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## **TRAFFICKING OF WOMEN IN INDIA FOR SEXUAL EXPLOITATION: A CHALLENGE**

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### **Abstract:-**

Since ages, Human trafficking has been prevalent in the society. It is a curse for the whole country that leads to unending sufferings which not only lower the physical strength but also feeble the mental status of a person. Growth and development are the words which are unknown to their world. They have to suffer discrimination and humiliation to a large extent. It is a serious contemporary social justice and human rights issue. A recent U.S. government report estimated that as many as 27 million persons around the world are victims of human trafficking. It is highly important to protect their basic human rights and provide them with such environment that paves way for their consistent growth and protect them from atrocities of the world. In the current scenario, though there are various laws and government policies working towards the betterment of such people yet there are various hurdles in the path. Therefore, there is a need to generate a better understanding of an issue like this in order to provide for a status to all the victims of human trafficking in the country and to promote their growth and development. The paper discusses the manifold difficulties faced by the victims of trafficking in India while many of whom face intimidation, shame, difficulty in prosecution, high likelihood of revictimization in their own country. The paper ultimately concludes that broader, victim-based initiatives are necessary both to assist victims and to provide a firm basis for the future trafficking prosecutions. Thus it aims to analyze the status of human trafficking laws in India and the issues and challenges faced by the victims in the country.

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Key words:- Human trafficking, prostitution, human rights, prostitution, child.

### **Introduction:-**

Human trafficking is a serious human right as well a contemporary social justice issue. It is the trade of human beings for various purposes like sexual exploitation, forced labour, forced prostitution, sexual slavery, etc. It may also cover a spouse of any male or female in the context of forced marriage. It is a serious crime against the human being and a violation of their fundamental or basic human rights. It inhibits the free movement of the citizens through coercion or commercial exploitation in their own country. Thus, it can occur within a country or even out of the country i.e. transnationally.

Human trafficking can occur at national as well as international level. At the international level, its significance has been recognized by the United Nations by implementing various protocols to prevent, suppress, punish trafficking in persons especially in women and children which is known as Trafficking Protocol or Palermo Protocol. It is an agreement which was exercised by the United Nations internationally under the UN Convention against Transnational Organised Crimes (UNTOC) which was implemented on 23 December, 2003. Human trafficking differs from the smuggling of the peoples, which involves the person who voluntarily requests or hires

other persons to transport all of them secretly across the international border. It is usually practiced because the smuggled persons are barred from entering into the country through the legal channels. Thus after the smuggled person enters into the country and arrives to his ultimate destination, the person is free to find his own way. Though it may be illegal, but there is no deception or coercion involved in it.

According to International Centre for Migration Policy Development (ICMPD), smuggling of the peoples is totally a violation of the national immigration laws of the destination country while it does not require the violation of the right of smuggled peoples. On the other hand, human trafficking is a crime against a person because of the violation of the fundamental and human rights of the victims through coercion and exploitation.

## **HUMAN TRAFFICKING IN INDIA**

In India, human trafficking is considered as a major challenging issue. Though, there are several anti-human trafficking laws which exists in the country but it remains a quintessential problem. Men, women, children are trafficked in the country for different purposes like commercial demand for sex, labour trafficking, prostitution, etc. Women and girls are trafficked within their own country in those areas where there are large of men or the sex ratio is highly biased in favour of men. While men and boys are trafficked especially for bonded labour or labour trafficking. All the victims including men, women, children, etc. are sexually exploited many a times and are coerced to work as escorts, whores, prostitute, gigolos, massage experts etc. against their will. A large part of trafficked children in the country are forced to work as child labourers, domestic servants, factory workers, beggars, household servants, etc. while infringing their fundamental and basic human rights. Many a times children are kidnapped across the country and are forced to work as armed combatants by various terrorist organisations and insurgent groups. In India, trafficking of young girls into the prostitution in the country are often being initiated by the women who have been trafficked themselves. While as adults, they are capable to use their personal relationships and trust in their villages of origin to recruit the additional girls. The Government of India penalizes the human trafficking for commercial sexual exploitation through various anti-trafficking laws like Immoral Trafficking Prevention Act (ITPA), in which there is a prescribed penalty of seven years to the life imprisonment. There are various other anti-trafficking acts which are being implemented in the country and prohibits the forced and bonded labour like Bonded Labour Abolition Act, Child Labour Act, Juvenile Justice Act, etc. The Indian Penal Code (IPC) also provides sections 366 (A) and 372 to arrest traffickers and these provisions prohibits kidnapping and the selling off minors into prostitution and also prescribes a maximum penalty of ten years' imprisonment along with a fine.

The Ministry of Labour and Employment publishes various types of advertisements against child labour and human trafficking in the national newspapers at regular intervals. The government has also initiated a pre departure information session for the domestic workers who migrate to some country on the pretext of exploitation. Various other measures which are instituted by the Government of India includes 'Emigration Check Required' (ECR) and 'Emigration Check Not Required' (ECNR) passports. On February 2014, the Government of India also launched an anti-human trafficking web portal. It was launched to serve as an important IT tool for sharing of all kinds of information across all the stakeholders, states, union territories, civil societies, etc. for the effective implementation of anti-human trafficking measures.

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## **CATEGORIES OF HUMAN TRAFFICKING**

### **Sex Trafficking:**

Sexual trafficking include sexploitation and coercion of a migrant into a sexual act as a precondition for them by the traffickers for allowing or arranging their migration. This type of trafficking often uses physical or mental exploitation and coercion, abuse of power, deception and bondage incurred through the forced debt. A lot of times, trafficked women and children are being promised to work under service or domestic industry but instead of it, they are taken to brothels or somewhere else where they are required to work as a sex worker. While their passports and other identification documents are being confiscated by the traffickers.

In major cases, it has been found out that the victims of sex trafficking have been beaten or locked up by the traffickers and they were promised their freedom only if they earn through prostitution It was claimed by the International Labour Organisation (ILO) that around 4.5 million people are affected through sex trafficking in a worldwide. While most of the victims find themselves in a coercive or abusive circumstances and from which escapement is like impossible, difficult as well as dangerous.

### **Labour Trafficking:**

They are like unfree labourers which includes all kinds of slavery like debt slavery, serfdom, labour camps, etc. Most of the works are covered under the forced labour and the International Labour Organization (ILO) also defines it as an involuntarily work or service which is performed by the victims under the menace of a penalty. Labour trafficking is a movement of the workers for the purpose of forced labour or services which involves bonded or child labour, domestic or involuntary servitude. Most of the time, it happens in the domain of agriculture, manufacturing, construction, domestic work, entertainment, etc. While migrant workers and indigenous peoples are especially at the risk of becoming victims. It is more often instituted and enforced on the migrant workers who have travelled long from their houses and came to another country just for earning money. They are easily identified because of their physical, linguistic, cultural or ethnic differences from the common population since they are not capable enough to complain about pathetic situation to the appropriate authorities.

### **Child Trafficking:**

Child Trafficking is a major challenge and it is still prevalent in our country. It is defined as the recruitment, transportation, harboring, transfer or receipt of the children for the purpose of slavery, forced labour or exploitation. Exploitation of the child can take many forms like commercial sexual exploitation which includes forcing a child into prostitution or any other kind sexual activity like pornography. According to an estimation released by the International Labour Organisation (ILO), around 1.2 million children are trafficked every year. Article 34 of The United Nations Convention on the Rights of the Child states that State Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. The Hague Convention on Protection of Children is an international convention which deals with international adoption and it aims to prevent child laundering, trafficking and various other abuses which are related to international adoption.

### **Organ Trade Trafficking:**

Trade in organs is another kind of human trafficking and it can take place in various forms. There are some cases in which the victims are being forced to give up their organs while in some other cases, the victims agree to sell off their organs in exchange of money or goods but they are not paid at all or paid very less by the traffickers. There are various cases in which the body parts of the victims are being removed without their knowledge especially when the victim is being treated for any other medical ailment. In this case, some people are at extreme vulnerable risk like migrant workers, illiterate or homeless persons and they are especially targeted for the exploitation. Trade of Organs in human trafficking is considered as an organized crime and involves several kinds of offenders like recruiters, traffickers, buyers, transporters, medical staffs, middlemen, etc.

### **Forced Marriage Trafficking:**

The United Nations termed forced marriage as an abuse of human rights because it is violating the freedom and autonomy of the victims. According to Universal Declaration of Human Rights (UDHR), it is a central point of their life and dignity that every person has a right to choose their spouse and to enter freely into a marriage. The Roman Catholic Church considers the forced marriage as a ground for granting an annulment and for the valid marriage, both the parties should consent for the marriage freely. In various situations, a forced marriage qualifies as a form of human trafficking. For instance, if a woman is being forced to marry someone and sent to abroad and if continuously she is being compelled to engage in sexual activities with her new husband, then her experience would be amount to sex trafficking. In another case, if a bride is being treated as a domestic servant by her in laws or husband, then it would be amount to the labour trafficking.

## **ISSUES AND CHALLENGES OF HUMAN TRAFFICKING IN INDIA**

There is a complex set of major issues and challenges of human trafficking in India and that needs to be resolved.

### **Commercial Demand for Sex:**

The nature of sex trafficking is considered to be an economic supply by the traffickers and many abolitionists tries to end this nature while explaining the detrimental causes of a demand model. In this demand model, males ask out for a female prostitute which leads to be a market of sex workers which in turns out to be fostering sex trafficking, illegal trade, coercion of peoples into sex work. While pimps and traffickers becomes distributors and supply a chain of women for the sexual exploitation. There is always been an increase in demand of sex among peoples and their demand, in most of the cases, is been facilitated by pimps and traffickers. Trafficked women are also being exploited as workers and harassed by them because they do not require any kind of wages, safe working conditions, agency while choosing customers, etc.

### **Poverty, Globalization and Unemployment:**

Lack of poverty, educational and economic opportunities may lead women to migrate voluntarily and then they may be compelled into trafficking involuntarily for sex work. As globalization has opened up the national borders for smooth exchange of goods and services, its economic impact has also pushed peoples especially women and children to migrate and be vulnerable to trafficking. Gender inequality also pushes women to migrate towards informal sector which is more hazardous for them. Unemployment, Globalization and Internet Technology as well has

facilitated a lot more towards human trafficking. Also long waiting list for the organs in countries like US, UK has created a thriving international black market of human trafficking. Wealthy countries are unable to meet their demand of organs within their own borders thus it perpetuates human trafficking. Globalization has nurtured the new technologies which may aggravate sex trafficking, while technology can also be used for assisting law enforcement and anti-trafficking methods.

### **Gender Based Discrimination:**

It is a cultural norm which is followed in our country that sons are considered as superior, authoritative and more useful in a family than daughters in our patriarchal society. Thus this society leaves girls with no or very limited access to education and it leads to gender gaps between boys and girls in both literacy rates and financial earning potentials. According to 2011 census, the literacy rate for men was around 82 percent and for women, it was around 35 percent while men were paid 25 percent more than women. So, as a result of gender based discrimination, the sex ratio in India is too wide.

## **HARMFUL EFFECTS OF HUMAN TRAFFICKING TO CIVIL SOCIETY**

### **Impact on Women and Children:**

Women and girls are always at the risk of unwanted pregnancies, sexually transmitted diseases (STDs), HIV/AIDS, maternal mortality, etc. They are also affected by the drugs and harmful medicines or other addictions which result in physical and mental deterioration. They also have a threat of emotional well-being like deprivation from their family life, threat to their social support systems, isolations, constant fear of arrests. Most of the times, they are scared of humiliation and abuses which result in serious and emotional stress which also causes psychological consequences. They have a threat of their physical safety by police, unscrupulous agents, custom officials, employers, etc. They may also face the economic slavery, difficulties in social integration, etc.

## **MEASURES TO COMBAT HUMAN TRAFFICKING IN INDIA**

The government needs to reorganize their anti-human trafficking policy in this mean time, we need to think about some more structural factors which effectively can build up a nationwide anti-trafficking plan in our country. Also nothing is exhaustive here nonetheless, the plan would be comprised of most of the well effective factors which we all ask for a better criminal justice framework to address human trafficking as a serious crime. While it is also based upon the approach with respect to human rights norms and standards.

Before proceeding further, I think the most important question here which needs a well-researched answer is what constitutes a human trafficking crime and what is the scope of it. Through this, we need getting rid of all the conceptual ambiguities surrounding the issue of human trafficking in our country. Though the issue has already been defined in various protocols but our national laws are not so expansive about it.

For instance, article 23(1) of the Indian Constitution puts a prohibition on human trafficking and forced labour but stated only that —” Traffic in human beings and begging and other forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.” Since human trafficking in India applies mainly for prostitution, thus most provisions in Indian Penal Code (IPC) which are related to human

trafficking are mainly those which focuses on the forced prostitution. For example, section 366 of IPC which talks about kidnapping or abducted women but it can be applied to human traffickers also even when there is no specific mention of illicit trafficking in girls and women for forced prostitution. Also the government passed an act namely, “Suppression of Immoral Traffic in Women and Girls Act of 1956 (SITA),” it was amended in 1986 and now it is known as the Immoral Traffic in Persons (Prevention) Act or PITA Act and here the act is restricted only to trafficking of women and girls for the forced prostitution and they totally exclude the male from its protective regime. Thus, I think this kind of restriction or we can say discrimination to the males should be stopped and we should include female, children, men, transgender and among all because human trafficking can be occurred to any of the persons mentioned above. Meanwhile, it is ridiculous that only female can be sexually exploited but the males can also be hunted for this horrible act.

#### **Judiciary Must be Held Responsible:**

In India, judiciary acts as an independent, constitutional body and it is considered as a sole protector for advocating our fundamental and human rights violations by the individuals in our country. But the main problem pertains to the judiciary is that there are not sufficient number of judges to deal with all the cases which appear before our courts and it is the root cause of high number of pending cases before the courts. Thus most of the cases have a span of about 5 to 6 years or 10-12 years depending upon the nature of the case. Thus it is very difficult for the investigating officers to provide the protection to the victims or witness or to stop the witness from becoming hostile for such a long period of time. Due to this, the accused persons in human trafficking cases get acquittals and due to this inability of the court to solve the human trafficking cases expeditiously, it is very difficult for the prosecution.

#### **Must be Conviction of Traffickers to Deter Others:**

There must be a conviction of the alleged human traffickers so that the examples can be set to deter the other traffickers from committing human trafficking and not to exploit any other victim otherwise, they would have to face harsh convictions. Also the prosecution of all the alleged human traffickers should be on the basis of adequate criminal provisions that means alleged traffickers should be punished and not the victim who is being trafficked. But IPC also has some strict provisions regarding the punishment of traffickers of girls indulged in the sex market. For instance, section 366 (A) of IPC punishes the domestic traffickers whose work is to transport the trafficked girls from one part to another in our county. While section 366 (B) punishes any person for importing any Indian girl who is below 21 years for the purpose of prostitution. But both the provisions are not strict because it requires an intention to prove that the girls are bring forced or seduced for the illicit intercourse. In this provision, it may also happen that the girl is below 18 years and being coerced for prostitution and to stay in the sex market, then the original trafficker has not committed any offence under this section which is a huge lacuna.

#### **CONCLUSION**

The issue of human trafficking in India must be addressed in a whole comprehensive manner. It requires a multi-faceted strategy to combat the menace of human trafficking in our country. While efforts include that there should be a process of rehabilitation and reintegration for all the victims of human trafficking and it should be conducted in a large manner. Otherwise, it will not be successful to address the issue successfully in the long run and strategically, we would be

failed in it. I think the core principal of removing this menace will not be successful if the countries itself are not contributing towards it and without the unwavering commitments from various developed or developing countries and other material actors to address the harmful effects of human trafficking on the victims.

Thus, there is a need to conduct this cycle at every stage like from prevention to recruitment, rescue to reintegration or providing the transport facilities to the bonded labour. Thus without this intervention by all of us, the anti-trafficking efforts fundamentally will not be able to affect the human trafficked victims and their human rights violations will be continued from this exploitative trade.

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