

HUMAN TRAFFICKING

DISSERTATION

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ABBREVIATIONS

ADB	Asia Development Bank.
3P	Protection, Prevention, Prosecution
CSEC	Commercial Sexual Exploitation of Children
CTOC	UN Convention Against Transnational Organized Crime
DHS	Department of Homeland Security
DOJ	Department of Justice
ECOSOC	United Nations Economic and Social Council.
GAO	Government Accountability Office
GPAT	Global Program Against Trafficking in Human Trafficking
HHS	The United States Department of Health and Human Services
ICE	United States Immigration and Customs Enforcement
ITPA	Immoral Trafficking Prevention Act
IOM	International Organization for Migration
NGO	Non-governmental Organization
NHTRC	National Human Trafficking Resource Center
OSCE	Organization for Security and Co-operation in Europe.
OAS	Organization of American States
ORR	Office of Refugee Resettlement
OVC	Office for Victims of Crime, Department of Justice
PITF	President's Interagency Task Force to Monitor and Combat Human Trafficking
PTSD	Post-traumatic Stress Disorder
J/TIP	Office to Monitor and Combat Trafficking in Persons, Department of State
TIP Report	Trafficking in Persons Report
TVPA	Trafficking Victims Protection Act
UNODC	United Nations Office on Drugs and Crime
USCIS	United States Citizenship and Immigration Services
UNICEF	United Nations Children's Fund
UN	United Nations
UN.GIFT	United Nations Global Initiatives to Fight Human Trafficking

US	United State
UNACT	United Nations Action for Cooperation Against Trafficking in Persons.
UNCRC	United Nations Convention on the Rights of the Child
UNHCR	United Nations Higher Commissioner for Refugees.
UN.GIFT	United Nations Global Initiative to Fight Human Trafficking
UNTOC	United Nations Convention Against Transnational Organized Crime, 2000

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CHAPTER-I

INTRODUCTION

ABOUT THE TOPIC

Trafficking means a trade which is illegal. Human trafficking is carrying out a trade on humans. Humans are trafficked for the purpose of sexual slavery, commercial sexual exploitation, extraction of organs or tissues, forced marriage, forced labor or domestic servitude. Human trafficking across the world is mainly done for sexual exploitation where women and children turn as victims to it. Human trafficking is done for a number of purposes but sadly in our country the act which exists against human trafficking is Immoral Trafficking Prevention Act (ITPA) and it only combats against the human trafficking if it is done for the purpose of sexual exploitation.

There are international conventions for preventing human trafficking of which more of the countries have ratified it. Human trafficking leads to violation of human rights of the individuals and also they are subjected to victimization. The laws for human trafficking must be strengthened that it meets all the requirements for preventing human trafficking. People who are in poverty line across the country must be made aware about human trafficking and its consequences in order to prevent them from becoming victims.

According to a report by the U.S. State Department, Belarus, Iran, Russia, and Turkmenistan remain among the worst countries when it comes to providing protection against human trafficking and forced labor. Trafficking in human beings has been one of the most heated topics in the international criminological discourse for some years. Many issues have been debated such as the definition of trafficking, its differences from smuggling of migrants, its connection with prostitution and the legal significance of the consent of victims, to mention just a few. Of many of these issues experts hold different opinions. However, the international community, government officials, NGOs, IGOs and researchers have all agreed on one thing: there is a dearth of reliable data on human trafficking.

A global database on trafficking trends was established under the Global Program against Trafficking in Human Beings (GPAT) of the United Nations Office on Drugs and Crime (UNODC) in order to systematically collect and collate open source information on trafficking in persons. A broad range of sources is scrutinized for information on trafficking trends and routes, victim's and

offender's characteristics and criminal justice responses. In this article the preliminary results based on the database will be presented focusing mainly on the qualitative information entered into the database. A global overview of the countries of origin, transit and destination as well of the victims and offenders will be provided.

Objectives of the topic

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

What is trafficking in persons?

The first international document on trafficking in women was the International Agreement for the Suppression of the White Slave Traffic which was adopted in 1902 and ratified by 12 countries. In 1949 the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others was adopted by the Member States of the United Nations and subsequently ratified by 49 countries. However, these documents did not give a clear definition of human trafficking. In November 2000, the United Nations General Assembly adopted the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. For the first time, the international community has adopted an agreed definition of human trafficking . The Protocol against Trafficking in Persons aims at preventing and combating trafficking and strengthening international co-operation against trafficking. Countries which ratify the Protocol are obliged to enact domestic laws making these activities criminal offences, if such laws are not already in place. The Protocol also requires states to take steps to protect and support victims of trafficking who should be entitled to confidentiality and protection against offenders. This should include general protection as well as specific forms of protection when a person is providing evidence or assistance to the police or appears as a witness for the prosecution. Social benefits, such as housing, medical care and legal or other counseling are optional requirements. The Convention against Transnational Organized Crime is also supplemented by the Protocol against the Smuggling of

Migrants by Land, Sea and Air. The definition of smuggling of migrants includes procurement of illegal entry into a country of which the person is not a national or a permanent resident in order to obtain direct or indirect financial or other material benefit³. It is important to note the difference between the definitions of trafficking in persons and smuggling of migrants even though in reality it is sometimes difficult to draw a line between these categories. According to Kelly and Regan (2000; see also Murray 1998; Salt 2000) smuggling of migrants is usually limited to illegally transporting the person to the country of destination after which the relationship between the smugglers and smuggled persons terminates. In trafficking, on the contrary, persons are delivered to organizations or individuals who have paid for their delivery and the trafficked persons must, after the delivery, repay their debt to the organizers through prostitution or forced labor.

DEFINITION

In 2000 through the United Nations Office on drugs and Crime's Palermo protocol. This document provides the accepted definition of human trafficking as, "the recruitment, **transportation, transfer, harboring 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."

UN definition of Trafficking in Persons

a) Trafficking in persons shall mean the recruitment, transportation, transfer, harbouring or receipt of persons by means of the threat or the use of force or other forms of coercion, or 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 or 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;

c) **The recruitment, transportation, transfer, harboring 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 in subparagraph (a) of this article;

d) Child shall mean any person under the age of eighteen years of age.

According to the Palermo Protocol, exploitation of human trafficking victims takes three basic forms; forced labor, sexual exploitation, and the removal of organs. Over half of the cases detected by UNODC in 2014 centered on sexual exploitation, particularly forced prostitution and the prostitution of minors.

Although human trafficking can occur at local or domestic levels, it has international implications, as recognized by the United Nations in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (also referred to as the Trafficking Protocol or the Palermo Protocol), an international Definition agreement under the UN Convention against Transnational Organized Crime (CTOC) which entered into force on 25 December 2003. The protocol is one of three which supplement the CTOC.

The Trafficking Protocol is the first global, legally binding instrument on trafficking in over half a century, and the only one with an agreed-upon definition of trafficking in persons. One of its purposes is to facilitate international cooperation in investigating and prosecuting such trafficking. Another is to protect and assist human trafficking victims with full respect for their rights as established in the Universal Declaration of Human Rights.

Human trafficking is not a regional problem, nor is it confined to low-income areas or lesser developed countries – It is found in every part of the world, including the United States and Western Europe. Because human trafficking is sometimes a transnational crime, and because statistics on trafficking victims are difficult to compile, researchers have been largely unable to determine the relative prevalence of human trafficking across regions.

❖ https://www.unodc.org/documents/middleeastandnorthafrica/organisedcrime/UNITED_NATIONS_CONVENTION_AGAINST_TRANSNATIONAL_ORGANIZED_CRIME_AND_THE_PROTOCOLS_THERETO.pdfhttps://www.unodc.org/documents/middleeastandnorthafrica/organisedcrime/UNITED_NATIONS_CONVENTION_AGAINST_TRANSNATIONAL_ORGANIZED_CRIME_AND_THE_PROTOCOLS_THERETO.pdf

❖ <https://www.state.gov/documents/organization/226844.pdf>

RESEARCH PROBLEM

The fact that this study was exploring uncharted territory, that took a clandestine activity like trafficking, presented formidable challenges in conducting the research. Locating respondents was by no means an easy task. In the case of rescued victims, some were found in rescue homes but the researchers had to search for repatriated trafficked 'survivors' in the places they had been rehabilitated.

In certain states where the research partners were unable to locate the respondents, the help of NGOs active in the anti-trafficking movement was taken. Once the respondents had been located, it was not easy to gain their confidence and to assure them that their identities would not be revealed. Suspicion and fear created an atmosphere which acted as a barrier to truthful response. It required considerable ingenuity and perseverance on the part of the interviewers to coax them to part with information relevant to the study and to assure them of anonymity.

Many times, interviews had to be rescheduled, postponed and even repeated. Interviewing victims who were still trapped in commercial sexual exploitation was the most difficult. Segregating the trafficked victims from the non-trafficked ones in the brothels was certainly no simple matter. Moreover, as they were under the complete control of the exploiters, it was not easy to get them to speak the truth.

The researchers had to make repeated visits to the brothels to interview some of the victims as they were busy with their 'clientele' and did not want to be disturbed. Clients would walk in even during the 'lean' periods and would get preference to anything else. The interviewers had to adjust to such breaks in the interviews and be patient enough to wait for the interviewee's convenience. Often, when the victims were told that the project was being conducted by an Independent Researcher, it raised hopes that something would be done to mitigate, if not solve, their agony.

The researcher had to assure them that something concrete would come out of the study. Many a time, the victims agreed to the interviews only when this assurance was given initially, the issue of whether predominance should be given to quantitative data or not was heavily debated. However, it was decided that adequate weightage would be given to both qualitative and quantitative data. Data collection also proved to be a formidable challenge. Locating respondents, especially traffickers, was another difficult task.

When the researcher was unable to find the interviewees, he had to identify appropriate research investigators and organizations to locate trafficked victims and even carry out their interviews. Traffickers, of course, were the most difficult to find. Most of the police officials who were approached were unwilling to spare time to respond to the interview schedules and group meetings had to be organized after talking to the police higher-ups, where they were requested to give their answers. Once the respondents had been identified, it required considerable effort to earn their trust and to get them to answer truthfully. The biggest challenge was to integrate field research with action programs. The experience that was gained by carrying out these programs gave deeper insights into the priorities that should be accorded to the programs and projects in preventing and combating trafficking of girls and women.

HYPOTHESIS

The literature on trafficking reflects the dilemma of writing on a subject that is not easy to research and document and yet is too grave an issue to ignore. Considering the hidden and criminal nature of the problem, the data presented by most reports is valuable in face of this scarcity. While the adopted definitions, perspectives and approaches to the problem of trafficking may vary the concern with finding effective solutions is common to these studies.

The content and format of the majority of the studies are repetitive and appear to be recycled; so much so that the reports are indistinguishable from one another. Their objectives appear to be establishing the occurrence of trafficking, reporting the lacunae in the responses by different agencies and making recommendations. The information on trafficking is presented in a narrative form or is a recording of incidents, events and cases. Much of the literature on trafficking reflects a high degree of outrage. Most of the reports are on trafficking for commercial sexual exploitation, which is a reflection of the general understanding, till recently, of the association between trafficking and commercial sexual exploitation.

The issues in the literature on trafficking echo the debates and concerns about commercial sexual exploitation. Thus, one finds that a seemingly new idea being pursued is invariably an offshoot of the fundamental debate about consent in commercial sexual exploitation. Generally, the studies focus on children and some even club women and girls together. Those focusing on women are few in numbers, and any including men are non-existent. So far, there have been no studies which have dealt exclusively with the issue of trafficking for labor exploitation. This is understandable given the recent inclusion of this purpose in the definition of trafficking. Numerous studies on child labor and labor exploitation fail to focus on the recruitment practices of the problem. They merely mention that there is exploitation by dalals and children work for agents.

These studies consistently report cases that fall within the purview of trafficking. However, since the concept seems to be unfamiliar or unclear, these cases are grouped under the broader notion of exploitation.

LITERATURE REVIEW

The review covers the sources of trafficking i.e. countries, regions and areas, characteristics of traffickers and trafficking victims, forms of violence against trafficked victims, magnitude of trafficking, reasons for trafficking, structural factors for trafficking, types of trafficking, impact of trafficking. Certain court judgements have also been referred in the review for having a holistic view of the issue of human trafficking. It is very important to record that, not many academics ventured into this area of research, as collecting data and information are difficult from the original sources of trafficked victims, who generally, refuse to share information. Hence, most of the studies reviewed here includes report monographs and court judgements.

Soma Wadhwa (1998) explained about the size, modus operandi, cost and areas of cross boarder trafficking from Nepal to India.

Jean D 'Chunha (1998) in his study it is critically examined the scale and magnitude of prostitution and sex trafficking in South Asian countries.

A status and action report by the Central advisory Committee on Child Prostitution(1991) estimates that there are between 70,000 and 1,00,000 women trafficked and entered into prostitution in the six metropolitan cities of Mumbai, Delhi, Calcutta, Madras, Bengaluru and Hyderabad.

Krishna Prasad (2006)in his analysis covering India, Bangladesh, Pakistan and Nepal pointed out that the Indian scenario of human trafficking is quite similar to that of other South Asian countries. India is an origin, transit and destination country for women, men and children trafficked for the purpose of sexual and labor exploitation.

Ratna kapur (2007) in her study said that according to the Indian government, human trafficking in India is thought to be largely an internal phenomenon, but there is evidence that people from Bangladesh and Nepal have been trafficked via India to the Middle East.

Sakthi Praksh (2009) said that reliable estimates suggest that every year, one or two million people are trafficked worldwide and among them half a million are from South and South Asia.

Ms. Shatabdi Bagchi, Ms. Ambalika Sinha, Human Trafficking in India: Theoretical perspectives with special reference to Human Trafficking scenarios in the North Eastern part of India, International Journal of Research and Social Sciences, Vol.6 Issue 9, September 2016. In this article the author has portrayed the condition of Indian Women who are the most vulnerable target of human trafficking. The author of this article has discussed the contemporary theories and literatures. The author has found that human trafficking is not a single issue but rooted with multiple aspects.

Mr. Vimal Vidushy, Human Trafficking in India: an analysis, International Journal of Applied Research, 2016 This author of this article has addressed the issue of Human Trafficking. The author in this article has argues that the significance should be given to the underlying root causes and modes of Human Trafficking in India. The author has addressed preventive measures in this article to deal with the problem.

The United States Agency For International Development (USAID) in its report (2009) said that, India is a source; destination and transit country for men, women and children trafficked for the purpose of forced labor and commercial sexual exploitation.

Providing a national level assessment in 1988, Rita Rozario pointed out the source of woman trafficking, causes for women trafficking, routes of women trafficking, forms of violence against women in trafficking and modus operandi adopted by traffickers.

Meena Meenon(1997) explained the patterns and supply zones for women for commercial sexual exploitation. According to her, Karnataka, Andhra Pradesh, Maharashtra, and TamilNadu are considered 'high supply zones' for women in prostitution in India.

Umaria(1991) tried to estimate the children of commercial sex workers in India. This study conducted in 25 states and 4 Union Territories. This study revealed the worst situation and vulnerability of the children as commercial sex workers.

The DWCD and UNICEF Report (1996) explained various vulnerable groups and risk factors related to geographical locations.

Mukherjee et al. (2007) in their study covering 25 States/ Union Territories in India have observed that , 75-77 percent of the respondents have been inducted into the trade through the process of trafficking.

Radhika Coomarswamy (2000) report provides important indicators for the possible relation between trafficking and migration. She observes that low levels of literacy, awareness and information are the risk factors.

Kiran Bedi et al. (2005) in their study explained the factors causing trafficking. They mentioned that the trafficking in any form is demand driven.

❖ url: <http://www.acadpubl.eu/hub/Special> Issue.

❖ International Journal of Pure and Applied Mathematics.

RESEARCH METHODOLOGY

This study is doctrinal in nature. The researcher has used secondary sources. These include books, articles, newspaper articles, web sources and others. The methodologies employed to produce the U.S. global estimate and the estimate produced by the International Labour Organization--the two organizations that have developed global estimates of human trafficking.

The structure of the database contains source and event information in terms of fields filled by a researcher. The researcher performed a search of open sources by key words, e.g. trafficking, trafficked, traffickers. The smuggling cases were then taken out of the database (about 30%). However, no search was performed by keywords such as smuggling, smuggler, etc. to identify those that relate to trafficking. The open sources included the Foreign Broadcasting Information Service, Stop Traffic List Serve, International Organization of Migration, United Nations Office on Drugs and Crime, International Labour Organization and NGOs. A bibliometric method was adopted. The study period was set from 1900 to 2017. This method approach adopted quantitative method of methodology.

Data has been collected from the websites and other sources, which includes the quality matter in this dissertation. matter included in wide range which explains the topic briefly.

CHAPTER-II

IDENTIFICATION OF HUMAN TRAFFICKING (Process, Means, Purpose)

Process	Means	Purpose
<ul style="list-style-type: none">• Recruitment• Transportation• Transfer• Harboring• Receipt of persons	<ul style="list-style-type: none">• Threat• Force• Coercion• Abduction• Fraud• Deception• Abuse of power• Abuse of vulnerability• Giving and receiving of payments	<ul style="list-style-type: none">• Exploitation which includes:<ul style="list-style-type: none">a) Prostitution and other forms of sexual exploitationb) Forced labor and servicesc) Slavery and similar practicesd) Involuntary servitudee) Removal of organs

Traffickers use a variety of methods to create a vulnerable condition for the victims so that the victims do not have any other choice but obey the traffickers. One of the common methods used by traffickers is debt-bondage in which the traffickers tell their victims that they owe money relating to their travel and living expenses and that they will not be released until the debt has been repaid. Traffickers also use other methods including starvation, imprisonment, physical abuse (beatings and rape), verbal abuse, removal of victims identification documents (e.g. passport), threats of violence to the victims and the victims' families, and forced drug use. Especially in the case of cross-border trafficking, victims often do not speak the local language or do not have any social network to assist them so that they are depending on members of their own ethnic group receiving them in the destination country. Furthermore, victims' illegal status makes it difficult for them to seek help from law enforcement, the healthcare system and/or other public services

UNODC (This table was shown in the PowerPoint presentation given at the Global Report on Trafficking in Persons launch event at Foreign Correspondents' Club of Thailand on February 13, 2009. [http://www.unodc.un.or.th/2009/02/ht-report/PPT%20TIP%205%20GB%20g1%20\(13%20Feb%2009\).pdf](http://www.unodc.un.or.th/2009/02/ht-report/PPT%20TIP%205%20GB%20g1%20(13%20Feb%2009).pdf))

THE SCOPE OF HUMAN TRAFFICKING

Number of Trafficking Victims

It is impossible to calculate the actual number of trafficking victims. Differences in definition and methodology, together with a general lack of reliable data, result in an immense variation in global estimates of the number of trafficked victims. The United States Government Accountability Office (GAO) reports that there is a considerable discrepancy between the numbers of estimated victims of human trafficking across various agencies (see Table 3) because each organization uses its own methodology to collect data¹² and analyzes the problem based on its own mandate.

The global estimates given by the US government are focused on transnational human trafficking, thus do not include the number of victims who are internally trafficked. The ILO estimates at least 2.45 million people were trafficked both internationally and internally during 1995 to 2004. UNODC monitors national and regional patterns of human trafficking but does not provide a global estimate of the number of victims. The International Organization for Migration (IOM) only records the number of trafficking victims whom they have actually assisted so that it is hard to derive a global estimate from the figure.

❖ See UNODC (2009), Global Report ON Trafficking in Persons.

❖ See ILO (2009), The Cost of Coercion, p.13-14.

Victim Profiles in US Government, ILO, UNODC and IOM databases

	US Government	ILO	UNODC	IOM
Main Focus	Global estimate of victims	Global estimate of victims	Country and regional patterns of international trafficking	Actual victims assisted by IOM in 26 countries
Number of Victims	Some 600,000-800,000 people trafficked across borders in 2003 (est.)	At least 2.45 million people trafficked internationally and internally during 1995 to 2004 (est.)	Not Available	7,711 victims assisted from 1999 to 2005
Type of Exploitation (%) 1. Commercial sex 2. Economic or forced labor 3. Mixed and other	66% 34% N/A	43% 32% 25%	87% 28% N/A	81% 14% 5%
Gender and Age of Victims (%)	80% female 50% minors	80% female 40% minors	77% female 9% male 33% children	83% female 15% male 2% not identified 13% minors
Definition of Trafficking Used	Trafficking Victims Protection Act 2000	U.N. Protocol (Palermo Protocol)	U.N. Protocol (Palermo Protocol)	U.N. Protocol (Palermo Protocol)
Criteria for Data Collection	Transnational trafficking	Internal and transnational trafficking	Transnational trafficking	Internal and transnational trafficking

Profits and Costs of Human Trafficking

Human trafficking is a high-profit and relatively low-risk business with ample supply and growing demand.¹⁵ Even where human trafficking is criminalized, most of the investigations do not result in convictions of traffickers. Economic exploitation is probably the biggest motivation behind the most cases of human trafficking; nonetheless there is not enough attention given to human trafficking from an economic perspective. The ILO's Global Report, A Global Alliance Against Forced Labor (2005), estimated the global annual profits generated by human trafficking to be around US\$31.6 billion. This figure represents an average of approximately US\$13,000 per year or US\$1,100 per month per trafficking victim. Half of this profit is made in industrialized countries (US\$15.5 billion). The Asia and the Pacific region generates the highest profits (US\$9.7 billion), which represent one-third of the global profits, followed by transition countries (US\$3.4 billion), Middle East and North Africa (US\$1.5 billion).

Annual Profits from All Trafficked Forced Laborers

	Profits per Forced Laborer in Commercial Sexual Exploitation (US\$)	Profits per Forced Laborer in Other Economic Exploitation (US\$)	Total Profits (US\$ million)
Industrialized Economies	67,200	30,154	15,513
Transition Economies	23,500	2,353	3,422
Asia and the Pacific	10,000	412	9,704
Latin America & Caribbean	18,200	3,570	1,348
Sub-Saharan Africa	10,000	360	159
Middle East & North Africa	45,000	2,340	1,508
GLOBAL PROFITS	-	-	31,654

❖ ILO (2005) (See the regional breakdown according ILO's Key Indicator of the Labour Market, in the following document:http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_081913.pdf)

In the most recent **Global Report, The Cost of Coercion (2009)**, the ILO estimated that the total financial cost of coercion experienced by forced labor workers, including trafficked victims, would be over US\$20 billion. However, this figure does not include the victims of forced commercial sexual exploitation. The total cost of coercion includes the “opportunity cost” of being in forced labor and human trafficking, in the form of lost income due to unpaid wages, plus recruiting fees paid by victims. Underpayment of wages includes excessive overtime and other work that is either unpaid or inadequately remunerated. Recruitment fees particularly applied to trafficking victims include the fees paid to agents, inflated travel costs, and other charges incurred.

Estimate of the Total Cost of Coercion (in US\$)

	# of Victims in Forced Labor	# of Victims Trafficked	Total Under- payment Wages	Total Recruiting Fees	Total cost of coercion
Industrialized Economies	113,000	74,133	2,508,368,218 4	400,270,777	2,908,638,995
Transition Economies	61,500	59,096	648,682,323	42,675,823	691,358,145
Asia & the Pacific	6,181,000	408,969	8,897,581,909	142,855,489	9,040,437,398
Latin America & Caribbean	995,500	217,470	3,390,199,770	212,396,124	3,602,595,894
Sub-Saharan Africa	537,500	112,444	1,494,276,640	16,994,438	1,511,271,079
Middle East & North Africa	229,000	203,029	2,658,911,483	551,719,286	3,210,630,769
TOTAL	8,117,500	1,075,141	19,598,020,343	1,366,911,936	20,964,932,279

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- ❖ ILO(20090, The Cost of Coercion, p.13-14
 - ❖ See the regional breakdown according ILO’s Key Indicator of the Labor Market, p.38-40
 - ❖ http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_081913.pdf

CHAPTER-III

REASONS FOR HUMAN TRAFFICKING

Human trafficking happens in every country in the world, in many different forms; however, the causes behind human trafficking are essentially the same for labor trafficking, sex trafficking, child trafficking, and all other types of modern day slavery. Although different countries face different causes, the root causes remain similar throughout the world. What are the causes of human trafficking? When we know where the root of the issue is, we can start to address trafficking at a deeper level and promote sustainable change. Here are the 10 causes of human trafficking around the world.

Poverty

Poverty is one of the largest contributors to human trafficking. It can drive people to become traffickers; it can drive parents to sell children or other family members into slavery. People in poverty are targeted by traffickers, who offer them a way to earn money when, in fact, they will actually earn nothing and be treated as a slave. Poverty also plays a large piece in many of the other root causes of trafficking, driving people to migrate, making education and legitimate work difficult to obtain, making recovery and safety from war and disaster impossible, and more.

Lack of education

A lack of education can lead to decreased opportunities for work at a living wage, and it can also lead to a decreased knowledge in rights. Both outcomes can cause people to be at a greater vulnerability for human trafficking. In prevention of trafficking, education can also empower children to make changes in their community as they grow older that will prevent situations and vulnerabilities of which traffickers take advantage.

Demand for cheap labor/demand for sex

Basic economics tell us that for a market to form, supply and demand need to exist. The demands for cheap labor and for commercialized sex lead to opportunities for traffickers to exploit people. Traffickers can make a large profit by producing goods and services through cheap or free labor and selling the products or services at a higher price. Commercialized sex is a lucrative market

that allows traffickers and pimps to become the only profiteer from their victims through an endless cycle of buyers and high prices.

Lack of human rights for vulnerable groups

In many countries, groups that are marginalized in society lack institutionalized human rights, which can lead to them be potential victims of trafficking. Traffickers can prey on these marginalized groups because they lack protection of the law enforcement, their families, and even the society they live in. Also, when countries lack fundamental laws regarding human rights, traffickers feel as though they can get away with what they are doing more easily. A lack of human rights laws can also end in punishment for victims, if the laws and government don't recognize that human trafficking is exploitation of other people.

Lack of legitimate economic opportunities

When people lack legitimate economic opportunities that can also lead to increased vulnerability to human trafficking. Groups that are especially vulnerable in this area are migrants without work permits, those who lack education, those who live in rural areas where there are less jobs available, as well as women and certain ethnic groups who may not be able to get jobs due to discrimination. Traffickers offer seemingly legitimate jobs to people who cannot get them otherwise, only to lure them into forced labor, sex trafficking, bonded labor, and more.

Social factors and cultural practices

In many countries, cultural practices and social factors are a major cause of human trafficking. In some places, bonded labor is seen as an acceptable way to pay off debt. In other places, selling children to traffickers is the norm, especially for poorer families in rural areas. Some countries, such as Mauritania, still practice antiquated slavery, where families are held for generations by slave-masters. There are also instances, like in Uzbekistan, where forced labor is institutionalized. During the cotton harvest, all adults and children are expected to work in the cotton fields until the crops are harvested. Cultural and social factors can also lead victims not to speak up about being trafficked or who their traffickers are, especially if they come from groups who lack human rights protections.

Conflict and natural disaster

Conflict and natural disaster can lead to economic instability and lack of human rights, giving traffickers an advantage and making people more vulnerable to human trafficking situations. In conflict zones and wars, some rebel or military groups will use child soldiers and keep sex slaves. Additionally, both conflict and natural disaster can lead people to migrate out of their hometowns and home countries, making them more vulnerable to traffickers, especially if they are looking for work or paying smugglers to get where they want to go. And with increased economic instability, traffickers have opportunities to offer false job offers to people, leading them into trafficking situations.

Trafficking generates a large profit

One major cause of human trafficking is the large profit that traffickers gain. This is an incentive for them to continue trafficking people in both forced labor and sex trafficking. For traffickers using forced laborers and bonded laborers, they get cheap labor and can sell their product or service at a much higher cost. For those using sex trafficking, they can easily take all of the profit, forcing women to make a certain amount each night, and keeping them in the situation through drugs, violent force, threats, and more.

Lack of safe migration options

For those looking to migrate out of their home countries due to safety concerns or economic opportunities, they are especially vulnerable to traffickers. Traffickers can use illegal smuggling as a way to trick people into forced labor or sex trafficking. And for migrants looking for jobs in other countries, traffickers typically offer them job opportunities that seem legitimate, only to force them into a trafficking situation. For instance, when Russia was preparing for the Sochi Olympics, several men from Serbia, Armenia, Azerbaijan, and other nearby countries were promised construction jobs, only to be paid very little and be treated poorly. And many women from countries like Nigeria, Ukraine, and other Eastern European and African countries are offered nannying or restaurant jobs in Western Europe, only to be trapped in sex trafficking.

Traffickers

Above many other factors that cause human trafficking are the traffickers themselves. Beyond cultural practices, the profit, vulnerabilities of certain people groups, lack of human rights, economic instability, and more, traffickers are the ones who choose to exploit people for their own gain. While many of these factors may play into the reasons why traffickers get into the business, they still make a willful decision to enslave people against their will—either because of the profit or because of a belief that certain people are worth less or because of a system of abuse and crime that they were raised in. Trafficking ultimately exists because people are willing to exploit others into trafficking situations.

Through understanding the root causes of human trafficking, human rights workers and other development professionals can begin to address the causes at the base level. Enforcing human rights, helping people access education, and helping to increase economic opportunities for people are just a few ways that we can address causes and help prevent human trafficking for future generations.

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- ❖ Domestic Minor Sex Trafficking: Hearings on H.R. 5575, Before the Subcommittee on Crime, Terrorism, and Homeland Security, 111th Cong. 145 (2010) (statement of Ernie Allen, president and CEO, National Center for Missing & Exploited Children).
 - ❖ Shared Hope International, Demand: A Comparative Examination of Sex Tourism and Trafficking in Jamaica, Japan, the Netherlands, and the United States, n.d., 5.
 - ❖ Kim-Kwang Raymond Choo, "Online child grooming: A literature review on the misuse of social networking sites for grooming children for sexual offences" , Australian Institute of Criminology Research and Public Policy Series 103, 2009, ii–xiv

CHAPTER-IV

TYPES OF TRAFFICKING

There are number of types for human trafficking in the present time, these are given below-

Trafficking of children

Trafficking of children involves the recruitment, transportation, transfer, harboring, or receipt of children for the purpose of exploitation. Commercial sexual exploitation of children can take many forms, including forcing a child into prostitution or other forms of sexual activity or child pornography. The adoption process, legal and illegal, when abused can sometimes result in cases of trafficking of babies and pregnant women around the world. In David M. Smolin's 2005 papers on child trafficking and adoption scandals between India and the United States, he presents the systemic vulnerabilities in the inter-country adoption system that makes adoption scandals predictable. The United Nations Convention on the Rights of the Child at Article 34, states, "States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse".

Sex trafficking

The International Labor Organization claims that forced labor in the sex ... Warning of Prostitution and Human trafficking in South Korea for G.I. by United States Forces Korea. industry affects 4.5 million people worldwide. Most victims find themselves in coercive or abusive situations from which escape is both difficult and dangerous.

Trafficking Victims Protection Act of 2000 (US), does not require movement for the offence. The issue becomes contentious when the element of coercion is removed from the definition to incorporate facilitation of consensual involvement in prostitution. Trafficked women and children are often promised work in the domestic or service industry, but instead are sometimes taken to brothels where they are required to undertake sex work, while their passports and other identification papers are confiscated. They may be beaten or locked up and promised their freedom only after earning – through prostitution – their purchase price, as well as their travel and visa costs.

❖ Williams, Rachel (3 July 2008). "Britishborn teenagers being trafficked for sexual exploitation within UK, police say" . The 8102998382. London. Retrieved 4 May 2010.

Forced marriage

A forced marriage is a marriage where one or both participants are married without their freely given consent. Servile marriage is defined as a marriage involving a person being sold, transferred or inherited into that marriage. According to ECPAT, "Child trafficking for forced marriage is simply another manifestation of trafficking and is not restricted to particular nationalities or countries".

Labor trafficking

Labor trafficking is the movement of persons for the purpose of forced labor and services. It may involve bonded labor, involuntary servitude, domestic servitude, and child labor. Labor trafficking happens most often within the domain of domestic work, agriculture, construction, manufacturing and entertainment; and migrant workers and indigenous people are especially at risk of becoming victims. People smuggling operations are also known to traffic people for the exploitation of their labor, for example, as transporters.

Common Sector and Forms of Trafficking for Forced Labor

- Agriculture
- Mining
- Logging
- Construction
- Fishery
- Sweatshop factory (e.g. garments, packaging, food processing)
- Domestic Servitude
- Begging
- Drug dealing
- Janitorial
- Food services
- Other service industry, etc.

❖ Mother sold girl for sex , 7 May 2010, The Age. 80. <http://asiafoundation.org/resources/pdfs/KidneyTraffickinginNepal.pdf>

Trafficking for organ trade

Trafficking in organs is a form of human trafficking. It can take different forms. In some cases, the victim is compelled into giving up an organ. In other cases, the victim agrees to sell an organ in exchange of money/goods, but is not paid (or paid less). Finally, the victim may have the organ removed without the victim's knowledge. Trafficking of organs is an organized crime, involving several offenders:

- the recruiter
- the transporter
- the medical staff
- the middlemen/contractors
- the buyers

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- ❖ "The Facts About Children Trafficked For Use As Camel Jockeys" . state.gov.
 - ❖ "Agents in the UEFA spotlight" . Archived from the original on 30 April 2009. Retrieved 5 February 2007., UEFA, 29 September 2006. (archived from the original on 30 April 2009)
 - ❖ "LatAm – Brazil – Child Prostitution Crisis" . Libertadlatina.org. Archived from the original on 3 June 2016. Retrieved 22 March 2011.
 - ❖ "Transaction Costs: Prosecuting child trafficking for illegal adoption in Russia" . Anti-Trafficking Review (6). 30 May 2016. doi:10.14197/atr.20121663

CHAPTER-V

REGIONAL TRENDS OF HUMAN TRAFFICKING

Information provided in this section is taken from both the UNODC Global Report on Trafficking in Persons and the US Department of State TIP Report 2009. Based on data gathered from 155 countries in 2007 and 2008, the UNODC Global Report offers a global assessment of the scope of human trafficking and provides an overview of trafficking patterns in different regions. The US Department of State TIP Report covers updated information on global trafficking trends during the period of April 2008 through March 2009 and provides an assessment of each government's actions to combat trafficking in persons.

Middle East and North Africa

According to UNODC, there is not enough data available in this region to indicate a clear trend or pattern of human trafficking in Middle East and North Africa. Israel, Qatar and the United Arab Emirates are categorized as destination countries for victims who were trafficked from the Eastern Europe and Central Asia region. Victims of human trafficking in the Middle East are also from South and East Asia as well as Africa. The US TIP Report indicates that many of the victims in this region migrated voluntarily and found themselves in involuntarily servitude or in debt bondage, and women and children are also trafficked by the family members to escape desperate economic circumstances. Most of the victims identified by the state authorities in Middle East and North Africa are women and children. The most common form of human trafficking in this region is sexual exploitation and domestic servitude. Children are exploited in prostitution (including child sex tourism), forced marriage, domestic servitude, and street begging and vending.

Sub-Saharan Africa

UNODC finds that there is significant intraregional trafficking in West, Central and South Africa. Victims of the West and Central Africa region are trafficked to other neighboring countries such as Benin, Cote d'Ivoire, Gabon, Ghana, Nigeria, Liberia and Togo but also internally trafficked within the border. In Southern Africa, the victims identified by the state authorities are from Mozambique, Malawi, the Democratic Republic of the Congo (DRC), Zambia and Zimbabwe as well as from East, South-East and South Asia. Most of the trafficking victims reported are children in West and Central Africa and adult women and children in Southern Africa. In West and Central

Africa, children are trafficked for forced labor, such as slavery, domestic servitude, street begging and as camel jockeys. In Southern Africa, human trafficking forms include sexual exploitation, forced labor, slavery and domestic servitude. According to the TIP report, women, girls and boys are trafficked for sexual exploitation in many countries, and child sex tourism exists in the Gambia, Ghana, Kenya, Madagascar, Senegal and South Africa. Men and boys are often trafficked into the manual labor sectors, including agriculture, mines and quarries, and fisheries. The recruitment of children as soldiers has been reported in Burundi, the Central African Republic, Chad, the DRC, and Sudan.

Europe and Central Asia

Intra-regional trafficking is the major pattern reported for human trafficking in Europe and Central Asia. UNODC found that almost all of the countries in this region are both origin and destination countries for intra-regional trafficking, except Tajikistan and Turkmenistan which are exclusively countries of origin for trafficking victims. The Eastern Europe and Central Asia region is not a major trans-regional destination, however, victims originating from this region are identified in Western and Central Europe as well as neighboring Asian countries.

The majority of trafficking victims in Europe and Central Asia are adult women, and sexual exploitation is the most common form of human trafficking in this region. However, trafficking for forced labor accounts for over one third of the total number of victims identified by state authorities in Western and Central Europe as well as in Central Asia. Women and men are also exploited in domestic servitude and forced labor in agriculture, construction, fishery, manufacturing, and textile industries. Children are trafficked for the purposes of sexual exploitation, forced marriage and forced begging.

South Asia

UNODC's global report indicates that intraregional trafficking affects Nepal and Bangladesh as origins of trafficking victims and India as a destination country. The United States Department of State reports that Bangladeshi men and women willingly migrate to Middle Eastern and South Asian countries for work through recruiting agencies, and the recruitment fees contribute to the placement of workers in debt bondage or forced labor once overseas. Bangladesh and India also experience domestic trafficking.

Victims of trafficking in South Asian are mainly adult women and children of both sexes. Trafficking for sexual exploitation is again the most common form of trafficking reported, yet trafficking for domestic servitude and forced labor are equally prominent in the region. A significant number of forced labor cases in brick kilns, rice mills, agriculture, and embroidery factories are reported in India. Children are often trafficked for the purposes of sexual exploitation, forced marriage, forced begging, and forced labor in brick kilns, carpet-making factories, and domestic service. According to the US TIP Report, Afghan boys are promised enrollment in Islamic schools in Pakistan, but instead are trafficked to paramilitary training camps by extremist groups. In Nepal and Pakistan, one of the major forms of human trafficking is bonded labor.

East Asia and the Pacific

UNODC reports that East Asian countries exhibit the most complex human trafficking flows as this region has the widest range of trans-regional trafficking between countries of origin and the destination of victims. For example, Thai victims are found in Southern Africa, Europe and the Middle East while Chinese victims are identified in Europe, the Middle East, the Americas and Africa. Intra-regional trafficking is also a major issue as victims from the East Asian countries are largely trafficked to Australia, Japan and Malaysia. Many countries within the East Asia region are countries of origin for trafficking victims. Women and girls are the primary victims of trafficking in this region, particularly for the purpose of sexual exploitation and forced marriage. Men are also victims of trafficking. They willingly migrate for work in the region and are subsequently subjected to conditions of forced labor in the agriculture, construction, finishing, manufacturing, plantation, and service (hotels, restaurants, and bars) sectors. Children in this region are often trafficked for the purpose of sexual exploitation, domestic servitude, and forced begging.

Latin America and Caribbean

In Latin America and Caribbean, intra-regional, trans-regional and domestic trafficking patterns are reported. At the regional level, Bolivia, the Dominican Republic, Ecuador, Nicaragua and Paraguay appear to be the countries of origin for trafficking victims while Chile, Guatemala, and the East Caribbean countries are mainly destination countries. Regarding trans-regional trafficking, Latin American and Caribbean victims are often found in Europe and North America and, to a lesser extent, in East Asia and the Middle East. Domestic trafficking is also reported.

Victims of human trafficking in Latin America and the Caribbean are predominantly girls and adult women who are trafficked for the purpose of sexual exploitation and domestic servitude. Both adult men and boys are less frequently reported as trafficking victims; however an increasing number men and boy trafficking victims have been reported. Women, men and children in this region are also trafficked for forced begging and forced labor in agriculture, factories, logging, mining, and sweatshops. Child sex tourism is identified as a problem in Brazil, Colombia, Costa Rica, the Dominican Republic, Guatemala, Honduras, Jamaica, Mexico, and Nicaragua. The US Department of State reports that in Caribbean countries, poor families often push their young daughters to provide sexual favors to wealthy older men in exchange for school fees, money, and gifts. In Colombia, children are also forcibly recruited as combatants by guerillas and paramilitary groups.

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- ❖ See UNODC (2009), Global Report on Trafficking in Persons.
 - ❖ See the United States Department of State (2009), p.13.
 - ❖ This can be explained by the legislative provisions in many countries, which only cover child trafficking.
 - ❖ During 2003-2007, most countries in East Asia and the Pacific only had legislation criminalizing trafficking for sexual exploitation or trafficking in women so that trafficking in men and boys might have been largely under-reported.

CHAPTER-VI

CONSEQUENCES OF HUMAN TRAFFICKING

The victims in the process of trafficking in persons are abused and exploited in certain conditions which may result in short term and long term minor and severe psychological and physical attacks, diseases especially sexually transmitted diseases or HIV viruses. This condition can even lead to the permanent disability and death.

The direct consequences of human trafficking are aggression, depression, disorientation, alienation and difficulties in concentration. Many studies have shown that injuries and traumas acquired during the process of trafficking can last for a long period even after the person has become free from exploitation and this mainly occurs when the victim is not given with proper care and counsel. Even the rehabilitation process for the victims cannot be guaranteed for a certain result.

Although the victims are brought out from the physical problems, the trauma and the psychological problems does not allow the victim to totally recover from the consequences. Some of the victims find it difficult to adapt to the normal lives that they previously carried out. The sad part about the victims of human trafficking is that the rights of the victims are violated even after they come out from the status of exploitation. consequences of human trafficking may be explained in these terms,

Psychological impact

The use of coercion by perpetrators and traffickers involves the use of extreme control. Perpetrators expose the victim to high amounts of psychological stress induced by threats, fear, and physical and emotional violence. Manipulation creates an environment where the victim becomes completely dependent upon the authority of the trafficker.

Traffickers take advantage of family dysfunction, homelessness, and history of childhood abuse to psychologically manipulate women and children into the trafficking industry. One form of psychological coercion particularly common in cases of sex trafficking and forced prostitution is Stockholm syndrome. Stockholm syndrome is a psychological response where the victim becomes attached to his or her perpetrator. Victims are often cut off from all forms of social connection, as

isolation allows the perpetrator to destroy the victim's sense of self and increase his or her dependence on the perpetrator.

Long-term impact

Human trafficking victims may experience complex trauma as a result of repeated cases of intimate relationship trauma over long periods of time including, but not limited to, sexual abuse, domestic violence, forced prostitution, or gang rape. Complex trauma involves multifaceted conditions of depression, anxiety, self hatred, dissociation, substance abuse, self-destructive behaviors, medical and somatic concerns, despair, and revictimization. Psychology researchers report that, although similar to posttraumatic stress disorder (PTSD), Complex trauma is more expansive in diagnosis because of the effects of prolonged trauma.

Victims may develop STDs and HIV/AIDS. Perpetrators frequently use substance abuse as a means to control their victims, which leads to compromised health, self destructive behavior, and long-term physical harm. Furthermore, victims have reported treatment similar to torture, where their bodies are broken and beaten into submission. Children are especially vulnerable to these developmental and psychological consequences of trafficking due to their age. In order to gain complete control of the child, traffickers often destroy physical and mental health of the children through persistent physical and emotional abuse.

Sex trafficking increases the risk of contracting HIV/AIDS. The HIV/AIDS pandemic can be both a cause and a consequence of sex trafficking. On one hand, child-prostitutes are sought by customers because they are perceived as being less likely to be HIV positive, and this demand leads to child sex trafficking. On the other hand, trafficking leads to the proliferation of HIV, because victims cannot protect themselves properly and get infected.

Economic impact

As of 2018, profits from human trafficking were about around US\$150 billion each year ranking it along with drug trafficking as one of the most profitable transnational crimes. The following is the breakdown of profits by sector: \$99 billion from commercial sexual exploitation; \$34 billion in construction, manufacturing, mining and utilities; \$9 billion in agriculture, including forestry and fishing; \$8 billion is saved annually by private households that employ domestic workers under

conditions of forced labor. Although only 19% of victims are trafficked for sexual exploitation, it makes up 66% of the global earnings of human trafficking.

The traffickers expect to generate huge profit from the business yet face minimal punishment or legal consequence. Human trafficking is one of the most profitable illegal industries that is second to the drug trade. While drugs are consumables, human beings can be sold repeatedly from one employer to another. The costs are low, and the profits are extremely high.

According to the United Nations, human trafficking can be closely integrated into legal businesses, including the tourism industry, agriculture, hotel and airline operations, and leisure and entertainment businesses. Related crimes associated with human trafficking reportedly include the following: fraud, extortion, racketeering, money laundering, bribery, drug trafficking, arms trafficking, car theft, migrant smuggling, kidnapping, document forgery, and gambling.

All indications lead to the fact that profits generated by related organized crime are significant and global. As a major component of organized crime, with significant financial influence, human trafficking has a complex and interlocking negative impact across human, social, political and economic spheres.

❖ Wikipedia.

❖ CHAPTER-VII

INTERNATIONAL CONVENTIONS TO PREVENT HUMAN TRAFFICKING

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

Human trafficking and International Law

Article 4 of the Universal Declaration of Human Rights

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

International Covenant on Civil and Political Rights

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

International Covenant on Economic, Social, and Cultural Rights

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

ILO Convention concerning forced Labor

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

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

The Convention specifically declares that the main reason behind the commercial sexual exploitation of women and children is their dependency and it is against their dignity and fundamental rights.

The Convention provides a number of activities aiming at preventing commercial sexual exploitation and at restriction on pornography through criminalization and punishment of all forms of acquirement. Member States commit themselves to eliminating all forms of discriminations that ostracize victims of commercial sexual exploitation. Member States should cooperate in the identification of international networks of procurers and, if they are members of the International Criminal Police Organization in order to cooperate with that Organization then suppression of the human trafficking should be their one of priorities.

International Convention for Suppression of White Slave Traffic, 1910.

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

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

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

United Nations Convention against Transnational Organized Crime

The United Nations Convention against Transnational Organized Crime (UNTOC) was adopted by the Assembly resolution of 15 November 2000, is the first International instrument against transnational organized crime.

A high level conference was convened in Palermo, Italy on 12-15 December 2000 for signature of the Member states and entered into force on 29 September 2003. Three protocols were

further supplemented which target specific areas and manifestations of organized crime. One among them is the protocol to prevent, suppress and punish trafficking in persons, especially women and children.

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

The convention represents a major step in the fight against transnational organized crime and emphasizes the seriousness of the problem posed by it to be recognized by the Member States. It also signifies the need to nurture and enhance close international cooperation for the purpose to tackle the problems posed by it.

The States who have ratified the convention commit themselves to take action against these crimes. Their action includes creating domestic criminal offences, the adoption of new frameworks for extradition, mutual legal assistance and law enforcement, for building or upgrading the necessary capacity of national authorities.

The protocol to prevent, suppress and punish Trafficking in persons, especially women and children is the first globally legally binding instrument with an agreed definition of trafficking in persons. The intention of this definition is to facilitate National approaches for the purpose of establishment of domestic criminal offences. This would help to support for international cooperation in investigating and prosecuting trafficking in person cases. One more additional objective of the Protocol is to protect and assist the victims of trafficking in persons with full respect for their human rights.

LEGAL FRAMEWORKS TO COUNTER HUMAN TRAFFICKING IN INDIA

Indian Penal Code 1860: Interestingly the Indian Penal Code which came into existence in 1860 addresses the problem of human trafficking in human beings. It is addressed in Section 370 and 370 A of the Indian Penal Code. It prohibited trafficking of women and girls and prescribed ruthless punishments for the criminals.

It lays down that anyone who buys or sells the person under the age of 18 years for the purpose of prostitution and for sexual exploitation and for other immoral purposes shall be liable to imprisonment for up to 10 years and also be liable to fine. It also recognizes cross border trafficking into prostitution and whoever imports into India from any country outside India any girl under the age of twenty one years with the intent that she may be, or knowing it to be likely that she will be, forced or seduced to illicit intercourse with another person shall be punishable with imprisonment which may extend to ten years and shall also be liable to fine .

Constitution of India, 1949

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

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

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

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

Many victims of trafficking belong to marginalized groups. Traffickers target only such area which is backward in social and literacy sense. This gives an additional tool to safeguard women and young girls belonging to scheduled Caste and scheduled Tribes and also to create a greater burden on the trafficker or offender to prove his lack of connivance in the matter.

If the offender has the knowledge that victim belongs to these communities then this act can be effectively used to counter the offence of trafficking. Section 3 of this act deals with atrocities committed against people belonging to Scheduled Caste and Scheduled Tribes. It covers some forms of trafficking such

as forced or bonded labors and sexual exploitation of women. A minimum punishment of ix months is provided which may extend to five years if the offence is covered under section 3.

Immoral Traffic Prevention Act 1986

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

As a consequence of this ratification of the convention the Government of India passed the Suppression of Immoral Traffic in Women and Girls Act (SITA) in the year 1956. In the year 1986 the act was further amended and changed which was known as the Immoral Traffic Prevention Act, 1986 (PITA). This is an interesting law because according to its preamble the purpose of this Act is to give effect to the Trafficking Convention and to prohibit the immoral human trafficking. This act deals with trafficking and it has its objective as to abolish traffic in women and girls for the purpose of sexual exploitation.

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

CURRENT INTERNATIONAL TREATIES

- Supplementary Convention on the Abolition of Slavery, entered into force in ... 1957
- Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children.
- Protocol against the Smuggling of Migrants by Land, Sea and Air Optional,
- Protocol on the Sale of Children, Child Prostitution and Child Pornography,
- ILO Forced Labor Convention, 1930
- ILO Abolition of Forced Labor Convention, 1957
- ILO Minimum Age Convention, 1973
- ILO Worst Forms of Child Labor Convention, 1999.

CHAPTER-VIII

NATIONAL AND INTERNATIONAL ACTORS

Human trafficking undermines the safety and security of all nations it involves. Responding to human trafficking requires various stakeholders, which include national governments, national government agencies (e.g. law enforcement, immigration, and judiciary departments), health and public services, international organizations (e.g. United Nations agencies, such as UNODC, IOM, and ILO), Non-Governmental Organizations (NGOs) and Civil Society Organizations (CSOs), the media, corporations/businesses, academics, and individuals.

National Actors

- **Governments:** Efforts undertaken by the government to combat human trafficking vary in each country. Some governments acknowledge the problem of human trafficking by ratifying the Palermo Protocol and adapting laws to criminalize human trafficking activities. Governments can develop a national strategy responding to internal, regional and international human trafficking as well as create a system to coordinate the efforts of government agencies and NGOs.
- **Government agencies (law enforcement, judiciary, and immigration offices):** Combating the crime of human trafficking requires collaboration among all of the stakeholders, particularly law enforcement, immigration and judiciary agencies. The primary responders to human trafficking are often law enforcement agencies, which then coordinate with the judiciary office to prosecute traffickers. If the victims of human trafficking are from other countries, they work with the immigration office to provide the temporary visa to stay in the country or repatriate the victims to their own country.
- **Health and public services:** Once human trafficking victims are rescued from traffickers, victims need access to basic services, such as shelter, legal assistance, transportation, medical exams, and psychological counseling.
- **NGOs and CSOs:** NGOs and CSOs have long been active in the anti-human trafficking movement before governments and international community start realizing the severity of this issue. NGOs and CSOs mainly focus on carrying out awareness raising campaigns,

conducting research, helping law enforcement on victim identification, and providing basic services to victims of human trafficking.

- **Media:** The media plays an indispensable role in educating the public about the reality of human trafficking and illuminating the problems via films, theatre, photographs, newspapers, magazine articles and so on. The media is used as one of the most effective ways to inform communities around the world about different aspects of human trafficking.
- **Private Sector:** The private sector can also play a very important role to further prevent human trafficking. Corporations and businesses can create job opportunities for trafficking victims and financially support the other organizations' activities to protect victims. Many businesses have started adapting codes of conduct that would implement measures to prevent labor exploitation and human trafficking.

International Actors

- **UN System and agencies:** Since the Palermo Protocol entered into force in December 2003, 117 countries have signed the Protocol. Led by UNODC, the United Nations Global Initiative to Fight Human Trafficking (UN.GIFT) was created to promote the global efforts to fight against human trafficking and managed in cooperation with ILO, IOM, (UNICEF), the Office of the High Commissioner for Human Rights (OHCHR), the Organization for Security and Cooperation in Europe (OSCE).
- **Multilateral Development Banks:** The Asia Development Bank (ADB) and the InterAmerican Development Bank (IDB) are most active at working on human trafficking issues in their loan and grant projects as well as regional and country-specific technical assistance projects. ADB focuses on preventive measures of human trafficking and monitoring of impacts, especially those related to cross-border road corridors and regional economic integration activities. IDB has established an inter-institutional framework to define a plan of action and support Latin American governments in fighting against human trafficking. Even though other Multilateral Development Banks may work on this issue, project information on human trafficking and its related issues is not available on their websites.
- **INTERPOL:** INTERPOL works with governments to help them strengthen their capacity to fight against global human trafficking. In February 2009, INTERPOL signed an agreement between Nigeria and Italy, coordinating the efforts of both countries and providing tools and

resources to national law enforcements to target organizations behind illegal immigration and human trafficking.

- **Bilateral/multilateral and regional initiatives:** A number of governments are participating in multilateral, regional and sub-regional initiatives (e.g. Colombo Process³⁴) to protect migrant workers from forced labor trafficking.
- **International NGOs:** International organizations, such as Amnesty International, Human Rights Watch, and the Global Alliance against Traffic in Women (GATW) have been leading the global anti-human trafficking movement. NGOs have been successful in bringing public and government attention to this issue.
- **Academic and Research Institutions:** Academic and research institutions around the world conduct useful research on the various aspects of human trafficking and provide recommendations to policymakers and service providers.

International Coordination Initiative - UN.GIFT

The United Nations Global Initiative to Fight Human Trafficking (UN.GIFT) was established in March 2007 by UNODC with a grant made on behalf of the United Arab Emirates. Its strategy includes three goals: 1) building awareness; 2) broadening the knowledge base of data, facts and statistics of global human trafficking; 3) providing technical assistance.

The UN.GIFT Steering Committee coordinates the efforts of its members and their respective networks and alliances. The Steering Committee consists of representatives from the following six founding organizations and the main donor, HRH the Crown Prince of Abu Dhabi:

- **ILO:** ILO focuses on forced labor, child labor and migrant workers of human trafficking http://www.ilo.org/global/Themes/Forced_Labour/lang--en/index.htm
- **IOM:** IOM works on preventing human trafficking, protecting the victims through targeted assistance, and empowering governments and other agencies to combat the crime more effectively. <http://www.iom.int/jahia/Jahia/op/edit/pid/748>
- **OHCHR:** OHCHR's trafficking program integrates human rights into anti-trafficking initiatives at the legal, political and program levels. <http://www2.ohchr.org/english/issues/trafficking/>
- **OSCE:** OSCE works closely with its 56 participating States to ensure coordination among member States and to emphasize the importance of combating all forms of trafficking in human beings - in countries of origin, transit and destination - at the highest political levels. <http://www.osce.org/cthb>
- **UNICEF:** UNICEF works with many partners in all areas - from the grassroots to the highest political levels - to create a protective environment for children from human trafficking and other forms of exploitation. <http://www.unicef.org/protection/index.html>
- **UNODC:** UNODC provides the legal and conceptual framework and focuses on the criminal justice system response to human trafficking, but includes provisions on victim protection and preventive measures. <https://www.unodc.org/unodc/en/human-trafficking/index.htm>

Source: UN.GIFT (<http://www.ungift.org/ungift/index.html>)

OTHER OFFICES WORKING ON TRAFFICKING

- The Office of the High Commissioner for Human Rights has appointed a special report on trafficking in persons several times. As part of the commission's larger mission to monitor human rights abuses and promote compliance with international norms, the report has investigated complaints, conducted country visits, and written annual reports.
- The United Nations Children's Fund (UNICEF) tackles human trafficking by targeting gaps in nations' child protection services, raising awareness in relatively wealthy countries like the United States, and carrying out other child-focused projects. In addition, UNICEF has worked on disarmament, demobilization, and rehabilitation campaigns for child soldiers (considered victims of human trafficking under international law).
- The United Nations Action for Cooperation Against Trafficking in Persons (UNACT) also works on trafficking issues, as its name suggests, though its work is generally limited to the Greater Mekong Sub-region in Asia
- Generally in partnership with other offices and agencies, UN Women has conducted research on human trafficking
- While the United Nations Higher Commissioner for Refugees (UNHCR) does not include a targeted anti-trafficking program, its work on refugee protection intersects with human trafficking as well.
- The United Nations Economic and Social Council (ECOSOC) sponsors forums and conferences on human trafficking.
- Outside the UN, the International Organization for Migration (IOM) addresses trafficking through victim support, capacity building, and research.
- The Organization for Economic Cooperation and Development addresses guiding principles linking human trafficking and corruption.

Approaching human trafficking as a human rights issue, trade issue, and security issue, regional entities have created anti-trafficking initiatives as well. General regional bodies like the Organization of American States, the Association of Southeast Asian Nations, and the African Union have anti-trafficking programs, as does the Organization for Security and Cooperation in Europe.

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- ❖ Multilateral Development Banks refers to the World Bank Groups and four Regional Development Banks that include the African Development Bank, the Asian Development Bank, the European Bank for Reconstruction and Development, and the Inter-American Development Bank Group.
 - ❖ <http://www.interpol.int/Public/ICPO/PressReleases/PR2009/PR200909.asp>

CHAPTER-IX

LANDMARK RULING OF THE COURTS IN INDIA ON COMBATTING

HUMAN TRAFFICKING

CASE LAWS

Forced Labour Defined – Supreme Court

People’s Union for Democratic Rights v. Union of India, (1982) 3 SCC 235

While considering a PIL for the emancipation of Bonded Labour the Supreme Court defined the meaning of Forced Labour vis a vis Article 23 of the Constitution of India. With increase in Labour trafficking across the country the judgement is very relevant in order.

The Supreme Court stated “Now the next question that arises for consideration is whether there is any breach of Article 23 when a person provides labour or service to the State or to any other person and is paid less than the minimum wage for it. It is obvious that ordinarily no one would willingly supply labour or service to another for less than the minimum wage, when he knows that under the law he is entitled to get minimum wage for the labour or service provided by him.

It may therefore be legitimately presumed that when a person provides labour or service to another against receipt of remuneration which is less than the minimum wage, he is acting under the force of some compulsion which drives him to work though he is paid less than what he is entitled under law to receive. What Article 23 prohibits is “forced labour” that is labour or service which a person is forced to provide and “force” which would make such labour or service “forced labour” may arise in several ways. It may be physical force which may compel a person to provide labour or service to another or it may be force exerted through a legal provision such as a provision for imprisonment or fine in case the employee fails to provide labour or service or it may even be compulsion arising from hunger and poverty, want and destitution.

Any factor which deprives a person of a choice of alternatives and compels him to adopt one particular course of action may properly be regarded as “force” and if labour or service is compelled as a result of such “force”, it would be “forced labour”. Where a person is suffering from hunger or starvation, when he has no resources at all to fight disease or to feed his wife and children or even to

hide their nakedness, where utter grinding poverty has broken his back and reduced him to a state of helplessness and despair and where no other employment is available to alleviate the rigour of his poverty, he would have no choice but to accept any work that comes his way, even if the remuneration offered to him is less than the minimum wage.

He would be in no position to bargain with the employer; he would have to accept what is offered to him. And in doing so he would be acting not as a free agent with a choice between alternatives but under the compulsion of economic circumstances and the labour or service provided by him would be clearly “forced labour”. There is no reason why the word “forced” should be read in a narrow and restricted manner so as to be confined only to physical or legal “force” particularly when the national charter, its fundamental document has promised to build a new socialist republic where there will be socio-economic justice for all and everyone shall have the right to work, to education and to adequate means of livelihood. The Constitution-makers have given us one of the most remarkable documents in history for ushering in a new socio-economic order and the Constitution which they have forged for us has a social purpose and an economic mission and therefore every word or phrase in the Constitution must be interpreted in a manner which would advance the socio-economic objective of the Constitution. It is not unoften that in a capitalist society economic circumstances exert much greater pressure on an individual in driving him to a particular course of action than physical compulsion or force of legislative provision.

The word “force” must therefore be construed to include not only physical or legal force but also force arising from the compulsion of economic circumstances which leaves no choice of alternatives to a person in want and compels him to provide labour or service even though the remuneration received for it is less than the minimum wage. Of course, if a person provides labour or service to another against receipt of the minimum wage, it would not be possible to say that the labour or service provided by him is “forced labour” because he gets what he is entitled under law to receive.

No inference can reasonably be drawn in such a case that he is forced to provide labour or service for the simple reason that he would be providing labour or service against receipt of what is lawfully payable to him just like any other person who is not under the force of any compulsion. We are therefore of the view that where a person provides labour or service to another for remuneration which is less than the minimum wage, the labour or service provided by him clearly falls within the

scope and ambit of the words “forced labour” under Article 23. Such a person would be entitled to come to the court for enforcement of his fundamental right under Article 23 by asking the court to direct payment of the minimum wage to him so that the labour or service provided by him ceases to be “forced labour” and the breach of Article 23 is remedied. It is therefore clear that when the petitioners alleged that minimum wage was not paid to the workmen employed by the contractors, the complaint was really in effect and substance a complaint against violation of the fundamental right of the workmen under Article 23. ”

In Laxmi Kant Pandey vs Union of India (1984) 2 SCC 244

The Supreme Court while supporting inter-country adoption stated it is necessary to bear in mind that the primary object of giving the child in adoption being the welfare of the child, great care has to be exercised in permitting the child to be given in adoption to foreign parents, lest the child may be neglected or abandoned by the adoptive parents in the foreign country or the adoptive parents may not be able to provide to the child a life of moral or material security or the child may be subjected to moral or sexual abuse or forced labour or experimentation for medical or other research and may be placed in a worse situation than that in his own country. The court has laid down procedures to check and monitor inter country adoptions so that the children don't end up trafficked.

Rehabilitation of Bonded Labour ordered and Vigilance Committee set up in prone areas

Bandhua Mukti Morcha Vs. Union of India and others AIR 1984 Supreme Court 802

Whenever it is shown that a labourer is made to provide forced labour the Court would raise a presumption that he is required to do so in consideration of an advance or other economic consideration and he is, therefore, a bonded labourer entitled to the benefits under the law.

The State government, the Vigilance Committees and the District Magistrates will take the assistance of non-political social action groups and voluntary agencies for the purpose of ensuring implementation of the provisions of law. The State government should adopt a non-formal and unorthodox approach in implementation of the law which is an important instrument for ensuring human dignity. The Central and State governments will take all necessary steps for the purpose of ensuring that minimum wages are paid directly to the workmen employed in the stone quarries and stone crushers and not through middlemen.

Neerja Chaudhury Vs. State of Madhya Pradesh AIR 1984 Supreme Court 1099

In this case the Supreme Court gave directions on the rehabilitation of Bonded Labours. It stated that rehabilitation must follow in the quick footsteps of identification and release, if not, released bonded labourers would be driven by poverty, helplessness and despair into serfdom once again. Social action groups operating at the grass root level should be fully involved with the task of identification and release of bonded labourers. The district and sub-divisional level Vigilance Committees should be reorganized and activated. Their meetings should be held at more frequent intervals than now.

Officers who are posted at different levels to deal with the problem of bonded labour system should be properly trained and sensitized so that they may develop a sense of involvement with the misery and suffering of the poor. Officers who are socially committed, naturally motivated, inspired by idealism, unpolluted by all kinds of pulls and pressures and are prepared to brave opposition should be encouraged and their efforts commended by way of suitable public recognition.

An intensive survey of the areas which are traditionally prone to debt bondage should be undertaken by the Vigilance Committees with the assistance of social action groups operating in such areas. The pace and progress of schemes under implementation must be evaluated. Such evaluation should be target group oriented.

NHRC made the Nodal Agency for Monitoring the Rehabilitation of Bonded Labours in the Country

Public Union for Civil Liberties v. State of Tamil Nadu & Others **(Writ Petition Civil No. 3922 of 1985)**

The Apex Court directed that the National Human Rights Commission (NHRC) should be involved in monitoring the pace and progress of implementation of the law, national policy and programme of action as also directions of the apex Court issued from time to time. The NHRC is monitoring the bonded labour situation in the country. In order to ensure compliance of the above directions, the Ministry of Labour constituted a Task Force, comprising officers of the Central Government and the Government of Haryana who are responsible for enforcement of various labour laws. The Task Force is required to undertake periodic visits and inspections of the stone quarries and crushers to ascertain facts about working and living condition of the workers. The task force is carrying out its assignment by meeting regularly and submitting reports to the Central as well as the State

Government indicating therein status of compliance on the part of the concerned authorities with the statutory provisions and the directions of the Supreme Court.

M C MEHTA VS STATE OF TAMIL NADU 1996 6 (SCC) 756

In this Public Interest Litigation the Supreme Court laid down various measures which needs to be taken in order provide support to the child labour and his family. The Court said from each offending persons employing child labour their premises needs to be sealed and they be asked to provide fine of Rs 20,000 which will be used for the Rehabilitation of the Child victim. The Court also asked for a national level survey on Child labour. The Supreme Court stated that “ We are of the view that the offending employer must be asked to pay compensation for every child employed in contravention of the provisions of the Act a sum of Rs 20,000; and the Inspectors, whose appointment is visualised by Section 17 to secure compliance with the provisions of the Act, should do this job. The Inspectors appointed under Section 17 would see that for each child employed in violation of the provisions of the Act, the employer concerned pays Rs 20,000 which sum could be deposited in a fund to be known as Child Labour Rehabilitation-cum-Welfare Fund. The liability of the employer would not cease even if he would desire to disengage the child presently employed. It would perhaps be appropriate to have such a fund districtwise or areawise. The fund so generated shall form corpus whose income shall be used only for the child concerned. The quantum could be the income earned on the corpus deposited qua the child. To generate greater income, fund can be deposited in high-yielding scheme of any nationalised bank or other public body.”

Madhu Kishwar v. State of Bihar (1996) 5 SCC 125]

In this case the Supreme Court considered the provisions of the Convention on the Elimination of All Forms of Discrimination Against Women, 1979 (CEDAW) and held the same to be an integral scheme of the Fundamental Rights and the Directive Principles. Article 2(e) of CEDAW enjoins the State Parties to breathe life into the dry bones of the Constitution, International Conventions and the Protection of Human Rights Act, to prevent gender-based discrimination and to effectuate right to life including empowerment of economic, social and cultural rights. Article 2(f) read with Articles 3, 14 and 15 of the CEDAW embodies concomitant right to development as an integral scheme of the Indian Constitution and the Human Rights Act. Section 12 of the Protection of Human Rights Act

charges the National Commission with duty to ensure proper implementation as well as prevention of violation of human rights and fundamental freedoms.

Gaurav Jain v. Union of India, (1997) 8 SCC

While clearly stating the violation of Right to Life of trafficked victims the Supreme Court ordered the Union Government to form a Committee to frame the National Plan of Action and to implement it in mission mode.

The Supreme Court ordered to constitute a Committee to make an in-depth study into these problems and evolve such suitable schemes for Rehabilitation of trafficked women and children. A permanent Committee of Secretaries was formed to review the progress of the implementation on annual basis, and to take such other steps as may be expedient in the effective implementation of the schemes. The court taking a proactive view believed and hoped that the directions would relieve the human problem by rehabilitation of the unfortunate fallen women caught in the trap of prostitution; their children would be brought into the mainstream of the social order; these directions would enable them to avail of the equality of opportunity and of status, with dignity of person which are the arch of the Constitution.

Court Lays down process for care and Protection of Trafficked Children . Rules that Advocates cannot appear before the Child Welfare Committee to take custody of trafficked child.

Munni vs State of Maharashtra – Criminal Writ Petition No. 227/2011(Bombay High Court)

The menace of sexual abuse by immoral trafficking of children to force them somehow to enter in the business of prostitution is age-old phenomenon and needs to be tackled by Central as well as State Government with utmost care and precaution. Poverty, illiteracy or helplessness of parents may make the minor girl vulnerable to sexual abuse/exploitation. Protecting children against any perceived or real danger/risk to their life, their person-hood and childhood is necessary. It is about

reducing their vulnerability to any kind of harm or harmful situations. It is also about protecting children against social, psychological and emotional insecurity and distress. It must ensure that no child falls out of the social security and safety net and those who do, receive necessary care and protection to be brought back into the safety net by child-friendly measures.

Child Welfare Committee, constituted under the Act, can do commendable service to fight against child abuse and to protect children from child abuse of various forms. The decision as to protective custody of the child in need of care and protection with a view to rehabilitate the rescued minor child can be left best to be considered by the competent quasi-judicial authority like Child Welfare Committee created under the said Act as it can pass appropriate orders to protect the dignity of the child as well as it's best interest. Welfare of the child is paramount factor. Section 29 of the Act provides constituting five members District (Administrative unit in India) level quasi-judicial bodies" Child Welfare Committee". in which one of the members is designated as Chairperson and at least one of the members shall be woman. The Committee shall have the final authority to dispose of cases for the care, protection, treatment, development and rehabilitation of the 'Children in Need of Care and Protection' as well as to provide for their basic needs and protection of human rights. Child welfare Committees have the final say to dispose of the cases for the care, protection, treatment, development and rehabilitation of the children as well as to provide for their basic needs, protection and restoration to their family.

Geeta Kancha Tamang vs State of Maharashtra Criminal Appeal No. 858 of 2009

While denying the release of a women trafficker, on mercy grounds, who had served 14 months imprisonment the 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. It is, therefore, the Fundamental Right of every Indian citizen not to be trafficked. Such act constitutes the grossest violence of the Human Rights of the victim child. "The offence is prone to repetition since the Applicant is shown to be a brothel owner and accordingly carries on the business of running a brothel, in which, inter alia, a child was detained. Despite the specific provision under Section 18 of the ITP Act, the learned APP states, upon instructions, that the prosecution has not taken any steps for closure of the brothel or for eviction of the offenders from the brothel premises. In fact, the Applicant's Advocate also stated to Court that the brothel has not been sealed, as required under

Section 18 of the ITP Act. The same offence, albeit for violations upon other persons, including children, is liable to be committed if the Applicant is released, since she is the owner of the brothel which has not even been closed/sealed.”

State of Punjab v. Gurmit Singh [(1996) 2 SCC 384: 1996 SCC (Cri) 316]

Dealing with the offence of rape and its traumatic effect on a rape victim, Supreme Court stated that crime against women in general and rape in particular is on the increase. It is an irony that while we are celebrating women’s rights in all spheres, we show little or no concern for her honour. It is a sad reflection on the attitude of indifference of the society towards the violation of human dignity of the victims of sex crimes. “We must remember that a rapist not only violates the victim’s privacy and personal integrity, but inevitably causes serious psychological as well as physical harm in the process. Rape is not merely a physical assault — it is often destructive of the whole personality of the victim. A murderer destroys the physical body of his victim, a rapist degrades the very soul of the helpless female. The courts, therefore, shoulder a great responsibility while trying an accused on charges of rape. They must deal with such cases with utmost sensitivity.”

“The court, therefore, should not sit as a silent spectator while the victim of crime is being cross-examined by the defence. It must effectively control the recording of evidence in the court. While every latitude should be given to the accused to test the veracity of the prosecutrix and the credibility of her version through cross-examination, the court must also ensure that cross-examination is not made a means of harassment or causing humiliation to the victim of crime.

“We must express our strong disapproval of the approach of the trial court and its casting a stigma on the character of the prosecutrix. The observations lack sobriety expected of a Judge. Suchlike stigmas have the potential of not only discouraging an even otherwise reluctant victim of sexual assault to bring forth complaint for trial of criminals, thereby making the society suffer by letting the criminal escape even a trial. The courts are expected to use self-restraint while recording such findings which have larger repercussions so far as the future of the victim of the sex crime is concerned and even wider implications on the society as a whole — where the victim of crime is discouraged — the criminal encouraged and in turn crime gets rewarded! Even in cases, unlike the present case, where there is some acceptable material on the record to show that the victim was

habituated to sexual intercourse, no such inference like the victim being a girl of “loose moral character” is permissible to be drawn from that circumstance alone. Even if the prosecutrix, in a given case, has been promiscuous in her sexual behaviour earlier, she has a right to refuse to submit herself to sexual intercourse to anyone and everyone because she is not a vulnerable object or prey for being sexually assaulted by anyone and everyone. No stigma, like the one as cast in the present case should be cast against such a witness by the courts, for after all it is the accused and not the victim of sex crime who is on trial in the court. ”

“The courts are obliged to act in furtherance of the intention expressed by the legislature and not to ignore its mandate and must invariably take recourse to the provisions of Section 327(2) and (3) CrPC and hold the trial of rape cases in camera. It would enable the victim of crime to be a little comfortable and answer the questions with greater ease in not too familiar a surroundings. Trial in camera would not only be in keeping with the self-respect of the victim of crime and in tune with the legislative intent but is also likely to improve the quality of the evidence of a prosecutrix because she would not be so hesitant or bashful to depose frankly as she may be in an open court, under the gaze of public. The improved quality of her evidence would assist the courts in arriving at the truth and sifting truth from falsehood. ”

“Wherever possible, it may also be worth considering whether it would not be more desirable that the cases of sexual assaults on the females are tried by lady Judges, wherever available, so that the prosecutrix can make her statement with greater ease and assist the courts to properly discharge their duties, without allowing the truth to be sacrificed at the altar of rigid technicalities while appreciating evidence in such cases. The courts should, as far as possible, avoid disclosing the name of the prosecutrix in their orders to save further embarrassment to the victim of sex crime. The anonymity of the victim of the crime must be maintained as far as possible throughout. In the present case, the trial court has repeatedly used the name of the victim in its order under appeal, when it could have just referred to her as the prosecutrix. ”

HORI LAL Vs Commissioner of Police , Delhi & Ors Respondents (14.11.2002)

The Court in its order dated 14/11/2002 laid out the following guidelines for effective search of the Kidnapped minor girls , which are to be followed by the Investigation Officer in all the States:

1. Publish photographs of the missing persons in the Newspaper , telecast them on Television promptly , and in case not later than one week of the Receipt of the complaint .Photographs of a missing person shall be given wide publicity at all the prominent outlets of the city /town / village concerned that is at the Railway Stations , Inter state bus Stands , airport , regional passport office and through law enforcement personnel at Border checkpoints. This should be done promptly and in any case not later than one week of the receipt of the complaint. But in case of a minor/major girl such photographs shall not be published without the written consent of the parents /guardians.
2. Make inquiries in the neighborhood , the place of work/study of the missing girl from friends colleagues , acquaintance , relatives etc. immediately . Equally all the clues from the papers and belongings of the missing person should be promptly investigated
3. To contact the Principal , Class teacher and Students at the missing persons most recent school /educational institutions. If the missing girl or woman is employed somewhere , then to contact the most recent employer and her colleagues at the place of employment.
4. Conduct an inquiry into the whereabouts from the extended family of relatives , neighbours , school teachers including school friends of the missing girl or woman .
5. Make necessary inquiries whether there have been past incidents or reports of violence in the family.

There after the investigation officer/agency shall:

1. Diligently follow up to ensure that the records requested from the parents are obtained and examine them for clues.
2. Hospitals and Mortuaries to be searched immediately after receiving the complaint
3. The reward for furnishing clues about missing person should be announced within a month of her disappearance.
4. Equally Hue and Cry notices shall be given within a month.

5. The Investigation should be made through women police officers as far as possible.

6. The concerned police commissioner or the DIG/IG of the State Police would find out the feasibility of establishing a multitask force for locating girl children women.

Further, in the Metropolitan cities such as Delhi , Mumbai, Kolkata and Chennai the Investigating Officer should immediately verify the red light areas and try to find out the minor girls. If any minor girl (may or may not be recently brought there) is found her permission be taken and she may be taken to the children's home (Sec 34 of the Juvenile Justice (Care and Protection of the Children) Act 2000, and the I.O. to take appropriate steps that all medical /other facilities are provided to her.

National Commission for Protection of Child Rights (NCPCR) made the Nodal Agency for Implementation of the Juvenile Justice (Care and Protection of Children) Act 2000.

Bachpan Bachao Andolan v. Union of India, (2010) 12 SCC 180

“In order to faithfully implement the directions of this Court, there is requirement of a nodal agency. We have considered this aspect carefully and we deem it appropriate to appoint the National Commission for Protection of Child Rights, constituted under the Commissions for Protection of Child Rights Act, 2005 as the nodal agency which will monitor the implementation of the directions passed by this Court from time to time. The nodal agency would be given all assistance and support by the Union of India in monitoring and complying with the directions of this Court. The nodal agency may also take assistance from other organisations, including the non-governmental organisations. The Supreme Court also ordered it has become imperative to direct all the States to implement the provisions of this Act forthwith and constitute Juvenile Justice Boards, Child Welfare Committees and special juvenile police units in every district.”

Bachpan Bachao Andolan Vs Union of India 2011 SCC (5) 1

In a writ petition concerning the exploitation and trafficking of children in Circuses the Supreme Court the formation of special scheme for rehabilitation of Children rescued from circuses . The Court laid down the following actions which need to be taken by the State:

In order to implement the fundamental right of the children under Article 21A it is imperative that the Central Government must issue suitable notifications prohibiting the employment of children in circuses within two months from today. The respondents are directed to conduct simultaneous raids in all the circuses to liberate the children and check the violation of fundamental rights of the children. The rescued children be kept in the Care and Protective Homes till they attain the age of 18 years. The respondents are also directed to talk to the parents of the children and in case they are willing to take their children back to their homes, they may be directed to do so after proper verification. The respondents are directed to frame proper scheme of rehabilitation of rescued children from circuses. We direct the Secretary of Ministry of Human Resources Development, Department of Women and Child Development to file a comprehensive affidavit of compliance within ten weeks.

achpan Bachao Andolan Vs Union of India 2011 SCC (5) 1

In this case the Solicitor General of India provided a detailed report on the issue of child trafficking in India. He further submitted that each State Government must identify an officer who is responsible for implementation of schemes in relation to children. There must be a parallel linkage between a point of contact of the Collectorate/Executive Administration with a point in Legal Aid i.e. the Executive Chairman of the State Legal Services Authority and a point in the NGO Sector/Civil Society. Similarly, points must be identified in each Zila Parishad and Panchayat Samiti and Gram Panchayats. In fact, the Presiding Officers of the gram Nyayalayas may also be encouraged to identify children who are vulnerable and who need protection. In view of the performance of the present National Commission for Protection of Child Rights, which has taken pioneering efforts, it is expected that on a close interface between the National Commission for Protection of Child Rights, the State Governments and the Ministry of Women and Child Development, positive outcomes should actually be worked out. The court while appreciating the research paper submitted by the Solicitor General stated that – “It is, therefore, necessary that a coordinated effort must be made by the three agencies, namely, the Commission, the Ministry and the State Governments. Learned Solicitor General submitted that the recommendations be

implemented by the concerned agencies. In the State/Union Territory, the responsibility must be vest either on the Chief Secretary or a Secretary Incharge of Children, Women and Family Welfare. It would be open to the State Government in appropriate cases to nominate a special officer for the said purpose not lower than the rank of a Secretary to the State Government. Each State must issue a circular effectively indicating how the recommendations will be implemented. We accept the submissions of the learned Solicitor General and direct that the said circular shall be issued within 4 weeks from today and a compliance report be filed by the Chief Secretary of each State to this Court. ”

The Court further ruled that “submissions made by the learned Solicitor General it is abundantly clear that the Government of India is fully aware about the problems of children working in various places particularly in circuses. It may be pertinent to mention that the right of children to free and compulsory education has been made a fundamental right under Article 21A of the Constitution Now every child of the age of 6 to 14 years has right to have free education in neighbourhood school till elementary education”.

High Court orders convergence in action, Recovery of Wages of Child Labour, registration of Placement Agencies by Delhi Police and Public display of information related to Placement Agencies

Bachpan Bachao Andolan 2011 177 DLT 198

The Petitioner in this case referred to Police Circular issued by DCP, Headquarters, New Delhi. This Circular requireds the Delhi Police to:

1. Regulate the functioning of placement agencies.
2. To ensure proper screening of domestic workers being recruited by placement agencies by maintaining the register of all such agencies;
3. Ensure that the agencies enrol applicants on the basis of formal applications containing full details including the photographs and contact addresses of the applicants, the details of previous employers, etc.
4. Verification of domestic workers is to be done by the Police.

The Delhi Police has filed the response wherein it stated that the matter was examined in detail and the guidelines stated in the Circular cannot be implemented as Delhi Police is already too overburdened with the law and order, security, inquiries and investigations, etc. It was also mentioned that to keep a check on the maintenance of registers, etc. of the placement agencies would not be feasible in the current scenario of heightened security concern. It stated that the Circular is merely an executive instruction and non-compliance thereof cannot entail any penal consequence on the placement agencies. The court stated that once a circular is issued, it does not behove Delhi Police now to wriggle out of that on the pretext that this was for internal instructions and thereby refusing to adhere to the same. The court directed that the administration at the highest level in Delhi Police shall reconsider the feasibility of implementation of the instructions contained in the said.

Budhadev Karmaskar v. State of West Bengal, (2011) 11 SCC 538

In this case the Supreme Court while dismissing a appeal by the accused in a case of murder of a Sex Worker the Supreme Court stated that the Central and the State Governments through Social Welfare Boards should prepare schemes for rehabilitation all over the country for physically and sexually abused women commonly known as the “prostitutes” as we are of the view that the prostitutes also have a right to live with dignity under Article 21 of the Constitution of India since they are also human beings and their problems also need to be addressed. 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. For instance, if a technical training is for some craft like sewing garments, etc. then some arrangements should also be made for providing a market for such garments, otherwise they will remain unsold and unused, and consequently the woman will not be able to feed herself. In this regards the Court issued notice to all States and the Union of India. The Supreme Court stated that “from a perusal of the UJWALA Scheme it appears that the Central Government has a scheme only for rescued trafficked women but no scheme for those sex workers who voluntarily want to leave the sex trade. In our opinion, proper effective scheme should be prepared for such women also. In this connection, we would like to say that the

Central Government Scheme has placed a condition that the rescued sex workers must stay in a corrective home in order to get technical training. In our opinion, no such condition should be imposed, as many sex workers are reluctant to stay in these corrective homes which they consider as virtual prison”.

The Court also appointed a Panel of NGOs Activist and Lawyers to study, research and suggest a scheme in terms of :

- (1) Prevention of trafficking,
- (2) Rehabilitation of sex workers who wish to leave sex work, and
- (3) Conditions conducive for sex workers who wish to continue working as sex workers with dignity.

The Court in its order dated : 2-8-2011 [Budhadev Karmaskar (3) v. State of W.B., (2011) 10 SCC 277] observed:

“We are fully conscious of the fact that simply by our orders the sex workers in our country will not be rehabilitated immediately. It will take a long time, but we have to work patiently in this direction. What we have done in this case is to present the situation of sex workers in the country in the correct light, so as to educate the public. It is ultimately the people of the country, particularly the young people, who by their idealism and patriotism can solve the massive problems of sex workers. We, therefore, particularly appeal to the youth of the country to contact the members of the Panel and to offer their services in a manner which the Panel may require so that the sex workers can be uplifted from their present degraded condition. They may contact the Panel at the e-mail address: panelonsexworkers@gmail.com. We again reiterate our appeal to the public, and particularly to the youth of the country to contact members of the Panel at the e-mail address panelonsexworkers@gmail.com and give their valuable suggestions and inputs. This would surely be of great help to the Panel. ”

❖ <https://nlrd.org/landmark-rulings-of-the-courts-in-india-on-combatting-human-trafficking-trafficking/>

SUGGESTIONS

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

- Learn the indicators of human trafficking on the TIP Office's website or by taking a training. Human trafficking awareness training is available for individuals, businesses, first responders, law enforcement, educators, and federal employees, among others.
- If you are in the United States and believe someone may be a victim of human trafficking, call the 24-hour National Human Trafficking Hotline at 1-888-373-7888 or report an emergency to law enforcement by calling 911. Trafficking victims, whether or not U.S. citizens, are eligible for services and immigration assistance.
- Be a conscientious and informed consumer. Find out more about who may have picked your tomatoes or made your clothes at ResponsibleSourcingTool.org, or check out the Department of Labor's List of Goods Produced by Child Labor or Forced Labor. Encourage companies to take steps to prevent human trafficking in their supply chains and publish the information, including supplier or factory lists, for consumer awareness.
- Volunteer and support anti-trafficking efforts in your community.
- Meet with and/or write to your local, state, and federal elected officials to let them know you care about combating human trafficking and ask what they are doing to address it.
- Be well-informed. Set up a web alert to receive current human trafficking news. Also, check out CNN's Freedom Project for more stories on the different forms of human trafficking around the world.

- Host an awareness-raising event to watch and discuss films about human trafficking. For example, learn how modern slavery exists today; watch an investigative documentary about sex trafficking; or discover how forced labor can affect global food supply chains. Alternatively, contact your local library and ask for assistance identifying an appropriate book and ask them to host the event.
- Organize a fundraiser and donate the proceeds to an anti-trafficking organization.
- Encourage your local schools or school district to include human trafficking in their curricula and to develop protocols for identifying and reporting a suspected case of human trafficking or responding to a potential victim.
- Think about whether your workplace is trauma-informed and reach out to management or the Human Resources team to urge implementation of trauma-informed business practices.
- Become a mentor to a young person or someone in need. Traffickers often target people who are going through a difficult time or who lack strong support systems. As a mentor, you can be involved in new and positive experiences in that person's life during a formative time.
- Parents and Caregivers: Learn how human traffickers often target and recruit youth and who to turn to for help in potentially dangerous situations. Host community conversations with parent teacher associations, law enforcement, schools, and community members regarding safeguarding children in your community.
- Youth: Learn how to recognize traffickers' recruitment tactics, how to safely navigate out of a suspicious or uncomfortable situations, and how to reach out for help at any time.
- Faith-Based Communities: Host awareness events and community forums with anti-trafficking leaders or collectively support a local victim service provider.
- Businesses: Provide jobs, internships, skills training, and other opportunities to trafficking survivors. Take steps to investigate and prevent trafficking in your supply chains by consulting the Responsible Sourcing Tool and Comply Chain to develop effective management systems to detect, prevent, and combat human trafficking.

- College Students: Take action on your campus. Join or establish a university club to raise awareness about human trafficking and initiate action throughout your local community. Consider doing one of your research papers on a topic concerning human trafficking. Request that human trafficking be included in university curricula.
- Health Care Providers: Learn how to identify the indicators of human trafficking and assist victims. With assistance from local anti-trafficking organizations, extend low-cost or free services to human trafficking victims. Resources from the Department of Health and Human Services can be found on their website.
- Journalists: The media plays an enormous role in shaping perceptions and guiding the public conversation about human trafficking. Seek out some media best practices on how to effectively and responsibly report stories on human trafficking.

❖ <https://www.state.gov/20-ways-you-can-help-fight-human-trafficking/>

CONCLUSION

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

Confronting Commercial Sexual Exploitation and Sex Trafficking of Minors in the United States examines commercial sexual exploitation and sex trafficking of U.S. citizens and lawful permanent residents of the United States under age 18. According to this report, efforts to prevent, identify, and respond to these crimes require better collaborative approaches that build upon the capabilities of people and entities from a range of sectors. In addition, such efforts need to confront demand and the individuals who commit and benefit from these crimes. The report recommends increased awareness and understanding, strengthening of the law's response, strengthening of research to advance understanding and to support the development of prevention and intervention strategies, support for multi-sector and interagency collaboration, and creation of a digital information-sharing platform.

A nation that is unaware of these problems or disengaged from solutions unwittingly contributes to the ongoing abuse of minors. If acted upon in a coordinated and comprehensive manner, the recommendations of Confronting Commercial Sexual Exploitation and Sex Trafficking of Minors in the United States can help advance and strengthen the nation's emerging efforts to prevent, identify, and respond to commercial sexual exploitation and sex trafficking of minors in the United States.

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