

WOMEN TRAFFICKING IN INDIA - A CRITICAL ANALYSIS

Dr.Saraswati Raju Iyer

*Research Guide, Assistant Professor, Department of Sociology and Social Work,
Acharya Nagarjuna University, Guntur, Andhra Pradesh*

Mrs.N.Radha

*Ph.D Research Scholar, Department of Sociology and Social Work,
Acharya Nagarjuna University, Guntur, Andhra Pradesh*

Abstract

The Indian Constitution specifically bans the traffic in persons. Article 23, in the Fundamental Rights section of the constitution, prohibits 'traffic in human beings and other similar forms of forced labor'. Though there is no concrete definition of trafficking, it could be said that trafficking necessarily involves movement / transportation, of a person by means of coercion or deceit, and consequent exploitation leading to commercialization. The abusers, including the traffickers, the recruiters, the transporters, the sellers, the buyers, the end-users etc., exploit the vulnerability of the trafficked person. Trafficking shows phenomenal increase with globalization. Increasing profit with little or no risk, organized activities, low priority in law enforcement etc., aggravate the situation. The income generated by trafficking is comparable to the money generated through trafficking in arms and drugs. Women are also trafficked into commercial markets to serve as laborers or domestic servants. Kuwait is considered a major center of women trafficked for commercial exploitation, which, like those sent into prostitution, joins recruiters who promise money and a better life. Their passports and immigration papers are frequently seized by their new owners once they reach Kuwait, leaving them completely vulnerable and without legal recourse. Though Kuwait, according to investigations by the United States State Department, is one of the worst centers for trafficking in women, it is far from the only one. As of 2009, 17 countries were listed as Tier 3 by the US State Department, meaning that not only do they suffer high amounts of human trafficking, but that the government does not meet minimum standards for eliminating the trade. The present study is a critical analysis of Women Trafficking in India.

***Keywords:** Fundamental Rights, Commercial Markets, Forced Labours, Commercialization and Minimum Standards for Eliminating the Trade.*

INTRODUCTION

Women are one of the major groups considered most vulnerable to human trafficking. For purposes of sexual or commercial exploitation, women and girls are kidnapped, sold, and coerced by slavers in nearly every country in the world. Though many human rights and governmental organizations agree that trafficking in women is a serious violation of human rights that needs to be fought, the complex and widespread operations of human trafficking make prosecution and punishment of traffickers nearly impossible in many cases. Trafficking in women is an ancient enterprise that dates back nearly to the

beginnings of civilizations. Female slaves were often highly valued in the ancient nations for use as prostitutes, concubines, or to breed more slaves.

One of the most common reasons for trafficking in women today is to fuel the prostitution trade. Traffickers often recruit or buy women from destitute areas, promising to smuggle them to a new country and find them work as domestic servants. In truth, the women are often raped and abused by their recruiters, and then sent to brothels or underground prostitution rings where they are sometimes literally held under lock and key. Many are told that they will have to work in the sex industry until the debt for their transport has been paid off, which may effectively be for the rest of their lives. Health officials insist that trafficking in women causes significant health risks to the general public, especially in terms of sexually transmitted diseases. Women sold into prostitution are often discouraged or forbidden from using contraceptives such as condoms, and thus become high-risk candidates for the spread of diseases. Since these women are usually tightly controlled, they also have limited access to any type of health care, and are thus far more likely to suffer from illnesses of all kinds..

Operational Definitions

Trafficking in persons is “a serious crime and a grave violation of human rights. Every year, thousands of men, women and children fall into the hands of traffickers, in their own countries and abroad. Almost every country in the world is affected by trafficking, whether as a country of origin, transit or destination for victims”.

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”.

Reviews of Related Literature

Jean D 'Chunha (1998) in his study it is critically examined the scale and magnitude of prostitution and sex trafficking in South Asian countries. According to him, approximately 70,000 to 2 million women were engaged in prostitution. Author believes that the principle means of supply for commercial sexual exploitation of women and children is trafficking, abduction, deceit-lure of good jobs, fake marriage contracts, befriending and sale into prostitution.

Krishna Prasad (2006) in his analysis covering India, Bangladesh, Pakistan and Nepal pointed out that the Indian scenario of human trafficking is quite similar to that of other South Asian countries. India is an origin, transit and destination country for women, men and children trafficked for the purpose of sexual and labor exploitation. Indian men

and women are trafficked into situations of involuntary servitude in countries of the Middle East, and children are forced to work as camel jockeys. Bangladeshi women and children are trafficked to India or trafficked through India en route to Pakistan and the Middle East for the purpose of sexual exploitation, domestic servitude and forced labor.

Madhusudhana (2006) in his study conducted in the state of Andhra Pradesh mentioned the spread of trafficking in India. He opined that trafficking in women became part of transnational organized crime and has been referred to as the 'dark side of globalization'. Due to illicit nature of people trafficking, the number of children and women trafficked for commercial sex work is difficult to quantify in nature. He also believed that the global trade in trafficking has increased substantially over a decade. He concluded that there is a link between gender discrimination, poverty, deprivation and trafficking. According to him discrimination also means for the girl child, deprivation of education, lack of economic opportunities, an early marriage, early child bearing and risks to health and wellbeing. He recognizes that many tribal customs also do not permit women to own land, which is the main source of income in a rural community, thus making women far more vulnerable than men. He concludes that 'the victims not only face the danger of being psychologically abused, but also the reality of being infected with HIV/AIDS. It is also likely that they will become procurers after a few years of victimization'. He says that the existing discrimination and stigmatization by the own family members in addition to the community people while reintegrating in the society making women further vulnerable for trafficking.

Women Trafficking in India

India is also a destination for women and girls from Nepal and Bangladesh trafficked for the purpose of commercial sexual exploitation. Nepali children are also trafficked to India for forced labour in circus shows.[citation needed] Indian women are trafficked to the Middle East for commercial sexual exploitation. Indian migrants who migrate willingly every year to the Middle East and Europe for work as domestic servants and low-skilled labourers may also end up part of the human-trafficking industry. In such cases, workers may have been 'recruited' by way of fraudulent recruitment practices that lead them directly into situations of forced labour, including debt bondage; in other cases, high debts incurred to pay recruitment fees leave them vulnerable to exploitation by unscrupulous employers in the destination countries, where some are subjected to conditions of involuntary servitude, including non-payment of wages, restrictions on movement, unlawful withholding of passports, and physical or sexual abuse. In a recent survey in India, prostituted women cited the following reasons for their remaining in the trade, reasons that have been echoed in all concerned countries. In descending order of significance, they are: poverty and unemployment; lack of proper reintegration services, lack of options; stigma and adverse

social attitudes; family expectations and pressure; resignation and acclimatization to the lifestyle. The two principal Indian laws that address trafficking and prostitution in particular are:

- The Suppression of Immoral Traffic in Women and Girls Act of 1956 (SITA) and
- The Immoral Traffic (Prevention) Act of 1986 (ITPA), colloquially called PITA, an amendment to SITA.

Neither law prohibits prostitution per se, but both forbid commercialized vice and soliciting. Aside from lack of enforcement, SITA is problematic in several ways. One of its drawbacks is that the prescribed penalties discriminate on the basis of sex: a prostitute, defined under SITA as always a woman, who is arrested for soliciting under SITA could be imprisoned for up to a year, but a pimp faces only three months. SITA allowed prosecution of persons other than the prostitutes only if the persons involved "knowingly" or "willingly" made women engage in prostitution. Accordingly, pimps, brothel owners, madams, and procurers could feign ignorance of prostitution and escape punishment. The client, moreover, was not viewed as an offender and could not be sanctioned under SITA. Finally, SITA only addressed street prostitution; prostitution behind closed doors was left alone -- a loophole that actually promoted the establishment of brothels.

Girl and Women Trafficking in India

According to a recent survey women are bought and sold with impunity and trafficked at will to other countries from different parts of India. These girls and women are sourced from Dindigal, Madurai, Tiruchirapalli, and Chengalpattu in TamilNadu, Gaya, Kishanganj, Patna, Katihar, Purnea, Araria and Madhubani from Bihar, Murshidabad and 24 Parganas in West Bengal, Maharajgunj from UP, Dholpur, Alwar, Tonk from Rajasthan, Mangalore, and Gulbarga and Raichur from Karnataka. These women and girls are supplied to Thailand, Kenya, South Africa and Middle East countries like Bahrain, Dubai, Oman, Britain, South Korea and Philippines.

They are forced to work as sex workers undergoing severe exploitation and abuse. These women are the most vulnerable group in contracting HIV infection. Due to unrelenting poverty and lack of unemployment opportunities there is an increase in the voluntary entry of women into sex work. Trafficking both for commercial sexual exploitation and for non-sex based exploitation is a transnational and complex challenge as it is an organized criminal activity, an extreme form of human rights violation and an issue of economic empowerment and social justice.

The trafficking of women and children causes untold miseries as it violates the rights and dignity of the individual in several ways. It violates the individual's rights to life, dignity, security, privacy, health, education and redressal of grievances.

Chart 1: Top Five States of India in Women/Girl Child Trafficking

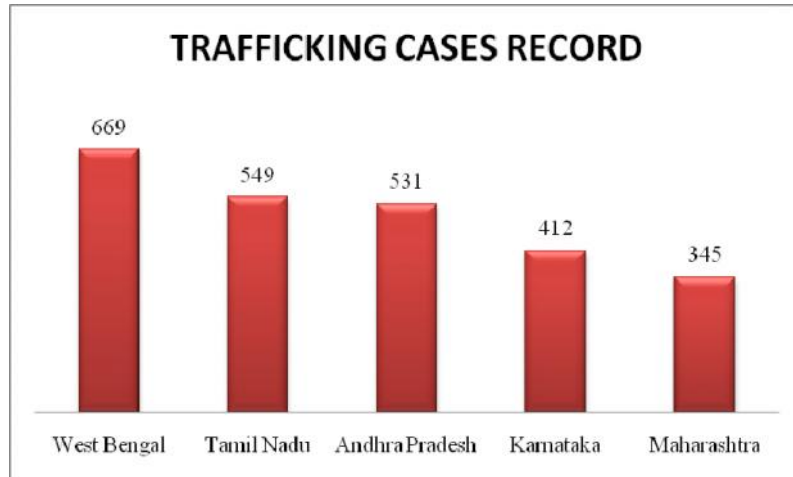
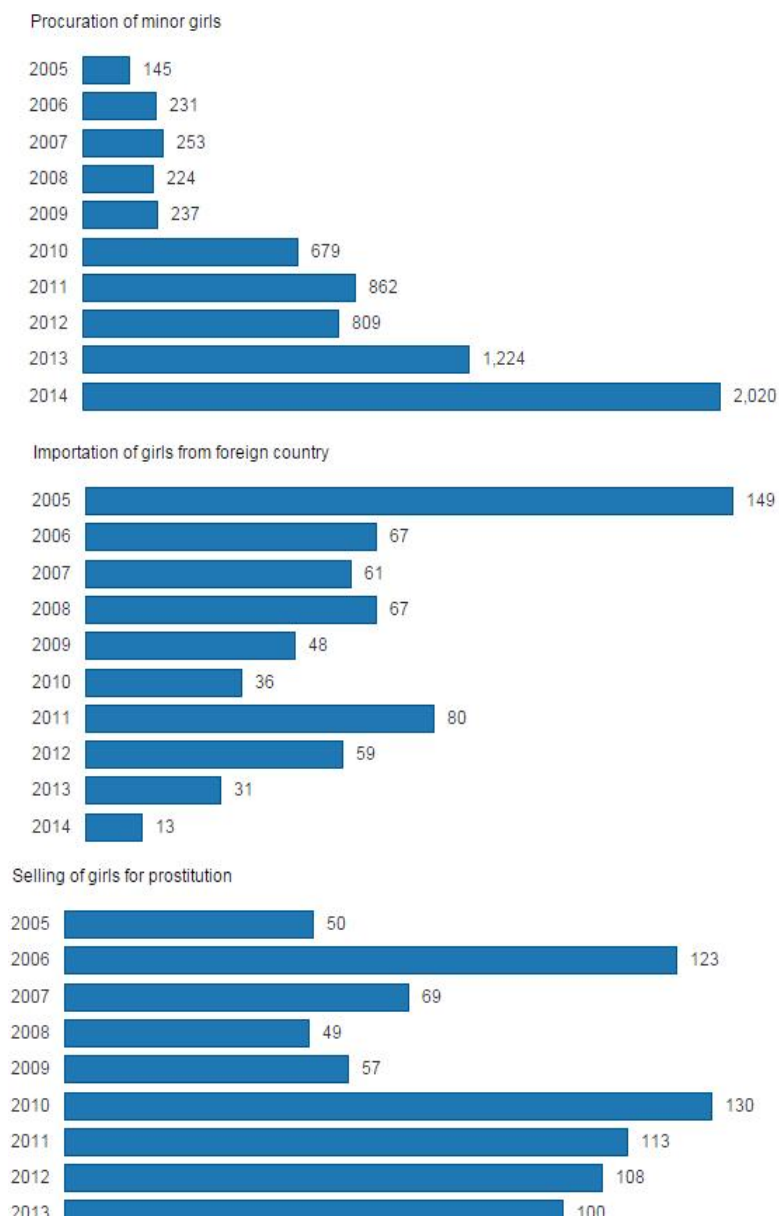


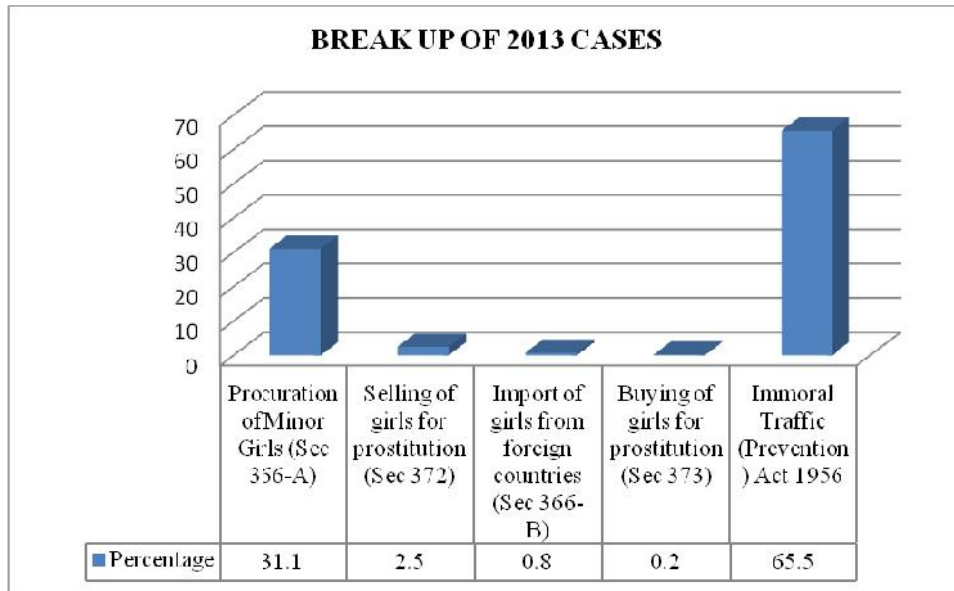
Chart 1 has cleared that the human trafficking is increasing enormously day by day. More worrying is the fact that minor girls are being trafficked increasingly. India needs to urgently strengthen its laws to protect its girls

Chart 2: Human Trafficking in India over the past 10 years by Crime (figures in number of cases registered)



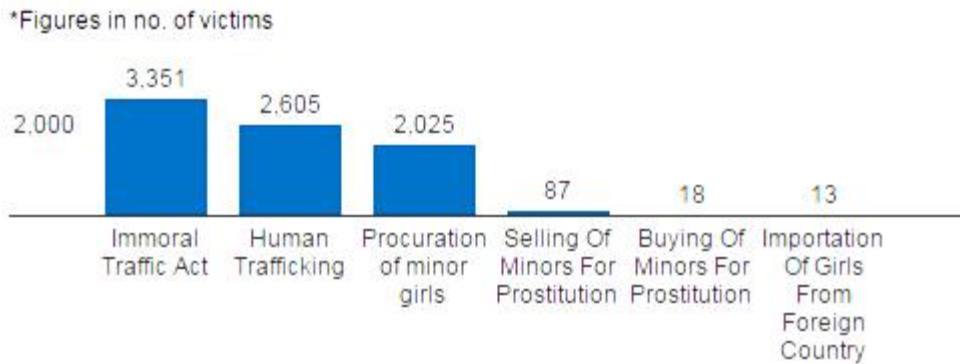
Over the past five years, 23% of human-trafficking cases filed ended in conviction. As many as 45,375 people were arrested and 10,134 persons were convicted. Punishments range from fines to imprisonment.

Chart 3: Break up of 2013 cases



West Bengal is the hub of human trafficking in India. It had the maximum human trafficking cases (669) amongst all states in India in 2013, followed by Tamil Nadu, Andhra Pradesh, Karnataka and Maharashtra.

Chart 4: Trafficking in India, 2014



Reason for Increased Women/Young girl trafficking in India

The following are the reasons for increasing for women and young girl trafficking in India. They are,

Forced marriage: Girls and women are not only trafficked for prostitution but also bought and sold like commodity in many regions of India where female ratio is less as compared to male due to female infanticide. These are then forced to marry.

Bonded labour: Though debt labour is not known much but it is illegal in India and prevalent in our society. According to the International Labour Organization there are more than 11.7 million people working as a forced labour in the Asia-Pacific region. People running out of cash generally sell their kids as debt labour in exchange for cash. Both boys and girls are sold for this purpose and generally not paid for years. Victims of human trafficking have great chances of suffering from issues like mental disorders, depression and anxiety. Women forced into sexual trafficking have at higher risk of getting affected from HIV and other STDs.

Action against guilty: Under the Immoral Trafficking Prevention Act (ITPA) trafficking for commercial sexual exploitation is penalized. The punishment ranges from seven years' to life imprisonment. The Bonded Labor Abolition Act, the Child Labor Act, and the Juvenile Justice Act prohibit the bonded and forced labor in India. Because of the brutal gang rape of December 2012, government has passed a bill in which laws related to sexual violence and making sex trafficking have been amended. But still there is a huge gap between enactment and enforcement of these laws.

Piloting Good Practices

In order to ensure effective implementation of the existing law there is a need for sensitization of all concerned in the criminal justice system, including judicial officers, prosecutors, medical experts, Police officers. Moreover there should be partnership with the NGOs so as to ensure law enforcement, rescue, prevention, counseling, rehabilitation, reintegration, social empowerment etc. The piloting good practices are:

- Compulsory Registration of birth with special focus in vulnerable areas
- More than 70% of victims belong to SC and backward castes.
- Devise a system to monitor missing persons across district and state borders.
- Creating a database on trafficking
- Drawing up specific guidelines for investigation and prosecution of trafficking
- Identifying areas for law reforms in the area of trafficking.
- Coordination among different state police departments working in this field
- Permanently closing brothels known for repeated offences
- Improvements in victim care at government run facilities.
- Victim Compensation Fund to be created so as to provide vocational trainings, give loans etc.
- Formation of Community Vigilant groups in vulnerable areas
- Drop in centers and night care services for children in red light areas

Action/Initiatives By The (MWCD)

The Ministry of Women and Child Development (MWCD) in an attempt to stop the trafficking of women and children has undertaken a number of initiatives.

- ✓ National Plan of Action to Combat Trafficking and Commercial Sexual Exploitation of Women and Children 1998, was formulated with the aim of mainstreaming and reintegrating victims of trafficking.
- ✓ Central Advisory Committee (CAB) was constituted to advice on methods and tactic to address the problem.
- ✓ Pre-rescue, Rescue and Post-rescue operations of child victims of trafficking for the purpose of Commercial Sexual Exploitation protocol was published as guidelines for all stakeholders
- ✓ Ministry of Home Affairs has set up of a dedicated nodal Cell with responsible for providing state governments with the necessary research, studies and information.
- ✓ Training to all stake holders such as police, government officials, etc. to better understand the situation and hence respond properly to a suspicious activity or person.
- ✓ The MWCD runs Shelter based homes Short Stay Homes, Swadhar Homes for women in difficult circumstances
- ✓ With the Ministry of External Affairs, MWCD has endeavoured to create special task forces to combat cross border trafficking.

Suggestions and Strategies for Preventing the Women and Girl Child Trafficking

The UN's Protocol contains a number of provisions aimed at preventing trafficking. State parties are required to establish policies, programmes and other measures aimed at preventing trafficking and protecting trafficked persons from re-victimization. The existence of vulnerable situations of inequality and injustice coupled with the exploitation of the victim's circumstances by the traffickers and others cause untold harm to the trafficked victim who faces a multiplicity of rights violations. Therefore policies, programmes and strategies that address prevention have to be unique with a focus on and an orientation towards all these issues.

- At the micro level the prevention of trafficking in the source areas requires a working partnership between the police and NGOs. Public awareness campaigns and community participation is the key to prevention programmes. Prevention is best achieved by community policing.
- Creating legal awareness is one of the most important functions of any social action programme. Legal awareness empowers people by making them aware of their rights, and can work towards strengthening them to develop zero tolerance towards abuse and exploitation.

- Gender discrimination and patriarchal mindset are important constituents and catalysts of the vulnerability of women and girl children. This manifests itself in several serious violations of women's rights such as high incidence of female feticide and infanticide and the discrimination against women in healthcare, education and employment. Since these are vulnerability factors that trigger trafficking prevention strategies need to be oriented accordingly.
- Help lines and help booths are very important for providing timely help to any person in distress. The Ministry of Social Justice and Empowerment is considering collaboration between government agencies and NGOs for setting up help lines and help booths that can provide timely assistance to child victims. It will be appropriate if the Child lines all over India, NGOs working on child rights, missing person bureaus and police help lines are linked together as a formidable tool against trafficking.
- Immigration officials at the borders need to be sensitized so that they can network with the police as well as with NGOs working on preventing trafficking.
- Natural calamities and manmade disturbances do exacerbate the vulnerability situation. Therefore relief and aftercare programmes need to have specific components focused on the rights of women and children.
- Political will is an essential requirement to combat trafficking.
- The best method of prevention is its integration it with prosecution and protection. Prosecution includes several tasks like the identification of the traffickers bringing them to the book, confiscating their illegal assets. Protection of the trafficked victim includes all steps towards the redressal of their grievances thus helping the victim survive, rehabilitate and establish herself/himself. Thus prosecution and protection contribute to prevention.
- The strategies should address the issues of livelihood options and opportunities by focusing on efforts to eradicate poverty, illiteracy etc. There should be special packages for women and children in those communities where entry into CSE may be perceived as the only available option. Education and other services should be oriented towards capacity building and the consequent empowerment of vulnerable groups.

Conclusion

Women trafficking and its consequences are not only far away and other people's problem. It is a problem of our daily life and happens right here in Winnipeg as well as in almost every other "civilized" city all over the world. Poverty and illiteracy are the main elements constituting the substratum for trafficking. The number of non-governmental organisations working in the field has increased enormously during the last few years.

However, the vast majority of them are located in urban centres and very few have grassroots connections. Women trafficking touch every country and countless industries worldwide, and while there are many individuals and organisations working globally to combat this problem, it may take time before it is fully realised just how huge this issue is. The situation in the country presents a picture of lack of cohesion and coordination. Whether it is intra-state trafficking, inter-state trafficking or trans-border trafficking, the agencies involved in rescue do not seem to have any coordination with the agencies concerned with rehabilitation. The issue of missing women and children has been seen in isolation and was never seen in correlation with trafficking. There is no common platform linking up prevention strategies between source and destination areas. The absence of a national coordinating/monitoring agency has been a serious impediment in justice delivery and protection of human rights. Therefore, in order to ensure the best interests of the victims, to bring about effective coordination at the national level and to coordinate preventive strategies, programmes and policies, there is also a need for a national nodal agency to combat trafficking.

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