

Human Trafficking in India Current Trends and Challenges

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Abstract

Human trafficking is the biggest problem in the world. In truth, forced migration of individuals across countries is as old as supply and demand rules. This research has explored the opportunities as well as challenges for the Indian legal Justice System and Human Rights to combat human trafficking. In fact, it is not only a criminal offence, but also a violation of human rights. A present analysis, then, is that it might be a better use of its limited resources to focus on state responsibility for the time being. While there are certain advantages in using the Court to prosecute and punish human trafficking directly, it has been demonstrated that a number of problems exist, and these are likely to encourage it to take on a limited number of cases.

The Indian Court should become instrumental in setting regional standards on enhancing individual action against human trafficking to begin with, as the Indian States have the primary obligation to combat this crime. By the help of this study, it can be marked that immense priority should be given resource allocation for those nodal agencies, NGOs, civil societies and governmental bodies who are involved in anti-trafficking activities in Gwalior Chambal region. Researchers can seek insight from this study about what number of respondents or sample size they should have in future studies or surveys. Creating sustainable employment opportunities for the tribal girls in or around their villages is very necessary so that the prevalence can be reduced. Policy makers must keep this in mind. Social workers can benefit from this study by helping trafficked people in the process of capacity building so that they can have access to better services in their own region. Above all, social workers are a ray of hope for the marginalised sections of our country. Their contribution towards alleviating poverty, removing disparities, increasing access to basics needs makes them accountable to these sections of the society.

Keywords: Human Trafficking, Slavery, Law

Introduction

Over the years, the trafficking in human beings has become a global phenomenon. It has reached epidemic proportions, leaving no country immune to it. The International Organisation for Migration (IOM) estimates that the global trafficking industry generates up to US\$ 8 billion every year, making it the third largest international organised crime after arms and drugs. The UN has taken an important step forward in coordinating an international response to trafficking. The General Assembly has adopted several instruments against various forms of transnational organised crime, including the UN Convention against Transnational Organised Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. Various UN agencies and organs like the UNIFEM, UNICEF, ILO, UNDP, UNODC, among others, have been active in anti-trafficking activities.

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Historical Perspective of Human Trafficking

Human trafficking in modern times from a historical perspective. It examines many facets of human enslavement and human trafficking throughout history, with instances ranging from antiquity to the present day, and concludes with a discussion of anti-slavery methods and remedies. This chapter focuses on the essential aspects of human bonding throughout time and geography, as well as the settings in which human slavery and cross-cultural trafficking of men, women, and children have persisted and thrived. The importance of gender issues and individual experiences has received special focus. In the long and tumultuous history of human enslavement and human trafficking, women and girls have suffered disproportionately.

Devadasi in India

The phrase 'devasi' comes from the Sanskrit words 'deva', which means God, and 'dasi,' which means female slave or servant of God. It is a Hindu religious ritual in which a girl is married off to a Temple Deity when she reaches puberty, mainly in Southern India. The girl joins the temple as an acolyte after the dedication ritual. Various other local terms refer to the institution and the women who work there. Devadasis of Goa, for example, are known as Bhavin. In Andhra Pradesh, they are known as Kudikar, Bogam, or Jogin; in Tamil Nadu, they are known as Vardiyar; in Maharashtra, they are known as Murali, Jogaten, and Diyar; in Karnataka, they are known as Jogats or Basavi; in Orissa, they are known as Ganika; and in Assam, they are known as Nati. The diversity of customs followed and languages spoken across India could be one explanation for varying usage of terminology.

There is no solid evidence that devadasi existed in ancient India. According to evidence found in the bronze 'dancing girl' figurine, historians believe the devadasi system was known in the Indus valley culture. However, in Vatsayana's famous Kamasutra (250AD), which alludes to 'courtesans,' there is no direct allusion to this. However, the growth of temple prostitutes coincides with the development in temple construction throughout India from the 8th century onward.

Until the colonial period, the devadasi system was seen as an intrinsic element of Hindu religion and culture. Singing and dancing in the temple were vital components of worship, therefore these ladies were considered as serving a religious and social purpose. Devadasis were also seen to be auspicious since they were thought to be Nityasumangalis, forever wedded ladies who could never be widowed, and as such they were required to attend all household festival events. This role of the devadasis must be viewed in the context of Hindu belief in the widow as a forerunner of bad luck.

The devadasi cult and its regional variations can usually be traced back to agricultural societies, where young girls were freely devoted to God by their family in order to maintain land fertility and secure favours for the entire community. This practise of donating females to temples is thought to have originated as a substitute for human sacrifice. Another explanation is that the system sprang from the concept that presenting something to the god would appease him. Devotees attending shrines with issues like as poor health, poverty, barrenness, and so on frequently mistook these for the deity's anger. They thus offered one of their daughters to the deity, and priests began demanding young girls from followers based on the concept of divine wishes. The connection between the Brahmin patriliney and the strong bonds of matriliney and

matriarchal families in south Indian civilizations has also been related to the establishment and popularity of the devadasi system in South India.

The devadasi system flourished in South India under the Pallava and Chola empires, from the 6th to 13th centuries A.D., according to literary and historical documents. Devadasis were a distinguished and revered group of female attendants in the past. Some, like the vestal virgins of Rome, were consecrated to the temple from birth or while they were quite young. They were expected to take part in practically all of the temples' daily rituals and festivities. It was a matter of prestige for temples to hire a large number of devadasis. The devadasi received both ritual sanctity and social grandeur as a result of her service to the deity. Without the attendance of devadasi, important social occasions and functions were not considered auspicious and complete. Every marriage pandal welcomed her as a welcome visitor, and it was the devadasi who made the bride's tali (magalsutra). The devadasi, on the other hand, was sexually exploited in numerous temples, and their earnings were collected by temple authorities. City courtesans, on the other hand, who were usually talented entertainers, were regarded with attention and enjoyed a degree of freedom of movement that allowed them to disobey social conventions to a larger extent than other women.

It is noteworthy to note that culturally approved practises such as that of the devadasi system popular in South India were not prominent in North India. In North India, however, there is a system of tawaifs, who were singers, dancers, and often victims of commercial sexual exploitation.

The term tawaif is generic, however it is most commonly applied to Muslim ladies, whereas the Hindu branch is known as patar, patur, or paturia (patra- an actor). The patar girls marry a pipal tree when they are young and then begin their prostitution career. Raj-Kanya is one of the several sub-castes, albeit it appears to be the only one, whose members dance at Hindu temples. It is stated that prostitution is uncommon among them. Krishna is the Patars' personal God, and Shiva is their guardian deity in the form of Mahadeva.

According to a report published in 2004 by the National Human Rights Commission, women from socially disadvantaged strata continue to be exploited under both the devadasi and tawaif regimes. According to the research, the system is still alive and well in many parts of the country. The Hindu Religious and Charitable Endowment Act, 1927, of Mysore, a royal state at the time, was the first to make the devadasi system illegal. The British Raj then imposed a general ban on the systems in the 1930s. To combat the scheme, the Karnataka government passed the Karnataka Devadasi Prohibition Act of 1982. Activists, on the other hand, claim that the movement went underground only when it was proclaimed illegal. Priests continued to persuade mothers to secretly marry their daughters to temple deities. Activists also claim to have proof that after a few years as devadasis, the girls are sold to brothels.

The Supreme Court of India recently served notice on the Centre, Maharashtra, and three southern states (Karnataka, Tamil Nadu, and Andhra Pradesh) on a PIL seeking to stop sexual exploitation of Dalit girls after designating them as "devadasis," or individuals who devote their lives to the temple deity. A bench led by Chief Justice P. Sathasivam also ordered the Karnataka Chief Secretary to stop a programme in Devanagar district that was apparently planned to force women to become "devadasis" at the Uttarang Mala Durga temple in Harappanahalli taluk.

The age-old disgusting practise was still going on at various places in these States, according to a Public Interest Litigation brought by NGO S.L. Foundation, despite the fact that the separate governments had prohibited it by implementing laws along the lines of the 1988 Central Act. Dedication of 'devadasis' is a national embarrassment that must be halted immediately in all sections of the country. Furthermore, the constitutional right to life ensured that everyone had the opportunity to live a life of dignity and decency. The Centre and the States "have a responsibility to ensure this." As a result of the literature review, both the devadasi and tawaif systems in South and North India are nothing more than the dominating class's sexual exploitation of women.

What is Human Trafficking?

International agreement on what constitutes "trafficking in persons" is very recent. In fact, it was not until the late 1990s that States began the task of separating out trafficking from other practices with which it was commonly associated such as facilitated irregular migration. The first-ever agreed definition of trafficking was incorporated into the 2000 Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Trafficking Protocol). That definition has since been incorporated into many other legal and policy instruments as well as national laws. A. The international definition of trafficking The Trafficking Protocol defines the term "trafficking in persons" as follows: (a) "Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring 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 labour or services, 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; ... (art. 3). The three key elements that must be present for a situation of trafficking in persons (adults) to exist are therefore: (i) action (recruitment, ...); (ii) means (threat, ...); and (iii) purpose (exploitation).

International law provides a different definition for trafficking in children (i.e., persons under 18 years of age). The "means" element is not required in this case. It is necessary to show only: (i) an "action" such as recruitment, buying and selling; and (ii) that this action was for the specific purpose of exploitation. In other words, trafficking of a child will exist if the child was subjected to some act, such as recruitment or transport, the purpose of which is the exploitation of that child.¹

Definitions of Human Trafficking

The definition and notion of human trafficking are viewed differently by different people.

Human trafficking is a human tragedy. It's an outrage against any decent people.

¹ http://www.ohchr.org/Documents/Publications/FS36_en.pdf

Mark Shields

If we truly want to have world peace, we have to end human trafficking

Jason Mraz

No matter what chains are broken, slavery is a condition of the heart.

Marquita Burke-DeJesus

Slavery is the bane of man and the abomination of heaven.

N. P. Tallmadge

Slavery is a continual and permanent violation of human rights.

Daniel Webster

Types of Human Trafficking

Human trafficking victims are subjected to a variety of abuses and exploitations, the most of which are based on their gender and age. As a result, most girls and women are trafficked for commercial sexual exploitation, forced marriages, and domestic service. Young children are trafficked for illegal adoption or for camel races and mostly men are mostly Drug trafficking and illegal organ transplantation are two of the most common reasons people are trafficked. The following subtopics will cover the most frequent types and dimensions of human trafficking, including: Commercial sexual exploitations, forced marriages, bonded labour, organ trade, slavery, street begging, illegal adoption, pornography, camel races and sports events.

- Trafficking for prostitution, erotic entertainment and different types of business sex
- Trafficking for constrained or fortified work of grown-ups and kids (household, rural, cultivating, angling, bars/clubs/eateries, piece of clothing industry, precious stones, cocoa, coal and other mining businesses)
- Trafficking for asking, negligible wrong doing, thievery and accumulation of government subsidies.
- Trafficking for reasons for constrained or early marriage
- Trafficking of infants
- Trafficking of youngsters as camel racers
- Trafficking and seizing of individuals for constrained military selecting (e.g., child soldiers), ideological influence and payment.

The diverse structures shift by event, length of oppression, condition, and area; they likewise take after cycles of general request. Trafficking for constrained military enrolment is frequently connected to interest for strengths (newcomers) amid times of contention, just like the case in Sierra Leone, Nepal, Sri Lanka, Columbia and Somalia. Thus, outfitted clashes frequently result in an expanded interest for sex labourers and an expansion in cases of sex trafficking.

Another form of sexual exploitation includes sex tourism. Sex tourism includes the sexual exploitation of young boys and young girls by international and Indian tourists. In the last 20 years commercial sex exploitation has been characterized by two changes that females from so called upper cast are increasingly becoming victims of commercial sexual exploitation. Prostitution is no longer primarily confined to traditional brothels and can be found in new

venues such as mobile brothels, dance bars, escort services, friendship clubs, massage parlours, and huts or sona bath like establishments along the national highways e.g., national highway no. 3 Agra morena Gwalior Indore Mumbai, the Kolkata –Siliguri-Guwahati-Shilong highway, the Delhi-Kolkata-Chennai-Mumbai highway, the Solapur-Hyderabad highway, the Grand Trunk Road between Bangladesh and Pakistan.²

Overview of Human Trafficking for Sexual Exploitation in India

Human trafficking for commercial sexual exploitation is a violation of human rights and has been described as a modern form of slavery. The United Nations estimates that the trafficking of women and children for commercial sexual exploitation in Asia has victimized over 30 million people. India has been identified as one of the Asian countries where trafficking for commercial sexual exploitation has reached alarming level. while there is a considerable amount of internal supplier of trafficked women and children to the Gulf States and South East Asia, as well as a destination country for women and girls trafficked for commercial sexual exploitation from Nepal and Bangladesh. Trafficking for commercial sexual exploitation is highly profitable and low risk business that preys on particularly vulnerable population. India has been identified as one of the Asian countries with a severe commercial sexual exploitation trafficking problem. The United States department of state has put India on the tier 2 watch list for the fourth consecutive year. It has also warned India that it could be downgraded to a tier 3 category thereby exposing itself to international sanctions, unless it improves its record on trafficking.³

The majority of trafficked persons are young women or children who have been forced into sex work as a result of poverty, often before they were 18 years old.⁴customary prostitution is also prevalent in Ancient India but till today it includes socially (if not legally) accepted forms of prostitution like religious and tribal prostitutions. victims of religious prostitution are pre-pubertal girls from scheduled castes (e.g., Devdasi, jogini, nailis, muralis, and theradiyan) who are dedicated to different deities. After a few years of concubine age with temple priest they are sold or auctioned to trafficker for commercial sexual exploitation. The market value of girls tends to fall after puberty. This form of prostitution is mostly practiced in Karnataka, Maharashtra, and Andhra Pradesh.⁵

Tribal prostitution involves girls from different ethnic groups like bedia, nats etc. who used to entertain feudal lords. Overtime many of these tribal communities have been forced to engage in prostitution for economic reasons. Tribal prostitution is prevalent in Andhra Pradesh, Rajasthan, Maharashtra, west Bengal, Chhattisgarh, and Manipur. However, Orissa, Bihar, and Uttaranchal have also emerged as supply states for tribal prostitution. Victims of customary prostitution are generally forced into prostitution at a very young age (9-13) by family members Parents and brother who act as agent of the victims.⁶

² Ibid

³Christine Joffres et. all sexual slavery without border: trafficking for commercial sexual exploitation in India, published: 25 sept 2008 in International journal for equity in Health

⁴ Ibid

⁵ Ibid

⁶ Ibid

Sex Tourism

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The Constitutional and Statutory Provision Related to Human Trafficking in India

Human trafficking is one of the oldest crimes in Indian history. We see it in our in our mythological literature like Ramayan and Maha Bharat. Sita trafficked by king of Lanka Ravana. In Mahabharat Amba, Ambe, Ambalika was trafficked by Gangaputra Devbrat who was known as pitamah Bhism. After some time once again, he trafficked princess of Gandhar who was called Gandhari. Our Indian mythology full from case of human trafficking but now a days nobody thinks about situation because now we are in constitutional era. Where everybody should have fundamental right, statutory right, legal right so nobody can exploit any other person. According to respective article we made so many criminal laws against any kind of exploitation that ensure to full fill constitutional legacy.

Supreme law that is called the constitutional of India ensure every human the right to freedom from forced labour and human trafficking as a fundamental right under article 23(1) "**Traffic in human beings and begar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.**" Besides Article 23 there are other important provisions of the Constitution of India which are relevant for the purpose of this research on human trafficking. These include Article 14 provides for equality in general.⁸

Article 15(1) prohibits discrimination on the grounds of religious race, caste, sex or place of birth, or of any of them.⁹

Article 15 (3) provides for special protective discrimination in favour of women and child relieving them from the moribund of formal equality. It states that, nothing in this article shall prevent the state from making any law for the protection of women and children.¹⁰

⁷ Ibid

⁸ Article 14 of the Constitution of India provides that the state shall not deny to any person equality before the law or the equal protection of the laws within the Territory of India.

⁹ Article 15(1) of the Constitution of India apart from other things provide that the state shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.

¹⁰ Article 15(3) of the Constitution of India provides that nothing in article 15 shall prevent the state

Article 16 (1) covers equality of opportunity in matters of public Employment¹¹

Article 21 provides right to life and personal liberty to all citizens.¹²

Article 24 prohibits employment of children in any hazardous employment or in any factory or mine unsuited to their age.¹³

Article 38 (1) enjoins the State to secure and protect as effectively as it may a social order in which justice - social, economic and political shall inform all the institutions of national life. It emphasises on the necessity of providing opportunities to enhance equality.¹⁴

Article 39 the State should direct its policy towards securing, among other things, a right to adequate means of livelihood for men and women equally and equal pay for equal work their age or strength¹⁵

Article 39 (f) the State should direct its policy towards securing, among other things, a right to adequate means of livelihood for men and women equally and equal pay for equal work their age or strength¹⁶

Article 42 protects against inhumane working conditions¹⁷

Article 45 makes provision for free and compulsory education for children, which is now well settled as a fundamental right to the children.¹⁸

Article 46 directs the State to promote the educational and economic interest of women and weaker sections of the society and directs the state to protect them from social injustice and all forms of exploitation.¹⁹

from making any special provision for women and children.

¹¹ Article 16(1) of the Constitution of India provides that there shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State.

¹² Article 21 of the Constitution of Indian provides that no person shall be deprived of his life or personal liberty except according to procedure established by law.

¹³ Article 24 of the Constitution of Indian provides that 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

¹⁴ Article 38(1) of the Constitution of Indian provides that the state shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life.

¹⁵ Article 39 of the Constitution of Indian provides that the state shall, in particular, direct its policy towards securing- (a) that the citizens, men and women equally, have the right to an adequate means of livelihood; (b) that the ownership and control of the material resources of the community are so distributed as best to sub-serve the common good; (c) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment; (d) that there is equal pay for equal work for both men and women; (e) that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength.

¹⁶ Article 39(f) of the Constitution of Indian provides that the children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.

¹⁷Article 42 of the Constitution of Indian provides that the state shall make provision for securing just and humane conditions of work and for maternity relief.

¹⁸Article 45 of the Constitution of Indian provides that the state shall endeavour to provide, within a period of ten years from the commencement of this Constitution, for free and compulsory education for all children until they complete the age of fourteen years.

¹⁹ Article 46 of the Constitution of Indian provides that the state shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation.

Trafficking however is carried for various other purpose too, such as domestic servitude, labour in sweat shops and small factories bonded and forced labour, begging for the purpose of marriage adoption, organ trade as well as drug peddling and smuggling. Trafficking is also closely linked to issues of migration especially illegal and irregular migration.²⁰

Newer and more sophisticated method of force and violence are being used to facilitate brokering liaising and market linkages for the sexual exploitation and enslavement of women and children. These range from international marriage alliance and the mail Order bride system to use of internet services for the global exchange of sex related services.²¹

Trafficking in women and children is thus one of the worst forms of violence of human rights. This is because it gradually results in the total destruction of the victim's personal identity and his/her right to live as a free human being in the so-called civilized society.²²

India being a country of destination supply and transit for trafficking networks the issue of trafficking in women and children more so severe violations of human rights flowing from trafficking as engaged the attention of the national human rights commission ever since it come into existence in the year 1933.²³

Without marriage how can they deployed herself. It is sensitive issue, noble prize winner shri Kailash Styarathi said that dharmguru are solve problem of girl trafficking. How can they? Person who are involved in human trafficking and exploit them cannot solve these problems. Caste based prostitution prevail in some part of the state of Madhya Pradesh is a socially sanctioned system where in a minor girl born in a particular caste is forced by her own parents and relatives in to prostitution and enjoys to live with it throughout her life. It has put the state on the international map and given it the unique distinction as a violator of human trafficking as well as human rights.²⁴

Human trafficking is wide term to understand because some people relate it to immoral trafficking but human trafficking involved immoral as well as moral trafficking. Firstly, we discuss about moral trafficking and then immoral trafficking.

The Indian constitution prohibits all forms of trafficking under article 23. The directive principles of state policy also lay down the major goal of a welfare state with gender equality as a care objective. India is not only the main country of destination for traffickers but also a country of origin for women and girls trafficked in the region. Most of the trafficking in India occurs within its borders from rural to urban areas and from poorer status like Bihar to wealthier states like Maharashtra.

Conclusion

I hope that my study will help others to further research concerning human trafficking and child trafficking and fight this fast-growing problem and atrocious violation of human rights especially in my region.

²⁰ Shankar sen, Jayashree Ahuja, Trafficking in women and children myths and realities page 5

²¹ Ibid

²² Ibid page no.6

²³ Ibid page no.6

²⁴ Caste based prostitution in Madhya Pradesh

Modern slavery is the complicated term that covers and includes slavery, servitude, forced or compulsory labour and human trafficking. Victims are unable to leave their situation of exploitation, controlled by threats, punishment, violence, coercion and deception. Human slavery violates human rights denying people of their right to life freedom and security.

This research has explored the opportunities as well as challenges for the Indian legal Justice System and Human Rights to combat human trafficking. In fact, it is not only a criminal offence, but also a violation of human rights.

A preliminary conclusion to be drawn from the present analysis, then, is that it might be a better use of its limited resources to focus on state responsibility for the time being.

While there are certain advantages in using the Court to prosecute and punish human trafficking directly, it has been demonstrated that a number of problems exist, and these are likely to encourage it to take on a limited number of cases.

The Indian Court should become instrumental in setting regional standards on enhancing individual action against human trafficking to begin with, as the Indian States have the primary obligation to combat this crime.

It has been shown that there is much scope for improvement at the national level, and the Indian Court can encourage them to develop and implement a more effective strategy. It should also play a leading role in facilitating regional cooperation.

The transnational nature of human trafficking means that domestic responses alone are not sufficient.

Indian States should show solidarity through joint regional efforts, and the Indian Court can certainly assist them in achieving an integrated approach to combat this crime. Finally, it is clear that human trafficking is multi-faceted, and a simple criminal justice response is not sufficient.

The Indian Government and the Court should work together to devise a holistic approach capable of tackling wider issues such as the causes and consequences of human trafficking.

Unless these are taken seriously and put into action, human trafficking unfortunately will continue to exist in India.