

An Overview: The Legal Facets of Women Trafficking in India



Law

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ABSTRACT

Trafficking in women is one of the worst manipulations of human rights. Anyway it is exceptionally hard to gauge the scale of trafficking is nearly identified with child labour, bonded labour, Child marriage, abduction and kidnapping and prostitution despite the fact that these phenomena can exist also independent of trafficking. This has subjected to investigate the nature, causes, modes and volume of trafficking in a nation that has turned into a vulnerable objective for trafficking. India has neglected to follow certain international standards to battle the crime. There is a need to create a multidimensional approach and centres for consideration on structural variables of trafficking for suggesting significant schemes to counter the social abhorrence.

INTRODUCTION

Human trafficking, particularly trafficking in women and children has developed as an important social subject matter of concern in many parts of the world. Although trafficking is largely a borderless structured offence, India is becoming a source, transit point as well as a destination for the traffickers. The core problem is that human trafficking, being a highly private and concealed trade, remains mostly under-reported and unguided in spite of the fact that numerous international initiatives have been taken to drive governments into action. On the other hand, the increasing volume of human trafficking is also a reflection of the lack of political will on the part of the states as evident in the plethora of instances to allocate insufficient resources to fight the problem. Not only is the issue of human trafficking in India a low priority for the law enforcement and justice delivery agencies, there is lack of synergy among various government departments like welfare, police, women, health, women and children etc. This has resulted in obligatory and hindered investigations as well as dwindling rates of verdicts. The government has recommended amendments to the Immoral Traffic (Prevention) Act (ITPA) and planned to set up Anti-Human Trafficking Units (AHTUs) for an operative partnership among several stakeholders involved in providing responses to human trafficking in India. But the response is insufficient in the context of the heinousness of the problem. India's trafficking in persons problem is projected to be in millions. The alarming growth in human trafficking as testified by media, NGOs and police, therefore, poses a serious risk to our desired goal of basic human rights, social justice and noble living. Trafficking in women and children particularly is one of the worst and most blatant abuses of human rights. The victims are subjected to mental, physical, and social torture. A trafficked person is not only traumatised; they are stigmatised as outcaste by the society as a result that they face moral and legal isolation. A strong nexus of consigned interest ensures that the victim is held in debt and bondage, which is one of the many ways adopted to keep the girl in constant servitude. Most importantly, sexually exploited victims are most vulnerable to HIV/AIDS. Human trafficking therefore typically represents the modern-day slavery. Therefore, every need is to raise our sensitivities regarding the issue, and thereby develop appropriate policies and stratagems to arrest this menacing social evil.

OBJECTIVE OF THE STUDY

The present study comprises of the following objectives.

- This paper tries to find to deliver an analytical framework for planning more effective laws against human trafficking.
- This article explores into the core reasons for human trafficking in India, both a source and a destination of trafficking, as it continues to grow globally.

SCOPE OF THE STUDY

It involves a summary of trafficking patterns; legal steps taken

in response; and country-specific evidence on reported cases of trafficking in persons, victims, and prosecutions.

ANTI- TRAFFICKING LAWS IN INDIA

As per the provisions of the Immoral Traffic (Prevention) Act, 1956, girls below 16 years of age are considered as children and girls below 16 years of age are considered as children and girls between the ages of 16 to 18 years are treated as minors.

To control such immoral trafficking, initially an Act was ratified as the "suppression of Immoral Traffic in Women and Girls Act, 1956". That Act was passed for fulfilment of the International convention for the suppression of traffic in persons and of the exploitation of the prostitution of others, signed at New York on 9.5.1950. This Act was amended twice, once in 1978 and for the second time in 1986. Again in 2006 a bill has been placed before the parliament for amendment of certain sections of the Act to remove some loopholes, particularly the section 8 and 20, which results in further victimization of the victim. Moreover, the present Act gives less importance on traffickers. The Bill is still pending and the same has been referred to the Parliamentary Standing Committee.

India has turned into a focus of human trafficking; the Constitution of the country has banned all sorts of trafficking under Article 23. The Suppression of Immoral Traffic Act 1956 (SITA), amended as the Immoral Traffic (Prevention) Act (ITPA) in 1978 and later in 1986, was in reaction to the ratification of the International Convention on Suppression of Immoral Traffic and Exploitation of Prostitution of Others in 1950. The amended law emphasizing prevention rather than suppression of human trafficking took into consideration the international conventions and protocols and provided severe penalties for different types of exploitative conditions. The ITPA also provides security and rehabilitation for the rescued girls. Keeping a brothel or allowing sites to be used as a brothel is a crime under the ITPA. It also provides penalty to (a) adults living on the incomes of prostitutes, (b) getting a person for the sake of prostitution, and (c) keeping a person in premises where prostitution is carried on. But, prostitution is not a crime under the ITPA. It however forbids solicitation or engaging in sex work in or near a public place. Often this endowment of the act is used by the police to harass and penalize the sex workers who themselves are the victims of trafficking. The Government of India has therefore newly tried to amend the law and release the sex workers of the crime of lobbying or seducing by deleting Section 8 of the act even though it complicated the matter by suggesting typical punishment for the clients under a new section 5C.10 separated from the ITPA, trafficking of women and children for sexual exploitation is covered under several other sections of the Indian Penal Code (IPC), namely, 366A (Procurator of Minor Girls Under 18 Years of Age), 366B (Import of Girls Under 21 Years of Age From a Overseas Country), 367 (Abduction and Kidnapping for Slavery, Unusual Lust, etc.), 372 (Marketing of Minor Girls for Pro-

titutions), 373 (Procurement of Minor Girls for Prostitutions). There are some other crimes under IPC that have direct bearing on the problem of trafficking. Thus, for an occasion, trafficked women/girls very often are raped (an offence under section 376) before being shifted to the brothel. Moreover sexual intercourse with a girl child under 16 years of age, even with her assent, creates the offence of a rape u/s 374 IPC. Similarly, distinctive legislations like The Bonded Labour Abolition Act 1976, Offences against Children Act 2005, Child Marriage Restraint Act 1929, Juvenile Justice Act 2000, Child Labour Act 1986 and local legislations like Goa Children's Act 2003 also attempt to avert human trafficking. Human trafficking in India can be categorised into three groups: (a) for money-making sexual exploitation, (b) for an unequal labour, and (c) for other forms of exploitation like organ sale, begging etc. A brief look into the available records and reports on trafficking show that the trafficked women and children are constrained into activities like massage parlours or beer bars, prostitution in brothels ,dancing, petty crimes,pornography, agricultural labour ,domestic help, begging, organ trade, camel jockeying, drug trafficking and even trafficking. The increase growth of sex tourism and increasing response for cheap labour in the globalised world has subsidised to the increase in trafficking of young women and girls. Women are exchanged at prices that vary on the basis of physical beauty and virginity. In the sex industry some customers prefer girl children who are supposed to be unaffected by AIDS. Resultantly, there is a continual demand for girl children.

CONCLUSION

To stop the trend and to save the girl child and women, there is no easy solution, only well-reasoned choices which we all have to make under a concerted strategy involving social workers, policy makers, NGO and the police can lead us to some light .In such cases police also cannot do anything alone. For that purpose, awareness among the general people and alertness among the family members can only save the girl child from the well-organized flesh traders of the society.

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