



ABHIDHVAJ LAW JOURNAL

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Editor In chief – Assistant professor Dr. Taru Mishra

Publisher & Founder – Vaibhav Sangam Mishra

Frequency – Quarterly (4 Issue Per year)

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CHILD TRAFFICKING IN INDIA

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ABSTRACT :

The act of trafficking means the recruitment, transportation, transfer, harbouring or receipt of persons. The purpose of trafficking is always exploitation.¹ People of all genders and ages can become victims of this crime, which occurs in every region of the world. The use of violence, or giving fraud notification of employment, education and promise to the parents for marriage, are the ways which traffickers use for trading or dealing. There are systematic and organized networks or individuals behind this heinous crime/offence who takes the advantage of people who are not in good condition. There are various kinds of trafficking going through the entire world with every possible thing like - the trafficking of animals, humans (child, adult males, females), trafficking of antiques, etc. If we talk about child trafficking in a broader sense we can say that child trafficking is one of the most highlighted kinds of trafficking among another trafficking. Child trafficking is a major issue mostly for developing countries as well as for the least developing countries, as a huge percentage can be seen in these countries only. Reasons behind the highest percentage of child trafficking in these countries are many but the most prominently – Poverty, Social and Cultural Practices, Weak law enforcement, etc.

Trafficking of children is done for various different purposes but most prominently children are trafficked for – Sexual Exploitation, Domestic Slavery, Forced Labour, Begging, Theft, Forced Marriage, Working on Cannabis Farms and Moving Drugs, Sex Tourism, etc.

25% of all Human Trafficking is Children. The vast majority of humans that are trafficked are in forced labour. A Significant percentage of these children are runaways who are sexually abused at younger ages.²

The Highest areas of Child trafficking are Africa and the Middle East at 62% of all Child trafficking, and for Asia, the ratio is about 36% as well as it is 18% for North, Central, and South America.³

¹ The Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill, 2018.

² <https://liberatechildren.org/child-trafficking-statistics>

DEFINITION OF CHILD TRAFFICKING:

Child trafficking is about taking children out of their protective environment and preying on their minds and body for the purpose of exploitation.⁴ It is illegal recruitment, transport, transfer, harbouring or receiving of children for the purpose of exploitation.

According to UNICEF, A child has been trafficked, if he or she has been moved forcefully within a country or across the borders for the purpose of exploitation. Trafficking in a human being is the process of dealing with and doing trade of a human being.

According to ILO CONVENTION: Child Trafficking is a form of slavery or can be classified as slavery.

According to SECTION 370 of the INDIAN PENAL CODE: The trafficking of a person is mentioned.

TYPES OF CHILD TRAFFICKING IN INDIA :

There are various types of child trafficking in India. Human trafficking is mainly divided into three types –

- Sex Trafficking
- Forced Labour
- Domestic Servitude

SEX TRAFFICKING :

Sex trafficking is the most common type of trafficking which is seen in today's world. Children, women, and Girls of small ages are kidnapped and sold to the dealers or traders of sex trafficking. Some of the girls are sold by their parent's consent as they are unable to maintain the house status due to a lack of money. Some of the parents by misrepresentation, are allowing their children to go with traders in search of jobs without knowing the consequences of that act. In movies, series, dramas, and OTTs like Gangubai Kathiawadi,

³ *Ibid*

⁴ www.iom.int/sites/default/files/our_work/DMM/MAD/07312017/English-booklet-PrinterFile.pdf

Lakshmi, Love Sonia, Pakhi etc we have seen how the girls are brought, exploited and given injections so that their bodies can grow fast.

FORCED LABOUR :

Forced labour is a term which is harder to define and identify. Forced labour can involve manipulation, fraud, and physical violence too. Forced labour is a serious problem in various places or regions across the world, It can be seen in agricultural sectors and many more places. It is done involuntarily without the consent of labours under the threat of penalty or by abusing them.

DOMESTIC SERVITUDE :

Basically, domestic servitude can be defined as forcing someone to work in private homes under coercion and fraudulently convincing them that they have no other option left other than that. It may include cooking, cleaning, child care and laundry etc. It is the condition that forces someone to live as a household slave. Sometimes they are not getting food to eat, or the proper place to sleep but they have no words to speak. We can also say domestic servitude is bounded labour.

LAWS ON HUMAN TRAFFICKING :

The crime of human trafficking involves a trader or dealer, who uses force, fraud or coercion to make an individual engage in commercial sex or forced labour. In order to get rid, we have to know various laws which are made to prevent human trafficking. India has a wide range of laws which are enacted by the parliament.

SOME OF THEM ARE AS FOLLOWS :

ACCORDING TO ARTICLES 23 AND 24 OF THE INDIAN CONSTITUTION :

- **ARTICLE 23** – Prohibition of traffic in human beings and forced labour.
- Article 23(1) talks about that, trafficking in human beings and beggars i.e forced labour is prohibited and who so does this will be punished under the law.

- Article 23(2) tells that nothing in this article shall prevent the state from imposing compulsory service for public purposes i.e in the time of war, and while imposing these services state shall not discriminate on the basis of caste, creed, religion or race.

In the case of **PUDR V. UNION OF INDIA**⁵, it was seen that labours were not getting the minimum remuneration as mentioned in the minimum wages act,1948 and there was an unequal distribution of income among men and women.

The supreme court interpreted the scope of Article 23 and held that the word FORCE within this article has a very wide meaning. It includes all types of forces and another economic factor which forces a person to provide labour at a wage less than the minimum wage.

The court in the case of **BANDHUA MukTI MORCHA V. UNION OF INDIA**,⁶ the guidelines for the determination of bounded labour were laid down and it imposes a duty on the state government to identify, release and rehabilitate the bonded labour.

- **ARTICLE 24 :**

According to this article Prohibition of employment of children in factories. no child below the age of 14 years shall b employed to work in a factory or mine or engaged in any hazardous employment. In the case of **MC MEHTA V. STATE OF TAMIL NADU AND ORS**,⁷ the court held that this industry qualifies as a hazardous industry. thus employing children under the age of 14 years in this industry is prohibited.

ACCORDING TO the INDIAN PENAL CODE, There are different sections that deal with the different types of human trafficking. SOME OF THEM ARE AS FOLLOWS::

- **SECTION 347 :**

According to this section, Any person who wrongfully tries to constrain another person to engage in illegal activities or by threats or violence shall be punished with up to 3 years of imprisonment along with a fine.

- **SECTION 357 :**

⁵ AIR 1982 SC 1473

⁶ AIR 1984 802

⁷ 1996 6 SCC 756

According to this section, A person shall be imprisoned for up to the term of 1 year or with a fine of up to 1000 rupees, if he wrongfully restrains any person by assault or by using criminal force on him.

➤ **SECTION 363 :**

According to this section, a person shall be punished with up to the 7 years of imprisonment and with a fine, if he kidnaps a person from India or from its lawful guardian.

➤ **SECTION 366 A :**

According to this section, inducing any minor girl under the age of 18 years to go to any such place with intent to force or seduced illicit intercourse with another person shall be a punishable offence.

➤ **SECTION 366 B :**

According to it, importing a girl under 21 years of age is a punishable offence, if she is forced or seduced into illicit intercourse.

➤ **SECTION 374 :**

According to it, whosoever unlawfully compels any person to forced labour will be punished.

Immoral Traffic (Prevention) Act 1956 :

The Immoral Traffic (Prevention) Act, of 1956 is the primary legislation for the prevention of sexual exploitation of women and girls. The word “Trafficking” is defined only by the Goa Children’s Act, 2003, which is a state law. Thus, while the ITPA is the main legislation related to the commercial sexual exploitation of children, it does not define trafficking.⁸

Child Labour (Prohibition and Regulation) Act, 1986 :

The Act prohibits the employment of children below specific age and in certain specified occupations. It also imposes punishment for the employment of minor children.

Information Technology Act, 2000 :

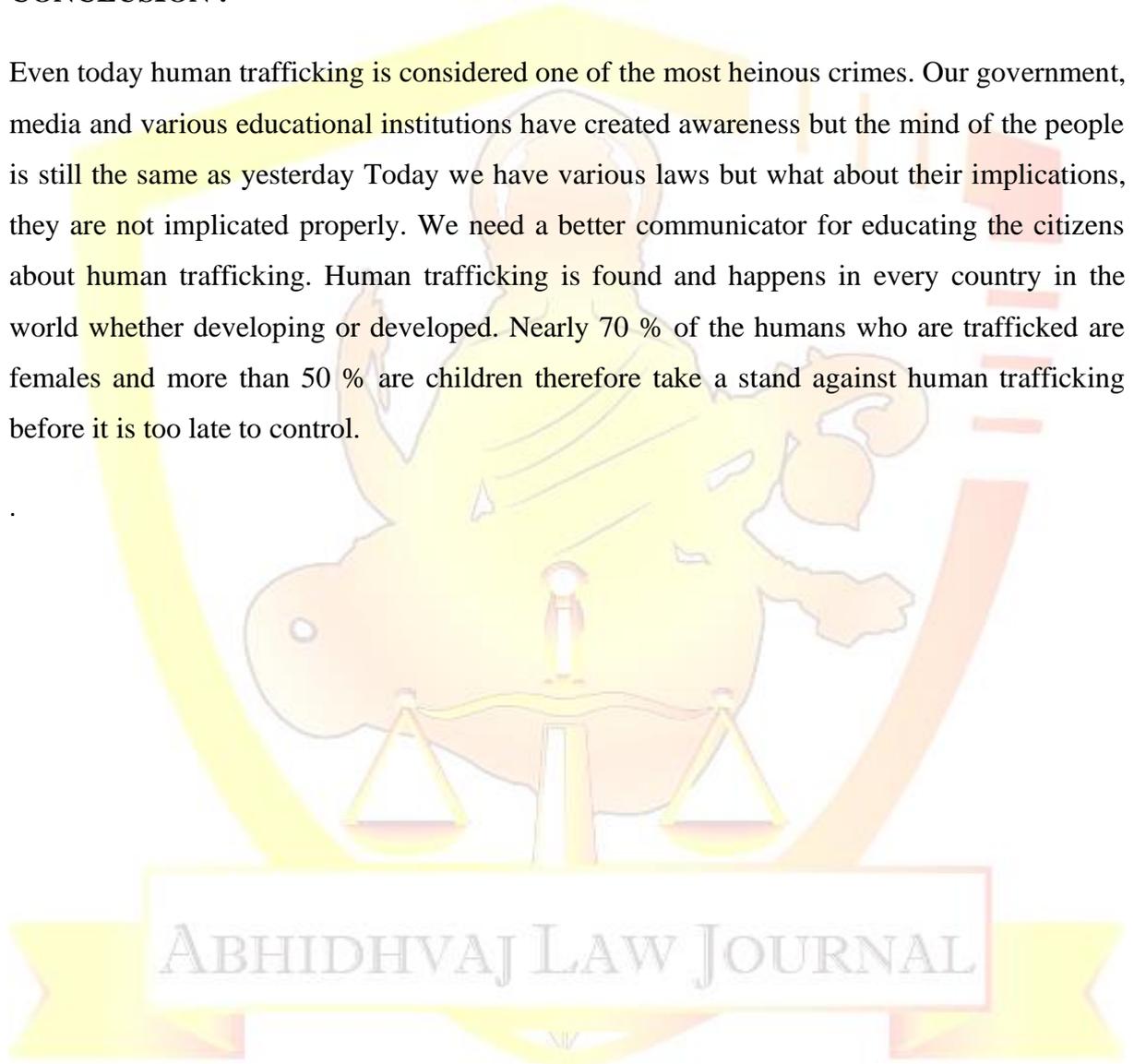
⁸ <https://blog.iplers.in/human-trafficking/>

The act penalises transmission of any such material in electronic form which is inappropriate and lascivious. This act also addresses the problem of pornography.⁹

Juvenile Justice (Care and Protection of Children) Act, 2000: It protects juveniles in need of care and protection.

CONCLUSION :

Even today human trafficking is considered one of the most heinous crimes. Our government, media and various educational institutions have created awareness but the mind of the people is still the same as yesterday Today we have various laws but what about their implications, they are not implicated properly. We need a better communicator for educating the citizens about human trafficking. Human trafficking is found and happens in every country in the world whether developing or developed. Nearly 70 % of the humans who are trafficked are females and more than 50 % are children therefore take a stand against human trafficking before it is too late to control.



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⁹ *Ibid*