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Rise of Human Trafficking during Covid-19

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ABSTRACT

An unprecedented pandemic that has adversely impacted our world and a socio-legal issue that has and continues to be immensely problematic and depraved. This is the coronavirus disease and the crime of human trafficking respectively. The issue at hand is the largely unknown association between these two incidents. This is precisely what this paper endeavours to elaborate on. It explains how the rules and regulations introduced by several governments for mitigating the spread of the disease such as social distancing, working from home, etc. have indirectly increased the rates of the inhumane offence and regrettably made it easier to do so. It clarifies what the coronavirus disease is by focusing on its definition, origin, method of transmission, etc. Subsequently, it elucidates on the meaning and types of human trafficking while highlighting the sheer damaging impact of the same on its victims. Afterwards, the connection between these two topics is thoroughly explored through the combination of literary mediums and statistical data. Light is shed on how the disease has made people of all ages and genders more emotionally, physically, economically and socially helpless which ensures that they are effortlessly trappable by the vile traffickers. Special emphasis is placed on the innocence of children and the hardships this pandemic has made them go through in terms of online education, domestic violence, etc. Later, a synopsis of existing laws and provisions regarding human trafficking is provided with indispensable solutions for reducing the crime rates and ameliorating the problems of its victims. Ultimately, a conclusion constituting personal views is opined.

Keywords: Covid, Trafficking, Vulnerable, Children, Women.

I. WHAT IS COVID-19?

The now infamous word “Coronaviruses” is defined as a family of viruses that can cause illnesses such as ‘the common cold, severe acute respiratory syndrome (SARS) and the Middle East respiratory syndrome (MERS)’. In some cases, it can prove to be fatal. In December 2019, a novel strain of the same was controversially identified as the cause of a disease outbreak in Wuhan City, Hubei Province, China.² It subsequently spread to the rest of the world and was

¹ Author is a student at Rizvi Law College, India.

²Aditya Shah et. al., *Guide to Understanding the 2019 Novel Coronavirus*, 95 Mayo Clin. Proc. 646, 646-647, (2020).

declared as a pandemic by the World Health Organization on 11th March, 2020³. The disease is now commonly called coronavirus-2019 (COVID-19).

It principally spreads through droplets of saliva from the mouth or discharge from the nose which are expelled when an infected person talks, coughs, sneezes, sings, etc. Other conceivable methods of transmission include it being airborne, fomite (contaminated surfaces), faecal-oral, bloodborne, mother-to-child during pregnancy and/or breastfeeding, animal-to-human contact, etc. Due to the gravity of the situation at hand, countless governments have created restrictions for travel, prevented in-person school and office work, and mandated that people practice social distancing amongst many other measures.

II. WHAT IS HUMAN TRAFFICKING?

Human trafficking which is also called **trafficking in persons** is a form of modern-day slavery involving the illegal transport of individuals by force or deception for the purpose of labour, sexual exploitation, or activities in which others benefit financially.⁴ It generates more than 150 billion dollars of profits worldwide with sex trafficking, forced labour, and debt bondage being its three most common types.⁵ It involves three elements: a) the act (e.g., recruitment, kidnapping, transfer); b) the means (e.g., force, kidnapping, fraud); c) the purpose of exploitation (e.g., sexual exploitation, forced labour, removal of organs).⁶ Some other types of trafficking include forced marriages, child soldiers, drug trafficking, child pornography, illicit international adoption, etc.

“It ought to concern every person, because it is a debasement of our common humanity. It ought to concern every community, because it tears at our social fabric. It ought to concern every business, because it distorts markets. It ought to concern every nation, because it endangers public health and fuels violence and organized crime. I’m talking about the injustice, the outrage, of human trafficking, which must be called by its true name - modern slavery.”

*~ Barack Obama.*⁷

³World Health Organization, *WHO Director-General’s opening remarks at the media briefing on Covid-19-11 March 2020* (Mar. 11, 2020, 12:30 PM), <https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020>.

⁴Alese C. Wooditch & Leonard A. Steverson, *Human Trafficking*, ENCLYCOPEDIA BRITANNICA (Jan. 22, 2021), <https://www.britannica.com/topic/human-trafficking>.

⁵Conduct Science Administrator, *Human Trafficking: Modern Slavery Exists*, CONDUCT SCIENCE (JUL. 2, 2019, 05:51 PM), <https://conductscience.com/global-data-on-human-trafficking/>.

⁶ *Id.*

⁷ Takim Williams, *#In Context: President Barack Obama*, HUMAN TRAFFICKING INSTITUTE (Jan. 4, 2017, 02:37 PM), <https://www.traffickinginstitute.org/incontext-president-barack-obama/>.

Sex trafficking disproportionately affects women and children and involves forced participation in commercial sex acts. There are approximately 800,000 people trafficked across international borders annually and, of these, 80% are women or girls and 50% are minors.⁸ There are approximately 40.3 million victims of trafficking worldwide. Furthermore, data shows that 81% of all human trafficking victims are trapped in forced labour, and 75% are women. More than 10 million victims are children, and approximately 15.4 million people are forced into marriage. As many cases go unreported or neglected, the actual numbers may sadly be even higher.⁹

This is a grave and deplorable social issue that can physically and mentally destroy a person forever. Human beings and their body parts are treated as nothing but objects- something that can be sold or exploited for material benefit. The impact of human trafficking ranges from physical damage such as skin damage, broken bones, injuries on the mouth, head eyes, etc.¹⁰, sexually transmitted diseases (STD's), unwanted pregnancies with lack of medical facilities for abortion, malnutrition and exposure to toxins; to mental disorders like post-traumatic stress disorder (PTSD), generalised anxiety disorder(GAD) and depression¹¹; to social issues such as family strife and division, community discrimination, social isolation, business expectations for docile and unpaid labour, and norms of cheap consumer goods.

III. WHAT IS THE CONNECTION BETWEEN COVID-19 AND TRAFFICKING?

One can comprehend the formidable nature of covid-19 and realise that something must be done to resolve the issue. One can also understand the morality and righteousness that lies beneath those stringent rules and regulations which were recommended by countless health officials, government heads, organization leaders, etc. in an attempt to curb the disease. After all, what action is more honourable than saving precious human lives? However, what one cannot bear is the fact of the matter which is that these pure actions have lamentably been tainted by disastrous consequences. This virus along with its recommended solutions has caused global havoc and completely changed our world for the worse. It has exacerbated major risk factors for global human trafficking.

In terms of its economic and societal impact, it has dramatically increased the levels of

⁸ Tiffany Dovydaitis, *Human trafficking: the role of the health care provider*, 55(5). *J MIDWIFERY WOMEN'S HEALTH*. 405, 462–467(2010).

⁹ Conduct science administrator, *Supra*. note 4.

¹⁰ Arun Kumar Acharya, *Prevalence of violence against indigenous women victims of human trafficking and its implications on physical injuries and disabilities in Monterrey city, Mexico*, 40(7-9) *HEALTH CARE WOMEN INT*. 829, 843(2019).

¹¹ Mazeda Hossain et al., *The relationship of trauma to mental disorders among trafficked and sexually exploited girls and women*, 100 (12) *AM J PUBLIC HEALTH* 2442, 2445 (2010).

unemployment, forced workers to migrate to their home towns without the availability of suitable means of transport, and made citizens weak and economically powerless. More than 81% of people in the global workforce are being affected by full or partial workplace closures, and there are two billion people in the informal sector, living primarily in developing countries, lacking the basic social protections that formal employment provides¹². The International Labour Organization estimates that 1.25 billion workers are employed in sectors identified as being at high risk of “drastic and devastating” layoffs and reductions in wages and working hours, potentially pushing an astounding number of people into vulnerable situations.¹³ This has forced people to obtain money through any means necessary for something as basic as food, water and shelter. Out of sheer desperation, they are willing to sell themselves.

Children are mandated to attend virtual classes instead of in-person to ensure their safety. Ironically, this is precisely what is endangering them. Children now have an established online presence which allows them to easily be captured by sexual predators and unfortunately be involved in trafficking. On account of their naiveté, they can easily be manipulated by the wrong people.

Furthermore, their internet usage is left under/unsupervised by the parents due to technological illiteracy, stress from unemployment (serious economic worries and focus on urgent job placement) or lack of time and energy due to work from home or outside the home, illness or hospitalization, etc. All of this implies that the parents are unable to prevent online crimes even if they desire to do so. Children are also away from traditional reporters of child abuse outside the home such as teachers, day care workers, and staff at after-school and community programs.

There has also been a stark increase in domestic violence and child abuse in this pandemic. Due to the restriction of travel, families which psychologically struggle with interpersonal dysfunction and trauma are mandated to spend an extraordinary amount of time together with no means to escape. This can increase tensions and cause physical eruptions of anger. Women may be sexually exploited by members of her family or may be forced to engage in illegal sex acts for remuneration. Children may be forced into labour due to financial strains and hardships. All of this may affect the psyche of young minds and tempt them to run away from

¹² International Labour Organization, *ILO: COVID-19 causes devastating losses in working hours and employment*, (Apr. 7, 2020), https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_740893/lang-en/index.html.

¹³ *Id.*

their homes, effectively establishing an even higher risk of exploitation. Activists say that despite the Covid-19 curbs in places, cases of child trafficking continue to rise unremittably due to its high exigency.

Owing to the “new normal” of lockdowns, confinement and social isolation, countless NGO’s report that it has become increasingly difficult to identify victims of trafficking, remove them from their currently exploitative situation, and provide them with assistance to accommodation, healthcare, in-person counselling, legal aid, etc as they so rightfully deserve. During the pandemic, there are additional obstacles to accessing services, assistance and support in the form of rules on confinement at home and related closure of NGOs and government offices. Consequentially, problems such as lengthy delays in providing help, massive backlog of cases, lack of funding and availability of resources, etc are created.

IV. WHAT ARE THE EXISTING LAWS VIS-A-VIS TRAFFICKING?

Our Indian Judiciary has explicitly prohibited and criminalised trafficking in human beings or persons.¹⁴ It protects victims against exploitation, prohibits traffic in humans and beggars and makes this practice punishable under law. Another act also prohibits children under the age of fourteen to work in factories, mines or other hazardous forms of employments.¹⁵

The Immoral Traffic (Prevention) Act, 1956 (ITPA)¹⁶ is the leading legislation for the prevention of trafficking for commercial sexual exploitation. Interestingly, the word “Trafficking” is defined only by the Goa Children’s Act, 2003¹⁷, which is a state law and not by the ITPA. This could be a source of ambiguity and allow misuse in the application of the act by the higher forces.

The offences which are specified in the Act are as follows:

- Keeping a brothel or allowing premises to be used as a brothel
- Living on the earnings of prostitution
- Attempting, inducing, procuring or taking a person for the sake of prostitution with or without their consent
- Detaining a person in the premises where prostitution is carried on
- Prostitution in or in the vicinity of public places

¹⁴ INDIA CONST. art. 23, cl.1.

¹⁵ INDIA CONST. art. 24, cl.1.

¹⁶ The Immoral Traffic (Prevention) Act, 1956, No. 104, Acts of Parliament, (India).

¹⁷ The Goa Children’s Act, 2003, No. 18, Acts of State, (Goa, India).

- Seduction of a person in custody

Criminal Law (Amendment) Act 2013¹⁸ provides for comprehensive measures to counter the menace of human trafficking including trafficking of children for exploitation in any form including physical exploitation or any form of sexual exploitation, slavery, servitude, or the forced removal of organs.

Protection of Children from Sexual Offences (POCSO) Act, 2012¹⁹, which has come into effect from 14th November, 2012 is a special law to protect children from sexual abuse, assault, harassment, exploitation, and pornography. It aims to safeguard the interests of children at every step of the way by incorporating child-friendly mechanisms for reporting, recording of evidence, investigation and speedy trial of offences through designated Special Courts. People who traffic children for sexual objectives are also liable to be punished by the provisions relating to abetment in the said Act. It prescribes severe punishment graded as per the magnitude of the offence, with a maximum term of rigorous imprisonment for life, and a fine.

Information Technology Act, 2000²⁰ penalises publication or transmission of any such material in electronic mediums which are inappropriate, lascivious, and contain sexually explicit activities. It also addresses the problem of pornography.

Juvenile Justice (Care and Protection of Children) Act, 2000²¹ is relevant for children who are defenceless and are therefore likely to be the victim of trafficking. It protects children in need of care and protection.

V. WHAT AUXILIARY SOLUTIONS ARE RECOMMENDED FOR TRAFFICKING?

In the landmark case of Vishal Jeet v. Union of India²², the Supreme Court acknowledged that:

“The causes and evil effects of prostitution maligning the society are so notorious and frightful that none can gainsay it. It is highly deplorable and heartrending to note that many poverty stricken children and girls in the prime of youth are taken to ‘flesh market’ and forcibly pushed into the ‘flesh trade’ which is being carried on in utter violation of all canons of morality, decency and dignity of humankind. There cannot be two opinions—indeed there is none—that this obnoxious and abominable crime committed with all kinds of unthinkable vulgarity should be eradicated at all levels by drastic steps.”

¹⁸ Criminal Law (Amendment) Act, 2013, No. 13, Acts of Parliament, (India).

¹⁹ Protection of Children from Sexual offences (POCSO) Act, 2012, No. 32, Acts of Parliament, (India).

²⁰ The Information Technology Act, 2000, No. 21, Acts of Parliament (India).

²¹ The Juvenile Justice (Care and Protection of Children) Act, 2015, No. 02, Acts of Parliament (India).

²² Vishal Jeet v. Union of India, (1990) 3 S.C.C. 318 (India).

The Supreme Court while putting on record the growing exploitation of young women and children for prostitution and trafficking, reported that despite the stringent and rehabilitative provisions of law under various Acts, it cannot be said that the preferred result has been achieved. Thus, in an attempt to further understand this evil, it ordered for an objective multi-dimensional study and a probing investigation into the matter relating to its causes and effects along with rational measures to weed out the vices of the same. It stated that this quandary is not only a social but also a socio-economic problem and, therefore, the measures to be taken in that regard should be more preventive rather than punitive. It was of the view that this contemptible problem can be suppressed and eradicated only if the law enforcing authorities in that regard take very severe and speedy legal action against all the erring persons such as brokers, pimps, black market traders, brothel keepers, etc.

On the 7th of July, 2020, the Union Ministry of Home Affairs (MHA) issued guidelines and standard operating procedures to all states and union territories to accelerate the setting up of new Anti-Human Trafficking Units (AHTUs) and upgrade the infrastructure of pre-existing ones to combat and prevent human trafficking²³. In March of last year, the Centre released Rs 100 crore from the Nirbhaya fund to aid the setting up of AHTUs in districts all over the country and for creating women help desks in 10,000 police stations of the states.

The MHA implored that state governments develop a co-ordination mechanism, monitored at periodic intervals by the highest level in the state, to handle the issue of human trafficking. Community awareness programmes and engagement at the local level with panchayats, leaders and village wards have also been recommended. “Specific ‘intelligence’ and ‘surveillance’ mechanisms used to identify gangs and congregate indispensable information about their history, affiliations, modus operandi, activities of gang members, connections with others, etc. should be considered by the police department. The police force should moreover make full use of Crime and Criminal Tracking Network and Systems (CCTNS) and Crime Multi-Agency Centre Application (CRIMAC), launched by the National Crime Records Bureau (NCRB), which facilitate the dissemination of information about human trafficking cases across the country on a current and highly relevant basis.

The United Nations Office on Drugs and Crime (UNODC) has also recommended a few guidelines which must be followed in an attempt to mitigate the aforementioned problems of

²³ Ministry of Home Affairs (Women Safety Division), *Advisory for protection of vulnerable sections of society such as women, children, senior citizens and scheduled caste/ scheduled tribe, etc-reg.*, File No.15011/47/2021-SC/ST-, (May 20, 2021), https://www.mha.gov.in/sites/default/files/Advisory_20052021_0.pdf (India).

trafficking²⁴.

- COVID-19 responses must be continuously monitored. When safety measures for attenuating the spread of the disease unintentionally as well as negatively impact vulnerable groups, such as trafficking victims, modifications must be made to minimize harm and to ensure the needs of such groups are efficiently addressed.
- Public health must be prioritised but a culture of rule of law also needs to prevail. Anti-trafficking responses must remain to be established on human rights, while access to health care and social support without discrimination should be assured.
- Access to justice must be safeguarded. Where practicable, technology should be utilised to facilitate access to judicial processes and enable the collection and provision of evidence, the submission of documents and the filing or adjudicating of motions or petitions to courts.
- Law enforcement officials must remain heedful in addressing new and evolving crime patterns and adapt their responses to prevent human traffickers from acting with impunity during the pandemic. They must be one step ahead and ensure that traffickers do not win this heartbreaking race.
- Despite the anticipated slowing down of economies because of COVID-19 and the resulting pressures on national budgets, countries must continue to maintain anti-trafficking work and acclimatize their assistance programmes to the recent and extraordinary circumstances created by the pandemic and its aftermath. They must provide adequate funds to NGOs, anti trafficking units and other organizations and ascertain that they do not have to operate under-budget.
- Service providers must remain amenable and adapt to an evolving environment to meet the needs of their communities.
- Data regarding the impact of COVID-19 on trafficking in persons must be systematically collected and analysed. Bearing in mind that there is no country immune to the pandemic coupled with COVID-19 not affecting all regions at the same time, experience from one country could be vital to others. A collection of concrete data can effortlessly be utilised to create global plans and policies which may actually reduce trafficking in the long run.

VI. CONCLUSION

Human trafficking is an appalling crime that fundamentally destroys innocent lives. It essentially forces them to lead a life full of inescapable misery. The disease of Covid-19

²⁴United Nations Office on Drugs and Crime, *IMPACT OF THE COVID-19 PANDEMIC ON TRAFFICKING IN PERSONS*, (Apr. 29, 2020), http://www.unodc.org/documents/AdvocacySection/HTMSS_Thematic_Brief_on_Covid-19.pdf.

accompanied by its novel socio-legal rules of conduct has made matters worse. People have become a lot more vulnerable to the same than they ever were. Thus, governments and their citizens alike must come together and realise the significance of the situation. This is truly a problem that cannot and must not be cast aside. Solutions provided by the MHA and the UNDOC must be strictly adhered to in an attempt to help the victims. Furthermore, spreading awareness about the issue must be a top priority of the leading authorities.
