

## An analytical study of human trafficking in India

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### Abstract

Human trafficking refers to the illicit trade of individuals, involving the exploitation of people through methods such as coercion, fraud, or abuse of power. Exploitation activities such as sexual exploitation, coerced labor, enslavement, and associated services. The phenomenon of Indian human trafficking encompasses the coercive employment of individuals and the commercialized exploitation of their sexuality. Despite its illegality in India, this problem holds significant importance. Human trafficking constitutes a significant infringement upon human rights. Human trafficking is propelled by economic, political, and cultural influences. The Indian government has a plethora of laws. Examples include the Indian Penal Code of 1860, the Constitution of India of 1949, the Immoral Traffic Act of 1986, and the Juvenile Justice Act.

Article 4 of the Universal Declaration of Human Rights (UDHR), and the International Labour Organization (ILO) Convention on Forced Labor are all examples of international legal frameworks. It is imperative that every sector of society is educated about human trafficking and its severe repercussions. Enhancing human trafficking policies is necessary to prevent victims. A number of communities and organizations' implementation of awareness campaigns, law enforcement, and education programs helps to effectively reduce human trafficking in India. Collaboration between the Indian government and its citizens is essential to ending human trafficking. This article examines the issue of human trafficking in India, exploring its underlying causes and proposing preventive strategies.

**Keywords:** Human trafficking, universal declaration of human rights, eradicate, international labour organization

### Introduction

*"It is a matter of bitter and sorrow and deep humiliation that a number of women have to sell their chastity for men's lust. Man, the law giver, will have to pay a dreadful penalty for the degradation he has imposed upon the so-called weaker sex. When woman freed from man's snares rises to the full height and rebels against man's legislation and institution designed by him, her rebellion, no doubt, non-violent, will be nevertheless effective"*

Mahatma Gandhi <sup>[1]</sup>

The term "traffic" originates from the French word "traffique," which means the act of engaging in commercial or illicit trade. Italians employ the term "traffic" to refer to illicit trafficking. An individual transitioning from human trafficking involves the unlawful transportation of individuals for the sake of sexual exploitation or financial profit. The entirety of criminal activity is abhorrent. The descriptive terms employed to condemn human trafficking seem insufficient in light of its pervasive and conspicuous existence. Women and children are the most susceptible members of society.

The vulnerable position of certain individuals is a result of the patriarchal hierarchy and low social standing inside our institution. Historical records indicate that they suffered damage or injury. Given that society perceives the wound as insignificant, salt is administered. One factor was the state's lack of concern for enhancing its condition. The legal authority of the police has contributed to the exacerbation of human trafficking due to their lack of clarity. To effectively address immoral trafficking, a comprehensive and compassionate strategy is necessary for both investigation and analysis <sup>[2]</sup>.

Prostitution has long been regarded as a blemish on human civilization and has compromised its moral fabric. Gaining

insight into the origins and consequences of this heinous act is of utmost importance. Destructive conduct poses a hazard to the community and necessitates prompt and stringent measures to halt it.

An alarming violation of morals, ethics, and dignity is the coerced participation of numerous underage boys and girls in the sex industry. The eradication of this malevolent conduct in a vast nation poses significant social and legal obstacles <sup>[3]</sup>.



Fig 1 <sup>[4]</sup>

### 1. Definition

**According to Oxford Dictionary:** The human trafficking as "The illicit practice of sexual slavery in which they exist and are deemed to be valuable articles exposed him to exploitation after they trafficked." The word trafficking is described as "just like drug trafficking." The trafficking practices included sexual abuse, work or forced labor, trafficking or related practices, slavery, servitude, or trade of human body organs. This type of violation of human rights exists within countries and across borders <sup>[5]</sup>.

### Meaning of the Human Trafficking

Human trafficking, according to the UN, is the illegal cross-border recruitment, sale, transportation, housing, or receipt of people for illegal uses, such as forced labor or sexual exploitation, especially from developing countries. The primary objective of human trafficking is to coerce women and children into engaging in prostitution and other forms of exploitation or dehumanization<sup>[6]</sup>.

The utilization of them is associated with the act of trafficking, mostly for the financial gain of traffickers or criminal syndicates. Today, it has taken on several forms. Below are some examples of human trafficking:

- **Trafficking for Domestic Servitude:** Indoor or domestic servitude is the common practice of using live-in support to justify and control another person, usually from a different background. It is forced or indentured. Migrant laborers who owe for transportation or recruitment in a target country are enslaved. The arrangement can be deemed enslavement if the supervisor or recruiter demands unreimbursed project expenses like lodging or meals<sup>[7]</sup>.
- **Trafficking for sex:** Engage in the exchange of women. Smugglers globally subject individuals, including children, to enslavement through deceitful assurances. The mothers and children faced financial hardship. Prostitution is a consequence of social exploitation that specifically targets individuals who are economically disadvantaged and lack knowledge. In metropolitan areas, traffickers offered deceptive, poorly remunerated positions in construction, household work, or farm labor, coercing individuals into engaging in commercial sexual activities<sup>[8]</sup>.
- **Trafficking for Forced labour:** Approximately 21 million individuals are coerced into engaging in sex slavery, sometimes enduring severe conditions and receiving little or no compensation. Another form of slavery encompasses the subjugation of women, the employment of children, and the exploitation of both women and children. Political leaders, corporations, and organizations exploit unjust labor conditions for their own benefit<sup>[9]</sup>.

### International Overview of Human Trafficking

In December 1949, the Convention for the Suppression of Traffic in Persons and of the Exploitation of the Prostitution of Others was approved by the UN General Assembly. According to this agreement, trafficking is defined as<sup>[10]</sup>:

According to Article 1, the contracting parties aim to prosecute individuals who satisfy another person's desires by:

- Procuring, enticing, or leading away another person for the purpose of prostitution, even if that person consents;
- Exploiting the prostitution of another person, even if that person consents.

The vision outlined in General Assembly Resolution 48/166, which encompasses issues such as child labor, clandestine employment, and fraudulent adoption, is expanded upon in Article 3 of the United Nations Protocol to stop, repress, and penalize human trafficking in 2000, with a focus on women and children. The United Nations Convention against Transnational Organized Crime is

supplemented by this protocol. According to Article 3 of the *UN Convention Against Transnational Organized Crime 2000*, trafficking is defined as the act of coercing or deceiving someone through threats, force, abduction, fraud, abuse of power, or manipulation of their vulnerability. This is done to gain control over another person and exploit them for purposes such as forced labor, slavery, servitude, or organ removal<sup>[11]</sup>.

### Factors Contributing to the Rise of Human Trafficking in India

In India, widespread poverty is primarily to blame for the rapid growth of human trafficking. Children hailing from impoverished households in underprivileged regions have a higher probability of falling victim to human trafficking. Occasionally, parents engage in the practice of exchanging their daughters for monetary compensation. Inadequate financial resources might result in the sale of children as laborers in exchange for money. Human traffickers entice individuals from rural and underdeveloped areas by offering them significant amounts of money, only to then withhold payment for extended durations. The phenomenon of bride trafficking in India can be traced to the declining sex ratio and the growing demand for women in regions experiencing a scarcity of females. Globalization contributes to the proliferation of human trafficking. According to the International Organization for Migration, a staggering 90% of those subjected to sex slavery have endured incidents of home violence<sup>[12]</sup>.

### India's Legal Frameworks to Avoid Human Trafficking

#### 1. The Indian Penal Code of 1860

The Indian Penal Code's Sections 370 and 370A specifically address the matter. The Act imposed severe penalties and forbade the trafficking of women and girls. The law stipulates that anybody who buys or sells kids with the specific intent of using them for prostitution, sexual exploitation, or other immoral actions risks a potential 10-year jail sentence in addition to possible fines.

Furthermore, it acknowledges the custom of transferring people across international borders with the goal of enlisting them in prostitution. Anyone who knowingly or intentionally takes a female under the age of twenty-one into India from a foreign country, with the intention of forcing or seducing her into engaging in illicit sexual acts with another person, may face a maximum penalty of 10 years in prison and a monetary punishment.

#### 2. The Constitution of India was enacted on 1949

The Indian Constitution guarantees the protection of essential human rights, such as the rights to equality, life, personal freedom, liberty, and access to legal remedies. Furthermore, it clearly prohibits the practice of human trafficking. Indian citizens possess the fundamental entitlement to be exempt from exploitation<sup>[13]</sup>.

#### 3. Act of 2000 Concerning Juvenile Justice (Care and Protection of Children)

The legislation in question is specifically concerned with the well-being and protection of children who are part of the criminal court system. Regarding this legislation, there is no differentiation between a minor and a child. Individuals who have not yet attained the age of eighteen are categorized as minors. In 2016, the National Legal Research Desk

identified a young individual who requires care and protection.

#### 4. The 1989 Act titled " Sc St Act" <sup>[14]</sup>

A considerable number of those who are trafficked belong to marginalized populations. Traffickers deliberately target regions characterized by social and educational disadvantages. This legislation provides an extra means of protecting women and young girls who are members of scheduled tribes and scheduled castes.

Utilizing knowledge of the victim's affiliation with specific communities, the perpetrator can effectively be countered in the fight against trafficking. Section 3 of this Act pertains to acts of violence specifically targeted at those belonging to the Scheduled Caste and Scheduled Tribe. This encompasses a range of activities associated with trafficking, such as the utilization of women for purposes of prostitution and the imposition of forced or bonded labor. In the case that the offense is classified under section 3, the prescribed minimum punishment is six months, with the possibility of being prolonged to a maximum of five years.

#### 5. The Immoral Traffic Prevention Act of 1986

The Indian government formally certified and ratified the International Convention for the Suppression of Immoral Traffic in Persons and the Exploitation of other People's Prostitution in 1950. The Indian government enacted the Suppression of Immoral Traffic in Women and Girls Act (SITA) in 1956 as a direct reaction to the treaty's ratification. In 1986, the Immoral Traffic Prevention Act, or PITA, underwent more changes and adjustments.

#### 6. POCSO Act, 2012 <sup>[15]</sup>

The law that came into force on November 14, 2012 is a specific legislation designed to safeguard children from sexual abuse and exploitation. The resource offers accurate explanations for various types of sexual abuse, encompassing both penetrative and non-penetrative forms of sexual assault, as well as sexual harassment.

#### The Protection of Children from Sexual offences 6-CRI-MAC Multi Agency Centre (MAC) <sup>[16]</sup>

The purpose of establishing the Intelligence Bureau was to facilitate the prompt exchange of information among different parties engaged in the enforcement of law. Additionally, there was a plan to create a Crime Multi Agency Centre (Cri-MAC) within the NCRB. This center would facilitate the continuous exchange of information on crime and offenders across different law enforcement organizations, ensuring a smooth and uninterrupted flow of information. Cri-MAC aims to enhance digital communication among fragmented entities, as this will result in improved and expedited coordination. This will facilitate the timely identification and mitigation of criminal occurrences nationwide. The Cri-MAC-MAClication is a web-based program that operates over a secure network known as the CCTNS network.

The application can only be accessed by users who have been authorized by ICJS. It is inaccessible over an unsecured public network. Characteristics displaying windows that can be scrolled to view recently reported significant criminal episodes such as human trafficking, prison escapes, interstate criminals who are wanted or have been arrested, notable seizures and recoveries, and prison

releases. An independent window for displaying urgent alerts, such as Hue& Cry notices, etc. Police stations utilize e-mail and SMS to facilitate intercommunication for logistical needs and crime coordination. Enable the capability to do FIR-based and text-based searches in separate windows for existing data. Each alert has a hyperlink to the case specifics. By clicking on this hyperlink, users can access FIRs and other relevant information from the CCTNS/ICJS database. Data Upload: Police stations, higher offices, prisons, and other components of the criminal justice system will upload information from various sources using their authorized access privileges.

#### Conclusion

Trafficking violates fundamental rights and jeopardizes the dignity and safety of victims. The Indian constitution ensures gender parity, although its implementation is infrequently observed. The government is obligated to combat trafficking and protect individuals who are at risk. Adhere to their legislation against human trafficking. In order to strengthen all endeavors aimed at combating human trafficking, it is imperative to bolster the existing legislation pertaining to this crime. To mitigate the impact of human trafficking, it is crucial to be cognizant of its consequences. Local and international seminars and conferences can be utilized to build public-government collaborations in order to prevent human trafficking.

In order to combat human trafficking, it is imperative for the government to ensure the protection of susceptible populations. Human trafficking exclusively targets individuals who are underprivileged. To mitigate human trafficking, the government can effectively combat this issue by implementing measures such as offering educational opportunities and employment prospects to the socioeconomically disadvantaged.

To effectively combat human trafficking and its severe consequences, it is imperative to provide comprehensive education to individuals from low-income backgrounds across the entire country. Disseminating information and promoting understanding via nationwide workshops, seminars, and conferences aids both the general population and government in combating trafficking. We have the capability to restore it.

#### Recommendations and Tactics for Combating Women and Child Trafficking

- The UN Protocol has multiple provisions that prohibit trafficking. State parties are required to enact policies, programs, and procedures to prevent and safeguard trafficked victims from being victimized again.
- In order to prevent trafficking in places where it originates, it is necessary for law enforcement agencies and non-governmental organizations to work together at a local level.
- Preventive interventions depend on public awareness campaigns and active involvement from the community. Community policing is the most effective method for prevention.
- The primary objective of social action initiatives is to enhance individuals' understanding of the law. Legal awareness enhances the capabilities of persons by providing them with knowledge about their rights and

advocating for a complete rejection of any form of mistreatment and misuse.

- Gender discrimination and a patriarchal worldview are factors that lead to the susceptibility of women and girls. As a result, there are substantial infringements on women's rights, including widespread instances of female feticide and infanticide, as well as unequal treatment in healthcare, education, and employment.
- Help lines and booths are essential for providing immediate aid to anyone need assistance. The Ministry of Social Justice and Empowerment is now conducting an inquiry into prospective collaborations with governmental entities and non-governmental organizations (NGOs) to establish helplines and booths aimed at delivering immediate aid to child victims. Effective combatting of human trafficking in India necessitates collaboration among child welfare agencies, non-governmental organizations (NGOs), missing person bureaus, and police helplines.
- Border immigration authorities should get training to effectively cooperate with law enforcement agencies and non-governmental organizations in order to proactively combat human trafficking.
- Both natural disasters and man-made disturbances increase the vulnerability. Precedence should be given to the rights of women and children in relief and aftercare initiatives.
- Countering trafficking requires resolute determination from government authorities. Prevention is more effective when it is complemented by prosecution and protection.
- Efforts should be made to address the concerns of trafficked victims and provide them with support to ensure their protection, survival, rehabilitation, and successful reintegration into society.

## References

1. Sudhakar Prasad Tripathi. Trafficking and Exploitation of Women and Children in India: An Analytical Study. Available at <https://shodhganga.inflibnet.ac.in:8443/jspui/handle/10603/391130>
2. PV Kane. History of Dharmshashtra, (Bhandarkar oriental Press,1941:2:637.
3. Sinha S Nand, Basu NK. History of Prostitution in Ancient India, Published by The BENGAL Social Hygiene Association, 1933, 23-24.
4. Available at <https://www.newindianexpress.com/nation/2023/Mar/01/human-trafficking-too-high-in-india-says-us-2551967.html>
5. Available at <http://www.yongaids.org/themes/trafficking.asp>
6. U.N. Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially women and children 2000,supplementing the United Nations convention against Transnational Organized Crime. Available at <http://www.ohchr.org/en/professionalinter.est/page/protocoltraffickingpersons>
7. Ibid
8. S Sanyal. "Measures to Prevent Trafficking of Women and Girls of South East Asia", The Indian Journal of Criminology and Criminalistics, 2003, 32.
9. Ibid.

10. UN Trafficking Protocol, 2000.
11. "Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children supplementing the United Nations Convention against Transnational Organized Crime". available at [www.ohchr.org](http://www.ohchr.org)
12. Nony Nema. "Human Trafficking In India" ISSN: 2581-5628 Gap Interdisciplinarity Available at, 2009, 2(3). <https://www.gapjournals.org/>
13. Basu DD. "Introduction to the Constitution of India", S.Chand and Company, 2007, 98.
14. The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.
15. The Protection of Children from Sexual offences Act, 2012.
16. ATC. "Government of India Ministry of Home Affairs Women Safety Division", Available at [https://www.mha.gov.in/sites/default/files/2022-12/humantrafficking\\_29092022%5B1%5D.pdf](https://www.mha.gov.in/sites/default/files/2022-12/humantrafficking_29092022%5B1%5D.pdf)