

**‘CRITICAL ANALYSIS OF WOMEN TRAFFICKING: LAW  
AND THE REALITY**

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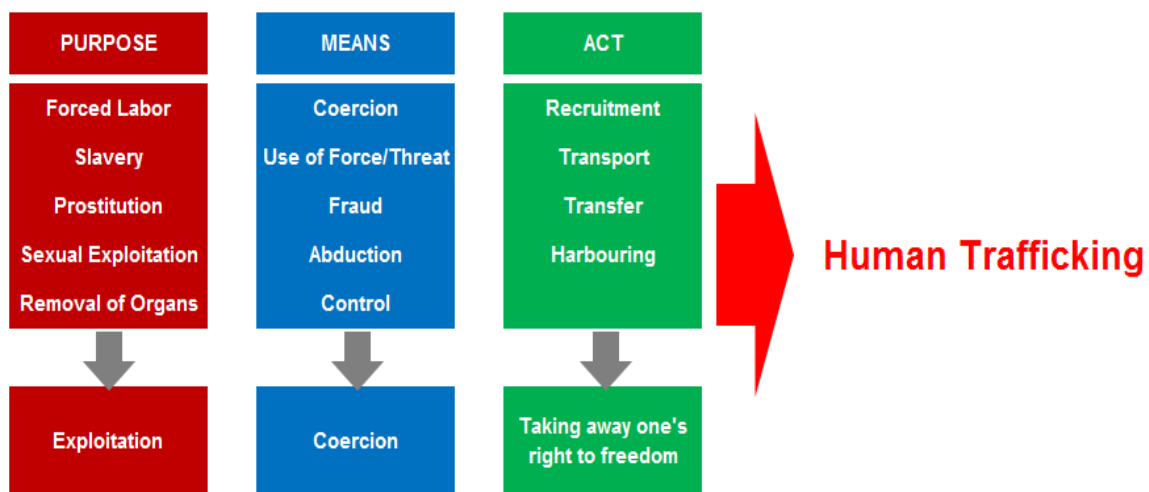
**ABSTRACT**

*Women trafficking, according to a report of the United Nations Fund for Population Activities (UNFPA), there are more than 7 lakh people who are trafficked in day-to-day basis from India, who are trafficked globally, of which major part consist of women and children, people are purchased and sold, while trafficking is the unethical trade of any person for slavery, forced marriage, begging, drug peddling, it also includes commercial sexual exploitation, who are by force, fraud or deception are exploited, women trafficking is not only restricted to forced prostitution, in the United States, however, forced prostitution constitutes 22% of all human trafficking, but 68 percent of it is done in sectors like agriculture, domestic work, and construction in order to produce the commodities and provide the services that we rely on every day, while in India, some states, have very less ratio of girls to that of boys, and gives rise to the shortage of a female for marriages, to resolve this problem, these women are sold and purchase for the reason of marriage, but often after marriage, are just treated as a sex object, they are treated as a servant and exploited sexually, The article begins by explaining problem of the women trafficking at the level of a country as well as at global level and discusses about the laws in India against trafficking and tries to provide some suggestions.*

**Keywords:** Trafficking, Women trafficking, Exploitation, Laws for Women, Global Issue

## WOMEN TRAFFICKING: AN INTRODUCTION TO PAINFUL REALITY

The human trafficking in general is the unethical practice of taking away of a person, right to freedom, for slavery, forced marriage, begging, drug peddling, which also includes commercial sexual exploitation, who are by force, fraud or deception are exploited, revenue from this activity was around \$150 billion in the year 2020<sup>1</sup> worldwide and is considered, one of the most profitable operations, which is why it has a continuous increase, even if it is both legal and morally wrong.



Source- The Image is taken from NPO Lighthouse / Support Center for Victims of Trafficking in Persons  
<https://lhj.jp/english/index.php>

Mostly, women are subject to such offence which comprises of 71% of total victims of human trafficking, including girls, which is more than 2/3<sup>rd</sup> and rest 29% are men and minors, these victims are largely used for the purpose of sexual exploitation, which of 21 million registered cases were 54%, while 38% of these registered cases were of forced labour and remaining 8% were used for other purposes such as organ trafficking.

Women trafficking, according to a report of the United Nations Fund for Population Activities (UNFPA)<sup>2</sup>, there are more than 7 lakh people who are trafficked in the day-to-day basis from India, who are trafficked globally, of which major part consist of women and children, people are purchased and sold. In 2011, the Supreme court formed a panel who was asked to submit

<sup>1</sup> Priti Saxena and Prashant Tripathi Scientific Dimension to Protect Human Rights of Scavengers: From Manual Scavenging to Robotic Scavenging, 63 JILI (2021) 430

<sup>2</sup> United Nations Fund for Population Activities, (1969)

its report in 2019 on this matter, who asked the National Crime Records Bureau (NCRB)<sup>3</sup>, to prepare a report of the number of missing children and women across India, NCRB in their final report mentioned that the major reasons of trafficking were for forced marriages, domestic and sexual exploitation, while internationally, only 4 in 100, survivors of women trafficking cases can be identified as of now, which means most of the cases are still remaining undetected, and even if they found that a girl is missing, authorities blame the girls that she fled away on her own and on her own free will or has been murdered, while 70% victims of sex trafficking worldwide are female, which means women and girls are primarily targeted .

In 2016, India registered 15000 trafficking cases, which consisted 2/3<sup>rd</sup> of the female victim out of which nearly 50% were under the age of 18, poor girls are abducted in the name of offering job, and are sold in other states or country and the person, who purchase them, makes them, to do domestic works, also exploit them sexually and these cases remain unregistered<sup>4</sup>.

This means that the number of registered missing complaints, across various Indian states, are majorly done for the purpose of forced marriage, as there are some states in India, where the ratio of girls to that of boys is very less and gives rise to the shortage of a female for marriages, to resolve this problem, these women are sold and purchase for the reason of marriage, but often after marriage, are just treated as a sex object, they are treated as a servant and exploited sexually, when talked about women empowerment, it can only be beneficial when we are able to give them a safe environment and such criminals can only be punished, if the victim is found and saved, but often weaker section girls and women are ignored, for whom safeguards are made by the provisions of the law to be protected from such offences but are not, which is a barrier to the safe environment.

In addition to this, the issue of women trafficking has often been marked as an inevitable problem, which has to be resolved, but the study of this problem is still very challenging, difficult and sometime very dangerous as well as expensive, which is why a thorough examination is also an unavoidable issue, which cannot be conducted.

## **WOMEN TRAFFICKING: AROUND THE WORLD**

The Women trafficking is not only restricted to forced prostitution, Human trafficking in the United States covers around ten percent of state-imposed forced labour and 68 percent of forced

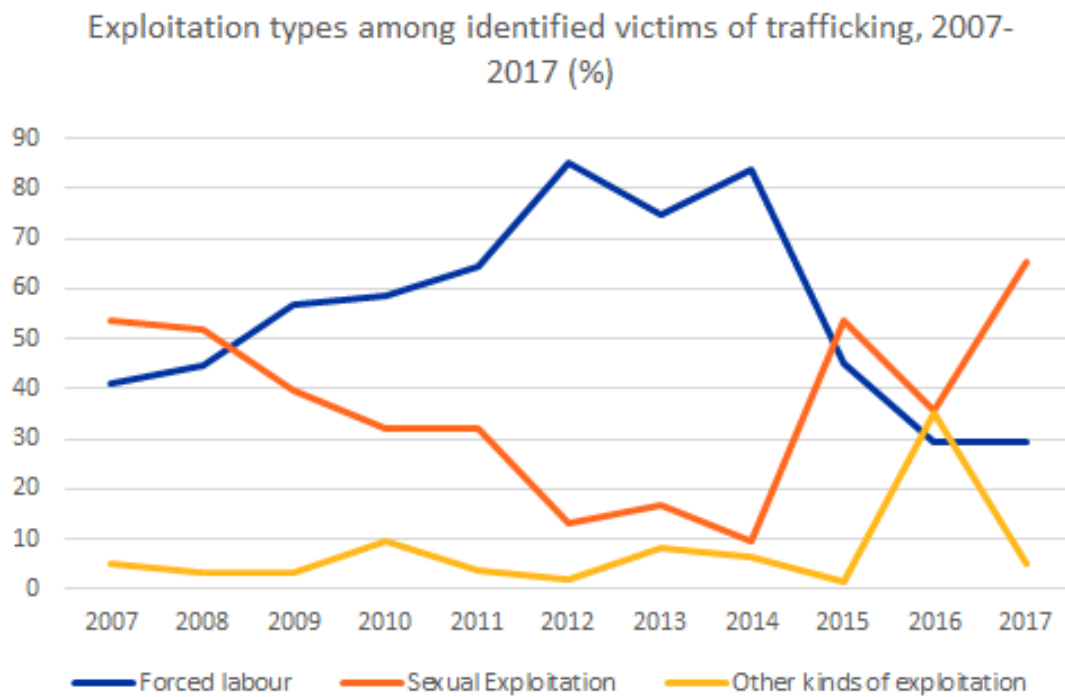
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<sup>3</sup> National Crime Records Bureau, (1986)

<sup>4</sup> A. Aruna Sri Lakshmi, Trafficking of Women and Children: Vulnerability Compounded by Discrimination, 4 NLUO HRLJ (2019) 1

prostitution, these most vital workers, who have been trafficked, are also underpaid and exploited in industries like agriculture, domestic work, and construction. Forced prostitution trafficking have been recorded to be 22 % of total human trafficking around the country.<sup>5</sup>

In one of the recent case, young families from Ghana and Togo were targeted by the traffickers, who assured them that "their daughters are going to get a fine education in the United States as they are ready to help them out, by paying for their plane ticket, and their fees as they have won the lottery." After they have landed in New Jersey, the young girls were taken away to become forced labour and were forced to work for 14 hours a day, seven days a week, for five years. From this, the traffickers made about \$4 million.



Source- The Counter Trafficking Data Collaborative (CTDC) (2019). The data and chart are from the Counter Trafficking Data Collaborative (CTDC); the global data hub on human trafficking featuring the largest case level datasets on human trafficking from different organizations around the world.

While the criminal justice system is relied upon for fairness, women victims or human trafficking victims in general are poor and marginalised; they are migrants who are subject of sex trade and are from populations for whom the criminal justice system is more of a problem than the solution; and while countries like Bangladesh and United States have around 60 percent of people, especially women, who are in the sex trade, individuals who take active part

<sup>5</sup> Afkar Ahmad, Rescued by State Yet Accused by Society: Women Getting Victimized After Rescued from Trafficking Network, 26 ALJ (2018-19) 289

in trafficking or those who have been trafficked into it, frequently receive multiple convictions for the crime and having a criminal record makes it much harder for them to escape problem such as abuse, poverty, or prostitution, even if the person so desires; who if attempts to resist these treatments are at the risk of deportation and are subject to the whims of law enforcement, if discovered.<sup>6</sup>

In Nepal women who were trafficked into the sex trade -- they came together, and they decided that they were going to make the world's first anti-trafficking organization actually headed and run by trafficking survivors themselves.

While in Japan on 2019, it was stated that they only had 25 trafficking cases, but many experts claim that it's definitely much more than that and Japan doesn't have any effective laws to stop it as they still see many young girls, even minors, are being tricked or forced into sexual businesses, where many girls are targeted by adults to enter into these businesses, this means that women are heavily sexually exploited, through online outreach, however, a study found that there were, so many adults targeting women or girls.<sup>7</sup>

Nowadays, you can even find a girl, who's in trouble or running away from home, pretty easily if you just search on twitter by words like, "Runaway" etc. these girls receive a lot of deceiving messages which any decent adults wouldn't send, while observing what's happening on the streets of Japan, it was also found that there are many plain-clothes officers, who monitor and wait for arresting those girls who sell themselves for sex on the streets. When people, who are sexually assaulted is discussed, the society would address it as "they have received money, right?", it means that as long as a man paid money, anything he did would become considered 'consensual' in Japan, and that any types of sexual abuse or violence would be tolerated as long as he paid money.<sup>8</sup>

The issue in Japan is of social hurdle which is when a person in poverty, speak up or reveal their situation, they're likely to be blamed in the society, even though the government of Japan has provided welfare or financial support to the people in poverty, many are ashamed of receiving it as they're afraid of getting backlash, they have a mental hurdle like that of culturally being among the people who would be qualified to be part of their welfare and have

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<sup>6</sup> Divya Malhotra, Trafficking of Women and Children: A Culture of Silence, 2005 PL WebJour 1

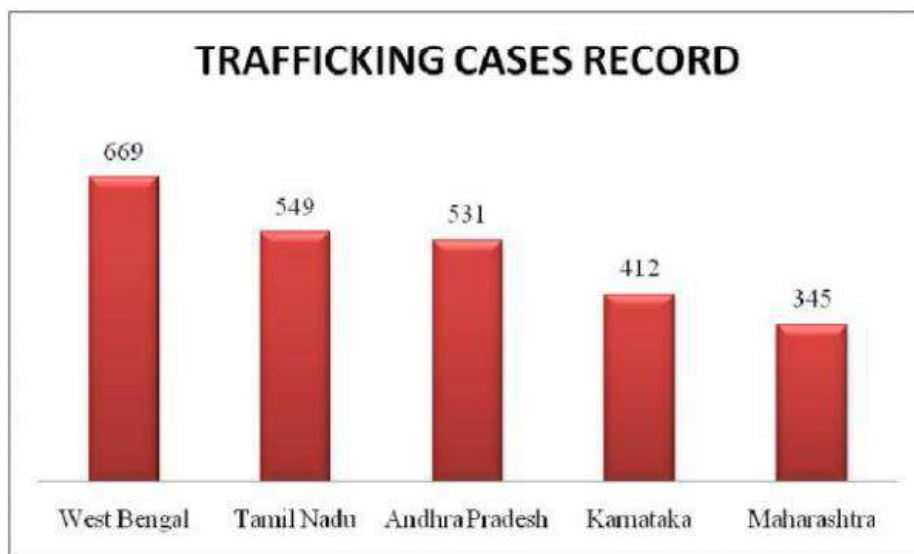
<sup>7</sup> Mohd. Shakeel Ahmad (Samdani) and Talat Anjum, Child Trafficking in India: An Overview, 2.1 IJLS (2016) 55

<sup>8</sup> Visalaakshi Annamalai, Women and Forced Marriage Migration in Cambodia, Vietnam and Myanmar, 8 NLUO LJ (2021) 92

to take responsibility for being poor, to avoid this, many young women become a part of a certain club or become, brothel as their wages are entirely commission-based and finders' fees would totally vary, they do this to become a part of the Japanese society, who are easily deceived, tricked and are often are trapped and then threatened, which is the reason, it becomes very hard for them to come out of this industry.<sup>9</sup>

## WOMEN TRAFFICKING: INDIA AND LAWS

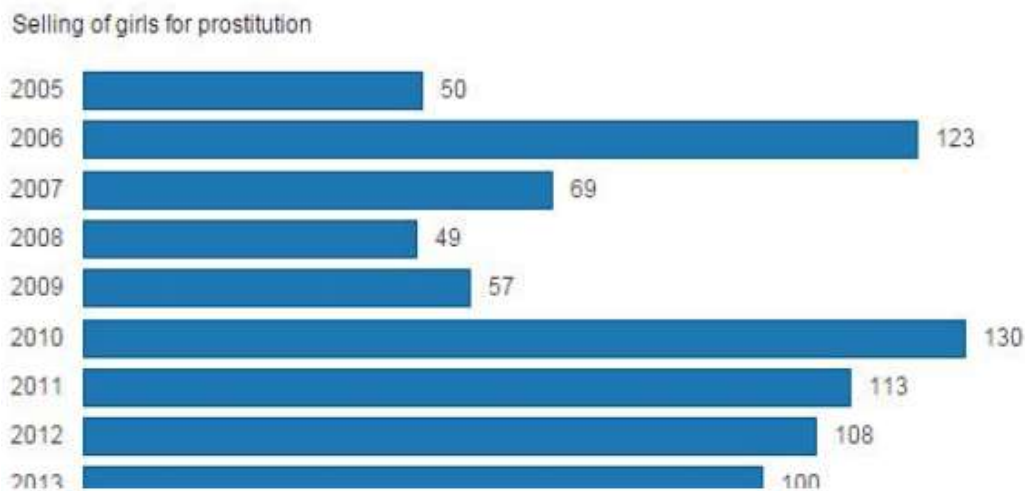
The victim of trafficking in India are – mostly women and children, West Bengal having the highest number of trafficked cases, the backward classes or tribal communities are also targeted, mostly northern eastern girls who are groomed for the purpose of being sold in the UAE, as there is a huge demand for oriental girls, who are groomed and traded as being from a different country, the main attraction to these girls are the promise of better lifestyle and employment opportunities for which many peoples shift to Delhi from states such as Bihar and Chhattisgarh, who are then being easily traded as they have no knowledge of being traded like a good to another country.



Source- The graph is taken from article of Dr.Saraswati Raju Iyer and Mrs.N.Radha, titled 'Women Trafficking In India - A Critical Analysis', Published in Shanlax International Journal of Arts, Science & Humanities, Volume 4 Issue 2 October 2016 ISSN: 2321 – 788,  
[https://www.shanlaxjournals.in/pdf/ASH/V4N2/Ash\\_V4\\_N2\\_017.pdf](https://www.shanlaxjournals.in/pdf/ASH/V4N2/Ash_V4_N2_017.pdf)

<sup>9</sup> R.K. Raizada, The Suppression of Immoral Traffic in Women and Girls Act, 1956: Some Socio-Legal Problems, 8 JILI (1966) 96

Flesh trade is the most booming business in any country, after arms and drugs the amount of money that a country earns through flesh trade, is immeasurable, there are two people involved in this kind of operation- the exploiters and the enablers, the people who take active part in the operation are exploiters and the people who allow such operation or trade are the



enablers, the vulnerable states like Bihar, Jharkhand, Chhattisgarh and Tamil Nadu are the main places from where, mainly the operation is done for the purpose of labour trafficking, while the state of West Bengal, North-eastern states, Orissa, Andhra Pradesh, Maharashtra and Karnataka, are vulnerable for the sexual trafficking case<sup>10</sup>.

*Source- The graph is taken from article of Dr.Saraswati Raju Iyer and Mrs.N.Radha, titled 'Women Trafficking In India - A Critical Analysis', Published in Shanlax International Journal of Arts, Science & Humanities, Volume 4 Issue 2 October 2016 ISSN: 2321 – 788, [https://www.shanlaxjournals.in/pdf/ASH/V4N2/Ash\\_V4\\_N2\\_017.pdf](https://www.shanlaxjournals.in/pdf/ASH/V4N2/Ash_V4_N2_017.pdf)*

The purpose of the sexual trafficking is, to trade the girl below 18 years of age, as they cannot resist, which is the reason of their higher demand in the market, these girls are then made pregnant because the moment they are pregnant, they will look more like an adult, who are then separated from their child, as to have a force and to be a continuous part of sexual trade, in constant fear and compulsion

### Phases of Trafficking

1. Recruitment or abduction- by promises of better life or guarantee of employment, for better education or by the use of force or coercion, abducting victims directly or threatening victims or their families with harm, if they do not comply

<sup>10</sup> Arunima Bose, Human Trafficking, 2020 SCC OnLine Blog LME 3

2. Transferring and transportation: They are frequently moved as cargo, usually by truck, a boat, train, or a plane.
3. Actual exploitation – Exploited by commercial sex or cheap/bonded labour, which includes - agriculture sector, private homes, massage parlours/brothels, cleaning services, and restaurants

### Laws Against Trafficking

- Indian Constitution provides for the provision of Article 23(1)<sup>11</sup> which discusses about trafficking of the human being for the purpose such as begging or forced labour,
- The Indian Constitution Article 24<sup>12</sup>, the Indian Penal Code, Section 372<sup>13</sup> provides prohibition of selling of a boy or a girl for prostitution and Section 373 prohibits the buyers from the purchase of a minor for prostitution
- The Indian Penal Code, Section 366 provides for kidnapping or abduction of women to compel her of marriage and the maximum punishment of ten years of imprisonment and fine
- The Indian Penal Code, Section 366 (A)<sup>14</sup> prohibits the kidnapping of the minor girl, the maximum of ten years of imprisonment and fine
- The Indian Penal Code, Section 370<sup>15</sup> provides for criminalise slavery, servitude, and most forms of sex trafficking with the punishment of imprisonment from 7 years to life
- The Indian government has also passed ‘The Immoral Traffic (Prevention) Act 1956<sup>16</sup>’, deals with the problem of human trafficking and provide certain prohibition.
- In ‘The Criminal Law Amendment Act 2013<sup>17</sup>’, it was provided that the parliament was to make trafficking law in compliance to the guideline of the United Nations for restricting trafficking.
- Governmental scheme such as Ujjawala and Sudhar Greh, these schemes were introduced for the purpose and to rehabilitate, reintegrate, repatriation of the women victims of trafficking.

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<sup>11</sup> Const. Ind. of 1950, Art 23 (1)

<sup>12</sup> Const. Ind. of 1950, Art 24

<sup>13</sup> The Indian Penal Code, S.372 (A) (1860), (Act 45 of 1860)

<sup>14</sup> The Indian Penal Code, S.366 (A) (1860), (Act 45 of 1860)

<sup>15</sup> The Indian Penal Code, S.370 (1860), (Act 45 of 1860)

<sup>16</sup> The Immoral Traffic (Prevention) Act, (1956), (Act 104 of 1956)

<sup>17</sup> The Criminal Law (Amendment) Act, (2013), (Act 13 of 2013)



- In the year 2010, AHTU (Anti Human Trafficking Units), were established which were specialised district tasked force, comprising of police and government officials
- Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill 2018<sup>18</sup>, It made more severe types of trafficking illegal, creates a national anti-trafficking bureau and regionally based anti-trafficking units, addresses the victims' physical and mental trauma, and employs measures to help victims get better by fostering education, health, and skill development.<sup>19</sup>

## CONCLUSION

Women trafficking is a global issue, which cannot be ignored and the countries around the world constantly condemn the operation of trafficking of women for the forced marriage, begging, drug peddling, commercial sexual exploitation, done under force, fraud or deception, India has so many laws and policy for the purpose to stop the trafficking, what is required is not more laws, but: -

- ❖ Implementation: There is an unidentified access for the free trade of the human, to avoid it, we need to have a proper implementation of the policy and to stop the rapid growth from these unethical practices and to invest more on the ujjawala and sudhar greh schemes.
- ❖ Strengthening the Integrated Anti Human Trafficking Units<sup>20</sup> (IAHTU): - These were established for the purpose of rescue and to safeguard the right to freedom by providing rehabilitation to the victims of the trafficking, these units are not given adequate resources such as funds and manpower, which affects their functioning, so in small scale it may have impact but at large it still is poor in its application and cannot provide a proper implementation of policy and assistance.
- ❖ Holistic approach – law and policy provide for rescue, rehabilitation, but it often ignores the socio-economic aspect of the issue, which is required to be assessed such as poverty, the issue of creating awareness, the issue of independent domains of the issue of trafficking that need to be brought together to create a uniform and independent law to govern the issue of trafficking as a whole and not the part

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<sup>18</sup> Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill, (2018)

<sup>19</sup> Sakshi Priya, Trafficking and its increased Adversities during Pandemic, 2.1 JCLJ (2021) 418

<sup>20</sup> Integrated Anti Human Trafficking Units, (2007)

- ❖ Political will – it is the most important aspect which affect implementation, strengthening the Anti Trafficking Units and to have holistic approach as these can only be done if there is a political will as they will affect the smooth functioning and the proper implementation of the law and policies made by legislation.