

HUMAN TRAFFICKING- AN ERA OF MODERN SLAVERY IN INDIA

BY – AISHWARYA K

LLM CORPORATE AND COMMERCIAL LAW

SCHOOL OF LAW

CHRIST (Deemed to be University) Bangalore.

ABSTRACT

Human trafficking is one of the most heinous crimes committed around the world and India stands in the third place of human trafficking. Human trafficking is mostly for the purposes of bonded labour, sexual exploitation, child labour, organ and tissue exploitation and also forceful marriages. Human trafficking is also said to be the third most organized crime comparing to others in the world. India is said to be the focal point of human trafficking where as in India it's easy for the access of human trafficking and transportation of Human beings from one place to the other. The nature of the crime involved in human trafficking is forceful and illegal migration of human beings. And more often it is the women and children who are the set to be the core focal point of human trafficking and it is also said to be the most inhumane abuses of humans. This paper will attempt to analyze the reason for increase in human trafficking and its causes and highlights the highest volume state in India which does human trafficking. The paper also sheds light on the legal standards to combat these social evils. This article analyzes few case laws and sets out the solution if there are any needs for improvising such legal standards. It further provides a multidimensional approach and highlights the main impacts of human trafficking. This paper argues that emphasis needs to be given to such underlying root causes and modes and also crimes related to human trafficking, that threatens human security of the trafficked persons in India.

KEYWORDS: Human trafficking bonded labour, child labour, sexual exploitation, illegal migration, forceful marriages.

INTRODUCTION

Human trafficking has been conceptualised as a form of “slavery”. Slavery has been held up as the worst possible exploitation in human history. From this perspective, human trafficking as a contemporary form of slavery is marked not by legal ownership of one human being by another or long-term enslavement, but by temporary ownership, debt bondage, forced labour and hyper-exploitative contractual arrangements in the global economy¹. The trade of human beings for abusive purposes including bonded and forced labour,

¹ Maggy Lee , Human Trafficking , (William Publishing, 2007)- (2020-01-30, 6:14 P.M)

commercial sexual exploitation and illegal organ-trade is called ‘human trafficking’. Known the character of the felony, it also involves forceful and illegal migration of the victims who are traded.

International definition of human trafficking: The Trafficking Protocol defines the term “trafficking in persons” as follows:

(a) “Trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;²

(b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used; (art. 3).³

The three key elements that must be present for a situation of trafficking in persons (adults) to exist are therefore: (i) action (recruitment,); (ii) means (threat,); and (iii) purpose (exploitation). International law provides a different definition for trafficking in children (i.e., persons under 18 years of age). The “means” element is not required in this case. It is necessary to show only: (i) an “action” such as recruitment, buying and selling; and (ii) that this action was for the specific purpose of exploitation. In other words, trafficking of a child will exist if the child was subjected to some act, such as recruitment or transport, the purpose of which is the exploitation of that child. Closely to 80% of the human trafficking transversely the world is done for sexual exploitation and the rest is for bonded labour and India is considered as the hub of this crime in Asia.⁴ As per the statistics of the government – in every eight minutes a child goes missing in our country. In 2011 about 35,000 children were reported missing and more than 11,000 out of these were from West Bengal. Further, it is assumed that only 30% of the total cases are reported, so the actual number is pretty high⁵.

There are many states in India where in the rate of human trafficking is really very high states such as Karnataka , Tamil Nadu, Jharkhand are highly trafficked states and Delhi and Mumbai are said to be the main ports of human trafficking such as sexual crimes, prostitution, and crimes related to human trafficking. These crimes are highly related to women and children and the laws to fight for such social evil are not so stringent and so these crimes continue to happen.⁶

² Legislative Guides for the Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols Thereto (United Nations publication, Sales No. E.05.V.2), p. 270.(2020-01-30, 6:41 P.M)

³ Ibid.

⁴ Ramandeep kaur ,Human trafficking in India must end, .(2020-01-30, 6:48 P.M)

⁵ Ibid.

⁶ Ibid.

REASON FOR INCREASE IN HUMAN TRAFFICKING

The reason for such increase in human trafficking in India is simple as there is need for such humans which is in a way demand and supply principal. Due to commercialisation there is need for humans everywhere in every sector where as it acts an element for the supplier to supply humans for works like bonded labour, prostitution, child labour and other related crimes. The increase in commercial sex has laid down for more demand and supply of young girls and other women being the victims of human trafficking. The second or the other reason for increase in human trafficking is economic injustice and poverty which has led or put forth for a path for crimes like bonded labour and organ trafficking. Organ trafficking is the new era of human trafficking where in as there is much need of organs for commercial purposes the new era of crime started as organ trafficking.⁷

IMPACTS OF HUMAN TRAFFICKING

Human trafficking not only has an adverse effect on Victims but it does double the time has effect on the family members and also the society or creates an uneasy environment to the victims and related members of the victims. It creates a psychological harm to the victim and in some cases to the victims related members also. Such reason for psychological harm is during such trafficking the victims experience terror abuses physically and mentally and such acts create an impact on victim's mental health. Such mental impact always tends to isolate the victim and keeps them away from socialization. Such trafficking has also led to increase in HIV disease where in it spreads out like nothing else. And due to this reason there is more demand for child labours for sex and prostitution as there are less chances of HIV in them. This again leads to child trafficking⁸. According to the International labour organisation (ILO) increase in child trafficking in industries has led to human exploitation. The major impact of human trafficking is that after such harmful and terror experiences among 100% of victims around 80% of victims tend to lose their life by committing suicide and in some cases while in the process of trafficking they tend to lose their life⁹.

CURRENT STATES WITH HIGH RATE OF HUMAN TRAFFICKING IN INDIA

There are some states with high rate of human trafficking in India and they are also said to the Hub of Human trafficking in India. As per the statistics the top states with high rate of human trafficking are Andhra Pradesh with 11531 lacs, Arunachal Pradesh with 824.61 lacs, Assam with 300 lacs, Bihar – 934 lacs, Chhattisgarh – 237.74 lacs, Delhi – 172 lacs, Goa- 16.44 lacs and in south India Karnataka with 576 lacs, Kerala – 343 lacs, and Tamil Nadu with 665 lacs. The high volume states seem to be Jharkhand, Delhi, Karnataka, and Tamil Nadu¹⁰.

TRAFFICKING OF WOMEN AND CHILDREN

According to the Ministry of Women and Child development, 19,223 Women and children were trafficked in the year 2016. And 9,104 children were trafficked in the year 2019. The National Crime Records Bureau

⁷ Ibid.

⁸ Asif khan, Human trafficking a shame .(2020-01-30, 6:48 P.M)

⁹ ILO Report on Human Trafficking .(2020-01-31, 3.16 P.M)

¹⁰ <http://nipccd.nic.in/reports/ehndbk10.pdf>

stated that equal number of Children and Women were trafficked during the same year. Among them largely Rural Women and children were the ones who were trafficked for commercial purposes. As per the current statistics in every single 8 minutes a child goes missing in the country. And about 35000 children were reported missing in the year 2011¹¹.

LEGAL STANDARDS TO COMBAT HUMAN TRAFFICKING IN INDIA

These are the legal standards laid down by the government of India to combat against human trafficking such as sexual slavery, bonded labour, child labour, and other commercial exploitation. All the way through the Immoral trafficking prevention act (ITPA) the government penalizes trafficking for commercial sexual exploitation with penalty as per prescribed of **7 years to life imprisonment**¹². There are also other acts which prohibit bonded labour under the bonded labour acts 1976, child labour act, 1986 and Juvenile Justice Act and transplantation of Human organs act, 1994 there are many human rights conventions and agreements such as UDHR which our government is signed and is a part of¹³. Such UDHR (Universal Declaration of Human Rights) agreements protect Human rights from exploitation. India even has Human rights law to protect humans from violation of their rights. It has been highlighted in the constitution of India the strongest pillar of India which in further sheds light on human rights as basic fundamental right. There are provisions under Indian penal code as well to punish for such crime. Acts such as POSCO (Protection of Children from Sexual Offences Act 2012 was introduced and came into effect from 14th November, 2012 this was introduced to protect Children from sexual abuse and exploitation. Trafficking is also prohibited under Article 23(1) of Constitution of India¹⁴.

Additional measures taken by Indian Government to Combat Human trafficking are Anti trafficking cells and advisory boards and also nongovernmental organisations and efforts taken by educational Institutions to create awareness with regard to Human Trafficking and further there are also provision and efforts taken under the surveillance of the Ministry of Home affairs for an comprehensive scheme to combat this social evil.

CONCLUSION

So in conclusion I would like to conclude by stating that Human trafficking is one of the most vulnerable crime on women and children and would create an impact not only the victim but it does also creates an great impact on the family members, and the entire environment of the victim as well as the society. This would create a great impact on the Country at the same. The current legal standards with respect to Human trafficking is not to mark to combat this social evil so there is need for an stronger and much stringent laws to reduce such crimes and to abolish them as well. Human trafficking has led many victims to death so it is also said that if human trafficking is reduced then such death rates can be reduced.

¹¹ www.timesofindia.com

¹² Human trafficking in India ; Legal Protection against Human Trafficking in India, Lawnn, .(2020-01-31, 03:20 P.M)

¹³ Ibid

¹⁴ Anand ganesh, Human trafficking on women and children.(2020-01-31, 03:20 P.M)