



Importance of the immoral traffic (Prevention) act for the prevention of trafficking and commercial sexual exploitation

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Abstract

Human trafficking is a significant social issue in India, often driven by poverty. It is crucial to distinguish between trafficking and prostitution, as the former involves commercial exploitation. This research aims to explore the causes of trafficking, analyze relevant constitutional provisions, and assess the importance of the Immoral Traffic (Prevention) Act in addressing trafficking and commercial sexual exploitation. An explorative research methodology is employed, relying on secondary sources such as reports and articles from national and international journals. The study delves into the objectives and provisions of the Immoral Traffic (Prevention) Act, which seeks to curb the harm and criminal activities associated with trafficking. While the Act endeavours to address the issue, there is concern that it may inadvertently treat victims of trafficking harshly rather than providing them the support they need. This article sheds light on the complexities surrounding the Act's effectiveness in protecting those vulnerable to exploitation and the challenges in achieving its intended objectives. Through an in-depth analysis of relevant data and information, this research seeks to contribute to the ongoing discourse on trafficking and commercial sexual exploitation, advocating for a comprehensive and compassionate approach to combating these reprehensible crimes effectively.

Keywords: Importance, Immoral Traffic (Prevention) Act, Prevention, Trafficking, Commercial Sexual Exploitation

Introduction

Human trafficking, particularly the trafficking of women for prostitution, is a grave and international form of organized crime. In response to this pervasive issue, the Suppression of Immoral Traffic in Women and Children Act, 1956, was enacted on December 30, 1956, extending its reach across the entirety of India. This legislative framework aimed to prevent women and girls from falling prey to prostitution, striving to achieve a public good by rescuing and supporting them in becoming respectable members of society. Notably, in 1986, the Act was rebranded as the Immoral Traffic (Prevention) Act, 1956 (ITPA), with the removal of suppression and 'women and children' from its title to make it gender-neutral, influenced by India's ratification of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 1980. The ITPA specifically addresses prostitution-related trafficking, making it a criminal offense while not covering other forms of trafficking. Originally, India signed the International Convention on the Prohibition of Immoral Trafficking in Persons in 1950, leading to the enactment of the Suppression of Immoral Traffic in Women and Girls Act (SITA) in 1956. However, with the subsequent amendments, the ITPA now encompasses both male and female sexual exploitation. Human trafficking is a significant social issue in India, with poverty being one of its primary drivers. It is essential to distinguish between trafficking and prostitution, as the former leads to commercial exploitation. To combat these abhorrent and illegal activities, the Government of India has implemented various legislative measures, constitutional provisions, and social programs, including the Immoral Traffic (Prevention) Act, 1956, the Trafficking Persons (Prevention, Protection, and Rehabilitation) Bill, 2016, and UJJAWALA. The global prevalence of reprehensible crimes like commercial sexual exploitation and human trafficking undermines the very foundation of human rights, equality, freedom, and dignity that societies strive to protect.

In response, governments and international organizations have adopted diverse legislative frameworks to effectively combat trafficking and exploitation. India's adoption and implementation of the Immoral Traffic (Prevention) Act, commonly referred to as the "ITPA," represents a pivotal step in addressing the severe issue of trafficking and commercial sexual exploitation within its borders. This research article aims to delve into the fundamental aspects of the Immoral Traffic (Prevention) Act, examining its diverse impact on the fight against human trafficking and commercial sexual exploitation. Through a comprehensive analysis of the Act's provisions, enforcement mechanisms, and practical outcomes, we seek to shed light on its effectiveness and identify areas for further improvement in the battle against these grave offenses.

Historical Background of ITP Act

Historical Background of the ITP Act In reaction to the International Convention on the Prevention of Immoral Traffic, which was signed in New York on May 9, 1950, the Immoral Traffic Prevention Act was passed. The Suppression of Immoral Trade in Women and Girls Act, 1956, was enacted by the Indian Parliament in the seventh year of the Indian Republic (SITA). The 1956 Immoral Traffic (Prevention) Act is another name for this legislation. The Immoral Traffic (Prevention) Act of 1956 marked the beginning of the criminalization of sexual exploitation of both sexes. The entire nation of India is covered by the ITPA Act. The Immoral Traffic (Prevention) Act, which was revised in 1986 to make it more gender-neutral, replaced the Suppression of Immoral Traffic in Women and Girls Act (SITA). The Immoral Traffic (Prevention) Act was updated and renamed in 1986 as the Suppression of Immoral Traffic in Women and Girls Act (SITA). In addition, Article 23 of the 2014 modified Constitution contains the following clauses: human trafficking, employing beggars, and other similar types of forced labour are all forbidden, and any breach of this clause is subject to legal sanctions.

Review of the literature

1. Mody, S and Singh, A. (2019) ^[5] This study was done to comprehend the idea of commercial sex trade, the causes of the sharp increase in domestic and cross-border trafficking, and to analyse Indian laws such as Articles 23 and 24 of the Indian Constitution. In order to better understand the fundamental cause and come up with efficient and useful solutions, the paper will also feature a comparative examination of the legislation existent in nations rife with human trafficking as well as those that have effectively combated it. Both primary and secondary sources of information were used in this essay. This study suggested that in order to curb cross-border trafficking, there should be a specific task force in each of the three states of Nepal, Bangladesh, and India. Globalization must also be subject to some reasonable limitations and because commercial sex trade sometimes takes the guise of marriage in society, trafficking should not just refer to prostitution or commercial sex trade but also to forced marriages.

Objectives of the Study

1. To understand the causes and constitutional provisions for immoral trafficking
2. To examine the importance of the Immoral Traffic

(Prevention) Act, for the prevention of trafficking and commercial sexual exploitation

Methodology

This research article employs an explorative research methodology to comprehensively investigate the significance of the Immoral Traffic (Prevention) Act in combating trafficking and commercial sexual exploitation. The study relies on a rich collection of secondary sources, primarily drawing data and information from diverse reports and articles published by reputable national and international journals, all centred around the pertinent subjects of trafficking and commercial sexual exploitation.

Definition of Trafficking according to ITPA

"The definition of "trafficking" is defined in various sections of the ITPA. Section 5 of the immoral traffic prevention act discusses obtaining, taking, and even inducing a person for the purpose of prostitution"

Major Causes of Trafficking

Trafficking in women and girl children can be attributed to a combination of factors, including poor socio-economic conditions, poverty, and limited access to education, skills, and income opportunities. Additionally, a lack of awareness and the low social status assigned to girl children contribute to the vulnerability of this demographic to trafficking. Demand for young girls is driven by lucrative employment propositions, easy money, the promise of better pay, marriage demands, low-paid and underage labour, adoption, and sexual exploitation due to the misconception that sex with young girls reduces men's chances of contracting HIV/AIDS. The rampant practice of female feticide in the northern states of Haryana and Punjab has fuelled internal trafficking. Traffickers procure girls from faraway states, trick their families into believing they are to be married, and force them into prostitution. India is experiencing rapid changes in economic, political, demographic, and labour trends, leading to the migration of young girls and women from Bangladesh and Nepal into Indian brothels. One of the major problems faced by poor families in India is their limited ability to communicate outside their place of residence. Many of them are illiterate and depend on others to send letters or make phone calls. Additionally, the law enforcement authorities do not adequately support the victims, and the police often harass them more than those who have committed the crime. These limitations make socially and economically deprived sections of society vulnerable to trafficking, and globalization has led to the growth of sex-related trades such as sex tourism. Overall, this issue requires urgent attention from policymakers and society as a whole to address the root causes and effectively combat trafficking in women and girls.

Prevention provisions for trafficking in constitution of India

The Indian Constitution incorporates several significant prevention provisions to combat trafficking. Article 23 prohibits "trading in human persons and other comparable forms of forced labour," aiming to eradicate exploitative practices. Furthermore, Article 24 safeguards children under the age of fourteen from engaging in hazardous work in factories, mines, or any other dangerous profession. While the Constitution does not explicitly define trafficking, it can be inferred that it involves coercive transportation and

exploitation for financial gain. The Directive Principles of State Policy outlined in the Constitution are instrumental in this regard. Article 39(e) emphasizes that citizens should not be compelled by economic necessity to pursue age-inappropriate vocations, safeguarding the well-being of both adult workers and vulnerable children. Moreover, Article 39(f) imposes a responsibility on the state to prioritize policies that ensure children have access to resources and opportunities for healthy development, freedom, and dignity, shielding them from exploitation, moral neglect, and material abandonment. These provisions collectively constitute the constitutional framework for addressing trafficking and protecting the rights and well-being of vulnerable individuals, especially women and children, in India.

Importance of the Immoral Traffic (Prevention) Act

An important piece of legislation in India aimed at combating trafficking and commercial sexual exploitation is the Immoral Traffic (Prevention) Act (ITPA). The Act's significance is underscored by the following crucial elements:

1. **Comprehensive Legal Framework:** The ITPA provides a thorough legal framework to address various forms of trafficking and commercial sexual exploitation. It clearly defines penalties related to prostitution, running brothels, and engaging minors in sex acts, facilitating easier prosecution for law enforcement authorities.
2. **Criminalization of Trafficking:** The Act makes trafficking in persons for sexual exploitation an illegal offense, enabling the prosecution of those involved in recruiting, transporting, or sheltering victims. The enforcement of strict punishments, such as imprisonment and fines, acts as a deterrent to potential offenders.
3. **Victim Protection:** Prioritizing the rights and dignity of victims, the ITPA acknowledges that many involved in commercial sexual exploitation are coerced or vulnerable. The Act mandates the establishment of protective homes and rehabilitation centers to assist and support victims in their recovery and social reintegration.
4. **Suppression of Immoral Trafficking:** The ITPA aims to eradicate social ills arising from commercial sexual exploitation and immoral trafficking. By addressing the demand side, the Act seeks to reduce the overall prevalence of trafficking and commercial sexual services.
5. **Prevention and Rehabilitation:** The Act recognizes the importance of victim rehabilitation and prevention efforts. It empowers the government to conduct educational and awareness campaigns to discourage potential victims from falling prey to trafficking networks. Additionally, the Act supports the provision of vocational training and livelihood assistance to aid survivors in rebuilding their lives.
6. **Greater Police Authority:** The ITPA grants law enforcement authorities increased powers to take action against traffickers and individuals involved in the sex trade. This includes the authority to conduct raids, make arrests, and effectively prosecute offenders.
7. **International Collaboration:** The ITPA enables India to collaborate with other nations in the fight against cross-border trafficking. By allowing for the extradition of criminals involved in transnational trafficking, the Act promotes international cooperation to address the global

dimension of the issue.

Services for the Prevention of Trafficking and Commercial Sexual Exploitation

1. **State-established Shelters:** Government shelters collaborate closely with non-governmental organizations and Child Welfare Committees to improve the quality of care provided in these facilities. However, much more work needs to be done.
2. **Medical Care for Trafficking Victims:** Although they are rarely perceived or acknowledged as a distinct group of children in need, medical treatments are generally provided for all children requiring particular care and attention, including child trafficking victims. Psychological
3. **Counselling Services:** Despite some state-level advancements in shelter care, victims in these facilities may not receive comprehensive protection services, such as psychological support from qualified counsellors. These services are hardly ever offered and are completely insufficient in comparison to the needs. Most of the services provided are provided by non-governmental organizations.
4. **Ministry of Women and Child Development Protocol:** The Ministry of Women and Child Development has developed a protocol for pre-rescue, rescue, and post-rescue operations for victims of trafficking for commercial sexual exploitation. According to this protocol, every identified child victim of trafficking should be placed in a specific shelter or home that can provide adequate support. The Ministry of Women and Child Development in India operates numerous shelters and homes for trafficking victims across the country.
5. **Rehabilitation:** The term "rehabilitation of rescued victims" refers to efforts to reintegrate girls and women who have been freed from commercial sexual exploitation into society. This involves both social and economic rehabilitation, which includes various measures such as career training, education, marriage counselling, and other supportive initiatives.

Conclusion

The Immoral Traffic Act aims to combat the destructive and illegal aspects of immoral trafficking, but concerns arise regarding its approach, which may be regressive rather than progressive. It seems that individuals engaged in the flesh trade, sometimes referred to as "fallen angels," are not treated kindly but rather as victims of a broader oppressive system. Consequently, instead of providing the necessary care and assistance these vulnerable people require, the current system appears to be treating them cruelly. The focus should be on identifying the compulsion, exploitation, and vulnerabilities that led them into the sex trade rather than merely punishing them as criminals. Breaking the cycle of exploitation and providing these individuals with an opportunity for a better life necessitates adequate support and rehabilitation methods. While showing sympathy and assistance to the victims is crucial, the law enforcement community must also take the most severe feasible action against the pimps, brothel owners, and unethical traffickers who benefit from the victimization of these individuals. Holding these offenders responsible and administering harsh punishment to them will serve as a deterrent and aid in breaking the cycle of exploitation and

trafficking. In conclusion, the Immoral Traffic Act must find a balance between showing sympathy for the victims and taking stern measures against the true offenders. By acknowledging the vulnerability of individuals involved in the flesh trade and providing them with support, we can liberate them from the bonds of exploitation and pave the road for a more equitable and compassionate society.

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