

State Initiatives to Combat Women Trafficking in India: A Study

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Abstract: *Women trafficking are a global crime and a crime against humanity, which not only violates the rights of women but also degraded their societal values. Hence the women trafficking have emerged as an issue of global concern. The case of India is also not exception. Due to patriarchal nature of the society, the crime of women trafficking has been a common phenomenon in the country. In the last few decades India has been emerged as hotspot of women trafficking. In India thousands of women are victim of this inhuman crime. Every year, lakhs of women disappear from the country seemingly because they fall prey to trafficking. State initiatives to combat women trafficking in India are the focus of this paper. The paper is of a qualitative in nature. It is based on secondary sources of data.*

Keywords: women trafficking, human rights violation, patriarchal society, anti trafficking policies, India context

1. Introduction

Over the centuries the human being has been continuously confronting obstacles regarding their survival due to the existence of evil practices in the society. The issue of human trafficking is such an ancient evil, profoundly practicing in contemporary period and emerged as a major global burning issue. In 2000 a well articulated definition of human trafficking was adopted by the United Nations Organisation (UNO) through Palermo protocol. The Palermo Protocol (UN protocol to prevent, suppress, and punish trafficking in persons, especially women and children, supplementing the UN Convention against Transnational Organized Crime) was adopted to deal with the issue of human trafficking. The protocol defines human trafficking as the recruitment, transportation, transfer, harboring, or receipt of persons by means of the threat, 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 (Mishra 2013:4).

This protocol represents significant conceptual advances in three key areas (Mishra 2013: 2-3)

- It recognizes that all people can be trafficked, not only women and children.
- It goes beyond sex work and acknowledges that trafficking can occur in all labour sectors.
- It specifies that force, coercion, or deception must be present.

Trafficking is a crime against humanity, which not only violates the rights of human being but also degraded the societal values. Although human trafficking implies trafficking of human beings i.e. man, women and children of all ages but women and children are more prone to trafficking. Across the world almost sixty percent of victims of human trafficking cases are women. Again women and girls together constitute for seventy percent of detected victims in the world (Chamie 2015: 80). Therefore, human trafficking mostly involves women trafficking.

India has been emerging as major hotspots of human trafficking. Citing the report of the NCRB, Bhattacharya reported that in between 2019-21, 1.3 million women and girls went missing in India (Bhattacharya 2023). In 2019, almost 82,619 girls and 3,29,504 women; in 2020, 79,233 girls and 3,44,422 women and similarly in 2021, 90,113 and 3,75,058 girls and women were reported missing correspondingly (Bhattacharya 2023). These missing cases of girls and women can be attributed to the linkages with the trafficking. However it's difficult to ascertain the actual data of women trafficking in the country due to lack of adequate data and reluctance of victims to fill First Information report in police station.

Trafficking in women is the most abominable violation of human rights. The victims of trafficking are denied the rights to enjoy the constitutional rights provided by the constitution in India. Furthermore, during the post trafficking phase they are unable to enjoy their basic human rights like right to freedom, liberty, free speech and expression, right to education, right to life with dignity, right to equal wages, right to health, right to privacy, right to self-determination, right to legal remedies, right to redressal of grievances. The victims suffer extreme physical and mental abuse depending on the nature and place of work. This includes rape, forced abortions, forced prostitution, physical torture, insufficient food, unhygienic living and so on. Over the years different measures have been undertaken by the state machinery in India to combat this inhuman crime of women trafficking. These measures include both legislative and executive actions.

Objectives

The main objectives of the paper are-

- 1) To study about the legislative measures to combat women trafficking in India
- 2) To study about the executive actions to combat women trafficking in India

2. Methodology

The present study is based on both descriptive and analytical method. While preparing the paper secondary sources have followed. The secondary data has collected from books, journals, articles, reports of the government, newspapers etc.

State Initiatives to Combat Women Trafficking in India

The state machinery in India has been taking various measures to combat women trafficking in the country. These measures are ranging from constitutional, legislative to executive actions.

The Constitution of India is the fundamental law of the country. Various articles of the constitution are clearly forbids trafficking in persons hence also women trafficking. Article 23 of the constitution in India specifically prohibits “traffic in human beings and beggar and other similar forms of forced labour” (The constitution of India: 13). the other fundamental rights enshrined in the constitution relevant to trafficking are article 14 relating to equality before law, article 15 that deals with prohibition of discrimination on grounds of religion, race, caste, sex or place of birth or any of them. Article 21 pertaining to protection of life and personal liberty or any of them. The directive principles of state policy enshrined in the constitution are also deal with the issue of trafficking in persons. Article 39 states that men and women should have the right to an adequate means of livelihood and equal pay for equal work; that men, women should not be forced by economic necessity to enter unsuitable avocations (Ahmad 2022: 102). Article 51 of the constitution requires the state to foster respect for international law and treaty obligations. Article 51-A (e) of the constitution ordains that it shall be the duty of every citizen of India to renounce practices derogatory to the dignity of women (NHRC 2023: 33). So various articles of Indian constitution has unambiguously restricts the trafficking of human being.

3. Legislative Initiatives

Over the years numerous legislative measures or laws have undertaken in the country to deal with the issue of trafficking. Some of the laws have discussed as follows

The Indian penal code (IPC) 1860 and Bharatiya Nyay Sanhita (BNS): It was a major legal mechanism to deal with the human trafficking as well as women trafficking case in India. There were 25 provisions relevant to trafficking in this IPC (Ahmad 2022: 33). However, in place of IPC, in 2023 Bharatiya Nyay Sanhita (BNS) has executed. BNS also focuses on to deal with the inhuman crime of women trafficking (Ministry of Home Affairs). Sections 143 and 144 of the BNS are major components of India’s legal initiatives against human trafficking. Earlier sections 370 and 370 A of IPC was deal with the issue of human trafficking. Section 143 provides definition of trafficking and section 144 deals with punishments for trafficking of persons including women. Section 111 of the BNS deals with the case of trafficking for the prostitution. (Government of India 2025)

There are some acts enacted by the Indian parliament to combat Human Trafficking, some of these acts can be discussed as follows-

- 1) **Indian evidence act, 1872-** In which sections 114A and 151 are deals with the case of human trafficking (NHRC 2023: 34).
- 2) **Suppression of Immoral Traffic in Women and Girls Act, 1956 (SITA)-** It was enacted under article 35 of the Indian constitution with object of abolishing the immoral traffic in women and girls. It was also in pursuance of the Trafficking convention, which India signed on 9 May 1950. The act aimed to rescue exploited women and girls, to prevent deterioration of public morals and to stamp out the evil of prostitution, which was rampant in various parts of the country. In 1978 SITA was amended by the Amendment act 46 of 1978, which took effect from 2 October 1979. The act was further amended and changed in 1986, resulting in the Immoral Traffic Prevention act also known as PITA. PITA only discusses trafficking in relation to prostitution and not in relation to other purposes of trafficking such as domestic work, child labour, organ harvesting, etc. (NHRC 2023: 35).
- 3) **The Immoral Traffic (Prevention) Act, 1956 (ITPA)-** It is a special legislation that deals exclusively with trafficking. This act makes trafficking of women for commercial sexual exploitation an offense (Chawla 2012: 105). The act defines the terms brothel, corrective institutions, prostitution, protective home, public place, special police officer and trafficking officer. The purpose of the enactment was to abolish commercialized traffic in women and girls for the purpose of prostitution, as an organised means of living (NHRC 2023: 35). The main provision of the ITPA is that it allows for the arrest of those engaging in acts of prostitution under sec 8. Crimes under ITPA are cognizable, only certain police officers under section 13 can do this and there must be female officers and witness present. The ITPA provides for the special courts to be set up for the purpose of Trafficking cases. Presently the Anti-Trafficking cell (ATC) located in the ministry of Home Affairs is the nodal agency for the implementation of the ITPA 1956 (NHRC 2023: 35).
- 4) **Criminal procedure code, 1973-** Section 51(2), 98, 160, 327(2) and 357 of this act deals with human trafficking. Responsibility for providing compensation to trafficking victims is fragmented between the central government and individual states as per the act. This is largely the result of section 357, code of criminal procedure, which states that the central government should be responsible for compensating victims of any crime not limited to trafficking who have suffered loss or injury. The sections deal with compensation for victims of human trafficking, although it leaves it up to the individual states to decide on compensation procedures and amounts. As a result there is no centralised compensation system in India for victims of human trafficking (NHRC 2023: 42).
- 5) **The scheduled castes and scheduled Tribes (Prevention and Atrocities) Act, 1989-** The traffickers are targeting on vulnerable people in socially and economically backward areas. This act provides an additional tool to safeguard women and young girls belonging SC/ST and also creates greater burden on the trafficker to prove his lack of complicity in the crime. It specially covers certain forms of trafficking, forced

labour or bonded labour and sexual exploitation of women. A minimum punishment of 6 months is provided that could extend up to 5 years in any offence covered under Sec 2 (NHRC 2023: 43).

- 6) **Criminal Law Amendment Act 2013**- There was lack of Indian law that comprehensively defines human trafficking. In 2013 criminal law (amendment) act of 2013 was enacted and included India's first definition of human trafficking based on the UN trafficking protocol: Section 370, as amended, defines exploitation as including "any act of physical exploitation or any form of sexual exploitation, slavery or practices similar to slavery, servitude, or the forced removal of organs." It is a significant step towards bringing India in line with the international law obligations it assumed on ratifying the UN Trafficking protocol (NHRC 2023: 35).

State Governments Acts

The state governments in the country have also enacted laws to deal with the issue of inhuman trafficking that are based on the National Plan of Action to Combat Trafficking and Commercial Sexual Exploitation of Women and Girls. Some of the state laws enacted in the states can be mention as follows-

Karnataka *Devdasi* (Prohibition of Dedication) Act, 1982; child labour (Prohibition and Regulation) Act, 1986; Andhra Pradesh *Devdasi* (Prohibiting Dedication) Act, 1989; Information technology Act, 2000; the Goa Children's Act, 2003 and the Juvenile Justice (Care and protection of children) Amendment Act, 2006 (Roy 2010: 117). All of these acts are executing to curb the menace of human trafficking in the states.

Executive Action to Prevent Women Trafficking in India

The Government of India has initiated several initiatives in collaboration with Non Government Organisation (NGO) to combat trafficking and has also formed special cell in the Ministry of Home Affairs, Government of India as the nodal agency for the Anti Human trafficking units. The law enforcement agencies are also being sensitized on the issue of Trafficking and several modules for police trainings have been formulated by the United Nations office on Drugs and Crimes (UNODC, Bureau of Police Research and Development (BPRD) and Ministry of Home Affairs. The union of India in collaboration with NGOs has launched Ujjwala scheme and Swadhar greh Schemes which are more focused towards trafficked children (NHRC 2023: 47).

Ujjwala Scheme: The Ministry of Women and Child development is implementing this scheme for Prevention of Trafficking for Rescue, Rehabilitation, and Re-integration and Repatriation of victims for commercial Sexual Exploitation. The scheme provide shelter, food and clothing, counselling, medical care, legal aid and other support, vocational training and income generation activities for the victims ((NHRC 2023: 47).

One Stop Centre: Many women who are victim of crimes unable to know where to go for support for them. Considering this aspect One stop centre (OSCs) have been set up across the country. Popularly known as Sakhi centres, the scheme of OSC is being implemented across the country

since 1st April, 2015 for facilitating access to an integrated range of service including police, medical, legal, psychological support and temporary shelter to women affected by violence. The scheme is funded through Nirbhaya Fund (NHRC 2023: 47).

Swadhar Greh: The Ministry of Women and Child development is implementing the Swadhar Greh scheme which targets the women victims of unfortunate circumstances are in need of institutional support for rehabilitation so that they could lead their life with dignity. The scheme focuses on providing shelter, food, clothing and health as well as economic and social security for women victims of difficult circumstances which includes widows, destitute women and aged women (NHRC 2023: 47).

To prevent women trafficking a meeting of joint task force in human trafficking between India and UAE was held from 4th to 5th August in Abu Dhabi, to enhance cooperation in this aspect (NHRC 2023: 48).

4. Conclusion

From the above discussion it's clear that both of the executive and legal actions have been taking in the country to combat women trafficking. Despite these initiatives women trafficking in the country have been continuing unabatedly. So the effectiveness of the laws has been questioned. Whether these laws are unable to combat women trafficking? What are the loopholes in the existing laws and in other actions? Again in 2021 the Union Ministry of Women and Child Development (WCD) have invited suggestions for the draft trafficking in Persons (Prevention, Care and Rehabilitation) bill, 2021. The 2021 bill is an improved version of the Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill, 2018 that was passed by the Lok Sabha in July 2018. But the bill was subsequently lapsed. Again the 2021 bill is yet to be tabled in the parliament. The negligence of the Union Government to introduce of the bill in the parliament indicates the lackadaisical attitude of the government to combat inhuman trafficking in the country. To combat the women trafficking besides the government the NGOs and the civil society have also responsibility. The government need to be pressurised by these non state actors.

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