

“HUMAN TRAFFICKING: A SILENT CRIME THAT DEVASTATED ENTIRE LIFE OF VICTIM, A VIOLATION TO HUMAN RIGHTS”

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INTRODUCTION

Trafficking means an illegal trade. Human trafficking is trade of humans, i.e. women, children and men too. Human trafficking is done for the purpose of sexual slavery, also called as prostitution, commercial sexual exploitation, extraction of organs of the human body, domestic servitude, forced labor or forced marriage. Human trafficking is the third largest crime across the world which is mostly done for sexual exploitation of children and women. Mainly Women are the victim who are being trafficked by these exploitation group who abduct them for the purpose of prostitution. The most important thing to notice about this is that the criminal group who are involved in such kind of crime are mostly women. Trafficking is done mostly to have economic gain. In human trafficking the humans is being auctioned like a commodity. It is not only done within the border, but the criminal groups also sell the women beyond the border. The act of India for human trafficking is 'The Immoral Trafficking Prevention Act, 1956 (ITPA) and by these exploitation group who abduct them for the purpose of sexual exploitation. The legal provision for the human trafficking need to be strengthened in order to prevent human trafficking. People who are below the poverty line are mostly targeted by the criminal gang as because they easily get influenced by the criminal who promise them to fulfill their basic needs. Human trafficking leads to the violation of human rights of an individual and also they are subjected to rivictimization. Many countries have endorsed for prevention of human trafficking. Section 370 in The Indian Penal Code define human trafficking as 370. Buying or disposing of any person as a slave— Whoever imports, exports, removes, buys, sells or disposes of any person as a slave, or accepts, receives or detains against his will any person as a slave, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.¹ The definition of trafficking adopted in the 2001 United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons reflects a compromise. “Trafficking in persons” shall mean the recruitment, transportation, transfer, harboring or

¹ Section 370, Indian Penal Code, Act No. 45 of 1860

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 labor or services, slavery or practices similar to slavery, servitude or the removal of organs; slavery or practices similar to slavery, servitude or the removal of organs; (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;²

CAUSE FOR HUMAN TRAFFICKING IN INDIA

Human trafficking in India work on the doctrine of demand and supply. The factor influencing human trafficking is political, economical and cultural factor. Human trafficking can be differentiated into sex trafficking and labor trafficking. Even though they have different meaning and different purpose, but the root of them is the same. The causes of human trafficking are:

1. *Poverty* the traffickers usually target the poor and needy people who are below the poverty line because these people can be easily manipulated and can easily be forced to do whatever the traffickers want them to do, they promise them to fulfill their basic needs and then sell them or force them to become labored.
2. *War*: War is also the reason for human trafficking as after the war the people who because of the war has migrated to another country for the safety purpose and willing to go back to their homeland are the most eye catching target of the traffickers. The migrants are emotionally unstable and they do not have any kind of financial support and as a result the migrant became the subject of trafficking.
3. *Trafficking of Human result in Huge Profit*: According to the survey report of international labor organization (ILO) human trafficking industry is a huge profit making organization and it make profit up to \$200 billion per annum. The victim of human trafficking is either sexually exploited or economically exploited. The victim of sexual abuse is mostly women who are trafficked for becoming a prostitute even small girls are also the victim of sexual abuse, while men, women and children are economically abused too by forcing them to do domestic work or agriculture work even the children or women who use to beg in the footpath or train or railway station may also be a victim of human trafficking.

² Article 3 United Nations General Assembly, *United Nations Convention against Transnational Organized Crime*; Annex II: *The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*, supplementing the United Nations Convention against Transnational Organized Crime, 8 January 2001.

4. *Women are mostly targeted:* The women are the main target of the trafficking mostly the young girls. The traffickers search for a girl who can easily get manipulated and can believe in them with close eyes. In fact the traffickers try to contact them through social media with a fake account and try to meet them and by this way they kidnap or abduct the girls and women and then sell them. The women are mostly trafficked for sexual exploitation like prostitution.
5. *Cases of trafficking are very hard to identify:* the victim of human trafficking is nearly impossible to identify as because they are hidden in a very secret place and is traumatized. The victim is so divulge that they disagree of being the victim of trafficking may be because they are too scared or because they are in a grave trouble. The buyer or the consumer of the trafficking also does all sort of work to hide the information about the victim of trafficking as stated in a report of urban institute.

RELATIONSHIP BETWEEN HUMAN RIGHTS AND HUMAN TRAFFICKING

Human trafficking in every way violates the human rights. Human rights are the rights which are guaranteed to every individual whether rich or poor, however trafficking is like a doom to human rights. Human rights law helped in removing discrimination between every individual on the basis of race and sex. Human rights have also given the priority to the victims of trafficking by creating a center of anti-trafficking policies. Whether the victim of trafficking is working for sex or they became the forced laborer the approach of anti-trafficking policies made it irrelevant, the victim rights has been protected irrespective of why and what were they doing when they were trafficked. As we know the main victim of trafficking is women and children, where women are trafficked for being sexually exploited on the other hand children trafficked for both the reason, i.e. sex exploitation and labor exploitation. The core of human rights for trafficking purpose is that it guarantees that regardless of gender, age, sex or they're working field, it assures that they will be protected and get equal recognition as a man for ordinary prudence will get. As we know that the victim of human trafficking after getting rescued has to face another mental violence by the society as after they get free from this exploitation they have to face the society who has no. of the question for these people and the victim are even not welcomed into the society. The People of the society see them like they are criminal and in fact, people use to avoid them. The victims have not given equal right by the member of the society. Human rights guarantee all victims to equally access to aid justice and protection and to live with human dignity. In fact, during the raids of police in any hotel, factory, industry etc. the victim are also treated as criminals which also indirectly lowering their moral within the society. The Charter of united nation and universal declaration on human rights clearly state that rights which are guaranteed in

the charter is for everyone irrespective of their caste, nation, gender or sex. Hence a victim of human trafficking is also entitled to their human rights even if they are found in another nation, international law guaranteed it that a victim cannot be exploited of their not belonging to the particular country. The international human rights act also provided that there are certain group who are required to get special protection like women, children, migrants, refugees, internal displaced person or a person who became disabled. They need special protection as may be they share a particular vulnerability. Women and girls are trafficked for the purpose of exploitative prostitution, sex tourism, forced labor for domestic or service center. Women and girls who are the victim of these prostitution or sex tourism get suffer from gender specific forms of harm like they suffer from HIV/AIDS. Many trafficking is prohibited under international law. There is an international convention to prevent human trafficking indirectly like article 14 of the Universal Declaration of Human Rights provide that a person should not be considered as slavery or servitude. Slavery and servitude must be prohibited. ICCPR art. 8(1) & 8(2) state that person should not be bound by under bondage and servitude. The trade which are done for domestic slavery must be prohibited. Article 10(3) of ICESCR provide that every children and young people should be given protection and assistance without any discrimination and biasness on basis of caste, for reason of parentage and any other condition. They should be protected from economic and social exploitation. United states have focused on national trafficking law and criminal prosecution of traffickers. While discussing the crime of trafficking the victim can be easily made as the instrument for the criminal investigation. Trafficking can also be dealt as a migration issue usually a person who has an irregular immigration can be identified by question of consent vs. coercion. Consent and coercion are two very broad terms when a person's consent is taken during migration they are said to be legal immigration, whereas immigration by the help of coercion is said to be smuggling. Traffickers illegally migrate or export the victim of human trafficking across the boundary of the country. Even some of the victim of trafficking has consented to being transported as they are so coerced or forced or torture that they started believe that their life will continue to be hell and there is no turning back. To protect the illegal immigrants a proper migration policy, is formed which protect these victims from trafficking by limiting their migration policy. Sri Lanka has restricted the women to migrate based on their section of work, age, status and family. Such a policy is a violation of women's rights to freedom of movement and has accidently helped the traffickers for smuggling and trafficking of the women. Hence, the anti- trafficking police's help in giving them equality and a good life. Human rights protect the victim from traffickers and help them to get justice. The Human rights is a universal law and many international conventions happening to the protection of women,

children who are illegally sent to different countries. The Human right objective is to help the victim to gain respect and dignity in society, its main aim is to remove that title of sex worker or prostitute or laborer from the victim. And also protect them from the traffickers who try to sell them.

HOW CYBER SPACE AFFECT HUMAN TRAFFICKING

The introduction of internet has given the world to get any kind of information in just a click away whether it is about a person or news or games internet has provided every sort of thing but it is also become one of the major platform for an organized crime. *Robert Hannigan, the Director of Communication Headquarter of British government stated that "social networking site like Facebook, twitter and Instagram are command and control network of choice for command and criminals."*³ Pornography has become the industry for human trafficking. The internet has become a main choice of selling process for the traffickers of the work they force to their victim. The traffickers use online advertisement to sell the victim even some traffickers even force the victim to sell themselves by editing their photos. The victim of human trafficking is mostly targeted through internet. The traffickers make false id and started building friendship and gaining there trust and information about the victims & eventually use this information to threat the victim. the traffickers are very high skilled and trained social engineer. By Gaining the trust of the victim take out there important and crucial information the questions they ask to victim use to sound so nice that it sound like they can understand how the person feels and eventually gain trust by helping the victim to achieve the aim of his life by this way they try to get victims photos or video to blackmail them or try to meet them and by this way a victim falls in the hand of the traffickers. This is like a dark web. Dark web guaranteed anonymity to its user and the use of this multilayer encryption is called the onion encryption. Onion encryption is like an onion as this website pass through the layer like an onion. Like onion first layer of IP address, computer identifying address is encrypted and pass to another server. As the destination address only receive last IP address in route process, the website never actually knows who are they talking with. *A study by Gareth Owen at the University of Portsmouth finds that "4 out of 5 search on the dark web involve paedophiles activity*¹⁰. *The dark web also has its own currency called Bitcoin that provides anonymous payment for services along with prepaid debit cards. Even tech giants like Facebook are beginning to make their services available thought Tor."*⁴ Tor is like a navigation which lead the searcher to desire website even not getting the trace of who he

³ M. Chertoff, T. Simon, *The Impact of the Dark Web on Internet Governance and Cyber Security*, "Center for International Governance Innovation and Chatham House" Publishing House, Canada, 2015; p. 1.

⁴ Warning: The dark web is accessed at your own risk

is, it does not keep record of the searcher so it is free from search activity even.⁵ So, the cyberspace even has become a breeding ground for these traffickers, internet has become a very easy space to manipulate a person and make them a victim of human trafficking. So as the cybercrime is increasing day by day so proper initiative and group are formed to monitor cyber space. Global Commission on internet governance in 2014 was establish and articulate strategies vision for the future of internet governance.⁶ As we know fighting with human trafficking in virtual world is by far the difficult task and so there is an immense need to protection of victim under cyber space for which cybercrime law has been enforced and proper cyber cell has been establish for protection of these victims from the traffickers.

LAWS RELATED TO HUMAN TRAFFICKING IN INDIA

There is various law in India which are made to encounter human trafficking and to protect these victims from society irrelevant behavior. The law of India has provided equal rights and justice to victim and ha also prohibited such any activity.

INDIAN PENAL CODE, 1860

Sec.370 and 370 A of IPC prohibited trafficking of women and girls and prescribed rigorous punishment to the criminals. It lays down that anyone who buys or sell the person under the age of 18 years for the purpose of prostitution and for sexual exploitation and for other immoral purpose shall be liable for imprisonment for 10 years and is also liable for fine. It also recognizes cross border trafficking into prostitution and whoever imports into India from any other country, any girl under the age is 21 with the intent that she maybe, or knowing it to be likely that she will be, forced or seduced to illicit intercourse with another person shall be punishable with imprisonment which may extent to 10 years and shall also be liable for fine or both.

CONSTITUTION OF INDIA, 1949

The Indian constitution prohibits trafficking in person and guarantees many of the internationally acknowledge various human rights norms such as right to life and personal liberty,⁷ the right to equality, right to freedom, and the right to get constitutional remedy under article 32. The right to be free from exploitation is also one of the fundamental rights of any person.

⁵ E. Jardine, *The Dark Web Dilemma: Tor, Anonymity and Online Policing*, “Center for International Governance Innovation and Chatham House” Publishing House, Canada, 2015, p. 11.

⁶ E. Jardine, *The Dark Web Dilemma: Tor, Anonymity and Online Policing*, “Center for International Governance Innovation and Chatham House” Publishing House, Canada, 2015, p. vi.

⁷ Article 21 of constitution of India

THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT, 2000

The Juvenile Justice (Care and Protection of Children) Act, 2000 stated that there is no difference between a minor and a child. All the person under the age of eighteen years are considered as children.

THE SCHEDULED CASTE AND THE SCHEDULED TRIBE (PREVENTION OF ATROCITIES) ACT, 1989

The trafficker mostly targets such area which is backward and whose literacy rate is low. As a result there become an important need to safeguard women and young girls from Scheduled Caste and Scheduled tribe and to prove lack of connivance to traffickers or offender. Therefore, The Scheduled Caste and the Scheduled Tribe (Prevention of Atrocities) Act, 1989 has been establish which states that if the offender has the knowledge that the victim belong to these communities then this act can be effectively used to counter the offence of trafficking. Section 3 of this act deal with atrocities committed against people belonging to Scheduled Caste and Scheduled Tribes. It describes the forms of trafficking whether forced or bonded and sexually exploitation of women. a minimum punishment of 9 months is provided which may extended for five years if the offence is covered under section 3 of the act.

IMMORAL TRAFFIC IN WOMEN AND GIRLS ACT, 1956

The government of India ratified the international convention for the suppression of Immoral Traffic in persons and exploitation of the prostitution of other in 1950. As a consequence of ractification of the convention the government of India passed the suppression of Immoral Traffic in Women and Girls Act (SITA) in year 1956. Then in the year of 1986 with the further amendment and changes were made which was called as The Immoral Traffic Prevention Act, 1986(PITA). This is a law whose purpose is to give effect to the trafficking convention and to prohibit the immoral human trafficking. This act deals with trafficking and its objective is to abolish traffic in women and girls for the purpose of sexual exploitation. The offence included are to take person for prostitution, detaining person in one place where prostitution is carried on, making life if earning a prostitution, seduction of a person custody. The immoral traffic (prevention) amendment bill, 2006 also focuses on trafficking which is done for the purpose for sexual exploitation.⁸ Hence, it can be said that in India there is no proper provision which abolish all forms of human trafficking.

⁸Prsindia.org, *The Immoral Traffic (Prevention) Amendment Bill, 2006*, <https://prsindia.org/billtrack/the-immoral-traffic-prevention-amendment-bill-2006-143>

SURVEY

According to the UNODC report is clear that the main victim of sex exploitation is women and girls there is 79% of total human trafficking for sex exploitation. Nearly the 30% of the countries that are providing information about the rate of human trafficking for sex exploitation is increasing with the increase of no. of women. though forced labor is less than the sex labor than also a survey from UNODC state that there are 18% of forced laborer in human trafficking and it is termed as second most common form of trafficking. According to the current survey by UNDOC there are 20% of child trafficking but in west Africa the children are the majority of exploitation. The survey also shows that intra religious crime and domestic trafficking are the most common form of trafficking. The United Nations Protocol against Trafficking in Persons - the foremost international agreement in this area - entered into force in 2003.⁹ The Report shows that in the past few years the number of Member States seriously implementing the Protocol has more than doubled (from 54 to 125 out of the 155 States covered), However, there are still many countries that lack the necessary legal instruments or political will.¹⁰

CONCLUSION

Human trafficking is like a forest with a fire which has no end of strap. Trafficking is a heinous offence which has destroyed many lives. People who got caught in the web of the traffickers it become hard for them to run from there. Traffickers are the higher skilled person who have an immense idea to save themselves when one of the victims get caught by the police. The traffickers have many contacts which help them for export and import of human from different part of the country. The one thing which is still hard to believe is that even women are also involved in such trafficking scheme, the women are ready to sell the women at any cost just for money. The victim is mostly the migrants or the women, children, people below the poverty line, people who have lost their family during war ,etc. Human trafficking in every way has violated the human rights also all the rights related to equality and justice are hard to provide to the victim. These traffickers are so intelligent that it's become nearly impossible to find in any part not only these traffickers usually target their victims through internet, they are a good and brilliant social engineer or hacker that it is nearly impossible to track them down. Though many laws and statutes have been made for the protection of the victim then also these should have

⁹ Sandeep Chawla, Angela Me, Thibault le Pichon, *Global Reports on Trafficking in Person*, United Nations Office on Drugs and Crimes, February 2009; <https://www.unodc.org/unodc/en/human-trafficking/global-report-on-trafficking-in-persons.html>

¹⁰United Nations Office on Drugs and Crimes, *UNODC report on human trafficking exposes modern form of slavery*, 12 February 2009 <https://www.unodc.org/unodc/en/frontpage/unodc-report-on-human-trafficking-exposes-modern-form-of-slavery-.html>

been a strength and rigorous punishment should be provided to the offender with high amount of fine. A Survey has shown that human trafficking is increasing day by day and it will continue to make the country an empty shell. Though this is a never ending process, however if the proper initiative will be taken this will gradually be decreased, although it will be quite hard to abolish it but one day it will. Also NGO'S should be also be there for these victims where they are seen as a human not as a sex worker or prostitution. When a victim comes out of such a situation, it become important to make them feel secure as they are mentally, emotionally and physically disturb. It is well said that if we don't stand against the injustice it will continue like a forest fire.