

**INTERNATIONAL JOURNAL OF LAW**  
**MANAGEMENT & HUMANITIES**

**[ISSN 2581-5369]**

---

**Volume 4 | Issue 5**

---

**2021**

© 2021 *International Journal of Law Management & Humanities*

Follow this and additional works at: <https://www.ijlmh.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com/>)

---

This Article is brought to you for “free” and “open access” by the International Journal of Law Management & Humanities at VidhiAagaz. It has been accepted for inclusion in International Journal of Law Management & Humanities after due review.

In case of **any suggestion or complaint**, please contact [Gyan@vidhiaagaz.com](mailto:Gyan@vidhiaagaz.com).

---

**To submit your Manuscript** for Publication at **International Journal of Law Management & Humanities**, kindly email your Manuscript at [submission@ijlmh.com](mailto:submission@ijlmh.com).

---

# Child Trafficking: A Crime against Humanity

---

AKSHEY KUMAR<sup>1</sup>

## ABSTRACT

*Human trafficking is the modern-day slave trade, which poses a global threat. Trafficking is increasingly becoming an organized crime. It is rising and spreading across continents and countries of this world. There are various International as well as a national institution who are still trying to combat the trafficking from this autonomous society of the world. The history of India also shows the persisting evil practices of slave and trafficking since time immoral but, notwithstanding this evil practice is still prevalent in our society. Even the Constitution “an organic document” has expressly prohibited the “trafficking” of any nature enshrined under Article 23. There are various other labour and welfare laws which have also prohibited this ongoing evil practices. India ranked 129 out of 189 countries in Human Development Index, 2019. The State as a trustee empowers and guaranteed the fundamental rights to the people of India, for not getting exploited. Nevertheless, trafficking is still causing a menace to the children. Thousands of young adults, Children (irrespective of their gender) are trafficked for commercialization, employment, marriage, etc. This evil practice is even against the law of human rights, and natural rights. Everyone has the right to live their life with liberty, prosperity, and dignity. The author in this paper has restricted himself to child trafficking issues addressing the historical and current status in India. The author has adopted doctrinal, qualitative, and quantitative research, based on precedents, and other various published resources to provide the proper content analysis, and way forward to combat this ongoing evil practices.*

**Keywords:** *Trafficking, Constitution, Human Rights, Liberty, Fundamental Right.*

## I. INTRODUCTION

Human trafficking is the modern-day slave trade, which poses a global threat. Trafficking is increasingly becoming an organized crime. It is rising and spreading across continents and countries of this world. The trafficking in human beings, more so in women and children, is one of the fastest-growing forms of criminal activity, next only to the drugs and weapons trade, generating unaccountable profits annually.<sup>2</sup> There are multiple and complex reasons available

---

<sup>1</sup> Author is a LLM student at CNLU, Patna, India.

<sup>2</sup> SAVITA BHAKHRY, HUMAN TRAFFICKING AND TRAFFICKING IN PERSONS 545-548 (Harsh Dobhal ed., A Combat

for the increase in these global evil practices. Human trafficking, in its many diverse forms, constitutes a deliberate challenge to humanity.<sup>3</sup> Every year millions of women and men and girls and boys, in various countries irrespective of their religion and development level, are affected by this evil societal practice.<sup>4</sup> It was stated by former United States Secretary of State concerning trafficking that “*trafficking in persons is a modern-day form of slavery, a new type of global slave trade. Perpetrators prey on the weakest among us, primarily women and children, for-profit and gain. They lure victims into involuntary servitude and sexual slavery. Today we are again called by conscience to end the debasement of our fellow men and women. As in the 19<sup>th</sup> century, committed abolitionists around the world have come together in a global movement to confront this horrendous crime.*” (Secretary Condoleezza Rice)<sup>5</sup>, and in this way, one can pursue that this outrageous practice is not new to the society of the 20<sup>th</sup> century but an upgraded one.

India is no exception to this evil societal practice. India's history also shows the persisting unethical practices of slave and trafficking since time immemorial but, notwithstanding this corrupt practice is still prevalent. For all those who view trafficking in economic terms, it is the real or perceived differential between the source's financial status and the critical destination area.<sup>6</sup> One can observe that trafficking for the sex industry is now mostly replaced by trafficking for the domestic and commercial sectors.<sup>7</sup> The States such as West Bengal, Bihar, Odisha, Jharkhand, and Sikkim are very vulnerable to trafficking.<sup>8</sup> India has ranked 129 out of 189 countries in Human Development Index, 2019.<sup>9</sup> The State as a trustee empowers and guaranteed the fundamental rights to India's people for not getting exploited.

Nevertheless, trafficking is still causing a menace to the children. Thousands of young adults, Children (irrespective of their gender) trafficked for commercialization, employment, marriage, etc. This evil practice is even against the law of human rights and natural rights. The Indian Constitution, which is “an organic document,” has expressly prohibited the “trafficking”

---

Law Anthology, Human Right Law Network 2011) (June-July 2006).

<sup>3</sup> Joseph Chamie, *Human Trafficking: A serious challenge to humanity*, FOREIGN POLICY ASSN. GREAT DECISION, 2015, at 77, 77.

<sup>4</sup> *Id.*

<sup>5</sup> Letter from Secretary Condoleezza Rice, *Trafficking in Persons Report June 2007*, U.S. DEPT. OF STATE, (Oct. 15, 2020, 03:21 PM), <https://2009-2017.state.gov/j/tip/rls/tiprpt/2007/82798.htm>.

<sup>6</sup> BHAKHRY, *supra* note 2.

<sup>7</sup> Biswajit Ghosh, *Forced Migration and Trafficking in Children and Women: A Field View from the Plantation Industry in West Bengal*, 49 (26/27), ECO. POL. WEEKLY, 58-65, 58 (2014).

<sup>8</sup> Biswajit Ghosh, *Trafficking in women and children in India: nature, dimensions and strategies for prevention*, 13(5), IJHR, 716-738, 728 (2009).

<sup>9</sup> Ambika Pandit, *India ranks 129 of 189, up a spot, in human dev index*, THE TIMES OF INDIA (Oct. 22, 2020, 07:15 pm), <https://timesofindia.indiatimes.com/india/india-ranks-129-of-189-up-a-spot-in-human-dev-index/articleshows/72451199.cms>.

of any nature enshrined under Article 23. Everyone has the right to live their life with liberty, prosperity, and dignity. Various other labor and welfare laws have also prohibited these ongoing evil practices.

Despite this accepted position in the realm of law, the child trafficking system has not died. The various studies conducted by the Government and non-Governmental organizations from time to time have reported the existence of child trafficking in different parts of the country. This paper attempts to explore the possibilities of child trafficking through the doctrinal and non-doctrinal research methodology. For the non-doctrinal, the researcher has prepared questionnaires and used the snowball technique to collect society's responses on this current subject matter. Further, the researcher uses qualitative and quantitative research based on precedents, published articles, newspapers, and other published resources to provide the proper content analysis and way forward to combat these ongoing evil practices. The main questions which were arisen for determination in this context are as follows:

1. What are the possible causes of child trafficking?
2. What is the different legal provision to combat this practice?
3. What is the societal perception over this current subject matter?

These questions would be dealt with in this paper to attract and accord the reason behind the prevalent child trafficking issues in India and discover the ways to abolish this ongoing practice. The study's primary thrust is empirical research, aiming to cover the societal perception and related awareness concerning the paper's current subject matter.

## II. MEANING OF TRAFFICKING

The *Black Law Dictionary* defines the term trafficking means “to trade or deal in goods, especially with illicit drugs or other contraband”.<sup>10</sup> Further, Article 3 of the United Nations Convention against Transitional Organised Crime (Trafficking Protocol) defined the term “trafficking” globally. It states that –

- "*Trafficking in persons*" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, through the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or a position of vulnerability or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for exploitation. Exploitation shall include, at a minimum, the

---

<sup>10</sup> BLACK'S LAW DICTIONARY, 4666 (8<sup>th</sup> ed. 1991).

exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude, or the removal of organs;

- The consent of a victim of trafficking in persons to the intended exploitation outlined in subparagraph (a) of this article shall be irrelevant where any of the means outlined in subparagraph (a) have been used;
- The recruitment, transportation, transfer, harbouring, or receipt of a child for exploitation shall be considered "trafficking in persons" even if this does not involve any of the means set forth in subparagraph (a) of this article;
- "Child" shall mean any person under eighteen years of age.

Further, Section 370 of the Indian Penal Code define human trafficking as – “Buying or disposing of any person as a slave” - whoever imports-exports, removes, buys, sells, or disposes of any person as a slave, or accepts, receives or detains against his will any person as a slave, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.<sup>11</sup> Henceforth, from the meaning mentioned above, it clearly spells out that trafficking covers the transportation of a person from one place to another and their recruitment and receipt so that anyone involved in the movement of another person for their exploitation is part of the trafficking process. It articulates that trafficking is not limited to sexual exploitation; it could also occur for forced labor and other slavery-like practices.<sup>12</sup> Thus, it implies that individuals who relocate for work in farming, development, or homegrown work are attracted or pressured into working with conditions they didn't consent to and characterized as trafficked people. Howsoever, the convention definition doesn't require proof of movement of the victim across borders or otherwise.

### III. TRAFFICKING OF CHILDREN

*“Child trafficking interventions must see children as key actors, not as passive recipients of assistance. They should give priority to enable children to participate in clamming their rights actively...”<sup>13</sup>*

*-CACT (Campaign Against Child Trafficking)*

The term “child trafficking” has not specifically been defined by any central laws of the forum. Even the Immoral Traffic (Prevention) Act, 1956, which is the primary legislation for preventing sexual exploitation for women and girls, has not defined the term “child

---

<sup>11</sup> The Indian Penal Code, 1860, No. 45, Acts of Parliament, 1860 (India).

<sup>12</sup> Bhakhry, *supra* note 2, at 546.

<sup>13</sup> Campaign Against Child Trafficking (CACT), *Combating Child Trafficking: A user's Handbook* (HAQ: Centre for Child Rights) (2007).

trafficking.” However, the Goa Children’s Act, 2003 has defined “child trafficking” that “means the procurement, recruitment, transportation, transfer, harboring or [receipt of children] 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 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>14</sup>

It is also to note that child trafficking has no universal definition, even though the various instruments have stated it. The “Convention on the Rights of the Child of 1989”, in its Article 11, stipulated that “illicit transfer and non-return of children” is prohibited.<sup>15</sup> According to the *Human Rights Law Network (HRLN)*, an NGO of India defines that “trafficking in persons is a very complicated crime that takes place worldwide. “It is a form of slavery in which both children and adults are taken from their homes and forced to do a variety of harmful activities against their will.”<sup>16</sup>

#### IV. LITERATURE REVIEW

In this section, the researcher will review the published articles and their analyses on the current subject matter. Various researchers have given their opinion regarding trafficking. They relied on the data collected by themselves; one such data was analyzed by the founder of Krishna Rao Foundation, namely *Krishna Rao*, that “according to the government every eight minutes a child goes missing in India and 40% of them are never found, and remain unreported, invisible, and untraced. It was also stated that 3 million trafficked people are made to engage themselves in sex work; more than 47% of them are under the age of eighteen.”<sup>17</sup>

Amanda E. West discussed this current subject matter in his paper, namely “*Child trafficking: A concept analysis*.” He has stated that the phrase “child trafficking” is usually associated with human trafficking because both have similar attributes. Further, he observed that nowadays, society is getting aware, and even the issue of child trafficking is being highlighted to the academicians. He also founds that the children are mostly trafficked for sex works, and the minimal emphasis is drawn towards their involvement in child labor trafficking. In the latter part, he has stated that child trafficking is exploiting youth under 18 years. The same is

---

<sup>14</sup> The Goa Children Act, No. 18 of 2003, § 2(z) (2003).

<sup>15</sup> Fanny Busuttill, *Child Trafficking*, HUMANIUM (Oct. 07, 2020, 08:12 PM), <https://www.humanium.org/en/child-trafficking/>.

<sup>16</sup> HRLN Sikkim Unit, *Combatting Human Trafficking: A handbook for Women, Parents and Children* (Human Rights Law Network, A division of socio legal information centre) (2011).

<sup>17</sup> Campaign Against Child Trafficking (CACT), *Combating child Trafficking in India* (HAQ: Centre for Child Rights) (June 2016).

instituted through coercion, deception, and the necessities for survival. It has also been characterized as a grave violation of human rights, including physical, mental, and sexual abuse.<sup>18</sup>

Heather Montgomery stated that trafficking and prostitution will always remain emotional issues, especially for children. He has stated that “child prostitution” is the synonym of the phrase “child trafficking,” and the same could relate to “sex tourism.” He had mentioned “Sex tourism” because there were various instances when the child migrated forcefully to the other states to fulfill the foreigners' demands. The author has also emphasized the work of certain national and international NGOs- but he has mentioned that working without understanding the ground level problems will not propose a better solution to alienate these evil societal practices.<sup>19</sup>

In his paper, David M. Smolin discussed the issue of child trafficking concerning intercountry adoption. As per the author, he has stated that every adoption is not illicit or unethical, but today's' adoption system is very much associated with child selling as a form of adoption. Although the adoption system takes care to prevent these practices, there are few instances where the adoption system failed to perform its duty more diligently. He has observed upon closer examination that the ethics of adoption systems, of national and inter-country, are mere myth and imaginary as the legal prohibitions on child trafficking.<sup>20</sup> Later, he has mentioned that an intercountry adoption is a form of child trafficking because the law and current intercountry adoption systems permit it to operate.<sup>21</sup>

An author, namely Judge Jamie Cork, has tried to focus more on the pragmatic approach to the subject matter in question. He has observed that domestic trafficking exists in a bigger way than international trafficking. He has observed that 85% of the trafficked children are the victim of sex abuse.<sup>22</sup> 70% of trafficked victims suffer from an emotional, physical, or mental disability, whereas 83% of victims are assaulted with a deadly weapon by the commercial sexual abusers.<sup>23</sup> Further, the author has raised much concern towards the protection of children and their welfare. He has taken the two-way victimization approach, one from the child and the other from the parents' side. He finds that the traffickers make both children and their

---

<sup>18</sup> Amanda E. West, *Child Trafficking: A Concept Analysis*, 4 INT'L J. Soc. Sci. Stud. 50, (2016).

<sup>19</sup> Heather Montgomery, *Defining Child Trafficking & Child Prostitution: The Case of Thailand*, 9 Seattle J. Soc. Just. 775, (2011).

<sup>20</sup> David M. Smolin, *Intercountry Adoption as Child Trafficking*, 39 VAL. U. L. REV. 281 (2004).

<sup>21</sup> *Id.*

<sup>22</sup> Alexandra (Sandi) Pierce, *Shattered Hearts - The Commercial Sexual Exploitation of American Indian Women and Girls in Minnesota (2009)*, MINNEAPOLIS: MINNESOTA INDIAN WOMEN'S RESOURCE CENTRE, (Oct. 15, 2020) <https://www.miwrc.org/graphics/reports/Shattered-Hearts-Full.pdf>.

<sup>23</sup> *Id.*

parents' victimization. Henceforth, the author recognizes that human trafficking threatens everybody in the family.<sup>24</sup>

An author, namely *Michelle Tomes*, has discussed child sex trafficking. He has a strong belief that the child is not a commodity. He has also mentioned that inadequate laws addressing human trafficking are among the major key factors for this subject matter's still existence. He has also observed that children would never be convicted for prostitution because they are not considered to be in sound mind for providing consensus. Later he has also stated the central and the states should take a stronger stance against child sex trafficking.<sup>25</sup>

*In her paper, Anuradha Singh has also discussed that the victims of trafficking are always the key witnesses in most cases.* But, due to the absence of strong legal protection, victims hesitate to testify against the tormentors. And the consequent acquittal of the criminals encourages those trading in human beings, especially the children, to operate more freely and fearlessly. She has also mentioned the cases where the court has acquitted the accused of trafficking on the grounds of no evidence; it shows that the rate of prosecutions and convictions is meagre despite the rapid rise in the criminal nexus. She has also mentioned that the alarming increase in trafficking is generally attributed to poverty, lack of sustainable livelihood, structural inequities in society, increased internationally organized criminal groups, etc. Later, she recommended certain procedural measures that should be followed during the trial stage.<sup>26</sup>

An author named *Biswajit Ghosh* has addressed the current subject matter concerning the marginalization of workers and women and children's vulnerability. In his empirical research, the author founds that "poverty" is one of the major causes of trafficking, followed by "unemployment, poor wages, etc. The paper's modus operandi observed how vulnerable children and adult women are migrated to tea gardens in Jalpaiguri. The author also observed that the children go either with their parents' permission or on their own to obtain jobs. The migrants are exploited physically, economically, and mentally and sometimes even death. Further, it was observed by the author that child trafficking is not merely a sociological issue in the context of the deepening crisis in the plantation industry in West Bengal. It is a symptom of much deeper malaise available in our society. Later, the author also stated that labor trafficking to urban places increased because labor trafficking is easier than sex trafficking. It is recommended that children's vulnerability be minimized with internal and external

---

<sup>24</sup> Jamie Cork, *Sex Trafficking and Child Welfare*, 12 U. St. Thomas J.L. & PUB. POL'y 16 (2017).

<sup>25</sup> Michelle Tomes, *A Child Is Not a Commodity: Stopping Domestic Child Sex Trafficking*, 24 U. FLA. J.L. & PUB. POL'y 213 (2013).

<sup>26</sup> Anuradha Singh, *POWER OF ACCUSED*, 549-551 (Harsh Dobhal ed., *A Combat Law Anthology*, Human Right Law Network 2011) (June -July 2006).

stakeholders and agencies.<sup>27</sup>

In his book, an author named Dr. J.N. Pandey stated that Article 23 of the Indian Constitution is based on the various International instruments dealing with human rights. And due to this, every form of forced labor, “beggar,” “trafficking,” etc., is prohibited by the Indian Constitution.<sup>28</sup> The various other researcher has also observed that human trafficking is one of the gravest violations of human rights transgressing laws of the land (*Dinesh Narayan Verma, 2014*).<sup>29</sup>

Henceforth, from the above-referred literature review, the researcher finds that the various institutions have recognized child trafficking, but still, it is prevalent in the 21<sup>st</sup> century. In the upcoming chapter, the researcher would discuss the causes and purposes of child trafficking in society.

## V. CAUSES AND PURPOSES RESPONSIBLE FOR CHILD TRAFFICKING

The 30<sup>th</sup> of July is celebrated as World Day against Trafficking in Persons. Human trafficking has become a global problem and has received national attention over the past decade in India. Every year thousands of men, women, and children fall into the entrapping hands of traffickers in their own country and abroad.<sup>30</sup> The children are much more vulnerable to trafficked than adults; basically, they are an easy target for illegal groups or offenders. This subject matter has much intensity that affects the life of a person in various ways. Now, it is essential to understand the reasoning or causes behind these ongoing evil practices. Further, it is also necessary to enlighten the different purposes, due to which child trafficking is still prevailing in India. The laws, bureaucrats, law enforcement bodies cannot combat this issue totally since after enacting the Constitution and other specific laws of India.

Several factors contribute to child trafficking in India, but the families play a broader role in making children get traffic. In India, they struggle to afford the necessities of life. Sometimes due to a worsening situation, the parents are forced to sell their children to illegal groups. Other factors include but not limited to-

- **Poverty-** In India, it is the primary reason, which makes the majority of children vulnerable.<sup>31</sup> The traffickers usually target the indigent person who needs money or says they

---

<sup>27</sup> GHOSH, *supra* note 7.

<sup>28</sup> DR. JN PANDEY, CONSTITUTION OF INDIA, 399-400 (56<sup>th</sup> ed. Central Law Agency 2019).

<sup>29</sup> Dinesh Narayan Verma, *Human Trafficking in Santal Parganas Division of Jharkhand*, 75 IHC 1241, 1241-1242 (2014).

<sup>30</sup> *Id.*

<sup>31</sup> Dr. Arvind P. Bhanu & Rajni Kant Mishra, *Child Trafficking in India*, 2(1) IJL 33, 33-34 (Jan. 2016).

exist below the poverty line. The traffickers mainly suspect the one who is having disadvantaged backgrounds, including Dalits, tribal communities, religious minorities, etc.<sup>32</sup> The trafficker takes undue advantage of himself to manipulate them and make various fake promises to fulfill their basic needs and then force them to become a part of the modern-day slavery system.<sup>33</sup> Henceforth, the consequence of poverty puts the children at higher risk of vulnerability. It also hampers the family relationships, lots of violence and abuse, school dropouts, etc., happens with children. This family's conduct towards their ward attracts the traffickers to make fake promises of better jobs, opportunities, etc. Therefore, vulnerability always leads to trafficking.<sup>34</sup>

- **Lack of employment opportunities-** Today, unemployment among the young generation is a significant problem in India. Also, due to the current pandemic, the rate of unemployment got increased. According to the report by the Centre for Monitoring Indian Economy Pvt. Ltd. (CMIE), unemployment rose to 8.4% in August 2020, and in July, it was at 7.43%.<sup>35</sup> It shows that India's labor market goes under stress due to the gradual fall in rural India's employment rate and the continued low employment rate in Urban India.<sup>36</sup> Hence, when a person cannot find jobs, their children will go under immense pressure to safeguard their necessities.

- **Trafficked cases are hard to identify-** Survivor of illegal exploitation is almost difficult to recognize because they are covered up at secret places and traumatized.<sup>37</sup> The casualty is unveiled to such an extent that they differ about being the survivor of dealing because they are excessively terrified or in grave difficulty. The buyer or seller of the trafficking also does such work to conceal the data about the survivor of dealing, as expressed in a metropolitan foundation report.

Following are the various purposes (not limited to) due to which persons are trafficked; all of these are harmful and abusive and violate the victim's fundamental human rights.

---

<sup>32</sup> TOAST ADVISORY, SCAN OF ISSUE AREAS, TRENDS AND ORGANISATIONS WORKING IN THE AREA OF CHILD TRAFFICKING IN INDIA 7-8 (Global fund for children, Spring 2019).

<sup>33</sup> Aparna Johri & Siddhant Kumar Das, *Human Trafficking: A Silent Crime That Devastated Entire Life of Victim, A Violation to Human Rights*, 1 (1) IJLJ 54, 55 (2020).

<sup>34</sup> *Supra* note 32.

<sup>35</sup> The Quint, Unemployment Rate in India Rose to 8.4% in August 2020: CMIE, THE QUINT (October 13, 2020, 11:15 PM), <https://www.thequint.com/coronavirus/unemployment-rate-india-august-2020-cmie-jobs-coronavirus-pandemic-covid-19-economic-rural-urban#read-more>.

<sup>36</sup> Yojna Seth Sharma, Rise in unemployment rate weakening India's labour market recovery, says CMIE, THE ECONOMIC TIMES JOB (October 24, 2020, 05:11 PM) <https://www.thequint.com/coronavirus/unemployment-rate-india-august-2020-cmie-jobs-coronavirus-pandemic-covid-19-economic-rural-urban#read-more>.

<sup>37</sup> *Supra* note 33.

- **Prostitution-** It is also known as commercial sex work. It is one of the world's oldest profession. Various trafficked women and girls are trafficked for prostitution. They are trafficked for labor in a brothel and many other red-light areas of metro cities or abroad. For example, many young girls from neighbouring countries such as Nepal, Bangladesh, Myanmar, Bangkok, etc., are trafficked for work in India's brothel or red-light areas. According to the report of NCRB 2019, it was found that a total of 2080 cases of sexual exploitation for prostitution have been recorded.<sup>38</sup>

- **Domestic/Forced Labour-** Forced is most prevalent in rural areas where the agricultural industry relies on contracted, often migrant laborers. Their labor contracts are not purely economic; in India, they are reinforced by custom or coercion in many sectors such as the agricultural, mining, construction sites, and brick kiln industries.<sup>39</sup> Trafficked children are used as slaves in India's various industries, such as the construction site and the carpet industry. They are not appropriately paid and also become victims of physical or sexual abuse. Sometimes girls trafficked for domestic labor are grossly mistreated and, as is the case in most forms of trafficking, often become victims of physical, emotional, and sexual abuse.<sup>40</sup> Child labor is primarily caused by poverty, debt incurred by parents together with low literacy levels. A lack of social security systems exacerbates this.<sup>41</sup>

- **Forced Marriage-** There are various instances where women and girls are being trafficked 'for' and 'through' marriage. They are sometimes solely sold for marriage with willing buyers. Example- Various Muslim girls are being married to a rich person of Gulf country. Their marriage pretences of legitimate marriage and then instead trafficked for commercial sex work or domestic labor.<sup>42</sup>

## VI. ROLE OF INTERNATIONAL AND NATIONAL INSTITUTIONS

Various international and national institutions are still trying to combat the trafficking from this world's autonomous society. Few international institutions, as well as national institutions, are as follows-

International Institutions administering worldwide-

---

<sup>38</sup> National Crime Record Bureau, Vol. 3, 978-979 (2019).

<sup>39</sup> Akshey Kumar & Harshita Goel, *The Persisting Struggle of Bonded Labour in Rajasthan: An Empirical Study*, 1 (1) IJLJ 35, 41 (2020).

<sup>40</sup> HRLN Sikkim Unit, *Combatting Human Trafficking: A handbook for women, parents and children 6-8* (Suresh Nautiyal ed., Human Right Law Network 2011).

<sup>41</sup> *Supra* note 32.

<sup>42</sup> *Id.*

- **Global Alliance Against Trafficking in Women-** It comprises more than 80 Non-governmental organizations around the world. This alliance mainly looks at human trafficking in the context of migrant labor exploitation and works to alleviate situations where slavery-like conditions and practices exist.<sup>43</sup>
- **Stop the Traffik-** It is an organization that fights against human trafficking with the help of education. This organization mainly helps the communities recognize the signs of human trafficking and the actions required regarding that.<sup>44</sup>
- **United Nations Children's Fund-** It is known for many causes, but stopping child trafficking is one of its mission. It supports the victims of trafficking by providing and encouraging them for proper education, vocational courses, etc.
- **Love146-** It is an international anti-child trafficking organization having headquartered in the United States, and it focuses heavily on prevention and survivor care for victims of trafficking.<sup>45</sup>

#### National Institutions administering in India-

- **STOP India-** It is started in 1998 during the Global March Against Child Labour. Their mission is to stop trafficking and oppression through education, legal movements, and rescuing children and women from various forms of slavery and trafficking. They also save girls and provide a safe home to rehabilitate as well as offer them education. Their central vision is to see the complete eradication of human trafficking and stop children and women's oppression.<sup>46</sup>
- **Prajwala-** Sunita Krishnan founds it in the year 1966 as an initiative to prevent inter-generational prostitution. It is an anti-trafficking organization that helps the victims of sex trafficking. As per this institution, every year, 65,000 children get trafficked, and 90% of the trafficking is inter-state, whereas 10% is international.<sup>47</sup> Their main objective is prevention, protection, rescue, rehabilitation, and reintegration concerning trafficking.
- **International Justice Mission, India-** This institute works with central and state governments in collaboration with the Anti-Human Trafficking Unit. It mainly fights

<sup>43</sup> Syed Khaula Saad, *7 Organisations Fighting Human Trafficking & Supporting Survivors*, BUUSTLE (Oct. 7, 2020, 01:20 PM) <https://www.bustle.com/p/7-organizations-fighting-human-trafficking-supporting-survivors-20117978>.

<sup>44</sup> *Id.*

<sup>45</sup> *Id.*

<sup>46</sup> STOP India, *Stop Trafficking and Oppression of Women & Children*, END SLAVERY NOW (Oct. 07, 2020, 03:20 PM) <https://www.endslaverynow.org/stop-india-stop-trafficking-oppression-of-women-children>.

<sup>47</sup> Anju Ann Mathew, *These NGOs rescue and rehabilitate sex trafficking victims in India*, YOUR STORY (October 07, 2020, 03:20 PM) <https://yourstory.com/socialstory/2020/06/ngo-rescue-rehabilitate-sex-trafficking-victims>.

against two types of human trafficking- bonded labor and sex trafficking. It also uses to give the government officials training on anti-trafficking laws and its procedures, with various awareness programs on human trafficking.<sup>48</sup>

- **Socio-Legal Information Centre (SLIC)**- It is a division of the Human Rights Law Network. It is dedicated to using the legal system to advance human rights, struggle against violations, and ensure access to justice to all. It has branches all over the country.

## VII. PUBLIC ATTITUDE TOWARDS THE CHILD TRAFFICKING IN INDIA

The researcher has conducted an empirical study wherein a list of questions is prepared to deal with peoples' attitudes towards this evil practice of society, i.e., Child Trafficking and governments' role in creating awareness concerning the same issues. An analysis has been drawn pertaining to each question in the questionnaire.

### 1. To what extent do you think child trafficking and modern slavery are present in India?

Human trafficking is prevalent in India and other parts of the world for time immemorial. Child trafficking is a part of human trafficking only. According to National Crime Record Bureau report 2019, total 2260 human trafficking case has been registered under Indian Penal Code 1860.<sup>49</sup> However, after reviewing the collected data, it was found that the overall number of human trafficking cases has been minimizing each year. Kindly refer to the table given below.

Years	Total Human Trafficking Case registered in India (In IPC).
<b>2016</b>	8132
<b>2017</b>	2854
<b>2018</b>	2278
<b>2019</b>	2260
<b>Total</b>	<b>15524</b>

**Fig. 1**

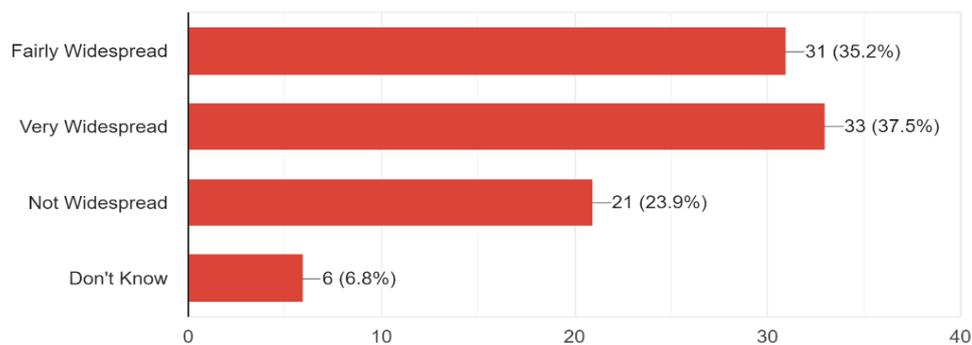
From Figure 1, the researcher has observed that even though India's government doesn't fully

<sup>48</sup> *Id.*

<sup>49</sup> *Supra* note 37.

meet the minimum standards for eliminating trafficking, it is still making significant efforts to control the same. Further, it has also been observed from the National Crime Record Bureau 2019 that a total of 2914 children have been made the victim of trafficking, and a total of 2837 children victims have been rescued.<sup>50</sup>

To what extent do you think child trafficking and modern slavery are present in India?  
88 responses



**Fig. 1.1**

From the data collected, out of the 88 responses, it can be observed that a majority of people with 33 responses covering 37.6% of the opinion provided that child trafficking and modern slavery are prevalent in India. This number is followed by 31 reactions providing that this crime is fairly widespread in society. However, of the 21 responses provide that the act of child trafficking and slavery is not widespread and only 6.8% of the people are the ones who are unaware of the fact of the current situation of such a crime.

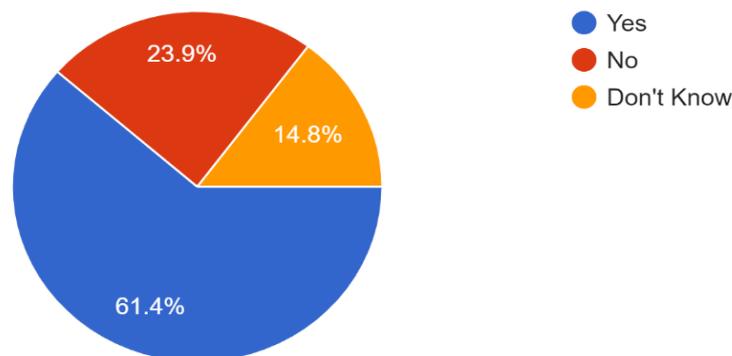
## **2. Does the Indian Government recognize child trafficking?**

India's legislature has enacted various laws, making trafficking an offense in India's penal laws. The legislature has passed the Immoral Traffic (Prevention) Act, 1956, through which different kinds of trafficking have been penalized. Further, the National Crime Record Bureau also do mention about the data on child trafficking. The government has made various shelters home in different states for the victim of trafficking. Hence it means the Indian government has recognized child trafficking as a crime in multiple enacted laws. The researcher has framed this question to address the level of awareness in a society concerning the child trafficking issue.

<sup>50</sup> *Id.*

### Is child trafficking recognised by the Indian Government?

88 responses



**Fig. 2**

From the 88 responses received of the data collected, it can be observed that the majority of the people, with about 61.4%, believe the Indian government recognizes that child trafficking. Further, about 23.9% of people believe that the Indian Government does not recognize the act of child trafficking out of these responses. However, 14.8% of the people are unaware of whether the Indian Government recognizes child trafficking or not.

### **3. Is there any centralized national registration system for victims of trafficking in human beings in the country?**

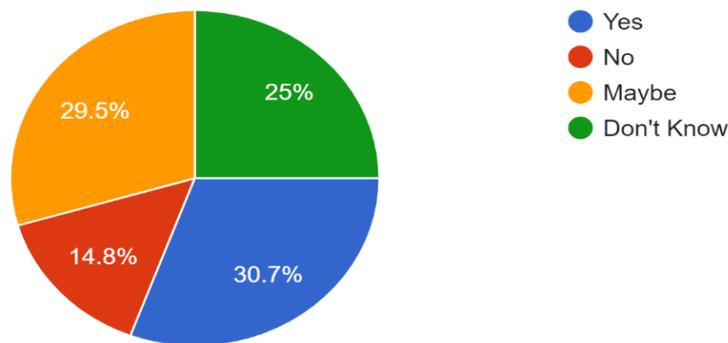
In the year 2019, India has made significant efforts towards eliminating human trafficking but did not meet the minimum standards and remained on Tier 2 of the Congressional mandated 2020 Trafficking in-person report of the state department.<sup>51</sup> The CHILDLINE India Foundation (CIF) plays a significant role in combatting this issue of trafficking. It is a nodal agency of the Union Ministry of Women and Child Development. It helps in setting up, managing, and monitoring the CHILDLINE 1098 service all over the country.<sup>52</sup> Hence, it is one of the kinds of a centralized registration system for the victims of trafficking. Other than this, the National Human Rights Commission is also an institution that keeps a record for victims of trafficking. Hereinafter the author has addressed the public perception regarding this question.

<sup>51</sup> By PTI, *India making significant efforts against human trafficking but yet to meet criteria: US report*, THE NEW INDIAN EXPRESS (Oct. 19, 2020, 07:15 PM) <https://www.newindianexpress.com/nation/2020/jun/26/india-making-significant-efforts-against-human-trafficking-but-yet-to-meet-criteria-us-report-2161713.html>.

<sup>52</sup> About Childline, *Childline India 1098*, CHILDLINE (Oct. 19, 2020, 07:30 PM) <https://www.childlineindia.org/a/about/childline-india>.

Is there any centralised national registration system for victims of trafficking in human beings in the country?

88 responses



**Fig. 3**

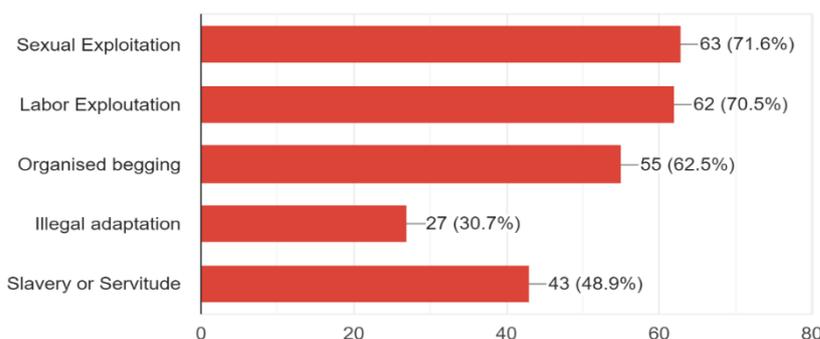
From the 88 responses received of the data collected, the majority of the people, with 30.7%, believe that there is a centralized national registration system for victims of trafficking in human beings. However, the second-highest percentage of people with 29.5% are not sure whether there exists any centralized national registration system for the victims of trafficking in human beings or not. However, 25% of the people are unaware of any centralized national registration system for the victims.

**4. Which victims of trafficking mostly face all forms of exploitation?**

The victims of trafficking get exploited in various ways. Trafficking is an offense where victims are made to exploit. Victims may be either sexually exploited or maybe through labor. The exploitation of a victim is against human rights. The mode of exploitation is not limited. In this question, the researcher has based their data on mere five different kinds of exploitation faced by the victim of traffickers. These five different kinds of exploitation could have been explored in our daily lives. Henceforth, the researcher has framed this question to understand the view of the public concerning exploitation.

Which all forms of exploitation are mostly faced by victims of trafficking?

88 responses



**Fig. 4**

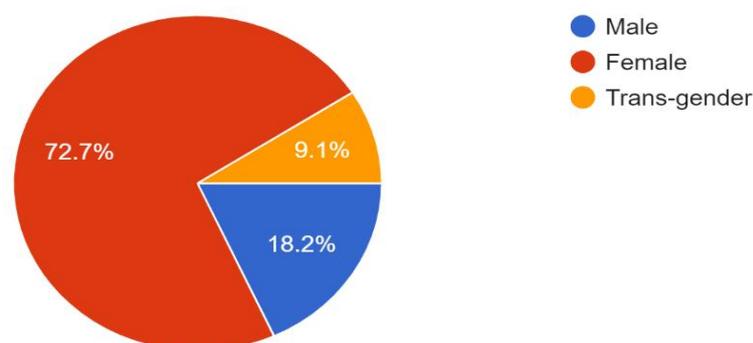
From the 88 responses received, it could be observed that people have different opinions concerning the forms of exploitation faced by the victims of trafficking. The majority of the people with 63 responses covering 71.6% of the percentile believe that sexual exploitation is the most common form of exploitation faced by the victims of trafficking, followed by exploitation in labor, with 62 responses received in this regard. Further, 55 responses are received of organized begging, followed by slavery with 48.9%. However, only 30.7% of people believe that the least chance of facing exploitation by the victims of trafficking is illegal adaptation.

### 5. Which gender is mainly victimized for trafficking?

The trafficking could be of any person; it is not gender-biased. But, looking at the current situation, labor and the prostitute sector got boom during the last decade. With this reference, the researcher tried to gather the public's opinion concerning gender, which is get victimized the most.

Which gender is mainly victimised for trafficking?

88 responses



**Fig. 5**

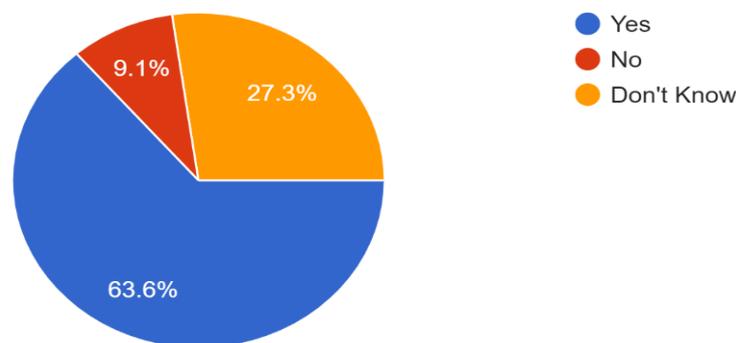
With the existence of female-centric laws and many reported cases of crime against females, it is majorly believed that society's females face a large number of trafficking. From the data collected above, out of the 88 responses received, it can be seen that over 72.7% of the people believe that majority of the victims of this offense of women, followed by transgender people with 18.2%. However, only 9.1% of people think that males are also accustomed to being the victims of trafficking.

### 6. Are there any laws enacted by the Indian legislature to deal with child traffickers?

India is a part of common law countries, where almost every subject is covered under the law. The codification of law on every issue is much essential in common law countries. Every

expectation has to be mentioned expressly under the ambit of different directions. The rules are much necessary to maintain peace and equilibrium in society. If any subject matter doesn't cover under any laws, then there are many chances of exploitation. The child is considered the State's asset, and the State has enacted a Directive Principle of State Policy as well as fundamental rights in the Constitution to protect the child from getting traffic. The researcher has framed this specific question to get the government's level of awareness towards society over this current issue.

Are there any laws enacted by the Indian legislature to deal with child trafficker?  
88 responses



**Fig. 6**

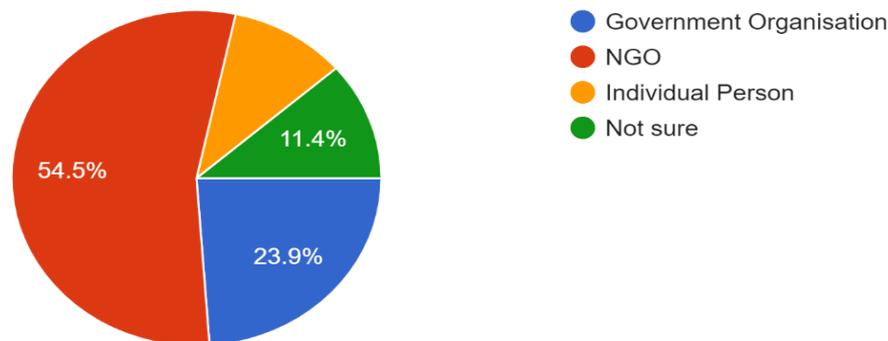
From the 88 responses received of the data collected, most people with 63.6% believe that there are laws enacted by the Indian legislature to deals with child traffickers. However, 27.3% are unaware of the same as to whether there exists any law or not followed by the only 9.1% people believing that there exists no such law in the Indian legislature.

#### **7. Which kind of organization is mainly involved in rescuing the child from trafficking?**

It could be understood from the above content that yes, there exist child trafficking issues in India. But now the question arises that who will rescue them? Because otherwise, that will be led to form a wrong impression of government on society. In India, there is no such issue informing any authentic organization. There are various private as well as non-private organizations working in the country. This question has been framed by the researcher to review the government's level of work and to check the government's involvement in combating this pertaining subject matter.

Which kind of organisation is mainly involved in rescuing the child from trafficking?

88 responses



**Fig. 7**

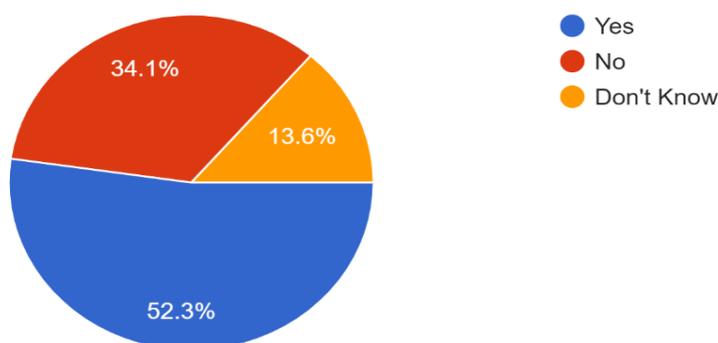
There are many contributions made by the different organizations towards initiating steps to rescue the victims of trafficking. Of the 88 responses received, 54.5 % people that of these organizations, the majority of the contribution is made by the NGOs in rescuing the victims, followed by the government organizations with 23.9%. However, almost a similar number of people with 11% are either unsure of the fact or believe that it is the person's contribution in progressing towards this cause.

#### **8. Have you ever heard that the "child has been trafficked by his family members only?"**

Money can make a reasonable person wrong when people only wanted to earn money without considering any value of laws, ethics, etc. Various news hiked in media where the family member manipulated the child's parents to traffic them for their purpose. The people try to sell those trafficked children abroad or maybe to some criminal organization. This question has been framed to know the public view regarding the modus operandi of the trafficking.

Have you ever heard that the "child has been trafficked by his family members only?"

88 responses

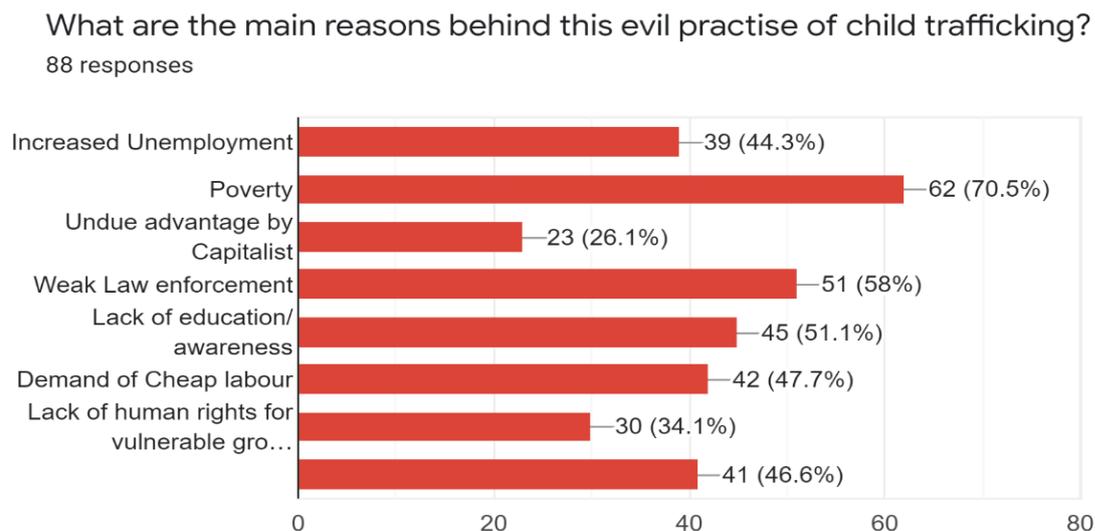


**Fig. 8**

From the 88 responses collected, it can be observed that the majority of people, with 52.3%, believe that there are possibilities that his family members have trafficked child. However, 34.1% of people think that there is no such act of trafficking committed by the children's family members, followed by 13.6% of the people being unaware.

### 9. What are the main reasons behind this evil practice of child trafficking?

Everything happens for a purpose and also have proper reasoning behind it. Mens rea is very much essential to prove the case beyond a reasonable doubt in any criminal matters. Similarly, aggravating and mitigating factor is also considered by the judges while sentencing any accused. In this way, mitigation factors play a much important role in understanding the current evil practice's reasons. It is essential to understand the victims as well as the offender's approach to getting involved in the crime. This recent question has been framed to understand the public's view of the current subject matter in question.



**Fig. 9**

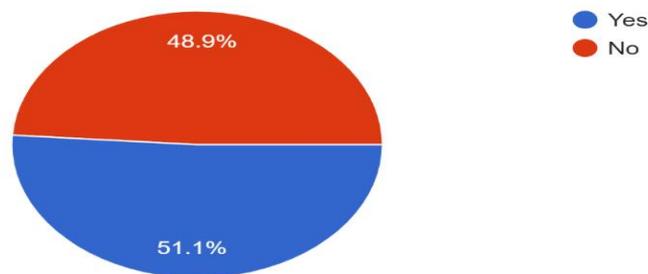
Many evils prevail in society, forcing a person to adopt the wrong means to achieve their goals. These are the evils that even cause the people to adopt the standards of child trafficking. Out of the 88 responses received, 70.5% of people believe that poverty is the primary reason for adopting child trafficking, followed by weak law enforcement with 58%. However, only 26.1% think that is due to the undue advantage by the capitalist.

### 10. Do you know how to report suspicions of child trafficking?

Awareness about everything is required so that people will not get involved in any

exploitations. This particular question has been framed to check whether the people know to report this grievous crime.

Do you know how to report suspicions of child trafficking?  
88 responses



**Fig. 10**

There exists a lack of awareness amongst people with respect to a lot of issues. One such matter is with regards to reporting of suspicions of child trafficking. Out of 88 responses received, only 51.1% know how to report such suspicions of child trafficking. However, 48.9% of the people are unaware of how to report such suspicions of child trafficking.

## VIII. LEGAL PROVISION FOR COMBATTING CHILD TRAFFICKING

Child trafficking is a part of human trafficking only. According to the National Crime Record Bureau report 2019, 2260, human trafficking cases have been registered under the Indian Penal Code 1860. There are various legal provisions as well as precedents which helps the law enforcement bodies to combat the child trafficking issues from the society. Following are the various legal provisions-

### (A) Constitutional Provisions

The Constitution of India expressly prohibits every kind of human trafficking. Article 23 (1) read with Article 39 provides that “traffic in human beings and other similar forms of forced labor are prohibited, and if anybody does any contravention of this provision then they shall be punished according to law.” Further, Article 21 gives everyone the right to live their lives with dignity and in proper condition.<sup>53</sup> It also guarantees various internationally acknowledged human rights such as the right to live with personal liberty, food<sup>54</sup>, water<sup>55</sup>, decent

<sup>53</sup> Francis Coralie v. Union territory of Delhi AIR 1981 SC 746.

<sup>54</sup> Chameli Singh v. State of U.P. (1996) 2 SCC 549.

<sup>55</sup> *Id.*

environment<sup>56</sup>, education<sup>57</sup>, medical care<sup>58</sup>, and right to get constitutional remedy under Article 32 of the Constitution.

**(B) The Immoral Traffic (Prevention) Act, 1956 (ITPA)**

It is the premier legislation for the prevention of trafficking for commercial sexual exploitation. Its primary purpose is to affect trafficking, and its objective to abolish women and girls' traffic for sexual exploitation. The Act has expressly punished the offender who traffics persons for prostitution, detaining a person in one place where prostitution is carried on, making life if earning prostitution, the seduction of person custody. Henceforth, it can be observed that no laws are being enacted in India that can abolish all forms of human trafficking.

**(C) The Child Marriage Restraint Act, 1929**

The Act sets down the legal age for marriage as 18 years for girls and 21 years for a boy. The Act empowers the court to issue injunctions prohibiting Child Marriage.

**(D) The Child Labour (Prohibition and Regulation) Act, 1976**

The Act prohibits the employment of children in the specific occupations outlined in Part A of the Act's schedule. It lays down the conditions of the children's work, and as per the Act, no child can work for more than three hours, after which an interval of rest for at least one hour is stipulated.

**(E) The Juvenile Justice (Care and Protection of Children) Act, 2000**

This Act was passed in accordance with the Convention on the Rights of the Child. This Act aims to provide for the proper care, protection, and treatment of the child's developmental needs and adopts a child-friendly approach. Section 29 empowers state governments to constitute Child Welfare Committees (CWC) for such areas as they may deem fit, and it also outlines the powers of the committee and the procedures to be followed by it. Section 31 gives these committees the ultimate authority to dispose of the cases. Under Section 34, a state government can establish and maintain children's homes for the care and protection of children independently, and u/s 39, the primary objective of the children's home or shelter is the restoration and protection of childhood.

**(F) Indian Penal Code, 1860**

Section 370 and 370 A provides for comprehensive measures to counter the menace of human

---

<sup>56</sup> *Id.*

<sup>57</sup> *Id.*

<sup>58</sup> *Id.*

trafficking, including trafficking of children for exploitation in any form, including physical exploitation or any form of sexual exploitation, slavery, servitude, or the forced removal organs. Further, Section 372 and 373 punishes the offender who deals with selling and buying girls for prostitution.

## IX. CONCLUSION

Human trafficking is a menace to society and is such a heinous offense that has destroyed many lives. It has been stated that 3 in 5 people trafficked were children.<sup>59</sup> Child trafficking also violates human rights, but also their freedom and dignity at the same level. This offense disgraces the entire humanity and requires a very effective and harsh mechanism to combat crime. The trafficker always finds some way to traffic the children and to put them into some profitable business. They have many contact details that help export and import humans from different parts of the country. And due to this, the national and international legislative provisions, are failed to control these evil practices. This chapter summarises the findings based on the objectives of this paper.

*Firstly*, to analyze the various possible causes behind child trafficking collectively. The researcher observes that the maximum responses received are related to “poverty,” followed closely by “weak law enforcement,” “lack of education,” “demand of cheap labor,” and “dysfunctional family and social structure. Thus, the researcher concludes affirmatively that society is aware of the causes of child trafficking. Further, with this Covid-19 pandemic, child trafficking has increased uncontrollably. Courts and the Legislative are trying it's best to control, but it majorly depends on every individual to take responsibility for the same. *Secondly*, in India, even though various legislation has been passed, law enforcement bodies still lack control to control child trafficking. The anti-trafficking measures need to be spread in every trafficking prone area. Other than this, awareness about anti-trafficking laws should be conducted to reduce the rate of unemployment. Hence, only enacting the laws will not solve the problem; proper implementation is also required. *Thirdly*, to analyze the public perception towards the ongoing evil practices. It has been found that 33% agreed that child trafficking is very widely spread around India and abroad.

Further, it has also been observed that 63% of people think that victims of child trafficking are mainly sexually exploited, followed by labor exploitation. The researcher also observed that the child trafficking question should not be gender-specific. There are numerous cases

---

<sup>59</sup> Shreehari Paliath, *Chaitanya Mallapur, 3 In 5 People Trafcked Were Children*, INDIA SPEND (NOV. 02, 2020, 03:41 PM) <https://www.indiaspend.com/3-in-5-indian-adolescents-vulnerable-to-abduction-sexual-slavery/>.

irrespective of being trafficked for various purposes, so to choose any one gender over the other is quite irrational. The Constitution provides the right to life to all. Hence victims' rights and human rights, most importantly, should be awarded and taken care of by state machinery with adequate compensation and rehabilitation of the victims. It has been well said that "if we don't stand against the injustice, it will continue to look like a forest fire with never-ending strap."

\*\*\*\*\*