

ANALYSIS OF HUMAN TRAFFICKING AND ITS IMPACT ON SOCIETY

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INTRODUCTION:

The human enslavement practices that take place even today in the 21st century, these acts depict the corrupt state of affairs and poses a threat or as a herculean challenge to the ethics, morals and the values of the individuals in the society.

Human Trafficking is ranked after many other such lucrative organized crime industries such as arms dealing or the sale of drugs and many others that exist. There are few studies performed and some assumptions made by scholars, that there is a high chance that human trafficking as an organized crime industry, may very well surpass the industries regarding the sale of drugs or arms and ammunition. Goods such as arms, weaponry and drugs have a finite usage and are exhaustible in nature, they can be used easily and are exhaustible. Whereas, humans can be sold repeatedly and don't have a finite usage and are in exhaustible in nature. The net profits that could potentially be yielded will be doubled or possibly even tripled depending on the amount of sales that take place.

This crime of selling humans is not a recent phenomenon, such acts have been seen throughout history, taking the example of the large scale movement of people in the 18th century from the state of Africa to the state of America. The acts of human trafficking involve the tactics of deception and manipulation in order to lure the vulnerable sections of the people in the society who are naïve, followed by cutting their sense of self-worth, self-esteem, and dignity from themselves. This is a clear exhibition of inequality between the people of the society. How the weaker sections of the society are subjected to domination from other sections who are comparatively better off. The rights of each individual over their own respective lives are violated, they are contrived to let go of their fundamental right to life and personal liberty. Their silent screams for help, their prayers, their cries are all overlaid by the veil of apathy and oppression that has been a predominant feature of humanity for ages.

At the very core of human trafficking lies the one of the greatest evils of poverty. Sex trafficking, labour trafficking, organ trafficking being few of the most famous branches in the human trafficking industry. Labour trafficking is not gender specific, situations where men, women and children are smuggled and forced into labour. The recruitment, obtaining of

individuals for human labour, harbouring and transportation of people, by means of coercion, fraud, etc. Slavery falls within the ambit of labour trafficking as well. These labourers are invariably traded off at a market, thus treating them as commodities for service.

Sex trafficking is another form of human rights abuse where in children and women are objectified, sold to a party establishing a business by making money in exchange for pleasure derived from defilement of said women or children. This branch has expanded so far and wide so as to have become a multi-billion dollar organized crime enterprise that is usually seen as being spearheaded by big investors, undetected recruiters, and others. Kamathipura, a red flag city in Mumbai, India, has been found to generate about 400 million dollars with approximately 1 Lakh prostitutes who were originally the victims of human trafficking from the rural areas. It is incredibly difficult to estimate the extent of this crime and its scope as it is generally done in an undetectable manner, often kept hidden from the real world. Studies show that around 4 million people all over the world are taken as victims of human trafficking each year.¹

Although slavery was abolished in The Abolition of Slavery Act 1833, The Juvenile Justice Act, Child Labour Act, Bonded Labour Act, section 366 A of IPC and sec 372, are some of the few legislations that endeavours to prevent any form of human trafficking, yet the practice of selling and exploiting the will of humans continues to ensue.²

In India, the Immoral Trafficking of Persons Act (ITPA) talks about how the commercialization of humans and exploiting the people is a criminal offence that severely penalizes the offenders and criminals. With punishment ranging from 7 years to life imprisonment.³ Sections 366 (A) and 372 of IPC prohibits and punishes the kidnapping, as well as the selling of minors especially for sexual purposes, the punishment ranges from a fine to 10 years of imprisonment.⁴

Certain other laws of the India that govern human trafficking with an objective of protecting citizens from this deviant crime is Bonded Labour Abolition Act and The Child and Adolescent Labour (Prohibition and Regulation) Act of 1986.

¹ Human trafficking in India: Legal protection against human trafficking in India, admin lawn, 2018, <https://lawnn.com/human-trafficking-india/>

² Human trafficking, ministry of external affairs, government of India, <https://www.mea.gov.in/human-trafficking.htm>

³ Immoral Trafficking of Persons Act, 1986

⁴ Indian Penal Code, 1860.

HISTORICAL PRACTICE

Human trafficking is considered as the modern world scenario of enslaving a person, when in truth its prevalence can be traced back to the 15th century. When slaves were brought and sold in Portugal from Europe. In Egypt, there were people taken as slaves to work as forced labourers in building the famous pyramids. It was also observed that there was a wide spread, Trans-Atlantic trading of slaves taking place where in return for weapons and arms, humans were sold, traded, exploited as commodities for their service and were considered to be a dependable source of service.⁵ There are various types of work for which the people are being trafficked:

- Farm labour
- Criminal activities
- Begging/street peddling
- Restaurant work
- Domestic work and child care (domestic servitude)
- Construction work
- Any other form of day labour

The United Nations Office of Drugs and Crime, 2006, observed that women and children, mostly female children are mostly used for sex trafficking. Prostitution is easily one of the common methods of trafficking. Children are used for sex trafficking and forced to indulge in sexually driven fantasies of the buyers, while others are diverted into the organ trafficking industry.⁶ In India, it has been found that often the children abducted for human trafficking are from low security areas chiefly for organ trafficking. This avenue of sale for organs has proved to be so profitable that corrupted adults are drawn into such conduct from diverse fields for the purpose of monetary benefits. There are plenty of unaccounted cases in the area of domestic trafficking as well that have been filed, both within the country and international. Victims of such crime being abducted, hoarded, enslaved and sold within the territory of the land.⁷

⁵ Sexual trafficking in United States: A Domestic problem with transnational dimensions, social work, Hodge, D.R., 2008.

⁶ Global trafficking in Human beings: assessing the success of United Nations Protocol to prevent trafficking in persons, Potts, L.G., 2003.

⁷ *Supra*, note 1

RECRUITMENT:

Research has shown that most of the times the recruiters or traders who are involved in this activity are people who are already known to the trafficking victims, like friends or acquaintances and in some cases even their significant other.⁸ These victims are promised to be given a better life and opportunities for themselves, to have a stable living or financial support and in the end are deceived by these traders. Local advertisements, newspaper request for workers, advertisements providing modelling opportunities, are also some of the famous ways of attracting victims. It has also been Refugees, the lower and weaker sections of the societies, from the rural areas or slums are often subjected to this abduction. They are drugged and transported to unknown places, hoarded until a buyer is available and has bid on them.

Human trafficking industry grew in Indonesia soon after the tsunami of 2004 had made its impact.⁹ The traffickers thrive on the pleasure derived from the power and control that they believe they have over these innocent victims, they often resort to coercion, a threat of violence as a means to silence the victims. Various other psychological techniques are used as well in order to establish an unshakable hold over them. In a matter of few days the will of the victims are lost and their disposition is rewired to a state where they no longer realise that their fundamental right to freedom and life is being violated. They subconscious succumb to this enslavement, losing sight on freedom and escape. This condition is popularly known and the Stockholm syndrome, where a sense of loyalty soon sets in towards the trafficker resulting in total compliance from the victim.

CONTRIBUTING FACTORS:

It was discovered that one of the most significant reason for the increase in human trafficking is the poverty level on the global scale, resulting and increased supply of victims who are vulnerable and perceived weak. Some of the other contributors are, cultural differences, there is a fake sense of security that is provided to the victims while being taken hostage and giving rise to a sense of power and control to the abductor, civil unrest, instability in the political control, the monetary benefit that is obtained via this form of business is a driving force to

⁸ Human trafficking of women and children from Eastern Europe, April 19, 2010, <https://www.essaytown.com/subjects/paper/human-trafficking-women-children-eastern/900>

⁹ Human trafficking, may 2, 2010, <https://www.essaytown.com/subjects/paper/human-trafficking-women-children-eastern/900>

encourage this activity. In the example of when the soviet-union collapsed around the year of 1990s, it resulted in the buying and selling of humans as hostages to generate funds and a form of money to help generate income for the governance during the civil war. There were humans who were sold in exchange of weapons and ammunition. In turn the war left the people and the civilians vulnerable and destitute, which paved way for more abductions, deceptive practices and trafficking.¹⁰

In certain countries like that of Africa there is a concept or a practice of child fostering where the families who are destitute and on the weaker side, those who cannot provide for themselves and their children, send their children away to live with relatives who can provide for them, in some cases to families who are unknown.¹¹ When such children are given away they are taken in as victims of trafficking and sold for a large sum of money in return, this type of human trafficking is also prevalent in Nepal.

OFFENDER CHARACTERISTICS:

In the year 2006, the United Nations Office on Drugs and Crimes conducted a study to create a profile on the criminals who are indulged in the activities of human trafficking. It has been shown that a large portion of the individuals who are involved in such activities are from the following countries.¹²

- Ukraine
- Nigeria
- Bulgaria
- Mexico
- Russian Federation
- Germany
- Italy
- Albania
- Lithuania
- Romania

¹⁰ *Supra* note 6.

¹¹ Office to monitor and combat trafficking in persons, 2016 trafficking in persons report, U.S. Department of State <https://www.state.gov/j/tip/rls/tiprpt/countries/2016/258784.htm>

¹² *Supra* note 6.

And few others. Probably due to the economic and social surroundings during childhood. The type of exposure, experiences and situations they may have been exposed to.

CHARACTERISTICS OF VICTIM:

The characteristics of the victims are quite general and well known, age as well as gender is not very specific unless it is sex trafficking. Therefore, it is hard to determine who can be a victim of human trafficking. However, it was found that abduction of men is significantly lesser when compared to women or children. Mostly because there isn't much information available regarding the trafficking of male victims. The most targeted sector is that of the women and girls up to the age of 17 years.

The following are some of the observed situations or instances that lead to victimisation of the individuals:

- Dire economic circumstances
- Low level of education or no education
- Social and economic inequality in country of origin
- Unemployment
- Armed conflict, military occupation, or regional conflict in country of origin

REASONS FOR WHY IT GOES UNNOTICED:

One of the most heinous and horrendous crimes of the world that injects a sense of fear and renders individuals apprehensive of the society is the crime of human trafficking. It is one such crime that affects the individual physically and takes a gargantuan psychological toll on the victims. The extent of the crime is so violent that it goes beyond the point of insubordination and renders the victims weak and powerless, crushing their human spirit as a whole. In various cases the tables are turned against the victims themselves and they refrain from crying for help, as they are afraid of the possible outcomes. The yield to being treated as an object or a slave. They fear escape as there is a good chance they may be misunderstood to be criminal as the victims who are taken to a foreign country and reside illegally, approaching the authorities may result in them being held liable for illegal immigration. Further, the human traffickers constantly move or transport the victims and hostages to different locations on a rotational basis, it becomes difficult to pin point the precise location of the human trafficking enterprise.

These are some of the most important reasons as to why the victims of human trafficking do not reveal themselves to the authorities and instead place the burden of looking for them on the law enforcement officials of the state. There are innumerable other reasons as to why victims of human trafficking are kept or stay hidden from the outside world. Law enforcement and police officials have often recognised prostitution as a crime without a victim, as in the women themselves agree to have intercourse with multiple men for money and not that they are exploited. The police have constantly arrested these women, as most of the sex trafficking victims work as prostitutes in the sex industry, or children who have been trafficked for labour converted into prostitutes. Individuals who have resorted to prostitution as a source of livelihood after being abducted, they have a great sense of fear that lies within them when it comes to exposing themselves, unveiling the truth regarding the crime that has been committed and how their Basic human rights were infringed.¹³ There are different departments and wings that are assigned for specific work and special investigations, as these are special law enforcement branches have been established. Many of the human trafficking cases are considered as cases of smuggling, and some officials believe it is not their duty to take up such cases, that there are other specialised and trained individuals who take up such cases.¹⁴ This resulted in gross misclassification of the crime of human trafficking.

Although there are few similarities there is a thin line for distinction between the crimes of human trafficking and the crimes of human smuggling. For example, the individuals who agree to be smuggled into a foreign land for money is similar to that of a human trafficking victim's consent to travel which is most likely a product of fear. However, the main distinguishing factor between human trafficking and smuggling is that, a person who is being smuggled to a land, he is not a resident of, there will be no existence of fraudulent activities, coercion, force etc. Few individuals pay to be smuggled across international borders/territory and a few who get paid to smuggle certain goods across countries. These individuals can return to their original land of residence any time without being enslaved or traumatised by the traffickers. Human smuggling cases can be immediately converted into a case of human trafficking in case the element of coercion comes into play in order to compel the party to work against their will, etc.

¹³ India's New Anti-Human Trafficking Law: What You Need to Know , diyanag 2016., <https://asiafoundation.org/2016/06/08/indias-new-anti-human-trafficking-law-need-know>

¹⁴ *Supra* note 1

Human trafficking has a complex structure and network behind the scenes, to such an extent that there is probably an entire organisation behind its working, this is another reason why victims are often undetectable, they are hidden carefully. This network is so diverse, it's close to impossible to identify and determine all the individuals party to this crime. Their work is extremely complex possessing innumerable layers to bypass in order to reach to the heart or root of the organisation. These roots are spread into various countries and calls for elaborate investigations to be conducted on a large scale in each country, taking months or probably years to map out. This diversified structure makes it a herculean task to identify its source and pinpoint the major target regions. For which the government and police officials are under equipped, under skilled and under trained to handle such cases. Further, they are not provided with the appropriate amount of resources or staff to undertake such tasks.

POTENTIAL MEASURE TO TACKLE HUMAN TRAFFICKING:

There are certain operating procedures that have been established which can be better implemented and developed to identify the victims better, harmonize them, aid in the recovery from the mental trauma and prosecute the offenders or suspected human traffickers.¹⁵ Another effective solution could be to raise awareness among the various immigrants and eliminate the recruitment fee charged to appoint workers. The government has to make arrangement for shelters and improve mechanisms that regulate and monitor the quality of care give to the people and other vulnerable sections of society. Transparency in the workings of the government would certainly prove an effective method of fighting human trafficking as a crime, aid in criminal investigation and provide punishment to the offenders, wrong-doers of the society. It will enable appropriated punishment for child traffickers and sex traffickers.¹⁶ Further, the funds provided by the government can be used to establish or create courts that provide speedy trial to take up and handle such cases of human trafficking. There could be a training or guidance programme set up for the officials and the people of the country for being aware of such activities, how to identify and stay vigilant of potentially suspicious activity, and train the officials regarding how to prevent such acts. Facilitate better comprehension of how these crimes are take course so as to effectively tackle the issue.

¹⁵ Standard Operating Procedures to Combat Human Trafficking in Ghana with an Emphasis on Child Trafficking, 2017, <https://publications.iom.int/books/standard-operating-procedures-combat-human-trafficking-g-ghana-emphasis-child-trafficking>

¹⁶ *Ibid.*

The government could provide incentives to encourage the anti-human trafficking units for a more desirable level of functioning. It would also do well to increase the number of anti-human trafficking units with adequate resources, and recruiting skilled and experienced individuals in the field.¹⁷

Lastly, they can stop the counter imposition of penalties on the victims without appropriate investigation and adequate proof to penalize them of the same. Suspecting the victims of being party to such a crime who have undergone an unimaginable amount of trauma is certainly against the basic ideology of socialism, and concept of welfare enshrined in article 38 of the Constitution of India which reads as follows,

*"The state shall strive to promote the welfare the people by securing and protecting as effectively as it may, a social order in which justice-social economic and political-shall pervade all institutions of national life."*¹⁸

The state could rather adopt measures to improve their socio-economic condition and identify other efficient methods to implement the various laws and provisions that have been established for the protection of the people.

CONCLUSION:

One of the most horrible, unforgivable and oldest crimes of the society is the crime of human trafficking. It is an offence that has been on the upward trend, growing ever since ancient times with no point of recession. The scope of the crime is vast, the victims taken from any section of society, ranging from babies/children to full grown adults. Millions fall prey to this crime year by year. It is one such crime that does not discriminate between individuals, victims based on caste, creed, race, age, ethnicity, gender, staunchly following the principles of equality. Although, statistics prove that women and children have been victims predominantly. It has also been observed that this global crime is mostly driven by certain reasons and factors like that of instability in economic condition, political condition or both. The state has a moral duty to protect its citizens and safeguard them from harm.

¹⁷ Comparative models of reporting mechanisms on the status of human trafficking, matter, M.Y., Vanderbilt journal of transnational law, 2008.

¹⁸ The Constitution of India

From the philosophical theory by Thomas Hobbes, later developed by John Locke, Jean-Jacques Rousseau and other, it is said that there exists a social contract between the state and its people where the power is given to the state by the people to protect them. The Latin term '*Parens Patriae*' says that the state is the parent or guardian of its citizens and is obligated to take all measures to ensure the safety and welfare of its people. Our nation has a long way to go in curbing the rate of this crime, Human trafficking.