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IMMORAL TRAFFICKING OF WOMEN AND CHILDREN IN INDIA

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ABSTRACT

Human trafficking of women and children is one of the most heinous crimes against humanity. However, estimating the scope of the problem is difficult because trafficking is linked to child labor, bonded labor, child marriage, kidnapping and abduction, and prostitution, even though these issues can exist independently of trafficking. Human trafficking of women and children is one of the most heinous crimes against humanity. Women's trafficking is one of the most heinous forms of human rights violations, and it has been identified as one of the most serious issues in the current situation. Human trafficking is not a new or unique issue in India, as history has shown. It's frequently compared to prostitution. One of the main reasons for the prevalence of immoral trafficking in India is poverty. Poor families are often forced to send their children to work, and traffickers prey on these vulnerable children. In addition, gender inequality is also a significant factor, with girls and women being more likely to be targeted for trafficking than boys and men. However, estimating the scope of the problem is difficult because trafficking is linked to child labor, bonded labor, child marriage, kidnapping and abduction, and prostitution, even though these issues can exist independently of trafficking. The Immoral Traffic Prevention Act does not adequately protect children from commercial and sexual exploitation. After drugs and arms smuggling, it is the third most profitable category of organized crime in terms of profit.

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Keywords-: Human trafficking, heinous crimes, child marriage, kidnapping, abduction, prostitution, humanity, violations, Immoral Traffic Prevention Act.

INTRODUCTION

In India, trafficking of women and children is a greatest evil and disaster in human race in today's world of advancement. It not only focuses on prostitution parameter only but focuses on both illegal migration and prostitution. People are trafficked everyday and forced to do slavery. They are forced to do work at factories, dance bars, mine work as slave, and many more. This is mainly happens to children, low caste people and women. They don't have freedom to live according to their wish.³ Despite laws and initiatives aimed at preventing this heinous crime, it continues to be a significant problem in the country. Immoral trafficking is the trade of human beings for the purpose of exploitation, such as forced labor or prostitution. The victims of this crime are often vulnerable individuals, including children, who are forced or coerced into sex work or other forms of labor.

According to oxford dictionary," trafficking" means dealing in something which is illegal. There are many types of trafficking like drugs trafficking, arms trafficking and human trafficking.⁴ But human trafficking (HT) is one of the most lucrative types of organized crime amongst all the three types of trafficking.

One of the main reasons for the prevalence of immoral trafficking in India is poverty. Poor families are often forced to send their children to work, and traffickers prey on these vulnerable children. In addition, gender inequality is also a significant factor, with girls and women being more likely to be targeted for trafficking than boys and men. Another

³ Bishwajit G. *Trafficking in Women and Children in India: Nature, Dimension and Strategies for Prevention.*, 5 IJHR 716-738(2009)

⁴ Sen S, Nair PM *A report on Trafficking on women and children in India*, 1 ISS, 440 (2004)

factor contributing to the issue is the lack of effective law enforcement. Despite the existence of laws prohibiting trafficking, enforcement is often weak, and those involved in trafficking are rarely brought to justice. Corruption within law enforcement agencies is also a significant problem, making it difficult to hold those involved in trafficking accountable. The impact of trafficking on the victims is devastating. Victims are often subjected to physical and sexual abuse, and are forced to live in deplorable conditions.⁵ They are also at high risk of contracting sexually transmitted diseases, including HIV/AIDS. Many victims suffer from psychological trauma and struggle to reintegrate into society.

To combat this problem, the Indian government has taken several initiatives, including the implementation of the Immoral Traffic (Prevention) Act, 1956. This law criminalizes trafficking and provides for the rehabilitation of victims. The government has also set up a National Anti-Trafficking Bureau (NATB) to coordinate efforts to combat trafficking.

Non-governmental organizations (NGOs) also play a critical role in addressing the issue. NGOs work to prevent trafficking by providing education and awareness programs in vulnerable communities. They also provide shelter, rehabilitation, and other support services to victims of trafficking.

What is Human Trafficking?

Human trafficking⁶ is an egregious violence of human rights that occurs throughout the world, due to its complex cross border nature. In simple terms, it means trading of children and women whose age group is in between 18-45 years. It has become one of the major businesses across the globe, which requires coordinated multi-disciplinary national and international responses.⁷ These activities or practices is done to force people to involve in sex work, construction of restaurants work and various form of slavery

⁵ Shri S. Saratkumar, *Child Trafficking In The Indo-Myanmar Region : A Case Study In Manipur*, APL, 1, 11-19 (2016)

⁶ Prof. T. Bhattacharya. *The Indian Penal Code*, 7 edition 2013, Central Law Agency

⁷ Jannani G.S, *Human Trafficking In India*, 120, IJPAM, 43, 44-49,(2018)

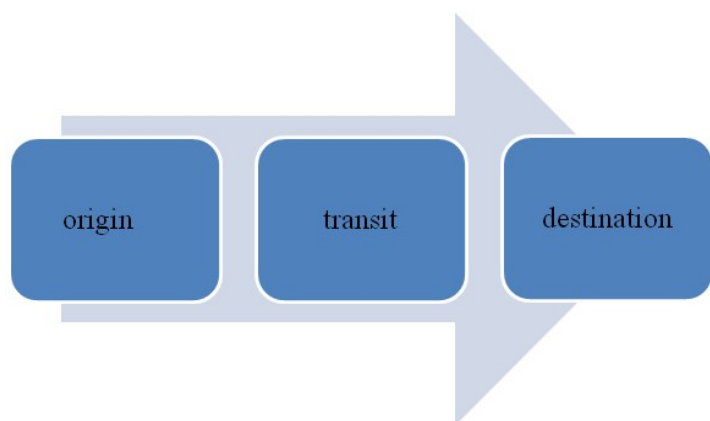
practices, even male prostitution has also become a new trend nowadays. It deprives two dimensional threats:-

- ✓ **Deprivation of human rights and freedoms-** where the people who are trafficked are either forced to be involved in prostitution or forced to marry. Another type of human trafficking is organ trafficking, where organs of person are removed from his body and sold illegally.
- ✓ **Global health and security-** It is important to not forget that women are vulnerable twice to reproduction and other gender face health problem due to lack of health care measures.

Phase of Human Trafficking-

There are mainly three phases of human trafficking which are origin, transit and destination. Origin is a place recruitment of all victims is done; transit means transportation, transferring and harboring sometimes. Destination is the final point of the process, where victims are received and maintained for exploitation. It sometimes happen that victims are exploited in between any of the phase i.e. origin or transit phase.⁸ This type of exploitation is called short pored exploitation. For selling of people negotiation is done to earn maximum profit.

⁸ Maria Malyk, *what are the stages of Human Trafficking? A Complete Breakdown*, EASYLLAMA, (Mar. 21, 2023, 9:29PM), <https://www.easylama.com/blog/stages-of-human-trafficking/>



The way in which traffickers may control women may include-

- ✓ Making her work to pay back money, which she owes to them.
- ✓ Giving threat of killing her or ending her life
- ✓ Giving threat to hurt or her family members
- ✓ Snatching important documents from her and later blackmailing her for the same
- ✓ Not allowing her to make contacts with her family, friends and deny them to expose herself to outer world.
- ✓ Many times women are forced to marry against her wish to end up trafficking.

Research Objective

The research objective of the study is to determine the causes, prevalence, and impact of immoral trafficking of women and children in India, and what measures can be taken to combat the issue of Immoral Trafficking of women and Children in India. The study has also objected to research about the impact of COVID-19 on the prevalence of trafficking in India.

Research Question

- ✓ What are the causes and consequences of immoral trafficking of women and children in India?

- ✓ What are the current policies and initiatives in place to combat trafficking in India, and how effective are they?
- ✓ How has the COVID-19 pandemic impacted the prevalence of trafficking in India?
- ✓ What are the experiences and needs of survivors of trafficking in India, and how can they be supported

Reasons for trafficking of woman/girl-⁹

There are various reasons for trafficking which are –

- ✓ **Forced marriage-** It is a fact that there is a gradual decrease in sex ratio in the states like Rajasthan, Haryana and countries/ states which have unusual problem of trafficking of women. The girls who have not even attained the maturity or puberty age are forced to marry a person in the sake of temporary marriage. It is being observed that women are allowed to bear only male child and in case of girl, they kill her. It is evident that girls and women are not only trafficked, but also sold in various regions.
- ✓ **Begging-** Human trafficking is also done to force people to beg. Especially children and women are forced to beg in streets, they are blackmailed by giving threats to kill their family members. Also traffickers use disabled person to earn money and sometimes make person disabled to earn profit, which is illegal.¹⁰
- ✓ **Bounded labor-** To earn money, people sell kids in exchange of cash and then are forced to do slavery or labor. The victims of human trafficking suffer from mental disorder, depression and anxiety which also affect their career and life. Women who are forced into sexual trafficking suffer from HIV and other STDs.

⁹ Anuradha Koirala, *Trafficking and Vulnerabilities of Childrens and Women: an Analysis*, 41, ICQ, pp. 223-235, 2018

¹⁰ Child Trafficking In India: A Concern, Dr. (Mrs.) Intezar Khan, Department of Social Work, Jamia Millia Islamia, New Delhi

There are protocols made by United Nations (The UN Trafficking Protocol) to prevent suppressant punishment like trafficking in persons especially women and children. This protocol offers recommendations for domestic human trafficking legislation as well as a road map for international cooperation. India adopted the United Nations connection against transnational organised crime's tree protocol, which includes UN trafficking, in 2011. Despite of ratification of protocol, India is lacking in unified comprehensive police for human trafficking. There are many anti-trafficking polices created to stop this and address various components of human trafficking like slavery, child labor and child marriage.¹¹

Root Causes of human trafficking in India-

India serves as a source country for both sex trafficking and labour exploitation. 90% of trafficking in India takes place locally, that is, intrastate and interstate, and the other 10% happens across international borders. It is a nation where individuals are trafficked for profit to nearby nations like Bangladesh and Nepal. People are primarily trafficked to nations in the Middle East. Men, women, and children who are trafficked in India most frequently do so for the purpose of forced labour. When someone is being trafficked for forced labour or other services, it is usually done under duress, compulsion, or fraud. Similar to slavery, sex trafficking is a problem that primarily affects women and girls in India. Sex trafficking is the act of obtaining someone through duress, compulsion, or fraud in order to use them for forced commercial sex. Due to the criminal enterprise's inherent clandestine nature, it is difficult to quantify the number of people who are trafficked for sex or labour.¹² The number of people forced into forced labour in India, according to the 2013 trafficking of humans report from the United States Department of State, is between 20 and 65 million. However, it is challenging to estimate the number of victims of labour trafficking since it is difficult to tell the difference between workers who

¹¹ Crime in India, 2004, NCRB, Ministry of Home Affairs, Government of India.

¹² Jillian Baxter, *Causes of Human Trafficking in India*, THE BORGEN PROJECT, (last visited, Dec 10, 2022, 2:30 PM) <https://borgenproject.org/causes-of-human-trafficking-in-india/>

have relocated to or around the country and workers who have been employed to engage in the exploitation described in the UN trafficking protocol. Determining the presence and scope of sex trafficking is equally challenging.¹³

Poverty is a primary cause of human trafficking in India, as many families living in poverty are forced to sell their children or themselves to traffickers in order to survive¹⁴. Women and children are particularly vulnerable to exploitation and trafficking due to their disadvantaged social and economic position. Though there are many other factors like low employment prospects, patriarchal culture of low regards for women rights, low level of education, discrimination and marginalization of women and culture factor such as dowry, but poverty is primary cause as in India poverty is increasing. The other factor also include¹⁵-

- ✓ **Gender discrimination-** It plays a significant role in trafficking, as women and girls are often viewed as inferior to men and are subjected to various forms of violence and abuse. This discrimination is exacerbated by factors such as low levels of education and lack of access to health care, which limit their opportunities and make them more vulnerable to exploitation.
- ✓ **Lack of education and employment opportunities-** Many families, especially in rural areas, lack access to education and job opportunities, which can lead them to become more dependent on traffickers for survival.¹⁶
- ✓ **Weak law enforcement and corruption-** Many traffickers are able to operate with impunity due to a lack of effective law enforcement and judicial systems. In

¹³ Sen S, A Report on trafficking on women and children in India 2013, Institute of Social Science (NHRC & UNIFEM, India, 2004) p. 440enge

¹⁴ Emmaline Soken-Hberty, *10 causes of human trafficking*, HUMAN RIGHT CAREERS (last visited Mar. 22, 2023, 11:20 PM) <https://www.humanrightscareers.com/issues/10-causes-of-human-trafficking/>

¹⁵ Abhishek Singh Bhadouriya, *Human Trafficking ,Its Issues and Challs in India: A Study From Human Right Perspective*, 2, IJLMH, 1, 7-10, (2019)

¹⁶ SAVE THE CHILDREN, <https://www.savethechildren.in/causes-of-child-trafficking-in-india/>, (last visited, Mar 22, 2023, 12:30 PM)

addition, corruption among law enforcement officials and other government agencies can hinder efforts to combat trafficking.

The consequences of immoral trafficking of women and children in India are devastating and long-lasting. Victims of trafficking often suffer physical, emotional, and psychological trauma, including forced labor, sexual exploitation, and abuse. They may also suffer from physical and mental health problems, as well as social stigma and isolation. Children who are trafficked may also face long-term developmental issues and educational setbacks. In addition, trafficking perpetuates a cycle of poverty and exploitation, as victims may be unable to escape their situation or reintegrate into society. The social and economic impact of trafficking is also significant, as it undermines efforts to promote gender equality and economic development in India. Thus, the causes and consequences of immoral trafficking of women and children in India are complex and require a comprehensive response that addresses the root causes of the problem, as well as the needs of survivors.

Current Policies and Initiatives

Section 370 (Human Trafficking Prevention)

The recently revised Section 370 defines exploitation as any act of physical, sexual, or other kinds of exploitation, including servitude, forced organ harvesting, and any other kinds of sexual exploitation. This amendment legislation, in particular, closely resembles the language in the UN trafficking Protocols by redefining the offences of human trafficking under section 370 of the Indian Penal Code. The protocols were-

- ✓ Indian laws do not explicitly recognize and penalize all forms of labor trafficking to extends required by UN trafficking protocol.
- ✓ Indian law does not provide an effective system for safety recover and compensation to the victims of human trafficking as required by the UN trafficking protocols. Also UN trafficking protocols requires domestic legislation

and system to be established so that compensation can be offered for the damage suffered to the victims of human trafficking.

- ✓ The UN trafficking protocols requires state parties to adopt measures aimed at preventing human trafficking.

"The UN Secretary-General launched the Voluntary Compact on the Elimination of Sexual Exploitation and Abuse between the Secretary-General and Member States in September 2017, which outlines specific commitments by signatory Member States to prevent sexual exploitation and abuse, hold perpetrators accountable, and support victims. In September 2017, the United States became a signatory to the Compact."¹⁷ In March 2020, there were 103 delegates along with many countries that contribute troops and police. Efforts are also fully operational to persuade heads of state and government to join the Secretary-General's "Circle of Leaders" on preventing sexual exploitation and abuse in UN operations, as well as to make public commitments to end impunity for such misconduct.¹⁸

Immoral Traffic (Prevention) Act, 1956¹⁹

The Immoral Traffic (Prevention) Act of 1986 (ITPA), also known as PITA, is an amendment to SITA, the Suppression of Immoral Traffic in Women and Girls Act of 1956 (SITA). Under ITPA, a "child" is defined as a person under the age of sixteen, and "prostitution" is defined as the sexual exploitation or abuse of people for monetary gain.

- ✓ **Section 3-** Keeping a brothel or allowing a brothel to operate on your property will result in severe consequences.
- ✓ **Section 4-** Prostitution as a source of income
- ✓ **Section 5-** Procuring, inducing, or capturing a person for the purpose of prostitution is illegal.

¹⁷ United State of India, *Trafficking in Persons Report*, 23(20th ed. 2020)

¹⁸ Supra 1

¹⁹ Immoral Traffic (Prevention) Act, 1956

- ✓ **Section 6** Unless the contrary can be demonstrated, it is assumed that a person who is discovered in a brothel with a kid has committed the crime of holding a person at a place where prostitution is conducted. Either type of imprisonment for a term of not less than 7 years constitutes the penalty.²⁰

Juvenile Justice (Care and Protection of Children) Act, 2015-²¹

In accordance with the “Convention on the Rights of the Child”, this Act was passed. This Act prioritises the appropriate handling, safeguarding, and meeting of a child's developmental requirements and adopts a child-friendly attitude. State governments are given the authority to establish Child Welfare Committees (CWC) and specify the duties and processes of these committees in Section 29. These Committees received final adjudication jurisdiction over the proceedings under Section 31. Under Section 34, a state government may independently create and sustain a children's home for the care and safety of children. According to Section 39, the main objective of a children's home or shelter is to preserve and protect childhood.

Trafficking of Person (Prevention, Protection and Rehabilitation), Bill, 2016²²

The draft Bill takes into account the various aspects of human trafficking and its punishments as defined in sections 370-373 of the Indian Penal Code, 1860, and aims to include other offences/provisions not covered by any other law for the purpose of human trafficking like

- ✓ Provisions of penal to disclose the identity of the victim of trafficking and witness
- ✓ Use of narcotics, psychotropic substances, or alcohol for the purpose of human trafficking
- ✓ Exploitation through the use of chemical substances or hormones

²⁰ Arpana Bansal, *A critical analysis of Human Trafficking in India*, 12, TJCME, 761, 763-764, (2021)

²¹ The Juvenile Justice (Care and Protection of Children) Act, 2015

²² <http://wcd.nic.in/acts/trafficking-persons-bill-2016-draft>, (last visited- Oct 22, 2022)

Criminal Law Amendment Act, 2013²³-

In Section 370 of the Indian Penal Code, the recent Criminal Law Amendment Act of 2013 recognize human trafficking as a crime. The bill focuses on the entire process that leads to a person's trafficking, as well as the employment of a trafficked person and subsequent sexual activity. This provision also applies to organ trade. Section 370 A makes exploitation a specific offence. It will include prostitution in exploitation.

Additionally, it guarantees that every link in the chain of trafficking is connected to the criminal court system. By explicitly saying that bringing a person with his assent that was obtained through coercion, fraud, deception, or abuse of power will be regarded as trafficking, the law has also been greatly strengthened. This will cover any scenario in which young women are lured by promises of marriage and voluntarily travel with human traffickers so that they can be used in various ways. The rule also explicitly states that the victim's consent is not taken into consideration when evaluating the infraction.

The Ujjawal Scheme- The Ujjawala Scheme is a comprehensive scheme that provides rescue, rehabilitation, and reintegration support to victims of trafficking. The scheme also aims to prevent trafficking by providing livelihood opportunities to vulnerable communities.

The National Plan of Action for Children- The National Plan of Action for Children was launched in 2016 to combat trafficking of children for labor and sexual exploitation. The plan aims to prevent trafficking, protect children from exploitation, and rehabilitate and reintegrate victims.

The Anti- Human Trafficking Unit (AHTUs)- The AHTUs are specialized units set up by the Ministry of Home Affairs to investigate trafficking cases and coordinate with other law enforcement agencies to prevent trafficking.

²³ Criminal Law Amendment Act, 2013

Impact of COVID-19 pandemic on Prevalence of Trafficking

The COVID-19 pandemic has had a significant impact on the prevalence of trafficking in India. The pandemic and the associated lockdowns have created economic and social conditions that have increased the vulnerability of women and children to trafficking. With the loss of jobs and livelihoods due to the pandemic, many families are struggling to make ends meet, making them more vulnerable to exploitation by traffickers.²⁴ The closure of schools and other institutions has also increased the risk of children being trafficked for labor or sexual exploitation. In addition, the restrictions on movement imposed during the pandemic have made it more difficult for law enforcement agencies to identify and rescue victims of trafficking. Traffickers have also adapted their methods to take advantage of the pandemic, using social media and other online platforms to recruit and exploit victims. The pandemic has also disrupted the operations of NGOs and other organizations that provide support to victims of trafficking. The closure of shelters and other support services has made it difficult for victims to access the help they need. Overall, the COVID-19 pandemic has created a situation where the risk of trafficking has increased while the ability to prevent and respond to trafficking has been reduced. It is important for the government and other stakeholders to prioritize efforts to address trafficking during the pandemic and to ensure that victims of trafficking have access to the support and services they need.²⁵

Current Scenario of Immoral Trafficking

According to National Crime Record Bureau, there were upto 44% of trafficking incidents involving children in 2021.²⁶ However, the actual numbers are believed to be much higher, as many cases of trafficking go unreported. One of the significant challenges in

²⁴ UNITED NATIONS OFFICE ON DRUG AND CRIME, https://www.unodc.org/documents/Advocacy-Section/HTMSS_Thematic_Brief_on_COVID-19.pdf, (last visited Mar. 26, 2023)

²⁵ Supra 18

²⁶ THE NEWS MINUTE, <https://www.thenewsminute.com/article/44-trafficking-incidents-2021-involved-children-reveals-ncrb-report-167367>, (last visited, Mar 26, 2023)

combating trafficking in India is the COVID-19 pandemic. The pandemic has worsened the economic conditions in vulnerable communities, making them more susceptible to trafficking. School closures and online classes have also increased the risk of online exploitation of children. The pandemic has also made it more difficult to provide support services to victims, as social distancing measures have limited the ability of NGOs and support organizations to operate effectively. However, there have been some positive developments in recent years. The Indian government has taken several steps to combat trafficking, including the establishment of anti-human trafficking units (AHTUs) in every state, the strengthening of the legal framework, and the launch of a national database on missing children.²⁷ NGOs and civil society organizations have also been working to prevent trafficking and provide support services to victims. These organizations provide education and awareness programs, rescue operations, and rehabilitation services for survivors.

Experience and Need of Survivors of Trafficking

Survivors of trafficking in India face a range of physical, emotional, and psychological challenges. These challenges include trauma, stigma, and social isolation. Many survivors also face economic and legal difficulties as they try to rebuild their lives. To support survivors of trafficking in India, it is essential to provide them with comprehensive and holistic support that addresses their needs in a range of areas.²⁸ Some key areas of support include:

- ✓ **Rehabilitation and reintegration:** Survivors of trafficking require access to rehabilitation services, including medical care, counseling, and skills training. They also require support to reintegrate into their communities, including access to education, employment opportunities, and legal assistance.²⁹

²⁷ Vimal Vidushy, *Human trafficking in India: An analysis*, 2, IJAR, 168, 169-171, 2016

²⁸ Jaffer Latief Najar, *Human Trafficking in India*, Researchgate, 1, 4-6, 2014

²⁹ Surmukh Singh, *Human trafficking in India*, 6, IJAR, 907, 908-909, 2019

- ✓ **Shelter and protection:** Survivors of trafficking often require a safe and secure place to live while they recover from their experiences. Shelters can provide survivors with a range of services, including counseling, education, and vocational training.
- ✓ **Advocacy and awareness-raising:** It is important to raise awareness about trafficking and advocate for the rights of survivors. This can include working with communities to reduce stigma, advocating for legal reforms, and working with law enforcement agencies to improve responses to trafficking.
- ✓ **Empowerment and self-sufficiency:** Survivors of trafficking require support to become self-sufficient and empowered. This can include providing them with education and vocational training, as well as access to microfinance and other forms of support to start their own businesses.
- ✓ **Support networks:** Survivors of trafficking require support from their families and communities to recover from their experiences. It is essential to work with families and communities to reduce stigma and provide support to survivors.

Conclusion

In India exclusively a few laws deal with prevention, and the majority of them exclusively address trafficking for sex exploitation and not other purposes like labour. Although the UN Trafficking Protocols require that states explore adopting measures that allow victims of international trafficking and other purposes, such as staying outside the country, it is equally hard to isolate oneself from the outside world and conceal one's identity.. It is evident from the above discussion that, Women trafficking is not a new or novel concept in India; it has existed for as long as the country's society. After the concept of globalization was introduced, the problem of human trafficking became a serious issue. It has massively intervened in almost every sector. The rights of persons who are victims of human trafficking are at danger, as well as their safety and sense of dignity. Equal rights for men and women are guaranteed by the constitution of India, however these rights are sometimes merely words on paper. Any crime that can be made money

from eventually escalates to a serious social issue, as is the case with human trafficking. The solution to the problem is still in our hands if deliberate, strong steps are taken and policies are created and strictly implemented. If immediate action is not taken, it will be late, but too late, in a very short time.

Suggestions

The issue of immoral trafficking of women and children in India is a complex and deeply rooted problem, and there is no one solution that can solve it completely. However, there are some suggestions that can help address this issue:

- ✓ **Strengthen law enforcement:** The government should strengthen law enforcement and ensure that the existing laws against human trafficking are strictly enforced. This can be achieved by increasing the number of anti-trafficking units, setting up fast-track courts, and providing adequate resources and training to law enforcement officials.
- ✓ **Raise awareness:** The government and civil society organizations should work together to raise awareness about the issue of human trafficking and its impact on society. This can be done through campaigns, workshops, and other public awareness programs.
- ✓ **Address the root causes:** The root causes of human trafficking are poverty, lack of education, and unemployment. To address these causes, the government should focus on poverty reduction programs, promote education, and create employment opportunities for vulnerable populations.
- ✓ **Provide support and rehabilitation:** The survivors of human trafficking need support and rehabilitation to rebuild their lives. The government should provide medical, legal, and psychological support to survivors and create programs to help them reintegrate into society.
- ✓ **Collaborate with international organizations:** Human trafficking is a global problem, and India can benefit from collaborating with international

organizations such as the United Nations and non-governmental organizations working on anti-trafficking initiatives. This can include sharing information, resources, and best practices.

Overall, tackling the issue of human trafficking requires a multi-faceted approach that involves the government, civil society, and international organizations. By taking a comprehensive approach, India can make significant progress in addressing this problem.

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