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“Dharma is to protect the Needy”

Article on
IMMORAL TRAFFICKING IN COVID - 19

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ABSTRACT

The paper aims to present an analysis about what is immoral trafficking and various aspects of it. This paper also includes a brief about child trafficking and prostitution. This paper also discussed how this ongoing pandemic has given a boost to human and organ trafficking. This paper also includes various provisions and laws which are to give protection against immoral trafficking, even our fundamental rights also prohibits human trafficking in India. Although there are various provisions which safeguards the interest of victims of immoral; trafficking, then too they are not enough to stop this activity. In this paper, it has also been discussed how the victims of immoral trafficking are given protection once they are rescued. A reference is also given to safeguard measures of the Government. On the world basis, it is taking a very horrifying face as the international laws to stop them are too weak and there is a need to upgrade and amend them as per needs. Only strict implementation of laws can put a fullstop to such illicit activities in the world. Also, the society should act as a whole and people should not keep themselves quiet if they face such an act or in someone else's case too. If the voice is louder then only revolution can be made through proper authority. The aim is to rehabilitate and provide the victims with self-confidence they had and to give them a new and better life which they deserve. The aim is to make stricter laws on the world level and the world as a whole should bring this to an end.

INTRODUCTION

Immoral Trafficking is the violative assault on human security. It involves trafficking of men, women and children from one place to another. Art 3 of UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, 2000 defines trafficking in humans. There is various purpose of immoral trafficking, mainly its purpose is Forced Labour, Sexual Exploitation, Illegal Activities, Entertainment and Sports, and it even involves male prostitution. SITA (Suppression of Immoral Traffic in Women and Children) Act, 1956 was passed to suppress immoral trafficking in women and child in India. But later it was amended and new PITA (Prevention of Immoral Trafficking) act came into force in 1986. This act through amendments of 1978 and 1986 made this act more gender neutral. The aim of this act is to stop trafficking and prostitution in India. This act is divided into 25 sections and 1 schedule.

CAUSES AND MODE OF TRAFFICKING IN INDIA

There are various causes which are the reasons behind the immoral trafficking in India. India is a large country with a large population and if you see the data for immoral trafficking there are almost 1-4 million people who are trafficked worldwide. Causes for immoral trafficking are as follows:

1. Lucrative employment propositions – As we know there is very little number of person who are employed in India and there are various number of people who are unemployed in India. And to get employment people are ready to do any job. People with intent to traffick people, give fake promises to the unemployed and uneducated people and influence them to come to the big cities where they will get more employment opportunities. These fellow people after getting trapped in these are used for trafficking purposes in big cities. Other areas are the demand for young girls for marriage, the demand for low-paid and under-age sweat shop labour, the increasing demand for adoption of young children, the rise in demand for women in the fast-growing sex industry, There was also fake propaganda in Kashmir that physical intimacy with young girl will reduce the chance of HIV and AIDS in men. And this is also the reason why young girls were trafficked.

2. Sex Tourism – People also traffick humans for sex tourism. It is the practise of transporting humans to different countries or continents with the intention of engaging in sexual activity or relationships in exchange for money.

3. Practice of female foeticide – In the area of Punjab and Haryana practise of female foeticide is observed on larger scale and this has added to the human trafficking in India. As due to female foeticide there is shortage of females in these areas, there is demand for girls. Girls from faraway states like Assam and Orissa are trafficked. False promises are made to the families of the girls and they are trafficked to Punjab and Haryana and are made to marry forcefully.

4. Migration - India is also experiencing rapid changes in economic, political, demographic and labor trends as a result of globalization, increasing demand for cheap labor and massive population growth in the region encouraging migration whether legal or illegal. Young girls and women from Bangladesh and Nepal are usually found in Indian brothels. Mainly the women and children from Middle East who migrate for getting jobs ends up getting trafficked

6. Poor Socio economic condition - The condition of a large number of families, coupled with poverty, and also often accompanied by natural disasters such as floods, leading to virtual destitution of some lack of opportunities, education in women's and absence of awareness of activities of traffickers, low status of girls, etc often makes them victim of trafficking.

Prostitution and its legality

Prostitution which is defined under section 2(f) of the act. it is an sexual exploitation or abuse of person for commercial purpose or domestic purpose. In layman's language prostitution is commercial or paid sex. Although the PITA Act does not make voluntary prostitution illegal but it makes pimping, living on the earning of the prostitution illegal, keeping and living in brothel for prostitution or from any public place within 200 metres of an educational institution, place of religious worship, hotel, hospital, nursing home or any public place notified by the Commissioner of Police or Magistrate. is illegal. Brothel which is defined under Sec 2 (a) of the act as – as any place or portion of any place, house or any portion of any house; room or any portion of any room; conveyance or portion of conveyance for the purpose of sexual exploitation or; abuse for the gain of another person or; for the mutual gain of two or more prostitutes.” According to the data 1-2 million people are trafficked, majorly women and children for the purpose of prostitution. Prostitution gives rise to 2 threats

- Deprivation of human rights of freedom – Prostitution deprives human being from their basic human rights as they cannot work according to their will.
- Global health security – Prostitution affects the health of the person as they are very much prone to STD's.

Prostitution is even done internationally. That means the persons are transported internationally which makes it very difficult for their families and police authorities to rescue them as there is no idea where the person would have been trafficked.

EFFECT ON HEALTH DUE TO PROSTITUTION

The health of persons indulged in prostitution is very much affected as they are the person who are very much prone to STD's we have also come across various cases in which a lot of person ruined their life due to prostitution as they were infected by STD's. And due to this Covid -19 pandemic crisis as they live in very poor condition and there is no social distancing in their areas. Also no guidelines are followed of Covid in such areas, they are very much exposed to infect by the diseases and once they caught the disease, the chance for medication is also less as they cannot afford such expensive treatment. Hence they are the most vulnerable community of person who are very much prone to getting affected by the diseases and government should take measures to protect them. Although various NGOs are working for it but the government and other pressure groups should take necessary measures for it.

CHILD TRAFFICKING

Child trafficking is defined under UNICEF as – “any person who is of or under the age of 18 years recruited, transferred, harboured or received for the purpose of exploitation, either within or outside a country.” According to the National Crime Record Bureau, there have been a lot of cases where people have disappeared overnight. India is the source of destination, and transit country for trafficking for many purposes such as commercial sexual exploitation. People are trafficked from Nepal and Bangladesh for sexual exploitation. 40% of prostitutes are children, and the demand for young girls in the industry is increasing. NGO's also calculate the number of women and children trafficked into the nation almost nearly 12000-50000 for the sex trade.

HEALTH EFFECT - CHILD TRAFFICKING

Child trafficking affects the health of children as the children are even given drugs for the purpose of sexual exploitation. Most of the time child's are used for the purpose of maiming and begging which mostly affects the health of children as for the purpose of maiming, the body parts of children are cut down and usually they are kept in poor health condition which makes the children prone to get affected by diseases. From a news source a young girl was found at a railway station and when asked about her whereabouts she was unable to explain how she reached there. Children from rural areas are kidnapped and are sent to Europe for camel jockeys or for labour or sexual exploitation. Child trafficking also affects the basic human rights and even fundamental rights of children. To find the "missing children" and to protect such crimes in future NHRC i.e. The National Human Rights Commission constituted a committee.

LEGAL FRAMEWORK IN INDIA

There are various provisions for prohibiting immoral trafficking in India. They are as follows:

1. Trafficking is prohibited by **Indian Constitution** – The right against exploitation is a fundamental right given under Article 23(1) which provides for "traffic in human beings and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law". This right is enforceable against state and private citizens.

Article 24 of the Constitution Prohibits employment of children below 14 years of age in factories, mines or other hazardous employment.

Article 39(e) provides that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age.

Article 39(f) It imposes a duty on the state to direct its policy towards ensuring that children are given opportunities and facilities to develop in a healthy manner and in a state of freedom and respect, and that childhood and youth are exploited and moralized And is protected against physical abandonment.

2. Immoral Traffic Prevention Act,1956 (PITA act)

It was the amended act of Suppression of Immoral Trafficking in Women and Girls Act, 1956 (SITA Act). It is exclusively for immoral trafficking. Its objective it to inhibit, prohibit

the trafficking with girls and women, especially it prohibit prostitution as a means of living. It also includes provision for rescued persons from trafficking. Adding on it includes special provision for girls and women's safety from harassment who have been rescued. Some of the offences under this are:-

- Procuring, including or taking persons for prostitution;
- Detaining a person in premises where prostitution is carried on
- Prostitution is or visibility of public places;
- Seducing or soliciting for prostitution
- Living on the earnings of prostitution;
- Seduction of a person in custody; and

3. Indian Penal Code,1860

Under IPC there are various provisions which are in reference to immoral trafficking like Section 293,294,317,339, 340, 341, 342, 354, 361, 362, 363, 365, 366, 370, 371, 372, 373, 375, 376, 496, 498, 506, 509 and 511. Some section are elaborated under:

Section 366A - It penalises procurement of minor girls from one part to another part of the country.

Section 366B - it penalises importation of girls below 21 years of age.

Section 374 - Section 374 allows the punishment for compelling any person to labour against their will.

4. Transplantation of Human Organs Act

This act has 2 objective –

- To provide for the regulation of removal, storage and transplantation of human organs for therapeutic purposes,
- To prevent commercial dealings in human organs.

5. Some of the other acts which provide for prohibition of trafficking are given under POSCO act, JJ act, Bonded Labour System Act, Child Labour (prohibition and regulation) Act, etc

International Laws & Conventions to Protect Victim from Trafficking

- The United Nations Convention on Transnational Organized Crimes (UNCTOC) protocols related to prevention, suppression and punishment of trafficking in persons.
 - Other instruments to trafficking
1. The Convention on the Rights of the Child, 1989.
 2. The Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, 2000.
 3. The Convention on the Elimination of All forms of Discrimination against Women, (CEDAW) 1979.
 4. International Convention on Civil and Political Rights, 1966
 5. Declaration on Social and legal principles relating to the Protection and Welfare of Children, with special reference to Foster placement and adoption nationally and internationally, 3 December, 1986.
 6. SAARC Convention on Regional Arrangement for the Promotion of Child Welfare, 2002.
 7. Convention on Preventing and Combating Trafficking in Women and Children for Prostitution (2002).

PROTECTIVE HOMES AND CORRECTIVE INSTITUTIONS

Protective homes and corrective institutions are those institutions where persons rescued from trafficking are kept for reformation or correction or may be detained. They are given protective care and vocational training so that they become self-reliant and can come out of the trauma of trafficking and start a new life. They are kept under the guidance of technically qualified persons. It is licensed under Section 21 of the PITA act. It also gives the state government power to make as many protective homes as required. According to PITA act no victim can be sent to a corrective institution against her wishes if she is an adult. But under Section 10A a female offender can be sent to the institution if found guilty under Section 7 & 8 if it is beneficial for her.

ISSUES REPORTED UNDER PITA ACT AND NGO's

1. *CANDOLIM SEX RACKET* – In 2010 this scam was exposed, and approximately 11 trafficked girls were rescued from Candolim, Goa who were indulged in sexual exploitation.

2. *COMBINED EFFORT TO CHECK HUMAN TRAFFICKING* – In 2010, a seminar was conducted to check on the problem of human trafficking and proper implementation of PITA act and spread awareness about the act. In this conference it was said that just rescuing girls from trafficking is not enough, it is important to provide them protection and rehabilitation.
3. *PROTEST IN SIKKIM* – NGOs have protested over immoral trafficking. They also conducted one abhiyan through which they visited various hotels and gave them strict instructions regarding incidents of trafficking and to stop them as they were tarnishing the image of the state.
4. *TAMIL NADU RANKS FIRST IN IMMORAL TRAFFICKING* – Tamil Nadu is the state where a large number of trafficking cases arises in the country. According to Home Ministry 2007 data, 1199 cases were registered in Tamil Nadu and 612 Cases in Karnataka under PITA act and more than 3700 people were arrested from these states because of their involvement in such activities.
- **ISSUES REPORTED BY NGOs**
 1. Girls from Assam kidnapped and married in Haryana. As we know in Haryana there is shortage of girls and therefore girls are trafficked there.
 2. Trafficked children from Nepal who were stuck in rat hole mines were rescued from NGOs.

TRAFFICKING AND HUMAN RIGHTS

Trafficking which is an illegal activity violates various human rights of people such as:

- The prohibition of discrimination on the basis of race, colour, sex, etc.
- The right to life
- The right to liberty and security
- The right to freedom of movement
- The right to freedom of association
- The right to social security
- The right of children to special protection

- The right to an adequate standard of living.
- The right to just and favourable conditions of work.

GOVERNMENT MEASURES TO PREVENT TRAFFICKING

The Ministry of Home Affairs, Government of India has undertaken a number of measures such as:

1. Administrative measures and interventions

- Anti-Trafficking Cells – Anti Trafficking Nodal cell has been established by the Ministry of Home Affairs. Its objective is to communicating decisions and taking actions by state government to fight against human trafficking.

Advisories- Government has issued various advisories to improve effectiveness and responsiveness to tackle human trafficking. Some Of the advisories are given below:

- Advisory for preventing crime of human trafficking date 9.9.2009.
- Advisory on crime against children dated 14th July, 2010.
- Advisory on missing children dated 31st January, 2012.
- Advisory on Preventing and Combating cybercrime against children dated 4.1.2012.

2. Ministry of Home Affairs' scheme - It strengthens law enforcement in India against trafficking in human being through training and capacity building. Funds are also raised for these by the government.

3. Strengthening the capacity building - To strengthen the capacity, training programmes and workshops are also being conducted for police officers at district, state and regional level.

4. Judicial Colloquium – It is held at High Court level with an intent to sensitize and train the judicial officers about this matter.

HUMAN and ORGAN TRAFFICKING DURING COVID-19

The pandemic of Covid – 19 has increased human trafficking. It has made youth more prone to trafficking. Online trafficking has increased in this pandemic. Because of this disease all activities like work and studies are done through online modes. Education and classes of

children are organised online, they have become more exposed to online trafficking. The National Centre for missing & exploited children has reported – online exploitation has increased from 2 million in March 2020 – 4.2 Million till April 2021.

Victims of sexual forced labour and commercial sex are also at much greater risk. As due to lockdown, victims of trafficking are forced to stay at home. Lack of socialization attracts negativity and in consequence it affects the Mental Health and emotional status of the victims. This pandemic has also increased cases of mental harassment in between women's who are working from home because of sexual harassment cases which are also increasing rapidly.

ILLEGAL HUMAN TRAFFICKING

The main cause of human and organ trafficking is poverty, inequality and unemployment which are increasing because of lockdown situations all over the world. Lockdown has made many people unemployed and eventually has increased poverty. The Covid pandemic has viciously affected the economic sector too, people are jobless, which makes them prone to more exploitation like sexually, forced labour and *even selling of organs for money*. In illegal organ trafficking uneducated, unemployed people are forced to take such offers. Even Facebook has become a platform for such illegal organ trafficking. Children who have become orphaned because their parents died in covid are very much prone to illegal organ trafficking.

JUDICIAL CASES

Bodhisattva Gautam V. Subhra Chakraborty¹, in this case a girl by giving fake promises of marriage was tricked. In this case the victim was compensated by the persons who were involved in this fraud.

PUCL V. Union of India², children were trafficked and bonded for Labour. In this case compensation was paid to the victims.

Vishal Jeet V. Union of India³, In this case, certain families or communities were dedicated to devadasi and were used for prostitution. In this case, the Court ordered for the protection and rehabilitation of these people.

¹ 1996 AIR 922, 1996 SCC (1) 490

² 2002 AIR 3 S.C.R. 294,

³ 1990 AIR 1412, 1990 SCR (2) 861

Gaurav Jain V. Union of India⁴, in this case a PIL was filled to protect child of sex workers and to keep them faraway from these dark scenario and to keep this children's safe and away from this black hole.

Lakshmikant Pandey V. Union of India⁵, this was the case of illegal adoption of children, who were adopted by false means and were indulged in trafficking because there is no proper mechanism and care procedure for these children's adoption. The court created a mechanism for it and even for cross – country adoption.

CONCLUSION and RECOMMENDATIONS

Immoral trafficking is increasing very rapidly and to control it we all should have come up along with Government organizations, non-governmental organizations, civil society, pressure groups, and international bodies. At the world level too it should be given prior focus and should be made a concern of priority as it is the most ignored issue by the World Government. They should take action as it is infringing human rights and due to the pandemic its impact is even getting worse. They should make arrangements to protect people from this and safeguard access to justice and hotlines and shelters should be open in this covid period to get easy access to the public.

⁴ (1997) 8 SCC 114; AIR 1997 SC 3021

⁵ 1984 AIR 469

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