

## HUMAN TRAFFICKING IN INDIA: A SOCIAL AND LEGAL ANALYSIS

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### *Abstract*

The offence of human trafficking is an alarming and widespread issue. It is considered to be the third largest organized crime in the world after illicit trafficking of drugs and arms and is especially rampant in the context of India. This paper inter alia aims to trace the historical evolution of the crime of trafficking and look at the multiple forms it has adopted with the passage of time ranging from commercial sexual exploitation and industrial slavery to domestic slavery. This paper also attempts to look at the several causes due to which women and children are trafficked both within the country and across the borders. It tries to examine the impact of trafficking on the society both in terms of social and economic loss accrued and also look at steps taken by various institutions such as the government, NGO's etc. to combat the same. Further, the paper tries to analyze this appalling crime from the human rights perspective and look at the scope and applicability of the human rights framework within the legal system of India. The paper also looks at the legal provisions that are in place for prevention of human trafficking. It tries to analyze whether the concerned laws are per se inept in curbing the menace or a lack of proper implementation leads to ineffective handling of the issue. This paper also considers the position of sex workers who are generally taken to be the primary victims of trafficking. It purports to look upon the pros and cons of legalization of prostitution and argues how legalization of sex work could be used to fight trafficking. Finally, the paper tries to suggest and solutions and some measures and which could be taken to counteract this heinous crime of trading of human beings.

**KEYWORDS:** Trafficking, India, Human Rights, Impact, Solutions.

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## INTRODUCTION

Human Trafficking is a crime that shames us all. The widespread exploitation of men, women and children is unacceptable to the conscience of our society and is also a gross violation of human rights. The trafficked persons are trapped by their traffickers through various forms of coercion and deception and these victims are kept frequently in appalling conditions. In this trade human life is reduced to a mere commodity.

The main problem with human trafficking is estimation, no clear estimates are available as the problem is hidden and the accepted definition of who a trafficked person is differs from region to region. However, reports indicate that human trafficking ranks third among organized transnational crime, after drugs and firearms.<sup>1</sup> Conservative estimates suggest that 2.4 million people are trafficked across international borders each year.<sup>2</sup>

The trafficking of children, defined as the recruitment, transport, transfer, harboring or receipt of a person under the age of 18 for the purpose of exploitation (including prostitution or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs)<sup>3</sup> is widely recognized as presenting a threat of global proportions. While precise statistics concerning the scope of the problem do not exist, it is estimated that some 1.2 million children are trafficked each year worldwide.<sup>4</sup>

The causes of global trafficking are varied and complex, but notably include poverty, lack of opportunities, the economic gains to be made through the exploitation of children, entrenched

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<sup>1</sup> Athens Round Table of Business Community Against Human Trafficking, *report 23 5* (2006).

<sup>2</sup> *ibid.*

<sup>3</sup> Protocol to Prevent Suppress and Punish, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime, , 2237 UNTS 319, Annex II, Article 3 available at [http://www.uncjin.org/Documents/Conventions/dcatoc/final\\_documents\\_2/convention\\_%20traff\\_eng.pdf](http://www.uncjin.org/Documents/Conventions/dcatoc/final_documents_2/convention_%20traff_eng.pdf)

<sup>4</sup> ILO, *Every child counts: New global estimates on child labour* (2002).

gender discrimination and discriminatory/harmful cultural practices. Human trafficking, over 20 percent of which is trafficking in children, is believed to be a multi-billion dollar industry.<sup>5</sup> Children most in danger of being trafficked are those who are subject to pervasive discrimination, including minorities, stateless children, refugees and girls.

In the Indian context human trafficking is on the rise and the number of persons trafficked both to and from India is increasing and this is an urgent need for institutional and administrative reforms to rid the Indian society of this menace. Although it is often difficult to obtain comprehensive data on the extent of human trafficking in India, it is generally accepted that India is a source, destination, and transit country for trafficking of persons, including young girls.<sup>6</sup> The porous borders in the region are often cited as a contributing factor to cross-border trafficking, including the trafficking of girls from Nepal and Bangladesh to India. ECPAT International estimates that 150,000 women and children are trafficked from South Asia annually, most from, through or to India.<sup>7</sup>

## DEFINING HUMAN TRAFFICKING

Defining human trafficking is a major problem when it comes to identifying the victims. Precise figures at the global or even local level remain elusive. Reliable data on trafficking are difficult to obtain owing to its illegal, often invisible, nature; the range and severity of trafficking activities; and variations in how trafficking is defined<sup>8</sup>

Human trafficking is not prostitution and the two must be delinked from each other. as per the law in force in India prostitution becomes an offence only when there is economic exploitation of a person as per Immoral Traffic (Prevention) Act 1956 (ITPA). If a person is sexually exploited and any person gains from the exploitation then it amounts to commercial sexual

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<sup>5</sup> ECPAT International, *Their Protection is in Our Hands: The State of Global Child Trafficking for Sexual Purposes* 6 (2009).

<sup>6</sup> United States Department of State, *Trafficking in Persons Report 2010 - India* (2010)

<sup>7</sup> Asian Development Bank, *Combating Trafficking of Women and Children in South Asia: Regional Synthesis Paper for Bangladesh, India and Nepal* (2002)

<sup>8</sup> Oram S et al. *International law, national policymaking and the health of trafficked people in the UK*, Health and Human Rights 13(2),7–12,(2011).

exploitation (CSE) which is punishable and the culpability lies against all exploiters. On the other hand Trafficking is the process of recruiting, contracting, procuring or hiring a person for CSE.<sup>9</sup> Hence trafficking is the process of which CSE is a result, it is a vicious cycle. Trafficking however, can also be for other purposes such as developing pornographic material, forced labor etc. The Supreme Court recently asked the Central Government as to why prostitution should not be legalized<sup>10</sup> because if it is legalized then the police will have effective control over brothels and women are forced to become prostitutes that is to say unwilling prostitutes can be saved.

The definition of trafficking can be found in various sections of the Immoral Traffic (Prevention) Act 1956 (ITPA), Section 5 says that procuring taking and even inducing a person for the sake of prostitution is trafficking, even an attempt to procure and attempt to cause or take a person to carry on prostitution amounts to trafficking.

Goa Children's Act 2003 gives a detailed definition of child trafficking though this definition is focusses on child trafficking it is comprehensive under section 2 (z), "child trafficking" means "the procurement, recruitment, transportation, transfer, harboring or receipt of persons, legally or Illegally, within or across borders, 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 giving or receiving payments or benefits to achieve the consent of a person having control over another person, for monetary gain or otherwise".<sup>11</sup>

The definition accepted by the United Nations is as follows:

"The recruitment, transportation, transfer, harboring 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

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<sup>9</sup> P.M. NAIR, HANDBOOK FOR LAW ENFORCEMENT AGENCIES IN INDIA 1 (2<sup>nd</sup> ed. UNODC, New Delhi 2007)

<sup>10</sup> *Bachpan Bachao Andolan v. Union of India* (2011) 5 SCC 1

<sup>11</sup> Sec 2(z), Goa Childrens Act, 2003.

achieve the consent of a person having control over another person, for the purpose of exploitation.”<sup>12</sup>.

Human Trafficking is essentially a form of modern slavery. A person has been trafficked if he or she has been moved within a place or to another. This movement may be a result of force, fraud, or manipulation and the victim is exploited on the hands of the traffickers. Now the aforementioned exploitation may take various forms like slavery where the victim is forced to work and exploited under the threat of violence and are usually not paid beyond subsistence that is the least amount of food or money required for survival, other forms of exploitation include forced labour, begging, stealing, drug running, sex work, forced marriage and the sale of body parts.

## **HUMAN TRAFFICKING IN INDIA**

Countries can be classified into three according to the role they play in the human trafficking market, the country of source from which these persons are supplied, the country of transit are countries through which they are supplied and the destination the country to which these persons are supplied to.

India falls in all three categories, it is source due to high levels of poverty and very less opportunities for people. In 2011 India was ranked the fourth most dangerous country for women in the world owing to factors such as trafficking, female foeticide etc.<sup>13</sup>

The Ministry of Women and Child Development estimates that 3 million women have been trafficked in India, 40% of which are minors<sup>14</sup>, India is a hub for human trafficking because of the high demand for sex workers and labors.

And India's tale of trafficking is widespread and not restricted to just one state. In Jharkhand haats (weekly markets) and melas (exhibitions) have become hubs for traffickers who search of young girls to work as domestic help in metros outside the state.<sup>15</sup>

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<sup>12</sup> *supra* n. 3

<sup>13</sup> [http://www.siliconindia.com/shownews/India\\_ranked\\_4th\\_as\\_worlds\\_most\\_dangerous\\_countries\\_for\\_women-nid-84716-cid-1.html](http://www.siliconindia.com/shownews/India_ranked_4th_as_worlds_most_dangerous_countries_for_women-nid-84716-cid-1.html)(last visited Dec. 5, 2014)

<sup>14</sup> Ministry of Women and Child Development, *Programmes for Women* 30 (2007-08).

According to estimates domestic workers in India are around 50 million, but there is no law at state or central level to regulate domestic work and placement agencies.

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)<sup>16</sup>.

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<sup>17</sup>

India is also a destination for human trafficking, Basti, Gonda and Shidharthnagar, three divisions located in the center of Uttar Pradesh close to the Nepal border were visited and wives from Bangladesh were met. It was found that the practice of purchasing a Bengali wife was well known in this area.<sup>18</sup>In the state of Rajasthan, there are some villages like dholpur women are sold in markets like commodities.<sup>19</sup>Some parents sell their own children in these markets because of their inability to pay dowry or if the husband of the girl leaves her and she becomes a stigma or burden on her family.

In the Indian context there are several contributing factors to the problem of human trafficking, Human beings are trafficked for various purposes such as organ trafficking, bonded labour,

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<sup>15</sup> <http://www.firstpost.com/india/east-west-indias-dirty-tale-human-trafficking-1628019.html> (last visited Dec. 5, 2014)

<sup>16</sup>Gethin Chamberlain, *How poverty wages for tea pickers fuel India's trade in child slavery*, THE GUARDIAN, July 20, 2013 at <http://www.theguardian.com/world/2013/jul/20/poverty-tea-pickers-india-child-slavery> (last visited Dec. 5, 2014)

<sup>17</sup> [http://articles.timesofindia.indiatimes.com/2013-08-03/goa/41032581\\_1\\_goa-russian-mafia-human-trafficking](http://articles.timesofindia.indiatimes.com/2013-08-03/goa/41032581_1_goa-russian-mafia-human-trafficking) (last visited Dec. 5, 2014)

<sup>18</sup>Thérèse Blanchet, *beyond boundaries A Critical Look at Women Labour Migration and the Trafficking Within* (2002) available at [http://www.childtrafficking.com/Docs/blanchet\\_2002\\_\\_beyond\\_bound.pdf](http://www.childtrafficking.com/Docs/blanchet_2002__beyond_bound.pdf) (last visited Dec. 5, 2014)

<sup>19</sup> <http://www.humanrights.asia/news/ahrc-news/AS-166-2007> (last visited Dec. 5, 2014)

domestic help ,sexual exploitation etc. out of these trafficking for sexual purpose or sex trafficking is dominant over the others<sup>20</sup>

The trafficking in persons thrives on the vulnerability of people, the problem of trafficking in India is aggravated by factors such as poor economic conditions, poverty, lack of education and gender based violence and political instability.

The areas that are prone to conflict and have military presence create demand, these areas are characterized by presence of sex workers and child soldiers<sup>21</sup>. This problem is particularly seen in the north eastern parts of the country where large number of laborers are bought from Bangladesh or the refugees are exploited. The government has limited power in such areas.

Education and lack of employment also play a vital role, In India majority of population is uneducated and there is serious lack of employment opportunities, the employed youth becomes an easy target for 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<sup>22</sup>

A number of sex workers in India were forced into prostitution as there was no other option for them to provide for their families due to lack of employment opportunities.

Indian society's preference of boys and the view in general that men are superior to women is another cause. The most obvious cause is the lack of satisfactory legislation and of properly functioning administrative machinery and Deficiency of satisfactory legislation, properly functioning administrative machinery and an effective judiciary.

## **HUMAN RIGHTS AND TRAFFICKING**

Substantially the human rights framework for trafficking draws upon several principles and human rights standards, that have been encoded protocols in international treaties and covenants. The Universal Declaration of Human Rights (1948) and the International Covenant on Civil and

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<sup>20</sup> D.R. Hodge, *Sexual trafficking in the United States: A domestic problem with transnational dimensions*, Social Work, 53(2), 143-152. (2008)

<sup>21</sup>M. Getu, *Human Trafficking and Development: The Role of Microfinance*, Transformation: An International Journal of Holistic Mission Studies, 144 (2006).

<sup>22</sup> Ibid.

Political Rights (1966) proclaim that “no-one shall be held in slavery and servitude”.<sup>23</sup> The International Covenant on Economic, Social and Cultural Rights (1966) in its Articles 6, 7 and 9 recognizes the right to work as well as to just and favorable working conditions.

Human Trafficking violates human rights is an established fact. However it must be kept in mind the assertion of these human rights are culture specific, the entire human rights framework is dependent on the state, and the state violates and confers these rights at the same time, as an illustration the amendment to the immoral traffic prevention act 2006 (ITPA) which criminalizes the client, the object of this amendment was not to punish the sex workers but prevent their exploitation, however in doing so the state violated the rights of women to work by criminalizing the client as well as the sex worker who works independently, and potentially her family members too<sup>24</sup>

With view of the sex workers, in exercise of their rights through courts the relationship between the opposing parties is usually adversarial. In India there are several collectives such as family tribes, castes etc. these are traditional groups, article 17<sup>25</sup> of the Indian constitution protects some of these collectives by abolishing untouchability similarly article 15(4)<sup>26</sup> confers the state with the power to make any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes.

However these human rights are prima facie for the individual against the state and this gives little scope for collectives to enforce their rights especially for non-traditional collectives such as sex workers.

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<sup>23</sup> Article 4 No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

<sup>24</sup>ITPA Amendment 2006 Section 2 (f) : definition of prostitution extends to include individual instances of sex work ; Section 5 c : punishment of those found visiting or in a brothel ; Section 4: punishment of those living off earnings of a sex worker

<sup>25</sup> Untouchability is abolished and its practice in any form is forbidden The enforcement of any disability arising out of Untouchability shall be an offence punishable in accordance with law

<sup>26</sup>(4) Nothing in this article or in clause ( 2 ) of Article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes



Often the collective is better at negotiating because it offers greater bargaining power. Going to the courts and accessing rights through seeking individual justice may, or may not, damage these collectives particularly so with sex worker collectives as they are in a fledgling state.<sup>27</sup>

The general idea that prevails in India is that only “good women” deserve rights. The idea of the ‘good woman’ and ‘bad woman’ was created with different sets of attributes ascribed to each, the principal being sexual chastity.”<sup>28</sup> The entire human rights framework cannot be applied to sex workers as they are “bad” as they break a series of social norms and neither have or deserve rights.

In 1998, the International Labor Organization recognized sex work as work and recommended that governments extend labor rights and protections to people in the sex industry.<sup>29</sup> Further, according to The People’s Movement for Human Rights Education, The Human Right to Work is the human right of all women, men, youth and children to a dignified, creative and productive labor, free from discrimination and exploitation, enabling all persons to live in peace, security, justice and dignity. All workers have the human rights to basic labor protection. Engagement in any kind of production should be fruitful and rewarding.<sup>30</sup> However these principles do not apply to sex workers.

The people who are working with the trafficked persons be it sex workers or otherwise need to be concerned with the basic rights of the victim of trafficking. It is essential that the working paradigm be shifted from criminal sanction to human rights promotion. The consequences that arrive after trafficking have to be managed by promotion of human rights of trafficked persons and the use of such persons as an instrument for prosecution of the crime is neither lawful nor just. Any right that is conferred becomes real only when people are able to realize or secure them. The most effective strategy is to enable the affected that is, the victims of trafficking so that they can act on their own behalf and express their own grievances. Participation, self-

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<sup>27</sup> Sandhya rao & Cath Sluggett, *who stole the tarts? Sex work and Human Rights* (2009).

<sup>28</sup> Srilatha Batliwala, *Sexuality and Women’s Empowerment – the fundamental connection*. In *Plain Speak* 2006: 2

<sup>29</sup> L.L. LIM, THE SEX SECTOR: THE ECONOMIC AND SOCIAL BASES OF PROSTITUTION IN SOUTHEAST ASIA (ILO 2008).

<sup>30</sup> SANGRAM & VAMP, THE STRUGGLE TO BE HUMAN – A TRAINING MANUAL (point of view 2006).

representation and empowerment of those who are affected by human trafficking are the fundamental principle to human rights approach. The secondary victimization of trafficked persons like sex workers through public institutions and law enforcement agencies must be prevented by establishing mechanisms. Support and assistance must be given to the victims so that they can re gain control over their lives and reduce the risk of re-trafficking. The protection and recognition of rights of trafficked persons acts an incentive for the victims to give testimony and report to authorities which contributes to the effective prosecution of traffickers. The absence of targeted and adequate group specific assistance and support along with discriminatory practices which specially affect women often prevents the trafficked persons from reporting to the authorities and as a consequence may subject to further trauma and re-victimization.

A human rights based approach to the problem of human trafficking opposes any measures that are in violation of the rights of the trafficked persons. Human rights must be at the core of any anti-trafficking strategy the principles of universality, indivisibility and non-discrimination of human rights must be integrated into legislation, policies and program.

The human rights must be applicable to all persons be they sex workers, domestic workers etc.

## **THE IMPACT OF HUMAN TRAFFICKING**

### ***ECONOMIC IMPACT -***

In terms of lost potential returns from human or social capital, revenue losses from human trafficking are enormous<sup>31</sup>

The United Nations estimates trafficking to be a US \$5–7 billion operation annually. Profits from trafficking are a major source of income for crime rings.<sup>32</sup> Inflated prices for various services and documents are charged to increase profits in cases of cross border trafficking. The victims are kept in poor conditions to cut down costs. The International Labour union estimates that profits from forced commercial sexual exploitation in the world amount to US\$ 33.9 billion, with almost

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<sup>31</sup> Asia Development Bank, *Dynamics of Trafficking of Women & Children in South Asia* (2003).

<sup>32</sup> A.O. Richard, *International trafficking in women: A contemporary manifestation of slavery and*

*organised crime* (1999) available at <https://www.cia.gov/library/center-for-the-study-of-intelligence/csi-publications/books-and-monographs/trafficking.pdf>(last visited Dec. 5, 2014)

half - US\$ 15.4 billion - realized in industrial countries. Asia is the region with the second highest profits (US\$ 11.2 billion), followed by transition countries (US\$ 3.5 billion), Latin America (US\$ 2.1 billion), and Middle-East and North Africa (US\$ 1.1 billion). Sub-Saharan Africa is the region where these criminal profits are lowest (US\$ 0.5 billion).<sup>33</sup> While total profits amount to US\$ 3.8 billion in case forced economic exploitation such as bonded labour.

To increase profits, inflated prices for various services and documents are charged in cases of cross-border trafficking. The women are kept in poor, crowded conditions to cut down costs.

Indian estimates of revenues from trafficking are not available; usually only figures for selling and purchasing girls are mentioned. According to one estimate, girls are sold to brothels for Rs. 15,000–40,000 <sup>34</sup>Commercial sexual exploitation of children ‘accounts for Rs.11000 crores of the Rs.40,000 crores commercial sex industry’ in India<sup>35</sup>

The impact of human trafficking on the economy can be determined by its impact on the Indian society. Indian spends a lot of money on prevention, treatment and providing support to victims, the apprehension and trial of the traffickers. The necessary cost involved in the anti-human trafficking initiatives by the government increases the burden on the exchequer. A significant amount of money remains lost in hidden sectors such as commercial sex work and consequently escape the formal economy for productive uses and income re-generation such as the money that could be gained from safe migration and employment.

### ***SOCIAL IMPACT -***

The Social impact of human trafficking is universal, it can be divided into two the impact on the victims and the overall impact on the society. Human Trafficking re-enforces the patriarchal attitude that is already prevalent in India along with discrimination toward women that affects the overall position of women in society and the victims in particular. Many victims who are rescued are unable to reintegrate back into the society and return to migrant lifestyle. Thus safe

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<sup>33</sup> Patrick Belser, *Forced Labour and Human Trafficking: Estimating the Profits* (2005) available at [http://www.civilandhumanrights.org/documents/Forced\\_Labor\\_and\\_Human\\_Trafficking - Estimating the Profits.pdf](http://www.civilandhumanrights.org/documents/Forced_Labor_and_Human_Trafficking_-_Estimating_the_Profits.pdf) (Last visited Dec. 5, 2014)

<sup>34</sup> Human Rights Watch, *Rape for profit Trafficking of Nepali girls and women to India's brothels* (1995)

<sup>35</sup> G.R. Gupta, *Review of Literature for ARTWAC: Delhi*, (New Delhi: Institute of Social Sciences, 2003).

migration is central for women to empower themselves<sup>36</sup>. The victim suffers from trauma and depression apart from other health problems and diseases like HIV/AIDS etc. which make it difficult for her to reintegrate with the society, the discrimination towards victims by the society which looks down on them instead of helping them to re-join society further aggravates the problem. Stigma is a social issue that has to be dealt with the victims of human trafficking, particularly sex workers are stigmatized by the society, landlords do not rent them houses, their children find it difficult to get admission in schools, they are excluded from religious gatherings etc. Human trafficking causes lost opportunities domestically including an irretrievable loss of human Resources and future productivity<sup>37</sup>.

## RECOMMENDATIONS AND SOLUTIONS

It is seen that various provisions of the law such as Section 8 of the ITPA are misused and abused and the major reason for this is the apparent nexus between some people in the police force and the criminals. The offence of trafficking is complex and different from the other offences and a specialised police force needs to be constituted for the same. This force should work as a specialised law enforcement agency which has trans-border connections as well.

**Rehabilitation** - It will be wrong to suggest that a 'prevention or conviction' approach will solve the problem. Rehabilitation of the victims is an equally important to curb the menace of trafficking. A special body needs to be constituted to ensure that the rehabilitation centres and shelters provide a conducive atmosphere for the purpose of rehabilitation and not become a breeding ground for future crimes. The views proposed by the Solicitor General Gopal Subramaniam in the Bachpan Bachao Andolan case regarding the synergy of the ITPA and Juvenile Justice Act must also be kept in mind and followed. Further, all the children homes, juvenile homes, women's protective homes etc. in each of the states should be kept under the legal guardianship of the High Court considering the downright abuse of these institutions by the authorities.<sup>38</sup> Surprise inspection should be undertaken by a committee to check whether the

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<sup>36</sup> *supra* n. 31

<sup>37</sup> United States Department of State, *Trafficking in Persons Report 2011* (2011)

<sup>38</sup> Justice J. S. Verma, Justice Leila Seth, Gopal Subramaniam, *Report of the Committee on Amendments to Criminal Law*, January 23, 2013, available at

victims are living in a conducive atmosphere. There should also be a separate committee for giving psychotherapy sessions to the victims and helping them to reintegrate with their families.

***Education and Training*** -The State should also make efforts to provide education free of cost to the children who end up in the institutions. Women in protection homes should also be given therapy sessions to come out of their trauma. They should be given training and taught some productive skills through which they can become independent. This will lead to an increase in their self-worth and self-esteem and this will help them to be mainstreamed with the society. The protection homes should be modernised and revolutionised.

***Social policing*** - At the community level, the concept of social policing can go a long way in combating trafficking. Awareness building in the community and counselling of the victims are powerful agents of change which can be effective in keeping a check on trafficking activities. These activities should be backed by sensitization programmes. Social policing committees can be set up in the villages which might comprise of panchayat leaders, community leaders in collaboration with the government. The objective of these committees should be to maintain a register of children and women who have left the village either in search of a job or under suspicious circumstances and to keep a track of their whereabouts so that they may not fall prey to trafficking. They should also keep a watch on the newcomers of the village and look into their activities. Further, a collective or organisation of lawyers, doctors and academicians can be established who can educate and help the people at the same time. The lawyers could contribute with legal services, the doctors could spread awareness over the course of their work and the academicians could create awareness among students of schools and colleges. The funding of these committees and organisations could come partly from the government and partly from their own fund raising in the form of SHGs. The above steps should go a long way in eradicating the stigma attached to victims of trafficking such as sex workers by way of sensitization. This suggestion is inspired from the activities of an organisation called “Odandi” which operates in Karnataka in a similar way. The organisation has rescued 1,230 women and rehabilitated them

with alternative livelihoods, freed 650 minors, from the clutches of traffickers in various parts of Karnataka, and as many as 550 children have been reintegrated with their families.<sup>39</sup>

**Legalization of Prostitution** - Another solution for effectively fighting against trafficking is the legalisation of prostitution. The recent development in this regard is the proposal of the legalisation of prostitution by the NCW to a panel constituted by the Supreme Court.<sup>40</sup> Though a highly contested debate, it must be seen that the recent developments is a welcome step because the pros of legalising prostitution outweighs its cons. Since sex work, which is often called the oldest profession, is not going to disappear, the only way to empower the women engaged in it is to decriminalise it - allowing women to practise it legally.<sup>41</sup> It is almost impossible to eradicate prostitution from any society and oppressing it will only result in the illegal trafficking, oppression and abuse of the sex workers. The Supreme Court has also voiced its opinion on legalisation of prostitution in the Bachpan Bachao Andolan<sup>42</sup> case and has suggested that the same should be legalised if it cannot be curbed. It has also said "You (the government) can then monitor the trade, rehabilitate and provide medical aid to those involved."<sup>43</sup> Legalisation would not only save the sex workers from legal hassles and harassment from the police but it will also end the exploitation by the vicious circle of traffickers, pimps, brothel keepers. European countries are a prime example to support the fact that legalisation of prostitution has led to the empowerment of women engaged in the activity and has also resulted in depletion of STDs among them. Thus, legalisation of prostitution might turn out to be an effective tool to stop trafficking.

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<sup>39</sup> Pritha Sen, *Combating Human Trafficking Through Social Policing* (2006) available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=981487](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=981487)

<sup>40</sup> <http://timesofindia.indiatimes.com/india/Proposal-to-legalize-prostitution-to-be-placed-before-SC-panel-NCW/articleshow/44973994.cms> (Last visited Dec. 5, 2014)

<sup>41</sup> G Pramod Kumar, *Moral police, please shut up! NCW is right about legalising prostitution*, Nov 8, 2014 at <http://www.firstpost.com/living/moral-police-please-shut-up-ncw-is-right-about-legalising-prostitution-1792251.html> (Last visited Dec. 5, 2014)

<sup>42</sup> *supra* n. 11

<sup>43</sup> [http://news.bbc.co.uk/2/hi/south\\_asia/8405154.stm](http://news.bbc.co.uk/2/hi/south_asia/8405154.stm) (Last visited Dec. 5, 2014)

## CONCLUSION

It has been aptly said by the J.S. Verma Committee Report that “Trafficking is a complex crime with innumerable constituents.”<sup>44</sup> It can be seen that there are several layers of the crime of trafficking and it can also lead to various other offences. There is an urgent need to curb this growing social evil which is predicted to be the third biggest industry of crime after drugs and firearms. It must be realised that the act of trafficking per se is a severe blow to the dignity of a human being and is a gross abuse of human rights of the victims. Though there are national and international laws that prohibit trafficking, it is seen that trafficking is still rampant in many parts of the world. The primary reason for this is poverty and illiteracy which act as the breeding grounds of trafficking. Gender bias further aggravates the problem and also leads to CST. The crime of trafficking not only creates a negative impact on the social level but also affects the economy in an adverse manner. So far, the government has failed to take any significant steps to combat the problem and needs to address the issue without any further delay. However, the government cannot do everything on its own and the related institutional machinery must be strengthened and made accountable. The judiciary must also play its part by ensuring transparency and ensuring the proper functioning of these institutions. NGOs and the community can play a significant role to get rid of the evil of trafficking. If the entire system works together and ensure proper implementation, the crime of trafficking can be reduced to a significant extent.

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<sup>44</sup> *supra* n. 38