THE CROSSROADS OF SOCIAL MEDIA & HUMAN TRAFFICKING: AN ANALYTICAL STUDY FROM SOCIO LEGAL PERSPECTIVE

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Abstract: Human trafficking is prevalent in India and several other countries; in spite of a plethora of acts, laws and regulations crafted for ruling it out, the evil of trafficking keep on subsisting in many countries of the world including India. The foremost rationale behind this research paper is to caste light on different aspects of human trafficking by investigating current trends and dimensions of this crime. The paper scrutinizes the role played by social media in human trafficking. Furthermore, this research paper endeavours to bring to light both the advantages and disadvantages of social media predominantly in the field of human trafficking. This paper will also highlight and recommend diverse solutions for assuring rights of victim and a structural plan to effectively implement in existing legal framework.

Keywords: human trafficking, social media, legal framework.

INTRODUCTION: Human trafficking is a widespread malevolence in India and several other countries. Despite of having a large web of rules, regulations, statutes and policies to curb and eradicate this crime, the evil of trafficking is flourishing in several regions of our nation. "Human trafficking"is defined by the "United Nations" as "the recruitment, transportation, transfer, harboring, or receipt of persons, using the threat or use of force or other forms of coercion, abduction, fraud, deception, the abuse of power or a position of vulnerability, or the payment or receipt of benefits to obtain the consent of a person exercising control over another person, for exploitation". "As per the report provided by International Labor Organization (ILO), there are approximately 27 million victims of human trafficking worldwide". Combating this issue is difficult since victims are frequently afraid to seek assistance from authorities. According to '*Section 370 of the Indian Penal Code*: "Human trafficking is a broad term that refers to transportation, recruitment, harboring, transferring, exploitation, or receiving of any person for such purpose by using threat, force, abduction, fraud, or deception, by abuse of power, or by inducement".

"Human trafficking" in India can be classified into three groups:

    (a) for "commercial sexual exploitation"
    (b) for "exploitative labour", and
    (c) for "other forms of exploitation" like "organ sale", "begging", "camel jockeying", etc

HUMAN RIGHTS INTERLINKED WITH HUMAN TRAFFICKING

The victim of human trafficking may seek the following rights for his or her well-being:

    (i)   The "prohibition of discrimination based on race, color, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status"
    (ii)   The "right to life"
    (iii)   The "right to liberty and security"
    (iv)   The "right not to be subjected to slavery, servitude, forced labor, or bonded labor"
    (v)   The "right to social security"

(vi)   The "right of children to specific protection"
(vii)   The "right to an efficient remedy"
(viii)   The "right to be safeguarded against non-refoulment"
(ix)   The "right not to be tortured and/or subjected to cruel, inhuman, degrading treatment or punishment"
(x)   The "right to be free of gender-based violence"
(xi)   The "right to the highest attainable standard of physical and mental health"
(xii)   The "right to just and favourable working conditions"
(xiii)   The "right to an adequate standard of living"
(xiv)   The "right to apply for asylum"

INDIAN LEGAL REGIME VIS-À-VIS "HUMAN TRAFFICKING":

The term "trafficking" is defined in different sections of "The Immoral Traffic Prevention Act (ITPA), 1956". "Section 5 stated that obtaining, taking, and even enticing someone for the purpose of prostitution. Even attempting to procure and attempting to abduct or cause a person to engage in prostitution constitutes trafficking". As a result, the term 'trafficking' has a broad definition. The Goa Children's Act 2003 contains a specific definition of trafficking. While the definition is narrowly centered on "child trafficking", but it is 'comprehensive'. The term "Child trafficking" is defined as

"the procurement, recruitment, transportation, transfer, harboring or receipt of persons, legally or illegally, within or across borders, by means of 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 giving or receiving payments or benefits to achieve the consent of a person having control over another person, for monetary gain or otherwise."

I.   National Laws:

1. The Immoral Traffic (Prevention) Act, 1956.

Consider the following provisions, each of which constitutes a criminal offense:

a) Sec.3 ITPA: "Keeping or managing (or assisting in keeping in managing) a brothel or allowing premises to be used as a brothel (including vehicle)".
b) Sec. 4 ITPA: "Living on earning of prostitution (even partly)".
c) Sec. 5 ITPA: "Procuring, inducing, trafficking, or taking a person for the sake of prostitution. Even an attempt to procure or take would constitute an offense".
d) Sec. 6 ITPA: "Detaining a person in any premises (brothel or any other) where prostitution is carried out".
e) Sec. 7 ITPA: "Anybody who carries on prostitution, or anybody with whom such prostitution is carried on, in the vicinity of public places (which includes hotel, vehicles, etc.)".
f) Sec. 8 ITPA: "Seducing and Soliciting for the purpose of prostitution in any public place or within sight of a public place".
g) Sec. 9 ITPA: "Seduction of a person in custody (which includes causing or assisting seduction for prostitution of a person in custody)".

2. Indian Penal Code, 1860.

Consider the following provisions, each of which constitutes a criminal offense:

(a) Trafficking of person (Section 370)
(b) Exploitation of a trafficked person (Section 370A)
(c) "Kidnapping, abducting, or inducing women to compel her for marriage, etc." (Section 366).
(d) "Selling minors for purposes of prostitution, etc." (Section 372).
(e) "Buying minors for purposes of prostitution, etc." (Section 373).
(f) "Wrongful restraint" (Section 339).
(g) "Wrongful confinement" (Section 340).
(h) "Mental tortured/harassed/assaulted" (Section 351).
(i) "Outraged of her modesty" (Section 354).
(j) "Raped/Gang Raped/Repeatedly raped" (Section 375).

3. Protection of Children from Sexual Offences (POCSO) Act, 2012.
4. Transplantation of Human Organ Act, 1994.
5. Constitution of India.

"Article 23: Prohibition of traffic in human beings and forced labour"

(1) "Traffic in human beings and beggar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law"

(2) "Nothing in this article shall prevent the State from imposing compulsory service for public purpose, and in imposing such service the State shall not make any discrimination on grounds only of religion, race, caste or class or any of them"

II.   State Laws:

1. "Goa Children's Act", 2003.
2. "The Punjab Prevention of Human Smuggling Act", 2012.

III.   Special legislations:

1. 'The Child Marriage Restraint Act', 1929.
2. 'Bonded Labour System (Abolition) Act', 1976.
3. 'Child Labour (Prohibition and Regulation) Act', 1986.
4. 'Juvenile Justice Act', 2000.
5. 'Offences Against Children Act', 2005.
6. 'Prohibition Of Child Marriage Act', 2006.

IV.   IT laws in India:

1. Information Technology Act, 2000.
2. National Cyber Security Policy, 2013.

Preventive Measures of Government:

1. **"UJJAWALA: A Comprehensive Scheme for Prevention of trafficking and Rescue, Rehabilitation and Re-integration of Victims of Trafficking and Commercial Sexual Exploitation:**

The Ministry developed a central scheme for "Comprehensive Trafficking Prevention Scheme for the Rescue, Rehabilitation, and Reintegration of Trafficking Victims of Commercial Sexual Exploitation-Ujjawala." The new Scheme is mainly to prevent trafficking and to rescue and rehabilitate victims on the one hand.

The Scheme's Objective:

• To prevent traffic in women and children through social mobilization and local communities' participation for commercial sexual exploitation, awareness-raising programs, public debate through workshops/seminars and such activities, and all other innovative activities.

- Encourage the rescue and safe custody of the victims from the site of their exploitation.
- They provide immediate and long-term rehabilitation services for victims by providing necessary facilities/needs, such as shelter, food, clothing, and medical care, including counseling, legal assistance, and guidance.
- to help victims reintegrate into the family and society as a whole
- They are facilitating the repatriation to their country of origin of cross-border victims.

Negative Aspect of Social Media:

We are now closer to technology than we anticipated or desired. One does not need to be educated to operate a computer or a cell phone, both of which provide access to the outside world. Even Nevertheless, it is noted that children born in this technologically advanced period have a greater proclivity for technology than their parents. Though some people use it to perpetrate crimes, it can also be utilized to combat the cruel flesh trade or human trafficking. First and foremost, this article will address four jargons associated with widely used social media platforms that are being utilized in a bad way to support the practice of human trafficking.

1.   Facebook : A Versatile Social Media Platform

In its early phases of development, Facebook's membership was restricted to Harvard students alone, and afterwards to a small number of other college students, especially those from Stanford, Yale, and Colombia University. Later, as it grew and became more widely known, it evolved into an online community where friends and family could reconnect with one another despite the fact that they were physically separated.

User states year wise and country wise:

1. Total user in 2020- 1.73 billion.
2. Total users in India 2020 – 290 million.
3. Total users in U.S. 2020 – 190 million.
4. Duplicate accounts in 2020 – 135 million.

Human trafficking has spread and grown at an alarming rate using Facebook. Advertisements are permitted on social media platforms such as Facebook. However, these adverts are unregulated and provide an avenue for sex trafficking and human trafficking. According to a Salon story, "Advanced Interactive Media Group (AIM) discovered sex adverts on popular websites such as Facebook, Twitter, and Tumblr." These adverts typically appear on Facebook sites, blog posts, or tweets promoting escort services or individual sex workers. According to India Today, a woman in Texas claimed that she was enticed into a sex predator's

den in 2012 when she was 15 years old. The predator sexually abused and raped her before posting disgusting images on backpage.com. Additionally, she believes that Facebook management were aware that kids were being enticed to engage in sex trading on the platform. Later, though, Facebook stated in response to the above lawsuit stating that "it works internally and externally to weed out such predators". It also stated that "It works closely with anti-human trafficking organizations and other concerned companies to report all instances of child sexual exploitation to the National Centre for Missing and Exploited Children" (NCMEC).

2. WhatsApp : The Messaging and Data Sharing App
1. Total user in 2020 - 2 billion.
2. Total users in India 2020 - 390.1 million.
3. Total users in U.S. 2020 - 75.1 million.

As with Facebook, WhatsApp is a globally popular social networking platform for texting, video calling, and sharing photos and videos. It was founded in 2009 and is owned by Facebook. WhatsApp is used by over a billion people in over 180 countries to communicate with friends and family. WhatsApp has around 200 million monthly users in India alone. This technological advancement has entered every hand, and traffickers take advantage of this accessibility to entice victims. It begins with missed calls, WhatsApp messages, and even new phone gifts. According to reports, traffickers utilize social media platforms such as WhatsApp to earn the trust of unsuspecting victims in order to traffic them for money. Messages can be transmitted via WhatsApp multimedia. According to reports, they have developed a hotbed for agents who advertise sex. WhatsApp groups are made with the intention of negatively exploiting them by sharing unlawful images and videos of victims and soliciting prostitution rackets. Because WhatsApp conversations are encrypted on both ends, they are invisible to a third party, such as the authorities. High-profile escort firms conduct their business exclusively over WhatsApp in order to evade police detection. Indeed, with the use of social media, Agents can coordinate and close a deal with a customer remotely from any area of the country, as well as arrange for assistance wherever it is required. According to an India Today story, the state capital Delhi boasts a slew of high-profile escort services that operate over Whats App to elude cyber cell surveillance.

3. Websites
Apart from these well-known social media platforms, a number of websites host content that promotes prostitution. Backpage.com and Craiglist.com are well-known examples of advertising websites. Essentially, under the United States' Communication Decency Act of 1996, anyone who posts content on the web that is obscene, lewd, lascivious, or indecent with the aim to harass, threaten, abuse, or annoy another person faces jail or a fine. It is important to emphasize that Internet Service Providers (ISPs) are in no manner responsible for the information hosted on their websites. As a result, they are able to absolve themselves of any liability.

4. Hacking:
Cyber intrusions pose a serious threat to a system's privacy. On the internet, 'a user's "personal data and privacy can easily be hacked and shared", resulting in financial and personal damages'. When utilized improperly, mobile devices used for banking or financial activities might result in hacking and consequent financial loss. Similarly, there is the issue of Identity Theft, which occurs when personal data is compromised and shared online. Social media is an ideal forum for an assailant seeking to smear the victim's public image. As a result, blackmail occurs.

5. Fraud and scams:
Additionally, social media is being used to deceive and cheat individuals. WhatsApp and other social media platforms are routinely used to deceive and trick people into clicking on bogus links.

Positive Aspect of Social media:
Everything has a set of advantages and disadvantages, and social media is no exception.

1. **Connectivity: "**The first and foremost lead of social media is connectivity. People from anywhere can connect with anyone. Irrespective of the location, religion, and boundaries. All these things should be kept in mind while using the internet in any form"[1]:
   (a) *Know your limits* - It is good to share things with people, but you should know with whom you share and what you are sharing. Never reveal your details to people you do not know[2].

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[1]Hasan Slote, Avoid Pitfalls in Mobile Testing, Olenick, *Available at*: https://www.olenick.com/blog/articles/avoiding-pitfalls-in-mobile-testing/. (Last visited on June 22, 2021).

[2] David, Social Media Risk and Rewards, Security for Real People, *Available at*: https://www.securityforrealpeople.com/2015/03/social-media-risks-and-rewards.html. (Last visited on June 22, 2021).

   (b) *Protect your devices* **-** In this day of technology, everyone is technologically savvy, including you and the traffickers. Therefore, it is always preferable to protect your smart devices from unnecessary malware because anything can be hacked: your laptop, your phone, and your smartwatches. Because you are knowingly or unknowingly granting access to numerous apps to intervene in your devices, it is always preferable to read the terms and conditions before granting access[3].

Many significant social sites have their privacy policies to protect you from all this mess:

   (i) **Facebook:** According to Facebook, users are encouraged to report information that violates the company's regulations, especially any connection to human trafficking, and teens' accounts are enhanced with additional safety and privacy safeguards that prevent public searches**.**

   (ii) **Snapchat:** has internet safety standards and a trust and safety staff to handle reports of abuse. "It stated that it collaborates closely with Thorn, an organization that uses technological innovation to combat child sexual exploitation."

   (iii) **Whats App:** Additionally, it includes a privacy setting to safeguard the user. You can choose to hide your content from the selected person, in which case no one will be able to see what you've published. Additionally, you can ban certain persons with whom you do not wish to exchange information**.**

2. **Education:** Social media has numerous advantages for students and teachers. "Starting from the beginning of 2020, the world was shocked by the outbreak of the Corona virus (COVID-19) which has infected almost all countries in the world". Learning model is transfer to virtual classroom so that anyone can gain knowledge at their home and still be safe. It's simple to teach other experts and professionals using social media. We may also educate each internet user via various campaigns and instructive videos. We can even raise public knowledge about what may be done to protect oneself against cybercrime.

3. **Help: "**You can discuss your concerns with the community in order to receive assistance and giddiness. Whether it be financial assistance or counsel, you can obtain it through the community with which you are associated".

4. **Information and Updates**:**"**The primary advantage of social media is that it keeps you informed about global events. Nowadays, television and print media are frequently skewed and do not deliver the true message. By conducting research via social media, you can obtain facts and correct information"**[4].**

5. **Promotion:**Whether you operate a physical or online business, you may reach the widest possible viewers. The entire world is available to you and you can advertise to them. This makes firms more profitable and affordable, as the majority of expenses incurred by a "business" are for "advertising and promotion". This can be mitigated by being continually and consistently active on social media in order to interact with the correct audience**.**

6. **Noble Cause:** Social media platforms can also be utilized to advance charitable causes. For instance, to "promote an NGO", "social welfare activities", and "charitable donations" to help the destitute. People are donating to needy people via social media, which is a convenient approach to assist them[5].

Summation & Suggestions

Human trafficking is an issue that development professionals are concerned about. A need- and rights-based approach is essential to combat human trafficking. This is a complicated problem since it encompasses the socio-economic and political dimensions of a social structure. There is a significant gap to be closed between current and applied laws. The traffickers are not being prosecuted in proportion to the real number of victims. This gap exists as a result of a shortage of resources for law enforcement officials. The existing or authorized requirements are insufficient to combat trafficking. Existing shelters and short-stay facilities are inoperable, and they should be closely checked. The district administration's selective treatment of local NGOs and tribal people does not resolve the issue; rather, it exacerbates it. They are desensitized and unaware. Every stakeholder should be instilled with a sense of obligation to the public. Rehabilitation measures that are dysfunctional are a failure. There is no rehabilitation program for males who are victims of human trafficking. That is a substantial setback. The Ministry of Women and Child Development established the Integrated Anti-Human Trafficking Unit in 2013. Its principal objective is to detect and

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[3]*Ibid.*

[4]Bilal Ahmad, 10 Advantages and Disadvantages of Social Media for Society, TECHMAISH.com, *Available at*: https://www.techmaish.com/advantages-and-disadvantages-of-social-media-for-society/. (Last visited on June 22, 2021).

[5]*Ibid.*

prevent human trafficking, as well as to rescue and rehabilitate victims. Bringing the criminal into the legal system is one of the Integrated Anti-Human Trafficking Unit's priorities, and expediting the process is another. It may be concluded that a high focus should be placed on resource allocation for nodal agencies, non-governmental organizations (NGOs), civil society organizations, and governmental authorities engaged in anti-trafficking initiatives. Above all, social workers are a beacon of hope for our country's vulnerable communities. Their commitment to poverty alleviation, disparity reduction, and increased access to basic requirements holds them accountable to these segments of society. To combat human trafficking, non-governmental and governmental organizations working in all district blocks must conduct awareness-raising initiatives. Women's participation in Gram Sabha meetings and planning sessions is vital. Creating alternative livelihood alternatives for tribal girls is essential. This will contribute to a decrease in the district's prevalence of human trafficking. Only these possibilities would be ineffective. Thus, educating young girls in the manufacture of sustainable utility products is critical to ensuring stability. Involving people from diverse backgrounds in the Gram Sabha's meetings and planning can assist enable an inclusive approach to growth. Frontline service providers should be educated and trained not to favor or discriminate against any member of the lower castes. Orientation and training of grass-roots workers (ANM, ASHA, and Anganwadi) are necessary. This requires an adequate resource. Thus, resource allocation and usage are critical. Trainers must be effective, well-trained, and knowledgeable about their subject; they must also carry pertinent and critical information with them in order to teach it to the workforce. Legal reforms, such as the establishment of a women and child desk in every police station, are a necessity in the modern era. These officials should be adequately trained, and prompt replacement should be considered in cases of transfer.

Strict enforcement of cross-border trafficking is required, as is secure surveillance of trafficking routes and adequate social accountability**.** With the assistance of NGOs and police officials, various types of advertisements can be placed in popular media in a specific location, as well as awareness programs in villages, local schools, among children from the poor society, and among the general public to alert them to the dangers of being victimized.

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