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Right against Exploitation with Detailed Analysis on Human Trafficking

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ABSTRACT

Human trafficking is a trade carried upon human beings which violates their human rights. The offenders traffic human beings, exploit them in various forms for financial earnings. The victims of human trafficking face many consequences as they suffer from mental trauma and a long period of exploitation even after they come out from such status. This paper deals with human trafficking in India and analyzes the causes and types of human trafficking. This paper is an attempt to analyze the trends and dimensions of trafficking from a human rights paradigm. There is a United Nations Convention on Transnational Organized crime (UN Toc) to intercept transnational human trafficking. Also, this paper describes the laws and acts that are executed by the government of India to shield the general population from these groups of crimes. In the end, this paper sheds some light on the role of NGOs, civil society, and the family and suggests some administrative and legislative measures for preventing human trafficking. As India at a fast pace becoming a source, transit point as well as a destination for traffickers, this research paper will have immense implications for future course.

I. INTRODUCTION

The Fundamental Rights are defined as basic human freedoms which every Indian citizen has the right to enjoy for the intellectual, moral, and spiritual development of personality. Irrespective of race, place of birth, religion, caste, creed, color, or sex every citizen is subject to these rights. Right against Exploitation is one such fundamental right which prohibits slavery and any act which harms the dignity and freedom of a person. This right holds water to avoid caste-based discrimination that accounts for human rights violations of vulnerable sections of our society by a powerful section of the same society. According to the Global Slavery Index, 2016, 18.3 million people in India were forced in modern slavery.² This number of cases was further increased according to the Global slavery survey report, 2018. The Right against

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² Walk Free Foundation, Global Slavery Index (May, 2016) available at: <https://www.globalslaveryindex.org>

exploitation enshrined in Article 23 and 24 of Part III of the Indian Constitution guarantees human dignity and protects human rights of people.

This paper gives a detailed analysis of the situation of human trafficking in India. As per the United Nation Office on Drugs and Crime (UNODC), “human trafficking involves recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion/deception, for the purpose of exploitation which may include 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.” Structural inequality, cultural practices, poverty, economic differences in society, organ trade, bonded labor, gender violence, which are further aggravated by corruption, are some of the prevalent vulnerability factors which lead to an increase in human trafficking. This paper emphasizes underlying root causes, modes, and also crimes related to human trafficking, that threatens the human security of the trafficked persons in India. Accordingly, it provides some preventive measures through landmark judgments to address and deal with the problem of human trafficking in India.

(A) Objective

- To study constitutional perspective of Right against Exploitation which is a fundamental right under Article 23-24.
- To study human trafficking in India.
- To study the laws for human trafficking in India
- To analyze whether the laws for human trafficking in India are properly implemented with reference to landmark and recent case laws and suggest preventive measures.

(B) Research Methodology

This Research Paper is doctrinal in nature and mainly based on secondary data which has been taken from National Crime Record Bureau (NCRB), books, articles. Newspaper articles, web sources, and others. The Systematic Approach has been adopted for the analysis and both qualitative and quantitative methods have been applied for data analysis.

II. RIGHT AGAINST EXPLOITATION

The Right against Exploitation upholds the principle of human dignity and liberty through Articles 23 and 24 of the Indian Constitution.

Article 23 – Prohibition of traffic in human beings and forced labour

Article 23(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.”³

Article 23(2): “Nothing in this article shall prevent the State from imposing compulsory service for public purposes, 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.”⁴

Article 23 has a wide scope because social evils such as ‘forced labour’ and ‘traffic’ are also included, irrespective of the fact that the Indian Constitution does not ambiguously ban ‘slavery’. The other reason for its wider scope is that it **protects citizens not only against the State but also from a private citizen.**

Begar was a system in which British Government officers and *Zamindars* used to compel the marginalized community to engage in manual and agricultural labour without any remuneration. Any citizen can’t be forced to engage in labour against his/her will irrespective of the amount of remuneration paid. Forced labour is forbidden by the Constitution. It is considered forced labour even if the person is paid less-than-minimum wage. Article 23 also makes ‘bonded labour’ unconstitutional. Bonded labour is when a person is forced to offer services out of a loan or debt that cannot be repaid. Hence, the Constitution makes coercion of any kind for labour unconstitutional.

This Article also makes Human Trafficking unconstitutional which involves the buying and selling of men and women for illegal and immoral activities. It is the responsibility of the state to protect its subjects from these crimes by taking punitive action against perpetrators of these acts, and also take positive actions to abolish these evils from society.

Article 24 – Prohibition of employment of children in factories, etc.

Article 24 says that “No child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment.”⁵

This Article prohibits any hazardous industry or factories or mines, without exception, to employ any child below the age of 14. However, in non-hazardous work, the employment of children is allowed as it doesn’t adversely affect the overall health of child.

III. HUMAN TRAFFICKING

The Human Trafficking trade is the third-largest organized crime across the world after drugs

³The Constitution of India, Art.23(1)

⁴The Constitution of India, Art.23(2)

⁵The Constitution of India, Art.24

and arms trafficking. The main objective of Human Trafficking across the globe is sexual exploitation, where women and children are more prone to get victimized.⁶ Human Trafficking is a group of crimes involving trafficking in the person of men, women, and children with the objective of sexual exploitation or physical and mental exploitation of trafficked persons or for any sort of financial gains by using that person by any wrongful means. Victims after abduction are forcefully made to work against their will in prostitution or subjected to various types of indignities in various establishments and for begging and trade in human organs they are killed or debilitated brutally. The most vulnerable section of society who are victimized are children and young women brought from backward areas or sometimes from other states who are exploited economically physically and sexually. The Central Bureau of Investigation (CBI) of India has exclusively created a 24 * 7 helpline number (01124368638) for complaints regarding “illegal human trafficking mainly trafficking of women & the children”. According to U.S. Law, The Trafficking Victims Protection Act, 2000, there are three classes of human trafficking victims-

- Children below 18 years of age are induced into commercial sex.
- Adults of age 18 years or above are induced into commercial sex.
- Children and adults compel to perform labor through force, fraud or coercion.⁷

Females are trafficked for the motives of professional sexual exploitation and forced marriage especially in those parts of the country where the sex ratio is highly unfair in favor of men. Males are trafficked for labour and maybe sexually exploited by criminals to serve gigolos, message experts, escorts. Children below 14 years of age are exploited by compelling them to work in factories, begar domestic servants, and as armed trooper by some terrorist and insurgent groups

Human trafficking in India results in women suffering from both mental and physical sufferings of the person trafficked as it may lead to mental issues including disorders such as PTSD, depression, anxiety, and a higher risk of getting infected from HIV, TB, and other STDs as protection is hardly used.

(A) Causes of Human Trafficking

Poverty, social or cultural practice, and migration are often considered root causes of this social evil. Some loopholes in government functioning which cause an increase in cases of trafficking

⁶ G.S. Janani, Dr. S. Pandiaraj, “Human Trafficking in India”*IJPAM* (2018).

⁷ The Trafficking Victims Protection Act, 2000.

are the porous nature of borders, corrupt governance, the involvement of internationally organised criminal groups or networks, and limited powers and restricted work environment provided to immigration and enforcement officers to regulate borders.

These factors create a toxic vulnerable condition that leads to easier exploitation of victims by their traffickers. “Towering above all these significant challenges in human trafficking is the trafficker’s willful decision to profit by compelling people to work or prostitute.”⁸ Human trafficking is not a naturally happening phenomenon but a choice. Traffickers are trained to identify vulnerability and use expert manipulation tactics to influence and control their victims.

(B) Types of Human Trafficking

The different crimes which are related to human trafficking in India:

- i) Importation of girls from a foreign country (Sec. 366B IPC)
- ii) Procurement of minor girls (section 366A IPC)
- iii) Buying of minors for prostitution (section 373 IPC) (in previous editions, data was collected under buying of girls for prostitution)
- iv) Selling of minors for prostitution (Section 372 IPC) (in previous editions, data was collected under buying of girls for prostitution)
- v) Immoral Traffic (Prevention) Act 1956
- vi) Human trafficking (section 370 & 370A IPC), after the creation of a specific section in IPC by the Criminal Law (Amendment) Act 2013.

(C) Official Reports by National Crime Record Bureau (NCRB)

According to the *National Crime Records Bureau*, in 2018 total cases reported in India of human trafficking were 5264 out of which 64% were women and 48% people were below 18 years old. These numbers of cases were less than the number of incidents reported in previous years. A total of 6,877 cases of crime relating to human trafficking were registered in the country during the year 2015 as compared to 5,466 cases during the year 2014, showing an increase of 25.8% during 2015 over 2014. Therefore, the crime rate under the crimes relating to human trafficking increased from 0.4 in 2014 to 0.5 during the year 2015. Incidents of human trafficking are showing a rising trend during the period from 2011 – 2015. A total of 3,517 cases were registered in 2011, which rose to 3,554 cases in 2012, to 3,940 cases in 2013, to 5,466 cases in 2014, and 6,877 cases in 2015. The crime under human trafficking during the

⁸ John Cotton Richmond, “The Root cause of Trafficking is Traffickers” *The Human Trafficking Institute*, Jan.31, 2017

year 2015 has increased by 95.5% over 2011. Three of India's 36 states and territories reported 43 percent of all trafficking cases, most likely due to more sophisticated reporting rather than larger trafficking problems. Nagaland, Andaman & Nicobar Islands, Chandigarh, Dadra & Nagar Haveli, and Lakshadweep are among those five states and union territories with no reported trafficking cases in either 2017 or 2018.⁹

In India Bihar, Maharashtra, Telangana, Jharkhand, Rajasthan, Andhra Pradesh, Assam, Orissa, and West Bengal are the most affected states which are prone to human trafficking. The most vulnerable section of society to fall victim to such malpractices belongs to the categories of SC, ST, OBC, and economically disadvantaged classes.

IV. LAWS AND ACTS ON HUMAN TRAFFICKING IN INDIA

Along with the Constitution of India, Parliament and legislative assembly of some states enacted a wide range of laws to curb human trafficking cases in India. Following are the provisions of the Constitution and Indian Penal Code and Acts introduced by the Government of India on this social issue:

Constitution of India

Fundamental Rights as provided under part III of the Indian Constitution have unequivocally claimed the wrongness of human trafficking in terms of both morality and legality. Right against Exploitation is Fundamental Right that is enshrined by Articles 23 and 24.

- Article 23- Forbids traffic in humans and system of begar, forced labour and bonded labour and makes these practices punishable under law.
- Article 24- Protects children below age 14 from employment in any hazardous factories, mines, or any other hazardous employment.

Human trafficking is also the cause of violation of Fundamental Rights by the virtue of the golden triangle of Fundamental Rights that is constituted by Articles 14, 19, and 21, which grant complete protection to an individual from infringement of basic human rights. Further, in the case of *Minerva Mills* the Supreme Court states "Three Articles of our Constitution, and only three, stand between the heaven of freedom into which Tagore wanted his country to awake and the abyss of unrestrained power. They are Article 14, 19, and 21."¹⁰

- Article 14- Provides for equality before the law and equal protection of all individuals

⁹National Crime Record Bureau, National Crime Record Bureau Report (2018, 2015, 2014, 2013, 2012, 2011) available at: <https://ncrb.gov.in>

¹⁰ *Minerva Mills Ltd. & Ors. vs. UOI & Ors.*, 1980 AIR 1789, 1981 SCR (1) 206.

before the law, within the Indian Territory, on the grounds of religion, race, caste, sex, and place of birth.

- Article 19(1) (d) - It guarantees to all citizens of India the Right "to move freely throughout the territory of India."¹¹ This Right is, however subject to reasonable restrictions in the interest of the general public or for the protection of the interest of any Scheduled Tribe mentioned under Article 19(5).
- Article 21- It states "no person shall be deprived of his life or personal liberty except according to procedure established by law."¹²In *Vishaka vs. State of Rajasthan*, Supreme Court declared sexual harassment of working women at her workplace amounting to the violation of rights of gender equality and Right to life and liberty, hence, violating Articles 14, 15, and 21.¹³

The Part-IV of the Indian constitution which contains Directive Principles of state policy (DPSP) also has the reflection of Articles of 23 and 24 of Part-III of the Indian constitution.

- Article 39- To provide opportunities for the healthy development of children.
- Article 45- "The State shall endeavor to provide early childhood care and education for all children until they complete the age of six years."¹⁴
- Article 46- Promote the educational and economic interests of Scheduled Castes, Scheduled Tribes, and other weaker sections of the society and protect them from social injustice and exploitation.

Indian Penal Code (IPC)

There are a total of 25 provisions for trafficking enshrined by the Indian Penal Code, some of the significant sections among them are as follows-

- Section 366A- When any minor girl under the age of eighteen years is induced by whatsoever means to go to any such place with the intention of forced or seduced illicit intercourse with another person shall be a punishable offence with imprisonment which may extend to ten years and shall also be liable for fine.
- Section 366B- When any girl under twenty-one years is imported from any country outside India with the intent that she will be, forced or seduced to illicit intercourse with

¹¹ The Constitution of India, Art.19(1)(d)

¹² The Constitution of India, Art.21

¹³ *Vishaka & Ors. vs. State of Rajasthan*, AIR 1997 SC 3011.

¹⁴ The Constitution of India, Art.45

another person is a punishable offence with imprisonment which may extend to ten years and shall also be liable for fine.

- Section 372 – If any person sells, lets to hire or disposes of any other person who is a minor i.e. under the age of 18 years for purposes of prostitution, etc. shall be punished with imprisonment of either description for a term which may extend to 10 years and shall also be liable to fine.
- Section 373 – If any person buys, hires or obtains possession of any other person who is a minor i.e. under the age of 18 years for purposes of prostitution, etc. shall be punished with imprisonment of either description for a term which may extend to 10 years and shall also be liable to fine.
- Section 374- It prevents unlawful compulsory labour by punishing any individual who unlawfully pushes the person into forced labour against his will, with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

The Criminal Law (Amendment) Act, 2013 (Nirbhaya Act)

In the light of the protests against the 2012 Delhi gang-rape case, President of India, Mr. Pranab Mukherjee proclaimed an Ordinance which later on became The Criminal Law (Amendment) Act, 2013, also called The Nirbhaya Act. Laws of the Indian Penal Code, Indian Evidence Act, and Code of Criminal Procedure, 1973 associated with sexual offences were amended. Laws dealing with the trafficking of a person for exploitation were introduced by substituting Section 370 of IPC with new section 370 and section 370A. It specifically criminalizes recruitment, transfer, transport, harbouring of a person for prostitution, forced labour, organ removal by use of threats, or force, or coercion, or abduction, or fraud, or deception, or abuse of power, or inducement. These provisions also enhanced the punishment from 7 to 10 years imprisonment.

Immoral Traffic (Prevention) Act, 1986

The Immoral Traffic (Prevention) Act, 1986, was originally the Suppression of Immoral Traffic in Women and Girls (SITA), 1956. It was in pursuance of the International Convention for the “Suppression of Traffic in Persons and of the Exploitation of Others” signed by India in New York in 1950 about the Prevention of Immoral Trafficking. This Central legislation deals with trafficking in India by making the commercial sexual exploitation of males and females a cognizable offence. The preamble of this Act defines its purpose which is to give effect to the Trafficking Convention and to prohibit immoral human trafficking.

Offences specified under this Act are:

- Keeping or managing a brothel or allowing premises to be used as a brothel
- Living on the earnings of prostitution
- Attempting, procuring, or taking a person for the sake of prostitution
- Detaining any person in premises for prostitution
- Prostitution in the vicinity of public places
- Seduction of a person in custody¹⁵

Child Labour (Prohibition and Regulation) Act, 1986

This Parliament of India and Ministry of Labour and Employment introduced the Child Labour (Prohibition and Regulation) Bill to achieve the following objectives-

- (i) Employment of children below fourteen years of age in specified occupations and processes should be banned;
- (ii) to decide modifications to the Schedule of banned occupations or processes, a procedure should be laid down;
- (iii) regulate the working conditions for children in places where they are not forbidden to be employed;
- (iv) if acts that forbid the employment of children is violated enhanced penalties should be laid down on the people who give employment to children;
- (v) the definition of "child" in the related laws should be uniform.¹⁶

This Act was amended in 2016 and was known as Child Labour (Prohibition and Regulation) Amendment Act, 2016. According to which a "Child" is defined as any person below the age of 14, and this Act prohibits employment of a Child in any employment including as domestic help. To employ a Child for any work is a cognizable criminal offence. As per this act "Adolescent" are children age between 14 to 18 years, who are allowed to get employment except in the listed hazardous occupation and processes as per the Factories Act, 1948.¹⁷

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

Trafficker's main targets are such areas that are backward in social and literacy sense as it is easier to victimize people belonging to the marginalized group due to lack of awareness and poverty. This becomes an additional tool to safeguard women and young girls belonging to

¹⁵The Immoral Traffic (Prevention) Act, 1956.

¹⁶The Child Labour (Prohibition and Regulation) Act, 1986.

¹⁷ Child Labour (Prohibition and Regulation) Amendment Act, 2016.

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, hence counter the offence of trafficking. Section 3 of this act deals with atrocities committed against people belonging to Scheduled Caste and Scheduled Tribes, and provides minimum punishment of six months which may extend to five years.

Karnataka Devadasi (Prohibition of Dedication) Act, 1982 and Andhra Pradesh Devadasi (Prohibiting Dedication) Act, 1989

This law prohibits any act of dedication of any girl with or without consent as Devadasi in any manner and imposes a penalty of imprisonment and fine.

Information Technology Act, 2000

This act addresses the problem of pornography and penalizes electronic transmission of lascivious content.

Section 67A- “Whoever publishes or transmits or causes to be published or transmitted in the electronic form any material which contains sexually explicit act or conduct shall be punished on first conviction with imprisonment of either description for a term which may extend to five years and with fine which may extend to ten lakh rupees and in the event of second or subsequent conviction with imprisonment of either description for a term which may extend to seven years and also with fine which may extend to ten lakh rupees.”¹⁸

Section 68B- Provides punishment for publication or transmission of material depicting children in a sexually explicit act in electronic form.

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

According to this Act, there is no difference between a minor and a child and include all the persons under the age of eighteen years as children, as they are vulnerable to become a victim of trafficking. Hence, this Act gives protection to juveniles from human trafficking.

Goa Children’s Act, 2003

This child abuse legislation defines sexual assault including every type of sexual exploitation and has strict laws on the safety of children and the publishing of pornographic materials.

Right of Children to Free and Compulsory Education Act, 2009

The Right of Children to Free and Compulsory Education Act or Right to Education Act (RTE) was enacted by the Parliament of India which gave importance to “free and compulsory

¹⁸The Information Technology Act, 2000, s.67A

education” for children between the age of 6 to 14 years in India. Under Article 21A of the Indian Constitution Right to education becomes a Fundamental Right of every child. Hence, this act specifies minimum norms in elementary schools and reserves 25% of seats for children based on economic status and caste-based reservation in all private schools.¹⁹

The Protection of Children from Sexual Offences (POCSO) Act, 2012

This is a gender-neutral act which recognizes both boys and girls under the age of 18 as a victim of sexual assault, which IPC doesn't recognize. This increased the scope of reporting sexual crimes against children. It included both non-penetrative sexual assault as well as aggravated penetrative sexual assault (sections 3 to 10), and also included punishment for exposing children to or using them to create child sexual abuse material (CSAM) under sections 13, 14, and 15.

Another hallmark of the POCSO Act introduced procedures for child- friendly criminal justice system to prevent re-traumatisation. This includes rules and regulations for medical examination of the child, procedure to record child's statement designation of special child-friendly courts.

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

The Minister of Women and Child Development, Ms. Maneka Gandhi, introduced The Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill in Lok Sabha which was passed in that House on July 26, 2018, providing prevention, rescue, and rehabilitation of trafficked persons through 59 sections which was divided into 15 chapters. The main features of the bill are as follows-

- Trafficking was classified into general and aggravated forms to cover all kinds of trafficking
- Rehabilitation and investigation authorities at the District, State, and National level were established to rescue victims from all over the nation.
- More stringent and enhanced punishment in comparison to the present laws was introduced.
- It also takes care of the confidentiality of the victim, complainant, and of the witness by not disclosing their identity.

¹⁹ Right of Children to Free and Compulsory Education Act, 2009.

- Time-bound proceeding must be completed within a year from the date of taking cognizance.
- Creation of The Rehabilitation Fund for the victims of trafficking.
- Issue of trans-border trafficking was also tackled in this Bill.

V. LANDMARK CASES

Peoples Union for Democratic Rights v. UOI AIR 1982 SC 1473

A petition was filed by an organization named People's Union for Democratic Rights, which took various measures to scrutinize and investigate the working condition of various people employed in the Asiad Project. It was revealed that various labour laws were being violated and hence the instant public interest petition was filed. In this case, issues were like laborers were not given minimum remuneration as per The Minimum Wage Act, 1948 and unequal distribution of wage among men and women was also being observed.

Supreme Court gave an interpretation of the scope of Article 23 in this case and observed that the term "force" referred to in this article has a very wide meaning. It includes physical force, legal force, and other economic factors that force a person to provide labour at a wage less than the minimum wage, just because of poverty, want destitution, or hunger. The court also went a step further and clarified the meaning of the phrase "all similar forms of forced labour" as enshrined in Article 23 of the Constitution of India Apex court said that irrespective of giving remuneration a person cannot be forced to supply labour against his will.²⁰

Vishal Jeet v. Union of India, (1990) 3 SCC 318

In this case, Supreme Court laid down the following directions:

- The State Governments and the Governments of Union Territories should set up a separate Advisory Committee and rehabilitative homes manned by well-qualified trained social workers, psychiatrists, and doctors within their respective zone areas and implement social welfare programmes for the children and girls rescued from the vices of prostitution.
- The Union Government should set up a committee of its own to evolve welfare programmes on the national level for the care, protection, rehabilitation of victims and to make suggestions to amend existing laws on the prevention of sexual exploitation of children.

²⁰Peoples Union for Democratic Rights v. UOI, AIR 1982 SC 1473.

- The Central Government and the Governments of States and Union Territories should devise machinery of its own for ensuring the proper implementation of the suggestions that would be made by the respective committees.
- The Advisory Committee should suggest measures to the government concerning the eradication of the Devadasi system and Jogin tradition.²¹

M.C. Mehta vs. State of Tamil Nadu AIR 1997 SC 699

In this case, M.C. Mehta concerned by the unbearable state of child labour in Sivakasi, a town in the state of Tamil Nadu filed a petition under Article 32 of the Indian Constitution, questioning the constitutional validity of the employment of children in hazardous match stick factories. The court also took suo moto cognizance of an accident that occurred in one of Sivakasi's fireworks factories which resulted in 39 deaths. As growth and development of the child is the prime focus of the legislation, the court issued certain directions suggesting means to improve the deteriorating financial conditions of the family which compels them to work.

- Child Labour Rehabilitation cum Welfare Fund was created to financially help children working in hazardous conditions.
- Employer who employs a child into hazardous labour will be liable to give a fine of Rs. 20,000 which will be deposited in The Fund.
- Government should give a job to an adult member of the family in lieu of the child employed in hazardous jobs, who will in return ensure full-time education of that child.
- If the government is not able to provide an adult with a job, Rs. 5000 from The Fund will be provided to families of each child employed in a factory or mine or other hazardous employment.²²

State Of Uttarakhand vs. Sartaj Khan, 2017 Utt 1504

In this case, the respondent has kidnapped the prosecutrix from lawful guardianship and imported her from Nepal to India by practicing fraud, deception, and inducement, for exploitation. He has sexually assaulted and intimidated the prosecutrix while travelling from Atariya to Mahendra Nagar. Court held the conviction of the respondent for the offence of Sections 363, 366-B, 370(4), and 506 IPC and Section 8 of POCSO Act. The concerned authorities should invoke provisions of the Money Laundering Act, 2008, since the Immoral Trafficking Prevention Act, 1986 has been included as Para 7 of the Schedule prepared

²¹Vishal Jeet v. UOI, AIR 1990 SCC 318.

²² M.C. Mehta vs. State of Tamil Nadu, AIR 1997 SC 699.

under Section 2(y). The Central agencies are also required to increase patrolling on the international borders and also by invoking the help of genuine Non-Government Organizations to check the human trafficking, by an increasing number of check-posts and additional manpower.²³

Bachpan Bachao & Ors. vs. Union Of India & Others, (2011) 5 SCC 1

Public Interest Litigation (PIL) was filed by an NGO called Bachpan Bachao under Article 32 of the Constitution bringing in light the issue of abuse of children who are forcefully detained in circuses under extreme inhuman conditions. Most of the victims belong to poverty-stricken areas of Nepal as well as from backward districts of India. The employment of children in circus abuses them physically, emotionally, and sexually violating their Fundamental and Statutory Rights. The Solicitor General of India broadened the scope of this petition and submitted a detailed report dealing with the problem of trafficking in children. Some of the directions issued by the Supreme Court to the Central Government regarding children working in the Indian circuses:

- To implement the fundamental right of the children under Article 21A of the Constitution of India, Central Government have to issue suitable notifications prohibiting the employment of children in circuses.
- Simultaneous raids in all the circuses should be conducted to rescue children and keep them in the Care and Protective Homes till they attain the age of 18 years or to send them back to their homes after proper identity verification.
- A proper scheme of rehabilitation of rescued children from circuses should be framed to avoid re-traumatisation.²⁴

VI. CONCLUSION AND SUGGESTIONS

The government of every nation should adopt these preventive measures to lower the rate of human trafficking and eradicate this social evil from this globe.

1. Border measures: Stringent Enforcement of cross border trafficking, Secure Vigilance in Trafficking routes, and Proper social accountability is needed.
2. Economic and social policies:
 - Taking measures to raise levels of social protection and to create employment

²³ State of Uttarakhand vs. Sartaj Khan 2017 Utt1504.

²⁴ Bachpan Bachao & Ors. vs. UOI & others, (2011) 5 SCC1

opportunities.

- Taking appropriate measures to eliminate discrimination based on gender in the field of employment to ensure, the right to get equal pay for equal work and the right to equality in employment opportunities.
 - Encouraging gender sensitization and education on equal and respectful relationships between the sexes, thus preventing violence against women.
 - Ensuring that policies that give equal access to women have control over economic and financial resources.
 - Along with women and children, men must also be given adequate means of education and employment which would greatly contribute to preventing human trafficking
3. Awareness-raising measures: With the help of NGOs and Police officials there can some types of advertisements through the popular media in a particular location and by conducting some awareness programs and workshops in villages, local schools, among people of poor society and general public places to warn them from being victimized.
4. Legislative measures:
- Strengthen domestic legislation to combat all forms of human trafficking
 - Extensive research throughout the country should be conducted by The National Human Rights Commission regarding the human trafficking scenario and should implement effective laws to improve the situation.
 - Educational, Social, Cultural, or other measures should be applied and, where applicable, penal legislation should be there, including through bilateral and multilateral cooperation, to discourage the demand that fosters all forms of exploitation of people which leads to trafficking.
 - The migration aspects from one country to another must be strengthened to prevent the transnational organized crime of human traffic.
 - Many more rehabilitation centers must be established for the welfare of the victims.

Human trafficking is an unjustified trade and enslavement of human being in the 21st century which severely violates human rights guaranteed by Article 23 and 24 of the Constitution of India by jeopardizing the dignity and security of trafficked individuals. In India to combat

trafficking and give protection to the human rights of the vulnerable class of society, the strong political will of the government along with the deep understanding of the financial, political situation and cultural power structures in society is vital in implementing their anti-trafficking mandates. Commissions set up by states with the help of NGOs can conduct comprehensive surveys and other rescue and rehabilitation exercises to save trafficked people from that dark world where their dignity and self-worth are forcefully stripped. The problem is still in our hands to be solved if every individual contributes towards this cause by being vigilant in his locality and government deliberately taking strong steps and policies which are strictly implemented.
