

A CRITICAL ANALYSIS OF HUMAN TRAFFICKING IN INDIA

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ABSTRACT

Human trafficking means the trade of the human in different forms. Human trafficking is a crime and a human right violation. It involves the recruitment, movement and exploitation of a man for profit men, women and children are trafficked in India for various causes. Human trafficking which is for the purposes of sexual exploitation is becoming an increasingly prevalent issue around the world. This paper review the scenario of human trafficking in India. Causes of human trafficking, legal frameworks to counter human trafficking in India are also presented in this paper.

Keywords: Trafficking, Human trafficking, Causes, Legal framework

I. INTRODUCTION

Trafficking means illegal trade. Human trafficking is denoted as trade of humans. Trafficking is one of the most widely recognized crime happening wherever across the world and it simply is by all accounts truly extending and developing. Human trafficking can be perceived as the exchange of the human in various forms which incorporates humans being traded for cash to be enjoyed acts of sexual subjugation, sexual exploitation or forced work which range from powerfully getting their organs or tissues extricated, forced marriage, forced prostitution and to what not. These rights not just disregard the essential rights given to a resident yet additionally make inhumane states of viciousness and torment on the victims. Human trafficking is one of the critical and prevailing social issues in India for which legal structure and policy intercessions are sufficiently not. Expanding trafficking in the nation can be followed back to poverty, underemployment, and overflow of poor people which acts as anentice for the dealers (Stephanie, 2012). The poor law enforcement further exacerbates the whole situation. Globalization and advancement has additionally made it more straightforward to exchange individuals across borders. While the pattern willingly searching for better open doors is positive, it comes connected with numerous mind boggling issues, for example, cross-line carrying of individuals and illegal relocation by deceitful assaulters and specialists that have additionally arisen throughout the long term. These variables together has prompted India being distinguished as a source, objective and travel country for trafficking for different purposes like business, sexual exploitation and work. While intra-country trafficking structures most of the trafficked victims.

There is also cross-border trafficking, especially from Nepal, Bangladesh and the middle eastern countries. It is an unlawful, unwarranted exploitation of the oppressed at the hands of certain groups hungry for money which goes against the fundamentals rights provided to a person under schedule III of the Indian constitution, The Immoral Traffic (Prevention) Act, 1956, Section 370 and 370A of Indian Penal Code, 1980, Protection of Children from Sexual offences (POCSO) Act, 2012, etc. (Janani & Pandiaraj, 2018). Unfortunately, In India even with these laws in place women and children remain the main victims of these practices.

There are several different components of human trafficking such as sex trafficking, labor trafficking, and organ trafficking. Sex trafficking is human trafficking into prostitution. Labor trafficking is when someone is trafficked into work that is non-sexual. Examples can include a man trafficked into farm work, or a woman trafficked into a servant. Lastly, organ trafficking is when people are trafficked so their organs can be sold to be used into transplants. People can be forced into this trafficking by many means such as physical force being used upon them, or false promises made by traffickers. Examples of promises may include false job opportunities, or marriages in foreign countries.

According to Bhadouriya (2019), following are the crimes which are related to human trafficking in India:

- Importation of girls from foreign country (Section 366B IPC)
- Procurement of minor girls (Section 366-A IPC)
- Buying of minors for prostitution (section 373 IPC) (previously known as buying of girls for prostitution) Selling of minors for prostitution (Section 372 IPC)

- Immoral Traffic (Prevention) Act 1956
- Human trafficking (Section 370 & 370A IPC), after enactment of the Criminal Law (Amendment) Act 2013

II. CONSEQUENCES OF HUMAN TRAFFICKING

The victims during the time spent in trafficking are abused and taken advantage of in specific circumstances which might bring about present moment and long haul minor and serious mental and actual assaults, infections particularly sexually communicated sicknesses or HIV infections (Aston and Paranjape, 2018).

The direct outcomes of human trafficking are animosity, discouragement, bewilderment, estrangement and challenges in concentration. Numerous studies have shown that wounds and injuries obtained during the most common way of trafficking can keep going for a significant stretch even after the individual has become liberated from exploitation and this predominantly happens when the casualty isn't given with appropriate consideration and direction (Connor, 2019).

Indeed, even the rehabilitation process for the victims can't be ensured for a specific outcome. Albeit the victims are brought out from the actual issues, the injury and the mental issues doesn't permit the casualty to recuperate from the outcomes completely. A portion of the victims find it challenging to adjust to the ordinary lives that they recently completed (Zalisk, 2018).

The sad part about the victims of human trafficking is that the rights of the victims are violated even after they come out from the status of exploitation. In many cases they face re-victimization. In many of the countries the protection provided to the trafficked persons is directly conditioned by their willingness to cooperate with the competent authorities. But these conditional protection is contrary to the full access and protection of human rights and the use of trafficked persons as an instrument in the criminal proceedings are not allowed.

III. CAUSES OF HUMAN TRAFFICKING IN INDIA

There are many causes for human trafficking in India which can be determined by political, social, economic and cultural factors. These factors can be divided into two categories:

- Push factors
- Pull factors

Push factors:

Push factors are established by poor, social and financial factors of families living in rural regions of India, absence of expertise, education and opportunities for job and yearly natural disaster events causes some monetary harm afterwards (Kumar et al, 2020). Most victims of human trafficking are from rural and poor regions in India and individuals are as yet not mindful about the exercises of dealers which makes it challenging for the public authority to help and safeguard the right of these individuals (Sarkar, 2020). Dysfunctional family in which struggle, trouble making, and frequently youngster disregard or maltreatment with respect to individual guardians happen persistently and consistently as a result of which they depreciate and mishandle women and children which sets out tremendous freedom for dealer as guardians might sell a little girl and send her into a universe of exploitation. These explanations behind not simply push people to fall in the stand of the vendors, they furthermore go about as a persuading force for trafficking (Kotiswaran, 2018).

Pull factors:

Pull factors are established by an increase in demand for minimal expense items, inexpensive labour and cheap services as there has been a quick change in financial, political, segment and work patterns as a result of globalization. In this way, these progressions lead to individuals moving to enormous urban communities as there are seriously compensating business opportunities, new metropolitan networks getting laid out and a torment free pay. For some workers it implied moving away from their oppressive houses and residing in those regions of the planet where they just longed for going. The offenders benefited from this and gives guarantee of good amount of money and a more agreeable life which prompted increase in the demand of young

girls for marriage in various districts (Naik, 2018). Moreover, increase in demand for adoption of young children additionally prompted rise in the demand for women in the rapidly growing sex industry, demand for young ladies for sexual maltreatment as a result of the disarray that actual closeness with little youngsters diminishes men's chances of arriving at HIV/AIDS, or the fantasy that sex with a virgin can fix HIV/AIDS and ineptitude (James & Ranganathan, 2021). The wild demonstration of female foeticide in the northern territories of Haryana and Punjab has furthermore expanded internal trafficking. Since there is a low female to male proportion in these states, these coordinated lawbreaker bunches have observed a chance for creating enormous gains by interfacing the organic market by clubbing the first and the subsequent occurrences (Rai & Rai, 2021).

IV. LEGAL FRAMEWORKS TO COUNTER HUMAN TRAFFICKING IN INDIA

Indian Penal Code 1860:

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.

It also recognizes cross border trafficking into prostitution and whoever imports into India from any country outside India any girl under the age of twenty one years with the intent that she may be, or knowing it to be likely that she will be, forced or seduced to illicit intercourse with another person shall be punishable with imprisonment which may extend to ten years and shall also be liable to fine.

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.[4]

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).

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.

If the offender has the knowledge that victim belongs to these communities then this act can be effectively used to counter the offence of trafficking. Section 3 of this act deals with atrocities committed against people belonging to Scheduled Caste and Scheduled Tribes. It covers some forms of trafficking such as forced or bonded labors and sexual exploitation of women. A minimum punishment of ix months is provided which may extend to five years if the offence is covered under section 3.

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 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. In the year 1986 the act was further amended and changed which was known as the Immoral Traffic Prevention Act, 1986 (PITA).

V. RECENT HUMAN TRAFFICKING CASES IN INDIA

Human trafficking is considered as the second largest organised crime in India. Human trafficking is still a major issue in India, despite the fact that it is banned under Indian law. People are routinely trafficked illegally through India for commercial sexual exploitation and forced/bonded labor (Najar, 2021).

There are many reasons for human trafficking in India. They are determined by political, economic and cultural factors. Trafficking in persons is according to the doctrine of supply and demand. Firstly, there are certain factors in the country such as need of employment, poverty, social conditions, instances of armed or war conflicts lack of political and economic stability, lack of proper access to education and information etc. Secondly, there is demand for inexpensive products, cheap labour and low priced services. The organized crime groups have found an opportunity for making huge profits by connecting the supply and demand that by clubbing the first and the second instances (Najar, 2021).

According to the NCRB data, about 1,714 cases of human trafficking were registered by the government's anti-human trafficking units in 2020 with sexual exploitation for prostitution, forced labour and domestic servitude being the top reasons behind it (PTI, 2021).

Among states, Maharashtra and Telangana recorded the highest number of such cases at 184 each, followed by Andhra Pradesh at 171, Kerala at 166, Jharkhand at 140 and Rajasthan at 128. The conviction for cases of human trafficking was recorded at 0 in seven states, while the highest conviction rate of such cases was reported from Tamil Nadu at 66 per cent followed by Delhi at 40%. The NCRB, in its report, said it started collecting data on human trafficking cases from these Anti-Human Trafficking Units (AHTU) across the country since As per data provided by states/UTs, 1,714 cases of human trafficking have been registered by AHTUs during 2020 (PTI, 2021)..

According to the report, 2,278 human trafficking cases were registered in 2018 and 2,260 in 2019, respectively The report further said that 4,709 victims, including 2,222 below 18 years, were trafficked across the country in 2020 (Habibullah, 2021).

In 2019, the government reported identifying 5,145 trafficking victims and 2,505 potential trafficking victims, an increase compared with 3,946 trafficking victims and 1,625 potential victims identified in 2018. In 2019, authorities identified 3,133 victims in labor trafficking, including 1,549 in bonded labor, 2,012 in sex trafficking, and did not report the type of trafficking of the 2,505 potential victims identified. Ninety-four percent of trafficking victims identified were Indian, approximately 57 percent were adults, and 62 percent were female. Despite some estimates of eight million Indians in bonded labor, the Ministry of Labor and Employment reported to Parliament in 2019 that the government had only identified and released 313,687 since 1976. Moreover, due to lack of law enforcement efforts against traffickers, one NGO working in 10 states reported that more than 60 percent of released victims were subjected to bonded labor again following their release. Karnataka, Tamil Nadu, and Uttar Pradesh states, where some authorities may engage more actively against bonded labor, accounted for the majority of bonded labor victims identified, with 130,249, and 964 victims identified respectively, overall accounting for 87 percent of the country's total identification of bonded labor victims. The MHA created standard procedures for trafficking victim identification in 2009, but it was unclear how many states had adopted them. State revenue officers had the responsibility for identifying bonded labor victims, yet NGOs identified most cases. Poor inter-state coordination between state government agencies impeded trafficking investigations and victims' ability to obtain services, including participation in civil and criminal cases in their home states (Habibullah, 2021).

The estimated number of victims of severe forms of trafficking is very significant or is significantly increasing and the country is not taking proportional concrete actions. There is a failure to provide evidence of increasing efforts to combat severe forms of trafficking in persons from the previous year. In spite of many laws present in India human trafficking remains an unspoken problem in the country.

VI. CONCLUSION

Human trafficking jeopardises the dignity and safety of trafficked victims, and violates their personal rights severely. Indian constitution ensures equal rights for men and women, but mostly they are merely rhetorical about practical implementation. In order to tackle trafficking and to protect the human rights of vulnerable people, a strong will of the government is necessary to enforce their anti-trafficking mandates.

The laws for human trafficking must be strengthened that it meets all the requirements for preventing human trafficking. People who are in poverty line across the country must be made aware about human trafficking and its consequences in order to prevent them from becoming victims. Many national and international seminars and conferences can be conducted across the country so that the general people and the government can join hands to prevent human trafficking.

The vulnerable sections of the society must be protected by the Government so that they don't fall as victims to human trafficking. The victims of the human trafficking are only the persons from below poverty line so the offence of human trafficking can be greatly prevented if the Government helps the poor sections of the society and provides them with adequate education and employment.

People around the country who are in poverty line need to be made aware of human trafficking and its consequences in order to discourage them from falling prey. Workshops, seminars and conferences should be organised across the country so that the general public and government can join hands to eliminate trafficking in our country by being aware and spreading awareness. The problem is can be combated as it is still in our hands to be solved. If the government makes the law stronger and successfully enforces those laws many innocent lives may be saved. By taking certain strong steps in the right direction at the right time can prove to be fruitful in our fight with this social evil.

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