



Trafficking in women and children in India in the context of judicial response method & strategy of prevention-a socio-legal study

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Abstract

Trafficking in women and children is one of the most despicable forms of violations of human rights. In other words it is to said that, Trafficking in women and children is one of the worst abuses of human rights. But it is very difficult to estimate the scale of the phenomenon as trafficking is closely related to child labour, bonded labour, child marriage, kidnapping and abduction and prostitution even though these phenomena can exist also independent of trafficking. Research on trafficking in human beings is vital to ensuring adequate prevention, protection and assistance to trafficked persons and the prosecution of criminals. Ongoing research is necessary in several key areas, notably on the characteristics of trafficked persons and the conditions of vulnerability; on the techniques of the traffickers; on the scope of the problem, including numbers of trafficked persons; and to monitor, evaluate and assess the impact of prevention and rehabilitation efforts in order to ensure that funded programmes are in fact effective. This paper is an attempt to present the trends and dimensions of trafficking from a judicial response method and strategy of prevention paradigm and demystify several issues surrounding it. The human rights discourses is profoundly silent on this major issue which snatches away most of the human rights from the most vulnerable group. It has immense implications for future course as India is fast becoming a source, transit point as well as a destination for traffickers. The Government of India does not fully meet the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so.

Keywords: trafficking, women and children, human rights, crime, prostitution, sexual abuse and exploitations, child/ bonded labour, kidnapping, un-sdg-targets, abduction legislative provisions, prosecution, prevention, protection etc

1. Introduction

Trafficking is a global phenomenon and is not limited to any geographical region or country. As reported over the last five years, India is a source, destination, and transit country for men, women, and children subjected to forced labor and sex trafficking. Forced labor constitutes India's largest trafficking problem; men, women, and children in debt bondage-sometimes inherited from previous generations-are forced to work in brick kilns, rice mills, agriculture, and embroidery factories. Most of India's trafficking problem is internal, and those from the most disadvantaged social strata-lowest caste Dalits, members of tribal communities, religious minorities, and women and girls from excluded groups-are most vulnerable. Within India, some are subjected to forced labour in sectors such as construction, steel, and textile industries, wire manufacturing for underground cables, biscuit factories, pickling, floriculture, fish farms, and ship breaking. Thousands of unregulated work placement agencies reportedly lure adults and children under false promises of employment into sex trafficking or forced labor, including domestic servitude. In addition to bonded labor, some children are subjected to forced labor as factory and agricultural workers, carpet weavers, domestic servants, and beggars. Begging ringleaders sometimes maim children to earn more money. Some NGOs and media report girls are sold and forced to conceive and deliver babies for sale. The "Provident Funds" or "Sumangali" scheme in Tamil Nadu, in which employers pay young women a lump sum, used for education or a dowry, at the end of multi-year labor contracts may amount to conditions of forced labor. Separatist groups, such as the Maoists in Bihar,

Chhattisgarh, Jharkhand, Maharashtra, West Bengal, and Odisha, force some children, reportedly as young as 6 years old, to act as spies and couriers, plant improvised explosive devices, and fight against the government. Experts estimate millions of women and children are victims of sex trafficking in India. Traffickers use false promises of employment or arrange sham marriages in India or Gulf States and subject women and girls to sex trafficking. In addition to traditional red light districts, women and children increasingly endure sex trafficking in small hotels, vehicles, huts, and private residences. Traffickers increasingly use websites, mobile applications, and online money transfers to facilitate commercial sex. Children continue to be subjected to sex trafficking in religious pilgrimage centers and by foreign travelers in tourist destinations. Many women and girls, predominately from Nepal and Bangladesh, and from Europe, Central Asia, Africa, and Asia, including minority populations from Burma, are subjected to sex trafficking in India. Prime destinations for both Indian and foreign female trafficking victims include Kolkata, Mumbai, Delhi, Gujarat, Hyderabad, and along the India-Nepal border; Nepali women and girls are increasingly subjected to sex trafficking in Assam, and other cities such as Nagpur and Pune. Some corrupt law enforcement officers protect suspected traffickers and brothel owners from law enforcement efforts, take bribes from sex trafficking establishments and sexual services from victims, and tip off sex and labor traffickers to impede rescue efforts. Some Indian migrants who willingly seek employment in construction, domestic service, and other low-skilled sectors

in the Middle East and, to a lesser extent, other regions, face forced labor, often following recruitment fraud and exorbitant recruitment fees charged by labour brokers. Some Bangladeshi migrants are subjected to forced labour in India through recruitment fraud and debt bondage. Some Nepali, Bangladeshi, and Afghan women and girls are subjected to both labour and sex trafficking in major Indian cities. Following the 2015 Nepal earthquakes, Nepali women who transit through India are increasingly subjected to trafficking in the Middle East and Africa. Some boys from Bihar and Uttar Pradesh are subjected to forced labour in embroidery factories in Nepal. Burmese Rohingya, Sri Lankan Tamil, and other refugee populations continue to be vulnerable to forced labour in India.

2. Aims and Objectives of the Study

Any study is futile without a reasonable objective. The researcher believes that the increasing dominance and widespread scope of trafficking of women and children is a very sensitive and problematic issues. The researcher opines that the strategies to combat trafficking are based solely on national competencies which are neither uniform nor universal. These discrepancies have negative implications which are corresponded by lack of effective enforcement mechanisms and a corresponding lack of political will to respond uncompromisingly to the trafficking in persons, in particular women and children

3. Review of Literature and Methodology of the Study

The research has followed qualitative method of study. In this research primarily reviewed and analyzed the related literature consisting of Reports from the Govt. of India, Official Gazette Report, Constitution and legislative provision in India, Judiciary, NGOs, and the civil society, Child and Women Welfare and publications of various organizations working in the area of trafficking, journals, reports, booklets, newsletters, and newspaper clippings etc. Hence literature review has been the principle method of data collection and primary source of data of this study. The study focuses on various Human Rights reports, UN Conventions and other international statutes. The relevant data has also been gathered from various national and international newspapers and journals. This has been an Exploratory Study which attempts to answer the researchable questions. Based on the qualitative data gathered from literature review and different themes relevant to this research, this study analyzes and concludes with relevant and applicable suggestions and recommendations. The paper is based amply on the secondary literature and primary experiences. This study comes up with the most significant recommendation of proposing to set out a Convention on Prevention of Crimes against Humanity and Proposed Recent Bill.

4. Identifying a Human Trafficking Victims

1. Seems anxious, fearful or paranoid. Avoids eye contact.
2. Tearfulness or signs of depression.
3. Unexplained bruises or cuts or other signs of physical abuse.
4. Inconsistent details when telling their story.
5. Inability to leave their job or residence. Says they cannot schedule appointments.
6. Is under 18 years and providing commercial sex acts. Or at any age unwillingly providing commercial sex

acts.

7. Never is alone and/or always has someone translating or answering questions on their behalf.
8. Presents with secrecy or unable to answer questions about where they live.
9. Is afraid of law enforcement or receiving help from an outside entity.

5. Causes of Human Trafficking

1. Men for work generally migrate to major commercial cities.
2. To fulfill the supply all sorts of efforts are made by the suppliers like abduction etc..
3. The economic injustice and poverty.
4. Debt labour is not known much but it is illegal but prevalent in our society.
5. Social inequality, regional gender preference, imbalance and corruption are the other leading causes of human trafficking in India.
6. Parents in tribal areas send kids for better life in terms of education and safety.
7. 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.

6. Trafficking in women and children in India

According to the Ministry of Women and Child Development, 19,223 women and children were trafficked in 2016 against 15,448, the previous year. The highest number of victims recorded in the eastern state of West Bengal. 9, 104 children were trafficked last year, a 27% increase from the previous year. The National Crime Records Bureau showed that almost equal numbers of children and women were trafficked. Thousands of people, largely poor, rural women and children are lured to India's towns and cities each year by traffickers who promise good jobs, but sell them into modern day slavery. Some end up as bonded labour or domestic workers, or forced to work in small industries such as textile workshops, farming or are even pushed into brothels where they are sexually exploited. Violence against women and children has crossed all limits in the present social scenario. Human trafficking is one of crime which not only dehumanizes women and children but also a shame for society. The rising cases (reported only) of procurement of minor girls, 53 per cent in 2013 according to NCRB speak volumes of the mess women and children are in. Assam, Bihar and West Bengal has witnessed the growing movement of traffickers and trafficking. In the case of women trafficking in India, sexual exploitation is the major purpose and the girls are put into prostitution. But these days, trafficking for bride has pricked our conscience. Girls are bought as brides from the states of Kerala and West Bengal and transported to Haryana, Punjab and parts of Uttar Pradesh and Rajasthan. Girls from the poor community are selected and targeted for this form of human trafficking. It is well known that these women are treated as sexual commodity and child- producing machines. The reason for this increased surge in bride trafficking is the complete skewed sex ratio of these states which purchase women and girls as brides. M. Shafiqur Rhaman Khan, who is a Delhi- based activist working on the issues of Human Rights, focusing on prevention of Human (bride) trafficking and honour-killing in India mentions in his piece of article

that Panipat and Sonipat are the main transit points of the trade. A large number of “placement agencies” are working in this area to facilitate bride trafficking. Their main job is to bring the girls from the poverty-stricken states and supply in different parts of the state. A large number of people of Haryana works as truck drivers and also involve themselves simultaneously as network for procuring girls from the source area. This is one aspect of women trafficking where women from the poor areas are promised good job and marriage but sold for few bucks. There are many more situations like bar dancers of Mumbai where lives of thousands of women are at stake and caught in the web of trafficking. Children are the major victims of human trafficking as they protest less and can be silenced easily. According to 2010 TIP report, there are 12.3 million adults and children are in forced labour, bonded labour and forced prostitution around the world, although many see this number as less representative of the problem. They claim it to be around 27 million which gives us the idea of the grave problem of human trafficking. There are studies and strong evidences which establish that there are huge numbers of child labourers who are working in garment factories and other sectors across India. The children are easily lured away by the traffickers and brought to the destination point. All this is done by a complete network of placement agencies which supply these girls and children as domestic helps and garment factories. Also, children are trafficked as there is enormous demand for them. There are also instances of trafficking which goes with the practice of adoption and surrogacy. As the web of human trafficking traps any children, they pass on from one place to another place which is tantamount to re-victimization of the child again and again. Child trafficking continues to be divided between ministries and departments. There is a lack of coordinated effort by the stakeholders. The point is that all the institutions concerned focuses majorly on post-harm situation that is when children is already trafficked or harmed. There must be aims towards prevention. In their path-breaking study, Sen and Nair⁶ have also studied the various aspects of traffickers. Interestingly, thirty-nine percent of traffickers viewed trafficking as social evil while forty percent of them have said that it cannot be solved. This reflects the mentality of the traffickers and can be helpful in law framing.

7. Human trafficking laws and constitutional and legislative provision in India

1. Trafficking in Human Beings or Persons is prohibited under the Constitution of India under Article 23 (1)
2. The Immoral Traffic (Prevention) Act, 1956 (ITPA) is the premier legislation for prevention of trafficking for commercial sexual exploitation, with prescribed penalty of 7 years’ to life imprisonment
3. Sections 366(A) and 372 of the Indian Penal Code, prohibits kidnapping and selling minors into prostitution respectively. Penalties under these provisions are a maximum of 10 years’ imprisonment and a fine.
4. Criminal Law (amendment) Act 2013 has come into force wherein Section 370 of the Indian Penal Code has been substituted with Section 370 and 370A IPC which provide for comprehensive measures to counter the menace of human.
5. Protection of Children from Sexual offences (POCSO)

Act, 2012, which has come into effect from 14th November, 2012 is a special law to protect children from sexual abuse and exploitation.

6. State Governments have also enacted specific legislations to deal with the issue. (e.g. The Punjab Prevention of Human Smuggling Act, 2012).
7. There are other specific legislations enacted relating to trafficking in women and children:
 1. Bonded Labour System (Abolition) Act, 1976,
 2. Child Labour (Prohibition and Regulation) Act, 1986,
 3. Juvenile Justice Act.
 4. Prohibition of Child Marriage Act, 2006,
 5. Transplantation of Human Organs Act, 1994,
 6. Apart from specific Sections in the IPC

8. Prosecution

The government increased law enforcement efforts, although investigations, prosecutions, and convictions remained low for the scale of human trafficking in India. Section 370 of the Indian Penal Code (IPC) prohibits slavery, servitude, and most forms of sex trafficking and prescribes penalties ranging from seven years to life imprisonment, which are sufficiently stringent and commensurate with those prescribed for other serious crimes, such as rape. Section 370 does not define the “prostitution of children” younger than age 18 as an act of human trafficking in the absence of coercive means, as required by the 2000 UN TIP Protocol, although other statutes criminalize the “prostitution of children.” Section 370 criminalizes government officials’ involvement in human trafficking, prescribing sentences up to life imprisonment. Bonded labor is specifically prohibited under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, which prescribes sufficiently stringent penalties of up to five years imprisonment, and the Bonded Labour System (Abolition) Act (BLSA), which prescribes penalties of up to three years imprisonment that are not sufficiently stringent. The Child Labour (Prohibition and Regulation) Act, the Juvenile Justice Act, and other provisions of the IPC prohibit many forms of forced labor; however, these provisions were unevenly enforced and their prescribed penalties are not sufficiently stringent, allowing for only fines or short prison sentences in some cases. The government frequently used the Immoral Traffic Prevention Act (ITPA) and various provisions of the IPC, which have sufficiently stringent penalties, to prosecute sex trafficking. During the reporting period, the government drafted new anti-trafficking legislation, sought public comment, and revised the draft; the bill remained under review by the Cabinet, awaiting introduction to parliament at the end of the reporting period. During the reporting period, the national crimes record bureau (NCRB) issued the 2015 Crime in India Report, the most recent law enforcement data available. In 2015, police investigated 4,203 trafficking cases, including 3,363 cases of sex trafficking, 77 cases of bonded labor, and 763 trafficking cases under article 370 where further case details were not published to clearly categorize the cases between sex or labor trafficking. This was an increase from the investigation of 3,056 trafficking cases in 2014, including 2,604 cases of sex trafficking, 46 cases of bonded labor, and 406 cases under article 370. During 2015, the government completed the prosecutions of 2,387 traffickers, including 2,180 alleged sex traffickers, 16 alleged labor traffickers, and 191 traffickers under article

370, compared with the completion of prosecution of 2,596 alleged traffickers in 2014. In 2015, courts convicted 815 traffickers and acquitted 1,556 individuals with an additional 16 persons discharged. This was an increase from 577 traffickers convicted in 2014, 1,990 persons acquitted, and 29 persons discharged. The acquittal rate decreased from 77 percent in 2014 to 65 percent in 2015. The courts' convictions under the BLSA remained notably low at only four in 2015, although bonded labor offenders may also be convicted under the Prevention of Atrocities Act and those statistics were not reported. The government did not report sentences for convictions. Indian media commented the figures reported by the NCRB did not reflect the large scale of human trafficking crimes in India, as many cases were not registered by police or were settled at the complaint stage. Inconsistent application of the law across jurisdictions, corruption among officials, and a lack of awareness or capacity in some parts of the country resulted in incidents of inaction on trafficking crimes by police and prosecutors. In December 2015, the Supreme Court directed the government to establish an organized crime investigative agency by December 2016 to investigate human trafficking cases and rescue and rehabilitate victims; the establishment of such an agency was pending the passage of the draft anti-trafficking bill, although the Ministry of Home Affairs (MHA) had allocated 832 million Indian rupee (INR) (\$12.3 million) to fund the agency. AHTUs continued to serve as the primary investigative force for human trafficking crimes. At the beginning of the reporting period, of the more than 600 districts, 226 had active AHTUs; it is unknown if additional AHTUs were established during the reporting period. State and local governments partnered with NGOs and international organizations to train AHTU officers. Some NGOs reported significant cooperation with AHTUs on investigations and police referral of victims to NGOs for rehabilitation services. However, others noted some AHTUs continued to lack clear mandates, which created confusion with other district- and state-level police units and impeded their ability to proactively investigate cases. Coordination across states remained a significant challenge in cases where the alleged trafficker was located in a different state from the victim-jurisdictional barriers prevented confessions from one state being used as evidence in another. NGOs noted some police offices were overburdened, underfunded, and lacked the necessary resources, such as vehicles and computers, to combat trafficking effectively. Some police used AHTU resources and personnel for non-trafficking cases. NGOs noted prosecutors and judges did not have sufficient resources to properly prosecute and adjudicate cases.

9. Protection

The government increased efforts to protect victims. The government did not provide comprehensive information on the number of trafficking victims it identified. However, the NCRB reported the government's identification of at least 8,281 victims in 2015 compared with 6,216 victims in 2014. Of the victims identified in 2015, 5,407 were subjected to sex trafficking, 426 were subjected to bonded labor, and 2,448 were victims identified in relation to a case investigation under article 370 and not further categorized into victims of sex or labor trafficking. A 2009 MHA non-binding directive advises state officials to use SOPs for proactive victim identification and referral to protection

services; however, it is unclear if all 29 states employed such SOPs. In 2016, the Ministry of Women and Child Development (MWCD) published SOPs for cases of missing children, mandating the transfer of cases not resolved within four months to an AHTU. MWCD and MHA implemented Track Child, a system to identify missing children nationally. MWCD continued to support the national Child line hotline, an emergency phone service for children in need of assistance, including child victims of forced labor and sex trafficking. State- and district-level law enforcement continued to carry out operations to rescue and rehabilitate missing and exploited children, some of whom may have been subjected to forced labor or sex trafficking. Some state- and district-level law enforcement actively partnered with NGOs to identify, rescue, and provide rehabilitation services to victims; however, other police officers undertook rescue operations without further investigating or charging suspects. In other cases, police arrested and charged alleged traffickers, but in some cases some of the alleged traffickers posted bail and while awaiting trial purportedly intimidated witnesses and subjected new victims to trafficking. MWCD continued to fund NGO and government-run shelter and rehabilitation services for women and children through the Ujjawala program, specifically for female sex trafficking victims, and the Swadhar Greh program, for women in difficult circumstances. The central government's budget for the Ujjawala program increased from 180 million INR (\$2.65 million) in 2015-2016 to 240 million INR (\$3.54 million) in 2016-2017 and the Swadhar Greh budget increased from 500 million INR (\$7.37 million) to 900 million (\$13.3 million). NGOs continued to report the number of government shelters was insufficient and overcrowding compromised victim rehabilitation. Both government- and NGO-run shelters faced shortages of financial resources and trained personnel, particularly of counselors and medical staff. NGOs relied primarily on donor contributions to provide victim services, although some received government funds. The disbursal of government funding to NGOs was sometimes delayed for multiple years and corruption reportedly drained some resources intended for victim care. Some victims waited months for transfer from temporary "transit homes" to shelters that provide long-term care due to shortages of government funds, shelter staff, or police escorts. Child victims were placed in private shelters or in government juvenile justice homes, some of which may have housed child victims with children accused of crimes. Children largely received the same government services as adults.

10. Prevention

The government maintained overall efforts to prevent human trafficking. The government did not have a national action plan to combat trafficking; however, in January 2017, MWCD launched the national plan of action for children, which included plans to prevent and protect children from all forms of trafficking and to conduct research and analysis. The central advisory committee to combat trafficking of women and children for commercial sexual exploitation is the government's lead authority on trafficking issues; it is unknown if the committee met during the reporting period. Some state governments had state-level action plans, taskforces, and MOUs to combat trafficking. MWCD and Ministry of Railways increased the number of railway

stations hosting NGO staff to provide immediate support to unaccompanied children, who may be missing, abandoned, or runaways and are vulnerable to exploitation, including trafficking. In December 2016, the President launched an NGO campaign to end child labor, child trafficking, and violence against children. The government continued to publicly award civil society members for their work against human trafficking. Some state governments conducted anti-trafficking awareness campaigns or made in-kind contributions to NGO-run campaigns. The government registered foreign recruitment agencies and Indian migrant workers through the e Migrate online system. MEA provided counseling and other resources to those considering migrant work at five resource centers in Chennai, Gurgaon, Hyderabad, Kochi, and Lucknow; it also administered a welfare fund in 43 Indian missions globally and provided shelter to migrants in distress in several countries in the Middle East. In October 2016, India and Bahrain signed an agreement to increase cooperation on organized crime, including human trafficking, and in January 2017, India and the United Arab Emirates signed a MOU to enhance prevention of human trafficking and the recovery and repatriation of trafficking victims. MEA funded the repatriation of Indian victims abroad through its mandatory insurance reserves, foreign employer security deposit policies, and receipts from overseas consular fees. The government permitted licensed foreign employment recruiters to charge migrant workers up to 20,000 INR (\$295) for recruitment fees and costs; however, observers stated migrant workers were frequently charged more than the maximum and obtained loans to pay the recruiters, thereby increasing their debt and vulnerability to labor exploitation. The government prohibited the role of unregulated and unregistered sub-agents; however, sub-agents continued to operate widely with impunity. MEA worked with the central bureau of investigation to address cases of recruitment fraud and trafficking allegations and frequently revoked recruitment licenses. Within India, some states regulated aspects of the informal labor sector, including the Jharkhand government, which passed legislation in November 2016 requiring employment placement agencies to be licensed and prohibiting recruitment fees for domestic work. In November 2016 the government began a process of demonetization, removing 500 and 1,000 INR notes (\$7.37 and \$14.75) from circulation as legal tender. Some NGOs commented sex trafficking was temporarily reduced until other forms of payment were established—some NGOs reported a resultant increase in other methods of payment including online payments. Other NGOs stated workers in the informal economy, including brick kiln workers, were at times paid in void currency notes or were not paid at all due to cash shortages—both situations subsequently increased the workers' vulnerability to debt bondage and forced labor. In February 2017, the national human rights commission held a two-day seminar on the prevalence of bonded labor and challenges to its elimination. The government provided for the reimbursement of 450,000 INR (\$6,640) per district for a census of bonded labor in its May 2016 revision of the bonded laborers rehabilitation program. Despite India being a destination for child sex tourism, the government did not report measures to reduce child sex tourism. The government also did not report efforts to reduce the demand for commercial sex acts or forced labor. The Indian military

conducted training on trafficking for its personnel before deployment on peacekeeping or similar missions. The government did not provide information about any anti-trafficking training provided to its diplomatic personnel.

10. Recommendations for India

Increase prosecutions and convictions for all forms of trafficking, including forced and bonded labor, and of officials allegedly complicit in trafficking, respecting due process; establish and fully resource anti-human trafficking units (AHTUs) in all districts, including by providing additional dedicated, trained staff and by clarifying the mandate of AHTUs; develop and implement standard operating procedures (SOPs) to harmonize victim identification and referral, and train officials on their use; address jurisdictional issues in the investigation of suspected traffickers and use of testimony when trafficking crimes cross state lines; cease the penalization of trafficking victims; protect victim confidentiality and privacy, including on government-issued identification documents; develop and adopt a national action plan to combat trafficking; improve central and state government implementation of protection programs and compensation schemes to ensure trafficking victims receive benefits, release certificates, and compensation funds; take steps to eliminate all recruitment fees charged to workers; promptly disburse government funding for shelters and develop monitoring mechanisms to ensure quality of care; continue to increase the transparency of government efforts to combat trafficking and provide disaggregated data on efforts to criminally investigate, prosecute, and punish sex and labor trafficking; provide funding for states to establish fast-track courts that deal with all forms of human trafficking; and provide anti-trafficking training or guidance for diplomatic personnel to prevent their engagement in or facilitation of trafficking crimes, and to provide personnel the tools to identify and assist trafficking victims in their work.

11. Suggestive measures taken by the government of India for combat human trafficking

- A. With a view to tackle the menace of human trafficking, Ministry of Home Affairs, Government of India has undertaken a number of measures such as:
1. **Administrative measures and interventions-Anti Trafficking Cell (ATC):** It was set up in the Ministry of Home Affairs (MHA) in 2006 to act as a focal point for communicating various decisions and follow up on action taken by the State Governments to combat the crime of Human Trafficking.
 2. **Advisories:** To improve the effectiveness in tackling the crime of human trafficking and to increase the responsiveness of the law enforcement machinery, MHA has issued comprehensive advisories to all States/UTs: Ministry of Home Affairs' scheme : Ministry of Home Affairs under a Comprehensive Scheme strengthening law enforcement response in India against Trafficking in Persons through Training and Capacity Building has released fund for establishment of Anti Human Trafficking Units for 270 districts of the country.
 3. **Strengthening the capacity building:** To enhance the capacity building of law enforcement agencies and generate awareness among them, various Training of

Trainers (TOT) workshops on combating Trafficking in Human Beings for Police officers and for Prosecutors at Regional level, State level and District level were held throughout the country.

4. **Judicial Colloquium:** In order to train and sensitize the trial court judicial officers, Judicial Colloquium on human trafficking are held at the High court level with an aim to sensitize the judicial officers about the various issues concerning human trafficking and to ensure speedy court process. So far, 11 Judicial Colloquiums have been held.
5. **The new Act:** The law could have far-reaching benefits, like curbing the informal labour industry and ensuring that fair wages are paid. The draft's unveiling has also already added to an ongoing debate on whether prostitution should be legalised. The draft also indicates a welcome move away from the antiquated, bureaucratic, and loophole-packed legislature that currently exists in India.

B. The ministry of women and child development to setup national alliance against online child sexual abuse and exploitation

The Ministry of Women & Child Development, Government of India is to form a National Alliance against Online Child Sexual Abuse and Exploitation with the aim of developing a comprehensive outreach system to engage parents, schools, communities, NGO partners and local governments (PRIs and ULBs) as well as police and lawyers to ensure better implementation of the legal framework, policies, national strategies and standards in relation to child protection and child rights. In this context, the Ministry hosted a day-long consultation on 16th January 2017 with all stakeholders including Ministries of Home Affairs, Health and Family Welfare, Electronics and Information Technology, Department of School Education and Literacy, National Commission for Protection of Child Rights and civil society organisations working on the issue at Civil Services Officer's Institute (CSOI), Vinay Marg, Chana kya puri, New Delhi. Child sexual abuse is a multi-layered problem which negatively impacts children's safety, health and well-being. Research from world-wide indicates that children's exposure to violence and abuse is associated with long-term physical, psychological, and emotional harm. Child abuse is finding new forms and channels through mobile and digital technologies. Online child abuse and exploitation amplifies existing forms of offline bullying, stalking and harassment. It also facilitates the sexual exploitation of children through the production and dissemination of child sexual abuse materials and by facilitating the sexual exploitation and trafficking of children. Online abuse knows no national boundaries. Even though India has a comprehensive legal framework for protection of child rights in the form of Juvenile Justice (Care and Protection of Children) Act 2015, POCSO Act, 2012 along with RTE Act 2009 and recently amended Child Labour (Prohibition and Regulation) Amendment Act, 2016, there is limited awareness of online risks for children, both among parents and guardian and children themselves. However, to ensure protection of children from online sexual abuse, all stakeholders must work together. In this context, the National Alliance on Child Sexual Abuse and Exploitation has the following, broad objectives

- Bring a common definition of child pornography

including amendment of acts (Information technology Act, POCSO Act).

- Set up a multi-member secretariat based in MWCD with a portal inclusive of a hotline for reporting and strengthening existing service delivery systems.
- Provide a platform for Government/ NGOs and other child rights activists for networking and information sharing.
- Document and showcases success stories and best practices in terms of prevention of online abuse and exploitation of children.
- Inform and educate member organisations, parents, teachers, front line service providers and children on the rights of the children and various issues related to online child abuse and exploitation.
- Provide a forum for advocacy for child rights and policy inputs based on research and studies.

C. The trafficking in persons (prevention, protection and rehabilitation bill 2018

It seeks to provide the first step towards a comprehensive solution to trafficking in persons in India, that goes beyond its criminalisation. Trafficking is one of the fastest growing organised crimes in India. The Crime India Report 2016 by the National Crime Records Bureau reported that in the year 2016 15,379 victims were trafficked and 23117 victims of trafficking were rescued (this includes persons trafficked in previous year) forced in to various forms of exploitation. It is imperative to mention that there were cases of trafficking of transgenders which clearly implies that offence of trafficking is not limited to a particular class or gender. Moreover 1,11,569 children were reported missing in the year 2016, that are presumed to have been trafficked or abducted for exploitative purposes Out of which 55944 (including previous year data) were recovered raising a serious concern on the existing law enforcement mechanism. apart from criminalizing the offence of trafficking under various heads of offences it is also necessary to look at the aspect of preventive measures; rescue procedures; timely relief, repatriation, disposal of cases and rehabilitation of the victims. It is response to these glaring questions that the Trafficking of Persons (Prevention, Protection and Rehabilitation Bill, 2018 was passed by the Union Cabinet on 28th February, 2018.

Why is the trafficking of persons (prevention, protection and rehabilitation bill 2018 needed?

The current legislative framework provides solely for the criminalisation of trafficking under Section 370 of the Indian Penal Code 1860. Mere criminalisation fails to address the complex nature of trafficking or the challenges faced by its victims and hence is not adequate to for the eliminate trafficking. The organised nature of human trafficking calls for an equally organised and holistic response to prevent trafficking, protection of victim and witnesses, rehabilitation and repatriation of victims. The current response mechanisms while focusing on prosecution of offenders, fails to recognize the need for safeguarding survivors. This paper briefly explains the existing gaps in the legal and institutional to combat trafficking, and how the proposed Bill aims to overcome these gaps (Annexed in tabular form):

1. **Prevention of trafficking in persons:** Gaps in current framework: Prevention efforts are currently sporadic

and arbitrary, with no dedicated and accountable infrastructure for this purpose. The absence of a fortified and institutionalized safety net pushes vulnerable individuals into being trafficked into various forms of exploitation.

Proposed framework: The Bill sets up State and District Anti-Trafficking Committees for institutionalized, organised and coordinated preventive strategy. This will build an institutional safety net of prevention around vulnerable populations especially women and children.

2. Protection of victims of trafficking

Gaps in current framework: If individuals fall through the safety net of prevention, they are met with an uncoordinated and unaccountable law enforcement mechanism that is unfit for dealing with the multifarious nature of the crime. Lack of effective institutions, processes and personnel has led to ineffective rescue and withdrawal procedure for victims of trafficking.

Proposed framework: The Bill proposed to-

1. Adopt an Organised Crime Approach by establishing the 'National Anti-Trafficking Bureau' (NATB) with state and district level bodies for the purpose of coordinating and monitoring efforts of prevention, investigation, prosecution and international coordination. State Nodal Officers, and State and District Police Officers will permeate this mandate at lower levels of enforcement.
2. Achieve inter-state and international cooperation and convergence to address the transnational nature of the crime. This will help break the economic, political and criminal nexus employed for proliferation of borders.
3. Protect the identity of and prevents disclosure of identity victims, witnesses and complainants.
4. Set up Anti-Trafficking Police Officers, Anti-Trafficking Units and District-level task forces to conduct rescue operation as per standardized procedure to be enshrined in rules.

3. Prosecution of offenders

Gaps in current framework: The current rate of completion of investigation in cases of human trafficking is 46%, while the rate of disposal of cases by court is about 24%. The overwhelming pendency for such cases demonstrates that the existing prosecution mechanism has failed to provide timely justice to survivors or create deterrence against the perpetrators.

Proposed framework: The Bill proposes to-

1. Set up designated courts with special public prosecutors, and mandates the completion of trial within one year.
2. Expand the scope of the crime and disaggregate the offence of trafficking with increased punishment and fine.
3. Achieve economic deterrence by providing for seizure and attachment of property that is used for the commission of trafficking.
4. Freeze the accounts in some cases and proceeds of same to be remitted to the Rehabilitation Fund.
5. Provide for in-camera trial and trial via video conferencing.
6. Place the burden of proof on the perpetrator keeping in view the vulnerability and psychological disadvantage

of victims of trafficking in the trial process.

4. Rehabilitation of survivors

Gaps in current framework: Rehabilitation of trafficking survivors remains the most persistent challenge within its current legislative framework. In the absence of holistic statutory rehabilitation that addresses their specific needs and vulnerabilities, victims lack the motivation or assurance of stepping out of an exploitative environment with the option of an alternate life. Current schemes in this regard are few and inadequate.

Proposed framework: The Bill proposes to

1. The Bill provides survivors with a right to rehabilitation. This is achieved through National, State and District Anti-Trafficking Committees that will be responsible for extending and monitoring the social, psychological and economic and rehabilitation of survivors of trafficking.
2. Registered Protection and Rehabilitation Homes will provide long term and short term rehabilitation.
3. A dedicated Central Rehabilitation Fund, supplemented by the State, will provide survivors with entrepreneurial support, skill development training or vocational training, legal assistance, victim and witness protection and other welfare and empowerment initiatives for survivors.
4. Detach contingency of relief and rehabilitation of survivors will no upon the status of prosecution.
5. Provide time-bound repatriation of the victims within three months for inter-State repatriation, and within six months in case of cross border repatriation.
6. Provide for interim relief to the victim within thirty days of reporting of crime.

Why does the trafficking of persons (prevention, protection and rehabilitation bill, 2018 need to be passed?

1. Protection of survivors of trafficking

Thousands of children, women, men and transgender are being trafficked into slavery, forced labour and prostitution on a daily basis. There is an urgent need to set up a mechanism for a survivor-centric legal framework which allows victims to be rescued and rehabilitated. Additionally, there have been large-scale efforts on part of the government and civil society to increase awareness in communities to recognize and report crime. This has measurably increased the prosecution. This massive increase in public reporting and prosecution will only convert into welfare for vulnerable communities and survivors when it is institutionalized with preventive as well as rehabilitative infrastructure and processes. This calls for urgent legislative action, as survivors of trafficking cannot wait.

2. Compliance to international standards support anti trafficking bill

The UN Sustainable Development Goal 8.7 asks all nations to 'Take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers, and by 2025 end child labour in all its forms.' If India hopes to achieve this target and set international standards for effective eradication of forced labour, end modern slavery and human trafficking, it must formulate a

more robust and organised strategy to do so. This proposed legislation will, like every other legislation should evolve over time to keep up with a dynamic crime; but as the first step in this direction it is necessary to pass this legislation with utmost urgency. India has also ratified the Optional Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children supplementing the United Nations Convention against Transnational Organised Crime (UNTOC). Let us stand together against trafficking and fulfil India's commitment to SDG 8.7 to eradicate human trafficking.

3. The UN convention on SDG action agenda against trafficking in human beings

Is a ground-breaking and comprehensive instrument which is of relevance notably to achieving SDG target 5.2 of Goal 5, target 8.7 of Goal 8 and target 16.2 of Goal 16. While building on existing international instruments, the Convention goes beyond the minimum standards agreed upon in them and strengthens the protection afforded to victims. The Convention has a comprehensive scope of application, encompassing all forms of trafficking and taking in all persons who are victims of trafficking (women, men or children). The Convention makes particular reference to children's vulnerability in trafficking and requires States to take special account of their need for special protection and assistance.

4. Augmentation of India's economic growth and development

The growth trajectory of India is driven by the liberalization of its markets, trade and industry. The Indian growth trajectory, however, remains constrained by the slavery of the people. Human trafficking thrives in all parts of the country, with innumerable children, women, men and transgender being bought and sold for the purpose of economic, physical and sexual exploitation every year. Our current instruments for combatting this have proven gravely insufficient in this regard. India is aiming to emerge as global economic power. However, this global economic leadership cannot lie on the foundation of corruption and black money that drives trafficking of persons. A well-paid and regulated workforce in line with international standards multiplies trade and economic growth manifold. There is an urgent need to dedicate greater funds and resources for the prevention of trafficking, in line with the expected returns.

12. Status of women and child development under SDGs of UN

The SDGs are a comprehensive list of 17 Global Goals and 169 associated targets, which integrate economic, social and environmental dimensions of development. The SDGs were adopted by 193 countries including India at the UN Sustainable Development Summit in September 2015 which came into effect on 1st January 2016 and are to be achieved by end of 2030. The Ministry of Statistics and Programme Implementation (Mo SPI) has developed a National Indicator Framework (NIF) consisting of 306 country specific indicators in consultation with various Ministries for monitoring of progress on the SDGs. Mo SPI has prepared the Baseline Report of NIF to assess the present status of SDGs which includes the status of women and child development in the country. The SDGs are addressed in the national development agenda of the Government of

India which are being implemented through various development schemes/programmes. NITI Aayog has done the mapping of all the SDGs and associated targets with the Central Ministries, Centrally Sponsored and Central Sector Schemes as well as major government initiatives. Central Ministries are striving to achieve the SDG targets by 2030 through the implementation of different development schemes in collaboration with the State Governments and Union Territories. Ministry of Women and Child Development has taken several efforts through policy implementation and schematic interventions in this direction. Major schemes of the Ministry are as follows:

1. Anganwadi Services Scheme is a unique programme for early childhood care and development. It offers a package of six services, viz. Supplementary Nutrition, Pre-School Non-Formal Education, Nutrition and Health Education, Immunization, Health Check-Up and Referral Services. The beneficiaries under the Scheme are children in the age group of 0-6 years, pregnant women and lactating mothers.
2. Poshan Abhiyaan (National Nutrition Mission) targets to reduce the level of stunting, under-nutrition, anemia and low birth weight babies by reducing mal-nutrition/under nutrition, anemia among young children as also, focus on adolescent girls, pregnant women and lactating mothers.
3. Pradhan Mantri Matru Vandana Yojana (PMMVY) scheme provides cash incentive amounting to Rs. 5,000 in three instalments directly to the Bank/Post Office Account of Pregnant Women and Lactating Mother (PW&LM) in DBT Mode during pregnancy and lactation in response to individual fulfilling specific conditions.
4. Scheme for Adolescent Girls aims at out of school girls in the age group 11-14, to empower and improve their social status through nutrition, life skills and home skills. The scheme has nutritional and non-nutritional components which include nutrition, iron and folic acid supplementation, health checkup and referral service, nutrition and health education mainstreaming out of school girls to join formal schooling, bridge course/skill training, life skill education, home management etc, counseling/ guidance on accessing public services.
5. National Creche Scheme provides day care facilities to children of age group of 6 months to 6 years of working women. The facilities are provided for seven and half hours a day for 26 days in a month. Children are provided with supplementary nutrition, early childcare education, and health and sleeping facilities.
6. Child Protection Services Scheme aims to contribute to the improvement in the well-being of children in difficult circumstances, as well as, reduction of vulnerabilities to situation and actions that leads to abuse, neglect, exploitation, abandonment and separation of children from parent. The Scheme aims to spread awareness regarding the ways and means to prevent all children from child abuse of any kind including child sexual abuse.
7. Mahila Shakti Kendra scheme empowers rural women through community participation by involvement of Student Volunteers. The scheme is envisaged to work at various levels. At the national and state level, technical support to the respective government on issues related to women is provided.

8. Swadhar Greh scheme targets the women victims of unfortunate circumstances who are in need of institutional support for rehabilitation so that they could lead their life with dignity.
9. Ujjawala is a comprehensive scheme to combat trafficking with the objective to prevent trafficking of women and children for commercial sexual exploitation, to facilitate rescue victims and placing them in safe custody, to provide rehabilitation services by providing basic amenities/needs, to facilitate reintegration of victims into the family and society, to facilitate repatriation of cross border victims.
10. Working Women Hostel aims at providing safe and affordable accommodation to working women. These hostels have Day care facility for the children of inmates too. The Ministry provides financial support for establishing such hostels by NGOs or State Governments.
11. Beti Bachao Beti Padhao (BBBP) scheme is a tri-ministerial initiative of Ministries of Women and Child Development, Health & Family Welfare and Human Resource Development with a focus on awareness and advocacy campaign for changing mindsets, multi-sectoral action in select districts, enabling girls' education and effective enforcement of Pre-Conception & Pre Natal Diagnostic Techniques (PC&PNDT) Act. The specific objectives of the scheme include preventing gender biased sex selective elimination; ensuring survival and protection of the girl child and ensuring education and participation of the girl child.
12. One Stop Centre (OSC) facilitates access to an integrated range of services including police, medical, legal, psychological support and temporary shelter to women affected by violence. The Scheme is funded through Nirbhaya Fund.
13. Women Helpline-The Scheme is being implemented since 1st April, 2015 to provide 24 hours emergency and non-emergency response to women affected by violence through referral and information about women related government schemes/programmes across the country through a single uniform number.

13. Conclusion

Human trafficking truly requires a comprehensive and multi-faceted strategy, which includes efforts aimed at the rehabilitation and social reintegration of trafficked victims. Otherwise, the strategy will not be successful in the long run. In essence, at the very core of any anti-trafficking strategy must be an unwavering commitment from individual countries and other multilateral actors to address human trafficking at every stage of this cycle, from prevention to recruitment, transportation to bonded labour, and from rescue to reintegration. Without this commitment, anti-trafficking efforts will be fundamentally unable to intervene on behalf of the trafficked victims whose human rights violations form the backbone of this exploitative trade. The enactment of the law on paper with no real training and support to the functionaries would be futile and therefore, what is needed now is "actual", "planned" and "effective" implementation. Involving the community participation in the whole implementation process would create a greater impact. The procedures and technicalities should not reduce the ambitious legislations to empty words, because at stake here is the children- the future of the

nation. "Governments have to do more to guarantee children and Women their right to protection from trafficking. There is hope, and real and practical solutions exist. Trafficking of Women and children for sexual purposes happens in virtually every country in the world developed and developing and we must see governments uphold their commitments to those solutions."

14. References

1. Amartya S. The idea of justice. The Belknap Press, USA, 2009, 462.
2. Annie G, Vindhya U, Swamy R. Sex-trafficking and sex-work: Ansari Hamid (2013) Human Rights and Human Wrongs. Lecture delivered on 10th December 2013 at Vigyan Bhawan, New Delhi, 2010.
3. Bishwajit G. Trafficking in women and children in India: nature, dimensions and strategies for prevention. The international Journal of Human Rights. 2009;13(5):716-738
4. Human Rights Watch. Trafficking of Nepali girls and women to India's brothels. HRW. 1995, 12(5).
5. Human Rights Watch Background briefing: International trafficking of Women HRW, USA, 2000.
6. International Labour Organisation. Stopping forced labour: global report under the follow-up to the ILO declaration on fundamental principles and rights at work. International Labour Office, Switzerland, pp. 124.lice B. Human Rights in Crisis. Ashgate, UK, 2001.
7. Ministry of Govt of India Gazette Report, 2017.
8. Madan G. Political definition, debates and dynamics- a review of literature. Economic and Political Weekly. Press Information Bureau Government of India Ministry of Women and Child Development, 12 DEC 2019 1:34PM by PIB Delhi. 2007; 45(17): 64-73
9. Sen S, Nair PM (2004) A Report on trafficking on women and children in India 2002-2003. Institute of Social Sciences, NHRC & UNIFEM, India. 2004; 1:440.
10. Sustainable Development Report Transformations to achieve the Sustainable Development Goals, 2019. Available at <https://bit.ly/2Yvyqxv>
11. Sujata M. Contemporary women's issues, marginalised women and human rights. Journal of the Human Rights Commission of India. 2013; 12:1-13.
12. Theory and thought. Pargati, India.
13. Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill, Position Paper, Edn, By,-Kailash Satyarthi Children's Foundations, 2018.
14. Upendra B. The future of human rights. (2nd edn), Oxford University Press, India, 2006.
15. Verma JS. Protecting Human Rights through Judicial Process. Lecture delivered on 21 December at Bhartiya Vidya Bhawan, India, 2002.
16. Veerendra M. Human trafficking-the stake holders' perspective. Sage, India, 2013, 400.
17. www.mospi.gov.in
18. www.SDG16hub.org.