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# Section 370 - Trafficking of Persons

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VIDUSHI RASTOGI<sup>1</sup>

## ABSTRACT

*Purpose - The purpose of this paper is to understand and research about Section 370 Trafficking of persons.*

*Research Implication – This paper provides a preliminary understanding of the role of Section 370. Further research might use alternative methods and this paper might make use of secondary research method that is on already existing data.*

*Findings - This research will attempt to evaluate and assess role of Section 370. It comes to the conclusion that the anti-human trafficking legislation must be strengthened to ensure that they fulfil all requirements for preventing human trafficking. To prevent them from becoming victims, those who are living in poverty throughout the country must be made aware of human trafficking and its effects.*

*Originality/Value – The government must protect the weaker members of society to prevent them from becoming unfortunate victims of human trafficking. The victims of human trafficking are only those who fall below the poverty line, thus the crime of human trafficking may be greatly reduced if the government assists the underprivileged sections of the population and provides them with enough training and employment. NGOs, welfare offices, legal consultants, as well as members of the general public and social workers, must all play a crucial part in defending the rights of women and children by offering assistance, providing legal direction, and doing so from the bottom up.*

**Keywords:** *Section 370, Trafficking of persons, Indian Penal Code.*

## I. INTRODUCTION

Throughout the world, the problem of human trafficking for sexual exploitation is growing more and more common. Trafficking is a significant sector with the greatest rate of growth in the global illicit economy. This section emphasises the concepts of bonded labour, child labour, and sex trafficking that are utilised in both international and Indian legal standards throughout the study. Trafficking of humans for "physical exploitation or any kind of sexual exploitation, enslavement or practises equivalent to slavery, servitude and the forcible removal of organs" is illegal under the new section 370 of the Indian Penal Code. Under this provision, cases involving a broad range of contemporary slavery subtypes have been recorded. Trafficking of people for the purpose of sexual exploitation is categorically forbidden since India joined the

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<sup>1</sup> Author is a student at NMIMS Kirit P Mehta School Of Law, Mumbai, India.

Palermo Protocol and changed its Penal Code.

The Immoral Traffic in Persons Act of 1956 also outlaws taking, obtaining, or influencing a person for prostitution. A number of sexual offences against minors under the age of 18 are prohibited under the Protection of Children from Sexual Offences Act of 2012. Sex trafficking, labour trafficking, and organ trafficking are just a few of the many components that make up human trafficking. Human slavery for prostitution also includes sex trafficking. When someone is forced into non-sexual labour, it is called labour trafficking.

Examples include a guy who has been forced into agricultural labour or a woman who has been forced into domestic servitude. Last but not least, organ trafficking refers to the movement of persons for the purpose of selling their organs for transplantation. People may be coerced into this trafficking by a variety of tactics, including the use of physical force against them or deceptive promises made by traffickers.

False job offers and international weddings are two examples of promises. In order to demonstrate that human trafficking is still a problem worldwide, India is home to an estimated 14 million victims of human trafficking, including victims of sex trafficking, bonded labour, child labour, domestic slavery, and forced marriage, according to the Walk Free Foundation Global Slavery Index 2014. The size of the issue is huge, "both in [the] number of trafficked victims and growing number of sites," according to India's 2008 Integrated Plan of Action to Prevent and Combat Human Trafficking. Due to lax law enforcement and little punishment, traffickers are driven by large rewards and minimal risk. To combat human trafficking, legal action must be taken to recover the assets and income of traffickers as well as to prosecute and punish offenders.

Human trafficking is the act of transporting a person or individuals from one location to another against their will, usually for the purpose of physical or sexual exploitation. The Indian Penal Code's chapter sixteen includes human trafficking, which is addressed under section 370 of that chapter. According to this clause, it is illegal to engage in human trafficking whenever a person employs another person, transfers or transports someone, receives or hides someone, or does any of these things with the intent to exploit them. This includes utilising threats, coercion, force, kidnapping, or fraud.

### **(A) Research Methodology**

This research began with a thorough literature review to identify the important aspects of essential human capacity knowledge and abilities, as well as the primary orientations of a needed strategy. This paper made use of secondary research method that is it relied on already

existing data.

### **(B) Research Objectives**

- To examine the causes and modes of human trafficking in India.
- To analyse the crimes related to human trafficking.
- To suggest Preventive measures regarding human trafficking in India.

### **(C) Research Questions**

1. What are the causes and modes of human trafficking in India?
2. What are the crimes related to human trafficking?
3. What suggestions could be drawn for Preventive measures regarding human trafficking in India?

### **(D) Literature Review**

1. Vidushy, V. (2016) in his paper Human trafficking In India: An analysis highlighted that India's condition in regard to human trafficking. It contends that the discourse on trafficking continues to be dominated by the emphasis on either prostitution or illegal immigration, which places state security above human security and fails to fully address the underlying causes of trafficking and the insecurity of those who are victims of it. The root causes or vulnerability factors of trafficking, such as structural inequality, culturally accepted behaviours, poverty or economic insecurity, the trade in organs, bonded labour, and gender violence—all of which are further exacerbated by corruption—have not been acknowledged in academic and policy circles. This essay makes the case that the crimes connected to human trafficking that jeopardise the safety of those who are trafficked in India must get special attention.
2. Bansal, A. (2021) in his paper The A CRITICAL ANALYSIS OF HUMAN TRAFFICKING IN INDIA analysed that Human trafficking is any sort of transaction involving people. A crime and a violation of human rights, people trafficking. Men, women, and children are trafficked in India for a variety of reasons, and it entails the recruitment, transportation, and exploitation of a man for financial gain. Around the globe, the problem of human trafficking for sexual exploitation is growing more and more common. The situation of human trafficking in India is examined in this essay. This article also discusses the legislative frameworks in India for combating human trafficking and its causes.

3. Arora, V. and Singh, S. in his paper LAW RELATING TO HUMAN TRAFFICKING IN INDIA: A STUDY evaluated that The most abhorrent sorts of human rights violations are those involving the trafficking of women and children. They are abused by traffickers in various systems for financial gain. Numerous of the victims of human trafficking had their human rights violated. The victims of human trafficking have a variety of negative effects because they must put up with a lot of abuse and pressure even after they leave their predicament. This essay aims to explain the reasons behind and effects of trafficking. The national legal viewpoint on human trafficking and the function of NGOs are both examined in this study. Finally, steps to combat human trafficking are revealed.

## **II. LEGAL FRAMEWORKS TO COUNTER HUMAN TRAFFICKING IN INDIA**

- **Indian Penal Code 1860:**

The issue of human trafficking is addressed in the Indian Penal Code, which was established in 1860. Sections 370 and 370 A of the Indian Penal Code discuss it. It forbade the trafficking of women and girls and outlined harsh penalties for offenders. According to the law, anybody found guilty of purchasing or selling a minor for the purpose of prostitution, sexual exploitation, or any other immoral activity faces up to 10 years in jail and a fine. It also recognises cross-border prostitution trafficking, and anyone caught bringing a girl under the age of 21 into India from another country with the intention of forcing her into illicit relationships with other people or knowing that it is likely that she will be seduced into such relationships faces up to ten years in prison as well as a fine.<sup>2</sup>

- **Constitution of India, 1949:**

The Indian Constitution forbids human trafficking and upholds many of the widely recognised different human rights principles, including the right to life and personal liberty, equality, freedom, and access to legal remedies. One of every person's basic right in India is the guarantee that they would not be exploited.

- **The Juvenile Justice (Care and Protection of Children) Act, 2000:**

There is no distinction between a minor and a kid in accordance with this Act. Children are all those who are under the age of eighteen. A youngster who need care and protection (National Legal Research Desk 2016).<sup>3</sup>

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<sup>2</sup> Vidushy, V. (2016). Human trafficking In India: An analysis. *International Journal of Applied Research*, 2(6), 168-171.

<sup>3</sup> Bansal, A. (2021). The A CRITICAL ANALYSIS OF HUMAN TRAFFICKING IN INDIA. *Turkish Journal of*

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

Numerous victims of trafficking are members of underrepresented communities. Only areas that are illiterate and socially underdeveloped are targeted by traffickers. This provides a further instrument to protect women and young girls who belong to Scheduled Castes and Scheduled Tribes. It also increases the burden on traffickers or offenders to demonstrate their innocence. This statute may be utilised to successfully combat human trafficking if the perpetrator knows the victim is a member of one of these groups. Atrocities perpetrated against members of Scheduled Castes and Scheduled Tribes are included under Section 3 of this Act. It encompasses several types of trafficking, including the exploitation of women for sexual purposes and coerced or bonded labour. If the offence is covered by Section 3, a minimum penalty of six months is mandated, and it may be increased to a five-year sentence.

- **Immoral Traffic Prevention Act 1986:**

The government of India ratified the International Convention for the Suppression of Immoral Traffic in persons and the exploitation of the Prostitution of others in 1950. As a consequence of this ratification of the convention the Government of India passed the Suppression of Immoral Traffic in Women and Girls Act (SITA) in the year 1956. In the year 1986 the act was further amended and changed which was known as the Immoral Traffic Prevention Act, 1986 (PITA).

### III. CASE STUDY

- **[Rajkumar v. State of Karnataka]**

The Karnataka High Court recently quashed criminal proceedings against a person accused of human trafficking, since the alleged victims had not made an allegation of exploitation in their statements [*Rajkumar v. State of Karnataka*]

Criminal charges against the petitioner were dropped by the Justice M. Nagaprasanna Bench because there was insufficient evidence to support the prosecution of the defendant under Indian Penal Code Section 370 (buying or selling somebody as a slave) (IPC).

"Exploitation is the lifeblood of the provider. No victim has made an accusation in the complaint that the petitioner has exploited them. The immigration officer became suspicious due to the petitioner's allegation, investigation, and the others who were with her at the time. Suspicion arose from the petitioner's companions' claims that they gave him some cash, which led to this

suspicion. In my opinion, there must be further evidence before the petitioner may be charged with the crime of human trafficking punishable under Section 370 of the IPC,” said the Court.

The incident started when the assistant immigration officer at the airport in Bengaluru observed three Indian nationals planning to fly to Kuala Lumpur and asked them about it.

It was discovered that they were all going together, with the petitioner in tow, and were being transported there on tourist visas for job reasons. They gave the petitioner some money and were introduced to the petitioner via another agency.

On the basis of this, a complaint under Section 370 was filed against the petitioner.

The Court stated that it was assumed the petitioner had engaged in human trafficking based on the complaint and the chargesheet. A variety of components are listed under Section 370 of the Indian Penal Code as constituting the crime of trafficking. In reference to the section, the Court noted that exploitation is at the heart of the clause.

The lawsuit made no mention of any victims saying the petitioner had taken advantage of them. The Court observed that the individuals accompanying the petitioner had given him money, which was the cause of the complaint, investigation, and fluctuating testimonies of those persons. As a result, it granted the petition and stopped any further criminal proceedings against the petitioner, stating that doing otherwise would be an abuse of the legal system.

#### **IV. SUGGESTIONS**

The safety and dignity of victims of human trafficking are seriously threatened, and their constitutional rights are also violated. Equal rights for men and women are guaranteed by the Indian constitution, although these rights seldom see actual application. Enforcing government anti-trafficking requirements requires a strong resolve on the part of the government in order to combat trafficking and safeguard the human rights of vulnerable persons. To ensure that the laws against human trafficking are effective in preventing the crime, they must be tightened. To stop people from becoming victims, human trafficking must be made known to those who live below the poverty line across the nation. The country may host a number of national and international seminars and conferences so that the general public and the government can work together to stop human trafficking. In order to prevent them from becoming victims of human trafficking, the government must provide protection for the most vulnerable members of society. Only those who fall below the poverty line become victims of human trafficking, thus the crime may be considerably reduced if the government assists the underprivileged members of society and offers them access to suitable job and education.

## V. CONCLUSION

The anti-human trafficking legislation must be strengthened to ensure that they fulfil all requirements for preventing human trafficking. To prevent them from becoming victims, those who are living in poverty throughout the country must be made aware of human trafficking and its effects. A number of national and international seminars and conferences might be held around the country in an effort to unite the public and the legislative branch in the fight against human trafficking. The government must protect the weaker members of society to prevent them from becoming unfortunate victims of human trafficking. The victims of human trafficking are only those who fall below the poverty line, thus the crime of human trafficking may be greatly reduced if the government assists the underprivileged sections of the population and provides them with enough training and employment. NGOs, welfare offices, legal consultants, as well as members of the general public and social workers, must all play a crucial part in defending the rights of women and children by offering assistance, providing legal direction, and doing so from the bottom up.

- India has to strengthen its anti-human trafficking legislation so that they can combat all forms of it.
- The National Human Rights Commission should oversee extensive nationwide study and should work to implement an effective anti-human trafficking legislation.
- They must be given access to the human rights protected by the constitution.
- To prevent transnational sorted out the wrongdoing of people trafficking, the movement perspectives beginning with one country and moving onto the next must be strengthened.
- The wellbeing of the affected population requires the development of many more restoration-focused initiatives.
- Men must also get enough training techniques from the industry that would greatly aid in preventing human trafficking, in addition to women and children.

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