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Human Trafficking as a violation of Human Right

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Everyone, regardless of their race, gender, nationality, ethnicity, dialect, religion, and status, is born equal and independent and has the right to human rights. The Universal Declaration of Human Rights is a defining moment in human rights history, charting the fundamental human rights that should be universally upheld and respected. Human rights violations take place in various forms, including stripping a person of one or more of the human rights to which he or she is entitled. Some infractions might be regarded as activities outside the scope of crimes against humanity. Person trafficking and unlawful migrant smuggling are illustrations of such human rights breaches. Millions of men, women, and children are reportedly victims of human smuggling and trafficking worldwide, despite the fact that it is practically impossible to determine the exact number of sufferers of these crimes.

Keywords: *human trafficking, violation of human rights, crime.*

INTRODUCTION

In today's socioeconomic environment, atrocities against women and children have reached new heights. Human trafficking is delinquency that not only dehumanizes women and children but is also a disgrace to society. According to NCRB, the escalating incidences (reported only) of procurement of young girls, 53% in 2013, talk eloquently about the turmoil women and children are in in Bihar, Assam, and West Bengal have seen an increase in migration of traffickers

and trafficking. Sexual exploitation is one of the primary goals of women trafficking in India, and the girls are coerced into prostitution. Nowadays, bride trafficking has maimed our sense of ethics. Girls are acquired as brides in West Bengal and Kerala and are transferred to Haryana, Punjab, or sections of Uttar Pradesh and Rajasthan. Human trafficking is a terrible defilement of their dignity and human rights. It is a flagrant violation of victims' rights, including all the fundamental rights such as freedom and liberty, free speech and expression, education, and the right to live a life of dignity. It turns into a horrifying account of contemporary slavery.

The cost of a university education remains high and prohibitive for many. Education for male children is still prioritized over education for female children in our society. The literacy rates for women continue to be lower than for men. Many women are left with inadequate training and skills for jobs in the mainstream economy, leaving them open to exploitation. Global economic trends have produced an atmosphere where human trafficking is rife, and women in particular lack access to education, employment opportunities, and other means of generating revenue. Women's and girls' poor position in the family and community has aided in their exploitation and trafficking. Brothels are centers of human rights abuses. Women and children who are trafficked and then exploited commercially are "living manifestations of the greatest violation of human rights."

INDIAN LAWS AGAINST VIOLATION OF HUMAN RIGHTS

The Indian Constitution has always been congruent with the United Nations charter, the Universal Declaration of Human Rights (UDHR), and various other international treaties that emphasize human dignity. In India for defending human rights, several structures such as the National Human Rights Commission, State Human Rights Commissions, and Women's Commissions have been established at the Central and State level. Legislative protections, such as the Indian Constitution, which is the law of the land, as well as several statutes such as The Human Rights Act, 1997,[1] are established.

[1] Human Rights Act 1997

In addition to the provisions mentioned in the Constitution, India has a diverse set of laws created by the Parliament and certain state legislatures.

Constitution of India[2]- The Fundamental Rights guaranteed under the Constitution gives us access to basic human rights such as the right to equality, life, liberty, freedom of speech, cultural and educational rights, and rights against exploitation.

Apart from this Article 23[3] bans any kind of exploitation. Trafficking in humans and beggars, as well as other comparable types of forced labour, is considered illegal, and any violation of this rule is penalised by law. Under this Act, the citizens are protected not only from the state but also from private individuals.

As stated in Article 24,[4] " No child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment." The employment of minors below the age of 14 in any perilous industry, factory, or mine is specifically prohibited by this Article. Besides this, non-hazardous employment for children is possible.

The Immoral Traffic (Prevention) Act of 1956[5]- "This Act is a major piece of law put in place to protect women and girls from sexual exploitation. Only the Goa Children's Act, 2003,[6] a state legislation, defines the term "trafficking." As a result, while the ITPA is the primary piece of legislation governing the commercial sexual exploitation of children, it fails to define trafficking".

Child Labour (Prohibition and Regulation) Act, 1986[7]- "This Act prohibits children's employment in certain occupations and it also supervises the working conditions of children in other fields of work".

[2] Constitution of India
[3] Constitution of India, art 23
[4] Constitution of India, art 24
[5] Immoral Traffic (Prevention) Act 1956
[6] Goa Children's Act 2003
[7] Child Labour (Prohibition and Regulation) Act 1986

The Factories Act, 1948[8]- "This was the first statute approved after independence that established a minimum age restriction for minors working in industries. The Act established a minimum age of 14 years old. This Act was revised in 1954 to prohibit youth under the age of 17 from working at night".

The Mines Act, 1952[9]- "It forbids the employment of children below the age of 18 years in mines".

DIMENSIONS OF HUMAN TRAFFICKING[10]

It is a demand and supply-driven global industry with a humongous market for inexpensive labour and commercial sex that often encounters inadequate or underutilized legal frameworks or skilled organizations that could effectively stop or prevent it. One of the most common reasons that people become slaves is human trafficking, which is a part of the greater predicament of slavery. Human trafficking is basically when someone is relocated to a new and unknown place to be used as a slave through trickery or force. Although when we refer to transportation, we often mean between nations, persons can also be trafficked within the same nation. Everyone around the globe is affected by human trafficking, a kind of slavery that has been revived and has developed rapidly becoming one of the most profitable industries for global criminal organizations since the 1980s.

The following are a few types of human trafficking:

1. Forced Labor: This type of human trafficking pertains to circumstances where victims are subjected to forced labor for little or next to nothing wage, generally through coercion or violence, or through the withholding of identity documents. Although victims may occasionally be compensated for their efforts, victims may be required to pay a portion of any payment to the traffickers, if not the entire amount. The term "forced labour" refers to a variety of jobs and

[8] Factories Act 1948
[9] Mines Act 1952
[10] Sanjoy Roy & Chandan Chaman, 'Human rights and trafficking in women and children in India' (*Med Crave*, 5 April, 2017) <https://medcraveonline.com/JHAAS/human-rights-and-trafficking-in-women-and-children-in-india.html> accessed 20 September 2022

disregards the activity's legality. Victims have been frequently found in domestic employment, prostitution, mining, and construction.[11]

2. Sex Trafficking: Sex trafficking breaches a human's right to life, freedom, and personal security. It frequently alludes to contemporary slavery. Although some sex trafficking scenarios might not include the permanent possession often associated with slavery, they might involve exploitation and restriction of liberty that equates to servitude. Slavery-like acts, such as enslavement, involuntary labour, debt slavery, and forced marriages, are encompassed in sex trafficking.[12]

In 2017, a survivor of human trafficking and sex trafficking in Mexico named Karla Jacinto shared her story of being a victim of sex trafficking. A trafficker targeted and enticed her away when she was just 12 years old. The victim believes that she was raped around 43,200 times being a victim of human trafficking, stating that she was sexually assaulted and abused by "up to 30 men a day, seven days a week, for the best part of four years." Her tragedy brings to light the harsh reality of human trafficking, an underworld that has ruined the lives of countless girls like Karla.[13]

3. Illegal smuggling of migrants: The crime of migrant smuggling is facilitating illegal entry into another nation or residing there with the aim of earning money or some kind of physical gain. Migrants who are unable to afford the resources needed to traverse borders lawfully are willing to brave great imperils to seek a better life and potential overseas opportunities and are an easy targets for traffickers. Smugglers target individuals with their services by giving fraudulent assurances of rich jobs overseas, and these targets frequently pay a high price in exchange for the smugglers' services and claims. Smugglers hold power and control over the

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[11] Tommy Wong, 'Malaysia: A Violation Of Human Rights: Trafficking In Persons And Smuggling Of Migrants' (*Mondaq*, 13 March 2020) <https://www.mondaq.com/human-rights/1093382/a-violation-of-human-rights-trafficking-in-persons-and-smuggling-of-migrants> accessed 21 September 2022

[12] 'UN Women' (*Endvawnow.org*) <https://www.endvawnow.org/en/articles/538-sex-trafficking-is-a-grave-violation-of-human-rights-and-a-form-of-violence-against-women-and-children.html> accessed 20 September 2022

[13] Rafael Romo, 'Human trafficking survivor: I was raped 43,200 times' (*CNN*, 20 September 2017) <https://edition.cnn.com/2015/11/10/americas/freedom-project-mexico-trafficking-survivor/index.html> accessed 22 September 2022

migrants as their services are illicit, which allows them to abuse and exploit them, possibly resulting in death.[14]

4. Domestic Servitude: This occurs when the independence of domestic help such as maids, nannies, or live-in help is compromised to the point of captivity. Domestic helpers' circumstances already establish a distinct, unfavourable, and susceptible atmosphere owing to a lack of legal aid and isolating conditions that may be easily available in these rich households. The offender might exacerbate the situation by establishing a work atmosphere in which he can abuse the victim and exert total control over them. Numerous techniques may be used to exert such control. The employer can seize the victim's identity papers and travel permits, leaving them highly vulnerable and reliant on the employer, particularly if the victim is an immigrant or the offender can isolate the victim from friends and family by preventing them from leaving the house, which can be accomplished by threatening violence.[15]

IMPACT OF HUMAN TRAFFICKING ON THE SURVIVORS

Physical Trauma/Injuries

A lot of victims suffer physical injuries. People who have been sexually exploited are routinely mistreated by their traffickers and buyers. They may endure prolonged beatings, rapes, and other forms of violence. Additionally, there is a higher possibility of contracting infections, diabetes, cancer, and other illnesses, as well as sexually transmitted diseases. Forced labour victims may be required to perform monotonous tasks for an extended period in dangerous environments. They might also work with heavy machinery or be exposed to dangerous toxins. As a result, many suffer from severe illnesses, respiratory issues, injuries, disabilities, and weariness.

Alienation And Ostracism

[14] Wong (n 11)
[15] Anuli, 'Human trafficking laws in India' (*Legal Service India*) <https://www.legalserviceindia.com/legal/article-3245-human-trafficking-laws-in-india-.html> accessed 22 September 2022

Individuals who are trafficked are often alienated from their friends, family, and other social groups very abruptly. The reasons for it can either be their sentiments of shame and guilt or perhaps it could be a consequence of them migrating and now residing far from their acquaintances. Victims grow isolated, withdrawn, reclusive, and lose touch most of the time, with almost every familiar person. Unfortunately, this solitude might increase their chances of relapsing into an exploitative and abusive lifestyle or exposing them to the possibility of re-trafficking.

Co-Dependence

Many victims who survive a trafficking environment may not have advanced education or the means they need to live freely. They cannot comprehend the laws of the nation in which they are currently living in, or they may still not understand or accurately speak the local language. They may have been enslaved while they were children and weren't able to attend school or college. After being forced to work for the same employer for an extended period of time and being prevented from developing new skills, victims could become dependent. When they're finally set free these people might struggle to live on their own.

Psychological Impact

Victims of human trafficking may have severe psychological effects both during and after the event. Numerous survivors might experience serious mental trauma and issues including post-traumatic stress disorder, social withdrawal, depression, anxiety, loss of memory, stress, despair, guilt, and shame.

HOW A HUMAN RIGHTS APPROACH HELPS

A human rights perspective on trafficking entails stressing the preservation of victims' rights in anti-trafficking strategies. By employing this strategy, it becomes immaterial whether the individual is trafficked for sexual work or another type of involuntary labour since the victim's rights are preserved irrespective of the reason they were trafficked for. A key component of a human rights method is procuring equal protection for every victim, irrespective of their sex,

age, or sector of labour. Every victim has the right to impartial access to support mechanisms, safety, and justice, as well as the option to acquire these services in a way they see fit, so as not to jeopardize their agency i.e., not being required to testify in court during a criminal case. As a result, policy measures must consider the typical gender component involved in trafficking and adequately compensate for any prejudice based on gender that impedes their access to support and justice. In addition to assertively safeguarding these rights for victims of human trafficking, additional anti-trafficking strategies involving criminal prosecutions and migratory laws must not jeopardize these rights in the process.[16]

Human trafficking, particularly the trafficking of minors, is a kind of contemporary slavery that calls for a comprehensive, multi-sectoral response to address the issue's complexity. Since the victims' rights and dignity are violated, the solution to this issue must primarily be viewed from the perspective of children's rights. When dealing with human trafficking as a migration problem, the topic of agreement versus compulsion is often crucial while determining whether the person possesses a questionable immigration status. In situations of human trafficking, a wide range of coercion is at work. A difference must be made between trafficking and smuggling, in which a person agrees to be carried, typically for a price. The essential distinction is that the individual's contact with the smuggler normally terminates upon arrival at the destination after the price is repaid, but a person who has been trafficked is exploited indefinitely by the trafficker. Even though some victims of human trafficking could have initially consented to be transferred, they may have done so on false pretenses or duress, making their consent irrelevant. A human rights perspective allows us to look beyond determining the degree of coercion to acknowledge the rights of victims, irrespective of the situations under which they were trafficked.[17] Current laws frequently deal with trafficking as sex trade, border security, or the issue of organized crime, which has an adverse effect on the rights of those who have been trafficked by placing them second to another policy goal.[18]

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[16] Janina Pescinski, 'A Human Rights Approach to Human Trafficking' (*Our World*, 20 February 2015) <https://ourworld.unu.edu/en/a-human-rights-approach-to-human-trafficking> accessed 23 September 2022

[17] *Ibid*

[18] *Ibid*

CONCLUSION

Human trafficking is not only an illicit activity, but it also represents a grave violation of human rights. Traffickers exploit trafficked people like commodities, infringing on their fundamental rights to be able to pick where they work, who they work for, and travel unrestricted. When tackling human trafficking, a human rights approach is essential in restoring the exploited person's dignity, safety, and well-being. The constitutional mandates must be complemented by appropriate social views, support services, and a fundamental shift in family and community values. Thus, efficient implementation of these rights necessitates teaching people about these fundamental rights so that they are recognized and seen in action. Our country must cultivate a tranquil human rights culture. The NHRC needs to propose remedies and take remedial measures.[19]

[19] Roy and Chaman (n 10)