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# Human Trafficking in India

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KOSHI DOSHI <sup>1</sup>

## ABSTRACT

*Any illegal trade of persons is known as human trafficking. They are used in various ways of exploitation for the sake of money only. No human rights are taken into concern in these type of crimes. There is a long term effect on the victims of such crime even when they become free from such crimes. In this article, we are going to make an analysis of the conditions of such victims. Mostly skilled and professional criminals are engaged in such type of crimes and these crimes are done by making groups on national and international level. Efforts are made from all over the world to stop these type of crimes. We are going to discuss the laws in India in contrast with the international laws for such type of crimes.*

## I. INTRODUCTION

The Trade of human beings is illegal in nature and this is what it is done in human trafficking. They are trade mostly for the purpose of sexual benefits, for picking out important organs of the human body, for unconsented marriages and for the labour purposes also. These human are shifted from one country to another. The persons who belongs to vulnerable groups like children's and women becomes victim of such crimes and they are mostly sexually exploited. Laws are made for prevention of sexual offenses only. This is one of the major shortcomings of this act as analysed by the experts of the states. But there are other type of human trafficking also. A wide has to be adopted to combat such type of crimes. Various international convention are also there to fight against such crimes. Human rights of the individuals are breached at large in such type of crimes. People who comes from the backward classes and who are below the poverty line easily becomes victims of such crimes. They are to be protected by the government.

## II. TYPES OF HUMAN TRAFFICKING

Human Trafficking is of following types :

1. Trafficking for Sexual Exploitation: This is one of the most common form of trafficking in India. For the purpose of sexual abuse, women and girls are exploited. The real

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<sup>1</sup> Author is a student at Symbiosis Law School, Pune, India.

number of these type of trafficking is difficult to estimate. On every single day girls enters into the world of prostitution out of which 80% are against their will. They are promised a well life in another country. Their documents are seized so that they cannot come back to the native country.<sup>2</sup> These type of people are sold for the purpose of sexual abuse and are taken away by the people of high classes.

2. Trafficking for Forced Labour: Most of the victims for this type of trafficking belongs to underdeveloped countries. They are taken away from the native country to developed countries for labour work.<sup>3</sup> They are forced to work. In common, people of vulnerable groups are chosen for these type of trafficking.

3. Trafficking in Organs: Trafficking of people for their precious organs is another type of trafficking prevalent in many countries. It is one of the growing field of criminal activity. These type of trafficking can occur with people of any age. Many organs like kidney can be the subject of such illegal trade.<sup>4</sup>

4. Entertainment trafficking : It is for entertainment. Mostly vulnerable group of people are chosen for this. This includes trafficking for night clubs, dancing purposes etc.

5. Trafficking for the purpose of marriage: Buying and selling of girls and women for the sake of their marriage is another way of trafficking. The girls and women are abused without their consent. They are real females who are victims. Majority of victims belongs to vulnerable, backward classes and poor people. Most of them are for the sale by their parents only.<sup>5</sup>

6. Trafficking for adoption: This is also a type of trafficking in which small children are taken away from their parents and are sold to others showing that these are adopted.<sup>6</sup>

### III. REASONS BEHIND EXPANSION OF HUMAN TRAFFICKING IN INDIA:

Poverty is regarded as the main factor responsible for Human trafficking. However many other type of factors are there like lack of resources, caste based discrimination, social insecurity, social exclusion, commodification of women, unemployment, no support from

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<sup>2</sup>Jacinta Mendonca, *The Harrowing Tale of Human Trafficking* [www.thehindu.com/news/national/karnataka/a-harrowing-tale-of-human-trafficking/article19744465.ece/amp/](http://www.thehindu.com/news/national/karnataka/a-harrowing-tale-of-human-trafficking/article19744465.ece/amp/) (last accessed on July 20 2020 at 18:13 IST)

<sup>3</sup>Types of Human Trafficking <https://www.interpol.int/en/Crimes/Human-trafficking/Types-of-human-trafficking> [last accessed on July 19, 2020 21:19 IST ]

<sup>4</sup>Organ Trafficking, September 23 2017 <https://www.unodc.org/unodc/en/organized-crime/intro/emerging-crimes/organ-trafficking.html> (last accessed on July 20 2020 at 17:13 IST)

<sup>5</sup>Prabha Kotiswaran, *Rethinking Trafficking*, February 13, 2018 [www.thehindu.com/opinion/op-ed/rethinking-trafficking/article22735293.ece/amp/](http://www.thehindu.com/opinion/op-ed/rethinking-trafficking/article22735293.ece/amp/) (last accessed on July 20, 2020 17:56 IST)

<sup>6</sup>*Human Rights and Human Trafficking*, Fact Sheet no.36 (United Nation of Human Rights Office of the High Commissioner, New York USA 2014)

communities, child marriages, cheap child labour, priority to marriage, corruption and lack of awareness among the people. The stronger networks between the countries also become of the major factor for child trafficking. International Organization for Migration in its data mentions that 90 percent of the victims has faced domestic violence before they go for human trafficking.<sup>7</sup> Unbalanced sex ratio becomes one of the major factor for human trafficking as demand of women's are literally high in such area. Women's are seen only as an object for sex and nothing else. They are treated like animals in that field. Some other factors are also responsible for these type of crime in both direct and indirect way. These type of crimes led the victims to further exploitation and they become an object of the world for use only.

### **Effects on Victims**

Domestic violence, exploitation, sexual abuse and torture are some of the common effects which people faces when they become victim of such criminal activities. Psychological ways are often used to control the victims and to push them towards such activities. These type of ways are different in nature and varies from case to case. In most of the cases these type of psychological ways are used by the family members or other person who is close to the victim and can psychologically affect them. These type of victims are often abused to do harm to their family if they try to go to police. These people often put different type of fears in the minds of victims. This is one of the tool which is used by them to control the victims without harming them physically.

Although there are similarities between the human trafficking and other criminal offenses, there exists some minor differences between the two. One of the major difference between the two is that the victims of other criminal offenses are harassed by individuals only while in this case they are exploited and harassed by the groups.

## **IV. LEGAL FRAMEWORKS TO COUNTER HUMAN TRAFFICKING IN INDIA**

- Indian Penal Code 1860:

It is one the document which is lastly amended. It is due to the fact that most of the future problems are already mentioned in the act of 1860. Section 370 and 370 A talks about the problem of human trafficking. It provides strict punishment for the offenders and restricts trafficking of women. A punishment of about 10 years is made under this act. It also prohibits cross border trafficking into prostitution

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<sup>7</sup>Global Data Hub on Human Trafficking, [www.ctdatacollaborative.org/](http://www.ctdatacollaborative.org/) (last accessed on July 19, 2020 14:17 IST)

- Constitution of India, 1949

It ensures all the major human rights to its citizens and prohibits trafficking in persons. Right against exploitation is also recognized as one of the fundamental right of our Indian constitution.

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

No difference was made between the minor and the child.

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

Most of the victims belongs to the backward classes. The areas which are socially and economically backward are usually taken into target for such type of activities. This act mostly provides additional to these communities. The burden of proven is on the traffickers only. Exploitation against these classes are covered under section 3 of this act. It takes cover of various type of trafficking like that of bonded labour and sexual one.

- Immoral Traffic Prevention Act 1986

Purpose is to implement international treaties and prohibit this type of crime. Main objective is to end sexual abuse faced by women due to human trafficking. Many type of offence are included under this act. Immoral Traffic (Prevention) Amendment Bill only focuses upon sexual exploitation. This act doesn't deals with its other types and this is one major shortcoming of this act.

## **V. INTERNATIONAL CONVENTIONS TO PREVENT HUMAN TRAFFICKING**

On various platforms in international level this subject has been discussed. International conventions deals with this type of crime.

### **Human trafficking and International Law**

- Universal Declaration of Human Rights

Article 4 says slavery must be prohibited.

- International Covenant on Civil and Political Rights

Articles 8(1) and 8(2) restricts bondage labour.

- International Covenant on Economic, Social, and Cultural Rights

Article 10(3) of ICESCR provides that all the children are provided education by the government and are protected by the government unless they become capable of handling themselves. Economic and social protection has to be provided to the children's.

- ILO Convention concerning forced labour

The main motive of this convention is to suppress all type of forced labour from every country. All the work which is forced to be done by the people without their consent comes to the category of forced labour. It is one of the most ratified convention among the all.

- International Convention for Suppression of White Slave Traffic, 1910.

This is a different type of convention in which any women under the age of 21 cannot be taken away for any immoral act with their consent also. The barrier of different countries is also not there.

- United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, 1984.

Under some specific conditions compensation had to be provided.

### **Indian Case Laws**

The Indian courts have decided some important case laws related to human trafficking. Some of them are described here as :

- In *People's Union for Civil Liberties vs. Union of India*<sup>8</sup>, the court directs compensation for human trafficking.
- In *Vishal Jeet vs. Union of India*<sup>9</sup>, it was held that protection has to be provided to those who are forced to become the prostitutes. Their rehabilitation has to be ensured.
- In other case, directions are given to protect children of prostitutes from their work and to provide them a dignified life.<sup>10</sup>
- In *Laxmikant Pandey vs. Union of India*,<sup>11</sup> court examined the trafficking of adopted children's. The court made several provisions to fill the shortcomings.

## **VI. CONCLUDING REMARKS**

Laws for any particular crime is made to be in that way in which it will cover all the aspects of crime. The same is the case with human trafficking also. Most of the time, poor and the people below the poverty line becomes victims of such hazardous crimes. They are to be made aware about these type of crimes and their consequences. A number of efforts can be made to aware the people like doing seminars so that everyone can work together against

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<sup>8</sup>1998 (4) SCC 485

<sup>9</sup>1990(3) SCC 318

<sup>10</sup>Gaurav Jain v. Union of India, AIR 1997 SC 3021

<sup>11</sup>AIR 1984 SC 469

these type of crimes. Most of the times the persons who are weaker generally became the victim of such crimes. Victims are mostly poor and weak people who are side lined by the society due to some reasons. Thus, the government has the responsibility to protect these type of people to become victim of such crimes. If adequate education and proper employment is provided to the people then the chances of people indulging in these type of crimes become less. This is the only way to save people from these type of crimes.

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