

Human Trafficking: A Crime against Humanity

Abstract

Human Trafficking is the crime against Humanity and should be dealt strictly. The present International Documents, Conventions and Constitutional and Legal provisions provides law related to Human Trafficking. The Laws should be implemented strictly and this paper studies different aspects of Human Trafficking. It also defines Human Trafficking and discusses its elements. The suggestions and conclusion given in the end will help in curbing the issues related to Human Trafficking and re-trafficking of the vulnerable people.

Keywords: Human Rights, Trafficking, Bonded Labor, UDHR, Sexual abuse, Trafficker, Trafficked, re-Trafficking, Stakeholders, NGOs and Legal provisions.

Introduction

Trafficking in persons is a serious crime and a grave violation of their human rights, Constitutional Rights and Legal rights. Article 21 of The Constitution of India guarantees Right to life with dignity and Worth. But in reality thousands of men, woman, young population and children are trafficked every year in India and abroad. Globally we see that people are trafficked from a place which is called "Origin", they are moved from one place to another which is called "Transit" and they are exploited, tortured and abused physically and mentally and kept at a place which is called "Destination".

Objectives of the Study

1. To define Human Trafficking
2. To explain the elements of Human Trafficking
3. To discuss the link between UDHR & Human Trafficking
4. To explain the causes of Human Trafficking

What is Human Trafficking?

Article 3, paragraph (a) of the Protocol to Prevent, Suppress and Punish Trafficking in Persons defines Trafficking in Persons as the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of 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 organs¹

As per the above definition of Human Trafficking, we can give a chart to explain the elements of Human Trafficking:

Which Acts Constitute Trafficking?	What are the means of Trafficking?	What is the purpose of Trafficking?
Recruiting a person	By using threat or force	Exploitation, Torture and Violation of Human Rights
Transportation	Coercion	Prostitution and Sexual exploitation
Transfer	Fraud	Forced and hazardous labour
Harbouring	Abduction	Slavery
Receipt of Person	Abuse of power	Illegal Activity and employment
	Abuse of Vulnerability	Beggary and Organ Trade
	Lurement	Beggar



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To know whether a particular act constitutes trafficking in persons we have to look at the above chart and the definition of human trafficking and find out the links.

Criminalization of Human Trafficking

"The definition contained in article 3 of the Trafficking in Persons Protocol is meant to provide consistency and consensus around the world on the phenomenon of trafficking in persons. Article 5 therefore requires that the conduct set out in article 3 be criminalized in domestic legislation. Domestic legislation does not need to follow the language of the Trafficking in Persons Protocol precisely, but should be adapted in accordance with domestic legal systems to give effect to the concepts contained in the Protocol.

In addition to the criminalization of trafficking, the Trafficking in Persons Protocol requires criminalization also of:

1. Attempts to commit a trafficking offence
2. Participation as an accomplice in such an offence
3. Organizing or directing others to commit trafficking.

National legislation should adopt the broad definition of trafficking prescribed in the Protocol. The legislative definition should be dynamic and flexible so as to empower the legislative framework to respond effectively to trafficking which:

1. Occurs both across borders and within a country (not just cross-border)
2. Is for a range of exploitative purposes (not just sexual exploitation)
3. Victimizes children, women and men (Not just women, or adults, but also men and children)
4. Takes place with or without the involvement of organized crime groups².

Universal Declaration of Human Rights (UDHR), 1948 and Human Trafficking

The Preamble of Universal Declaration of Human Rights recognizes dignity and equal and inalienable rights for all members of the human family. It also recognizes freedom, justice and peace in the world, so in case of Human Trafficking where a person is forced to live a vulnerable and exploited life with no dignity or self love and worth in pain and trauma we do not find the UDHR implemented in those states.

The Preamble further says "the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people³, so as per the preamble the human beings shall enjoy freedom from fear and highest aspiration which is never enjoyed by a person who has been trafficked. So the state shall implement the human rights and human trafficking laws strictly to ensure that UDHR principles are available to the people without fail.⁴

As per the preamble fundamental human rights, dignity and worth, better life is a dream for trafficked people.⁵

,Article 1. of the UDHR says that all human beings are born free and equal in dignity and rights. A

person who is trafficked neither has any dignity nor any freedom.

Article 2. of the UDHR says that all human beings are entitled to rights and freedoms without any discrimination, in actual a trafficked person is always discriminated because of poverty, vulnerability, sex, illiteracy and lack of say in front of the trafficker.

Article 3 of the UDHR says that everyone has the right to life, liberty and security. This is not available to a trafficked person as his life is always indanger, liberty is never available to him and the traffickers only exploit the person to optimize their profit.

Article 4. of the UDHR talks about prohibition of slavery and slave trade. In actual a trafficked person is never out of slavery or slave trade.

Article 5 of the UDHR says that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. A trafficked person never gets this right. He is continuously tortured and treated with utmost cruelty and lives in inhumane environment.

Article 7. of the UDHR says that all are equal before the law but in actual a trafficked person is always looked down and exploited by the traffickers.

Article 8 & 10 of UDHR says that everyone has the right to an effective remedy in case of fundamental rights violation and should be heard fairly. In reality it is very difficult for a trafficked person to runaway and save himself from traffickers and to approach court of law is a dream for most of the trafficked people. Getting justice by court is practically impossible for trafficked people as they rarely get out of the clutches of traffickers.

Article 15 of UDHR says that everyone has right to nationality and no one should be denied to change his nationality. For a trafficked person this right is never available as trafficking is cross border also and when people move without legal visa and passport they have no choice then to adhere to the trafficker.

Article 19 & 21 of UDHR says that freedom of expression and opinion is available to all people. Article 21 says everyone has to take part in the Government. These rights are not available to a trafficked person as he is kept in captivity.

Article 22 of the UDHR talks about social security, cultural rights and free development of the personality. This right is also not available to the trafficked person.

Article 23 of the UDHR says that everyone has right to work. In case of trafficking this right is a eyewash.

Article 26. of the UDHR talks about right to education. A trafficked person never gets opportunity to study and make his/her life.

Article 29. of the UDHR talks about duties to the community. A trafficked person is mostly not accepted by his own family, society and therefore do not enjoy these rights.

Causes of Human Trafficking

There are following causes of Human Trafficking:

1. Demand for sexual exploitation: There is a big demand for Human Trafficking as Humans are sold and bought in the markets and closed places.⁶ The demand for sexual exploitation is across the globe. People buy human beings for different purposes and till there is demand, the supply mechanism to earn profit will continue across globe. Sex tourism, child pornography, sports, massage parlors, internet pornography sites are growing day by day, thereby giving rise to the offence of trafficking.
2. Demand for cheap labour: This is another cause of human trafficking. Poor and Vulnerable people are used in hazardous, illegal trade to earn profits by the traffickers. Poor and uneducated people are easy targets of the traffickers and they are easily lured by traffickers showing them a life with better prospectus, comfort and education. The traffickers also visit drought and natural calamity places in search of vulnerable people, orphans, and leftover people and use them for cheap labour. The demand for labour at no cost or minimum cost to earn profit makes the vulnerable people more vulnerable.
3. Illegal Organ Trade: Demand for organs in the market makes it as profitable business for traffickers to traffic people and sell their organs. Organ trade does not even consider the medical condition and life risk of the donor.
4. Caste/Ethnicity: In few parts of the world caste and ethnicity also results in trafficking. The marginalized people are often vulnerable. Due to their vulnerability they are trafficked and used as slaves.
5. Poverty: Across the globe poor people are vulnerable and it is very difficult for them to break this vicious circle of poverty and come out of it.
6. Illiteracy and unemployment: This is also a cause of human trafficking. Illiterate people are easily fooled by traffickers and exploited by them. Unemployment amongst the illiterate people makes them further vulnerable. To sustain their family members and to fulfill their basic needs is a big challenge for unemployed people and traffickers exploit this situation to their advantage.
7. Organised Crime: The demand for people to commit illegal offences results in trafficking. Just to earn profit traffickers employ small children and adolescent and train them to commit different offences. Even begging is a profitable business for the traffickers.
8. Displacement and Migration: This is also a cause of Human Trafficking. Displacement and migration makes a person vulnerable as he moves with his family to a new place without any job or social security. Many a times just to sustain basic needs a person is forced to work for traffickers in inhumane working conditions.
9. Wish to become rich in one go: This is also a cause of human trafficking. Youngsters many a times are lured by the traffickers in name of big cars, good life style and wealth. Young mind fails to understand the difference between good and

bad and is trapped by the trafficker in drugs, prostitution, blood donation and illegal offences.

10. Child Soldiers: Trafficking is also done to recruit child soldiers in unofficial groups/ unrest groups. Children are trained and used for sharing messages, sex, sports and as child soldiers by the unrest groups all over the globe.

Suggestions

We can prevent a person from being trafficked and rehabilitate and re-integrate trafficked persons by following measures:

1. Awareness of the Law.
2. Implementation of the Law.
3. Education and Employment avenues for the trafficked person.
4. Medical and Psychological support to be provided to trafficked person.
5. By starting human trafficking clubs at School, College and University level.
6. Close Coordination amongst the different stakeholder in bringing justice to the trafficked person and protecting him from being re-trafficked
7. Proper training of Police Personnel's at all levels, specially for officials working in Human Trafficking Units
8. Proper implementation of Rehabilitation and Reintegration schemes for trafficked people.
9. Conviction of Traffickers and closure of brothels.
10. Shame and Identification of all the criminals which are at present called "customers" by traffickers.
11. Proper Psychological support to the family members of the trafficked person.
12. Reporting of missing persons.
13. Action by the local level Panchayat in creating awareness and sensitization programmes at village level.
14. Awareness and alert attitude of the family member towards trafficking.
15. Proper implementation of schemes of Government through public private partnership
16. Role of NGOs in creating awareness about the issues of human trafficking.
17. Poverty alleviation programmes should be carried out at village level properly and should be monitored by stakeholders.
18. Community policing should be encouraged.

Conclusion

Human beings are not commodities, so should be treated with dignity and worth. The vulnerability of a person should not deprive him of his rights. The Trafficker should not be treated as customers and should be dealt strictly under the law. The law should be implemented properly and any crime big or small should be immediately reported. Fear of social stigma and family reputation should not come in the way of a person's security and well being. Sensitization and awareness programmes should be done at all levels of stakeholders so that prevention and rehabilitation happens. The society and family members should always play a positive role in rehabilitation and re-integration of the victims of

trafficking. Victims should be treated with love, belongingness and care.

Endnotes

1. *Definition of human trafficking, available at: <https://www.unodc.org/unodc/en/human-trafficking/what-is-human-trafficking.html>*
2. *Universal declaration of human rights, available at: <https://www.un.org/en/universal-declaration-human-rights/index.html>*
3. *Universal Declaration of Human Rights, available at: <https://www.un.org/en/universal-declaration-human-rights/index.html>*
4. *History of Universal Declaration of Human Rights, available at: <https://www.britannica.com/topic/Universal-Declaration-of-Human-Rights>*
5. *Nair P.M and Sankar Sen, Trafficking in Women and children in India, Orient Longman, new Delhi 2005*
6. *National Human Rights Commission (NHRC), Information Kit on trafficking in Women and Children, NHRC, New Delhi-2002*