Human Trafficking in India:
A Critical Analysis of Legal framework in perspective of Prevention, Protection, Prosecution and Resocialization

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BY

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UNDER THE SUPERVISION OF

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DECLARATION BY CANDIDATE

I, Shikha Purohit, research scholar in Law, declare that I have prepared the revised synopsis on the topic titled “Human Trafficking in India: A Critical Analysis of Legal Framework in Perspective of Prevention, Protection, Prosecution And Resocialization” in the supervision and guidance of Dr. Reeta Nigam, Associate Professor, faculty of Law, Agra College, Agra (Dr. B. R. Ambedkar University, Agra, U.P.). I declare that it is my own bonafide work and the matter embodied in it has not been submitted previously for the award of any degree or diploma to any other university or institute.

I declare that I have faithfully acknowledged, given credit and referred to the researchers wherever their works have been cited in the text and the body of the synopsis.

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This is to certify that Ms. Shikha Purohit is a research scholar in Law, registration No. 03/2017 5797, session 2014 – 2015 at Faculty of Law, Agra College, Agra (Dr. B. R. Ambedkar University, Agra, U.P). She has prepared the revised synopsis on the topic titled “Human Trafficking in India: A Critical Analysis of Legal Framework in Perspective of Prevention, Protection, Prosecution and Resocialization” as per suggestion laid by Research Degree Committee, under my supervision and guidance. This synopsis has embodied the original work of the candidate and has not been submitted anywhere else for the award of any other Degree or Diploma in this or any other University or Institute.

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INTRODUCTION

The concept of trafficking denotes a trade in something that should not be traded in. The concept of trafficking in people refers to the criminal practice of exploitation of human beings where they are treated as commodities for profit. The United Nations Protocol to Prevent, Suppress and Punish trafficking in Persons, especially Women and Children, Supplemental to the United Nations Convention against Transnational Organized Crime, 2000, to which India is a signatory, defines trafficking as:

“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 deception, of fraud, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, a minimum, the exploitation of prostitution or other forms of sexual exploitation, forced labor or service, slavery or practices similar to slavery, servitude or the removal of organs.”

Trafficking in persons is an obscene affront to the human dignity and their rights. It is the gross commercialization of innocent human lives, who are indulged in it by organized criminals. Trafficking in persons violates all the known canons of human rights and dignity. In this world of tragic and complex human abuse women and children form a particularly vulnerable class. In the existing social scenario of India, vulnerability is a product of inequality, low status and discrimination as well as the patriarchal and captivating authority unleashed on children especially the girl child. All of this is further compounded by an apathetic attitude of society which is fueled by a mindset where women are viewed as merely chattels. They have no freedom of choice and options for a life with dignity. These women and children are trafficked, exploited and forced to lead a life which is nothing but the embodiment of indignity, social stigma, debt bondage ailments like human immune virus or acquired immune deficiency syndrome.

While on the one hand the situation is quite disturbing, on the other hand the response by the agencies concerned is equally disturbing for wanting of sensitivity, responsiveness and commitment. The void in the given response scenario is so wide that the trafficked victim gets further victimized, violated and often more than not re-trafficked. Moreover, very often, trafficking is equated with prostitution that is one of the prime reasons why the human rights violation inherent in trafficking is not correctly understood and the traffickers who are the actual criminals get away scot free. India serves as a source, transit and destination where thousands of women and children are exploited day in and day out.

According to A. S. Anand, former Chairperson of National Human Rights Commission human trafficking is referred to as modern day slavery which is one of the greatest human rights challenges of our time.
Trading in human beings and their exploitation in varied forms by traffickers is one of the most despicable forms of violation of human rights. Trafficking in its widest sense includes not just exploitation of prostitution or other forms of sexual exploitation, it also includes forced labor or services, slavery or practices similar to slavery or trade in human beings for removal of organs. Trafficking clearly violates the fundamental right to a life with dignity. It also violates right to health and health care, right to liberty and security of person, right to freedom from torture, violence, cruelty or degrading treatment. It violates the right of self determination.

There is, in addition, a lack of adequate laws which should recognize that the trafficked person is a victim and not a criminal. Laws do not adequately target traffickers, pimps, procurers, brothel keepers and the like. They do not provide adequate punishment also. The laws do not address clients. The infrastructure for rescue, rehabilitation and resocialization is grossly inadequate. Both the law and the administrative agencies have not addressed these issues.

Trafficking is the most abominable violation of human rights as the human rights guaranteed by the Indian Constitution are inalienable, non-negotiable and universal.

Since law enforcement has a critical role to play in combating trafficking, the number of the law enforcement officials who fully comprehend the human dimension and practise a right approach to the problem are few and far between. The fact that notwithstanding this stark reality, such gross violations have continued to be a low priority area with law enforcement agencies, made it imperative that this area be investigated.

Human trafficking is the third largest crime after drugs and arms trade across the globe. Millions of men, women and children around the world are bought and sold as commodities into prostitution, forced labor and domestic servitude. Close to 80% of the human trafficking is done for sexual exploitation and the rest is for bonded labor and India is considered as the hub of this crime in Asia. The government statistics reveal that in every eight minutes a child goes missing in our country. This is the reason why trafficking in persons is referred to as modern day slavery which is far more widespread than many people suspect in our country.

Kids especially girls and young women especially from north–east are taken from their homes and sold in faraway states of India for sexual exploitation and to work as bonded labor by the agents who lure their parents with education, better life and money for their kids. Agents do not send these kids to school but sell them to work in brick kilns, carpentry units, as domestic servants, beggars, etc. In certain regions these girls are forced to marry also where female to male sex ratio is highly disturbed. Children from tribal areas are at greater risk of human trafficking.

The torture and exploitation suffered by the victims at the hands of traffickers give rise to the need of formulation of strategies and programmes for their protection so that they can be restored to the position in which they were before being severely traumatized during the course of trafficking. Rehabilitation, reintegration and resocialization are the terms used commonly in this respect. Rehabilitation is perceived as the return or recovery of physical, mental and social abilities after trauma or illness, use of medical and social measures to help victims to regain health and reduced/lost capabilities. Reintegration is person’s penetration into the social group,
society in terms of common values, norms, faith, etc. this notion emphasizes more on the public sphere in which the favorable attitude of the society and destigmatisation are of particular importance. On the other hand Resocialization is a more comprehensive concept as it deals with the relationship between the person and society. The basis of the resocialization of victims is the theory of empowerment. It is a process by which one’s sense of social values, beliefs and norms is re-engineered. It focuses on preparing the victim to get involved in society.

The national provisions related to trafficking are primarily from the Indian Penal Code, 1860, Constitution of India and the Immoral Traffic Prevention Act, 1956. Indian Penal Code, 1860 contains more than 20 provisions dealing with trafficking issues and imposes criminal penalties for offenders. The Indian Constitution forbids trafficking in persons and reflects in various laws, legislation and policies of the Government of India. The Immoral Traffic Prevention Act, 1956 acts as the main legislation for preventing and combating trafficking in India. Besides, provision such as the bonded labor abolition act, 1976, I.P.C., Immoral Traffic prevention Act, 1956, the scheduled tribes and the scheduled castes (prevention of atrocities) act, 1989, the juvenile justice Act, 2000, transplantation of human organs act, 1954, immigration (carrier’s liability) act, 2000 and prohibition of child marriage act, 2006 also handle the relevant matters in human trafficking. Recently, the Central Government has come up with a new bill Trafficking in Persons (Prevention, Protection and Rehabilitation) Bill, 2016.
Hon’ble Supreme Court and high Court have given significant directions to the governments regarding protection and rehabilitation of human trafficking survivors in several judgements which constitute an ample part of the literature available on the topic. Beside this, the topic has also attracted the attention of some intellectuals also.

In *Vishal Jeet vs. Union of India and other*\(^i\) there was a PIL against forced prostitution of girls, devadasis and jogins, and for their rehabilitation. The Supreme Court held that in spite of stringent and rehabilitative provisions under the various acts, results were not as desired and, therefore, called for evaluation of the measures by the central and state governments to ensure their implementation. The court called for severe and speedy legal action against exploiters such as pimps, brokers and brothel owners. Several directives were issued by the court, which, inter alia, included setting up of a separate Zonal Advisory Committee, providing rehabilitative homes, etc.

In *Gaurav Jain vs. Union of India*\(^ii\), the Supreme Court passed an order dated 9 July 1997, directing, inter alia, the constitution of a committee to make an in-depth study of the problem of prostitution, child prostitutes and children of prostitutes, and to evolve suitable schemes for their rescue and rehabilitation. Taking note of the fact that “children of prostitutes should not be permitted to live in the inferno and the undesirable surroundings of prostitute homes”, the apex court issued directions to ensure the protection of human rights of such persons.

In *Public at Large vs. State of Maharashtra and Others*\(^iii\), judicial intervention brought about rescue, repatriation and rehabilitation of 487 minor girls. The High Court order led to the prompt care of and attention to the rescued persons, setting up of an Advisory Committee and networking of various departments of the government, and the repatriation of persons trafficked from various states in India as well as neighboring countries. In Public at Large vs. State of Maharashtra and Others [writ petition No. 112 of 1996], the High Court of Mumbai gave several directions to the government agencies to ensure the interests of the rescued girls. The court directed that all rescued girls should be subjected to medical examination for assessing their age and to check whether they were suffering from any disease. The methodology of counseling and aftercare was also dealt with in detail.

In *Prerana vs. State of Maharashtra and Others*\(^iv\) the Mumbai High Court looked into the issue of violation of rights of trafficked children by various authorities who are supposed to implement the law. The court took serious objection to the judicial authority treating the trafficked minor girls as ‘confirmed prostitutes’. The High Court issued several directions for the proper
implementation of the JJ Act and ITPA, keeping in view the human rights of the trafficked persons. The court order addressed several issues concerning child rights, viz. the role of advocates and NGOs in the JJ Act, child friendly procedures in dealing with rescued persons, etc., and has brought out clear guidelines for compliance by all concerned.

_Hori Lal Vs. Commissioner of Police, Delhi & Ors Respondents._ The Court in its order dated 14/11/2002 laid out the following guidelines for effective search of the Kidnapped minor girls, which are to be followed by the Investigation Officer in all the States:

1. Publish photographs of the missing persons in the Newspaper, telecast them on Television promptly, and in case not later than one week of the receipt of the complaint. Photographs of a missing person shall be given wide publicity at all the prominent outlets of the city/town/village concerned that is e.g. railway Stations, Interstate bus stands, airport, regional passport office and through law enforcement personnel at border checkpoints. But in case of a minor/major girl such photographs shall not be published without the written consent of the parents/guardians.

2. Make inquiries in the neighbourhood, the place of work/study of the missing girl from friends colleagues, acquaintance, relatives etc. immediately. Equally all the clues from the papers and belongings of the missing person should be promptly investigated.

3. To contact the Principal, class teacher and students at the missing person’s most recent school/educational institutions. If the missing girl or woman is employed somewhere, then to contact the most recent employer and her colleagues at the place of employment.

4. Conduct an inquiry into the whereabouts from the extended family of relatives, neighbours, school teachers including school friends of the missing girl or woman.

5. Make necessary inquiries whether there have been past incidents or reports of violence in the family.

Thereafter the investigation officer/agency shall:-

(i) Diligently follow up to ensure that the records requested from the parents are obtained and examine them for clues.

(ii) Hospitals and mortuaries to be searched immediately after receiving the complaint.

(iii) The reward for furnishing clues about missing person should be announced within a month of her disappearance.

(iv) Equally hue and cry notices shall be given within a month.

(v) The Investigation should be made through women police officers as far as possible.

(vi) The concerned police commissioner or the DIG/IG of the State Police would find out the feasibility of establishing a multitask force for locating girl children women. Further, in the Metropolitan cities such as Delhi, Mumbai, Kolkata and Chennai the Investigating Officer should immediately verify the red light areas and try to find out the minor girls. If
any minor girl (may or may not be recently brought there ) is found, her permission be taken and she may be taken to the children’s home (Sec 34 of the Juvenile Justice (Care and Protection of the Children) Act 2000, and the I.O. to take appropriate steps that all medical /other facilities are provided to her.

(Tzvetkova, vol. 10, issue 1, 2002)vi provides an overview of NGO activities against trafficking in women for sexual exploitation. It is based on an exploratory study taken by the Change Anti – Trafficking Program (ATP) in 2001. This article explores why NGOs are well – placed to work with women victims of trafficking and their responses to the growing phenomenon in countries of origin and destination. It presents a regional overview of NGO initiatives and concluded by discussing some of the main obstacles faced by NGOs in combating trafficking for sexual exploitation and women’s and children’s vulnerability to slavery like practices.

A Report on Trafficking in Women and Children in India, 2002 – 2003vii is an action research ON Trafficking in Women and Children commissioned by National Human Rights Commission in association with UNIFEM and ISS which aimed to understand and study the trends and patterns of trafficking, the demand and vulnerability factors and look into the response by various concerned agencies. The study confirmed that among the trafficked persons, majority are girl children. The study tries to demystify the world of trafficking. The study emphasizes the need for a radical change in the law enforcement practice and methods. The research study has a human rights perspective and tries to diagnose the various aspects of trafficking with the same. The study advocates vital amendments in Immoral Traffic Prevention Act, 1956. It brings to light the fact that there is an absence of victim protection programs, that the court proceedings are lengthy and that there is a heavy backlog of pending cases. All these factors hamper the proper implementation of law and the victim gets further victimized.

(Ralf Emmers, vol. 28, issue 3 dec.2006)viii observed that in recent years there has been a marked increase in the human trafficking across the borders of Asia Pacific states. In addressing this problem regional states have found that unilateral actions are insufficient to stem the flow of trafficked persons. In response to this shortfall in capacity a number of arrangements have been initiated by the regional institutions. This article aims at the analysis of the efficacy of these institutional arrangements and the patterns of human trafficking within the region and the assessment of the current anti – trafficking programs and policies developed by regional institutions in East Asia and South Pacific. The article then reviews the trans regional efforts being undertaken through the ASEAN regional forum including Asia Europe meeting and Bali process. While concluding the article suggests though the regional institutions remain captured by state interests yet they are an important vehicle in combating human trafficking in Asia Pacific.

(anne gallagher, 2008)ix discuss the enormity of the problem and state that trafficking in persons now affects all regions and most countries of the world. Over the past decade, there has been an
increasing acceptance of the need for an effective, internationally coordinated response. However, the practical difficulties in realizing this goal are considerable. No country can yet claim to genuine, extensive experience in dealing with trafficking as a criminal phenomenon. The authors draw on emerging international rules as well as their experience of working with states and inter governmental organizations on this issue to propose elements of an effective national criminal justice response to human trafficking.

(Miller, 2008)\(^x\) observes that today’s slaves are not dragged off in chains, but they are just as effectively deprived of their freedom by force or threats, they are bought, sold and leased. Slaves may receive some pay for their work but their wages amount to no more than the subsistence provided to people in bondage in the past. The author emphasizes upon the need of solid national laws and their vigorous enforcement and according to the author obtaining both requires moral suasions from abroad and, most of all, constant effort by non – governmental organizations in each country. The author gives following suggestions:-

(a) Preventive education is vital, especially in alerting potential victims to the risks they face in travelling abroad in pursuit of opportunity.
(b) Efforts on the demand side can also be effective.
(c) The final imperative is to rescue and protect victims. Most countries summarily deport rescued slaves but the burden of shame often prevents them from returning to their home villages.

Bachpan Bachao Andolan vs. UOI and Others,\(^xi\) by its order dated 24\(^{th}\) Dec., 2010 the Supreme Court ordered the regulation and registration of placement agencies working with domestic labourers to prevent trafficking of domestic labourers. The impact of this decision was that the govt. of Delhi formulated the Delhi Private Placement Agencies Regulation Bill, 2012 and ordered the recovery of the back wages of domestic labourers over period of employment.

(Ghosh, 2009)\(^xii\) has attempted to analyze the nature, causes, modes and volume of trafficking in a country that has recently become a soft target in the South Asian region for trafficking in persons. According to author, India has failed to comply with certain international standards to combat the crime. The paper highlights the need to develop a multi – dimensional approach and focuses attention on structural factors of trafficking for recommending meaningful stratagems to counter the social evil.

(Aronowitz, 2009)\(^xiii\) tries to define human trafficking and depicts the seriousness of the problem. He has described the contrasting perspectives of human trafficking, methods of operation and organization structure of trafficking, regional trafficking patterns and its hidden forms.
provides comprehensive and convincing explanation of the causes and consequences of human trafficking and explains how the phenomenon has developed in very different ways across the world’s main regions. The author concludes that the human trafficking will continue to grow in 21st century.

In Bachpan Bachao Andolan vs. Union of India and Others\textsuperscript{xv}, issued on 18\textsuperscript{th} April, 2011, the Supreme Court recognized human trafficking as an organized crime and defined human trafficking as per the optional protocol to United Nations Convention on Transnational Organized Crime. The Apex Court banned the employment of children in circuses and directed the establishment of Anti Human - Trafficking Units in all districts. The court also issued guidelines on implementation of the institutional framework for the protection of children. As a result of this decision India ratified the “Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children” on 5\textsuperscript{th} May, 2011.

In May 2013, in its judgement in the case of Bachpan Bachao Andolan vs. Union Of India and Others\textsuperscript{xvi} the Supreme Court issued following directions:-

(1) The doctrine of presumption shall apply to all cases of a missing child.
(2) The FIRs shall be lodged in all the cases of missing child.
(3) The investigation shall be initiated on the presumption that the offence has been committed.
(4) Special juvenile police units should be formed in all districts.
(5) SOP on missing children to be formulated along with the petitioner Bachpan Bachao andolan.
(6) National Legal Service Authority should appoint paralegal volunteers to all police stations to assist in cases concerning children.

This judgement led to the formation of a centralized database called “Track Child” to track missing children in all states. This system is running in all the states of the country.

(Budiani Saberi, 2014)\textsuperscript{xvii} say that human trafficking for organ removal continues in private transplant centre throughout India. Service to foreign patients is ongoing and victims’ consequences are long – lasting. A right – based response to human trafficking that invokes a universal commitment to prevent, protect and suppress its continued practice is recommended. According to authors India should ratify the United Nations trafficking protocol to better address this form of human trafficking.

(Sarkar, 2014)\textsuperscript{xviii} opines that the extent and scale of trafficking in people remain little explored in Indian context though trafficking in human beings, especially women and children, has become a matter of serious concern in India. It poses enormous challenge to governance and law enforcement and at times, these challenges seem to be overwhelming. In the author’s opinion India still lacks legal instruments and serious anti – trafficking activities.
(R.H. Waghamode, Jan,2014)\textsuperscript{xix} aims to understand the problem and perspective of human trafficking and attempts to analyze its impact on society, preventive measures, legal aspects for human trafficking in India, role of judiciary and also awareness. In conclusion it suggests spread of awareness and empowerment of women for combating human trafficking.

In \textit{Freedom Firm vs. Commissioner of Police, Pune & Others}\textsuperscript{xx} the Bombay High Court has laid down stringent rules for granting bail in the cases of human trafficking. According to the division bench of the court the judge or magistrate should keep in view the following points before granting bail to accused in the human trafficking cases :-

1. It is the fundamental right of the victim of not being trafficked.
2. The antecedents of the accused must be considered before granting bail.
3. The possibility of use of threats, intimidation and coercive tactics over the victims by the accused after his release on bail to tamper with evidence.
4. In cases of extreme and violent offences bail should be denied.
5. Save exceptional and compelling circumstances bail should be denied where victim is a minor.
6. Repeat offenders should not be granted bail.
7. Magistrates should adopt a bail checklist pro – forma before deciding bail applications.
8. Women accused should not be let off.
9. Anticipatory bail to be denied in ITPA cases.
10. State should create a database of the offenders.
11. Amount of surety must be set high.
12. To curb the menace of professional sureties, the registrar of district courts shall prepare a computerized register of all sureties in ITPA cases.

The review of the above literature proves that Trafficking in Persons has become a matter of global concern today. The course of trafficking involves the infringement of several laws, national and international. As the offence of Trafficking in Persons is interrelated with many crimes e.g. bonded labour or domestic servitude, illegal transplantation of human organs, forced prostitution, forced beggary, sexual offences, illegal migration, forced marriage, abduction, kidnapping, offences related to information technology, and so on, it is controlled by numerous laws prevailing in India and international and regional conventions and treaties which apply to India by reason its being a signatory to them. Some major statutes are – Indian Penal Code, 1860, The Immoral Traffic Prevention Act, 1956, The Bonded Labour (Abolition) Act, 1976, The Child Labour (Prohibition and Regulation) Act, 1986, The Scheduled Castes And Scheduled Tribes (Prevention of Atrocities) Act, 1989, Transplantation of Human Organs Act, 1994, Immigration (The Carrier’s Liability) Act, 2000, The Prohibition of Child Marriage Act, 2006, The Juvenile Justice (Care and Protection) Act, 2015, Information Technology Act, 2000, The
Protection of Children from Sexual Offences Act, 2012, the Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill, 2016. But NHRC and scholars who have studied this topic have restricted themselves to the analysis of the provisions of Immoral Traffic Prevention Act, 1956 and mere enumeration of the provisions of other laws though they play a pivotal role in curbing the menace of this heinous crime. The research to be undertaken by me will be a genuine contribution to the existing literature by the critical study of the provisions of other laws as well along with the various schemes, programs and policies made for the prevention of trafficking and protection and rehabilitation of victims. I also propose to examine the Trafficking of persons (Prevention, Protection and Rehabilitation) Bill, 2016 to check whether the proposed law suffices the need of a comprehensive law for human trafficking.
STATEMENT OF PROBLEM

Trafficking is a complex, multidimensional phenomenon with a variety of often interrelated aspects covering large geographical spaces. It is not possible to address all the areas simultaneously. The existing literature on trafficking does not discuss the complexities of the issue. For instance, if people are trafficked for various purposes and separate laws already exist to address these different forms of exploitation, then does combating trafficking require a special law that will cover all the dimensions of the problem? Another important question which rises is whether the proposed Trafficking of persons (Prevention, Protection and Rehabilitation) Bill, 2016 is strong enough to combat this devil of trafficking and does it cover all the dimensions of this problem?

Information on the Government and NGO’s responses to trafficking and the measures taken including preventive steps to combat it is scanty. The judgements of various courts have not been looked at. Nor have the counter trafficking initiatives been critically analyzed in terms of their impact – whether and to what extent do the programs address the felt needs of the potential victims.

*Given this, I decided to choose the “Human Trafficking in India: A Critical Analysis of Legal Framework in Perspective of Prevention, Protection, Prosecution and Resocialization” as my research problem.*

I propose to focus my research on the study of the existing and proposed anti – trafficking legal framework to find out till what extent the laws have been successful in the prevention of trafficking, successful prosecution of offenders and last but not the least the protection and rehabilitation or in better words the resocialization of the victims. By investigating this problem I will also try to find out whether the Anti – Trafficking (Prevention, Protection and rehabilitation) Draft Bill, 2016 will be able to fulfill its purpose of combating and preventing trafficking and protecting and rehabilitating the victims when enforced as a binding law.
OBJECTIVES OF THE STUDY

In the view of the above introduction, the researcher during her research work, through the extensive study, desires to achieve the following objectives:-

(1) To critically analyze and examine the existing and proposed legal framework including constitutional provisions, national laws, scheme, programs, initiatives, etc., international and regional conventions and protocols with a view to search for the lacunae that could contribute to the reformulation of the law.

(2) To make a comparative study of the provisions of various laws dealing with human trafficking.

(3) To identify the lacunae in the law enforcement process and role of the police and other enforcement agencies.

(4) To understand the legal perspectives of human trafficking which is the gravest affront to human dignity.

(5) To ascertain the causes of weak law enforcement.

(6) To make recommendations which may lead to the enactment of a comprehensive legislation to target traffickers and provide for proper rescue and resocialization programs for the victim survivors.
IMPACT AND UTILITY OF THE STUDY

Although India has a number of laws and provisions prohibiting activities associated with trafficking, trafficking continues to fester year and be seemingly unabated. According to a story published in *Hindustan Times on 31st May, 2016* xxix India has the largest population of modern slaves in the world with more than 18 million people trapped as bonded laborers, forced beggars, sex workers and child soldiers. The Global Slavery Index by human rights organization Walk Free Foundation says that the number is 1.4% of India’s population, the fourth highest among 167 countries with largest proportion of slaves. An estimated 45.8 million people are living in modern slavery globally and 58% of them are concentrated in India, China, Pak, Bangladesh and Uzbekistan.

India is included amongst the Tier 2 countries, as per the US Government’s 2014 Trafficking in Person Report xxii. The problem is real and widespread. The report clearly refers to the existing situation of human exploitation and trafficking that involves men, women and children in India. Over 90% of the trafficking is done within the borders and 10% is from overseas. The problem is spread over various forms of exploitation. Trafficking of women and young girls from Nepal and Bangladesh into India for sexual exploitation is the most common. These girls from poor families and often in the age group of 9 – 14 years are brought into India and sold to brothel owners in Kolkata, Mumbai and Delhi, amongst several other cities. Not all are kidnapped or forced out of their homes in their native lands. Many are sold by their parents or close relatives to get away from abject poverty. A lot of young boys are trafficked into India for work as bonded labor in industries like coal, brick kilns, handloom and embroidery, rice mills and agriculture. They are made to work up to 16 hours a day in return for subsistence food and very little or no money. These children are often sexually exploited by their owners and beaten or tortured in cases of noncompliance. The trafficking network is well established with deep involvement of government officials, police at the borders and within the states and in some cases politicians, all of whom profit from this activity that has now taken the shape of an industry. India is also a transit point for young boys who are sent to Dubai and other Middle East countries for camel racing. Very often these young boys are sexually exploited and kept as bonded laborers. Another area where children are frequently sent to is Saudi Arabia, where begging is an organized billion dollar industry, especially during Haj. In India, begging syndicates often maim children and put them on to streets to get maximum collection from them.

The Trafficking in Persons Report clearly mandates that all governments have to focus on:

(1) Prevention,

(2) protection, and
(3) prosecution.

The governments need to redefine laws to make them more stringent and ensure severe punishment delivered quickly. The Government must ensure that the necessary and effective infrastructure is in place to identify, arrest, prosecute all involved in the trafficking chain. Unless the entire chain feels the heat of the prosecuting agencies with active support from NGOs and Civil Society, our children will continue to be threatened by this social evil.

According to the National Human Rights Commission of India, over 40,000 children are reported missing every year of which over 11,000 remain untraced. It is in this backdrop that despite growing awareness and media sensitization, registered human trafficking cases have spiraled up by 38.3% over 5 years from 2848 in 2009 to 3940 in 2013 and this number doubled to 8099 in 2014 as per National Crime Records Bureau. Worse, the conviction rate for such cases has plummeted 45% from 1279 in 2003 to 702 in 2013.

Equally disconcerting are thousands of children which go missing from some of India’s hinterlands. Between 2011 and 2013, over 10500 children were registered as missing from Chhattisgarh, one of India’s poorest tribal states. They were trafficked into domestic work and other forms of child labor in cities. Overall, an estimated 135000 children are believed to be trafficked in India every year.

These facts and figures are sufficient to show the enormity of the seriousness of the problem. This scenario makes the critical probe into the problem indispensible. The problem of trafficking in persons is interrelated with my aspects of the human life from its psychological effects of trafficking on the victims, health issues and ailments like HIV or AIDS to victims and the laws for combating and preventing trafficking and for protecting and rehabilitating victims. As I previously mentioned that it is not possible to look into all the aspects related to trafficking in persons simultaneously, I have decided to focus my attention on the legal aspects of this heinous crime which is a grave encroachment of the basic human rights. Recently, the Government of India has presented the Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill, 2016 to prevent trafficking of persons and to provide protection and re-socialization to victims and to create a social, legal and economic environment against trafficking of persons. It gives recent importance to my research work. My research work will help find out the lacunae in the present legislation, various schemes and programs, law enforcement, etc. so that the law can be reformulated to address the problem of human trafficking effectively.
**METHODOLOGY**

The research work undertaken in the present study is doctrinal research which involves the collection of material from primary and secondary sources like statutes, case laws, conventions, books, articles found in journals and websites. The study adopts analytical, descriptive and evaluative methods.

The approach behind the analysis of the legal framework will include the following things:-

1. The thorough and study of India’s major statutes, case laws, schemes, programs and initiatives relating to human trafficking and their critical analysis.
2. Review the literature available on trafficking in India and use the information obtained from it.
3. Use of official documents from the government’s various departments, namely the Ministry of Women and Child Development.
4. Use of information from National Human Rights Commission and NGOs working in the field.
PROPOSED ORGANISATION OF THE THESIS (CHAPTER SCHEME)

The study will be divided into eight chapters under the following headings:-

(1) Introduction
(2) Concept and nature of human trafficking
(3) Legal measures for prevention of human trafficking and prosecution of offenders and protection and resocialization of victims at international and regional level
(4) Legal measures for prevention of human trafficking and prosecution of offenders and protection and resocialization of victims at national level
(5) Institutional mechanism for and role of judiciary in combating human trafficking
(6) Human trafficking and status of law enforcement
(7) Analysis of the policies, schemes and programs for combating and preventing human trafficking and protection and resocialization of victims
(8) Conclusion and suggestions.
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[ii] (1997, 8 SCC 114)

[iii] [1997, (4) Bom CP 171]

[iv] [writ petition No. 788 of 2002]


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