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GENDER RELATED VIOLENCE – WITH SPECIAL REFERENCE TO HUMAN TRAFFICKING

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Abstract

Human trafficking is a form of modern-day slavery where traffickers profit from the control and exploitation of others. Victims of human trafficking victims in India include three populations. They are; Minors (under age 18) induced into commercial sex, Adults (age 18 or over) involved in commercial sex via force, fraud, or coercion and Children and adults forced to perform labor and/or services in conditions of involuntary servitude, peonage, debt bondage, or slavery through force, fraud, or coercion, such as domestic workers held in a home, or farm-workers forced to labor against their will. This article will be confined to the specific problem of trafficking of women and children for sexual exploitation and legislative and human rights perspective.

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INTRODUCTION:

The 1993 Vienna Declaration stated ‘The human rights of woman and of girl child are alienable, integral and indivisible part of Universal Human rights. It is universally accepted that women’s rights are human rights. Its emphasis is more felt in theory rather than in practice. Unfortunately women’s rights are the most vulnerable and violated all around the world in many forms.

Human Rights Violation on women occurs in the form of sexual slavery, rape, including marital rape, sexual harassment, dowry deaths, amniocentesis designed to abort senate factus, female infanticide, prostitution, gender discrimination, genital mutilation, polygamy and mail order brides, represents a list of the multiple ways in which women are abused.

With the growth of urbanization and industrialization many sociological problems have become more serious and complex. Prostitution is one of such age old social evil. Prostitution is defined as an illicit sex union on a promiscuous and mercenary basis with accompanying emotional indifference. Prostitution existed in the world from time immemorial. It has continued in some form or the other, as long as society has attempted to regulate and control sexual relationships through an institution of marriage and family. Although, it has never been accepted as part of social mores, it has flourished in condemned by one and all yet it has been practiced by many. In India also, it has remains an integral part of civilization as its origin can be traced back as early as the Vedic period. Social workers, sociologists, and experts may have different things to say about this social phenomenon, but continuation of the practice of prostitution in India, in different periods of time, indicates that it has its genesis in the socio-economic and cultural conditions.

The UN Palermo Protocol

on trafficking defines it as “the recruitment, transportation, transfer, harbouring or receipt of persons, by means of threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of 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.”

According Constitution of India, the “Trafficking in Human being” means “buying, selling, disposing of human beings in the same way as the goods and chattels are dealt with. In this way, although the term slavery has

not been expressly used in Article. 23(1) nonetheless the use of expression “trafficking in human being” undoubtedly includes the “slavery”, in its traditional sense, with its ambit and scope. Thus, the expression traffic in human beings covers the cases of traffic in women and children for immoral or other purposes. Parliament has enacted suppression of Immoral Traffic (prevention) Act, 1956, for the purpose punishing those who are engaged in the business of trafficking in women and girls for immoral purpose.

Human trafficking is the third largest organized crime after drugs and the arms trade across the globe. According to the definition of the United Nations – “trafficking is any activity leading to recruitment, transportation, harbouring or receipt of persons, by means of threat or use of force or a position of vulnerability”. Close to 80% of the human trafficking across the world is done for sexual exploitation and the rest is for bonded labor and India is considered as the hub of this crime in Asia. As per the statistics of the government – in every eight minutes a child goes missing in our country. In 2011 about 35,000 children were reported missing and more than 11,000 out of these were from West Bengal. Further, it is assumed that only 30% of the total cases are reported, so the actual number is pretty high.¹

According to an article in Firstpost, Delhi is the hub of human trafficking trade in India and half of the world’s slaves live in India. Delhi is the hotspot for illegal trade of young girls for domestic labour, forced marriage and prostitution. Delhi is also the transit point for human trafficking.

Kids especially girl and young women, mostly from Northeast are taken from their homes and sold in faraway states of India for sexual exploitation and to work as bonded labour by the agents who lure their parents with education, better life, and money for these kids . Agents do not send these kids to school but sell them to work in brick kilns, carpentry units, as domestic servants, beggars etc, whereas girls are trafficked for the purpose of sexual exploitation.

Push Factors for Human Trafficking:

The root causes include extreme disparities of wealth, continuing and pervasive inequality due to class, caste and most importantly gender biases throughout the region, erosion of traditional family systems and values, iniquitous social conventions, lack of transparency in regulations governing labour migration, poor enforcement of internationally agreed-upon human rights standards, and enormous profits ensured by the trafficking business to the traffickers.

- **Poverty** is major reason though this is not the only reason for trafficking
- **Child Marriage** is also may be another reason which exist in our country even today. If we see the situation closely a man who does not claim a dowry at the time of marriage is considered a perfect groom and the daughter is carelessly disposed in marriage. The girls are thus trafficked in the name of marriage. Another reason is Female feticide and infanticide where the ratio the male and female is dis- balancing in most part of the country girls are taken to neighbouring states in the name of marriage for commercial sexual exploitation.
- **Natural calamities and man- made disasters** where people suffer economic hardships the traffickers take advantage of this vulnerability and exploit that.
- In the society where a single mother, divorced woman, widowed or sexually abused woman and young girls are easy prey to the traffickers because of the social stigma.
- **False promises:** Many children are lured out of their homes by false promises, love, marriage or work and find themselves trapped in vulnerable situations.
- Though **Bonded labour** is not much known but it is illegal in India are prevalent in our society. According to ILO there are more than 11.7 million people working as forced labour in Asia specific reason.
- In the name of religion even today women and children aare sexually exploited as Devadasi system, **Joginies and Mathammas.**
- **Domestic Violence:** The Children from such families are most vulnerable because of the situation they run away and get themselves trapped in the hands of traffickers.
- **Employment opportunities:** Girls from rural districts migrate to cities in search of better opportunities and find themselves trapped into trafficking.
- **Trafficking in organs:** Trafficking in humans for the purpose of using their organs, in particular kidneys, is a rapidly growing field of criminal activity in which not only the organ but the health of victims, even their lives, is at risk as operations may be carried out in clandestine conditions with no medical follow-up.

Victims of human trafficking have great chances of suffering from issues like mental disorders, depression and anxiety. Women forced into sexual trafficking have at higher risk of getting affected from HIV and other STDs.

Trafficking a growing Crime:

According to Global Voices approximately 90% of the 200,000 humans trafficked in India every year are victims of inter-state trafficking and are sold within the country. The states of Haryana, Punjab and Rajasthan are major destinations of trafficked 'brides'. It is hardly surprising that these states also account for the most skewed sex ratios in the country. Although the buying and selling of brides was a well documented historic practice in undivided India, lives of today's trafficked girls and women are cloaked in secrecy because neither do they have a voice, nor do they have the social-mobility or resources to acquire one and raise it.

Sex Trafficking In India

NCRB collects data under the following heads of crimes related to human trafficking:

Indian Penal Code (IPC) Crimes

- (i) Procurement of minor girls (section 366-A)
- (ii) Importation of girls from foreign country (Sec. 366-B)
- (iii) Selling of girls for prostitution (Section-372)
- (iv) Buying of girls for prostitution (Section -373)

Special & Local Laws (SLL) Crimes

- (i) Immoral Trafficking (Prevention) Act 1956 (PITA)
- (ii) Prohibition of Child Marriage Act, 2006.

The maximum numbers of cases of sex trafficking are reported under Immoral Trafficking (Prevention) Act (PITA) with 2,563 cases reported in 2012 out of the total of 3,554 cases. PITA bans the trafficking of women and girls for the purpose of prostitution and sexual exploitation but does not cover other forms of trafficking like domestic help, child labour, organ harvesting etc. Indian Penal Code Sections 366-A & B, 372 and 373 also relate to sex trafficking.

A large number of cases are reported under Section 366-A for inducing minor girls (under 18 years) into trafficking for sexual exploitation. While 809 cases were recorded in 2012, it was a decline by 6.3% from 2011.

The highest number of cases of sex trafficking is from West Bengal with 549 cases in 2012. But unlike other states, West Bengal has more cases of procurement of minor girls than PITA cases. Other states with high number of trafficking cases are Tamil Nadu, Andhra Pradesh, Karnataka, Maharashtra and Kerala.

Legal Approach towards Human Trafficking:

Mary Robinson, the UN high commission for human rights in her message in connection with the meeting of Adhoc committee on their elaboration of a convention against transnational organized crime, Vienna, July 1999 emphasized that human rights must be at the core of any credible anti-trafficking strategy and efforts must be initiated to protect and promote the human rights of the victims of trafficking at all levels. Trafficking and related practices such as debt bondage, forced prostitution and forced labour are violations of the most basic of human rights. The right to life, the right to dignity and security, the right to just and favorable condition of work, the right to health and right to equality. These are rights that we all possess, irrespective of our sex, our nationality, our social status, our occupation or other difference. While trafficking is primarily conducted by private individuals and groups, the state must also assume its responsibilities. International law is clear on the point that all states have a legal responsibility to protect and promote the rights of all persons within their jurisdiction. The responsibility translates into a legal obligation on governments to work towards eliminating trafficking and related exploitation. That means developing effective law enforcement structures and weapons to fight organized crime. It means continuing to tackle public – sector corruption. Governments also have an obligation, individually and collectively, to fight the underlying causes of trafficking; the poverty, discrimination and social exclusion which ruin the lives and destroy the choices of many of the world's women, men and children.

The 1933 League of Nations, The Commission of Enquiry into Traffic in Women and Children in the East (report to the Council, Geneva) pinned down the traffickers forcefully and the efforts resulted into the Convention against Trafficking passed on 2nd December 1949. India passed the Suppression of Trafficking in Women and Girls

Act in 1956, popularly known as SITA, in response to the international Convention. However there was a significant deviation between the Convention the SITA. The SITA broadly defined prostitution as selling of sex by a female in return of money. The women whose body was being traded became the subject of the act instead of being considered as the object of the criminal acts of those others who made profits by controlling the transaction.

Parliament has enacted suppression of Immoral Traffic (prevention) Act, 1956, for the purpose of punishing those who are engaged in the business of trafficking in women and girls for immoral purpose.

Conclusion:

The NCRB report made recommendations for reducing human trafficking like reducing penalization of victims of human trafficking and increasing prosecutions and convictions of all forms of trafficking including bonded labor. For prevention of human trafficking electronic media should be extensively used to create public awareness. It is also suggested that cases should be booked only against the traffickers and not against the victims. In order to avoid holding the victims in police custodies during denied night courts shall be set up. The department of Women Development and Child Welfare and NGOs have to expedite the rehabilitation of the victims of trafficking. And they also to prevent them from taking to same trade after their release. Health care services should be provided. Education facilities like establishment of residential schools are a must. The children of these victims shall be provided with immediate admission at residential schools. Proper counseling facilities shall be established for social re integration. Housing and civic amenities shall be provided to victims. Laws should be strengthened and changed.

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Crime Head – Wise Incidence of Human Trafficking

Crime Head	2008	2009	2010	2011	2012	Percentage variation in 2012 from 2011
Procuration of minor girls (Sec.366 -A)	224	237	679	862	809	-6.1
Importation of Girls from foreign country(Sec.366-B)	67	48	36	80	59	-26.3
Selling of Girls for Prostitution (Sec. 372)	49	57	130	113	108	-4.4
Buying of girls for prostitution (Sec. 373)	30	32	78	27	15	-44.4
Immoral Trafficking (Prevention) Act 1956	2,659	2,474	2,499	2,435	2,563	5.3
Total	3,029	2,848	3,422	3,517	3,554	1.1

Source: NCRB