

## HUMAN TRAFFICKING IN INDIA

<sup>1</sup>Janani. G.S

<sup>1</sup>B.B.A., L.L.B (Hons), Saveetha School of Law, Saveetha Institute of Medical and Technical Sciences,  
Saveetha University, Chennai-77, Tamil nadu, India.

<sup>2</sup>Dr. S.Pandiaraj

<sup>2</sup>Associate Professor of Law, Saveetha School of Law, Saveetha University, Saveetha Institute of Medical  
and Technical Sciences , Chennai-77, Tamil nadu, India.

<sup>1</sup> [jananijaanu56@gmail.com](mailto:jananijaanu56@gmail.com)    <sup>2</sup> [pandiarajs.ssl@saveetha.com](mailto:pandiarajs.ssl@saveetha.com)

### Abstract

Human trafficking is a trade carried upon human beings. The offenders traffic human beings, exploit them in various forms for financial earnings. Human trafficking violates many human rights of the victims. The victims of human trafficking face many consequences as they suffer long period of exploitation even after they come out from such status. This paper deals with the human trafficking in India. This paper analyzes the consequences of human trafficking on victims. Transnational organized criminals in human trafficking work as a network among the nations and exploit human beings. There is a United Nations Convention on Transnational Organized Crime (UNTOC) to prevent the human trafficking. This paper studies about the Indian domestic legislations on human trafficking in the light of the International Conventions on the subject matter. In the end, it comes out with measures for preventing human trafficking.

**Keywords:** Human trafficking, human rights, domestic legislation, international conventions, Transnational Organized Crime.

### **Introduction**

Trafficking means a trade which is illegal. Human trafficking is carrying out a trade on humans. Humans are trafficked for the purpose of sexual slavery, commercial sexual exploitation, extraction of organs or tissues, forced marriage, forced labor or domestic servitude. Human trafficking after drugs and the arms trade is the third largest organized crime across the world. Human trafficking across the world is mainly done for sexual exploitation where women and children turn as victims to it. Human trafficking is done for a number of purposes but sadly in our country the act which exists against human trafficking is Immoral Trafficking Prevention Act (ITPA) and it only combats against the human trafficking if it is done for the purpose of sexual exploitation. So the legal provisions relating to human trafficking as whole must be strengthened in order to prevent human trafficking in India. There are international conventions for preventing human trafficking of which more of the countries have ratified it. Human trafficking leads to violation of human rights of the individuals and also they are subjected to re-victimization. The laws for human trafficking must be strengthened that it meets all the requirements for preventing human trafficking. People who are in poverty line across the country must be made aware about human trafficking and its consequences in order to prevent them from becoming victims.

### **Review of Literature**

Ms. Shatabdi Bagchi, Ms. Ambalika Sinha, Human Trafficking in India: Theoretical perspectives with special reference to Human Trafficking scenarios in the North Eastern part of India, International Journal of Research and Social Sciences, Vol.6 Issue 9, September 2016.

In this article the author has portrayed the condition of Indian Women who are the most vulnerable target of human trafficking. The author of this article has discussed the contemporary theories and literatures. The author has observed that not alone the women in the borderintates are vulnerable but also the women of other areas are vulnerable. The author has found that human trafficking is not a single issue but rooted with multiple aspects.

Mr. Vimal Vidushy, Human Trafficking in India: an analysis, International Journal of Applied Research, 2016

This author of this article has addressed the issue of Human Trafficking. The author in this article has argued that the significance should be given to the underlying root causes and modes of Human Trafficking in India. The author has addressed preventive measures in this article to deal with the problem.

### **Objectives**

- To study about human trafficking in India.
- To study about the laws for human trafficking in India
- To analyze whether the laws for human trafficking in India are properly implemented.
- To study about the international conventions to prevent conventions.

### **Methodology**

This study is doctrinal in nature. The researcher has used secondary sources. These include books, articles, newspaper articles, web sources and others.

### **REASONS FOR HUMAN TRAFFICKING**

There are many reasons for human trafficking. They are determined by political, economic and cultural factors. Trafficking in persons is according to the doctrine of supply and demand. Firstly, there are certain factors in the country such as need of employment, poverty, social conditions, instances of armed or war conflicts lack of political and economic stability, lack of proper access to education and information etc. Secondly, in developed and wealthy countries there is demand for inexpensive products, cheap labour and low priced services. The organized crime groups have found an opportunity for making huge profits by connecting the supply and demand that by clubbing the first and the second instances.

These reasons lead to increased migration but a condition of restricted migration due to numerous policies of the State. People use smuggling channels for human trafficking exposing themselves to exploitation, deceit, violence and abuse([Causes of Human Trafficking in India ...](#)).

## CONSEQUENCES OF HUMAN TRAFFICKING

The victims in the process of trafficking in persons are abused and exploited in certain conditions which may result in short term and long term minor and severe psychological and physical attacks, diseases especially sexually transmitted diseases or HIV viruses. This condition can even lead to the permanent disability and death. The direct consequences of human trafficking are aggression, depression, disorientation, alienation and difficulties in concentration. Many studies have shown that injuries and traumas acquired during the process of trafficking can last for a long period even after the person has become free from exploitation and this mainly occurs when the victim is not given with proper care and counsel. Even the rehabilitation process for the victims cannot be guaranteed for a certain result. Although the victims are brought out from the physical problems, the trauma and the psychological problems does not allow the victim to totally recover from the consequences. Some of the victims find it difficult to adapt to the normal lives that they previously carried out. The sad part about the victims of human trafficking is that the rights of the victims are violated even after they come out from the status of exploitation. In many cases they face re-victimization. In many of the countries the protection provided to the trafficked persons is directly conditioned by their willingness to cooperate with the competent authorities. But these conditional protection is contrary to the full access and protection of human rights and the use of trafficked persons as an instrument in the criminal proceedings are not allowed. .

## LEGAL FRAMEWORKS TO COUNTER HUMAN TRAFFICKING IN INDIA

### Indian Penal Code 1860:

Interestingly the Indian Penal Code which came into existence in 1860 addresses the problem of human trafficking in human beings. It is addressed in Section 370 and 370 A of the Indian Penal Code. It prohibited trafficking of women and girls and prescribed ruthless punishments for the criminals. It lays down that anyone who buys or sells the person under the age of 18 years for the purpose of prostitution and for sexual exploitation and for other immoral purposes shall be liable to imprisonment for up to 10 years and also be liable to fine. It also recognizes cross border trafficking into prostitution and whoever imports into India from any country outside India any girl under the age of twenty one years with the intent that she may

be, 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 extend to ten years and shall also be liable to fine([Human Trafficking In India: Legal Pro...](#)).

### **Constitution of India, 1949**

The Indian Constitution of India prohibits trafficking in persons and guarantees many of the internationally acknowledged various human rights norms such as the right to life and personal liberty, the right to equality, right to freedom, the right to constitutional remedies. The right to be free from exploitation is also assured as one of the fundamental rights of any person living in India([aDvantage](#)).

### **The Juvenile Justice (Care and Protection of Children) Act, 2000**

According to this Act there is no difference between a minor and a child. All the persons under the age of eighteen years are considered children. A child who is a child in need of care and protection(NATIONAL LEGAL RESEARCH DESK 2016).

### **The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989**

Many victims of trafficking belong to marginalized groups. Traffickers target only such area which is backward in social and literacy sense. This gives an additional tool to safeguard women and young girls belonging to scheduled Caste and scheduled Tribes and also to create a greater burden on the trafficker or offender to prove his lack of connivance in the matter. If the offender has the knowledge that victim belongs to these communities then this act can be effectively used to counter the offence of trafficking. Section 3 of this act deals with atrocities committed against people belonging to Scheduled Caste and Scheduled Tribes. It covers some forms of trafficking such as forced or bonded labors and sexual exploitation of women. A minimum punishment of six months is provided which may extend to five years if the offence is covered under section 3.

### **Immoral Traffic Prevention Act 1956**

The government of India ratified the International Convention for the Suppression of Immoral Traffic in persons and the exploitation of the Prostitution of others in 1950. As a

consequence of this ratification of the convention the Government of India passed the Suppression of Immoral Traffic in Women and Girls Act (SITA) in the year 1956. In the year 1986 the act was further amended and changed which was known as the Immoral Traffic Prevention Act, 1986 (PITA).

This is an interesting law because according to its preamble the purpose of this Act is to give effect to the Trafficking Convention and to prohibit the immoral human trafficking. This act deals with trafficking and it has its objective as to abolish traffic in women and girls for the purpose of sexual exploitation.

The offences included are taking persons for prostitution, detaining persons in premises where prostitution is carried on, seducing or soliciting for prostitution, making life on the earnings of prostitution, seduction of a person in custody, keeping a brothel or allowing premises to be used as a brothel, prohibits employment of children in certain conditions of work of children. The Immoral Traffic (Prevention) Amendment Bill, 2006 also focuses on trafficking which is done for the purpose for sexual exploitation. So there is no proper domestic legislation in India which combats all forms of human trafficking.

## **INTERNATIONAL CONVENTIONS TO PREVENT HUMAN TRAFFICKING**

A number of International instruments deals with the human Trafficking indirectly and exclusively.

### **Human trafficking and International Law**

#### **Article 4 of the Universal Declaration of Human Rights**

This article provides that a person should not be detained under slavery or servitude. Slavery or servitude trade must be prohibited in all their forms.

### **International Covenant on Civil and Political Rights**

Articles 8(1) and 8(2) of ICCPR respectively states that the person should not be apprehended under bondage and servitude. The trade which is done for domestic slavery and servitude must be prohibited.

**International Covenant on Economic, Social, and Cultural Rights**

Article 10(3) of the Covenant on Economic, Social, and Cultural Rights (ICESCR) provides that every children and young people should be given a protection and assistance without any discrimination or biasness on the basis of caste, for reason of parentage and any other condition. They should be protected from economic and social exploitation.

**ILO Convention concerning forced Labour**

This Convention basically calls for the suppression of forced or compulsory labour in all its forms. Forced labour is defined as “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily”. This convention is the most ratified convention among all the ILO conventions.

**Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others**

The Convention specifically declares that the main reason behind the commercial sexual exploitation of women and children is their dependency and it is against their dignity and fundamental rights. The Convention provides a number of activities aiming at preventing commercial sexual exploitation and at restriction on pornography through criminalization and punishment of all forms of acquirement. Member States commit themselves to eliminating all forms of discriminations that ostracize victims of commercial sexual exploitation.

Member States should cooperate in the identification of international networks of procurers and, if they are members of the International Criminal Police Organization in order to cooperate with that Organization then suppression of the human trafficking should be their one of priorities.

**International Convention for Suppression of White Slave Traffic, 1910.**

This convention criminalized procurement, enticement or leading away of a woman or girl under the age of 21, even with her consent for immoral purposes irrespective of the fact that the various acts constituting the offence may have been committed in different countries.

**United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, 1984.**

This Convention specifically provides that, if any person return to his or her state under substantial ground of being in danger of torture then compensation is also predetermined under this convention.

**United Nations Convention against Transnational Organized Crime**

The United Nations Convention against Transnational Organized Crime (UNTOC) was adopted by the Assembly resolution of 15 November 2000, is the first International instrument against transnational organized crime. A high level conference was convened in Palermo, Italy on 12-15 December 2000 for signature of the Member states and entered into force on 29 September 2003. Three protocols were further supplemented which target specific areas and manifestations of organized crime. One among them is the protocol to prevent, suppress and punish trafficking in persons, especially women and children.

This Convention consists of forty-one articles that require States Parties to criminalize, *inter alia*, participation in an organized group (article 5), the laundering of the proceeds of crime (article 6), and corruption (article 8). States Parties are additionally obligated to adopt measures for the prosecution of offenders (articles 10 and 11), and for the confiscation and seizure of, *inter alia*, the proceeds of such crimes (articles 12 to 14). Each protocol sets out a number of obligations for each of the three specific sub-areas of transnational organized crime that are focused upon.

The convention represents a major step in the fight against transnational organized crime and emphasizes the seriousness of the problem posed by it to be recognized by the Member States. It also signifies the need to nurture and enhance close international cooperation for the purpose to tackle the problems posed by it. The States who have ratified the convention commit themselves to take action against these crimes. Their action includes creating domestic criminal offences, the adoption of new frameworks for extradition, mutual legal assistance and law enforcement, for building or upgrading the necessary capacity of national authorities. The



protocol to prevent, suppress and punish Trafficking in persons, especially women and children is the first globally legally binding instrument with an agreed definition of trafficking in persons.

The intention of this definition is to facilitate National approaches for the purpose of establishment of domestic criminal offences. This would help to support for international cooperation in investigating and prosecuting trafficking in person cases. One more additional objective of the Protocol is to protect and assist the victims of trafficking in persons with full respect for their human rights.

### **SUGGESTIONS**

- The domestic legislation for combating human trafficking in India must be strengthened that it must combat all forms of human trafficking.
- The National Human Rights Commission must conduct extensive research through out the country and should contribute towards the implementation of an effective law for human trafficking. The rights of women and children guaranteed by the constitution must be ensured to women.
- The migration aspects from one country to another must be strengthened in order to prevent transnational organized crime of human trafficking
- Many more rehabilitation centres must be established for the welfare of the victims.
- Not alone women and children also men must be given with adequate means of education and employment which would greatly contribute for preventing human trafficking.

### **CONCLUSION**

The laws for human trafficking must be strengthened that it meets all the requirements for preventing human trafficking. People who are in poverty line across the country must be made aware about human trafficking and its consequences in order to prevent them from becoming victims. Many national and international seminars and conferences can be conducted across the country so that the general people and the government can join hands to prevent human trafficking. The vulnerable sections of the society must be protected by the Government so that they don't fall as victims to human trafficking. The victims of the human trafficking are only the persons from below poverty line so the offence of human trafficking can be greatly prevented if

the Government helps the poor sections of the society and provides them with adequate education and employment.

## REFERENCES

1. Vimal Vidushy, *Human Trafficking in India*, International Journal of Applied Research, 2016.
2. Hinika Deb, *Human Trafficking: An overview with special emphasis on India and West Bengal*, IOSR Journal of Humanities and Social Science, 2017.
3. Ambalika Sinha, *Human Trafficking in India: Theoretical perspectives with special reference to Human Trafficking scenarios in the North Eastern parts of India*, International Journal of Research and Social Sciences.
4. Pandey.J.N, *Constitutional Law Of India* 77 (52<sup>nd</sup> Ed 2015)
5. Sadika Hameed, *Human trafficking in India*, Dynamics Current Efforts and Intervention, March 12, 2010.
6. Monika.D.Banode *comparative human trafficking law*, IJLLJS, Mar 30, 2015.
7. Tripathi.S.C & Vibha Arora, *Law Relating To Women And Children* 407 (6<sup>TH</sup> ed 2015)
8. Dr. S.K. Kapoor, *International Law and Human Rights*, Central Law Agency, 19<sup>TH</sup> Edition, 2014.
9. Lokendra Malik, *Rule of Law and Human Rights in India*, Universal Law Publishing CO, New Delhi, 2012.
10. Paras Diwan, *Human Rights and the Law*, Deep and Deep Publications, New Delhi.
11. K.C. Joshi, *International Law and Human Rights*, Eastern Book Company, Second edition, 2012.

12. Sanjoy Roy, *Human Rights and Trafficking in Women and Children in India*, Journal of Historical Archaeology & Anthropological Sciences, 2017.
13. Dr. Saraswati Raju Iyer, *Women Trafficking in India: A Critical Analysis*, Shanlax International Journal of Arts and Science and Humanities, 2016
14. Nandita Deb, *A Study of Global Human Trafficking- A menace in the way of women empowerment*, International Journal of Social Science.
15. Prabha Kotiswaran, *Rethinking Trafficking*, The Hindu, February 13, 2016.
16. Meha Dixit, *Open Trafficking*, The Hindu, July 31, 2017.
17. Udupi, *The Harrowing Tale of Human Trafficking*, The Hindu, September 23, 2017.
18. Human Trafficking in India, (<http://www.m.rediff.com>).
19. Pankaj Doval, *New Anti- Trafficking Law soon: Life term for repeat offenders*, Times of India, December 28, 2017.
20. Human Trafficking in India & the invisible victims (<https://www.jaagore.com/currentissues/humantrafficking/victims>)
21. Mujeeba Rahman, *Analyzing the Trafficking of persons Bill 2018: Is it a step forward for India*,(<http://www.qrius.com>)
22. Neeta Lal, *India cracks down on Human Trafficking*, (<http://www.ipsnews.net>)

23. Dr.Lakshmi T and Rajeshkumar S “In Vitro Evaluation of Anticariogenic Activity of Acacia Catechu against Selected Microbes” IRJMST, March 2018.
24. Trishala A , Lakshmi T and Rajeshkumar S,“ Physicochemical profile of Acacia catechu bark extract –An In vitro study” IRJMST, April 2018.



