



## HUMAN TRAFFICKING: A CRIME THAT SHAMES ALL

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### Abstract

**“People were created to be loved. Things were created to be used. The reason why the world is in chaos is because things are being loved and people are being used.”<sup>1</sup>**

Human trafficking has been a crime for centuries around the world. It is presently the 3<sup>rd</sup> largest global organized crime after drugs and armed forces, which is growing at an alarming rate. It has become one of the major issues of the twenty first century that has grown at a rapid pace with the advent of free movement and free trade between the countries around the world under the shadow of globalisation. The present paper highlights the forms and magnitude of the problem. It further focuses on the various laws enacted to overcome this growing menace. The present article further focuses on the loopholes in the proper implementation of the enacted laws along with suggestions for improvement.

### What Exactly Is Human Trafficking?

The term human means a person and trafficking means dealing or trading of something illegal. Thus the word human trafficking means the trade or sell or purchase of human beings for the purposes

forbidden by law like sexual slavery, bonded labor and forced labor or any other kind of sexual misuse and prostitution.

According to United Nations' Palermo Protocol,

(a) “Trafficking in persons can be defined as 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 should 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 organ; (b) The consent of the victim of trafficking in persons to the intended exploitation set forth in the subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used; (c) The recruitment, transportation, transfer, harbouring, or receipt of a child for the purpose of exploitation shall be considered ‘trafficking in persons’ even if this does not involve any of the means set forth; and (d) Child means any person under the age of 18.”<sup>2</sup>

### FORMS OF HUMAN TRAFFICKING

<sup>1</sup> [Destinyrescue.org](https://www.destinyrescue.org)  
<<https://www.destinyrescue.org/us/blog/27-human-trafficking-quotes-inspire-friends/>>

<sup>2</sup> <[http://siteresources.worldbank.org/EXTSOCIALDEVELOPMENT/Resources/244362-1239390842422/6012763-1239905793229/Human\\_Trafficking.pdf](http://siteresources.worldbank.org/EXTSOCIALDEVELOPMENT/Resources/244362-1239390842422/6012763-1239905793229/Human_Trafficking.pdf)>



There are several broad categories of exploitation linked to Human Trafficking which include:

### **Sexual exploitation**

Sexual exploitation entails any non-consensual or abusive sexual act performed without victim's consent. This includes prostitution, escort work and pornography. Women, men and children of both sexes can be victims. Most of the victims are often deceived with the promise of a better life and then controlled through violence.

“There is a culture of silence not because women are okay to put up with it, but because women do not draw enough confidence from the way the issue is going to be dealt with, because those in power continue to be men.”

-NISHTHA

**SATYAM, Deputy  
Chief of UN Women  
in India<sup>3</sup>**

### **Forced labour**

Forced labour generally involves victims being compelled to work very long hours. These workers often work in inhuman working conditions without relevant training and equipments. They are also compelled to work beyond their physical and mental capacities. Forced labour vitally implies to the use of coercion for getting the work done. The workers further lack freedom of

choice to work. These victims are frequently subjected to verbal threats or violence to achieve compliance.

### **Bonded labour**

Bonded labour is a practice in which the employers give loans at high rates of interest to the labour who intern work at low wage rates to pay off their debts. The services and the duration of the services required to repay the debt are often undefined. Such bonded labour practices have a tendency of being passed on from generation to generation until the debts are finally paid off.

### **Domestic servitude**

Domestic servitude refers to situations where the victims are forced to work in private households. Their movement is often restricted and they are forced to perform house-keeping tasks over long hours and meagre salaries. Such victims lead very isolated lives and have little or no freedom. Their often work in inhuman conditions and are also subjected to physical violence.

### **Organ harvesting**

Organ harvesting basically refers trafficking of functional organs of individuals for transplant on high payments. The illegal trade is dominated by demand for kidneys and liver. These organs can be partly/wholly transplanted with relatively few risks to the life of the donor.

### **Child exploitation**

Persons under the age of 18 are classified as children in most of the countries across the world. It is not astonishing to see young people getting caught up in criminal exploitation. Children are vulnerable to exploitation by traffickers and organised

<sup>3</sup> Annie Banerji “exclusive-from-managers-to-maids-indias-working-women-all-face-sexual-abuse” (JUNE 26, 2018) <<https://www.reuters.com/article/us-women-dangerous-poll-india-exclusive/exclusive-from-managers-to-maids-indias-working-women-all-face-sexual-abuse-idUSKBN1JM029>>



crime groups. They are deliberately targeted by criminals, or ruthlessly exploited by the people who should protect them.

**CAUSES OF HUMAN TRAFFICKING IN INDIA -**

There are numerous of social economic and political causes responsible for human trafficking in India which are as follows –

**1) POVERTY AND SEARCH FOR A BETTER LIFE:**

Poverty is one of the major causes of human trafficking. Poor people lead a vulnerable and deprived life. They are often unable to fulfill the basic needs of life. Thus in search of these basic needs they fall pray of the traffickers. Traffickers exploit their vulnerability, make false promises and show them the better side of life. The one who believes them, in hope of a better future, accept their offers and do everything that the traffickers ask them to do.

**2) FAMILY PROBLEMS**

**“Being unwanted, unloved, uncared or forgotten by everybody- I think is a much greater hunger, a much greater poverty than the person who has nothing to eat.”**

**Mother**

**Teresa**

The gravity of family problems has another detrimental impact on the sensibilities of an individual. Family problems often compel the individual to find love and affection outside the family. Traffickers easily misrepresent themselves and convince these innocent people struggling to find love and acceptance

within their families to adhere to the demands of the traffickers.

**3) DEBT LABOR:**

The vicious circle of Debt often targets and is capable of destroying the generation of a family together. High level of indebtedness and the persistent urge to overcome this vicious circle of continuing debts makes these families easy pray of the traffickers.

**4) HUGE AMOUNT OF MONEY:**

The traffickers lure the innocent humans in the trafficking business by showing and giving them huge amounts of money. The lucrative earning tempt individuals to fall easy pray of traffickers.

**5) MIGRATION**

Migration is another factor which responsible for increased human trafficking. People isolated from their family try to satisfy their sexual desires for which they require sex workers. The growing demand of sex workers is another contributing factor of human trafficking.

**6) URBANIZATION:**

It is a process where a gradual increase in the population of urban area takes place. Whenever the families of rural area or underdeveloped area moves to an urban city or developed cities, urbanization takes place and the females of the families are not much aware of the urban area in which they are moving. The innocent women of those families are then the target of the traffickers as they drag those women into the sexual exploitation business by manipulating them. This again pushes women into the trafficking rackets.





**7) ILLITERACY:**

Illiteracy is one of the most common causes that give rise to most of the crimes in a country. Less the people are educated, less they are aware of their rights and legal system. Less awareness intern means more probability of exploitation. Thus illiterate people are the most trouble-free prays of traffickers.

**8) COMMERCIALIZATION OF SEX:**

The sex is now commercialized as the women are treated as a commodity and the act if sell and purchase of women for sexual exploitation is done by the traffickers and his clients to satisfy their greed of money and sexual desire respectively.

**9) CORRUPTION:**

Corruption is another compelling factor of increased human trafficking. Some corrupt law enforcement officers protect and help the suspected traffickers and further ensure that they never exposed or caught in police raids. They do all this because they get money in return of their favors. Thus the traffickers remain unharmed and easily prosper in their trafficking business.

**MAGNITUDE OF THE PROBLEM IN INDIA**

National Crime Record Bureau (NCRB) released that in 2016, a total of 8,137 cases of human trafficking were reported from across the country and in 2015, 6877 cases were reported, an increase of 18% in cases can be noticed here. The motive behind 7670 cases was sexual exploitation and

162 relates to child pornography. If we talk about states:

- West Bengal shares 3579 cases, over 44.01% of the total cases.
- Rajasthan with 1422 reported cases accounts for 17.49% of the total cases.
- Gujarat, Maharashtra and Tamil Nadu were net in the queue with 548,517 and 434 number of cases respectively.

In 2015 number of cases reported by west Bengal were 1255(18.2%) and the state was ranked second to Assam with 1494cases accounted to 21.7% of total cases.

With 10,150 cases of total 15379 cases the victims being women, they accounts to 65% of the victims, and the men victim being 5229. In 2016, over 9034 victims were below 18 years of age with 4911 of women victims and 4123 men victim.

In 2016, over 23117 victims which include 182 foreign victims were rescued from this crime across the country. Out of the victims who were rescued, 55% or 12780 victims were women. During the year, total 10815 people were arrested in the cases of human trafficking.<sup>4</sup>

**RECENT TRAFFICKING INCIDENTS IN INDIA**

**TELUGU FILM PRODUCER AND HIS WIFE ARRESTED IN US FOR SEX TRAFFICKING OF ACTRESSES**

Mr. Kishan Modugumudi alias Sreeraj Chennupati, a Telgu film producer and his

<sup>4</sup> NCRB data,<  
<http://www.dnaindia.com/sexuality/report-ncrb-data-reveals-surge-in-human-trafficking-cases-2564601>>



wife Mrs. Chandrakala were arrested by US federal agents in Chicago in April 2018. It was further reported that the couple ran a high end prostitution racket of actresses from Tollywood to United States. The couple alleged to have charged up to \$3000 from one client. The actresses were forced to live in a 2 story apartment in Chicago and wait for their next date and meet the clients in different hotels and states of US. The alleged producer use to threaten the actresses and their family members if the actresses told to seek law protection. The alleged couple was arrested by the investigators after one of the victims wrote to the investigators asking them for help. The federal police had filed the case against the accused couple and the couple is on the run before they were arrested by the police.<sup>5</sup>

## 5 ANTI-TRAFFICKING ACTIVISTS GANG-RAPED IN INDIA, POLICE SAY

Five female anti-trafficking activists were gang-raped in the eastern Indian state of Jharkhand, police said Friday, the same region where two teens were raped and then set on fire last month. This incident took place in Kochang village in Khunti district, a tribal area in the state of Jharkhand. Five women and three men were performing a street play on the issue of human trafficking when a group of armed men on bikes disrupted the performance. They were taken to a nearby forest where the women were raped and the men were beaten up. They were released around three hours later. This

<sup>5</sup> “Telugu film producer wife arrested in US for sex trafficking of actresses” Geo.tv (18 June, 2018) <<https://www.geo.tv/latest/199671-telugu-film-producer-wife-arrested-in-us-for-for-sex-trafficking-of-actresses>>

is the latest high-profile rape case in India, a country grappling with the scourge of sexual violence.<sup>6</sup>

## Child trafficking racket busted; 2 arrested, 6 minors rescued

ARARIA: The Sashastra Seema Bal (SSB) on Friday claimed to have busted a child-trafficking racket in Araria district with the arrest of two persons and rescued six boys. The rescued boys were in the age-group of 10-16 years, a SSB officer said.

“On a tip-off, we conducted a search operation yesterday evening, along with a number of child rights bodies, close to the Indo-Nepal border. At about 7 pm, we noticed two middle-aged men moving towards the Jogbani police station along with the six children”, Sanjit Samajdhar, Sub-Inspector SSB, said.

Both the persons were detained. During interrogation they revealed that the children were being taken to Delhi where they were to be employed as workers in a toy factory, Samajdhar said.

The duo was subsequently taken to Jogbani police station where a case was registered against them under the Child Labour Act, the sub-inspector said adding that all the six children have been handed over to Child Line, Araria.<sup>7</sup>

<sup>6</sup> <<https://edition.cnn.com/2018/06/22/asia/india-gang-rape/index.html>>

<sup>7</sup> Child trafficking racket busted 2 arrested 6 minors rescued “The Times of India” (22 June, 2018) <<https://timesofindia.indiatimes.com/city/patna/child->



## HUMAN TRAFFICKING LAWS IN INDIA:

### 1) CONSTITUTION OF INDIA:

In India there is no provision which provides for the definition of the trafficking or any law under which the whole concept of human trafficking is covered. Provisions that deal with Trafficking in the Constitution of India –

Article 23 of the Constitution deals with: Prohibition of Traffic in Human Beings and Forced Labor. It reads as follows:-

(1) Traffic in human beings and beggar and other similar forms of forced labor are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.

(2) Nothing in this article shall prevent the State from imposing compulsory service for public purpose, and in imposing such service the State shall not make any discrimination on grounds only of religion, race, caste or class or any of them.

In the case of **Gaurav Jain v. Union of India**<sup>8</sup> the Supreme Court stated in its order dated 15-11-1989 that “segregating children of prostitutes by locating separate schools and providing separate hostels would not be in the interest of the children and the society at large”. While the plea for separate hostels for children of prostitutes was not accepted by Supreme Court, it believes that “accommodation in hostels and other reformatory homes should be adequately available to help segregation of these

trafficking-racket-busted-2-arrested-6-minors-rescued/articleshow/64701659.cms>

<sup>8</sup> [1998] 4 SCC 270

children from their mothers living in prostitute homes as soon as they are identified”. Supreme Court ordered to constitute Committee to make an in-depth study into these problems and evolve such suitable schemes for Rehabilitation of trafficked women and children. Further Supreme Court stated that three Cs, viz., Counseling, Cajoling and Coercion were necessary to effectively enforce the provisions of various statutes. The role of NGOs in rehabilitating and educating the children of the fallen women was emphasized. Detailed orders were given by Supreme Court for rescue, rehabilitation of prostitutes and children of prostitutes.<sup>9</sup>

In the case of **Vishal Jeet vs Union of India And Ors**<sup>10</sup> Supreme Court held that the malady of prostitution is not only a social but also a socio economic problem and, therefore, the measures to be taken in that regard should be more preventive rather than punitive. This devastating malady can be suppressed and eradicated only if the law enforcing authorities in that regard take very severe and speedy action against all the erring persons such as pimps, brokers and brothel keepers. All the State Governments and the Governments of Union Territories should direct their concerned law enforcing authorities to take appropriate and speedy action under the existing laws in eradicating child prostitution without giving room for any complaint of remissness or culpable indifference.

<sup>9</sup> <[https://www.unodc.org/cld/case-law-doc/traffickingpersonscrimetype/ind/1997/gaurav\\_jain\\_v.\\_union\\_of\\_india\\_and\\_others\\_.html](https://www.unodc.org/cld/case-law-doc/traffickingpersonscrimetype/ind/1997/gaurav_jain_v._union_of_india_and_others_.html)>

<sup>10</sup>[1990] 3 SCC 318



In the case of **Geeta Kancha Tamang vs State of Maharashtra**<sup>11</sup> while refusing the discharge of a women trafficker, who had served 14 months of imprisonment the Supreme Court stated that **the first aspect that the Court has to consider for such a heinous crime is that trafficking in persons is prohibited under Article 23 of the Constitution of India.** As Article 23 is the fundamental right of the citizen therefore it cannot be trafficked. Such act comprises the disgusting violence of the Human Rights.

## 2) IMMORAL TRAFFICKING PREVENTION ACT, 1956:

India being a signatory to the International Convention for the Prevention of Immoral Traffic (1950), it made a specific act against trafficking and named it “The Immoral Trafficking Prevention Act” (ITP), 1956. This act deals with trafficking in terms of commercial sexual exploitation of women and children and this was considered as one of the drawback of the Act. Through the ITP act, 1956 the central government penalizes trafficking of women for commercial sexual exploitation and the punishment extends to 7 years or life imprisonment or fine of 2000 rupees. The Act is criticized as the definition of trafficking deals particularly with sexual exploitation.<sup>12</sup> The definition of brothels under Section 2 is also vague. Section 2 of the act defines brothel as “any house, room, [conveyance] or place or any portion of any house, room, [conveyance] or place, which is used for purposes [of sexual exploitation or abuse] for the gain of another person or for the mutual gain of two or more

prostitutes.”<sup>13</sup> This definition not only defines premises but also switches the voluntarily working sex workers into criminals and they have to be penalized.

As a result, the Immoral Traffic (Prevention) Amendment Bill, 2006, Section 5C was added to the Act. This Section punishes clients of the prostitute. It penalizes, with imprisonment of 3 months or fine 20,000 or both, ‘the person who visits or is found in a brothel for the purpose of sexual exploitation of any victim of trafficking in persons’. The section also penalizes the repeated offenders with the imprisonment of 6 months or fine of 50,000 or both.

In the case of **Budhadev Karmaskar v. State of West Bengal**<sup>14</sup> The Court observed that a woman is compelled to indulge in prostitution not for pleasure but because of abject poverty. If such a woman is granted opportunity to avail some technical or vocational training, she would be able to earn her livelihood by such vocational training and skill instead of by selling her body. The Court directed the Central and the State Governments to prepare schemes for giving technical/vocational training to sex workers and sexually abused women in all cities in India. The schemes should mention in detail who will give the technical/vocational training and in what manner they can be rehabilitated and settled by offering them employment.

## 3) INDIAN PENAL CODE (IPC):

IPC also provides various provisions to prevent trafficking of women for sexual

<sup>11</sup> Criminal Appeal No. 858 of 2009

<sup>12</sup> Immoral Trafficking Prevention Act, 1956, Section 5

<sup>13</sup> Immoral Trafficking Prevention Act, 1956, Section 2

<sup>14</sup> [2011] 11 SCC 538



exploitation. These provisions are as follows:

**Section 373: Buying of minor for prostitution<sup>15</sup>:**

This section makes buying or hiring or obtaining the possession of a minor for the purpose of prostitution, punishable with imprisonment up to 10 years and fine.

**Section 372: Selling of minor for prostitution<sup>16</sup>:**

According to this Section whosoever sells or lets to hire or otherwise disposes of any minor for the purpose of prostitution, should be punished with imprisonment up to 10 years and fine.

**Section 366-A: Procuration of minor girls:<sup>17</sup>**

Whoever induces any minor girl to move to a place where that girl is likely to get abused sexually that person shall be punished with imprisonment up to 10 years and fine.

**Section 366-B: Importation of girls from foreign country<sup>18</sup>:**

Whoever imports a girl under the age of 21 years from foreign country knowing that the girl will be forced to sexual intercourse; such person shall be punished with imprisonment up to 10 years and fine.

**Criminal Law Amendment Act 2013:**

With this amendment Section 370<sup>19</sup> and Section 370-A<sup>20</sup> has been substituted in Indian Penal Code which provides provisions for comprehensive actions to oppose the threat of human trafficking. The provisions includes measures for the trafficking in children for exploitation in any form including bodily exploitation or any other way of exploiting sexually, slavery, servitude, or removal of organs forcefully. The provisions also provide punishment from 7 years to life imprisonment and fine. The measures of section 370 do not deal with the provisions relating to prostitution of the person above the age of 18 years.

**In the case of Radhiya Khatoon @ Usia vs State Of Bihar decided on 19 June, 2012 by HONOURABLE JUSTICE SMT. SHEEMA ALI KHAN ORAL JUDGMENT** stated that these two appeals arise out of a judgment and order dated 20.12.1999 whereby Radhiya Khatoon and Shibu Kumhar (Pandit) have been convicted by the Trial Court. Shibu Kumhar (Pandit) has been convicted under Section 365, 366, 368, 373 and 120B of the Indian Penal Code to undergo rigorous imprisonment for 7 years under Sections 365, 366 and 368 of the Indian Penal Code and rigorous imprisonment for 10 years under Section 373 of 2 Patna High Court CR. APP (SJ) No.4 of 2000 dt.19-06-2012 2 / 11 the Indian Penal Code. Radhiya Khatoon has been convicted for 7 years rigorous imprisonment

<sup>15</sup> Indian Penal Code, 1860, Chapter 16, Section 373

<sup>16</sup> Indian Penal Code, 1860, Chapter 16, Section 372

<sup>17</sup> Indian Penal Code, 1860, Chapter 16, Section 366-A

<sup>18</sup> Indian Penal Code, 1860, Chapter 16, Section 366-B

<sup>19</sup> Indian Penal Code, 1860, Chapter 16, Section 370

<sup>20</sup> Indian Penal Code, 1860, Chapter 16, Section 370-A



under Section 368 and rigorous imprisonment for 10 years under Section 373 of the Indian Penal Code. The sentences have been ordered to run concurrently.<sup>21</sup>

4) **Protection of children from Sexual Offences (POCSO) Act, 2012**, that came into force November 12<sup>th</sup>, 2012. It is a Law to protect children from sexual exploitation and abuse. The act defines a child as any person below the age of 18 years. It provides various provisions and precise definition of different forms of sexual abuse that includes penetrative<sup>22</sup> and non penetrative sexual assault, sexual harassment<sup>23</sup> and pornography<sup>24</sup> and deems sexual offence to be “aggravated” under certain circumstances, such as when the abused child is mentally ill or when the abuse is committed by a person in a position of trust or authority vis-à-vis the child, like a family member, police officer, teacher, or doctor. The act also provides for the punishment of the people who are trafficking children for sexual purpose, under the provisions relating to abetment in the Act. The punishments differ according to the gravity of the offence, with a maximum term of rigorous imprisonment for life and fine.

**CASE: Unknown vs. Mangali yadagiri on April 8, 2015**<sup>25</sup>

<sup>21</sup> Criminal Appeal (SJ) No.4 of 2000

<sup>22</sup> Protection Of Children from Sexual Offences Act, 2012, Chapter 2, Section 3

<sup>23</sup> Protection Of Children from Sexual Offences Act, 2012, Chapter 2, Section 11

<sup>24</sup> Protection Of Children from Sexual Offences Act, 2012, Chapter 3, Section 13

<sup>25</sup> Criminal Revision Case No.1596 of 2014

According to the facts of the case, an offence under **POCSO Act** was committed against a child, who was a member of Scheduled Caste/Scheduled Tribe. In such a **case**, the issue that stems out for consideration is whether the said case should be tried by a Special Court constituted under SC/ST Actor by a Special Court constituted under **POCSO Act**. It was held by the Andhra High Court that the provisions of **POCSO Act** have to be followed for trying cases where the accused is charged for the offences under both the enactments.

#### 5) **Specific Legislations:**

There are some other specific legislation enacted to curb the human trafficking relating to women and children. These legislations are:

- Prohibition of Child Marriage Act, 2006,
- Bonded Labor System (Abolition) Act, 1976,
- Child Labor (Prohibition and Regulation) Act, 1986,
- Transplantation of Human Organs Act, 1994

#### **DRAFT BILL ON TRAFFICKING OF PERSONS (PREVENTION, PROTECTION & REHABILITATION) BILL, 2016**

In May 2016, Minister of Women & Child Development, Smt. Maneka Gandhi released a draft bill namely Trafficking of Persons (Prevention, Protection & Rehabilitation) Bill, 2016. The aim of the Bill is to create a strong legal, economic, social and political environment against human trafficking. The



bill look forward to create a comprehensive legislation against all the facets of trafficking of persons as well as it is victim oriented. The Bill covers all the matters relating to trafficking and its punishments. The bill also throws a light on the 2 terms namely trafficker and trafficked. Bill further discusses about the provisions for funds for rehabilitation centers for trafficking victims. Smt. Maneka Gandhi makes it clear that the bill is dealing with the victims of trafficking. The bill was designed to call suggestions and criticism from the experts. The bill was made to cover the loopholes existing in the present legal system regarding the concerned issue.

**HIGHLIGHTS OF THE BILL**

The above bill is deals with various offences of trafficking which have not been dealt earlier under any Act or Law.

- This bill suggests various penal provisions regarding the trafficking acts such as revealing the identity of the trafficking victim and the witnesses, use of chemical material or hormones for the purpose of exploitation, utilization of narcotic drug or alcohol or psychotropic substance to the accomplish the trafficking.
- The bill treats survivor of the trafficking as victims and provide them care. Further the bill throws a light on providing protection homes and special homes for short term and long term rehabilitation maintenance to the victims. The homes will be in charge of Welfare Officer who will supervise and monitor the management of the homes and will plan for individual care of the trafficking victims in the home.
- For the purpose of availing speedy trial to the victims and evade delay in trial, the bill proposes to establish Special courts in

each district which shall be created by state government in consultation with chief justice of respective High Court.

- Bill seeks to provide compensation to the trafficked victims. Bill further talks about creation of a fund for effectual execution of the bill and welfare and rehabilitation of trafficking victims.
- The bill, for the purpose of conducting cases under Section 370 to Section 373 of Indian Penal Code, 1860, specifies a Special Public Prosecutor. The Special Public Prosecutor should be the person having 10 years practice as an advocate before a court of session and having good record of prosecution.
- A special agency for investigation of offences shall be constituted by the Union Government under this bill.
- The State Government should designate a police officer of the rank of Gazette officer. Such officer should be an investigating officer for the offences under this bill and under section 370 to 373 of Indian Penal Code, 1860.
- For effective execution of Bill, it provides for the establishment of an institutional mechanism by appropriate Government at state centre and district level. There will be a Central Anti-trafficking advisory Board at Central Level. There will be a State Anti-trafficking advisory Board at State Level. At District level the execution of the provision of the bill will be supervised by District Anti-Trafficking Committee.
- **Section 16** of the bill punishes the person who uses narcotic drugs or psychotropic substance or alcohol for the purpose of trafficking, with imprisonment of & years and may extend to 10 years and liable to fine of not less than 1lakh rupees.





- **Section 17** also prescribes same punishment as Section 16 for the person who uses chemicals or hormones on trafficked women or children for sexual exploitation.

#### **CRITICISM OF THE BILL:**

The bill was criticized by many experts on the bases that the bill is just an addition to the legislation of the country with those provisions which already exist in Indian Legal System and nothing more. Whatever is proposed in the bill already exists in the in the Indian Penal Code, 1860. The bill did not define the term trafficking but only includes the definition of the term which already exist in the explanation of section 370 of IPC, 1860. The new bill provides for the provisions which are also similar to Immoral Trafficking (prevention) Act. The bill provides for the provision of the funds but how to utilize them and manage them is not stated properly. And there are many other loopholes in the above bill.

Trafficking of Persons (Prevention, Protection & Rehabilitation) Bill, 2018 was approved by the Union Cabinet chaired by Prime Minister Shri Narendra Modi for introduction in the parliament on 28<sup>th</sup> February 2018.<sup>26</sup>

#### **ONLINE SEXUAL EXPLOITATION: A SHOCKING TREND**

New technologies lead to the development of a country but what if these technologies increase crime rates instead of development? New technologies have made the life easy as we can get almost everything easily on

internet even the means to fulfill the sexual desire. New technologies are facilitating the online sexual exploitation of both children and women to earn profit. By using cell phones, web cameras online sites and other mobile devices that provides for new and evolving technology, traffickers abuse the children and women sexually by engaging them in illegal sexual acts. The offenders or the traffickers may also force the women or girls or children to involve in illegal acts of sex and make their videos to viral it on internet and earn more and more profit on internet also. This is also known as pornography. The experts believe that tens of thousands of victims are exploited online and the number appears to be growing. These kinds of offences also need to address by the Indian Legal System to prevent the increase in number of online sexual exploitation.

#### **LOOPHOLES IN THE PRESENT TRAFFICKING LAWS:**

The Indian Legal system needs to improve its laws for trafficking. The Lawmakers' further need to focus on the creating awareness of the laws among its citizen needs to be promoted. This is to be done because of the following loopholes:

- 1) Immoral Trafficking Prevention Act, 1956 needs amendment as this Act have various drawbacks as we have discussed earlier that it only focuses on the sexual trafficking of people and rest other types of trafficking are ignored. Indian legal system needs a comprehensive Law for the prevention of trafficking. Moreover it contains vague definitions and the Act does not focus on the victim's situation after their rescue. The punishment for the offenders is also very less. Further there is

<sup>26</sup> <<http://www.lawyerscollective.org/wp-content/uploads/2017/07/Critique-of-the-Anti-Trafficking-Bill-2018.pdf>>



no scope of rehabilitation of the victims of sex trafficking.

- 2) Indian Penal Code, 1860 focuses only on minor girls. All the provisions in the IPC relating the sexual exploitation relates or talks either about foreign persons or about minors. There is no mention of the provision which penalizes the sexual exploitation of the women above 18 years by the traffickers.
- 3) The available laws are not implemented in there strict sense and this creates favorable grounds for the traffickers to continue their illegal activities. Corruption is another sensitive and contributing factor which is a hurdle in the proper implementation of the trafficking laws.
- 4) No protection is provided to the victims and the witness to keep them out of reach the traffickers. The witnesses and the victims stay quiet because of the threats received by them from the traffickers. Traffickers often threat them to cause personal injury, injury to their property or injury to their family member. So they keep their mouth shut even after the rescue and this helps the traffickers to escape from the penalty of law.
- 5) No post rescue provisions are there for the victims. The ones who are rescued from the traffickers can easily get re-trafficked by them because they threaten the victims about the victim's unacceptability in the society. This all occurs because of no provision of post rescue and counseling of victims of trafficking.

**SUGGESTIONS FOR THE IMPROVEMENTS:**

- 1) Legislation should focus on improving the existing laws by overcoming its present loopholes. Moreover a comprehensive Act

for Human Trafficking should be worked on.

- 2) Indian Penal Code should be amended to provide protection not only to the minor girls but also for girls who are above 18 years and victim of sexual abuse.
- 3) Present laws should be implemented in there strict sense without any deviation. Not only has this, all the legislations made to prevent the trafficking should account for a strict punishment for the offenders.
- 4) Education and awareness should be promoted among the citizen of a country. So that all the reason or the causes of the sexual exploitation come to an end. Such activities can be brought to an end only by educating the people and making them understand the evil affects of human trafficking on individuals, families, and society.
- 5) Corruption needs to be flushed out of our economy. It will automatically make the law implementing officers more sincere and strict in the implementation of the present laws.
- 6) If any police officer is found to be corrupt and is seen taking or asking for sexual favors from the victims of trafficking, such officers should be unsympathetically punished for manipulating the legal system and should be also treated as one of the offender in the crime of sexual trafficking.
- 7) The victims and the witness should be given extra protection to encourage them to speak up against the traffickers. If victims will take a stand and speak against the traffickers then they cannot escape from legal punishments. Thus the witness and victims should be protected along with their family members in order to reach the traffickers.



- 8) There should be proper facility for the protection and recovery of victims in the police station whenever the girls or the women are rescued from the brothels at night.
- 9) Post rescue provisions should be to ensure proper mental and physical recovery of the victims. The victims of such trafficking face a lot of trauma and abuse in their sexual exploitation so there is a need not only to rescue the victims but also to counsel them so that they can get back to the normal life and they can walk away from their pasts.
- 10) There must be provision of Compensation to such victims by the respective state governments. Further the trafficker should also be compelled to pay compensation to such victims from their profits for causing injury to the victim's health, mind, life and family. This will enable the victims to start with a happy and a healthy life till the society finally accepts them back.
- 11) In case of a debt bondage the money lenders must be prosecuted for the offences covered in the Money Lending Act.
- 12) Women should not easily trust anybody. Instead of trusting the traffickers the women should make inquiry in to the promises made by the offenders and if she believes and has proof that promise is not false then only she should listen to the offender.
- 13) All the rescued women who are in the protection home should not be treated as criminals there. The victims should not be kept within the 4 walls of the protection and special homes instead they shall be allowed to interact with the society to get back to a normal life. They should be taught how to fight back against those criminals or traffickers and how they can protect themselves from becoming the victim of sexual exploitation.
- 14) There is need that a high power supervising committee should be established, to scrutinize the strict and proper implementation of anti trafficking legislation, at centre and state level.
- 15) The government needs to create 24\*7 helplines for Human Trafficking. This will help the citizens witnessing such crimes or anticipating such crimes report the matters anonymously without threatening his/her individual safety along with safety of the victims. It will further ensure timely action on part of the law implementing agencies without fail.
- 16) Creation of adequate number of protection homes in each state in order to stop overcrowding in these homes.

**CONCLUSION:**

Human trafficking endangers the dignity and security of trafficked individuals, and adversely affects their individuality and identity. The Constitutions of India guarantees equal protection to all its citizens, but these laws are often merely enshrined in the constitution when it comes to the question of grass root level implementation. The need of the hour requires stronger laws to combat the increasing number of trafficking crimes. They further require stricter implementation at the grass root level. Thus we can say any crime which is used to mint money and is perused as business in the economy eventually poses greater social and economic threat to the existence of the society. Timely enactment and implementation of stricter and stringent laws can not only minimise the evil effects of this



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social evil but is also capable of totally  
eradication the menace.

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