



HUMAN TRAFFICKING

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Abstract

1. Human trafficking is known as the process of exploiting individuals through recruitment transportation harbouring them with the aim of profit maximization.
2. It is a violation of human rights
3. It is covered under the Bhartiya Nyaya Sanhita, 2023 Act.
4. It is a crime where people are being compelled or being involved in the coercion of a person for any activity
5. People being involved in the process of exploitation are trafficking
6. The movement of humans within a country or a community is considered human trafficking.
7. At times the process of trafficking a structured framework which is highly exploitive

Introduction

Individuals of all ages are illegally being transported by force for labour, sexual exploitation or activities which would benefit the other person and not the individual financially.

It is a contemporary form of slavery. It is a problem that has been faced worldwide. It is an insult to human dignity and an assault on freedom. It is considered to be the most profitable crime where the victim is being exploited and has no profit in it.

After illicit drugs and arms trafficking, human trafficking is ranked to be a profitable crime. Every year millions of people are trapped in the hands of traffickers, lured by fake promises and deceit. There are various forms of human trafficking among those the common ways of human trafficking are

- Sexual exploitation
- Forced marriage
- Exploitive labours

Human trafficking is a dehumanizing crime, which reduces people to commodities the people are being traded for activities millions of people are trafficked every year. UNOCD helps countries prosecute trafficking and sales victims.

Historical Background of Human Trafficking:

Human trafficking is known as modern slavery the words slavery and human trafficking are interchangeable, slavery has more definitions it is no longer legal worldwide even though human trafficking is a long-lived process. In ancient times to transfer plants, trade, and slavery within the colonies in the 18th century the abolitionist movement started which was called for the abolishing of slavery, in 19th-century slavery was completely abolished. Slavery abolition act was enacted in 1833 in 20th century international treaty called the slavery convention 1926 was created, prohibiting the practice of slavery the universal declaration of human rights denoted that all humans are born equal in dignity and rights, it prohibits the slavery in all forms.

Human trafficking as to Indian Penal Code(IPC):

Section 370 of IPC: Exploitation of a trafficked person

Whoever does any of the following in order to exploit the victim, namely—

First.-Recruitment of the victim;

Second.-Transportation of the victim;

Third.-Harbouring of the victim;

Fourth.-Transfer of the victim; or

Fifth.-Receiving a person or persons-attracted by any one of the following:

First.-Treatment;

Second.-Force, of any other forms of coercion;

Third.-Abduction;

Fourth.-Practising fraud, or deception;

Fifth.-Abuse of power; or

Sixth.-Deliberate persuasion, including giving or receiving of something of value in order to secure the consent of a person that has control over the person recruited, transported, harboured, transferred or received.-is guilty of trafficking.

Explanation1.— To the term exploitation is the act of exploitation of any physical aspect or any activities of sex, slavery, slave rehabilitation, prostitution, slave labor, forced organ harvesting or any such activities.

Explanation2.— When it comes to defining the crime of trafficking, it is evident that the willingness of the offence victim does not matter.

(2) A person found guilty Scaolu, however, will be sentenced to a term as follows – heavy imprisonment term because of the fact that the person shall not be subject to less than seven years, but may be up to ten years instead and will also be subject to a fine;

(3) In instances where more than one victim will be trafficked as part of the offence, the punishment would be heavy imprisonment of at least ten years which may be extended to believe it or not, life imprisonment but such offender would also be subject to a fine punishment.

(4) In cases of trafficking in which the victim under trafficking is a child, it would amount to enforced chastity that is imprisonment in the form of rigorous terms for a minimum of ten years but which may end up as life in prison and such person shall also be fined.

(5) In cases of trafficking of more than one minor, this will be punishable by rigorous imprisonment for a minimum period of fourteen years, which may extend to life imprisonment, and shall also be subject to a fine.

(6) Such person shall be sentenced to life imprisonment meaning no possibility of early release until death and shall also be sentenced to pay a fine if the person is found guilty of engaging in child trafficking more than once.

(7) Such public servant or police officer involved in trafficking in persons shall be imprisoned for life, which shall mean actual custodial sentence imposed for the rest of that person's natural life, and be liable to pay a fine.

IPC 371: Section 371 of the Indian Penal Code

Habitual dealing in slaves

Any person who routinely engages in the import, export, removal, purchase, sale, trafficking in, or any other form of dealing with slaves shall face imprisonment for life, or such imprisonment for a term which shall not be more than ten years, and there shall be a fine also.

Section 372 in The Indian Penal Code, 1860

372. Selling minor for purposes of prostitution, etc.—

Any individual who, with the intention that any person under eighteen years of age shall be employed or used at any age for the purposes of prostitution or sexual relations with any person or any other illegal and immoral acts, sells, hires out, or in any other way disposes of any such person, or even just knowing that such a person will likely be used at any time for such purposes, or is proving such purpose in the act itself of disposing of such person, shall be sentenced to imprisonment of any description for a term of which may extend to ten years, and shall be liable to fine. Explanation I.— When a woman who has not

attained the age of eighteen years is either sold, hired out, or offered in any way to a prostitute or a person owning a brothel, such an act of disposing of the woman shall be considered until the evidence disproving such an intent is provided, as having the purpose of prostitution. Explanation II.— In this context, sexual intercourse that takes place outside of the legally recognized marriage will be referred to as “fornication” irrespective of any other social or marriage arrangements recognized by the personal law of the parties involved or their respective communities in the case of diverse communities.

Section 373 in The Indian Penal Code, 1860

373. Buying minor for purposes of prostitution, etc.—

Any individual or entity that acquires, leases, or in any other way gains control over a person under the age of eighteen years with the expectation that this person shall at any age be utilized for the purposes of. —

Prostitution or unlawful sexual relations with any person or any illegal and immoral actions of this nature, or knowing that most likely will extrapolate such person at any age for any cause shall be punished with an imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Explanation I.— Every prostitute or any person managing or running a brothel who buys, hires or otherwise obtains possession of any female below the age of eighteen years shall, unless and until the contrary is proved, be deemed to have secured such female for purposes of prostitution.

Explanation II.— ‘Illicit intercourse’ shall have the same meaning as ascribed to it in section 372.

Human trafficking as to Bharatiya Nyaya Sanhita,2023 (BNS)

143. Trafficking of person.

1) A person commits trafficking when the person for the purpose of exploitation recruits, transports, harbours, transfers or receives a person or persons;

a) by means of threats; or

b) by means of force or any other form of coercion; or

c) by means of abduction; or

d) by means of practicing fraud or deceit; or

e) be any person in a position of power; or

f) By any means, including the giving or taking of any money or other benefits, to a person who has the power to give or withhold the consent of the person being recruited, transported, harboured, transferred or received to achieve that consent. Explanation 1.- The term “exploitation” shall extend to all forms of physical exploitation including all types of sexual exploitation; practices akin to slavery; servitude; trafficking for the purpose of begging; and trafficking for the purpose of organ harvesting.

Explanation 2.- For the purpose of determining whether the offence of trafficking has been committed, the issue of consent of the victim is irrelevant.

2. Any person found guilty of the said crime of trafficking in persons shall be sentenced to a term of virile imprisonment for not less than seven years but not exceeding ten years in addition to a fine.
3. Where the offence charged with has more than one victim, it shall be punishable with a rigorous sentence of 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.
4. When the crime in question is child trafficking, one will serve at least ten years of rigorous imprisonment and such term may carry a life sentence, in addition to a fine.
5. Where the offence includes trafficking in more than one child, such person shall be punishable with a yet more rigorous imprisonment for a term of not less than fourteen years but which may also extend to a life sentence and also to a fine.
6. A person found guilty of the treatment of children trafficking under the consecutive offenses provision shall serve a penalty of life imprisonment, which refers to the lifetime of that person in prison, and also be punished by fine.
7. In case of any involvement of a police officer or public servant in the act of trafficking, in such a case, that police officer or public servant shall be sentenced to imprisonment for the rest of his/her life and shall further attract a fine.

COMPARISON BETWEEN HUMAN TRAFFICKING IN IPC AND BNS

In light of the recent changes made to the criminal laws of India, which categorize all offenses that are physical to the human being under Chapter 6, previously under Chapter 16 of the Indian Penal Code, there have been most of the offenses described somewhat the same, quite a few changes however have been done in a big way with regards to some few increase in the punishments of certain crimes. Among the different policy forms introduced has been under Section 109 where a provision which deals with organized crime is introduced. Focusing on the indicators who are orchestrating the crimes will put an end to networks involving human trafficking, which for example prostitution, will seem to be heightened. Furthermore, all other organized cyber crimes, smuggling of illicit drugs, and arms dealing fall under this category. Since the nature of such offenses are quite dangerous, the most stringent penalties have also been recommended. Life imprisonment or even the death penalty may be imposed on a person in case he or she engages in organized crime under this section and causes the death of any other person. In the other cases, punishment prescribed is imprisonment for a period to the minimum of five years. According to new legislation, the claim that human trafficking is an organized crime would assist in dismantling the higher levels that are in control of such serious crime. This measure might be useful for the power bearers in breaking cousins and therefore to manage them more effectively.

Observation:

Trafficking: A person is said to be trafficked when they are recruited, transported, harbouring and received for the purpose of exploitations by any means. The term “means” for purposes of this definition refers to the threat or use of force, kidnapping, fraud, psychological coercion, the wrongful use of position, or providing benefits. Exploitation also covers any work or services performed to include but not limited to physical and sexual exploitation or slavery, practices similar to slavery and practices which include trafficking of people for purposes of organ removal. **Aggravated trafficking:** The Bill also recognizes certain purposes of trafficking as “aggravated” trafficking forms. The aggravated forms include, but are not limited to this:

- (i) for making engage in ‘slave labour’;
- (ii) for the purpose of reproducing;

- (iii) for the introduction of particular medicine or substances which will aid in early development of sexual features, and
- (iv) for soliciting. The punishment range for aggravated trafficking is harsher compared to that of ordinary trafficking.

Rescue and Investigation: The Act also provides for the creation of agencies at the district, state and national levels which will be responsible for the rescue operation of the trafficked persons as well as the investigatory proceedings on the crimes committed. Two or more districts shall have Anti-Trafficking Units and anti-trafficking police officers shall be appointed by the state government for that purpose and these shall investigate offenses and rescue persons. In the case of rescued child victims, the children shall be produced before the Magistrate or the Child Welfare Committee. A District Police Nodal Officer appointed by the state will be in charge of overseeing the work of district authorities. The state Government will also set up a nodal office to address and ensure proper functioning of the district anti-trafficking officers as well as traffic in victims, witnesses, evidence and offenders within and across state lines. The nodal officer will also receive sectoral reports from the District Police Nodal Office. At the apex level, National Anti-Trafficking Bureau will be established by the central government which will be entitled to take cognizance of the cases arising out of the concern of two or more states.

Protection and rehabilitation: The Bill will propose that either central or the state government will build protection homes within the territories that will provide such assistance as shelter, food, counselling, and health services to the victims. In addition, District level Rehabilitation Homes providing long-term rehabilitation to the victims will be established. The Bill will make it necessary for both the central and the state Governments to establish through Anti Trafficking Committees at the national level, State level, and District level to provide rehabilitation of the victims. After the rescues, the district anti-trafficking authorities must inform the anti-trafficking district committee about the rescue operations. In turn, the committee must recommend the provision of temporary measures and rehabilitation services to the members that were rescued. The District Committee shall be responsible for:

- (i) issuing directives to Protection and Rehabilitation Homes for the purpose of safeguarding, restoring and rehabilitating the victims;
- (ii) assisting in the process of repatriating the victims who have been bonded to work, to their places of origin. At a state-level, the anti-trafficking committee is tasked to: (i) organize instructional and sensitization of staff, and (ii) offer support and input

Conclusion:

In closing, we must emphasize that any effective measures to eradicate human trafficking, will certainly require a multi-faceted combination of preventive strategies, active law enforcement, and severe penalties. Institutions such as district and state anti-trafficking committees will be able to assist in such efforts to safeguard those who are at risk. This will be through the provision of engaging them in income generating and educational activities and making sure all relevant government programs are available to such at-risk populations. Expanding the scope of law enforcement activities should also help eradicate such insidious practices once and for all. Moreover, to minimize the waiting period for the commencement of the criminal justice system, the special courts will be established in every district where these trafficking cases, the verdict will be pronounced within a year. To this, the bill prescribes very heavy sanctions against the traffickers, all of them coming under the categories of bailable offence, meaning that the police will act without any further delays. This second provision means that in cases where there is at least one territorial trafficker, facing charges with different provisions of the law, the maximum available punishment shall be invoked. This wide ranging system is intentionally crafted in such a way that it will not only bar any instances of trafficking, but will also ensure administration of timely justice without undue or excuse.

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