

# HUMAN TRAFFICKING: PUTTING THE PRICE ON HUMAN DIGNITY

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## ABSTRACT

Human trafficking is a violation of human rights and it is relevant to identify trafficking through a human rights lens. Violation of human rights, fights both cause and effect of trafficking of a person making the promotion and protection of human rights directly fight against it. This paper examines the concept of human trafficking. Human Trafficking is one of the most heinous crime of the 21<sup>st</sup> century and has increased rapidly over the years. Despite the efforts to control human trafficking, the trading person persists and in fact continues to grow. This paper addresses facts such as human trafficking of children, child labor, prostitution and the root causes of human trafficking which creates human violence its effects and impacts. This paper argues that the root causes must be considered and how crimes are caused due to human trafficking and not only the negative side but as to how these violators of human trafficking must be punished. I want to express my concerns regarding why one person would indulge into the activities human trafficking since no human would do it without a root cause. The victims of human trafficking do human trafficking with some preconceived initiatives and those incentives must be observed. Addressing the fact of human trafficking as a whole is not very easy but if the causes or effects are considered it can be broken down in to parts. This article will start with what is human trafficking, why human trafficking, what are the root causes of human trafficking and what are its effects. India is the main country that will be spoken about in this article but a few other countries such Thailand, UK and The Unites States shall also be observed.

**Keywords:** Human Rights, Human Trafficking, Causes and Effects



## INTRODUCTION

“Injustice is an anywhere is a threat to justice everywhere”<sup>1</sup>

Slavery is assumed to be nonexistent at this day and age by people but in reality, instead of it being a part of history slavery still exists in another form or name. They are coerced into doing labor that their own bodies cannot take and their freedom and their right to make decisions are roughly taken away from them. Analyzing the above aspects of slavery, it can human trafficking be compared to slavery?

Human trafficking also violates the rights of people and they are forced to be a part of the whole system. The true numbers aren't known to anybody but estimates suggest that at least 2.5 million women, men and children are forced across international borders and in their home countries every year. They are often put against their own will and held captive by psychological, physical or financial threats. Human trafficking is arguably one of the most profitable transactional crimes today. While transactional trafficki8ng receives the bulk of attention from civil societies, but when the concept of exploitation is considered broadly it includes child labor, bonded labor, forced labor, prostitution and so forth. It is very clear that exploitation impacts far more people than just its victims. The International labor organization (ILO) estimates, for example, that at least 12.3 million people are subject to forced labor<sup>2</sup>

This paper contains the history of human trafficking, current scenarios, meaning, reason, prevention, its legal position and other countries and human trafficking. Humans are social animals that being said humans can be misused and can use each other in many ways.

## HISTORY OF HUMAN TRAFFICKING IN INDIA, MEANING AND ITS CURRENT SCENARIO

In a historical aspect, the concept of human trafficking can be related to slavery. In olden times women and children used to be used as slaves. In early 70's and 80's women were used and

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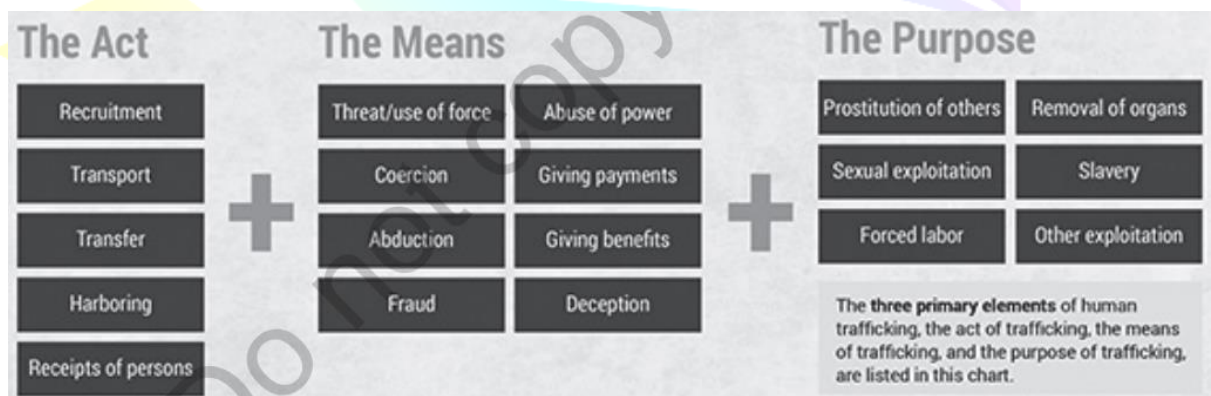
<sup>1</sup> Dr. Martin Luther King, Jr., Letter from Birmingham Jail, April 16, 1963, available at [http://www.africa.upenn.edu/Articles\\_Gen/Letter\\_Birmingham.html](http://www.africa.upenn.edu/Articles_Gen/Letter_Birmingham.html).

<sup>2</sup> The International organization (2005)

forced in various ways for pleasure of men and they were later rewarded with money and other aspects. This is why these women agreed to work with these men. Other than being forced they always had need in order for regular day to day survival. This used to primarily occur in India compared to other places. While that being said now let's come to the definition of human trafficking.

Article 3, paragraph (a) of the Protocol to Prevent, Suppress and Punish Trafficking in Persons defines Trafficking in Persons as the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.<sup>3</sup> This crime can take place in many forms but most common amongst them is a person or a group of persons, being held against their own will and forced to either to work or perform sex acts for the benefits for their captor and often little or no benefit of any kind to themselves. There are 3 primary elements of human trafficking-

- 1) The act of trafficking
- 2) The means
- 3) The purpose



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<sup>3</sup> Definition available at [//www.unodc.org/unodc/en/organized-crime/intro/UNTOC.html](http://www.unodc.org/unodc/en/organized-crime/intro/UNTOC.html)

<sup>4</sup> available at [www.un.org/en/](http://www.un.org/en/)

Modern day slavery is a broad term used to encapsulate human trafficking but it also significantly establishes a difference between modern day slavery and the old trends.

Trafficking is the third biggest crime after the crimes of drugs and arms trade across the world. “Trafficking is any activity leading to recruitment, transportation, harbouring or receipt of a persons by means of threat or use of force or position of vulnerability”<sup>5</sup> as defined by United Nations. India is said to be the hub for human trafficking in Asia as per a few statistics every 8 minutes a child goes missing in India. One of the major problems in India is human trafficking but till date no number is available as to what is the amount of trafficking in India. Karnataka is the 3<sup>rd</sup> largest state to have a high number of traffickers but 300 such cases are reported from each of the four south Indian states on an average basis. Delhi the capital of India is the hotspot for illegal trade of young girls, child labour and prostitution, it is also a transit point for human trafficking. The cases of trafficking are not only increasing in India but are becoming worse the side effects of these trafficked people are becoming worse.

In the year 2016 there were a total of 8,132 cases of trafficking reported as compared to the year 2015 which was 6,877.<sup>6</sup> Now the victims in these cases aren't even above the age of 18, most of them were below the age of 18 as per statistics released in the year 2016. On top of this list was West Bengal and Assam in the year 2016 also Maharashtra, Tamil Nadu and Gujarat followed the list. Looking at these current scenarios we can conclude that people that are into or affected by human trafficking do it with a root cause because without a root cause no one would indulge themselves into such crimes. So the root cause must be identified.

## **REASONS AND PREVENTIONS**

Trafficking has many root causes they differ from one country to another, trafficking is a phenomenon that is usually influenced by many economic, social, cultural or other factors. Huge numbers of these variables are particular to individual trafficking designs and to the States in which they happen. Trafficking patterns are common across states in which this activity occurs but however factors that tend to be common are found in different regions and in different ways. One factor can namely be that the desire of the potential victims to migrate

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<sup>5</sup> available at [www.un.org/en/](http://www.un.org/en/)

<sup>6</sup> National crime records bureau available at [ncrb.gov.in/](http://ncrb.gov.in/)

is exploited by offenders to recruit and gain initial control or corporation, only to be replaced by more coercive measures once the victim has moved to a different state or a different region of the country, which might not be the same place they initially intended to migrate to. Common factors can be the local conditions that make the people want to migrate in search of a better livelihood. Conditions such as poverty, oppression, lack of human rights, lack of social or economic opportunities, danger from conflict or instability are major contributing factors. Political instability, militarism, civil unrest, internal armed conflict and natural disasters may result in an increase in trafficking. Trafficking and forced labour increase due to the destabilization and displacement.

In some states, social or traditional practices also contribute to the idea of trafficking. For example, the devaluation of women and girls in a society makes them disproportionately vulnerable to trafficking. Even now days corrupt governments officials and their involvement on interactions and national criminal groups also put the dignity of people and they are forced into trafficking.

The five most relevant causes of human trafficking are-

- a) Poverty, war, natural disasters and a search for a better life - usually traffickers look for people who are from the lower strata of the society. Their standard of living isn't as well off as compared to others that make them indulge in such kind of activities. They don't have financial support like other people and these reasons make them a subject to abuse and ill-treatment through trafficking.
- b) Women and children as the main targets - women and children are far more vulnerable in societies than men due to their devaluation. They are mainly targeted due to the demand for women in sex trafficking. 20.9 million who are bought and sold worldwide are children and young adults. Young girls and women make up for 97% of the trafficked sex exploitation.
- c) Demand for cheap labour – The common industry is the service industry, in particular restaurants and kitchens people are being exploited so it can be said that they are the common exploiters. They go there with a hope of proper employment and then are exploited and misused by the own employers. They are made to practice illegal activities and they do not have any protection.

- d) Human trafficking generates huge profits – according to the international labour organization, the human trafficking industry generates a profit of \$10 billion per year, it also states that two thirds is made from commercial sexual exploitation while the remaining come from forced economic exploitation.<sup>7</sup> It is said that human trafficking is the second largest and fastest growing industry in the world after drug trafficking.
- e) Cases of human trafficking are difficult to identify – victims of human trafficking are well hidden or highly traumatized that's why that challenge of how to identify them exists. Consumers and traffickers are both aware of the huge risk they avail by doing the illegal activity of human trafficking so they try to cover up any illicit activity.

The prevention measures rely on a deep understanding of the root cause of human trafficking. The holistic development of a being is an essential part of a preventive approach, life skills and formal schooling are indispensable ingredients of this approach. People need to be informed about the risks of exploitation and abuse. The main aim must be to empower them to protect themselves and to make careful choices of their surroundings. The engagement of private sector is also important in order to support anti-trafficking schemes. There are a lot of NGOs that help in these anti trafficking schemes. Well defined laws are also another way to prevent trafficking.

The protection of these victims includes providing them counselling and shelter, it also involves making them aware of any legal proceedings if there are any. In India, the legal system only serves mechanism for relief of past abuse rather than for empowering for the survivor.

## **LEGAL POSITION**

Article 23 - states that Prohibition of traffic in human beings and forced labour

- (1) Traffic in human beings and begar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law
- (2) Nothing in this article shall prevent the State from imposing compulsory service for public purpose, and in imposing such service the State shall not make any discrimination on grounds only of religion, race, caste or class or any of them<sup>8</sup>

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<sup>7</sup> Michelle Simons views on human trafficking, ILO 2006

<sup>8</sup> Art. 23, the constitution of India

This article of the constitution clearly says forced labour is prohibited and is punishable by law but this is violated by the people. Even though the constitution does not define forced labour it can clearly be said that trafficking comes under forced labour.

The immoral trafficking prevention act<sup>9</sup> is an act through which the Indian government penalizes trafficking for commercial sexual exploitation, with prescribed penalty of up to 7 years of life imprisonment. India also prohibits bonded force and labour through the following acts

- Bonded labour abolition act<sup>10</sup>,
- Child labour act and <sup>11</sup>
- Juvenile justice act <sup>12</sup>

Also, the section 366(A) and 372<sup>13</sup> of the Indian penal code prohibit kidnapping and selling minors into prostitution respectively. Penalty under these provisions are a maximum 10 years of imprisonment and a fine.

In the case of *Prajwal v. Union of India*<sup>14</sup>, HRLN on behalf of Prajwal files a PIL in the supreme court petitioning the government to create a victim protection protocol so as to protect the victims of trafficking. The case was decided that any suggestions made will be looked into and the ministry of home affairs will look into it.

In the case of *State of Uttarakhand vs Sartaj Khan*<sup>15</sup> this case states that trafficking victims protection act is the main act that must be looked into when it comes to human trafficking. In this case the division bench passed the directions while reversing the trial court's order of acquittal of one Sartaj Khan and holding him guilty of kidnapping, importing, buying, intimidating and sexually assaulting a 15-year-old girl from Nepal who he had brought to India in April 2015, by practicing fraud and inducement of shopping.<sup>16</sup>

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<sup>9</sup> sec 7 and sec 8 The Immoral Traffic Act, 1956

<sup>10</sup> bonded labour system, 1976

<sup>11</sup> child labour (prohibitions and regulations), 2016

<sup>12</sup> Juvenile justice act, 2015

<sup>13</sup> sec 366 and sec 372, Indian penal code, 1860

<sup>14</sup> writ petition (C) no.6 of 2004

<sup>15</sup> AIR 2017 SC 139

<sup>16</sup> AIR 2017 SC 139



Therefore, it can explicitly be stated that India has a legislative framework for tracking but it is not followed. The trafficked people do not bring up cases with the view that they will be seen with a bad eye in our Indian society.

## **MALE VICTIMS OF SEX TRAFFICKING**

According to the international labour organization 98% of women are trafficked for exploitation but what about the 2%?

The silent victim silent sex trafficking are really the men. They do not publically talk about their cases due to the fact that it is a matter of shame. The number of people in human trafficking has increased so has the number of males. In Asia, middle east is a place where the crime is more rampant and they have open the first centre for male victims in Abu Dhabi<sup>17</sup> in the United Arab Emirates and also an anti-trafficking organisation for men in southeast Asia.

Yes, it is true that the women are attacked the most during trafficking but in a country like India even men are but people are completely negligent towards the fact that men are trafficked and they are victims for the same. The complex issues of anti-trafficking are still a pending issue in India compared to other countries.

## **COMPARATIVE ANALYSIS OF THE UNITED STATES AND INDIA RELATED TO HUMAN TRAFFICKING**

In India and the United States there are various differences that effect sex trafficking. The first being the population in India the population is over a billion while in United States it is just over 300 million<sup>18</sup>. The per capita income of the US and India very different. In India, the traffickers are mostly from Nepal whereas in US they are from Philippines, Haiti, India, Guatemala, and the Dominican Republic. The number of children trafficked in India are more than the number trafficked in the US. India and US mainly differ from the law enforcement but

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<sup>17</sup> available at [www.emirates247.com](http://www.emirates247.com)

<sup>18</sup> . 2 LEGAL SYSTEMS OF THE WORLD: A POLITICAL, SOCIAL, AND CULTURAL ENCYCLOPEDIA 693 (Herbert M. Kritzer ed., 2002).

they are also similar with that fact that people fall into trafficking due to various reason i.e. economic, financial and forced. It is mainly people from Thailand and Nepal that commit the crime of trafficking. They are forced into doing this due to family situations and so forth.

It can be said that even though the legislations are different of the states and India the reason for trafficking is similar.

## **SUGGESTION**

In light of the aspects of human trafficking being discussed above the following are the suggestions provided in order to promote welfare of the citizens of the nation:

- Educating people from the lower communities regarding the risks of trafficking.
- There should be a mandatory safe guard against traffickers.
- Welfare schemes must be made for each trafficked victim.
- The men who are trafficked must be also taken into consideration.
- Consumers of trafficking must be identified and punishment must be given under section 377 of the Indian penal code.

## **CONCLUSION**

Human trafficking jeopardizes the security and dignity of a person that is trafficked. The constitution of India guarantees equal rights to every Indian citizen but that is violated when a person is trafficked. The basic human rights of a person are violated while he or she is being trafficked. In order to prevent trafficking and thus protect people a strong political reform must be taken by the government of India. People who are trafficked feel vulnerable and like them are helpless and that must be changed. Human dignity is what needs to be protected the most in a country like ours so tremendous effort must be put in order to protect these victims of trafficking. Human trafficking is the second largest crime in India right now and it is a big social evil and for that social evil to be demolished not only the government but every citizen of India must lend a helping hand. Now days even children who are at an age that they can't even think for themselves are being trafficked. Is this right from the part of our country? Crimes

such are prostitution are done by people for their livelihood but the negative effects to it are tremendous. If timely steps are not taken it will be too late before we can prevent this. They problem is still in our hands and is deliberate steps are taken and policies are made and the implementation happens strictly we can save the youth as well as the current generation.

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