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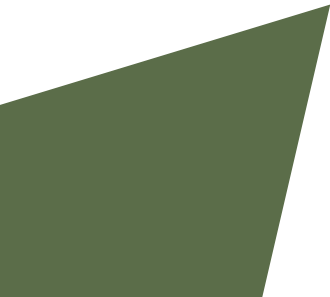
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**Human Trafficking: Modern day slavery in India**

**Tanya Janghel**

## ABSTRACT

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*Slavery is abuse of human rights and a major obstacle to social justice. And yet million women, men and children are still trapped in forced labour all over the world generating 32 Billion \$ in illicit profits for those who traffic humans. Human trafficking is the second-largest organized criminal industry in the world. Over 150,000 people in south Asia fall into the trap of human trafficking every year. Nepal, India and Bangladesh top the list of countries affected by it. The trafficking of Nepalese women and children to India has jumped by over 500% in the last five years. There is low start-up cost, minimum risk, high profit, and large demand and for this reasons traffickers choose to trade in humans. For organized crime groups, human can be sold repeatedly unlike drugs. Human traffickers are not always motivated exclusively by profit. Some consciously engage in this activity to fund a terrorist group or to provide suicide bombers. Consequences of trafficking are devastating for its victim and the community at large. All of society suffers from such organized crime as it violates the democratic society, liberty and respect for human. Human trafficking of persons generally is done for trade of sex, labour, organ, Drug paddling, Domestic servitude, forced marriage etc. Mostly girls are trafficked via Indian airports to go to the Middle East. Why has India become such an easy transit point for traffickers? This shows the negligence of the countries immigration department and also the airlines counter. Where are the policemen at the airport? Traffickers and whole mafia network are able to manipulate the whole systems functioning. Human trafficking needs to be tackled with strong legislation, strict implementation, and joint commitment of countries along with effective support system for the victims. In this paper we are going to discuss all about human trafficking, its impact, legislation and solutions.*

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## **INTRODUCTION**

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Human trafficking as a contemporary global problem made its way into public consciousness at the start of the twenty-first century, pressed mainly by governments and feminists. It has since become sediment in everyday life and is regularly broadcast in media, yet the problem it points to is not new and has been a concern of nations. India among few other countries in Asia is becoming a source, transit point as well as destination for the traffickers. Trafficking is generally always coerced and not with consent and if there is consent the victim is lured, cheated, falsified, deceived and often coerced, it is in fact, a facade of consent and not 'informed consent'. And this makes finding the traffickers more difficult as they manipulate and brainwash the victim to the level that they themselves lie to the airport or other authorities. And once they reach their destination they are stuck.

India has turned into a breeding ground for human trafficking, though the Constitution of the country has prohibited all sorts of trafficking under Article 23. There are various provisions for prohibition of human trafficking like the amendment immoral Traffic (prevention) Act (ITPA) in 1978 and 1986. This act was amended in response to the ratification of the International Convention on Suppression of Immoral Traffic and Exploitation of Prostitution of Others in 1950. Now let us see legal provisions of human trafficking in India.

## **LEGAL PROVISIONS**

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Article 23 of COI gives Prohibition of traffic in human beings and forced labour. To give effect to these constitutional provisions and to provide coherence with the Trafficking Convention, India enacted the suppression of Immoral Traffic Act 1956 (SITA), which was later amended and renamed ITPA. It is the primary legislation for prevention of trafficking for commercial sexual exploitation. It makes the sexual exploitation of male and female a cognizable offence. The Act provides rigorous imprisonment from 7 years to life for the said offenses against a child, while offenses against a minor may result into 7 to 14 years imprisonment. In the case of a person promoting child/minor prostitution in a public place, the imprisonment is not to be less than 7 years, which may extend to life. Thus, the harsh punishment prescribed by law against the perpetrators has become a bonanza of corruption for the police. A report revealed that no other area in Bombay has the intensive police presence as that found in the red light districts.

Criminal Law (amendment) Act 2013 came into force to counter menace of human trafficking. Indian penal code criminalizes the activities like selling and buying of minors for the purpose of prostitution, kidnapping, abduction, inducing, procuring, importing fro purpose of illicit intercourse, slavery and others.



Juvenile Justice (care and protection of children) Act, 2000, protects the children in need, which includes the child found vulnerable and is likely to be induced into trafficking. It also empowers the state government to constitute child welfare committee.

There are other specific legislations enacted relating to trafficking in women and children Prohibition of Child Marriage Act, 2006, Bonded Labour System (Abolition) Act, 1976, Child Labour (Prohibition and Regulation) Act, 1986, Transplantation of Human Organs Act, 1994, etc Various State Governments have also enacted specific legislations to deal with the issue. (E.g. the Punjab Prevention of Human Smuggling Act, 2012)

IITP Act is the only Act dealing specifically with the issue, it fails to even define the term trafficking. This Act completely neglects the various purposes of human trafficking except for prostitution.

## **JUDICIAL RESPONSE**

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Judicial activism has distinctly marked today's era in the socio-legal issues. Wherever the executive and legislature has failed in carrying out their duties, the judiciary has actively intervened. Though the judiciary has been actively involved in various social issues but trafficking in persons has remained neglected. Hardly any case of human trafficking comes to notice of judiciary and then the police officers incapability in collecting evidence and then the lenient laws allows the criminals to escape. There is an urgent need for active judicial interest and involvement in trafficking matters. Though there are cases in which judiciary has laid down directions and emphasized the care, protection and rehabilitation of victims of trafficking.

In case of **Dr. Upendra Baxi vs. State of Uttar Pradesh**<sup>1</sup>, the Supreme Court held that women and girls rescued should be sent to protective homes and housed under proper conditions. They should be medically examined and treated with care.

In landmark judgment of **Vishal Jeet vs. Union of India**<sup>2</sup> the Supreme Court directed the government to insure care, protection, development, treatment and rehabilitation of victims of commercial sexual exploitation and to set up a central advisory committee. The court also directed to appoint trained personnel in rehabilitation homes. The central government was directed to look into the inadequacies of the law, system and institutions relating to trafficking to make appropriate amendments.

In the **PIL Prerna vs. Union of India**<sup>3</sup> broad guidelines were given on the implementation of the Immoral Traffic Prevention Act, 1956. Some of the directions are-

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<sup>1</sup> (1983) 2 SCC 308

<sup>2</sup> AIR 1990 SC 1412

<sup>3</sup> 2003 (2) MhLi 105

1. Establishment of a national nodal agency involving ministries of women and child, labour, social justice, health, home, tourism, railways, information and broadcasting and law and justice to monitor cases of trafficking and missing persons.
2. Establishment of an advisory board in every state/union territory
3. Issuing a general notification under section 13 (3) (b) of ITP Act, specifying a class of officers as special police officers to deal with offence under this Act.
4. Training of all police officers
5. Verification of age of victims
6. Special prosecutors for the case involving trafficking are some of the directions given by court.

## **REASONS FOR HUMAN TRAFFICKING**

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The most essential factor that has been acknowledged as the main driving force behind human trafficking is poverty. Individuals who have no one around them to find them are the most common victims, poor people who work for daily bread are the victims because if they file missing complain also they can't spare much time on this issue as if they do so who will earn for the rest of the family and the police officers are mostly corrupt and careless. The phenomenon maybe old but it has taken new forms as globalization has fueled growth in certain economic sectors with demand of cheap labours.

### **SEX WORK**

This is the most common destination of the victims of trafficking. Different groups of traffickers include gang members, pimps, and in few cases even policemen, businessmen, and politicians are involved all working as a nexus. The prostitutes, who enter into sex relationships voluntarily for mercenary considerations, are not normally a matter of concern for the legal authority. Hence, the distinction between a trafficked and no trafficked prostitute may remain a mystery unless the victim clearly reveals her plight.

Trafficking networks are well organized and have linkages both within the country and in the neighboring countries. The lives of the victims are completely dominated by the brothel owners that they cannot refuse to have sexual intercourse with anyone, even if they know that the customer before them is chronically ill with an infectious disease. And this leads to girls being infected with sexually transmitted diseases and most commonly HIV/AIDS.

### **ORGAN TRADE**

This kind of Human trafficking is lesser discussed as it is not so common but the most evil. The advancement in the field of medical science has given rise to Organ trafficking and has relatively

high demand and low law enforcement rate. It leaves the donors open to lifetime of health consequences. According to World Health Organization (WHO) Kidneys is the most common organ that is traded in black market worldwide.<sup>4</sup>

### **FORCED AND EXPLOITED LABOUR**

Trafficked people are employed in the entertainment industry, domestic work, carpet industry, bangle industry, circus, etc. they are exploited with the risk of health and life. They are forced to the labour with no time limit and pathetic working condition. They live and die as brutally exploited slaves. In the famous case of **people's Union for Civil Liberties vs. Union of India**<sup>5</sup> children below 15 years of age were trafficked and forced to work as bonded labourers. Children were being procured from Madurai in Tamil Nadu for the purpose of child labour by paying a sum ranging between Rs. 500 to Rs. 1500 to the poor parents. The children were forced into bonded labour.

### **MARRIAGE**

The falling sex ratio in various parts of India like Haryana, Rajasthan is the reason for human trade for the purpose of marriage. Women are traded and forcefully married to meet the growing demands of brides. Numerous instances of women being abused both physically and sexually and, in some cases, murdered due to the inability to bear a male child. There are cases where girls are sold to rich sheiks for temporary marriage called mutah in return middleman gets lump sum money as mehr. Once marriage is consummated the girls are again sold into commercial sex work.

### **DRUG PEDDLING**

Since the investment in children is not much and the traffickers can afford getting these children caught b police; children are often used extensively for the purpose of drug peddling. There are various cases were women and children are used for drug smuggling around the world. In many of the instances, they are forced to carry the drug capsules inside their bodies.

## **EFFECTS OF HUMAN TRAFFICKING**

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In 2017, an estimated 1.6% of female sex workers in India were living with HIV. Prevalence among female sex workers is estimated at 7.4% in Maharashtra and 6.3% in Andhra Pradesh.<sup>6</sup> Sex workers are one of the key affected populations in India because of the Stigma and discrimination against sex workers which is very common and restricts their access to healthcare. Sex workers fear abuse, neglect and isolation. This further leads to more transmission as they do not stop sexual intercourse with customers and mostly customers of brothel do not use condoms. The trapped

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<sup>4</sup> <https://www.theguardian.com/world/2012/may/27/kidney-trade-illegal-operations-who>

<sup>5</sup> (1998) 8 SCC 485

<sup>6</sup> [https://www.avert.org/professionals/hiv-around-world/asia-pacific/india#footnote10\\_eazaqa9](https://www.avert.org/professionals/hiv-around-world/asia-pacific/india#footnote10_eazaqa9)

victims are physically and emotionally abused to severe health risks, treated cruelly, deprived of basic needs and exposed to hazardous work and materially and economically exploited. Human trafficking also leads to criminal activities such as extortion, racketeering, money laundering, drug use and gambling. Thus impact of trafficking not only extends to the helpless victims but to overall society in general. The barbaric sale and purchase of human beings for vile and anti-social purposes occurring in the most developed of countries and in the most advanced times is direct insult to the human civilization and conscience.

## **REMEDIES**

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**RAISE AWARENESS:** Prevention of human trafficking programmers should examine the socio-cultural and economic conditions, identify the vulnerable groups, and address the root causes of trafficking and other forms of exploitation and abuse which include discrimination, social and economic marginalization, violence, and abuse. They need to be told about access to information and education is a must for the prevention of human trafficking. Empower them to make informed choices and protect themselves, about trafficking and other risks of exploitation and abuse, including the risks of migration. And many Other issues like discrimination, gender stereotypes, sexuality, and abusive relationships should also be seen into and educate them about it.

**EDUCATION:** A supportive child-friendly services network should be established that offers protection to children. Adequate education and information, including training on life skills, is another important component of a protection system, which helps build self-esteem, empowers the child to make informed decisions following the trafficking experience, and prevents re-trafficking. The vulnerable groups need to be educated about the trafficking and prepare them to not get manipulated by anyone. Women who lured for job opportunities in big cities need to be educated well enough to get a decent job on their own. Empowering child victims of trafficking which include building children's self-esteem through education, information on human rights and trafficking.

**IDENTIFY VICTIMS AND OFFENDER GROUPS:** A uniform system to identify victims who have been subject to abuse and exploitation, whether as a result of trafficking or otherwise should be made. This identification should be addressed by both the government and civil society as well. Quality services should be available and accessible to all victims independent of identification. Services should respond to children's rights and individual needs.

**REHABILITATION OF THE VICTIMS:** Care should be taken of victims' mental health and the family is needed to ensure that adequate protection is given when he or she returns home. Activities for their care, protection should be organized. Women who return from a brothel should be equally respected like other women and should be given equal opportunity for employment and education. We as a society need to change our mindset towards these victims and help them come back to their normal and healthy life. The social, psychological, physical, and mental damage which trafficking victim undergoes is tremendous and should be dealt with the utmost care and holistic approach.

**CONVICT THE OFFENDERS:** The offenders should be convicted and harsh punishment needs to be decided. We need to take this issue very seriously and an honest and non-corrupt officer should be appointed for this task and higher authority should cross-check. The laws need to be strictly implemented. The trafficking cases shall be treated as fast track and shall be conducted on a day-to-day basis so that it will generally not be necessary to enlarge the accused on bail.

**SPECIAL COMMITTEE SHOULD BE SET UP:** This committee should not only identify the offenders but also the termite inside the system means the police officers who rather than taking action are greedy of money. Committee authorities must inquire about the policemen near the red light areas and go to the roots of this whole organized crime group. And also there is a need to make police stations women and children friendly so that faith in the system and self-confidence would be boosted. Authorities at the airport, railways, and borders need to be more vigilant to identify and track down the offender and victim.

**DISMISS POLICE OFFICERS WHO MISCONDUCT:** any policeman found mixing up with trafficked victims, brothel-keepers, pimps or traffickers in any way shall be deemed to have committed major misconduct within the meaning of the service rules. If found in any sexual activity with the trafficked victim or torturing the trafficked victim than the police officers should be dismissed from the service.

## CONCLUSION

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Human-trafficking is one of the worst criminal activities that have spread its infection like termite all over the planet. It is one of the wicked acts that have made the lives of millions as worse as hell. The moral values, ethics, and sense of belongings as a member of same human race have been restricted by the individual interest and pleasure. The victimization of poor and vulnerable masses has co modified them like animals and vegetables in the market by the traffickers. The procedures, process, means, methods, as well as the rate of involvement, is increasing in this crime each day due to lack of resources, highest demand in the market, very few income options. The rescue and rehabilitation are carried out in the most insensitive, abusive, and degrading manner, throughout treating the victims as criminals. subjecting them to severe trauma, indignity, and violation during the entire process. At last we citizens need to be careful and sympathetic towards the victim and report the authority if found any suspicion and support the victims rather than making their lives more difficult. Thus, at present the law and practice relating to rescue of victims of human trafficking is highly inadequate and should be amended.