JOURNAL OF LEGAL STUDIES,
POLITICS AND ECONOMICS RESEARCH

An Internationally Indexed Peer Reviewed & Refereed Journal

www.JLPER.com

Published by iSaRa Solutions

Human trafficking and slavery in India

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Starting from the start of COVID-19 pandemic, worries about traveler laborers' privileges and conditions in India have been a lot of in the news and have been raised, yet the reaction from the Indian government is weak (Janwalkar, 2020; Rukmini, 2020; Francis and Uniyal, 2021). Subir Sinha as of late notes that Covid-19 has extended existing disparities, which obscure the lines between pursued, pressured and dealt with work India (Sinha, 2020). There are likewise reports showing an ascent in dealing with cases India as a result of this ongoing pandemic circumstance (News18 Networks, 2020).In response to these concerns, the Women Safety Division of the Indian Ministry of Home Affairs issued an advisory, since July 2020, advising all states and Union Territories (UTs) for the urgent establishment of new Anti-Human Trafficking Units (AHTUs), and/or upgrade infrastructure in existing ones (Janyala, 2021). AHTUs in India are special police units, devoted to tackle human trafficking. Following MHA advisory, a recent report of 16 states and UTs suggest that 225 AHTUs existed only on paper, and only 27 percent of the AHTUs were operational (Janyala, 2021). While the MHA advisory has triggered more attention among anti-trafficking activists, increasing demands for quickly setting up AHTUs in all districts (Janyala, 2021), yet the highlighted claim of the report (that shows incompetence of AHTUs) indicates that MHA advisory, and demand for establishing AHTUs, is not enough. The proposed intervention is distorted by its failure to account for the colonial legacy and present contestations in policies that conflates the conception of human trafficking with the social control of consenting adult sex work and migration (e.g. see Bhattacherya, 2018; Giammarinaro and Boola, 2018). Successive attempts to reform the legal definition of human trafficking and interventions have resulted in the application of excessive and arbitrary state power and bureaucratic control (Tandon, 2015). These efforts reflect a misplaced focus on law enforcement rather than holistic human-rights based solutions that promote the agency of workers and migrants.

Current policies regarding human trafficking in India carries colonial legacy and resulting harms. For instance, being a colonial construct, established by British Raj that aimed to serve their military, racial and colonial interests (Chang, 2007; Tambe, 2009), the conception of human trafficking was defined by colonial regimes as the act of abduction and transport of women for

prostitution (Irwin, 1996). This definition conflates human trafficking with prostitution, dispossessing consenting adult sex worker's concerns and rights (Tambe, 2009). Besides conflation with consenting adult sex work, the colonial prostitution governance created a regulatory system that vested unimpeded authorities to the institutions like Police or its regime, resulting criminalization and incarcerations of sex workers. For instance, Indian Contagious Disease Act of 1868 provided for compulsory registration of sex workers, and entailed being forced to stay back (without work) for an indefinite period, and subjected to incarceration (Banerjee, 2000; Tambe, 2009). The focus of human trafficking interventions on criminalisation of sex work continued and also got support from Indian nationalists, who later favoured laws reflecting a similar conflation of human trafficking and sex work and/or related professions in legislation such as the Madras Hindu Religious Endowments (Amendment) Act of 1929 (Sreenivas, 2011) and/or The Suppression of Immoral Traffic Acts (SITA) during the 1920s and 1930s (Legg, 2014). SITA was reintroduced after India's independence, and later replaced by the Immoral Traffic (Prevention) Act, 1986 (ITPA). ITPA carries a parallel colonial legacy and design of SITA, conflating consenting adult sex work with trafficking, except for some minor changes (Cunha, 1987). Along with ITPA, India has also got additional provisions regarding human trafficking, with an amendment in section 370 of Indian Penal Code, which defines human trafficking as:

Whoever, for the purpose of exploitation, recruits, transports, harbors, transfers, or receives, a person or persons, by using threats, or using force, or any other form of coercion, or by abduction, or by practising fraud, or deception, or by abuse of power, or by inducement, including the giving or receiving of payments or benefits, in order to achieve the consent of any person having control over the person recruited, transported, harbored, transferred or received, commits the offence of trafficking. The expression "exploitation" shall include any act of physical exploitation or any form of sexual exploitation, slavery or practices similar to slavery, servitude. The consent of the victim is immaterial in determination of the offence of trafficking" (Govt. of India, 2013: 5).

This definition in section 370 not only continues conflation of human trafficking with sex work, but introduces its own difficulties: the broad definition captures many persons displaced by forced migration, denies targeted person's agency, and gives unrestricted power to the state and

bureaucratic regime and its institutions, including police. It also encourages a criminalisation approach to tackle trafficking. Indian Government's National Crime Record Bureau (NCRB) collects data and present number of trafficking cases on the basis of this definition of 370. According to data, 95% of trafficked persons in India are forced into prostitution (Divya, 2020). The recent NCRB lists a total of 6,616 human trafficking cases as registered in India, out of which trafficking for the sex trade are highest in numbers (Munshi, 2020). Since these number of cases get registered as per the definition of trafficking in section 370 that conflates with sex work, the reliability of these number thus remains contested. It is because these numbers could include cases of adult sex workers who consented but their consent got denied during anti-trafficking interventions as both ITPA and section 370 allows it. But these figures and legislations do bring workers in sex trade into a situation of selective targeting from anti-trafficking actors and interventions (see GAATW, 2007; The Telegraph, 2017; Chandra, 2018).

Literature review

The Global Slavery Index estimates that on any given day in 2016 there were nearly 8 million people living in modern slavery in India. In terms of prevalence of modern slavery in India, there were 6.1 victims for every thousand people.

In the 2016 Global Slavery Index, we reported there were 18.3 million people in modern slavery in India. The difference between these two figures reflects changes to counting rules and estimation methods, as well as the presentation of the number who experienced modern slavery on any given day (a "stock" figure) reported in this year's GSI, as opposed to the much higher number of people in slavery at any time over a five-year period (a "flow" figure), as was presented in 2016. The 2018 GSI also reflects the addition of forced sexual exploitation and children in modern slavery but does not include figures on organ trafficking or the use of children in armed conflict.

The most current available data from the National Crime Records Bureau (NCRB) indicate that there were 8,132 reported cases of human trafficking across India in 2016. In the same year, 15,379 people were trafficked of whom 9,034 victims were below the age of 18. In addition, 23,117 people were rescued from trafficking situations of whom 14,183 people were below the age of 18. The NCRB report notes that the number of rescued victims is higher than the number of trafficked people as rescued victims may also include persons trafficked in the previous year.

Most of the rescued victims reported being trafficked for the purpose of forced labour (10,509 victims), followed by sexual exploitation for prostitution (4,980 victims), and other forms of sexual exploitation (2,590 cases).

FORCED LABOUR

While the bonded labour system is formally abolished and criminalised, recent research indicates that bonded labour is still prevalent in India. A 2016 report found that in the state of Tamil Nadu, 351 of 743 spinning mills use bonded labour schemes, otherwise known as Sumangali schemes.2 Fraudulent recruiters reportedly target families in economically disadvantaged rural areas of India and persuade the parents to send their daughters to spinning mills with promises of good working conditions and the payment of a lump sum at the end of their three-year contracts that might help contribute to dowry costs. In these mills, young women are subject to exploitative labour practices,3 including restriction of movement, removal of mobile phones, and withholding wages and other payments, in return for the prospect of a lump sum of money.4 They work 60 hours per week year-round and cannot refuse overtime.5 Workers are therefore bound to their employer as changing employers would mean losing their promised lump sum.6 However, many women under those schemes never receive the lump sum payment they are promised because they leave early, often due to illness

Similarly, in granite quarries, wage advances and loans with an interest ranging from 24 percent to 36 percent are used to bond workers to the quarry.According to a study on bonded labour practices in sandstone quarries in Rajasthan, workers become caught in lifelong debt bondage as they owe large sums of money to their employers or contractors and have to work for little or no pay until this is repaid.9 In some instances this may result in intergenerational transfer of debt as it is common for immediate kin to replace workers who retire due to old age or occupation-related illnesses and to take on their debt.10 Situations of debt bondage are often aggravated by the need to raise emergency funds or take on loans for health crises.

Debt bondage is also used as a form of control in forced sexual exploitation. Survivor interviews revealed managers requested compensation for the money allegedly paid to purchase the victim. With little or no payment given to victims for their work, repaying the debt is almost impossible, trapping them in an indefinite cycle of debt bondage and exploitation.

The agricultural sector accounts for 62.7 percent of India's rural employment, but changing environmental patterns in the eastern state of Odisha, such as irregular rainfall, frequent droughts, and deforestation, have resulted in destruction of traditional livelihoods. The lack of employment opportunities and the need to seek alternative sources of income force people to migrate to other states within India in search of work. 14 Seeking work in brick kilns across the country has become a common phenomenon for people from Odisha.15 This often involves labour agents who use a system of advance payment where workers are paid a lump sum upfront which they then need to pay off through the bricks they make, consequently trapping them in bonded labour until they have paid off their debt.

It is reported that in certain brick kilns accepting a wage advance from a contractor, who acts as an intermediary between the kiln owner and the worker, is seen as a mandatory step to accepting a job, as shown by a study in Punjab in 2014 where 94 percent of those interviewed had taken an advance. The advance system makes it obligatory for the worker to remain in the kiln, and with advances and payments reportedly made via a contractor, there is little scope for workers to seek out other employment opportunities.

Instances of forced labour exist among local and migrant domestic workers both within India and overseas who find themselves coerced into hard physical labour and experience conditions of ill treatment, and confinement. Domestic workers are particularly vulnerable as they work in private homes18 and depend on their employers for basic needs such as food and shelter.19 This is highlighted in the recent case of a Bangladeshi migrant domestic worker who was held hostage and physically abused by a family in Noida, Uttar Pradesh, after asking for her unpaid salary.20 Most female domestic workers migrate from India's least developed regions, such as Jharkhand, West Bengal, and Assam, to urban areas where a growing middle class has created demand for domestic help.

Conclusion

Given the colonial legacy and the continuing concerns arising from successive attempts at law reform, it appears that the current intervention to tackle human trafficking in India by only establishing AHTUs is not enough. India's strategy to tackle human trafficking and migrant workers' crisis should not completely and only depends on law enforcement institutions like AHTUs, instead, it also requires a rights based reform that dismantles the colonial legacy of the

law which conflates human trafficking and sex work and migration. If Modi government in India fails to reform the policies, and simply promotes an intervention by only setting up law enforcement structures like AHTUs, it would mere be a token response to tackle trafficking and protect migrant worker's rights, rather than a genuine effort.

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