

Critically Evaluate The Legal Provisions And Government Functioning Regarding Human Trafficking In India

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Abstract

Trafficking is a term used to describe the illegal trade across borders of goods - especially contraband, such as drugs - for profit. Over the last few decades, the concept has been expanded to cover the illegal transport of human beings, in particular women and children, for the purpose of selling them or exploiting their labour. Trafficking in human beings is a highly lucrative industry. It has been identified as the fastest growing criminal industry in the world. It is a well established international phenomenon of recent times. Among the organized crimes, trafficking in human beings stands as the third largest category in terms of profit after drugs and arms smuggling. Human trafficking is a multidimensional form of exploitation which violates basic and inalienable rights of the trafficked victims.

One of the fastest growing areas of international criminal activity, trafficking in persons especially women and children has become a serious concern almost for all countries, regardless of whether they are countries of origin, transit or destination. It is a growing phenomenon involving transnational organized crime syndicates. Women and children have been trafficked for commercial sexual exploitation, forced marriages, illegal adoptions, organ trade, sex tourism and pornography, as domestic workers, labourers in sweat shops and on construction sites, as beggars, and for camel jockeys.

Keyword: Human, Trafficking, Women, Children, India, Government, Prostitution, Child labour.

Introduction

The purpose of this paper was to assemble an integrated framework for lightning up and describing human trafficking of women and children in Indian context. Variables from existing international theories were drawn to formulate a comprehensive view of the process followed during the commitment of this crime in India. The basic argument is that, since human trafficking involves a high contingent of role players from a variety of backgrounds, a single explanation for its cause cannot exist. Essentially, human trafficking responses should consider the importance of an integrated framework in order to effectively, prevent, prosecute suspects and protect victims of human trafficking of women and girls for involuntary prostitution. For remedial solution many opinion says that, Legalization of prostitution is sometimes thought to be a solution to trafficking in women, but evidence seems to show that legalized sex industries actually result in increased trafficking to meet the demand for women to be used in the legal sex industries. Increased activity of organized crime networks also accompanies increases in trafficking. Since altogether the theories shows that trafficking of women and children is not only a crime but also creates social conflict as well as disequilibrium. Therefore, keeping the present scenario and theoretical basis in mind the Indian political system should initiate some stringent punitive measures for the perpetrators of this crime which can lead towards the complete elimination of this social problem. EPCAT (2001)¹. Trafficking in children for sexual purposes.

When we talk about the social implications of human trafficking in India, the untouchable caste evil is the major issue. Western mindset glorifies the developed technological and mobile revolution of 1 billion users of cell phone in a single country, nuclear weapons and space mission, educated and professional youths etc. On the other side the corruption, bureaucracy, high illiteracy and lack of distribution of resources comes to our mind, but the reality is different from all of the above. The caste discrimination of the Dalits is still in the social systems and mistreatment of people happens to the extent of justifying modern day slavery. Recently there were reported cases, where a child in the school was severely beaten by the teacher for touching the plate of the upper caste children and a low- caste women was refused to work as a cook in the school for the children.

Lack of opportunities for education, poverty, lack of job and economic distress fuel this evil in the Indian context. It is easy for the trafficking person to trick a girl into devadasi system, commercial or religious prostitution when they are uneducated and comes from an economically deprived community. There is a vicious cycle of prostitution, injustice, discrimination, debt and slavery. According to Unesco, India currently has the largest population of illiterate adults in the world with over 287 million and this is 37% of the world's total illiterate.

There are constant slogans we proclaim, be free, let the people who are free rescue the one in bondage, bring this darkness into light, raise the voice for freedom, freedom is being yourself without permission, freedom to walk away, dangerous freedom over peaceful slavery² etc.

¹ Available At (<http://euroasiapub.org/wp-content/uploads/2016/10/10ESSSept-4027-1.pdf> 24/04/2018)

² Available At (<https://www.linkedin.com/pulse/human-trafficking-india-religious-social-economic-cultural-peniel/> 24/04/2018)

NEW DELHI: Terming human trafficking as "the greatest human tragedy", Chief Justice of India (CJI) Dipak Misra today said that the menace was on the rise and people involved in it considered human beings as commodity.

Justice Misra, addressing an 'International Conference on Human Trafficking' here, said the younger generation has to be the torchbearers against human trafficking.

"Human trafficking is the greatest human tragedy that has fallen upon us. It has to be avoided and the younger generation has to be the torchbearers against it. Human trafficking is a great menace to the present and the future generation," he said.

He said slavery was the human trafficking of the past and it exists even today in a different manner.

"Slavery is human trafficking of the past which existed and exist in a different way today. The people who are involved in human trafficking, think that human beings are commodities. I would like to say the commoditisation of human beings has become an industry in itself. It's a different kind of syndicate," the CJI said.

The South Asian Association for Regional Cooperation in Law (SAARCLAW), along with Justice and Care, a multi-disciplinary organization fighting human trafficking, organized the event and conducted a panel discussion on 'Legal and Technological Perspectives for Solutions within South Asia'.

Nepal Supreme Court judge Justice Sapana Pradhan Malla, in her special address, said that technology has created market for human trafficking and made the victims more vulnerable.

"Technology has become a strong tool in the hands of perpetrators. It has made the victim more vulnerable, it is high time we discuss how to control and use technology to fight human trafficking³

Most human trafficking victims are actually duped into the trade by the false promises made regarding job opportunities. Many women from third world countries are lured into this trade with the bait of false marriages. Many of the victims are forced either directly with violence or indirectly with psychological blackmail into the trade.

Once they enter the countries of trade their passports are confiscated and with no money, no shelter, and no one to turn to they are left at the mercy of those who trade in human flesh.

Human trafficking is a multi-faceted threat. It robs people of their right of freedom. It is inhuman. The victims end devastated, demoralized and defeated. Those that suffer physical and emotional abuse and rape may never be able to live normal lives again. Those that are threatened live in constant fear and end being psychologically compromised.

The impact of human trafficking is chilling; and although, the brunt of it is faced by the victims, the nation suffers as a whole. Safety and security, the privileges of living in a free country are compromised.

he child is mentally handicapped for the rest of his or her life. Hand embroidery factories mostly employ boys below the age of twelve.

Many help lines like Child line have been set up to reach out especially to the street children, child labourers, and abused children. The governments of some cities in India like Maharashtra have banned dance bars. However so much more needs to be done, yet. The problems must be tackled at grass roots. Also change must start with the people for the people.

The people must become the eyes and the arms of the government and make this crusade their own cause. Then and only then will we see an end to human trafficking.

Human trafficking

describes the 'recruitment, transportation, harboring, or receipt of people for the purposes of slavery, forced labor (including bonded labor or debt bondage), and servitude'.

It is supposed to be the fastest growing criminal industry in the world. The revenue generated by human trafficking is around \$5 billion to \$9 billion. The menace has reached epidemic proportions now. Techniques like coercion, deception, fraud, abuse of power and outright abduction are used to trap victims. Debts can also make people consent to being exploited.

Human trafficking⁴ is different from the smuggling of people which is voluntary and resorted to for purposes of migrating to another country to seek a better life. A fee is paid to the smuggler for his help and once the migrant reaches the destination, he is free to go where he wants. But in trafficking, the victim is enslaved and is denied his basic human rights. Sometimes tries people who are trying to enter other countries into may be picked up by traffickers and trapped into enslavement. Trafficking of children is a result of parents' extreme poverty. Impoverished parents may sell children to pay off debts. Some of them are deceived into thinking that their children will get a better life. In West Africa, AIDS is one of the major causes for child trafficking as they have often lost one or both parents to the disease. Children have also been forced to be child soldiers in Africa. The adoption process also results in cases of trafficking of babies and children.

³Available At <https://timesofindia.indiatimes.com/india/human-trafficking-greatest-human-tragedy-says-cji-misra/articleshow/63443309.cms>

⁴Available At. (<http://www.shareyouressays.com/essay-papers/568-words-essay-on-human-trafficking/177324/04/2018>)

Men may also be trafficked, usually for unskilled work predominantly involving forced labor. Other forms of trafficking include forced marriage, and domestic servitude. A Philippine maid in the Middle East murdered her employer who had subjected her to terrible abuse. Many films have dealt with human trafficking.

The recent (2007) film, 'Eastern Promises', by David Crone berg is about a British midwife who stumbles on a gang of Russian slavers when she seeks relatives to a baby of a sex slave named Tatiana who dies in childbirth. The 2008 film, 'Taken', by Pierre Morel, is about foreign girls in Paris who are "trafficked" for prostitution

It is a really sad situation which India is facing. In almost every city there are certain parts filled with brothels. Human trafficking includes sexual exploitation, labour trafficking, etc. Nowadays even cross-border human trafficking is prevalent. India has a huge population and because of that and our dwindling economy many people live below the poverty line. The smugglers and traffickers promise them a better life- a ray of hope, jobs as domestic servants, in the film world or in factories. They can offer them money, pleasure trip invitations or false promises of marriage.

The main targets are the people who lack job opportunities, who have been victim to regional imbalances or social discrimination, mentally disturbed, or the people who have growing deprivation and are from the marginalized communities or people caught in debt bondages or because their parents think that their children are burden and sell them off — in simple words- the poor, helpless people are the ones who are exploited the most.

It has now become an organized institution and we as youth have to do everything to remove this social vice from our country because the deliberate institutionalized trafficking of human life is the greatest degradation to the dignity of human personality. Human trafficking happens because of a simple concept which the traffickers believe in- that the human body is a expendable, reusable "commodity". Several things happen during a "human being sale" from selecting, tricking, intimidation and deception of the victim to the transportation of them to the "location". Then comes the possible change to the "central place" where the actual trafficking takes place in large numbers, there are many elements involved.

The recruiters are the first in the chain —often called as the "dalals" — they may be parents, neighbours, relatives or lovers or people who have been trafficked before. The dalals move to the "potential sites" for victims which mostly are the poverty-stricken areas where there has been no proper rehabilitation and then they haunt the bus stops, railway stations, streets, etc. The period they choose for trafficking depends on if that place has suffered a drought or social or political disasters recently, so that it would be easier to lure in the already suffering victims. The dalals use drugs, abduction, kidnapping, persuasion or deception to bag the targets.

The dalals usually happen to know many languages, including the local one, so that they become closer to the victim. Because in India corruption is so deep rooted, the network of such people sometimes includes the police, the visa/passport officials, taxi/auto rickshaw drivers, etc. They hand the victims to the brothel owners, escort services, or managers of a sex establishment. The reasons for human trafficking are many, despite 60 years of independence, the benefits of economic development have not trickled down to the marginalized sections of the society and millions of people still live below the poverty line. The poverty and hunger makes children and women belonging to the poor sections of the society highly vulnerable to human trafficking. Social and religious practices too have been a big cause. There is an inexplicable apathy in the approach of law enforcement agencies when it comes to dealing with human trafficking. A purpose to include forced prostitution, marriage, domestic labour, bonded labour, agricultural labour, industrial labour, entertainment, begging, adoption, drug smuggling and peddling and organ transplants .As India sees towards the world, it leaves behind the scars on its ground —the poor who are exploited .

We can take help of the media-spread awareness. The government, in association with the NGO's, is taking steps to improve the situation but this much is NOT enough. We as youngsters should stop this. Even little things like helping out the malnourished, poor or treating the house maids properly can make a difference because they form the major causes for human trafficking. Multinational enterprises that enter the Indian economy can lead by example. They can refuse to do business with companies that knowingly engage in the inhumane practices of employing bonded laborers.

Kids especially girl and young women, mostly from Northeast are taken from their homes and sold in faraway states of India for sexual exploitation and to work as bonded labour by the agents who lure their parents with education, better life, and money for these kids . Agents do not send these kids to school but sell them to work in brick kilns, carpentry units, as domestic servants, beggars etc. Whereas girls are trafficked for the purpose of sexual exploitation⁵. Even these girls are forced to marry in certain regions where female to male sex ratio is highly disturbed. Children from tribal areas are at greater risk of human trafficking. Recently there were cases of human trafficking in which most of the children were from the Kuki tribe in Manipur's Tamenglong district. Reason for this was the tribal clashes that let the human trafficking to prosper. Conflict between the Kukis and Nagas tribe in Northeast region between 1992 and 1997 left many kids homeless. These kids were taken by agents to the other parts of the country. The Indian government has laid down laws in the Constitution like the Suppression of Immoral Traffic in Women and Girls Act, 1956, The Immoral Traffic (Prevention) Act, and many others . In September 2006, the Indian government responded to the trafficking issue by creating a central anti-trafficking law enforcement "nodal cell." The nodal cell is a federal two-person department responsible for collecting and performing analysis of data related to trafficking, identifying the causes of the problem, monitoring action taken by state governments, and holding meetings with state-level law enforcement. In 2007, three state governments established anti-trafficking police units, the first of this kind in the India.

The emerging scenarios are certainly positive but displaying full-page advertisements against child labour, women slaves, etc in national newspapers at periodic intervals is not enough. We have to wake up before it's too late. We can take up community surveillances which will help check ongoing trafficking activities. Establishing women's groups which will help take care of the women in the underprivileged societies since women and girls are the most affected victims. We as the youth can take up

⁵ Available At (<https://www.youthkiawaaz.com/human-trafficking-in-india/24/04/2018>)

initiatives to spread awareness programs in villages, local schools, among kids of the poor society and children suffering from parents and poor conditions where help can be provided.

Another initiative which can be taken up is the involvement of the trafficked victims and helping them tell their story so that this kind of inhuman treatment doesn't happen to others. Human trafficking lowers the value of human life; it brutalizes the society and violates our belief in the human capacity for a change. So let's work for a better future for our country and CHANGE-something that India only talks about, let's turn it into reality

Why Human Trafficking increasing in India?

Fundamental theory of demand and supply is applicable to this situation as well. Men for work generally migrate to major commercial cities and from here the demand for commercial sex is created. To fulfill the supply all sorts of efforts are made by the suppliers like abduction etc. Young girls and women belonging to poor families are at higher risk.

Then comes the economic injustice and poverty. If you are born to a poor family in Northeastern state of India then you are at a higher risk of being sold. If you are born to a poor family and a girl then these chances further increases. Sometimes parents are also desperate to sell their daughters to earn money.

Social inequality, regional gender preference, imbalance and corruption are the other leading causes of human trafficking in India. Parents in tribal areas think that sending their kids means a better life in terms of education and safety. Parents also pay about Rs 6000-7000 to these agents for food and shelter.

Forced marriage⁶

Girls and women are not only trafficked for prostitution but also bought and sold like commodity in many regions of India where female ratio is less as compared to male due to female infanticide. These are then forced to marry.

Bonded labour

Though debt labour is not known much but it is illegal in India and prevalent in our society. According to the International Labour Organization there are more than 11.7 million people working as a forced labour in the Asia-Pacific region. People running out of cash generally sell their kids as debt labour in exchange for cash. Both boys and girls are sold for this purpose and generally not paid for years.

Victims of human trafficking have great chances of suffering from issues like mental disorders, depression and anxiety. Women forced into sexual trafficking have at higher risk of getting affected from HIV and other STDs.

Action against guilty

Under the Immoral Trafficking Prevention Act (ITPA) trafficking for commercial sexual exploitation is penalized. The punishment ranges from seven years' to life imprisonment. The Bonded Labor Abolition Act, the Child Labor Act, and the Juvenile Justice Act prohibit the bonded and forced labor in India.

Because of the brutal gang rape of December 2012, government has passed a bill in which laws related to sexual violence and making sex trafficking have been amended. But still there is a huge gap between enactment and enforcement of these laws. Because of widespread corruption and bribe, it is easy for agents to bring these young boys and girls for their profit. But there should be strict disciplinary action against everybody involved in such a crime then only this problem can be addressed.

Also better education and other facilities should be provided at native places so that parents do not opt these ways for their kids. Above all attitude towards women and young girls must change.

Conclusion

Trafficking in human beings is a complex and multidimensional problem that has spread worldwide. Like pollution trafficking has permeated our day to day lives. The present situation of trafficking in human beings is a clear manifestation of the lopsided economic development, lack of political will and social disintegration. The failure of the state machinery including law enforcement puts vulnerable sections of the society at the receiving end of this multi-dimensional problem.

The last few decades have seen significant development of the response in combating trafficking in human beings at the National, Regional and International levels. However, critical and concrete efforts have been lacking to curb the menace of human trafficking. The transnational nature of this crime requires an integrated global action with the involvement of different stakeholders. Much work has been done in terms of research on human trafficking, but reliable data both at national and international level is lacking. There is a lot of repetition in the work. It seems that the studies undertaken are a replica of one parent research, which has created a lot of confusion about the existence and the conceptual dimensions of human trafficking. However, testimonies of various stakeholders clearly confirm its existence worldwide. Consequently, human trafficking has been put at the top of the international agenda and various efforts have been made to curb this crime. Most importantly, in this regard,

⁶ Available At (<https://www.mapsofindia.com/my-india/society/human-trafficking-in-india-must-end-24/04/2018>)

the United Nations Convention against Transnational Crime has been a path breaking achievement. For more than a century human trafficking has been linked only to one form of exploitation namely, commercial sexual exploitation, but the United Nation's Trafficking Protocol defined trafficking in persons in such a way that it diluted the age old belief that human trafficking is just for the commercial sexual exploitation. The Trafficking Protocol, currently forms the basis of various State human trafficking laws.

