreme Court ruled that under Article 21 of the Indian constitution victims of sexual assault also have a right to life. Their issues must be resolved, according to the court. The administration was ordered by the court to introduce activities and programs to give them skills courses for the improvement of their capabilities.

Human rights-based approach to combat human trafficking

Human trafficking is both a cause and a consequence of human right violation during the incidents of trafficking various kinds of human rights are violated like right to life liberty and security derived not to be submitted to sleep your syllabus or bonded labor the right not to be

⁵ 1990 AIR 1412, 1990 SCR (2) 861

⁶ 1984 AIR 802, 1984 SCR (2) 67

⁷ AIR 1997 SC 3021

⁸ [2011] 10 S.C.R. 577

subjugated or tortured the right to from gender violence the right to freedom of movement the right to the highest attainable standard of physical and mental health and many more.

These are some of the most basic rights for an individual's existence in one development and progress to become the best version of once on cell. It is with the violation of these basic rights that an individual is exposed to violation not only on physical ground but also on the mental front. When the survivors are free from the clutches of traffic, they still face various kinds of problems like that of distrust in the system, trauma, language or culture and barriers and lack of physical safety.

It is for these reasons that a human rights-based approach be adopted to reintegrate the victims, for a human rights-based strategy to succeed, inclusion, self-representation, and engagement of persons impacted by trafficking are essential elements. The involvement of survivors should be proactive, unrestricted, and significant so that they may express their opinions in accordance with pertinent policies and practices. Numerous international treaties acknowledge the significance of "rights holders" engagement.

Philosophical views

Various approaches are used to describe human trafficking. Numerous psychological, social, and other underpinnings support it. Mens rea and actus rea are both involved in this criminal behavior. It can be found in many different forms and ways, such as involuntary beggars, sex slaves, and debt bondage. Because of the mainstream press, it has now become a common word. Emerging economies like India are one example. This is based on a number of hypotheses.

A good explanation for human trafficking of women and children is conflict theory. Two key strategies used in human trafficking to manipulate the victim are fear and trauma. Being a victim of crime or a natural disaster is the basis for this hypothesis. Another illustration of this is poverty, where the majority of victims are from the nation's lower, more populous areas. They lack access to essential services and learning. One of the causes is the rise of the capitalist class, who are exclusively concerned with boosting earnings. They seek out the impoverished to take advantage of the poor and manipulate toward their own gain.

Observation and recommendation

The basic observations that can be derived from this research is that the government initiatives have not been implemented properly, especially with reference to the district child welfare committee, no strong steps have been taken for the implementation of the assigned work. There is an increase in the routes of trafficking and though this problem on its own is severe, it is added on by lack of factual information as in almost all the cases of the initial traffickers as they are the members of the community who have the trust and faith of the family and due to poor administrative system, no solid information is available about them.

In order to solve these problems certain recommendations can be to strengthen the child welfare systems by the government and to overcome the long pending dues in payment, dedicated offices should be appointed and a recruitment of fixed staff should be done. Moreover, sensitization programs in the village should be initiated, and a proper documentation system should be developed for getting better information about the local people who are in the expansion of the network of these trafficking units.

Conclusion

Human trafficking is a problem which is not easily understood by the society, though laws been made extensively to cover the wide gamut of crimes which take place under the umbrella word of human trafficking.

To fulfil simple human needs of food, shelter and survival the victims of human trafficking become easy prey to the vulturous eyes of the organised criminals who are ready to set bait and set in motion a sinister system which leads to a lifetime misery for the victims.

Today organisations around the world are working tirelessly to bring relief to such victims and to prevent innocent lives from being shattered from the ravages of human trafficking. Vigilant enforcement agencies, supported with well-equipped and stringent law-making machines are trying to bring cases of human trafficking down to a minimum level, but the greed of few and the compulsions of others is creating a challenge unfathomable to deal with.

Clear understanding and deep awareness of the problem, along with micro management of loopholes with continuous improvement at strategic level can generate confidence and motivation in the community of warriors fighting this battle for humanity and human dignity.