iJRASET
International Journal For Research in Applied Science and Engineering Technology



INTERNATIONAL JOURNAL FOR RESEARCH

IN APPLIED SCIENCE & ENGINEERING TECHNOLOGY

Volume: 11 **Issue:** III **Month of publication:** March 2023

DOI: https://doi.org/10.22214/ijraset.2023.49811

www.ijraset.com

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International Journal for Research in Applied Science & Engineering Technology (IJRASET)
ISSN: 2321-9653; IC Value: 45.98; SJ Impact Factor: 7.538
Volume 11 Issue III Mar 2023- Available at www.ijraset.com

Trafficking in Women: A Critical Legal Analysis

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Abstract: ***The trafficking of people is expressly prohibited by the Indian Constitution. The Constitution's Fundamental Rights section forbids "trade in human persons and other comparable forms of forced labour" in Article 23. Even though there isn't a clear definition of "trafficking," one could say that Trafficking inherently entails the movement or transportation of a person via coercion or fraud, followed by their exploitation and eventual commercialization. The abusers take advantage of the vulnerable nature of the trafficked individual, including the traffickers, recruiters, transporters, sellers, buyers, and end-users. With globalisation, trafficking has increased dramatically. The problem is made worse by organised actions, increasing profit with little to no risk, and low attention given to law enforcement, among other things. In order to work as domestic helpers or workers, women are also trafficked into commercial markets. Similar to those who are forced into prostitution, Kuwait is thought to be a key hub for the trafficking of women for commercial exploitation. Futhur this paper will also talk about its impact and vulnerability, human rights and its impact on society and will see cases from real life.***

I. INTRODUCTION

One of the main demographics thought to be most susceptible to human trafficking is women. In almost every nation in the globe, slavers abduct, sell, and compel women and girls for sexual or commercial exploitation. Although many authorities and human rights organisations concur that trafficking of women is a significant human rights violation that must be combated, the intricate and pervasive nature of human trafficking operations frequently makes it difficult to prosecute and punish traffickers. To support the prostitution industry is one of the most frequent motives for trafficking in women today. Women from impoverished areas are frequently bought or recruited by traffickers who promise to smuggle them to another nation and hire them as domestic staff. In reality, the women are frequently assaulted and mistreated by their recruiters before being sent to brothels or clandestine prostitution networks, where they are occasionally actually kept behind locked doors. Many people are informed that they must labour in the sex business until their transportation debt is settled, which may theoretically take the entirety of their life. Women in India are eminently vulnerable to violence, including sex abuse, domestic abuse, and human trafficking, as is generally acknowledged. Human trafficking is a product of and a barrier to socioeconomic development in India, which endangers both domestic and global security, particularly in connection to personal protection. Around 200,000 women and adolescents are reportedly trafficked each year for commercial sexual exploitation in South Asia (India, Bangladesh and Nepal). The discourse surrounding trafficking in these nations continues to be dominated by the focus on it as a problem with illegal immigration or prostitution, giving state security precedence over human security and failing to adequately address both its root causes and the insecurity of those who are trafficked. Health professionals maintain that trafficking in women poses serious health hazards to the broader population, particularly in terms of STIs. Condom use is frequently discouraged or forbade among women who are sold into prostitution, making them prime candidates for disease transmission. These women are frequently under strict control, which limits their access to any kind of health care, making them much more susceptible to contract various ailments.

A. Objective

1) To examine the causes and modes of human trafficking of women in India.
2) To analyse the crime rate/ crime related to human trafficking from 2018-2023.
3) To discuss the ways by which human trafficking can be prevented.
4) To look into real life cases and its impact on people.
5) To talk about the laws in India about human trafficking.

B. Research Problem

How does the law fail and criminalises trafficking offences are increasing which includes physical and social exploitation and the leniency of police and exploitation of females into prostitution females as “sex tourism”.

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C. Research Methodology

The methods that we have used in this research paper is by using doctrinal research that is through secondary resources such as the internet, books, and multiple articles and through a non-doctrinal method that is by conducting survey on social media.

D. Literature Review

Jean D 'Chunha (1998) The scope and severity of prostitution and sex trafficking in South Asian nations are critically addressed in this study. He estimated that between 70,000 and 2 million women were involved in prostitution. According to the author, the main methods of supplying women and children for commercial sexual exploitation include prostitution, trafficking, abduction, deception-lure of good jobs, false marriage contracts, befriending, and deception-lure of excellent jobs.

KRISHNA PRASAD(2006) In his examination of India, Bangladesh, Pakistan, and Nepal, the author noted that the human trafficking situation in India is remarkably comparable to that in other South Asian nations. For women, men, and children who are trafficked for the purpose of sexual and labour exploitation, India serves as the country of origin, transit, and destination. male Indian Children are forced to serve as camel jockeys, while women are trafficked into situations of forced slavery in Middle Eastern nations. Children and women from Bangladesh are trafficked to India or through India on their way to Pakistan and the Middle East for the purposes of forced labour, domestic slavery, and sexual exploitation.

MADHUSUDHANA (2006) The author of the study in the state of Andhra Pradesh made reference of the growth of human trafficking in India. According to his opinion, trafficking of women has been dubbed the "evil side of globalisation" and is now a component of international organised crime. The number of children and women trafficked for commercial sex exploitation is difficult to estimate due to the illegal nature of people trafficking. He also thought that during the past ten years, the amount of trafficking on a global scale has significantly expanded. He came to the conclusion that there is a connection between trafficking, poverty, and gender prejudice. He claims that discrimination also includes hazards to the girl child's health and wellness as well as the denial of an education, a lack of employment prospects, an early marriage, and early childbearing. He acknowledges that many tribal traditions forbid women from owning property, the primary source of income in rural communities, making them much more susceptible than men. The threat of psychological abuse and the reality of having HIV/AIDS are both realities that the victims must deal with, he writes in his conclusion. After a few years of victimisation, it's also conceivable that they'll turn become procurers. He claims that existing stigmatisation and prejudice by one's own family and the community when reintegrating into society makes women more susceptible to trafficking.

II. HUMAN TRAFFICKING OF WOMEN IN INDIA:

A recent assessment found that women are freely bought, sold, and trafficked from various regions of India to other nations. These girls and women are sourced from Dindigal, Madurai, Tiruchirapalli, and Chengalpattu in TamilNadu, Gaya, \sKishanganj, Patna, Katihar, Purnea, Araria and Madhubani from Bihar, Murshidabad and 24 \sParganas in West Bengal, Maharajgunj from UP, Dholpur, Alwar, Tonk from Rajasthan, \sMangalore, and Gulbarga and Raichur from Karnataka. These women and girls are sent to nations including Thailand, Kenya, South Africa, and the Middle East's Bahrain, Dubai, and Oman as well as to the United Kingdom, South Korea, and the Philippines. They are severely exploited and mistreated while being forced to work as sex workers. These women are the most susceptible to becoming infected with HIV. There is a rise in the voluntary admission of women into sex work as a result of the continuous poverty and lack of employment prospects. Trafficking, which includes both commercial sexual exploitation and non-sex related exploitation, is a global problem that is complicated by the fact that it is an organised crime, a severe form of human rights violation, a problem of economic empowerment, and a problem of social justice. The rights and dignity of the individual are violated in several ways by the trafficking of women and children, which results in unfathomable suffering. The right to life, dignity, security, privacy, health, education, and the redress of grievances are all violated.

A. Reasons For Human Trafficking In India

1) *Forced Marriage:* In certain places of India where there are less women than men due to female infanticide, girls and women are not only bought and sold as commodities but are also trafficked for prostitution. Afterwards they are made to get married.
2) *Bonded Labour:* Debt labour is a practise that is common in our society even though it is outlawed in India. The Asia-Pacific area employs more than 11.7 million people in forced labour, according to the International Labour Organization. Children are frequently sold as slave labour by people in financial trouble. For this reason, both boys and girls are sold and typically not paid for years. Human trafficking victims have a high risk of developing conditions like mental illnesses, sadness, and anxiety. The risk of contracting HIV and other STDs is higher for women who are coerced into prostitution.

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3) *Action Against Guilty:* The Immoral Trafficking Prevention Act (ITPA) makes it illegal to traffic people for the purpose of exploitation. The sentence might be anything from seven years to life in jail. The Child Labour Act, the Juvenile Justice Act, and the Bonded Labour Abolition Act all forbid forced and bonded work in India. The savage gang rape that occurred in December 2012 prompted the government to approve a bill that modified the laws against sexual assault and sex trafficking. Nonetheless, there is still a significant gap between the passage and application of these laws.
4) *Pilotiong Good Practise:* All parties involved in the criminal justice system, including judges, prosecutors, medical professionals, and police officers, must be made aware of the need for efficient implementation of the current law. In order to assure law enforcement, rescue, prevention, counselling, rehabilitation, reintegration, social empowerment, etc., there should also be partnership with NGOs.

The piloting good practices are:

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

B. Vulnerability of Human Trafficking in Women

A severe violation of human rights, human trafficking is a form of contemporary slavery. Due to gender-based discrimination, poverty, lack of access to opportunities for education and employment, as well as other social and economic factors, women and girls are especially susceptible to trafficking.

The following particular weaknesses raise the likelihood of women being trafficked:

1) *Poverty:* Women who are poor are more likely to be targeted for trafficking because they may be eager for employment and may not have other means of support.
2) *Lack of Education:* Uneducated women might lack the information and abilities necessary to defend themselves against human traffickers or identify when they are being exploited.
3) *Gender Discrimination:* Girls and women are frequently treated as inferiors in many cultures, which leaves them more open to exploitation and trafficking.
4) *Migration:* Due to their vulnerability and limited access to support and protection, women who migrate or are forced to leave their homes because of conflict or for other reasons may be more likely to become victims of human trafficking.
5) *Sexual Exploitation:* Women who have been subjected to sexual abuse or exploitation are more likely to become victims of human trafficking because they may have poor self-esteem and may not be aware of the risks involved in being seduced into it.
6) *Coerced Marriage:* Due to their frequent isolation and lack of autonomy, women who are coerced into marriage may be more susceptible to human trafficking.

It is crucial to address these vulnerabilities by giving women and girls access to education, economic opportunity, and support, as well as by spreading knowledge of the risks associated with human trafficking. Together, governments and law enforcement organizations must find and bring to justice traffickers as well as safeguard and aid victims of trafficking.

C. Impact Of Human Trafficking Of Women India In India

A severe violation of human rights, human trafficking is a form of contemporary slavery. Women are particularly impacted by this crime, and it has devastating effects on them. Some effects of human exploitation on women are listed below:

1) *Physical Harm:* Physical assault, sexual abuse, and exploitation are common for women who are kidnapped. As a consequence of their exploitation, they may experience physical harm, STDs, and other health issues.

2) *Trauma Psychological:* Women who are victims of human trafficking may experience long-lasting psychological impacts. They could experience mental health issues like melancholy, anxiety, PTSD, and other conditions.
3) *Social Exclusion:* Women who are trafficked might be cut off from their communities, families, and acquaintances. They may find it difficult to ask for assistance and support because of their seclusion.
4) *Economic Exploitation:* Women who are trafficked might be made to work in the sex industry, household servitude, or other forms of abusive labour. For their labour, they might receive very little or no compensation.
5) *Loss of Freedom:* Women who are victims of trafficking may be imprisoned against their will and denied access to fundamental human rights. They might not be able to control their own lives or find a way out of their predicament.
6) *Health Issues:* Due to their abuse, women who are trafficked may experience a variety of health issues. These could consist of bodily wounds, STDs, and other medical conditions. In general, human slavery has terrible effects on women. It is a form of exploitation that violates their human rights and must be stopped through a variety of actions, such as protection, legal action, and assistance for survivors.

D. Action Of Human Trafficking Of Women In India

In order to prevent and combat human trafficking, numerous levels of action must be taken. Here are some steps that can be done to combat female human trafficking:

1) *Prevention:* Preventing human exploitation of women is essential. To lessen the vulnerability of women to trafficking, this can involve increasing knowledge of the problem, educating vulnerable populations about the risks of it, and offering economic opportunities.
2) *Law Enforcement:* Cases of human trafficking must be thoroughly investigated and prosecuted. Governments can improve their efforts at law enforcement by allocating more funds, educating officers on how to spot and look into instances of trafficking, and making sure that offenders are brought to justice.
3) *Support for Victims:* It's critical to offer assistance to women who have been exploited. This involves having access to safe housing, counseling, legal services, and medical care. To provide these services, governments can collaborate with NGOs and other groups. International cooperation is necessary to fight human trafficking, a problem that affects the entire world. To stop trafficking and safeguard victims, governments can cooperate to exchange information, plan activities, and put international conventions and agreements into effect.
4) *Addressing the Underlying Issues:* In order to successfully combat female human trafficking, it is crucial to address the issues that predispose female victims to the crime. In order to do this, we must handle issues like gender inequality, poverty, and other social and economic variables that support trafficking. A comprehensive strategy that incorporates prevention, law enforcement, victim assistance, foreign cooperation, and addressing root causes is needed to combat human trafficking in women.

E. Motive of Human Trafficking in Women

Despite the fact that there are many potential motivations for trafficking in women, profit, dominance, and control are the most common ones. The following are some of the motivations for slavery in women:

1) *Sexual Abuse:* Sexual exploitation is one of the main causes of human trafficking in women. Women are frequently coerced into prostitution or other forms of sexual abuse, and traffickers who take advantage of these situations can make sizable sums of money.
2) *Forced Labour:* Women may also be trafficked and used as slaves in manufacturing, household work, or agriculture. In these situations, traffickers might try to take advantage of the labor of women to cut costs and boost earnings.
3) *Forced Marriage:* Some women are kidnapped in order to be married off against their will. As women may be coerced into marriages against their will and subjected to physical, sexual, and emotional abuse, this type of trafficking can be especially devastating.
4) *Organ Trafficking:* Women may occasionally be taken advantage of in order to sell their organs. Organ removal surgery on women may be required by traffickers in order to take their organs, which are later sold on the black market.
5) *Other Motives:* In some instances, women may be trafficked in order to have children, to beg, or so that their young ones can be used as child laborers or for adoption.

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ISSN: 2321-9653; IC Value: 45.98; SJ Impact Factor: 7.538
Volume 11 Issue III Mar 2023- Available at www.ijraset.com

III. HUMAN RIGHTS FOR WOMEN

A set of rights known as human rights for women is dedicated to ensuring that women are treated fairly, with respect, and with dignity. These rights are intended to protect women from discrimination in all facets of life and to guarantee that they have equal access to resources and opportunities as men.

Key human rights for women include the following:

Women have a right to a life that is free from violence and the threat of violence. This covers defence against sexual assault, domestic abuse, and human trafficking.

Women have the legal right to receive equal treatment in all aspects of life, including education, employment, and political engagement.

The right to education: Women has the same access to and entitlement to an education of the same calibre as males.

The right to health: Women has the legal right to receive discrimination-free health care, including services related to reproductive health.

The right to work includes the right to equal remuneration for equal labour as well as the right to work in a safe and healthy workplace.

Women have the right to political involvement, including the right to representation in government.

The freedom of expression: Women have the right to engage in public life and express themselves without fear of retaliation.

There are numerous additional important human rights for women in addition to these. To ensure that women can live their lives with dignity and respect, free from prejudice and abuse, it is crucial to protect and advance these rights.

A. Laws Relating Human Trafficking

India has a number of laws designed expressly to combat women trafficking and other types of trafficking. The following are some of the main laws in India that address women trafficking:

The 1956 Immoral Traffic (Prevention) Act: The main statute in India pertaining to trafficking for sexual exploitation is this one. It makes purchasing and selling women for prostitution a crime and punishes those who take part in it.

The Prevention of Children from Sexual Offences (POCSO) Act of 2012 is a piece of legislation that deals with sexual offences committed against minors, particularly those that stem from trafficking.

The Bonded Labour System (Abolition) Act, passed in 1976, outlaws the practise of forced labour, or "bonded labour," in which victims of debt are taken advantage of.

Introducing the 2015 Juvenile Justice (Care and Protection of Children) Act: The rights of children, particularly those who are the victims of trafficking, are to be protected by this law.

The Indian Criminal Code (IPC): The IPC contains a number of sections relating to trafficking, such as Section 370, which makes it illegal to trade people for the purpose of engaging in forced labour, organ harvesting, and other forms of exploitation.

The United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, which offers a framework for addressing trafficking at the international level, is one of the international conventions related to trafficking that India has ratified in addition to these laws.

In spite of these restrictions, women trafficking is still a serious issue in India. There is a need for more measures to stop trafficking and make sure individuals who commit this crime are held accountable because enforcement of these laws has been lacking.

B. Prevention

Women trafficking must be prevented with a comprehensive and multifaceted strategy that targets the underlying causes of the problem and offers safety and support to those who are at danger or have already been victims. Here are some tactics that can be utilised to stop the trafficking of women:

1) *Education and Awareness:* Increasing public awareness of the dangers and effects of human trafficking can assist communities and women in recognising and averting potential trafficking-related situations. Additionally, education can enable women to stand up for their rights and defend themselves against exploitation.
2) *Economic Empowerment:* By giving women the knowledge and tools they need to sustain themselves and their children, economic empowerment might lessen the likelihood that they will become victims of human trafficking. Access to programmes for microfinance, career training, and education might all fall under this category. Effective law enforcement measures can thwart traffickers and aid in the prosecution of those who do so. Investigating and prosecuting trafficking cases as well as dismantling trafficking networks and seizing assets are all part of this.

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3) *Help for Victims:* To avoid re-victimization and to assist victims in establishing their life, support and protection for trafficking victims are crucial. Access to legal counsel, healthcare, counselling, and housing are all included in this.
4) *International Coordination:* Because trafficking frequently occurs across borders, effective prevention calls for international cooperation. This can involve the exchange of information, conducting cooperative investigations, and returning traffickers addressing the underlying causes: Poverty, prejudice, and gender inequality are frequently connected to the trafficking of women. Broader initiatives to advance gender equality, alleviate poverty, and advance sustainable development are necessary to address these core problems. Ultimately, stopping the trafficking of women necessitates a comprehensive strategy that takes into account the underlying causes of the problem, offers safety and assistance to victims, and employs tough law enforcement measures to discourage and prosecute traffickers.

IV. CASE STUDY

A. *ASUR Child Were Rescued*

Seven minor girls belonging to the Asur tribe were trafficked to another State for domestic work. The case was registered on 1st February 2022 by the State Migrant Control Room, a wing run under the Department of Labour managed by the Phia Foundation. The case has been forwarded by Labour Superintendent, Gumla. Asur people are a very small Austro-Asiatic ethnic group (PVTG) living primarily in the Indian state of Jharkhand, mostly in the Gumla, Lohardaga, Palamu and Latehar districts. And seven minor girls belonging to the Asur tribe of Ghaghara block of Gumla district have been taken to Delhi and sold by human traffickers. The girls were aged between 15 to 16 years, but they were taken to another State by duplicating their UIDs in which their age was increased to 18 years. Some of these girls are doing household chores at home and some were missing, when the Control Room got their news. The Control Room team verified the above-mentioned facts and coordinated with the Deputy Commissioner and District Social Welfare Officer Gumla. The locations of five of these minor girls have been traced after initiating the investigation procedure and searches for the other two girls took a few days. The team was in continuous contact with the district administration to trace these girls. All these girls were traced and rescued by the CWC and returned to Jharkhand on 23rd February 2022. Their family thanked the administration, State Government and Control Room and said with the support of the government it wasn't possible for us to see our girls again. At present these girls are safe and living with their families.

B. *Case Laws*

1) *Vishal Jeet v. Union of India, (1990) 3 SCC 318*

All the State Governments and the Governments of Union Territories should direct their law enforcing authorities concerned to take appropriate and speedy action in eradicating child prostitution. The State Governments and the Governments of Union Territories should set up a separate Advisory Committee within their respective zones to make suggestions regarding the measures to be taken and the social welfare programmes to be implemented for the children and girls rescued from the vices of prostitution. All the State Governments and the Governments of Union Territories should take steps in providing adequate and rehabilitative homes manned by well-qualified trained social workers, psychiatrists and doctors. The Union Government should set up a committee of its own to evolve welfare programmes on the national level for the care, protection, rehabilitation, etc. of the young fallen victims and to make suggestions of amendments to the existing laws for the prevention of sexual exploitation of children. The Central Government and the Governments of States and Union Territories should devise a machinery of its own for ensuring the proper implementation of the suggestions that would be made by the respective committees. The Advisory Committee can also delve deep into devadasi system and jogin tradition and give their valuable advice and suggestions as to what best the Government could do in that regard.

2) *Bandhua Mukti Morcha v. Union of India, (1984) 3 SCC 161*

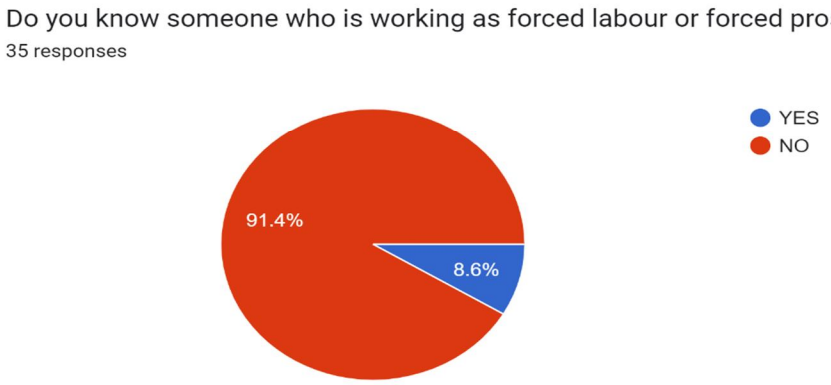
"The rehabilitation of the released bonded labourers is a question of great importance, because if the bonded labourers who are identified and freed, are not rehabilitated, their condition would be much worse than what it was before during the period of their serfdom and they would become more exposed to exploitation and slide back once again into serfdom even in the absence of any coercion. The bonded labourer who is released would prefer slavery to hunger, a world of 'bondage and illusory security' as against a world of freedom and starvation." It may be pointed out that the concept of rehabilitation has the following four main features as addressed by the Secretary, Ministry of Labour, Government of India to the various States Governments: Psychological rehabilitation must go side by side with physical and economic rehabilitation. The physical and economic rehabilitation has 15 major components, namely, allotment of house sites and agricultural land, land development, provision of low cost dwelling units, agriculture, provision of credit, health medical care and sanitation, supply of essential commodities, education of children of bonded labourers and protection of civil rights, etc.

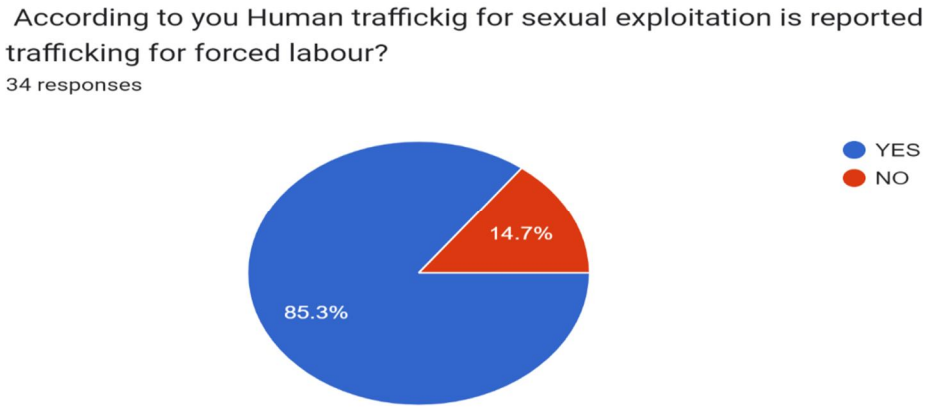
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There is scope for bringing about an integration among the various central and State sponsored schemes for a more qualitative rehabilitation and to avoid duplication. While drawing up any scheme/programme of rehabilitation of freed bonded labour, the latter must necessarily be given the choice between the various alternatives for their rehabilitation and such programme should be finally selected for execution as would meet the total requirements of the family of freed bonded labourers to enable them to cross the poverty line on the one hand and to prevent them from sliding back to debt bondage on the other.

V. SURVEY CONDUCTED

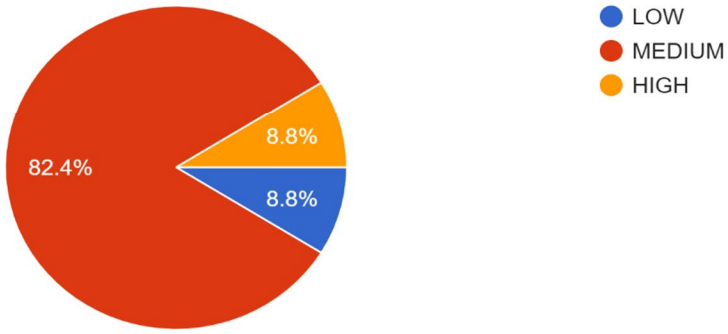




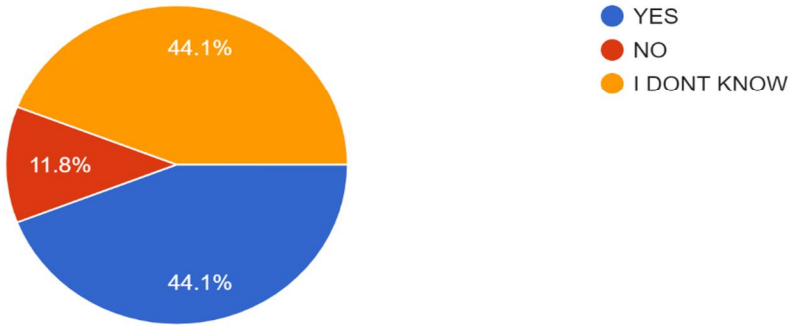


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Volume 11 Issue III Mar 2023- Available at www.ijraset.com

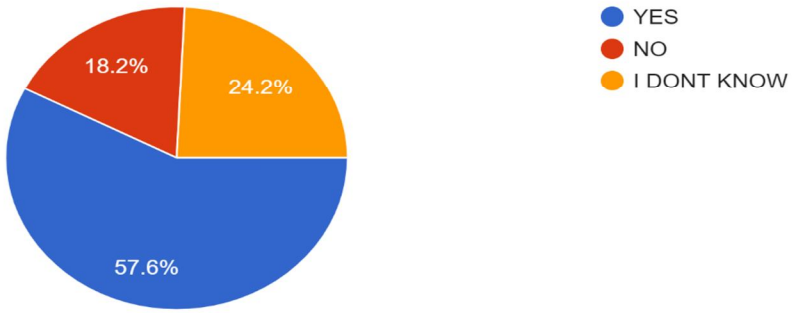
How would you rate your personal level of knowledge about human trafficking?
34 responses



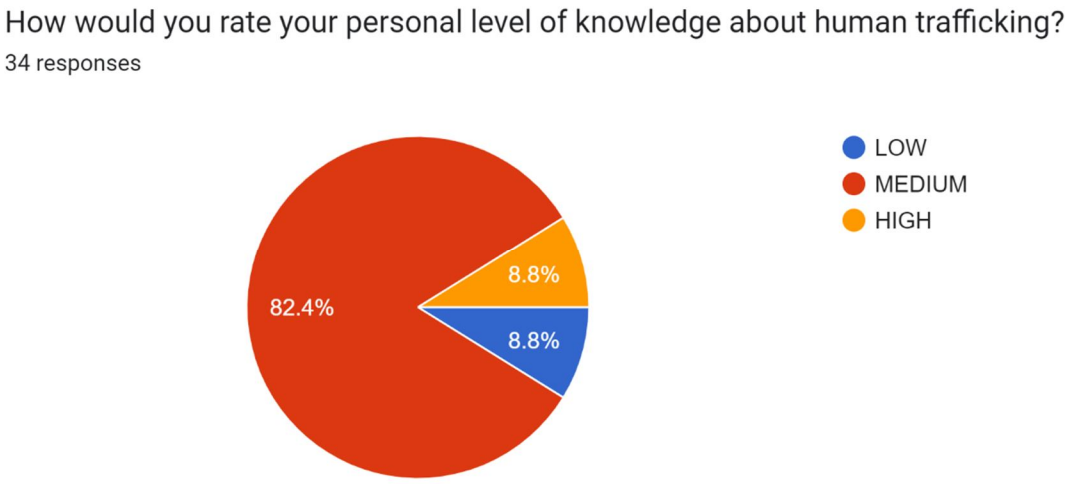
Victims of both labor and sex trafficking are often exploited in local businesses (restaurants, hotel/motels, factories, farms, etc.), often without.... Do you think this is happening in your community?
34 responses



Are you aware of the specific laws related to the liability of businesses when human trafficking is found on their premises?
33 responses



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VI. CONCLUSION

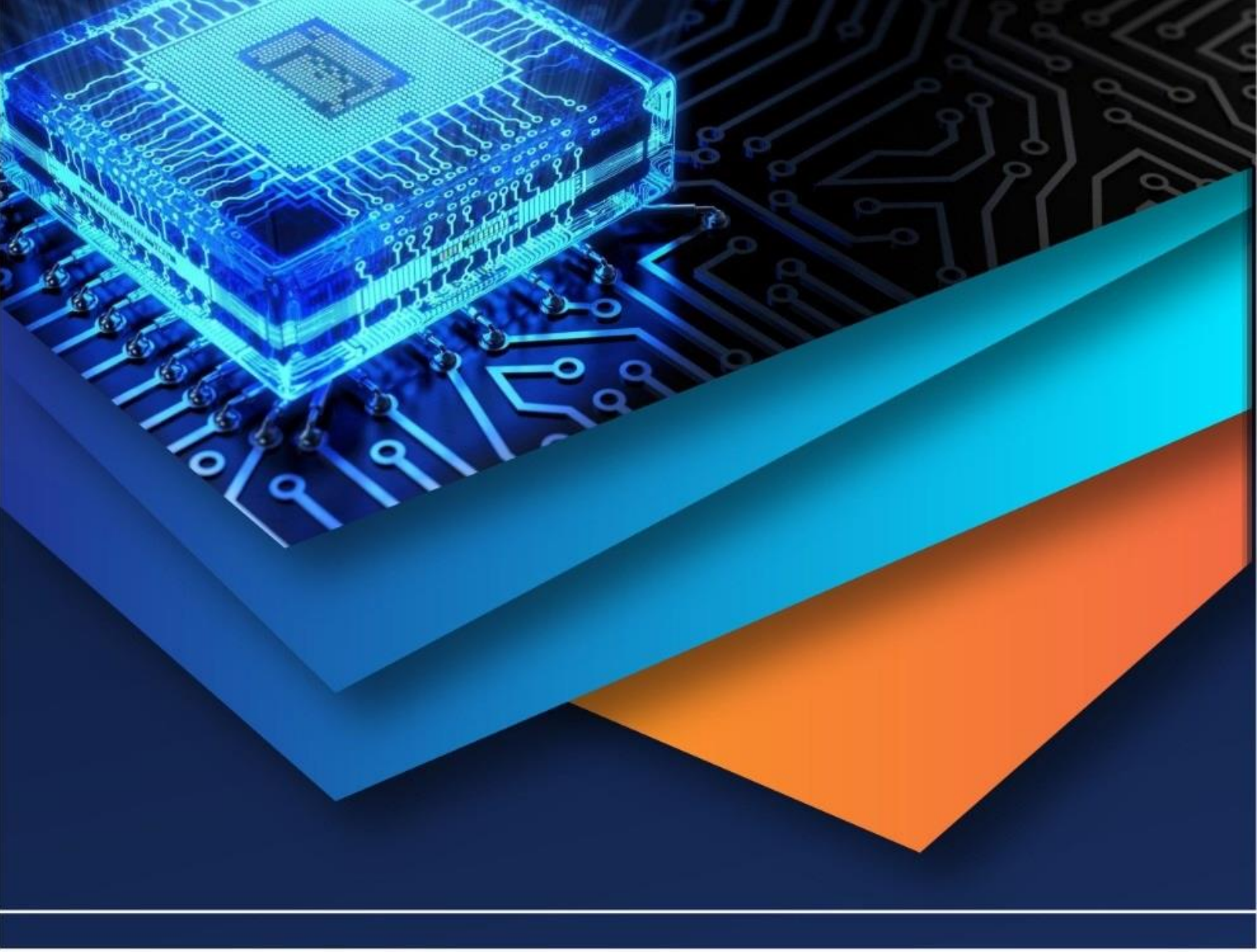
The effects of women trafficking are not just a distant issue that affects other people. It is a problem of daily existence that affects practically every "civilised" city in the globe, including Winnipeg. The biggest issues are illiteracy and poverty. aspects making up the foundation for trafficking. Throughout the past few years, there has been a significant increase in the number of non-governmental organisations operating in the area.

Yet, the majority of them are found in metropolitan areas, and relatively few of them have links at the local level. Numerous businesses and every country are affected by women trafficking. Globally, and while many people and organisations are attempting to tackle this issue on a global scale, it can take some time before the true scope of the problem is understood. The state of affairs in the nation paints an image of a lack of coordination and cohesiveness. The agencies involved in rescue do not appear to have any cooperation with the agencies concerned with rehabilitation, whether it is intra-state, inter-state, or trans-border trafficking.

The problem of missing women and children has never been connected to human trafficking; it has only ever been seen in isolation. There is no centralised platform connecting preventative measures in source and destination regions. Delivering justice and defending human rights have been seriously hampered by the lack of a national coordinating/monitoring agency. Thus, a national nodal body to combat trafficking is also required in order to ensure the best interests of the victims, to achieve effective coordination at the national level, and to coordinate preventive measures, programmes, and policies. It is clear from the debate above that the idea of women trafficking is neither novel nor recent; rather, it is as old as Indian civilization itself. As the concept of globalisation was introduced, the problem of human trafficking became a severe issue. It has been heavily involved in practically every field. Because women and children are the most vulnerable members of society to exploitation, the concept of trafficking is limited to them, which has led to a gradual rise in commercial sex work. Even though there are many legal measures in place to stop and outlaw the concept of people trafficking, sadly it is still recognised as one of the most organised crimes in society.

The aforementioned shows that there are numerous gaps in the current legislation, and in order to close them, strict awareness campaigns should be held, literacy levels should be raised, the state should offer creative rehabilitation programmes for the victims, and the NHRC should take note of the difficulties faced by rescued victims in stations and make the necessary arrangements.

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