



## An analysis of legal framework of human trafficking in India and it's consequences on victims

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### Abstract

Human trafficking is a form of human trafficking. The criminals traffic people and exploit them in various ways for financial gain. Human trafficking infringes on several of the victims' human rights. Human trafficking victims endure a slew of problems, since they are subjected to long periods of exploitation, even after they have been freed from their captivity. The topic of this paper is human trafficking in India. The effects of human trafficking on victims are examined in this research. Human trafficking transnational organised criminals operate as a network among states, exploiting people. To combat human trafficking, the United Nations Convention on Transnational Organized Crime (UNTOC) was established. The purpose of this study is to examine Indian domestic legislation on human trafficking in light of international conventions on the subject. It concludes with recommendations for minimizing human trafficking.

**Keywords:** human trafficking, exploitation, victim, poverty, human rights

### Introduction

Trafficking in people in general refers to trafficking of person for forced labour, sexual slavery or commercial sexual exploitation of smugglers or Citizens people at large. Within the type of forced marriage, or the removal of organs or tissues, counting the removal of surrogacy and ova, this could involve having a partner. There can be sex trafficking within a rustic or across boundaries. Trafficking of groups of people may be a crime against the individual due to the deprivation of the victim's freedom of movement by abuse and since of their commercial exploitation. Trafficking of masses is that the business of people, especially women and youngsters, and doesn't generally entail the motion of people from one place to a different.

"The Government of India, by various related laws, penalises trafficking. Article 23 of the Constitution provides for the prohibition of human trafficking and forced labour, and Article 24 provides for the prohibition of child work in factories. IPC parts such as 366A, 366B, 370 and 374 and others penalise traffickers with up to 10 years in jail and a fine."

### There are various initiatives and laws by the government to stop human trafficking in India

- **"The Immoral Traffic (Prevention) Act, 1956 (ITPA)":** It is the main regulation aimed at preventing sexual abuse from being trafficked for commercial purposes.
- **"Criminal Law (amendment) Act 2013":** Section 370 of the Indian Penal Code has been replaced by Sections 370 and 370A of the IPC, which layout for stringent steps to tackle the danger of trafficking in human beings, counting the smuggling of kids and youngsters for abuse in any manner whatsoever, Slavery, including physical or all types of sexual abuse, servitude or forced organ extraction.
- **"Protection of Children from Sexual offences (POCSO) Act, 2012":** It offers specific descriptions of various types of sexual violence, including sexual

harassment, Sexual abuse, both penetrative and non-penetrative.

According to information submitted to the Supreme Court by the Bureau in 2019, the most frequent cases of trafficked women and children, primarily for forced marriage, child labour, domestic aid and sexual exploitation were recorded at Mumbai and Kolkata. Eight different areas of focus cover the measures outlined in the action plan:

1. Enhanced communication with other stakeholders between agencies
2. Enhanced preventative measures
3. Enhanced prostitution and human trafficking
4. Legislative measures
5. Legislative measures.
6. Enhanced law enforcement efficiency. Improvement of safety and support.
7. Greater understanding and advancement of methodology.
8. Increased global cooperation

In this research, the researcher examines various provisions and acts against human trafficking and the present situation regarding the same. As few of the outcomes of a research are a detailed understanding and prescription of probable solutions, a research lies in the best interests to deal with the current topic. Hence, the current research has been taken up.

### Research Questions

The following questions are ought to be addressed in the due course of this research.

- What is the concept of human trafficking?
- What are the root causes of human trafficking?
- What are the various laws against human trafficking in India?
- What kind of impact does human trafficking leave on victim?

### Objectives of the Study

The objectives of this study are as follows:

- To introspect occurrence and causes of human trafficking.
- To analyse the current status of human trafficking.
- To study the various laws against human trafficking.

### Significance of the Study

The importance of this research work is about stopping human trafficking, Trafficking of human beings is a wide ranging epidemic and one of the world's most disgraceful offences, influencing the lives of and robbing the integrity of millions of people worldwide. Women, men and children from every part of the globe are deceived by smugglers and coerced into exploitative conditions every day. While sexual abuse is the most well-known form of trafficking in human beings, for the purposes of forced labour, domestic service, begging for children or removing organs, The trafficking of thousands and millions of victims.

### Research Methodology

Current research is focused largely on the concepts of doctrinal research. The principle of referring and referencing, Analysis of current data such as laws and statistics represents a doctrinal analysis. The researcher believes that the present research is majorly depended on existing laws and how they have an impact on each other. To perform an effective research on such topic, it is best suggested to prefer a doctrinal research and analyse various relevant laws in place.

### Sources of Data

Primary and secondary data are based on the researcher for the purpose of current study. The Constitution, Acts, National laws and other non-interpreted material are the primary details submitted by the investigator. In order to get a broader and more impartial view, The researcher relies on secondary material on the research subject, such as national and international journals, articles, books by popular writers and commentaries available on various internet databases.

### Review of Literature

- **Human Trafficking in India, Prof. Surmukh Singh & Prof. Sunita Rani & Prof. Rosy Rani** <sup>[1]</sup>

The paper explores the appearance of trafficking of human beings in India, which is uniquely situated as a The transit source and destination country for men, women and children struggle with forced labour and forced labour. Sexual illtreatment claims that the priority is either on prostitution as a problem of illicit migration or on whoring. The trafficking debate dominates, which still deals with protection over human security and does not. Trafficking's main cause and vulnerability of trafficked human beings is satisfactorily discussed

- **"Trafficking In Women And Children In India: Nature, Dimensions and Strategies for Prevention by Biswajit Ghosh"** <sup>[2]</sup>

The writer describes It's one of the most serious abuses of human rights to traffic women and children. However, The scale of this issue is very difficult to measure, The trafficking in children is closely related to adolescent slavery, forced labour, child marriage,

kidnapping and prostitution, although it may be discrete of the commercial sexual exploitation.

- **"Human Trafficking of Women in India: Issues and Perspectives by R.M Kamble**

The writer tells that Trafficking has been regarded as one of the most severe issues in today's scenario and human rights trafficking is one of the most disgraces." <sup>[3]</sup>

- **"Human Trafficking In India By Jaffer Latief Najar"** <sup>[4]</sup>

The writer explains the consequences of human trafficking which affects the victim

- **"Analysis of The Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill, 2018 By Abhilasha Singh"** <sup>[5]</sup>

The writer explains in brief about trafficking of Persons (Prevention, Protection and Rehabilitation) Bill, 2018 its content and current status of the bill.

### Data Analysis

#### Meaning of Human Trafficking

*"The recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation."*

The business of stealing rights for profit is human trafficking. Traffickers often trick, defraud, or compel victims into trade sex. Inhumane, unlawful or otherwise inappropriate requirements are met to lie to victims, be abused, lied to or exploited to them. Trafficking of human beings is a low-risk, high-profit industry, believed to be one of the world's fastest growing criminal sectors. The third biggest organised crime in the world after cocaine and the arms trade. Nearly 80 percent of the world's human trafficking is for sexual exploitation and the rest is for bonded labour, and in Asia, India is considered to be the centre of this violence.

"The expression 'forced labour' seems to be collocated with the word 'begar'. The word 'begar' was of Indian origin and has, in due course of time, gained entry into the English vocabulary. That word is understood to be the labour or service which a person is forced to give without receiving any remuneration for it"

Slavery is distinguishable from serfdom, corvee, or statute labour, contract labour and contractual employment. Slavery was abolished in the British Dominions only in 1833 and in British India by Indian Slavery Act, 1843

"As expressed in the Ram Kuar case: A slave is a creature without any right or any status whatsoever, who is or may become the property of another as a mere chattel, the owner having absolute power of disposal by sale, gift, or otherwise, and even of life or death over the slave, without being responsible to any legal authority."

### Common Causes of Human Trafficking

1. **Poverty, war, natural and life-saving disasters:** Trafficker was searching for individuals vulnerable to coercion in trade in human beings. These people are also refugees, either because of economic distress, natural disasters, war or political unrest, who leave their homes. The migration of populations increases the

emotional vulnerability of people, and sometimes they are not financially secured. This places them under trafficking violence.

2. **Objectives are women and children:** Some communities have much more vulnerable to prostitution than men because of the devaluations of women and children. The susceptibility of women and children to conventional behaviour, early marriage, and lack of registration of children further increases. "The Supreme Court ordered to constitute a Committee to make an in-depth study into these problems and evolve such suitable schemes for Rehabilitation of trafficked women and children in the case of Gaurav Jain v. Union of India". Although the Right to Life of trafficked victims was clearly declared violated, it has been ordered by the Supreme Court to establish a Commission to set up and implement the national action plan in mission mode.
3. **Cheap labour demand:** The service industry is a popular exploiter of human trafficking, particularly restaurants and kitchens. The demands for low-cost domestic and farm work also exist. "The Supreme Court described the definition of Forced Labor vis to Article 23 of the Constitution of India when considering a PIL for Bonded Labor's emancipation." "The decision is very important in order with increasing trade in Labor throughout the country held in the case People's Union for Democratic Rights v. Union of India"
4. **"Human trafficking generates a huge profit:** According to the ILO, the human trafficking industry generates a profit of \$150 billion per year. Two-thirds is made from commercial sexual exploitation, while the remainder comes from forced economic exploitation such as domestic work and agriculture. Human trafficking is the fastest-growing and second-largest criminal industry in the world, after drug trafficking."
5. **It is difficult to detect cases of trafficking in human beings:** Certain problems are emerging from the fact that the victims are well-hidden or deeply traumatised when identifying victims. Traumatized people are reluctant to divulge information to authorities, either because they distrust law enforcement or are too troubled to respond.

These reasons lead to increased migration but to a reduced migration situation because Several State laws. People are using contraband outlets to expose human trafficking Service, fraud, brutality and abuse themselves.

### Consequences of Human Trafficking

In the process of human trafficking, victims are controlled and manipulated. Victims are being abused and exploited in the process of human trafficking conditions that may result in mild to serious psychological and short-term and long-term conditions. Strong attacks, mainly sexual contact illnesses or HIV viruses. In particular. This is the case Can lead even to permanent incapacity and death. Aggressive behaviour, depressive symptoms, dizziness, solitude and problems of absorption are the immediate human consequences. Numerous studies have already shown that, although the individual is free of use, trafficking can cause injury and trauma for a long time and this is mainly an operational situation.. They face re-victimization in many situations. In several nations, their readiness to comply with the competent authorities directly depends on the protection

afforded to the trafficked persons. However, this conditional immunity is in infringement of complete access to and protection of human rights and is not permitted to be used in criminal proceedings by trafficked persons.

### Legal Frameworks To Counter Human Trafficking In India

- **"The Juvenile Justice (Care and Protection of Children) Act, 2000** According to this Act there is no difference between a minor and a child. All the persons under the age of eighteen years are considered children. A child who is a child in need of care and protection (NATIONAL LEGAL RESEARCH DESK 2016)"
- **"Indian Penal Code 1860** Interestingly the Indian Penal Code which came into existence in 1860 addresses the problem of human trafficking in human beings. It is addressed in Section 370 and 370 A of the Indian Penal Code. It prohibited trafficking of women and girls and prescribed ruthless punishments for the criminals. It lays down that anyone who buys or sells the person under the age of 18 years for the purpose of prostitution and for sexual exploitation and for other immoral purposes shall be liable to imprisonment for up to 10 years and also be liable to fine."
- **"The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989** Many victims of trafficking belong to marginalized groups. Traffickers target only such area which is backward in social and literacy sense. This gives an additional tool to safeguard women and young girls belonging to scheduled Caste and scheduled Tribes and also to create a greater burden on the trafficker or offender to prove his lack of connivance in the matter"
- **"Constitution of India, 1949** The Indian Constitution of India prohibits trafficking in persons and guarantees many of the internationally acknowledged various human rights norms such as 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 also assured as one of the fundamental rights of any person living in India"
- **"Immoral Traffic Prevention Act 1986** The government of India ratified the International Convention for the Suppression of Immoral Traffic in persons and the exploitation of the Prostitution of others in 1950. As a International Journal of Pure and Applied Mathematics Special Issue 47 consequence of this ratification of the convention the Government of India passed the Suppression of Immoral Traffic in Women and Girls Act (SITA) in the year 1956."

### Suggestion

- In India, national laws must be strengthened to curb human trafficking That all types of trafficking of human beings must be combatted.
- The National Commission for Human Rights must carry out comprehensive inquiries through the which should lead to the adoption of an efficient human law Trafficking.
- The constitutionally reserved rights of women and children must be guaranteed to Females.
- In order to improve the migration dimensions from country to country ·
- Prevent transnational organised trade of human beings

- More recovery facilities for victims' welfare must be built.
- Men also have to be provided with sufficient education means not just women and children and work that will significantly help reduce trafficking in human being

### Conclusion

The laws on trafficking in human beings must be updated to fulfil all the conditions of human trafficking prevention. People living in poverty around the world need to be made aware of trafficking in human beings and their consequences, so that they do not become victims. Many national and international conferences and workshops should be held around the world, so the general public and the gov't can work together to discourage trafficking in human beings. In order to prevent becoming victims of human trafficking, is exposed to weakness parts of society have to be covered by the government. Only people below the poverty line are victims of human trafficking, so the crime of dealing with sex trafficking cannot be stopped until the government supports the deprived parts of society with sufficient schooling and employment

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