Combating Human Trafficking: A Legal Perspective with Special Reference to India

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Abstract  Trafficking of human beings is a global phenomenon which has gained momentum in recent years. It is the modern-day equivalent of slavery. Trafficking in persons is the third largest form of organised crime after trafficking in arms and drugs (UNODC, 2000). Even though the crime of human trafficking for any purpose is both under-recorded and under-reported, the 2004 Trafficking in Persons (TIP) report estimated at least 600,000 to 800,000 women and children being trafficked across international borders every year, the majority being trafficked into commercial sexual exploitation (US DHHS, 2004). This paper seeks to provide an analytical framework for designing more effective laws against human trafficking. The paper in first place, examines human trafficking operations in India and the efforts of the Indian government, non-governmental organizations, and various international organisations to put a stop to trafficking by prosecution of traffickers and providing assistance to survivors of trafficking. The second section investigates the causes of human trafficking which make India both a source and a destination of trafficking in persons, as it continues to grow globally. In the final section of the paper viable solutions to effectively reduce India's tolerance to human trafficking and to secure people from being trafficked internally and to various countries are worked out. The legal arrangements for the protection of human rights and the dignity of women and children in the Indian context and the efforts which the government ought to take in order to eradicate this evil are suggested. This paper is a piece of pure theoretical work and consists of a simple research aimed at finding a particular statement of law or a more complex and in-depth analysis of legal reasoning.

Keywords  Human trafficking, India, Poverty, Gender violence, Rescue and Rehabilitation

1. Introduction

Trafficking in persons is an activity of the informal sector and hence is not accounted for. This makes it difficult to correctly estimate the magnitude of trafficking and identifying the victims as these acts are sometimes not even seen as acts of gross violation of human rights. Estimates show that 2.4 million of the 12.4 million forced labour victims were trafficked (ILO, 2008,1). Of these, 6% are in Asia and the Pacific, 10% in Latin America and the Caribbean, 9.2% in the Middle East and Northern Africa, 5.2% are in sub-Saharan countries, 10.8% are in industrialized countries, 8% are in countries facing political transition. 161 countries are reported to be involved in trafficking by either participating as the country of source, of transit, or of destination. People are reported to be sourced to be trafficked from 127 countries to be exploited in 137 countries.

Human Trafficking is a violation of human rights in the worst form, the impacts of which are far-reaching. 95% of trafficking victims experience physical and sexual violence. Many victims experience post-traumatic stress disorders, anxiety, depression and disorientation. Inadequate legislation and law enforcement, lack of knowledge and awareness about legislation are challenging issues. There is also an urgent need for the amendment of legislation to ensure that victims of human trafficking are not prosecuted. Trafficking of girls for marriage is prevalent, particularly in the states of Punjab and Haryana. Studies reveal a well-established market in Uttar Pradesh for ‘purchased’ Bangladeshi wives.

The definition of trafficking is provided by several organisations. These show similarity in interpretation of who is identified as a victim of trafficking. United Nations Office on Drugs and Crime[1] defines trafficking in persons as:

- the recruitment, transportation, transfer, harbouring [sic] or receipt of persons, by means of 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 person having control over another person, for the purpose of exploitation.
A separate definition of child trafficking is provided by the UN Convention against Transnational Organised Crimes[2] which states that child trafficking is the recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation. A child as per UN Convention on the Rights of the Child[3] is anyone under the age of 18 years. Children may be trafficked for the purpose of labour or for sexual exploitation. Trafficking in persons for sex, however, forms another category of trafficking. According to the United States Trafficking Victims Protection Act (TVPA)[4], sex trafficking is a practice “in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such an act has not attained 18 years of age”. Trafficking in human beings is a crime where the exploitation of an individual is the central aspect. The other form of trafficking is one for organ trade. Trafficking in human beings for the purpose of organ removal can only be committed if organs are removed from living donors. Organ trafficking is defined by the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children[5] as:

the recruitment, transport, transfer, harbouring, or receipt of living or deceased persons or their organs 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 to, or the receiving by, a third party of payments or benefits to achieve the transfer of control over the potential donor, for the purpose of exploitation by the removal of organs for transplantation.

The discussion of organ trafficking of deceased person does not fall under the ambit of this paper.

International laws, like the Convention for Elimination of all Forms of Discrimination against Women (CEDAW), Convention for the Suppression of Traffic in Persons and of the Exploitation of Prostitution of Others[6], have brought a positive change in the definition of prostitution. Prostitution, now, is ‘sexual exploitation or abuse of persons for commercial purposes’. Thus, hiring the body of a person is not considered as an offence but only the exploitation of it. If a woman puts her own body for hire, for promiscuous sexual relationship and another person exploits her, she is not a prostitute. The person who exploits her is engaged in prostitution. However, due to aberration caused due to the inadvertence in not amending the corresponding provisions of the act, has caused a commotion, even in judicial interpretations.

Under the Immoral Traffic (Prevention) Act, 1956 (ITPA), prostitution is legal. Women can use their bodies for materialistic gains but a broker is not allowed to take advantage of her. The Supreme Court recently asked the Central Government as to why prostitution should not be legalised[7]. Legalisation gives the government and police authorities more control over the brothels activities; it may be possible to ensure that unwilling women are not forced into prostitution, and they receive payment without being exploited or physically abused. Also, women who have been forced into the trade need to be rescued and rehabilitated. Prostitution violates most basic human rights of women to sexual autonomy and integrity. UDHR (1948, 1993), CEDAW (1979, 1980, 1985) and the Vienna Convention (1993) have taken many steps but are still struggling to eradicate the problem from its roots.

The countries are classified into three categories based on the type of role they play in trafficking in persons. The countries from which the persons are supplied from are called the country of source and usually comprise of nations with high levels of poverty and low levels of opportunity available to citizens. Supply factors include poverty, lure of employment, sham marriages, displacement due to natural disasters, political disturbances such as civil war[8], culturally subordinate position of women, migration, etc. The destination countries are those where the victim is finally taken and is exploited for various purposes. Demand for trafficked persons arises on account of desire for cheap/free labour, domestic servitude, sex trafficking/tourism demand for organs, participation in organised crime generating high profits and low risk for traffickers. The country of transit is used to transport trafficking victims from the country of source to the country of destination.

2. Research Aim

This paper seeks to provide an analytical framework for designing more effective laws against human trafficking. Trafficking is a modern-day equivalent to slavery. It is a phenomenon which is gaining momentum and is now the third largest form of organised crime after trafficking in arms and drugs[9]. Even though the crime of human trafficking for any purpose is both under-recorded and under-reported, the 2004 Trafficking in Persons (TIP) report estimated at least 600,000 to 800,000 women and children are trafficked across international borders every year, the majority being trafficked into commercial sexual exploitation[10].

The article investigates into the root causes of human trafficking making India, both a source and a destination of trafficking in persons as it continues to grow globally. Humans are trafficked for various services such as forced labour, bonded labour, organ harvesting and sex. Women and children have been described to be the most vulnerable to this curse mainly due to ignorance, harmful traditional and cultural practices, greed, poverty and discrimination. The Ministry of Women and Child Development estimates that 3 million women have been trafficked in India, 40% of which are minors[11]. 60% of people trafficked into sex work in the
country are adolescent girls between ages 12 to 16. In the final section of the paper viable solutions to effectively reduce India’s tolerance to human trafficking and secure people for being trafficked internally and to various countries are worked out.

NCRB (National Crime records Bureau) data of India shows high incidence of trafficking in the states of Tamil Nadu, Andhra Pradesh, Karnataka, Maharashtra, Kerala and New Delhi. This paper studies the inter-relationship between human rights and laws and attempts to understand jurisprudential aspect of human rights in India where there is disparity at every step. The legal arrangements for the protection of human rights and the dignity of women and children in the Indian context and the efforts which the government ought to take in order to eradicate this evil are suggested. This paper is a piece of empirical research aimed at in-depth analysis of trafficking and the legal perspectives to it.

3. Contributing Factors and Effects

Trafficking in humans is done, primarily, to fulfil the purposes of forced labour, bonded labour, sex work and organs trafficking. Of these, human trafficking for sexual purposes, known as sex trafficking, is the largest subset[12]. Trafficking in persons, a global phenomenon thrives on the weakness and vulnerability of persons. Vulnerability arises due to poor economic condition, existence of gender-based violence and political instability (wars, internal disturbances, et al.). Conflict-ridden areas which have actual war or the mere presence of military bases create demand. These areas are characterised by the presence of sex workers and child soldiers[13]. Government power in such areas is limited. Economic and social conditions like poverty and the social and cultural exclusion that poverty can cause, is a major problem.

In most of the areas of origin of trafficked persons, 50-60% of the population lives on US$1 a day. Income poverty, unemployment, hunger, disease and illiteracy are widespread and rampant. Employment, education, vocational training and economic opportunities are in chronic shortage. As a result, unemployed youths and school dropouts are reduced to vulnerability and thereby become easy targets to human traffickers. More vulnerable are those who migrate from rural areas, where opportunities are even rarer, to urban areas in search of employment and other opportunities[14].

The increased globalisation of the world economy means that high volumes of people, goods and services are crossing international borders, both legally and illegally. Operatives of organised crimes, internationally, have positioned themselves to exploit such situations. People want to migrate for different reasons (to seek refuge or better employment opportunities) but are restricted for various reasons as immigration procedures have become more stringent. The decision to illegally immigrate puts them at an increased risk of being exploited. Therefore, the causes may be divided into three categories: economic, socio-cultural and legal and political.

Economic strength of persons is an important factor in deciding their vulnerability of persons to trafficking. It is seen that victims of trafficking are usually sourced from poor countries where lack of employment opportunities and perpetual poverty are critical issues. These people can be easily convinced that they are being given an opportunity to advance in life. Another cause of human trafficking is the removal of human organs; or cheap labour being used in plantations. Lack of literacy and awareness renders it impossible for victims to reasonably assess what they are consenting to. Several reports show that girls from poor economic backgrounds are brought to Mumbai to be forced into sex work. There are recent reports where it is shown that tea plantation workers in Assam, who live on meagre 12 paise a day (almost $0.0024), are being targeted by traffickers. Girls here are sold for as low as 1000 rupees ($16)[15]. Another case seen is the surge in the instances of trafficking of women in Goa. Girls from Nepal, Bangladesh, Russia and many parts of India are forced into sex trade to serve tourists[16].

Bonded labour is a treacherous way of capturing free labour. A debt or a bond is used to command poor into working and to keep them in service. The work is initiated for the repayment of such bond. Thus, the worker is not paid any remuneration for a very long period of time. The definition is given under Section 2(g) of the Bonded Labour System (Abolition) Act, 1976 as service arising out of loan/debt/advance. The labourer's sustenance depends on the employer who captures him. The concept of debt inheritance comes into play. If a worker is unable to pay his debts his children are forced into working to the creditor for repayment. Thus, children are born into debt and grow up only to repay such debt. There is no opportunity for them to escape as most of them are uneducated and unaware of their rights and rescue agencies. They believe it to be their customary obligation to serve the upper caste landlords/employers. Such servitude goes on for generations. Physical and sexual abuses are common ways of threatening the workers and forcing them to continue working. Wealthier persons are usually perpetrators of such atrocities. Children are most susceptible to bonded labour as they have no means of escape. Particularly troubling is the fact that some children are voluntarily sold by their own parents due to poverty and hunger. Despite the Bonded Labour System (Abolition) Act, 1976, it is seen that there have been negligible convictions under the Act[17]. The fine imposed under the act is a paltry Rs. 2000 ($31) which by no means would act as a deterrent.

The societal preference of boys over girls and the general view of men being superior to women lead to exploitation of women. The deficiency of satisfactory legislation, properly functioning administrative machinery and an effective judiciary are the most obvious causes of human trafficking. Many countries lack both relevant legislation and explicit
policies on human trafficking. Where such policies do exist, they are often neither implemented nor followed up properly. In some countries where human trafficking or similar activities are criminal offences, punishment on conviction may be comparatively lenient. Those mentioned factors are the main obstacles for ending human trafficking.

Women are considered culturally subordinate to men in certain societies. This is the root cause of derogatory treatment of women as men use culture as a tool to prove their superiority to oppress and exploit women. Many countries show huge disparities in the level of literacy, educational opportunities, employment opportunities, inheritance and poverty. Such educational and economic disabilities make women vulnerable to exploitation. Conflicts, wars and the resultant displacement of people put them at greater risk. Vulnerability also raises when political systems collapse and extended periods of political, social and economic transition ensue: with the collapse of communist rule in Eastern Europe, for example, space opened up for criminal networks to operate and flourish in[18]. The fast growth of commercial sex industry is seen as a key factor for the increased trafficking in women. It is held liable for increased demand of women and girls and forcing them work against their will and under terrible living and working conditions.

Vulnerability of persons to sex trafficking arises due to poverty, lack of employment opportunity, hunger, displacement, political instability and natural disasters. Vulnerability is directly related to susceptibility and increased risk of being trafficked. Victims who are forced into sex trafficking by their own families usually have histories of childhood sexual abuse, substance abuse by guardian, death of parents/guardians, violence, running away from home, homelessness, school failure, etc. Gay, lesbian, bisexual and transgendered persons are particularly susceptible. Many researchers have shown that most victims of trafficking have had disturbed childhoods where they had been physically and sexually abused. Childhood abuse is seen as a root cause of many problems as an individual grows up, such as attempted suicide, tolerance to domestic violence, drug addiction, alcohol abuse, and many other physical and mental health issues. Seen in this light, sex trafficking is also a manifestation of the problems continued during adulthood due to childhood maltreatment.

Trafficking in women for sex can be better understood by application of Marxist feminism[19] to the phenomenon. Marxist feminism follows the beliefs of Karl Marx. Marx believed that a society is constituted of several groups which, in a bid to overpower each other, are in constant conflict with each other. Reorganization and redistribution of goods, labour and consequently power helps solve these conflicts. The continuous change leads to creation of new social systems like capitalism. Capitalism creates two groups, the class who owns the means of production i.e. the bourgeoisie and the class who sell their labour, the proletariat. The bourgeoisie are constantly exploiting the proletariat by keeping them dependent on them for wages that are low in comparison to the profits they gain from their work. The proletariat continue to work because they believe that eventually they’d move up this well-organised societal structure which forms the basis of their exploitation. This same system of oppression is used to marginalise and control women. They are restricted to domestic work which is not valued as it does not lead to creation of capital. They lack ownership of property. Their economic movement is also restricted by the process of reproduction which forces women to take time off work, while men do not have such obligations and still profit from having children (preferably sons) who will eventually join their labour force. Therefore, men are able to oppress women in society, not only because of capitalism, but because they hold power of production and creation of wealth proving themselves to be superior. This renders in them the ability to create cultural standards which women are forced to follow due to their dependency. Therefore when it comes to issues like sex trafficking and prostitution women are once again oppressed and controlled by men to help them gain capital. Men purchase women in the same way they purchase property or labour, owning and controlling them every day. Violation of rights of others is seen as a minor opportunity cost to help oneself climb the social ladder. Those women who receive money or accommodation for their work in the sex industry, the consideration provided is paltry to what traffickers make. The damage it causes to women’s health, physically, emotionally and psychologically is tremendous. The constant creation of false consciousness among women by exploitation and control makes them believe that they have no other choices or self-worth. They are mentally exhausted, humiliated and afraid and lack the self-identity required to disobey their trafficker and escape victimization.

Trafficking of children is a phenomenon affecting children, both male and female, worldwide. Poverty is the single most common factor which pushes children into child labour and makes them vulnerable to trafficking. Their weak economic backgrounds limit their options and heighten the desire to find any work to sustain them. Hence, they are easily lured by traffickers with the promise of a better and more prosperous life. Many are kidnapped and sold. Studies suggest that increased economic pressure is directly related to child labour. Child trafficking and labour denies children the right to grow up in a healthy family atmosphere and exposes them to a range of dangers such as violence and sexual assault.

In India, a large number of children are trafficked not only for the sex ‘trade’ but also for other forms of non-sex based exploitation that includes servitude of diverse kinds, as industrial labour, domestic labour, agricultural labour, organ trade begging, and false marriage. Trafficking in children is on rise, and nearly 60% of the victims of trafficking are below 18 years of age[20].

Trafficking in humans from organs differs from trafficking in organs as in the case of trafficking in humans, the exploitation of individual being trafficked is the focal issue. However, in trafficking in organs, the source of organs
being trafficked is irrelevant. Trafficking in persons only occurs when organs are removed from a live donor.

Organ transplants are a boon of modern-science. They help make available properly functioning organs to critical patients, thus, helping them survive and living a healthy life. However, there is a very high shortage of organs to be supplied. For various reasons, many countries have not enacted policies and legislations which would make them self-sufficient in organs for medical purposes and transplants. This causes a discrepancy in the supply and demand of organs for transplant. A very serious consequence here is the creation of opportunities for the traffickers to intervene and provide organs by forcing persons to donate. The immense scarcity distressing the supply of organs and the mounting demand for organs and tissues produce circumstances in which trafficking in human beings to obtain organs can flourish. This is sometimes referred to as ‘transplant tourism’[21].

Such severe economic disparities and desperate need for organs encourage rich to shorten the wait for organs by exploiting the distressful economic condition of the poorest classes. Lack of organs and desire to survive cause people to look for alternate solutions to ensure availability of organs. Criminal groups take advantage of this situation and source poor persons into organ donation without their consent. Poor persons find it hard to not participate in such criminal activity and a false consent is given. They usually do not have knowledge of the procedures involved, the subsequent effects and often believe them to be the only way to help their dire economic condition. All these factors form the origin for the development of the practice of trafficking in persons for organ donation, a modern horror. Several survivors of the December 2006 tsunami which hit the East-coast of India were forced into organ trade to pay their families’ debts[22]. Such exploitation of persons for organs may not be exclusive of other kinds of exploitation such as sexual and forced labour.

It is, thus, understood that the section of people most vulnerable to human trafficking are the poor, marginalised and uneducated persons who are least aware that there is the danger of being trafficked at all. Many people simply have no access to information and have not been made aware of the phenomenon. These persons have limited or no access to information and technology. People do not know how complex, specialised and organised the crime of trafficking in persons is. They are also not aware of their rights and the various laws available to protect them. They therefore do not know whom to approach and where to go when the problem surfaces.

4. Potential Effects on the Economy

The economic impact of trafficking on a country is measured by looking at the impact it has on society. A nation invests money on prevention of trafficking, treatment and support of victims, the apprehension of traffickers and their subsequent prosecution. The cost of police, investigation and rescue operations, rehabilitation of victims, prosecution services, cost of prison and other related costs have to be borne by the state. The lost productivity of the traffickers and the victims is another loss to the economy. Rehabilitation of victims and other health services also demand state investment. Another significant economic burden for some "source countries" is the cost of immigration, repartition, customs process and subsequent assistance in housing and rehabilitation. The public health impact of trafficking is potentially very costly.

India occurs on Tier 2 of the Watch List of the Unites States lists of occurrence of human trafficking. Countries that are relegated to Tier 3 Watch List face possible economic sanctions from the government of the United States of America. This should serve as a warning signal. In addition, the Trafficking in Persons Report (2012) of the U.S. states that "governments subject to sanctions would also face U.S. opposition to assistance from international financial institutions such as the International Monetary Fund and the World Bank". This should serve as a word of warning as such international sanctions like these would severely impact any already dwindling Indian economy. The financial ramifications cannot be ignored. Employment opportunities are hampered due to availability of such cheap and even free labour. This subsequently reduces the per capita income of the nation.

5. Law to Combat Trafficking

In the September of 2006, the Indian government created an anti-trafficking law enforcement "nodal cell". It is a central department comprising two officials responsible for accumulating and analysing data relating to trafficking in persons in the country. Its duty also includes the action taken by the central and state governments to combat the evil of trafficking. In 2007, three state governments established anti-trafficking police units, the first of this kind in the India. The Central Government, in 2007, banned the employment of child labour in domestic work.

The Constitution of India, the supreme law of the land from which all laws originate, guarantees equality and freedom to all citizens by virtue of fundamental rights vested in them. Trafficking is explicitly forbidden as it is opposed to these basic tenants of the Constitution. Article 23 (1) of the Indian Constitution explicitly forbids traffic in human beings, begar (a form of forced labour) and all other forms of forced labour. Also, Article 24 prohibits employment of children below 14 years of age in factories, mines or other hazardous jobs. These constitutional safeguards have been implemented by way of several central as well as state legislations.

The Immoral Traffic (Prevention) Act, 1956 (ITPA)[23], originally enacted as the ‘Suppression of Immoral Traffic in Women and Girls Act, 1956, is the most important legislative instrument for the prevention and combat of
trafficking in human beings in India. However, till date, its key object has been to inhibit/abolish traffic in women and girls with the intention to force them into prostitution as means of earning their livelihood. It The provisions of ITPA criminalize the persons who procure, traffic and profit from the trade but fails to provide a clear definition of ‘trafficking’ per se in human beings.

India enacted the Immoral Traffic (Prevention) Act (ITPA) in 1956, upon ratification of the Convention for the Suppression of the Traffic of Persons and of the Exploitation of the Prostitution of others (signed at New York on 9th May, 1950). Prior to ITPA, several state legislations existed which were, however, neither sufficient nor uniform in their approach to TIP. Therefore, a need for a strict central law, uniform in nature, arose. The ITPA provisions provide penalty for immoral trafficking, punish traffickers, punish persons keeping a brothel (Section 3), Punish persons who live off the earnings of a woman (Section 4), and provides welfare measures focussed towards rehabilitation of sex workers. The emphasis is on punishment for the clients/pimps/brothel owners etc. and not the commercial sex workers. It needs to be noted that in the case of Sushila v. State of Tamil Nadu[24] the Madras High Court held that "a solitary instance of prostitution in a place does not make a place a 'brothel'".

However, the Act has been criticised on various accounts. It provides a measly amount of Rs. 20,000 ($320) as compensation to victim. Such amount is not enough to rehabilitate the victim or to provide such a person with alternate means of livelihood. There is a grave danger of the rescued persons falling back into the traps of the traffickers. Also, the punishment provided to the trafficker under Section 3 of the Act is only three years. Such punishment does not act as a deterrent to offenders. There have been very few instances of conviction under the Act indicating its failure in curbing trafficking. The Justice Verma Committee (2013) was formed to recommend amendments to the Criminal Law so as to provide for quicker trial and enhanced punishment for criminals accused of committing sexual assault against women. The Report[25], submitted in January 2013, pointed out the shortcomings of ITPA. It says that the act only criminalizes trafficking with the objective of prostitution but ignores other aspects of trafficking.

The significance of deterrence of trafficking is indisputable, but in some way, the entire focal point of ITPA seems to be on elimination of prostitution instead of prevention of trafficking in persons. An imperative observation is that the continuum of anti-trafficking initiatives, law formulation and enforcement is roughly limited to the part of raid, rescue, and repatriation and to some degree, the rehabilitation aspect. There is a noticeable lack of any model guideline for intervention or law enforcement in preventing the occurrence of trafficking. However, in the case of Gaurav Jain v. Union of India[26], the Supreme Court exercised its extraordinary writ jurisdiction making power under Article 145 and 142 of the Constitution and laid down a comprehensive scheme to rescue and rehabilitate victims of sexual exploitation.

The Criminal Law (Amendment) Bill 2013[27], was passed by both houses of Parliament in March, 2013. It provides for amendment of Indian Penal Code, Indian Evidence Act, and Code of Criminal Procedure on laws related to sexual offences. It adds Section 370A to the Indian Penal Code which criminalizes human trafficking. The definition provided under the new section is not restricted to prostitution but also includes other forms of trafficking. This is evident from the use of the word "exploitation" instead of "prostitution" in the section. Thus, the scope of the section had been brodened. Stricter punishment has been given under the amendment. An offence of trafficking shall be punished with rigorous imprisonment for a term of at least seven years, but which may extend to ten years, and shall also be liable to fine. Where the offence involves the trafficking of more than one person, it shall be punishable with rigorous imprisonment for a term which shall not be less than ten years but which may extend to imprisonment for life, and shall also be liable to fine. Similar provisions show enhanced punishments for the perpetrators of human trafficking and exploitation. The amendment further excludes consent of victim, obtained by inducement, etc., as a factor to absolve the trafficker of liability under the new section.

Repressive and empowerment techniques, used in combination, can help address the current problem of trafficking. Repressive strategies aim at suppressing crime and are primarily used by law enforcement agencies. Empowerment techniques are a tool of NGOs and rehabilitation agencies which aim to support victims, strengthen them and help them re-adjust in society so that they do not fall prey to re-trafficking. The Ministry of labour rightly stated that there is an urgent need for check on working conditions, occupational health, safety measures and ensuring minimum payment for work done.

Buying and selling of minors for the purposes of prostitution i.e. trafficking, is a grave offence, under the Indian Penal Code (IPC), sections 372 (Selling of minors for prostitution, etc.) and 373 (buying of minors for prostitution), and merits maximum punishment of 10 years. The same quantum of punishment is awarded under Section 366 which deals with kidnapping a woman to compel her to marry or is forced to illicit intercourse. Sections 342, 352, 360, 362, 365, 368 and 506 deal with punishment for wrongful confinement, punishment for assault or criminal force otherwise than on grave provocation, kidnapping from India, kidnapping from lawful guardianship, abduction, kidnapping or abducting with intent secretly and wrongfully to confine person, wrongfully hiding or keeping in confinement, kidnapped or abducted person and punishment for criminal intimidation respectively and can be invoked in cases of trafficking in persons. The 2013 Amendment provides for increased punishment in case of minors. When a minor is a victim, the trafficker shall face of rigorous imprisonment of at least ten years to life imprisonment. If there were more victims than one, the punishment shall be rigorous imprisonment which is

The Constitution and laid down a comprehensive scheme to
not less than fourteen years and may extend for life.

The other relevant Acts which address the issue of trafficking in India are; the Juvenile Justice (Care and Protection of Children) Amendment Act, 2006; Andhra Pradesh Devdasi (Prohibiting Dedication) Act, 1989; the Karnataka Devdasi (Prohibition of Dedication) Act, 1982; the Child Labour (Prohibition and Regulation) Act, 1986; Information Technology Act, 2000; and the Goa Children’s Act, 2003. Beside these, there are some other collateral laws which are relevant to trafficking. These are the Indian Evidence Act, 1872; Young Persons (Harmful Publications) Act, 1956; Bonded Labour System (Abolition) Act, 1976; Child Marriage Restraint Act, 1929; Probation of Offenders Act, 1958; Criminal Procedure Code, 1973; Indecent Representation of Women (Prohibition) Act, 1986; and the Transplantation of Human Organs Act, 1994.

In the case of Prerana v. State of Maharashtra[28], the Bombay High Court stated that cases relating to sex trafficking should be disposed of expeditiously. Trial Courts ought to take victim’s statement within one month and complete the trial within six months of the charge sheet being filed. India has a fairly wide range of laws prohibiting and protecting against trafficking. Some of these are enumerated below.

- Article 21 of the Indian Constitution guarantees the right to live with dignity.
- Article 23 of the Constitution guarantees the right against exploitation. It prohibits traffic in human beings and forced labour and makes such practise punishable under law.
- Article 24 of the Constitution prohibits employment of children below 14 years of age in factories, mines or other hazardous employment.
- Under the Indian Penal Code, twenty five provisions relate to trafficking. Significant amongst these are:
  - Section 366A: procurement of a minor girl (below 18 years of age) from one part of the country to another is punishable.
  - Section 366B: importation of a girl below 21 years of age is punishable.
  - Section 374: provides punishment for compelling any person to labour against his will.

The state, NGOs and the society in general needs to make an effort to combat the menace of trafficking in the country. The possible solutions can be summarised as under:

- Effective policy implementation.
- Sensitisation and awareness programmes for law enforcing agencies.
- Frequent raids to track trafficked persons.
- Alert border security forces to prevent trafficking out of the country.
- Public awareness programmes to alert people and to help them identify any such activity around them.
- Post-rescue rehabilitation programmes to ensure that victims are not forced to revert to sex work due to lack of reasonable alternatives.

- Training programmes to make rescued persons economically independent.
- Provide for protective homes for homeless persons and orphaned children as they are most vulnerable.
- Separate institutions to be set up for minors, women and persons above 18 years of age (major).
- Collective effort must be made by the Police and NGOs to locate addresses for repatriation of the victims.
- Counselling should be given to the families of survivors, for sensitisation, to facilitate easy acceptance of the repatriated survivors.
- Legal mechanisms should be clear and uncomplicated to guarantee prompt repatriation of survivors.

6. Conclusion

Prevention of trafficking involves interventions at various levels to combat the initiation of trafficking. Prevention has to be a combined effort of both governmental and non-governmental agencies. It has to be a strategy to make the public aware of trafficking in persons as a mode of modern-day slavery and to sensitize them about it. The policies must be directed, particularly, to those sections of population who form the source and are most vulnerable to trafficking.

The Government must make certain that good quality education, opportunities of employment and income generation programmes are put into operation to provide good quality life to highly susceptible persons. It should carry out routine programmes to educate and sensitize parents, teachers, and community workers about trafficking. Government should include gender centred education curricula in schools and introduce subjects of child sexual abuse and trafficking. Police advocacy is an important intervention that has to be fine-tuned. Awareness is the magnanimity and prevalence of the problem has to be done at the level of National Planning Commission, politicians and bureaucrats too. Their attention is to be drawn to this pertinent problem to invite policy changes. More stringent laws and better implementation are required to curb the problem. Stricter punishments shall act as a deterrent to other traffickers. Policies are required to be framed in the direction of creation of rehabilitation facilities for victims rescued. Victims need special medical and psychological care to move past the physical cruelty inflicted and trauma suffered.

NGOs can contribute by spreading awareness in community members about the prevalence of trafficking in humans. Awareness at the local level, in the community through workshops, songs, drama, meetings, leaflets and posters especially in the rural areas is also required. They should also remain vigilant and report missing persons who may be victims of trafficking. This can be helpful in
identifying traffickers and their hideouts. NGOs working in rural area may carry out workshops to ensure that people are aware of safe migration practises and report inconsistent migration offers. Training programmes and activities highlighting the importance of gender equity can be organised to promote gender sensitization. Awareness is the key to prevention.

The use of media helps garner attention of several hundred thousand viewers. This is an excellent medium of sensitization of people. Media and be used to transmit appropriate message to victims that legal and social help is available to them to get out of the slavery they are subjected to. Victims can be made aware of places and institutions where they can seek help. Media can help provide information to widespread viewer base about penal provisions against trafficking the modus operandi of the traffickers through radio, television etc. Media campaigns have proven to be a powerful tool to draw attention of both the government and the people to specific issues in the past. This power can be harnessed to create awareness about the inappropriate and illegal nature of the act and the cruel consequences thereof.

The phenomenon of trafficking in humans is widespread across the country. It is a socio-economic offence and greatly affects the society. It makes people question their safety and the efficacy of the state machinery. It is the combined duty of the state and society to fight trafficking and protect the vulnerable groups. Awareness of occurrence of such crimes, effective criminal justice system and vigilant citizens can help check trafficking.

REFERENCES

[14] Ibid.