

HUMAN TRAFFICKING

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ABSTRACT

This society is very strange, people in the society talk about the love and care, they try to maintain peace. Each and everyone is equal in front of the law and also the people have all the rights to live in the society without any exploitation. But in reality it is far different. After having the glance at the rate of human trafficking we can say that we are heading towards the disaster. India is the developing country, but the crimes are developing within the country. Even after having the legal system crime rate is increasing continuously. People are getting involved in using illegal weapons, medicines etc. India stands second in a place in the crime human trafficking. One of the report says Human trafficking has been identified as the third largest source of profit for organized crime, following arms and drug trafficking, generating billions of dollars annually at the global level. Trafficking of human beings, especially of women and children, is an organized crime that violates basic human rights. As per the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the UN Convention against Transnational Organized Crime. Present paper focuses on human trafficking and its effects on our society and some of the legal aspects with which it relates to.

Key words: Human trafficking, exploitation, Indian Penal Code, Immoral Traffic Prevention Act, 1956, SOP.

INTRODUCTION

We can also call human trafficking as a group of crimes, which results in exploitation of men, women, children, for the purpose of money, which is also against the fundamental human rights. Victims are abducted from their place and are being forced to work against their will. Some cases may result in trafficking within the country, similarly, out of country. The abducted people are used in begging, prostitution, slavery, some are killed, victims

are used for the transportation of drugs, some for organ donation and etc. If we look at the statistical data of human trafficking, it is increasing year by year. Human trafficking is seen with the poor families, weak and isolated families.

Human trafficking is defined as “the recruitment, transportation, transfer, harboring 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 labor or services, slavery or practices similar to slavery, servitude or the removal of organs.”

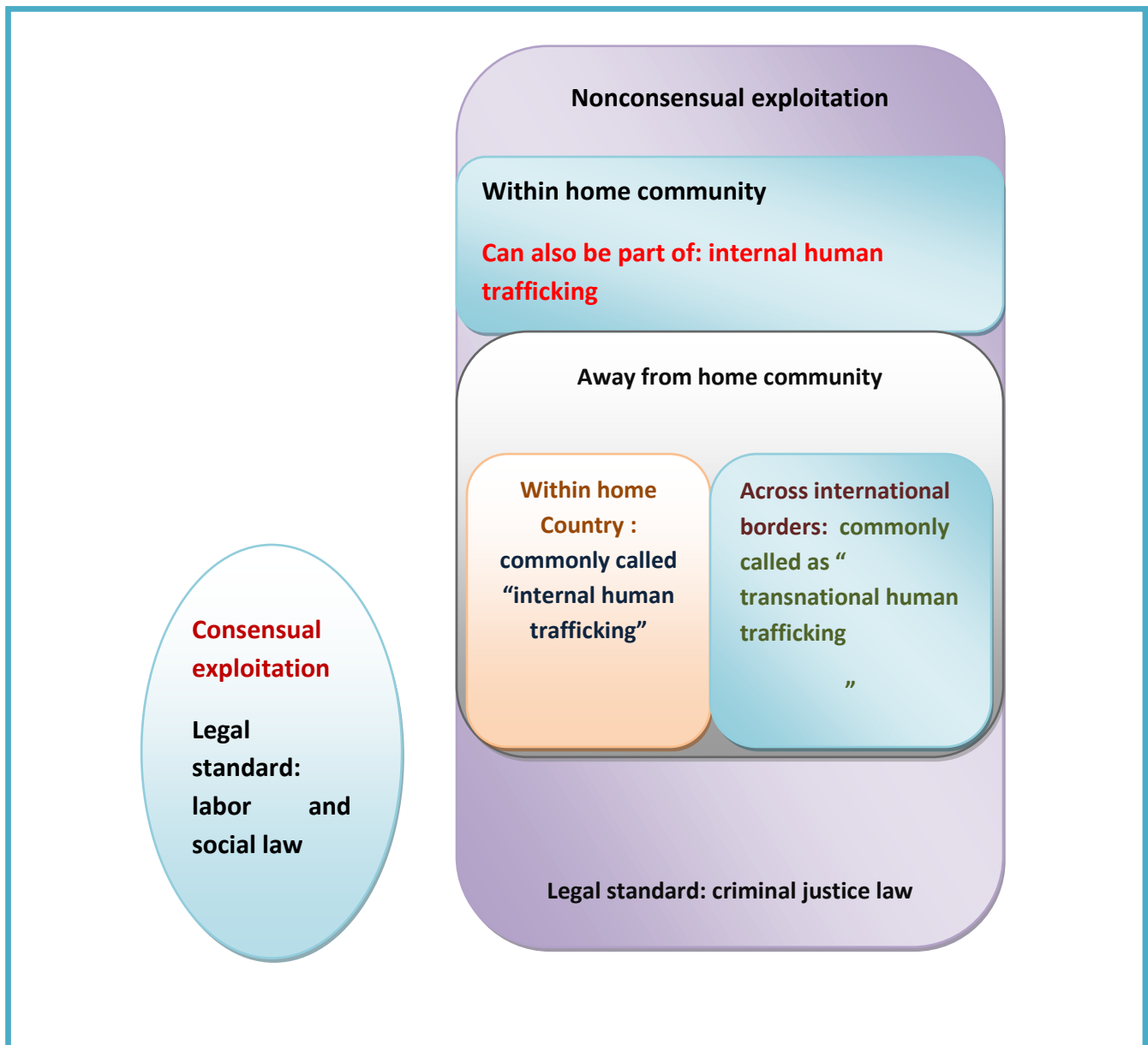
In the Indian Penal Code (IPC), human trafficking is covered under section 370 and 370 A. administration has also taken the actions against human trafficking, such as, Child soldier prevention act, Immoral traffic prevention act 1956, Trafficking victims protection reauthorization act of 2005, and many more. And there are also many organizations for the people who are victims of human trafficking. But most of the police administrations are corrupt, and the victims are not treated properly. Therefore most of the cases will not even get registered in the stations.

Nobody knows the true numbers, but even conservative estimates suggest that at least 2.5 million children, women, and men are lured or forced across international borders every year and many more are trafficked within their home countries – and put to work against their will, often under deplorable and unsafe conditions, held captive by physical, psychological, or financial threats. The International Labour Organization (ILO) estimates, for example, that at least 12.3 million people are subject to forced labor². Therefore we the citizens also have some duties, if we get any information we have to inform it to respective departments, we should create awareness about the human trafficking specially, among youngsters, we should treat men and women equally.

India is the most populated country. Till date there are many people who are affected by the poverty. People who are poor, hungry, will face human trafficking. And some traditions still support human trafficking. And most of the cases women and children are trafficked from one place to another. Children are because, it is very easy for anyone to handle a child and one can pay less payment or they can use children for begging. And woman trafficking is especially due to prostitution. It is the most easiest business, to earn lot of money.

Human trafficking, as it is stated by international law, includes all forms of nonconsensual utilization. That is, whenever people are forced into exploitation – no matter if movement of victims is involved it is considered human trafficking. Consensual exploitation is mostly addressed through social and labor law, which is also an area where the World Bank has ample experience, while nonconsensual exploitation is mainly addressed through criminal law.

Figure 1: Terminology and theoretical relations of exploitation, human trafficking, and forced labor



*source: Johannes Koettl, May 2009, Human Trafficking, Modern day Slavery, and Economic Exploitation

GOVERNMENTAL AGENDA ON HUMAN TRAFFICKING

Constitution of India

In part III and part IV of Indian constitution deals with the Fundamental rights and Directive Principles of State Policy (DPSP). Human trafficking was prohibited by the Art 23 of Indian constitution of Fundamental rights. And Article 39(e) & Article 39(f) of DPSP ensure about the health and strength of individuals is not abused.

Immoral Traffic Prevention act, 1956

Section 1: This act was signed at New York on the 9th of May, 1950, for the prevention of immoral traffic. This act is applicable to all the states of India except Jammu & Kashmir.

Section 2: This Section Gives Many Definitions Of Brothel, Child, Corrective Institution, Magistrate, Prostitution Etc

Sl. No	Sections	Details	Punishments
1	4	Punishment for living on the earnings of prostitution	(a) imprisonment for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both (b) where such earnings relate to the prostitution of a child, shall be punishable with imprisonment for a term of not less than seven years and not more than ten years.
2	5	Procuring, inducing or taking person for the sake of prostitution .	(a) shall be punishable on conviction with rigorous imprisonment for a term of not less than three years and not more than seven years and also with fine which may extend to two thousand rupees. (b) if committed against the will of any person, the punishment of

			imprisonment for a term of seven years shall extend to imprisonment for a term of fourteen years (c)if child, punishment provided under this sub-section shall extend to rigorous imprisonment for a term of not less than seven years but may extend to life.
3	5B		Any person who commits trafficking in persons shall be punishable on first conviction with rigorous imprisonment for a term which shall not be less than seven years and in the event of a second or subsequent conviction with imprisonment for life.
4	5C		Any person who visits or is found in a brothel for the purpose of sexual exploitation of any victim of trafficking in persons shall on first conviction be punishable with imprisonment for a term which may extend to three months or with fine which may extend to twenty thousand rupees or with both and in the event of a second or subsequent conviction with imprisonment for a term which may extend to six months and shall also be liable to fine which may extend to fifty thousand rupees
5	6	Detaining a person in premises where prostitution is carried on	shall be punishable on conviction, with imprisonment of either description for a term which shall not be less than seven years but which may be for life or for a term which may extend to ten years and shall also be liable to fine which may extend to one lakh rupees:
6	7	Prostitution in or in the vicinity of public place	(a) shall be punishable with imprisonment for a term which may extend to

			three months. (b) If Child, shall be punishable with imprisonment of either description for a term which not be less than seven years but which may be for life or for a term which may extend to ten years and shall also be liable to fine
6	9	. Seduction of a person in custody	shall be punishable on conviction with imprisonment of either description for a term which shall not be less than seven years but which may be for life or for a term which may extend to ten years and shall also be liable to fine:

Ujjawala: A Comprehensive Scheme for Prevention of Trafficking and Rescue, Rehabilitation and Re-Integration of Victims of Trafficking for Commercial Sexual Exploitation

A Comprehensive Scheme for Prevention of Trafficking and Rescue, Rehabilitation and ReIntegration of Victims of Trafficking for Commercial Sexual Exploitation, under the Ministry for Women and 84 Child Development, attempts to “provide rehabilitation services both immediate and long-term to the victims by providing basic amenities/needs such as shelter, food, clothing, medical treatment including 85 counseling, legal aid and guidance and vocational training.” The Ujjawala Scheme provides victims with funding to meet the travel costs incurred en route to being restored with their families, as well as “seed 86 money” of 5,000 INR (roughly \$83) to each victim.

Swadhar Greh: A Scheme for Women In Difficult Circumstances

A Scheme for Women in Difficult Circumstances, also under the Ministry of Women and 87 Child Development, represents another such programme. The Swadhar Greh Scheme is meant “to provide temporary accommodation, maintenance and rehabilitative services to women and girls rendered homeless due to family discord, crime, violence, mental stress, social ostracism or [who] are being forced into 88 prostitution and are in moral danger.” Beneficiaries of the Swadhar Greh Scheme include “[t]rafficked 89 women/girls rescued or

runaway from brothels or other places where they face exploitation.” Both schemes, however, only apply to persons trafficked for the purposes of sexual exploitation.

Juvenile Justice (Care and Protection of Children) Act

The Juvenile Justice (Care and Protection of Children) Act, 2000 defines a child in need of care and protection to include a child “who is found vulnerable and is likely to be inducted into . . . trafficking.” The Act establishes procedures for the recovery and social reintegration of such children, including the creation of shelter homes and the provision of foster-care services. However, this scheme only applies to minors defined as persons below the age of eighteen years.

CODE OF CRIMINAL PROCEDURE

Responsibility for providing compensation to trafficking victims is fragmented between the central government and individual states. This is largely the result of Section 357, Code of Criminal Procedure, which states that the Central Government should be responsible for compensating victims of any crime (not limited to trafficking) who have suffered loss or injury. However, it fails to note the form or degree of such compensation. According to the Section: “(1) When a Court imposes a sentence of fine or a sentence (including a sentence of death) of which fine forms a part, the Court may, when passing judgment order the whole or any part of the fine recovered to be applied . (b) in the payment to any person of compensation for any loss or injury caused by the offence, which compensation is, the opinion of the Court, recoverable by such person in a Civil Court” The Section addresses the compensation of trafficking victims; however, it allows for the individual State's determination of compensation procedures and amounts. As a result, there is no centralized compensatory system for trafficking victims in India. The Centrally Sponsored Rehabilitation Scheme for Bonded Labour mandates a rehabilitation grant of Rs. 20,000 (roughly \$330) to each bonded labourer as well as assistance for rehabilitation. Unfortunately, this amount is fixed regardless of the amount of time the labourer has provided bonded service. (India's Human Trafficking Laws and Policies and the UN Trafficking Protocol: Achieving Clarity)

Standard Operating Procedure (SOP) to the State Governments on Human Trafficking

To stop the crime of human trafficking, the Government of India formed the advisories. A standard operating procedure, or SOP is set of step-by-step instructions compiled by an organization. These are available

on the Ministry of home affairs. The SOP on investigation is a very importance substance for the investigators, support and supervisory officials who handle trafficking crimes of various dimensions in India.

The objectives of SOP are as follows:

- Expeditious and effective law enforcement
- Conviction of the offenders
- Initiating post-conviction steps against the offenders
- Non-victimization of victims
- Ensuring that appropriate protection/care/attention is provided to victims/ witnesses
- Taking appropriate steps for prevention of trafficking and re-trafficking.

Web portal on Anti-Human Trafficking

It came into existence on February 20, 2014. Which act as a IT tool for sharing of information across all stakeholders⁴.

Integrated Child Protection Scheme (ICPS)

This scheme extends its services like- emergency outreach services through childline toll free 1098, gives shelter to children from urban or semi-urban societies.

Some of the Important Sections in Indian Penal Code (IPC) Relating To Human Trafficking

- i) Importation of girls from foreign country (Sec. 366B IPC)
- ii) Procurement of minor girls (section 366-A IPC)
- iii) Buying of minors for prostitution (section 373 IPC) (in previous editions, data was collected under buying of girls for prostitution)
- iv) Selling of minors for prostitution (Section 372 IPC) (in previous editions, data was collected under buying of girls for prostitution)
- v) Immoral Traffic (Prevention) Act 1956 vi) Human trafficking (section 370 & 370A IPC), after enactment of the Criminal Law (Amendment) Act 2013, the Bureau has also started collecting data under these sections.

Table no. 01: Crime head-wise incidence of various crimes under human trafficking during 2010 - 2014 and percentage variation in 2014 over 2013

SL. NO.	CRIME HEAD	YEAR					% VARIATION IN 2013 & 2014
		2010	2011	2012	2013	2014	
01	Procuration of minor girls	679	862	809	1224	2020	65.0%
02	Importation of girls from foreign country(sec 366B IPC)	36	80	59	31	13	-58.1%
03	Selling of minors for prostitution (sec 372 IPC)	130	113	108	100	82	-18.0%
04	Buying of minors for prostitution (sec 373 IPC)	78	27	15	6	14	133.3%
05	Immoral Trafficking Prevention Act,1956	2499	2435	2563	2579	2617	1.5%
06	Human Trafficking (sec 370 & 370A IPC)	–	–	–	–	720	–
	Total cases of Human Trafficking	3422	3517	3554	3940	5466	38.7%

*Source: Crime in India 2014.pdf

COMPARITIVE ANALYSIS: According to table no. 01 we can see the different percentages of different crimes which are connected with the main crime human trafficking. The trafficked victims are used for

procurement, importation or exportation, prostitution etc. we can see the percentage variation of 65% in Procurement of minor girls by taking the data of 2013 and 2014 into consideration. And also we observe -58.1% of variation in importation of girls from foreign country. The variation is negative in nature that means the crime rate has decreased in 2014 as compared to 2013. There is also -18% of negative variation in Selling of minors for prostitution. And, 133.3% variation in Buying of minors for prostitution as per the comparative study of 2013 and 2014. 1.5% variation in Immoral Trafficking Prevention Act, 1956. Total number of human trafficking cases vary with the percentage of 38.1%. This implies that the crime rate has been increased in the year 2014 as compared to 2013.

PRECAUTIONARY MAJORS-

- Each and every citizen must have the basic knowledge about human trafficking.
- One should complain in the police station if he/she got any kind of news about trafficking.
- Literacy plays a very important role.
- Never accept violence.
- Equal treatment of men and women may help to stop human trafficking.
- Talk and make the young one alert.

CONCLUSION

We can say human trafficking is a set of crimes it includes threat, hurt, fraud, deception etc. human trafficking is a form of slavery. It violates the rights of a victim and peace of the society. There are human trafficking and child trafficking, women trafficking etc. The most challenging is the child trafficking. Therefore our laws and punishment for the offense must be strictly allotted. As we have studied in this paper there are many governmental and non-governmental authorities which are working very hard against the human trafficking. But along with the government, it is the responsibility of every citizen of the country to contribute his/her share as in to help to reduce the rate of human trafficking. In 2013, India enacted groundbreaking legislation, the Criminal Law (Amendment) Act of 2013 (hereinafter referred to as the Amendment Act), which amended various sections of the Indian Penal Code, including provisions on human trafficking in India. These reforms reflect a step towards aligning the country with its obligations under the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (UN Trafficking Protocol)

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