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**THE UGLY FACE OF HUMAN TRAFFICKING****ABSTRACT**

*In this research paper the author has attempted to highlight the pain & suffering of the victim of Human Trafficking. This paper also deals with other crimes that are born out of human trafficking. The research paper has extensively dealt with the wider meaning of Human Trafficking and its evolution in the Indian society along with the current menace around the globe. This research paper has been backed by the official data of NCRB. Author has also explained two very recent cases of Human Trafficking and related crimes. Later in this paper, you can find the Indian Laws that are formulated to prohibit and curb the heinous crime of Human Trafficking. The Reform measures & Conclusion mentioned at the end of the paper is the personal view point of the author.*

**WHAT IS HUMAN TRAFFICKING?**

According to United Nations, “any trafficking that leads to recruitment, transportation, transfer, harbouring of people by the means of force, with an aim of exploiting them for profit is known as Human-Trafficking”. Centuries ago, slavery was a prevalent form of it. Some common purposes for trafficking are - forced labor, sexual exploitation, prostitution, drug dealings etc. The traffickers target victims on their vulnerabilities and transport them across the world. Victim face multiple forms of physical and mental abuse. It breeds other crimes like cyber-crimes, illicit flow of money, fraudulent travel documents, corruption etc.

Human trafficking is one of the most heinous crimes that has its existence in all the nations across the globe. It is a crime against the whole humanity. It generates fear and insecurities in the minds of people. We can't never imagine the pain and trauma that a victim of human trafficking has to suffer. What makes Human Trafficking the gravest crime is, that it shelter & give birth to various other heart-wrenching crimes. The most common victims of this crime are vulnerable women and children. Victims of Human Trafficking are usually forced into Prostitution, Bonded Labor, Pornography and Forced marriages. Traffickers drug them, beat them, rape them to tame the victims and to create a fear in their minds Human Trafficking not only take their liberties, but changes their lives forever. Victims keeps longing even for their basic dignity. Even when a victim gets out of the clutches of the abusers, she won't be able to live peacefully and her past would keep coming in front of her eyes.

According to NCRB, 6616 people were trafficked in 2019. 4079 of them were females and 2914 of them were children<sup>1</sup>. According to SSB, the traffickers have amended their modus operandi by trafficking two or three children at a time and by keeping an eye on them from a distance. They even started hiring luxurious busses for transporting the children during Covid. The change in methodology came after continuous crackdown by law enforcing agencies and awareness campaigns launched by NGOs.

India has one of the highest number of slaves in the world. The trafficked children are taken to hazardous industries like that of Bangles, Carpets, Construction sites because they are cheap and can be easily monopolized. Children belonging from impoverished, backward and minority communities are usual victims. Even adult girls from Nepal and Bangladesh are brought in India for flesh trade. Such cases remain hidden due to lack of complaints to law enforcement agencies.

## **EVOLUTION OF HUMAN TRAFFICKING**

- The concept of Human Trafficking is not new. It has been there since many centuries. The slave trade was initially commenced by the Europeans. They exchanged slaves with the final products with the traders of Africa and resold them to rich Europeans. Inhabitants from Africa were cheap in price and were strong. This made them suitable to work in factories and mines under pathetic & inhuman conditions. The masters even had the right over the children born to a mother slave.
- Earlier, in Roman Laws slaves were not considered as humans. According to it, slavery was a condition of absolute rightlessness. They were considered as property of the masters and had rights equivalent to domesticated animals. They could be freed by manumission, i.e., by going through prescribed procedure”.
- India too had a long history of slavery. Several women worked as slaves in elite households and kingdoms. Arabic merchants brought several slaves who served in elite armies. Slaves were also forced to cultivate the lands owned by upper-class people. The Bonded labor was one of the most generic form of slavery in India. Under this system, the rich people extended loans at huge rate of interest to the poor. They had to work for the rich people without any money. Many a times this loan passed to next generation, thus also making them bonded laborer’s<sup>2</sup>.
- In 4<sup>th</sup> century B.C, Megasthenes came to India to visit the empire of Chandragupta Maurya and observed that the ancient Indian society was unknown to the system of slavery. Therefore, he declared that all Indians were free. Since, he did not travel to whole of India, it would be wrong to declare that India did not have the Slavery System.
- The observations of Megasthenes did not match with the available evidences of ancient India. The ancient Hindu law books and Smritis, too recognized this system. The Rig Vedic Aryans fought several wars with non-Aryans and enslaved the war soldiers and aborigine. These enslaved people were known as “Dasyu” and “Dasa”.
- In the later centuries of Rig Veda, several rich landlords and people from upper castes used Shudras as tillers. They were considered as human-animals who were born to serve the members of upper castes. Even the Ramayana, has described the horrible conditions of the Shudras with the help of the story of a shudra named “Guhaka Chandala”.

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1. Available at : [https://ncrb.gov.in/sites/default/files/crime\\_in\\_india\\_table\\_additional\\_table\\_chapter\\_reports/Tabble%2014.2\\_6.pdf](https://ncrb.gov.in/sites/default/files/crime_in_india_table_additional_table_chapter_reports/Tabble%2014.2_6.pdf) (Last accessed - 15.08.2022)

<sup>2</sup> Available at : <https://indianexpress.com/article/research/history-quiz/take-quiz-how-much-do-you-know-about-the-history-of-slavery-in-india-4884937/> (last accused - 15.08.2022)

- The living conditions of a Shurda in ancient India society were horrific. They were hereditary slaves. They had to eat the left-over food of their master, had to wear dead peoples clothes, use broken furniture and cookware in their houses. The penalty of killing a Shudra for a member belonging to higher caste was equal to killing a dog or a cat. Most of the slaves in India were used as domestic helpers by the rich.

## **PRESENT SITUATION AROUND THE GLOBE -**

- Slavery is a lucrative business worldwide with around \$150 billion market. It is the third largest organized crime globally. The increased consumption of Electronic Gadgets worldwide has boosted this industry. In Democratic Republic of Congo, the slaves and trafficked victims are used in the mines of Coltan, Gold, Tin which are used in manufacture our gadgets. Much of the profits is used to fund militia warfare in Central Africa. These people cannot even flee from such areas as their passports are seized. Many armed groups like Lord's Resistance Army, in Northern Uganda, enslave children and force them to fight wars.
- Since centuries, women and children have been the main victims of the war fought between the various groups. Women are killed and raped every time a country faces civil war like situations. Women of Yazīdī community of Iraq are facing similar situations since last one decade. ISIS, an infamous terrorist organization is involved in the trafficking of women from Yazīdī community. In 2014, more than 5,200 Yazīdī women were trafficked to be sold in Iraq. These Yazīdī women are kidnapped, transported to prisons and to the houses of ISIS fighters across Syria and Iraq where they are regularly raped, beaten, locked, and killed.
- Another such terrorist organization which has enslaved women is Boko Haram in Nigeria. Around thousands of young women and school going girls in Nigeria have been kidnapped, and forced to convert to Islam and then married off to the combatants of Boko Haram.
- COVID has made things worse for children & women. Millions of children are left alone after the death of their parents during the pandemic. This has made them more vulnerable. Poor families send their children to cities in the hopes of earning some money or learning some skill so that they can arrange for at least one meal of the day.
- It is a harsh reality, that those who are duty-bound to protect civilians, are involved with Human Traffickers. Majority of women & girls are sold to Brothels. In India, it is illegal to run a brothel, yet we know several red-light areas with plenty of functional brothels. One such example is GB Road in Delhi. This means that these brothels must be getting support from Police and Administration, therefore they are still functioning. Majority of women working in these brothels have been human trafficked.

## **RECENT TRAFFICKING CASES -**

### **1. Recently Police found a functional Brothel on Meghalaya's BJP leader's estate -**

Police of West Garo Hills in Meghalaya on 24 July 2022 unearthed a building that was being used to run a sex racket. This building is owned by BJP's state vice-president Bernard N Marak. Police arrested around 73 people from building. This building was being used as a brothel. Police was fortunate enough to rescue six children - four boys and two girls. Police also found vehicles, liquor bottles & 500 packets of unused condoms. Police also found a minor girl who was sexually assaulted multiple times over a week. Police has registered a case under IPC, POCSO Act & the Immoral Trafficking (Prevention) Act, 1956<sup>3</sup>.

### **2. Minor Girls from remote areas are being trafficked as Bride Slave.**

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<sup>3</sup> Available at : <https://www.hindustantimes.com/india-news/police-unearth-brothel-on-meghalaya-bjp-leader-s-estate-six-rescued-101658600246975.html> (last accessed - 15.08.2022)

This is a story of a minor girl from Assam who was sold to 30 years older man from Haryana by her own sister for Rs 50,000. Her sister told her that she will be going to Delhi with her, but instead she was taken to Haryana where men put price on her for marrying her. The “Empower People”, an NGO helped her reunite with her mother. “Paro” is a term that is used for those brides who were forcefully married off in exchange of money. Mewat district of Haryana is infamous for getting regular supply of girls from other states. These girls are sold to men who can’t find a bride in the nearby areas. Bride selling has become a profitable business for the traffickers. These brides are sold to men of Rajasthan, Haryana, & Punjab. The brides are trafficked from the backward states like Assam, West Bengal, Jharkhand or Bihar.

## **EXISTING INDIAN LAWS -**

India is signatory to many international conventions passed for the protection of human rights and rights of workers along with the safety of women and children. Therefore, India has formulated some laws to protect and promote the human rights and various other essential rights of laborer’s, women and children in India.

- **Constitution -**

**Article 23 and 24 of Indian Constitution** - Article 23 prohibit the trafficking in persons, Beggar and other forms of forced labor. Article 24 prohibits the employment of children below the age of 14 in hazardous industries and factories and mines. It was essential to insert these articles in the Constitution to prevent the exploitation of the weaker section of the Indian society by the rich people. Women and Children were exploited by the powerful people, taking advantage of their helplessness and vulnerability. Secondly, these right also puts an obligation on the government to formulate strict laws and upgrade them with changing times to prevent commission of towards them heinous crimes. The proviso of this article allows the governments to impose compulsory service for public purposes and the imposition should be free the biases based on class, caste, religion, or race

- **Indian Penal Code, 1860**

**Section 370 of IPC** - the recruitment, transportation, harboring or receiving of person or persons by use of threat, abduction, fraud or inducement of payments and benefits, for exploitation is known as human trafficking. The term “Exploitation” is used in a wider sense with include sexual exploitation, slavery, servitude, or forced removal of organs in its ambit. The consent of victim is immaterial in human trafficking. If a public servant or police officer is included in any case of human trafficking then, he or she would be punished with both fine and life imprisonment.

- **Section 371 of IPC** - Whoever imports, exports, removes, buys, sells, traffics, or deals in slaves on a regular basis, shall be punished with imprisonment.
- **Section 373 of IPC** - According to this provision whoever purchases, hire, or obtain possession of a minor with an intent to use the minor for the purpose of the prostitution or illicit intercourse with any person shall be punished. Even using minors for unlawful and immoral purposes is also a punishable offence. The punishment under this section can extend to ten years along with the fine. If a minor girl is found in the possession of a prostitute or a person who manages a brothel and is indulged in buying, hiring of prostitutes, then it is presumed that minor girl was kept for the illicit purpose only, unless the contrary is proved.



**• Other Provisions under IPC -**

There are many sections under the IPC which can be used against the incidents of human trafficking. Provisions from Section 365 to Section 374 deal with various causes for which human trafficking is done. For instance -

- Abducting or kidnapping a person with an intent to confine her wrongfully and secretly<sup>4</sup>
- Abducting or kidnapping a woman with an intent to force her to marry any person against her will or to seduce her for an illicit intercourse shall be a punishable offence. Even, if a person abducts or kidnaps a woman with the knowledge that she would be forced for above mentioned activities shall be punished<sup>5</sup>.
- Whoever, by any sort of means induces any minor girl to go from any place or to do any act with intent that such girl may be forced or seduced in an illicit intercourse with another person shall be punished with imprisonment. The knowledge about the above-mentioned possibilities by the inducer can also put him/her behind the bars<sup>6</sup>.
- Whoever imports into India any girl under the age of twenty-one from any foreign nation, with an intent that she may be, or knowing it to be likely that she will be, forced or seduced to illicit intercourse with another person, shall be punished<sup>7</sup>.

**• Immoral Traffic (Prevention) Act, 1956**

This act provides punishments for forcing victims of trafficking into prostitution. This act makes it illegal to run a brothel. This act also empowers a police officer to make a search without warrant, provided the officer should record his grounds of belief before entering into a premises<sup>8</sup>. This act also empowers the Magistrate to order a police officer not below the rank of sub-inspector to rescue a person who is forced into prostitution, provided Magistrate is satisfied with the information she received from Police<sup>9</sup>. This act provides the State Governments with the power to establish as many corrective or protective homes. Corrective homes are for the accused & under-trial whereas protective homes are for survivors of trafficking where they are provided with all the essential remedies. The state governments also have the right to establish one or more Special Courts to deal with Human trafficking cases<sup>10</sup>.

**DRAFT BILL ON TRAFFICKING IN PERSONS (Prevention, Care and Rehabilitation) BILL, 2021**

In 2021, the Union Ministry of Women and Child Development (WCD), invited suggestions for the draft of this bill. The objective of the bill is to provide protection, rehabilitation to the victims of human trafficking, especially women and children as they are more prone to it. It also aims to create a socio-economic condition, that would provide supportive laws and would respect their rights. Earlier also, the government tried to implement a separate law that would deal with human trafficking, but those attempts were not successful.

**Highlights of the Bill -**

- The current 2021 bill, expands the scope of the bill by including the offences that occurred in foreign lands.

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<sup>4</sup> Sec. 365 of IPC

<sup>5</sup> Sec. 366 of IPC

<sup>6</sup> Sec. 366A of IPC

<sup>7</sup> Sec. 336B of IPC

<sup>8</sup> Sec.15 of Immoral Trafficking Prevention Act, 1956

<sup>9</sup> Sec. 16 of Immoral Trafficking Prevention Act, 1956

<sup>10</sup> Sec. 22A of Immoral trafficking Prevention Act, 1956

- It makes the National Investigation Agency, the central investigation authority looking into such offences. NIA is a Central Counter Terrorism Law Enforcement Agency that deals with the cases that involves terrorism, money laundering and other threats to the national security<sup>11</sup>.
- The bill says that it is applicable to all the Indian citizens, within and outside the country and to foreign national or a stateless person who has residence in India.
- It also says the law “shall apply to every offence of trafficking in persons with cross-border implications.” Any conduct by a person at a place outside India which constitutes an offence at that place and which would have constituted an offence under this Act had it been committed in India is called cross border implication<sup>12</sup>.
- If the bill converts into an Act, the central government will set up a National Anti-Human Trafficking Committee, and the state governments will set up these committees at state and district levels to ensure effective implementation of the law and to curb the menace of human trafficking<sup>13</sup>.
- The bill also has a provision for the protection of people belonging to transgender community apart from women and children. The bill also makes it mandatory for the state governments to establish at least one dedicated rehabilitation house for the transgenders in their respective states<sup>14</sup>.

## **REFORMS -**

- A woman does not become a sex worker for pleasure, but because of abject poverty and lack of skills and negligible employment opportunities. If these women are given the opportunities to avail the vocational or technical trainings, then they could earn the livelihood. It is the responsibility of the state and Central government to extend help to this section of society to live a dignified life.
- Most of the provisions of IPC and other laws that criminalize human trafficking revolve around the protection of women and children. The laws need to be amended to include men and the transgenders also as they are also at risk of human trafficking for bonded labor, servitude, and organ trafficking. The transgender community faces lot more sexual exploitation because of lack of legal support.
- The imprisonment of the criminals involved in the human trafficking usually range from seven to ten years and in few cases to life imprisonment. The government should take steps to increase the tenure of the imprisonment as it would serve as a deterrent to such heinous crimes.
- In India, it takes years for a court to pronounce its judgements in criminal cases as these courts are overburdened. Therefore, the government should also establish special courts for the speedy trial of the cases related to human trafficking as “justice delayed is justice denied.”
- The law enforcement agencies like Police, SSB should put through more intensive training to successfully carry out the operations against the organized human trafficking gangs. The offices should be provided with the latest technologies to help the agencies in the investigation and prevention of such crimes.
- The administration should carry regular visits to the factories, industries to check the presence of children below the age of fourteen and their working conditions. We have already seen that many children are trafficked to the factories where they work under the hazardous conditions. The law enforcement agencies should also make regular visits to bars, clubs, and pubs, as many a times, young women are trafficked to these places.

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<sup>11</sup> Section 3 (3) of The Trafficking in Persons Bill, 2021

<sup>12</sup> Section 2 (29) of The Trafficking in Persons Bill, 2021

<sup>13</sup> Section 5 (1) of The Trafficking in Persons Bill, 2021

<sup>14</sup> Section 6 (1) of The Trafficking in Persons Bill, 2021

## **CONCLUSION -**

Human Trafficking is a crime against the whole humanity as it endangers the dignity and security of trafficked persons. It adversely affects their identity, individuality, and physical and mental condition. Sexual enslavement and Human trafficking being one of the most lucrative criminal business in twenty first century shows the failure of the international communities and various governments in preventing such crimes through the Maintenance of law and order and by raising the awareness among the people. The prevalence of Human Trafficking in a country also creates an environment of fear as these criminals are hardly caught. If caught, then it would be difficult to get timely justice. In addition to it, corruption in the administrative wing of the government also pose a problem. Sometimes, the police are itself involved with these criminals.

The Indian Legal System, till now do not have one full-fledged law dedicated to prohibit the heinous crime of human trafficking. But, the Trafficking in Persons (Prevention, Care and Rehabilitation) Bill, 2021 is a good move by the government in this direction. Other Acts like Bonded Labor System (Abolition) Act 1976 and Scheduled Castes and Scheduled Tribes Act, 1989 also prohibit various forms of causes of human trafficking like Slavery and Bonded Labor to protect the people of vulnerable communities. We also have the Child Labor (Prohibition and Regulation) Act, 1986 for dealing with child labor issues.

It is the responsibility of the government to create an environment of safety and security in the country for the citizens and not for the criminals. The government would also have to create an environment, where the citizens can report such crimes without any fear. These are the heinous crimes that shock the soul of a human being therefore, the justice should be delivered as soon as possible. Mere formulation of Laws against such crimes is not enough, the government would also have to ensure that the laws are not being misused along with proper implementation of such laws.

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