

LAW RELATING TO HUMAN TRAFFICKING IN INDIA: A STUDY

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ABSTRACT

Trafficking of women and children is a standout amongst the most contemptible types of infringement of human rights. The traffickers misuse them in different structures for budgetary profit. Human trafficking abuses numerous human rights of the people in question. The casualties of human trafficking face numerous outcomes as they deal with a lot of abuse and pressure even after they turn out from such status. This paper is an attempt to present the causes and consequences of trafficking. This paper studies the national legal perspective on human trafficking and the role of NGOs. At last, it turns out with measures for counteracting human trafficking.

KEYWORDS: Human Rights, Human Trafficking, NGOs, Traffickers, Women, and Children

INTRODUCTION

Human trafficking is turning into an inexorably common issue far and wide. Trafficking of human beings involves the transportation, harboring or receipt of persons by means of threat, coercion, abduction or fraud for the purpose of exploitation and violating their rights.¹ Humans are trafficked for the purpose of sexual slavery, extraction of organs or tissues, forced marriage, forced labor or domestic servitude. The problem of human trafficking, particularly in women and children has emerged as a grave social issue which is one of the most serious affronts to the dignity and human rights of people. Hamid Ansari, 12th vice-President of India has said in his speech² 'Human Rights and Human Wrongs', that reflexion is needed on some problems with human rights. He further added that in spite of the nearness of scholarly, legitimate and institutional structure of human rights, there are continuous queries relating to the efficacy of it in actual implementation.'

Trafficking is a gigantic industry which has been recognized as the fastest developing criminal industry in the world. The calculated significance of human trafficking alludes to the criminal practice with regards to the misuse of human beings where they are treated as products for benefit and after being trafficked are subject to long term exploitation. human trafficking has achieved an alarming situation as the degree of infringement of human right is incredible and inconceivable. The dismal part is that there is almost no attention to this wrongdoing among the majority. It is also because of its secret nature. It has turned out to be such marvellous issue that it has become hard to touch base at any consensual

¹ United Nations (2000). Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime.

² Lecture delivered by Hamid Ansari, 12th Vice President of India. "Human Rights and Human Wrongs." at Vigyan Bhawan, Delhi, 10th December, 2013

information as various organizations venture distinctive numbers.

As per Ghosh³ human trafficking in India can be classified into three groups:

(a) for business sexual misuse, (b) for exploitative work and (c) for different types of misuse like organ selling, asking, and so forth. A snappy examination of the accessible records and reports on trafficking uncovers that the dealt ladies and kids are forced or pushed into exercises like prostitution in warehouses or brewage bars, erotic entertainment, agricultural work, moving, trivial wrongdoings, residential work, farming work, begging, organ exchange and drug traffic.

Trafficking of people for "physical abuse or any type of sexual misuse, bondage or practices like subjection, subjugation and the constrained evacuation of organs" is prohibited.⁴ Cases covering a wide assortment of types of cutting-edge bondage have been enrolled under this segment. The Immoral Traffic in Persons Act 1956 additionally forbids the acquiring, instigating or taking of an individual with the end goal of prostitution. The Protection of Children from Sexual Offenses Act 2012 restricts scope of sexual offenses against kids younger than 18. Human trafficking incorporates a few unique parts, for example, sex trafficking, work trafficking, and organ trafficking. Sex trafficking is human trafficking into prostitution. Work trafficking is the point at which somebody is dealt into work that is non-sexual. For instance: a man dealt into homestead work, or a lady dealt into a hireling. In conclusion, organ trafficking is when individuals are dealt with the goal that their organs can be sold to be utilized into transplants. Individuals can be constrained into this trafficking by numerous methods, for example, physical power.

CAUSES OF HUMAN TRAFFICKING

There are several reasons for human trafficking. They are determined by political, economic and cultural factors

- *need for employment
- lack of education and information
- poverty
- Low level of literacy
- High demand for low-cost labor
- Aspiration to migrate abroad
- Family pressure
- Economic deprivation
- Low incomes

Studies by CSWB and others have revealed that most trafficked women are unmarried, divorced, separated or widowed. In today's scenario, women and girls are increasingly being hired as service providers which put them at risk. Simultaneously, the quickening pace of urbanization and heightened mobility resulting from the development of road links

³Biswajit Ghosh. "Trafficking in women and children in India: nature, dimensions and strategies for prevention." 13 IJHR 719 (2019)

⁴Section 370 of Indian Penal Code, 1860

are contributing factors. A culture of consumerism, materialism, the commodification of individuals and commercialization of sex distorts family needs and individual desires.⁵

CONSEQUENCES OF HUMAN TRAFFICKING

The victims in the process of trafficking in persons are abused and exploited in such ways lead that can short term and long run minor and severe psychological and physical attacks, diseases, etc. It can even result in permanent incapacity and death. The direct consequences of human trafficking are aggression, depression, disorientation, alienation and difficulties in concentration. Many studies have shown that injuries and traumas faced by the victims during the process of trafficking last long if they are not given proper care and treatment. Even the rehabilitation method could not cure such victims. Some of them find it very difficult to go and live back to their normal life. The sad part is that their rights are violated even if they are free from exploitation.

LEGAL FRAMEWORK OF HUMAN TRAFFICKING IN INDIA

Indian Penal Code,1860

The Indian Penal Code which was enacted in 1860 focus on the issue of human trafficking of human beings. It is stated in Section 370 and 370A of the Indian Penal Code. It prohibits the trafficking of women and children and recommended savage disciplines for the hoodlums. It sets out that any individual who purchases or sells the individual below the age of 18 years with the end goal of prostitution and for sexual misuse and for other corrupt purposes will be at risk to detainment for as long as 10 years and furthermore be at risk to fine

Section 366A- Procurement of a minor woman (below eighteen years of age) from one a part of the country to the other is punishable.

Section 366B- Importation of a woman below twenty-one years of age is punishable.

It additionally acknowledges cross border trafficking into harlotry and whoever imports into India from any country outside India, any woman below the age of twenty-one years with the goal that she might be, or realizing that it will generally be likely that she will be, constrained or enticed to illegal intercourse with another individual will be culpable with detainment which may can extend to 10 years or fine.

Constitution of India, 1950

The Constitution of India prohibits trafficking in persons and guarantees several of the internationally acknowledged numerous human rights norms like the right to life and personal liberty, the right to equality, right to freedom, the right to constitutional remedies. The right to be free from exploitation is additionally assured jointly of the basic rights of any individual living in India.

Article 23 of the Constitution: Guarantees right against exploitation, prohibits trafficking people at large and compelled labor and makes them punishable under law. Article 24 of the Constitution: Prohibits employment of youngsters below 14 years of age in factories, mines or other unsafe employment.

⁵ Sankar Sen, P.M Nair,(eds.),“A Report on trafficking on women and children in India2002-2003” vol 1 ISS, NHRC & UNIFEM, 9(2004)

Juvenile Justice (Care and Protection of Children) Act, 2000

Enacted in consonance with the convention on the Rights of the child. It consolidates and amends the law with reference to juveniles in conflicts with law and to youngsters in need of care and protection. The law is especially relevant to youngsters who are vulnerable and are thus probably to be inducted into trafficking.

This act provides for proper care, protection, treatment and cater to their development desires and offers a child-friendly approach keeping their best interest in mind while coping with them

The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989

Many victims of trafficking belong to marginalized groups. Traffickers target solely such area that is backward in social and attainment sense. This provides an extra tool to safeguard women and young ladies who belong to Scheduled Caste and Scheduled Tribes and additionally to form a greater burden on the trafficker or offender to prove his lack of connivance within the matter. If the offender has the data that the victim belongs to those communities then this act is effectively accustomed counter the offense of trafficking. Section 3 of this act deals with atrocities committed against individuals who belong to Scheduled Caste and Scheduled Tribes. It covers some forms of trafficking like forced or bonded labors and sexual exploitation of ladies. A minimum penalty of six months is given which can extend to 5 years if the offense is covered below this section.

Immoral Traffic Prevention Act of 1986

The administration of India endorsed the International Convention for the Suppression of Immoral Traffic in people and the misuse of the Prostitution of others in 1950. As an outcome of this endorsement of the tradition, the Government of India passed the Suppression of Immoral Traffic in Women and Girls Act (SITA) in the year 1956. In the year 1986, the demonstration was additionally corrected and changed which was known as the Immoral Traffic Prevention Act, 1986 (ITPA). This act aims to penalize those individuals who are indulged in the matter of trafficking in women and girls for an improper reason.

The offenses included are taking people for prostitution, confining people in premises where prostitution is continued, alluring or requesting for prostitution, making life on the income of prostitution, enchantment of an individual in authority, keeping a whorehouse or permitting premises to be utilized as a massage parlor, forbids work of kids in specific states of work of youngsters. The Immoral Traffic (Prevention) Amendment Bill, 2006 additionally center around trafficking which is accomplished for the reason for sexual misuse. So, there is no appropriate local enactment in India which battles all types of human trafficking.

TRAFFICKING AND HUMAN RIGHTS

The human rights talk is significantly quiet on this grave issue which needs prompt consideration and further thought. The Immoral Traffic Prevention Act, 1956 which was later corrected in 1986 has not taken human rights of exploited people in its range. It moreover missed the mark on obstruction discipline take off alone the delicate taking care of salvage and recovery of exploited people. Because of the poor state of restoration homes and absence of therapeutic and mental help to damaged exploited people, they move toward becoming a hotspot for re-trafficking. Also, with the low-dimensions of impoverishment and large amounts of debasement, India has turned

into the most exceedingly terrible sufferer. Trafficking in humans is a genuine attack against their respect and human rights. It is a gross infringement of basically all the fundamental rights provided to a normal citizen such as the right to education, freedom of speech and expression, right to live with dignity. It turns into a corrupt story of current bondage.

The houses of ill-repute are the caves of infringement of human rights. Women and young children who have been dealt and from there on exposed to business sexual misuse are "living epitomes of the extreme infringement of human rights". The survivors are to a great extent vulnerable spirits of the horrid story of exchange. At the point when the exploited people are captured as charged, indicted and even sentenced, the significance of rights ends up crazy. What was intended to change their complaints progresses toward becoming apparatus of persistent exploitation. This chilling story of issues calls for stern activity by legitimate and successful utilization of the accessible lawful arrangements.

Trafficking has turned into an emotive issue about which much has composed enthusiastically as opposed to unbiasedly on the grounds that it contacts the center of our convictions about ethical quality, equity, sexual orientation, and human rights. It must be the need region of the scholarly community, legalists and the common society. Human rights are the lifesaver of any popularity-based society. It can never be free talk. What is of dire significance is that there ought to be equivalent accentuation on translation and change as opposed to last assuming control over previous.⁶

ROLE OF NGOs

A report on the "Trafficking in Women and children in India" by Sankar Sen and P.M. Nair presents a blended image of the NGOs. At a certain point of investigation of overcomers of business sex abuse, they were inquired about the NGOs. Most of them have valued the functioning of the NGOs. In any case, when the unfortunate casualties were approached to react with respect to the job of NGOs, a great number of exploited people were ignorant of the NGOs commitment in the field of trafficking while few referenced it's working in HIV avoidance. In the present occasions, part of NGOs are effectively captivating themselves in the field of trafficking, in particular, Human Rights Watch, Amnesty International, OXFAM, Save the Children, the Red Cross, Action Aid, and Shakti Vahini. They have been reveling in social observing and propelling the information on human rights.⁷

HOW TO PREVENT HUMAN TRAFFICKING

Mishra⁸ has referenced that any nation to a great extent has two approaches in fighting human trafficking. These are:

Accused oriented: law and order problem: From a very long time, human trafficking has been seen from a lawfulness viewpoint. It implies that the human trafficking issue can be handled effectively if a law is completely executed or approaches are set up. The focal contention is that trafficking is a legitimate issue and its propagation is on the grounds that of poor law requirement. Subsequently, when the issue comes to the legitimate foundations, the

⁶ Sanjoy Roy, Chandan Chaman, (eds.), "Human rights and trafficking in women and children in India." 1 JHASS 169 (2017)

⁷ Ibid

⁸ Veerendra Mishra (ed.), Human trafficking- the stakeholders' perspective, p.no.5, Sage Publications India; 2013.

dealers are rebuffed by the reasonable assents. Thus, here blamed is the ideal objective and given gigantic thought.

Victim-oriented: human rights violation: This methodology has numerous benefits and basic to even our contention that human trafficking must be viewed as human rights infringement in any case. The focal thought of this methodology is that unfortunate casualties ought to be of prime significance, what's more, must be given sufficient consideration. The fixation region must be the insurance and recovery of the people in question.

CONCLUSION AND SUGGESTIONS

The laws for human trafficking must be reinforced that it meets all the necessities for avoiding human trafficking. Individuals who are in destitution line in the nation over must be made mindful about human trafficking and its results so as to keep them away from becoming victims. Several national and worldwide seminars and conferences can be directed over the nation with the goal that the general individuals and the legislature can hold hands to avoid human trafficking. The helpless areas of the general public must be secured by the Government so that they don't fall as unfortunate casualties to human trafficking. The casualties of the human trafficking are just the people from underneath destitution line so the offense of human trafficking can be significantly avoided if the Government helps the poor segments of the general public and furnishes them with satisfactory training and work.

Indeed, even the NGOs, welfare offices, legal consultants, common society also, social employees need to play a vital role to protect the rights of women and children through support, giving legitimate guides and lawful instructions in the grass-root level to the top.

- The laws for battling human trafficking in India must be fortified that it must fight all types of human trafficking.
- The National Human Rights Commission must direct broad research all through the nation and ought to contribute towards the usage of a viable law for human-trafficking.
- The rights of human beings ensured by the constitution must be guaranteed to them.
- The movement perspectives starting with one nation then onto the next must be reinforced so as to anticipate transnational sorted out the wrongdoing of human trafficking
- Many more restoration focuses must be built up for the welfare of the people in question.
- Not the only women and children additionally men must be given with satisfactory methods for training also, the business which would extraordinarily contribute for anticipating human trafficking.

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