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# The Increasing Problem of Human Trafficking in India (Human Rights Perspective)

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## ABSTRACT

*Human Rights are one of those fundamental rights particularly every individual has from birth, regardless of religion, sex, color, or nationality, and are enshrined in the third part of our constitution, known as 'Fundamental Rights'. However, many people are denied these rights for a variety of reasons, the most serious of which exists 'human trafficking. Human Trafficking means the exploitation and business of human beings for sexual slavery, labor, exploitation, forced marriages, and many other reasons. Millions of women, men, and youngsters are afflicted, including the maximum vulnerable members of migratory communities, asylum seekers, and refugees. This global issue is impacting the victims in a very serious manner in the form of physical and mental damage and the victims also face a lack of independent living skills. Apart from the victims, it has also impacted traffickers due to money and cheap labor. Unfortunately, despite having so many laws and international conventions against this matter but we have somehow failed to tackle this problem of human trafficking. The paper explores what human trafficking is and what is the history behind this issue, the human trafficking trade in India, violation of rights mentioned in the constitution of India, laws against human trafficking, international conventions, cross border trafficking, and the effects of human trafficking. This paper also aims to study whether these legal measures are successful and it will also discuss how to combat this problem.*

**Keywords:** Human trafficking, Human rights

## I. INTRODUCTION

For many years, India has been a democratic country, and all the rights of plenty of people have been safeguarded by the constitution. The constitution is the country's supreme legislation, and it includes many fundamental rights in the interest of the people. These rights have been extracted from Magna Carta. The Magna Carta is the earliest written document about people's fundamental rights. When we interpret fundamental rights that have been enriched under the

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Indian constitution, we primarily focus on human rights in India. When we discuss ‘Article 21’ of the Indian constitution, few rights are directly mentioned, but some of the rights, such as ‘right to livelihood, right to live with human dignity, right against inhuman treatment, and right against bonded labor’, must be extracted primarily from the article itself.

India became one of the first nations to sign the “Universal Declaration of Human Rights (UDHR)”. The “Universal Declaration of Human Rights (UDHR)” was a serious change in human rights history. This declaration was formulated by maximum all the country’s delegates and they were all from a variety of backgrounds United Nations General Assembly accepted the declaration on 10 Dec one thousand nine hundred forty-eight. The declaration has acknowledged the primary human rights of the people.<sup>3</sup>

Eighteen people of different backgrounds have constituted Human Rights Commission. Former president of America Franklin Roosevelt his widow named Eleanor Roosevelt lead the committee. Mrs. Roosevelt is credited for pushing the Declaration of Independence through Parliament.<sup>4</sup> Hansa Mehta, who represented India on the Commission, provided a significant substantive contribution to several of the UDHR’s articles. Hansa Mehta was in a good position to play a key part in this.<sup>5</sup>

India is an original signatory to this human rights declaration therefore most of the fundamental rights and most laws in India have been interpreted concerning human rights. Article 21, for example, stipulates that “no individual shall be deprived of his life or personal liberty except in accordance with the legal procedure.” When we observe article twenty-one of the Indian constitution, we will see it establishes two rights, specifically the “right to life and personal liberty”. Everybody has the right to life and liberty, Article 3 of the ‘Universal Declaration of Human Rights (UDHR)’ stipulates “The right to live in dignity is the most important part of the right to life”. Trafficked people’s right to live with dignity has been violated beneath article twenty-one. A person who has been sold like a thing are deprived of any human right and there are all those. This Covid situation has worsened the situation and this situation has made many people below the poverty line and due to this thing, the undue advantage of them occurs. Due to this situation, people are willing to do any work that comes their way and due to this issue only they are ready to work at those places also where they are been exploited. Some people in

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<sup>3</sup>UNIVERSAL DECLARATION OF HUMAN RIGHTS, <https://www.un.org/en/about-us/universal-declaration-of-human-rights> (last visited Feb. 12, 2022).

<sup>4</sup>HISTORY OF THE DECLARATION, <https://www.un.org/en/about-us/udhr/history-of-the-declaration> (last visited Feb. 15, 2022).

<sup>5</sup>INDIA’S CONTRIBUTION TO THE UNIVERSAL DECLARATION OF HUMAN RIGHTS, <https://in.one.un.org/wp-content/uploads/2019/03/Shri-Miloon-Kothari-UDHR-Chapter-12.pdf> (last visited Feb. 17, 2022).

our society only think of money and cheap labor this is the reason why this increased the trend of human trafficking because of this reason there is a surge in the situation of human trafficking.

Before we look into this problem, we need to know what is meaning of human trafficking is – According to Oxford Learners Dictionary, human trafficking has been defined as – A type of crime in which people are transported from someplace to other and they are forced to do work that's not ready for.

Human trafficking definition according to United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons is the use of threat or force is also and fraud and misuse of power, the position of frailty, or providing or obtaining rewards or incentives to obtain the cooperation of the person who has control over the other person for exploitation.

The United States Department of Justice has defined human trafficking as – Human trafficking is basically a crime in which it basically a scrupulous thing of a person in return they want a person to act as labor give any services for any fraudulent work.

Human Trafficking Foundation has given human trafficking definition and the definition states that human trafficking consists of forced labor, exploitation of persons, organ removal, slavery, etc.

According to Section 370 of the Indian Penal Code human trafficking has been defined as a person who sends or receives a person for fraudulent work by use of any threat or any form of wrong methods or getting the consent of another person by giving him some benefits that have some command over the other has committed the trafficking.

Raj Bahadur vs State of West Bengal (1953 Cal 129) human trafficking has been defined as to selling or buying of human beings like any property and it also covers traffic of small children and women for a fraudulent purpose.

After reviewing all the above definitions of human trafficking, it is transparent that trafficking is essentially an offense and a breach of the rights of a person. The trafficked individual moved and transferred for diversification of inference, including forced labor, sexual exploitation, slavery, and forms of exploitation.

## **II. HISTORY**

Prior to 1200, slavery had been recognized for numerous years and was a planned part of daily life all through the world. In the year 1400 the slave trade all began in Africa before this it was not there. In the year of 1952, the slave trade in Africa was conjoined by Britain. North America, France, and other countries also actively participated in this slave trade. “In the year

1700, the term “white slavery” was first used to denote human trafficking for sexual purposes”. According to Kristina Kangaspunta, “white slavery is the use of force to get a white lady or girl for sex that the woman or girl does not want”. According to Kangaspunta, “once the foreign slave trade was declared unlawful in the 1700s, international governments began to handle ‘white slavery’.” the United Kingdom has made this slave trade illicit and passed a law against this in the year 1807. In the United States and after that in Great Britain they all have declared it illicit and announced it as an offense and also the punishment will be given to those who will do this offense and the punishment for the same is death. International conference on the issue of white slavery was held in the year 1899 and in the year 1902. “The term “trafficking” was first used in both the 1904 International Agreement for the Suppression of White Slave Traffic and the 1910 Convention on White Slave Traffic to describe the cross-border movement of white women and girls for the purpose of commercial sexual exploitation by force, deception, or drugs”. One international agreement between different countries had been signed on the matter of ‘white slave trade’ and the main center of this meeting was children and immigrant women. Thirteen countries have participated in this convention i.e. Convention on the Suppression of White Slave Trade. Human trafficking continued to exist on a worldwide scale despite the new restrictions.

Sexual purpose was one of the reasons for which female was exploited and all the male was forced for any type of work in a result they were not given any wages. On the other side, the human trafficking of kids is fairly common. In the year of 1904 international agreement on the issue of the white slave trade was signed by European kings and queens. The accord included provisions for the assertive trafficking of females in their respective nations. After all this, the convention was also signed by twelve nations. Hong Kong country has enacted legislation outlawing all selling consisting women as domestic slaves. Human trafficking and selling laws are being enacted in countries all over the world. Bondage and harassment were near a maximum in the year the 1900s. In the year 1927 League of Nations was established. Its goal was to maintain the world at peace while simultaneously focusing on global issues such as human trafficking. To guarantee that everyone, regardless of color, was included, “White Slave Traffic” was renamed “traffic in women and children”. Human trafficking has been observed in both boys and girls. Since slavery was very much pervasive in America at that time Abraham Lincoln on 1 January 1863 had eradicated slavery. Free the Slaves, Anti-Slavery International's American philanthropic organization, was created inside the US. To date in the US, it is the most remarkable revolution. What is human trafficking and what are its drawbacks all were explained by batch. People suffered from sexual exploitation is 80% and people suffered from

job exploitation is 19%.<sup>6</sup>

Children in our country have been used sometimes as servants, beggars, laborers and in other professions also. Females are routinely transported into India for the reason of exploitation from neighboring nations. For the same reason, women are abducted from the area of the Middle East. Indians who basically go for any work in that area also become the victims of trafficking in that country as a result they become labor and slave.

Our India is having so much largest democracy among all countries in the world but people in our country are not able to get basic education majorly it is against females in our country and it is somehow a violation of human rights. The problem of human trafficking went unnoticed until recently because of the main reason of poverty. In our country, there are some states where this issue of human trafficking is much more than in any state like in Jharkhand, Manipur, and some areas of the northeast.<sup>7</sup>

In India, the Criminal Law (Amendment) Act 2013, which took effect on 3 February 2013, as well as Sections 370 and 370A of the Indian Penal Code, which define human trafficking and particularly it states to give inflexible punishment for trafficking of human or any type of exploitation which can be done whether it is physical or sexual, removal of any organ from the body under Indian law.<sup>8</sup>

Human rights are that particular rights mainly which the individual gets from birth till death and these rights vest with them despite any religion or caste they are from. Primarily in the “Universal Declaration of Human Rights,” there are many articles that portray human trafficking such as Article 3 which has defined that “Everyone has the right to life, liberty and security of person”, and Article 4 “No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms”, and also Article 5 which pronounces that “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment”.

### **III. HUMAN RIGHTS DECLARATION AND TRAFFICKING OF HUMAN**

“Universal Declaration of Human Rights” is one of that declaration defines all rights and freedom of humans. It is the first international agreement on the human rights concept. United Nations General Assembly approved this declaration on the date 10th December 1948. India has been the original signatory to this declaration. Hansa Mehta has represented India on this

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<sup>6</sup>HISTORY,<https://sexualexploitatio.weebly.com/history-of-human-trafficking.html> (last visited March 9, 2022).

<sup>7</sup>HUMAN TRAFFICKING IN INDIA,<https://www.dianova.org/opinion/human-trafficking-in-india/> (last visited March 9, 2022).

<sup>8</sup>HUMAN TRAFFICKING,<https://legalraj.com/articles-details/human-trafficking> (last visited on March 15, 2022).

commission and played a major role in the formation. <sup>9</sup>This declaration on human rights address plenty of rights but the article which is prominent in relation to human trafficking are:

### **Article 3**

This article of the declaration clearly states that the person whether he has been born in any country or in any place in the world has the right to life and liberty and also security. The word 'liberty of people' means the freedom from bodily imprisonment as a consequence of illegal or arbitrary practices.

### **Article 4**

This article has put a prohibition on all types of slavery and slave trade and also mentioned that no person whether it is a woman or any child or man cannot be considered in slavery or servitude.

### **Article 5**

A prohibition has been put on any form of torture, cruelty, inhuman treatment, and any type of punishment on human beings.

## **IV. CONVENTIONS**

Everywhere in the entire world, many conventions in the world are held to cope with the problem of human trafficking sometimes conferences are held sometimes, seminars are held and conventions are also held but there are some conventions that play a pivotal role in the constitution of many countries and some of those conventions specifically relating to human trafficking has been discussed below -

### **Convention against Torture or Other Cruel, Inhuman or Degrading Treatment or Punishment**

Aforementioned Convention is also certified by other name that is United Nation Convention against Torture. This convention objective is to restrain affliction and another forms of cruel, inhumane, or humiliating analysis or suffering. India is a endorser to the aforementioned convention.

- **Article 2**

This article states that the state parties to this convention should take steps whether it is legislative or administrative to prevent torture in their respective states. An instruction from a

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<sup>9</sup> INDIA'S CONTRIBUTION TO THE UNIVERSAL DECLARATION OF HUMAN RIGHTS, <https://in.one.un.org/wp-content/uploads/2019/03/Shri-Miloon-Kothari-UDHR-Chapter-12.pdf> (last visited Feb. 20, 2022).

higher-ranking officer or a governmental authority cannot be used to justify torture.

- **Article 10**

All the state parties to this convention should make sure that there should be an exchange of information regarding the prohibition of torture and it should also be included in the training of civil or military and in the training of public officials and others.

- **Article 11**

This article basically, provides to keep an eye on its rules method, and arrangements for the custody of those who have been arrested, detained, or imprisoned in any area.

- **Article 12**

This article has defined that all the state parties should ensure that the authorities under them should be impartial while investigating if efficient reasonable mistrust that torture has appeared in any region under its authority.

- **Article 14**

Each state party to this convention should ensure that a torture victim receives reparation and has a feasible right to fair and reasonable coverage. Suppose if any of the victims expires then after his death the person who was depending on the victim for the fulfillment of basic needs will get coverage.

### **The Convention on Rights of the Child (1989)**

This convention is a universal one whose objective is to only ensure that child should get their all rights and also the young people who are below the age of seventeen years. On December 11, 1992, India ratified the UNCRC and has agreed to all articles but only with the issue related to child labor.

- **Article 19**

It states that the state parties should adopt rules to safeguard children from any cruelty, outrage, or abuse including sexual abuse.

- **Article 34**

This article has defined that members of this convention should make different rules to protect children and safeguard them from inducement or coercion, unsophisticated use of children for prosecution, or other illicit practices.



- **Article 35**

State parties should take measures i.e. national, bilateral, etc. to avoid the sale or traffic of any child.

- **Article 39**

Members of the convention should take all fundamental steps to benefit a child's recovery, as well as his or her social rehabilitation, if the child has been subjected to any form of mistreatment, misuse, illicit, as well as persecution, or other harsh treatment.

### **The United Nations Conventions against Transnational Organized Crime (2000)**

On 29th Sep. 2003 this convention came into execution. This convention basically aims to fight against transnational organized crime. This convention has basically three protocols but the main one is Protocol to Prevent Suppress and Punish trafficking in-person to a large extent in women and children.

- **Article 6 – Assistance to and Protection of victims of trafficking in persons**

This particular article defines that each state member to the convention shall certify its domestic law and administrative system to provide privacy and identity, incorporates procedures that give victims of human trafficking information on competent courts in appropriate instances, trying to implement procedures to help victims of human trafficking heal physically, psychologically, and socially and also to ensure the physical safety of victims.

- **Article 7 – Status of trafficking in person in receiving states**

This article basically it provides that state parties enact legislation to allow sufferers of human trafficking to stay inside their respective countries either temporally or indelibly and also ensure permit attention to unselfish and generous factors.

- **Article 9 – Prevention of trafficking in person**

State members must require to develop effective guidelines and other measures for preventing and combating and safeguarding trafficked victims, and also ensure to make effort to make research and social and economic activities.

- **Article 10 – Information exchange and training**

State parties' legislations and expatriation and other councils should exchange information to ascertain whether the person who is crossing the border is crossing with another person's documents or with no documents. Which types of documents are used for crossing borders. All the state parties should enforce training in the prevention of trafficking.

- **Article 12 – Security and control of documents**

This provides that each state parties should ensure that the documents issued by them cannot be misused and to ascertain the safety of travel. The travel or any identification which are issued by the state parties should not be illegal issued and created.

- **Article 13 – Legitimacy and Validity of documents**

On each offer of other states member the states member should verify the lawfulness and time limit of travel and identifications issued by that particular state members or it is believed to have been promulgated in its name and is been taken advantage for human trafficking.

### **SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution (2002)**

“SAARC (South Asian Association for Regional Cooperation)” this convention basically aims to bring state members together so that they can fight against trafficking against women as well as children. India is a signatory to this convention.

- **Article 8 – Measures to prevent and interdict trafficking in women and children**

Particularly every state member of this convention has to assure that they provide training and assistance to their authorities so that they can do investigation and inquiry. Establish a task force for the proper execution of all laws of the convention and frame a bilateral method to implement provisions. Each state party should also sensify its law enforcement agencies. To grasp important steps for the administration of employment agencies along with to spread perception about the problem of trafficking of women and children.

- **Article 9 – Care, treatment and Rehabilitation and Repatriation of victims**

This particular Convention's State members must work out methods for sufferers of trafficking to come back to their own homes and also set up homes for rehabilitation and for setting up of homes and shelter non-governmental organizations should also be authorized. Care and maintenance, legal guidance, job training, and other provisions should all be provided.

## **V. LEGISLATIVE MEASURES IN INDIA**

In our country the issue of trafficking is wide as well as there are many laws in India to date which are punishing the offense of human trafficking in order to understand human trafficking from human rights perspective we have to see which laws in our country are dealing with this offence.

## **Constitution of India**

Whenever we are talking about the Constitution of India the ultimate governing law of India has likewise mentioned the offense of trafficking. In the “Constitution of India Article 23 – Prohibition of traffic in human beings and forced labor”. On December 3rd, 1948, the draft article was adopted with a minor amendment. In this article clause (1) has clearly stated that human trafficking and forced labor and any other type of offence relating to this is prohibited and if this is any breach then it will be considered an offence and it is also punishable. This article is a protection to individuals from all these offences.

In the case of **Raj Bahadur**<sup>10</sup> it is stated that Article 23 particularly forbids human being or women and along with child traffic for unscrupulous purpose .

In **People Union for Democratic Rights v. Union of India**<sup>11</sup> the Supreme Court has defined article 23 scope. According to Bhagwati J.:

Article 23 ambit is endless and in the article, it is not only that beggar is there which is forbidden. This has also focused on forced labor as it is also violating human rights along with values. Every form of forced labor is forbidden whether in this scenario it is remunerated or not. No compulsion will be there on any human being for giving services or labor. Force word has every large ambit under this article in which it includes not only the physical but also includes economic condition and it also looks into the matter the condition which allows a person to work against his intention. The government was also given assistance to particularly punish those who are breaking the fundamental rights of people which is given under this section.

## **Indian Penal Code**

Section 370 is an offence and it was added after the amendment. On 3rd February 2013, it was added by the Criminal Law Amendment ordinance. “Section 370 of the Indian Penal Code was enacted to prohibit human trafficking, and it mostly follows the UN Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children (2000)”. The following discussions were held for bringing changes in section 370:

A request was made by the national network of sex workers for admission of violence inside sex work and they have also submitted that to make a non-consent sex under sexual assault and to issue such order to the legislative department to take action against this. A formal request has been made by the national network of sex workers against the violence faced them. The

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<sup>10</sup>Raj Bahadur vs Legal Remembrancer, AIR 1953 Cal 522, 57 CWN 507.

<sup>11</sup>People Union for Democratic Rights v. Union of India, AIR 1982 SC 1473.

commission has started to look into matters related to violence against women. During the discussion the network has tried to make understood the commission, basically the difference between the consent sex work and trafficking, and after this, they also tried to make them understand that it is quite difficult for them to recognize which are the women who are trafficked.

The report by the Verma committee has mentioned trafficking on and suggested amendment in section 370 of the act and the said section is not closed and the prosecution and all things related to this can be forbidden.

Some sort of simplification the network demanded from the committee that law enforcement agencies could interpret the changed section to humiliate sex workers. The committee has clarified the doubt of the network by saying that the base of the amendment of section 370 is to safeguard children and women from this issue. The committee has also stated that they will not put sex workers who practice with their own wish. Also, the amendment should not be read like this that allows law enforcement agencies to irritate sex workers and basically their clients who basically engage in activities by their free will.

With regards to punishment if we discuss under this particular section there are different punishments given the different cases are as follows suppose if there is a trafficking of one person then the punishment would be of seven to ten years of jail plus a fine. The second condition is that when there is a trafficking of more than one person then the punishment goes from ten years to life imprisonment in jail and a fine also and the third condition is related to minor, a minor is a person basically below the age of eighteen years, in case of a minor, the punishment will be from ten years of jail up to life imprisonment and fine both. When the trafficker with the bad intention has trafficked more than one minor then he will be awarded the punishment of fourteen years of jail up to life imprisonment and a fine. There is also one situation in which the minor is trafficked by any public servant or any of police officer then he will be getting punishment of imprisonment of natural up to life and with fine.

### **Immoral Traffic Prevention Act**

This act, the Immoral Traffic Prevention Act was given approval on 30th dec. 1956 and basically this act is applicable to the whole of India. On May 9, 1950, "India signed the United Nations International Convention for the Suppression of Women in Traffic in Persons and of Exploitation in Others in New York", and the legislation was enacted to combat immoral slavery in children as well as women. This act was basically enforced on 1st May 1958. This act i.e. Immoral Traffic Prevention Act talks about prosecution only and not different types of

trafficking.

There are several institutions working under this act to prevent trafficking the names of these institutions are 'Protective homes and Corrective Institutions'. They are mentioned beneath section 21 of the act. A protective home is basically an institution that houses persons who require care and protection. The corrective institution is the place where an individual who has to be corrected and reformed may be kept. In section 21 of the act, it is clearly mentioned that the whole power is given to the state government to establish as much as Protective homes and corrective institutions as the government thinks right for the people.

In this Immoral Traffic Prevention Act, several punishments are also mentioned for the wrongdoers. In section 3 as it is mentioned that if any person allows his premises to be used as a brothel then he will be given rigorous imprisonment. On a first conviction, the management of a brothel faces a jail from 1 to 3 years in prison and also a fine of Rs. 2000; on consecutive convictions, the sentence is increased to two to five years in prison and a payment of Rs. 2000. In section 3 of subsection 2 it is mentioned for a first conviction, an owner and tenant, lessor and lessee, must endure sentenced to at most 2 years in jail and also a fine of Rs. 2000; on successive convictions, the sentence may be increased to five years in prison and a fine.

Section 4 of this act states that a person who lives his particular life on the money gained by a prostitute can be sentenced to 2 years in jail or a fine of Rs. 1000, or both, and if the money is basically earned by making a child into prosecution then the jail can be of 7 years minimum and it can excel up to 10 years.

The law under 6 of the Immoral Traffic Prevention Act authorizes a judge to sentence a person apprehended at a prostitution-related location to seven to 10 years in jail, plus a fine. If the offender has received a sentence of fewer than seven years, the court must disclose specific grounds.

In the case of **Sahyog Mahila Mandal vs State of Gujarat and Others**<sup>12</sup> it was mentioned by the court that – When basically a women as well as a girl who are living in brothel who is in prostitution or who is contrived to convey prostitution and had been removed under the directions from magistrate under section 16(1) of this aforementioned act so it is therefore mandatory to present them before the judge as mentioned in section 16(2). After that it is mandatory to deal with section 17 with sub sections for the reason of care and rehabilitation.

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<sup>12</sup>Sahyog Mahila Mandal v. State of Gujarat and Others, (2004) 2 GLR 1764.

## **VI. JUDICIAL PERSPECTIVE**

### **Madhu Kishwar v. State of Bihar 1996 AIR 1864, 1996 SCC (5) 125**

The laws of the convention i.e. “Convention on the Elimination of All Forms of Discrimination against women” were contemplated through a supreme court of our country and it was an essential part of fundamental rights or whether it is a directive principle of state policy. Basically, the article mentioned in the convention i.e. article 2 (e) has defined that all the state members have to safeguard people against any form of discrimination and to remove permanently all the discrimination which is against the women. Supreme Court in this has also mentioned that if we read article 2 (f) with articles 13, 14, and 15 of this convention then we can express that concomitant rights are also an important part of our constitution. The human rights act section 12 also mentions that is the duty of the national commission to properly execute all the laws and to safeguard violations of human rights and all the freedom of citizens.

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

The Supreme Court, in this case, declared that prosecution has many bad effects on the people and society and it is very awful to see that at a very young age children who are poor are compulsorily pushed into this flesh trade market. That the crime which has been done earlier with obscenity should be abolished from all elevation.

Supreme Court in this respective case has declared that all the states whether it is the state government or the government of any union territory should order their legal authorities to take strict action against child prosecution and also take action to remove child prosecution with the help of laws of our country. The respective governments should also make an advisory committee within their area with such specialized members in this field. The main aim of this committee would be of suggesting how we can remove this child prosecution from our area and for this they can do social welfare programs for the children and for the girls who have been saved from this illegal work and it is ordered to all the government whether is state government or any union territory government to take particular steps and to provide rehabilitative homes and these homes should contain specialized doctors and psychiatrists. It is also for the union government to look into the matter and also set up a committee the main aim of the committee should be to expand all welfare programs and it has to be implemented on all the national level for children. The union government should also take into their consideration that they should make changes to laws and if necessary make new laws.

It is advisable for all the governments whether it is state government or central government or any government of union territory that they should have their own system so that all the

suggestions made by different communities can be properly executed. The committee which is giving suggestions must ensure that they should also look into the traditional system and then give their best advice to the government.

### **Bandhua Mukti Morcha v. Union of India and Others AIR 1984 SC 803**

Supreme Court has declared that when it is established that if the labor has been forced to work as forced labor then we can believe that he is doing that work for some money matter and he is also a bonded labor and he should get the benefit of all things he is entitled to under the law. All the state governments and the district magistrate would take the help of all the groups which are non-political and any agencies which they prefer for the proper execution of laws and the governments should take necessary steps and they should follow non-formal way for the execution of laws. The government should also ensure that wages are directly reaching the labor and the middlemen have no role to play in this.

### **Laxmi Kant Pandey v. Union of India (1984) 2 SCC 244**

Supreme Court, in this case, has encouraged inter-country adoption and stated that whenever a child is given for adoption the main aim is the welfare of that particular child. Also stated that after many checks and after taking many precautions and care then only the child has to be given for adoption to the parents outside our country. In the foreign country, the child can be ignored by the parents or they cannot provide the child the care he wants and they cannot fulfill the basic needs of the child the child can also be used as labor or any form of sexual exploitation can be done to him and he can be in more bad condition. The court has put some rules and regulations and some measures for inter-country adoptions so that the child does not have to suffer.

## **VII. DRAWBACK OF LEGISLATIONS**

Despite having so many legislations we have somehow failed to tackle the obstacle based on human trafficking. There are many drawbacks to the legislation which have been discussed below:

1. The Immoral Traffic and Prevention Act has failed to put an emphasis on awarding damages to victims, no facilities for connecting the rescued sex worker to health care, and along with that, it has also not focused on there are no rules for investigating trafficking offences.

2. Immoral Traffic and Prevention Act also denies the fact of slave victims, who had been trafficked throughout the country daily to work in the inhumane states, or young people trafficked for organ trafficking, domestic slavery, or forced marriage.
3. There seems to be no provision of identity secrecy or the protection of the privacy of anybody who is a victim under the Act.
4. This ITPA has failed to mention the class of labor who come to other cities basically for work but they are not paid much as they are entitled to and they are trafficked for prosecution and they are also sold as slaves.
5. Despite the fact that the government enacted the “Criminal Law (Amendment) Bill” in 2013, Section three hundred seventy makes no reference to the fact that the trade of a juvenile constitutes an act of human trafficking, nevertheless of whether compulsion was utilized.<sup>13</sup>
6. Only a recognized police officer designated through the State Government in a specific region defined by that government could deal with the issues beneath Section 13 of the immoral traffic act legislation. Police officers, who are entrusted with the responsibility of protecting society and taking legitimate measures, have consistently utilized their authority to profit themselves.

## VIII. SUGGESTIONS

Human Trafficking in India as we all know is a major problem mainly against women and children so our government needs to focus on some points to remove this issue from society. Here are some suggestions to the government so that they can focus on and remove this issue:

1. Particular awareness programs and advertisements should be done by the government to ensure that people largely living in the campestrial of the country, or poor people and the public should know about trafficking and its consequences.
2. The government should increase employment opportunities so that the unemployed person gets some employment and does not enter into any of the wrong routes to earn money.
3. The government should take adequate actions to eradicate unfairness contrary to women in the workplace, in pursuance to secure the right to equal compensation for equal effort, as well as the right to equal employment opportunities, on the ground of gender equality.

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<sup>13</sup>TRAFFICKING IN WOMEN AND GIRL CHILDREN FOR COMMERCIAL SEXUAL EXPLOITATION: AN INTERSTATE EXPLORATIVE STUDY IN JHARKHAND, ORISSA AND WEST BENGAL, <https://wcd.nic.in/sites/default/files/Final%20Report%20Trafficking%20in%20women%20and%20girl%2C%20SAI.pdf> (last visited on April 15, 2022).



4. Preventing brutality contrary to women through supportive gender sensitization and education on equitable and polite interactions amid the genders.
5. Government should ensure that laws against human trafficking should be properly enforced, and to apply social measures and educational measures to prevent the unlawful act of human trafficking.
6. To make sure that policies exist that provide women with a balanced avenue to management over financial along with economic sources.
7. Technical assistance and capacity building should be provided through the government to impede and respond to human trafficking incidents.
8. Increasing alertness of dispute of human trafficking among police, circumference, immigration, and judicial authorities, as well as a social and public health practitioner, and ensuring the provision of specialized training in detecting cases of trafficking, combating trafficking, and protecting victims' rights.

## **IX. CONCLUSION**

Human trafficking was a threat and today also it is a big threat in our society. This increasing problem has always eradicated the human rights of the victims especially those rights which have been already mentioned in our legislation. Due to this, declarations and many conventions and legislations have been drafted to eliminate this problem. “Convention against Torture or Other Cruel, Inhuman or Degrading Treatment or Punishment, The Convention on Rights of the Child, The United Nations Conventions against Transnational Organized Crime, SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution” is one of the main conventions to which India is a signatory. Our country India is fighting well against human trafficking. To eradicate this problem India has also adopted many legislative measures namely, the supreme law of our country i.e. Constitution of India Article 23 which basically stated to prohibit human trafficking, Indian Penal Code section 370 which has stated about “Buying or disposing of any person as a slave”, Immoral Traffic Prevention Act all aims to abolish human trafficking. Judicial perspective has also been taken into account as our Hon’ble Supreme Court has also given some landmark judgments against human trafficking. But as every coin has two sides we have seen one side let’s see the other side of the coin as well, as our country has so many laws against this issue or problem but we have some drawbacks of this legislation as this legislation The Immoral Traffic and Prevention Act has failed to put an emphasis on awarding damages to victims and the Immoral Traffic and Prevention Act also denies the fact of slave victims, who had been trafficked throughout the

country daily to work in the inhumane state, or organ trafficking through young people, domestic slavery, or forced marriage. Indian Penal Code section 370 has not mentioned the fact that the trade of a juvenile constitutes an act of human trafficking, nevertheless of whether compulsion was utilized. We people can together stop this problem from being spread and there are several methods by which we can do this by awaking people about this issue, to encourage people to report about this issue. One day we will finish this issue for the whole country.

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