

CAMPUS LAW CENTRE

International Conference on

**Combating Human Trafficking
with Special Reference to Women and Children**

13th - 15th February 2015



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 Former, Judge, High Court of Delhi

Co-Chairperson: **Professor Rajiv Khanna**
 Director, Faculty of Law, SGT University, Gurgaon

Rapporteur: **Ms. Harleen Kaur**
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Saturday, February 14, 2015 | 09:30 a.m. – 11:15 a.m. | Venue: Seminar Hall, CLC

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 Judge, High Court of Delhi

Co-Chairperson: **Mr. S.K. Gupta**
 Associate Professor, CLC

Rapporteur: **Ms. Cheshta Dehiya**
 Assistant Professor, CLC

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Judge, High Court of Delhi

Co-Chairperson: **Ms. Kim Haing**,
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Judge, High Court of Delhi

Co-Chairperson: **Professor (Dr.) B.T. Kaul**
Chairperson, Delhi Judicial Academy

Rapporteur: **Mr. Moatoshi Ao**
Assistant Professor, CLC

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Judge, High Court of Delhi

Co-Chairperson: Maj Gen, Professor Nilendra Kumar
Director, Amity Law School, Noida

Rapporteur: Mr. Neeraj Gupta
Assistant Professor, CLC

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Judge, High Court of Delhi

Co-Chairperson: Professor (Dr.) Donald K. Anton,
Professor, Griffith University Law School, Australia

Rapporteur: Mr. Neeraj Kumar
Assistant Professor, CLC

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Sunday, February 15, 2015 | 11:30 a.m. – 01:15 p.m. | Venue: Seminar Hall, CLC

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Chairperson: **Hon'ble Mr. Justice Rajiv Sahai Endlaw**
Judge, High Court of Delhi

Co-Chairperson: **Professor (Dr.) Usha Tandon**
Professor -In-Charge, CLC

Rapporteur: **Mr. Shourie Anand Singh**
Assistant Professor, CLC

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Sunday, February 15, 2015 | 02:15 p.m. – 04:00 p.m. | Venue: Seminar Hall, CLC

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Chairperson: **Hon'ble Mr. Justice Pradeep Nandrajog**
Judge, High Court of Delhi

Co-Chairperson: Professor (Dr.) S.C. Raina	
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Welcome Address and Introductory Remarks

Professor (Dr.) Usha Tandon
Professor-In-Charge and
Conference Director

I am extremely delighted to welcome all delegates, dignitaries, my colleagues and students to the 3 day International Conference on "Combating Human Trafficking with Special Reference to Women and Children".

The new academic session at the University of Delhi started in the last week of July, 2014. In the month of August, itself, there was a buzz at CLC for 'this year's conference'. The month of September brought distress and sufferings for CLC. We regained, however, a little bit in October. My colleagues and research- scholars, kept me reminding 'this year's conference', and made me work for the same. I could observe, happily, as to how the success of the last year's Conference, has enthused them to exhort me to have another conference, forgetting otherwise difficult period at CLC. So, rounds of meeting had started to finalise the details of the Conference. The dates of the Conference took more time to be decided, since due to certain family obligations, I could not have gone beyond mid February. Ultimately the Call for Papers was

announced in the last week of October, 2014 for the Conference from 13th to 15th February, 2015.

When expectations from the institution are high and morale of the institution is low, one desperately looks at some source of strength to help accomplish those expectations. The CLC has been fortunate to get that strength, at the needed hour, from its cherished *alumni*, when Hon'ble Mr. Justice Arjan Kumar Sikri, Judge, Supreme Court of India consented to be the Patron-In-Chief of the Conference and Mr. Mohan Parasaran, Senior Advocate, formerly Solicitor General of India and Mr. Sidharth Luthra, Senior Advocate, formerly Additional, Solicitor General of India, consented to be the Patrons of the Conference for its successful organisation. With their electrifying patronage, CLC regained its power to move ahead confidently for this Conference. This morale was further boosted when CLC's glittering stars from Delhi High Court Judiciary- Hon'ble Justices- J. Pradeep Nandrajog, J. Gita Mittal, J. Hima Kohli, J. Manmohan, J. Suresh Kait, J. Rajiv Sahai



Endlaw, J. Indermeet Kaur J. Jayant Nath, J (R) Manmoham Sarin, and J (R) Aruna Suresh consented to chair the Technical Sessions of the Conference. On behalf of my colleagues, students and delegates, I express my heartfelt gratitude to this galaxy of legal luminaries who are coming together to lighten and brighten the lost beauty of their neglected *alma mater*..

CLC is a deep rooted legal institution having a glorious past of 91 years. In its about century old existence, it has undergone many phases of ups and downs. Originally, in 1924, it was known as "morning classes" of Faculty of Law. In 1975, it got its present name of CLC and also got sufficient space, good infrastructure and best faculty to impart quality legal education to 250 students. The period from 1955 to 1988 was its golden period. During this period, it had prepared great leaders for the Nation which included Union Cabinet Ministers, Chief Justices of the Supreme Court of India, Chief Justices of various High Courts, Judges of Supreme Court of India and High Courts, Vice Chancellors and top law officers. Gradually number of students kept increasing tremendously. The year of 1994 was the disastrous period for CLC, when Law Centre –I was shifted here, as a temporary makeshift arrangement, from its old location of Mandir Marg. The unending problems for CLC started from that time and gradually resulted in the acute identity crisis for CLC. On the one hand, number of students increased to 2200+ students, and on the other hand, the already available space had to be shared with another law centre having the strength of 2400+ students. The apathy of the University, in spite of repeated reminders, to provide sufficient space, good infrastructure and permanent faculty has lead CLC to the verge of collapse. Presently, it is struggling to reclaim its domain and aspiring for the state of the art facilities to continue its magnificent tradition of producing the leaders of the day.

This period of domestic upheaval, however, could not stop CLC from providing an

international platform to various stakeholders for a serious discourse on combating human trafficking. Human trafficking is not only an organised international crime cutting across boundaries, race and religion, but it is also, as very aptly described by Hon'ble Ms Justice G. Rohini, the Chief Justice of High Court of Delhi, in her Message, a 'gendered crime'. Young women and girls are forced to prostitute on the streets and in hotels, forced to sell sex by knocking on cab doors, and hand over money to their traffickers so on and so forth. Article 2 of UN's Declaration on the Elimination of Violence Against Women, 1993 while defining 'violence against women' which is another name of 'gendered crime' specifically includes within its fold trafficking in women and forced prostitution. Needless to say that without addressing and redressing the problems of women, no modern Nation, state or society can profess to be civilized and prosperous. I am sure that the deliberations on various sub themes of Human Trafficking viz, Definition, Causes & Effects; Forms of Human Trafficking; International Conventions Pertaining to Human Trafficking; Trafficking, Trade and Migration; Religious, Traditional Practices and Ritual Servitude; Role of NGO's, Civil Societies, Administrative Machineries, and Police in Combating Human Trafficking; Rehabilitation of Trafficked Victims etc will help achieving the objectives of the Conference. We are also planning to publish the proceedings of the Conference for wider dissemination of the outcome of deliberations.

In response to our Call for Papers, we received a total of 173 abstracts from almost all continents. 32 abstracts had been received from outside India. It was indeed a very tough job for the Scrutiny Committee to select 50 papers for the Conference. The broad criteria that were followed by the Committee along with the merit of the paper included equitable representation of sub-themes, wider geographical representation, preference to experts and



research scholars, inclusion of student's contribution (as a promotional measure) and exclusion of late submissions etc. The fifty papers represent 14 countries and 11 States of India. The global paper participation is from USA, UK, Australia, South Korea, Egypt, Austria, Bolivia, Indonesia, Nigeria, Nepal, Fiji, Iran, Afghanistan and Bangladesh. Sri Lanka and a few Indian States are also participating as a non paper presenter.

I express my gratitude to all those dignitaries who sent us their best wishes through their Messages for the grand success of the Conference. I am grateful to Hon'ble Mr. Justice K.G. Balakrishnan, Chairperson, National Commission for Human Rights, for having agreed to deliver Inaugural Address; Hon'ble Mr. Justice Nandrajog, Judge High Court of Delhi; Ms Kim Haing, President, Korean Institute for Gender Equality, Promotion and Education; Professor Donald K. Anton, Griffith University Law School, Australia, for having agreed to be the Guests of Honour. I am thankful to Professor (Dr) B.T. Kaul, Professor (Dr.) S.C. Raina. Professor (Dr.) P.S. Lathwal, Professor Rajiv Khanna, Professor Nilendra Kumar and Mr. S.K. Gupta for agreeing to be the Co-Chairpersons of Technical Sessions and Professor (Dr.) A. K. Bansal, Dean, Faculty of Law, University of Delhi for having agreed to deliver the Presidential Address.

Justice Arjan Kumar Sikri's unmatched dedication and steadfast support to its alma mater is helping CLC a lot to march along with the time. I am beholden to his Lordship for his valuable guidance and enormous help in holding this international conference. I am indebted to him for making Technical Sessions of the Conference adorned by glittering stars of CLC from the Delhi High Court Judiciary. Special thanks are due to Hon'ble Justice for being the Patron-In-Chief of the Conference, and for agreeing to deliver the Valedictory Address. It is been an honour and privilege for us to work under his

protective and inspiring patronage.

Mr. Mohan Parasaran has been the driving force for the holding of this mega event. As a prominent alumnus and conscientious Patron of the Conference, he has been kind enough to sponsor the Conference. His generous contribution for making this Conference splendid and superb by agreeing to host the Dinner at Hotel Taj Palace, is a great honour to the delegates and dignitaries of the Conference. I am thankful to him for agreeing to deliver Special Address in the Valedictory function. I recognize with all humility and gratefulness his immense support at all stages of the Conference, without which, perhaps, this event was not possible this year. Mr. Sidharth Luthra's superb devotion for its alma mater deserves special mention. Though he is not physically present in the conference due to his pre-occupied schedule, his moral support in making this conference a success is hugely acknowledged with warm appreciation. I take pride in Mr. Parasaran's and Mr. Luthra's association with CLC, which is taking CLC, in spite of its taxing and vexing phase, to new heights of academic excellence.

I hugely appreciate the hard work done by the Coordinators, Members of the Conference, Members of the Sub-Committees of the Conference and Student Volunteers. I hope and trust that with the enthusiastic participation of my colleagues, students and non-teaching staff, the delegates will have a comfortable stay at Delhi University and will enjoy CLCn hospitality. I am also thankful to 'Genesis' for the timely and beautiful publication of the souvenir.

A handwritten signature in black ink, appearing to read 'Usha Tandon'.

Usha Tandon
25th January, 2015





Shri Pranab Mukherjee
Hon'ble President of India



राष्ट्रपति
भारत गणतंत्र
PRESIDENT
REPUBLIC OF INDIA

MESSAGE

I am happy to learn that the Campus Law Centre (CLC), University of Delhi, Delhi is hosting an International Conference on the theme "Combating Human Trafficking: With Special Reference to Women and Children" from 13th to 15th February, 2015 and a commemorative souvenir is being brought out on this occasion.

Human trafficking is a crime against humanity and undermines the rule of law and the political foundation of states. This global problem needs paramount attention by all Governments and law enforcement machineries. I am sure the Conference will serve as a useful forum for various stakeholders to deliberate meaningfully on how this crime against humanity can be effectively combated.

I extend my warm greetings to all participants of the Conference and wish the deliberations every success.

(Pranab Mukherjee)

New Delhi
January 12, 2015





Shri H.L. Dattu
Hon'ble Chief Justice of India

H. L. Dattu
Chief Justice of India



5, Krishna Menon Marg
New Delhi-110 011
Tel.: 91-11-23012378 (R)
Telefax: 91-11-23012377

November 30, 2014

Message

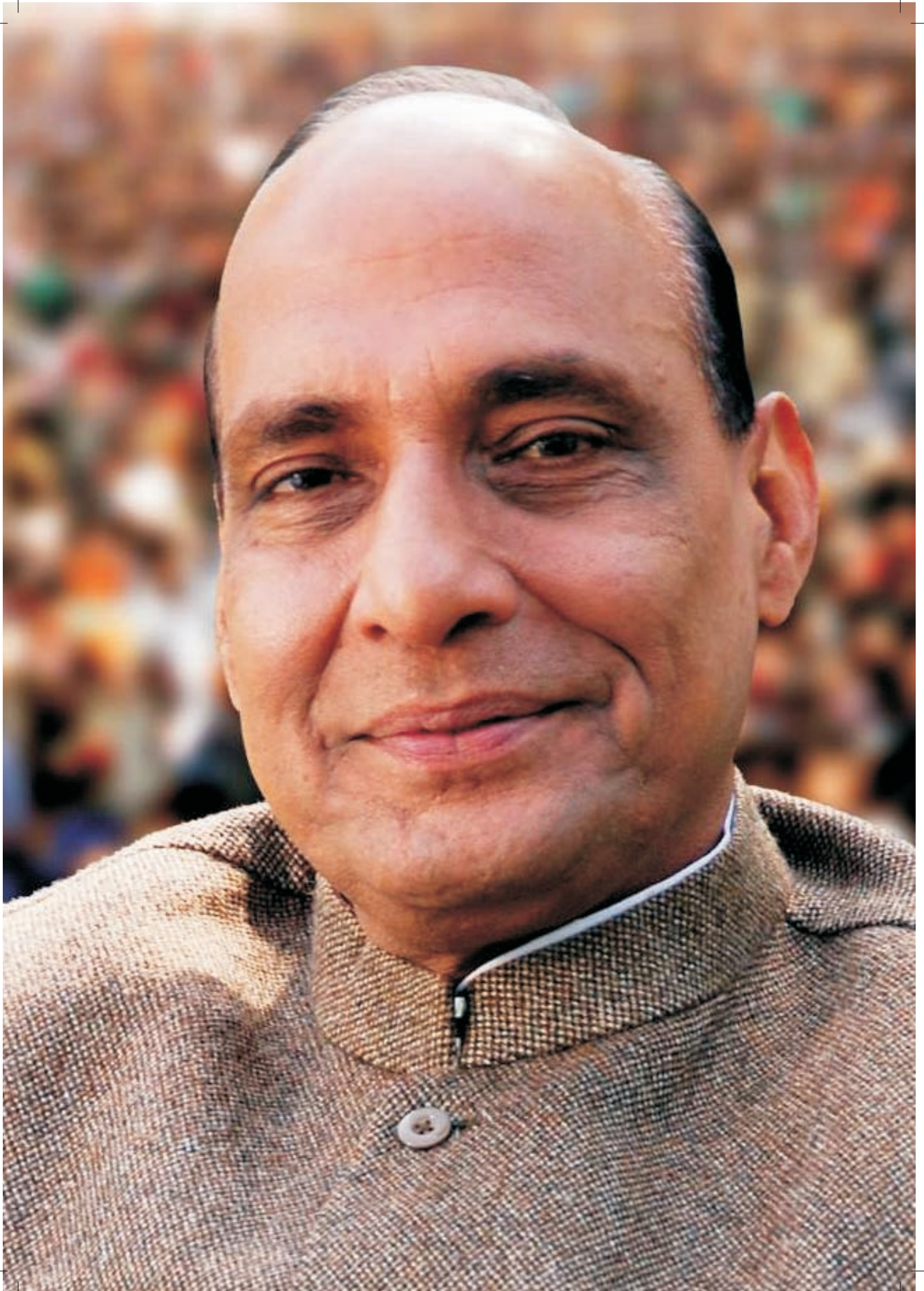
I am happy to know that the Campus Law Centre, University of Delhi, New Delhi, is organising an *'International Conference on Combating Human Trafficking: With Special Reference to Women and Children'* from 13th to 15th February, 2015.

One of the most saddening reflections of our society's inability to curb crime against women and children is the strong prevalence of trafficking networks across the Globe, as an internationally organized crime. The menace of human trafficking cuts across a range of developmental issues; specifically concerning that of poverty and social inclusion, and the issues of law and justice. Despite constitutional principles enshrined in Article 23 of the Constitution of India, the adoption of "Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children" Protocol by the United Nations in 2003 and our own legislation Immoral Traffic (Prevention) Act, 1986, we have failed in curbing this ever-growing menace.

I believe that this Conference would be an excellent Platform to highlight this burning issue. I am of the firm opinion that this Conference would address the various facets that are associated with the issue of human trafficking in an exhaustive manner and one which will stimulate the intellectual mind. It impresses me that the Conference in its framework goes beyond legal theory and seeks to look into the practical side of the problem from the perspectives of the police, NGO's and the civil society, who interact with the victims of trafficking at ground level.

I wish the Conference all success.

H. L. Dattu,
[H.L. DATTU]





Shri Rajnath Singh
Hon'ble Union Home Minister of India

राजनाथ सिंह
RAJNATH SINGH



गृह मंत्री
भारत
नई दिल्ली-110001
HOME MINISTER
INDIA
NEW DELHI-110001

Date: 29.12.2014

Message

I am happy to know that **Campus Law Centre (Delhi University)** is going to organize its three day '**International Conference**' on the theme "**Combating Human Trafficking: With Special Reference to Women and Children**" on February 13-15, 2015 and also coming out with a souvenir to mark the occasion.

I congratulate all the members of Campus Law Centre who are conducting the International Conference and wish for souvenir's successful publication.

With good wishes,

(Rajnath Singh)





Shri Arun Jaitley
Hon'ble Union Minister of Finance, Minister of Corporate Affairs
and Minister of Information and Broadcasting of India

Dy. No. 238916/FM/FMP/2014

अरुण जेटली
वित्त, कार्पोरेट कार्य
एवं सूचना व प्रसारण मंत्री
भारत



सत्यमेव जयते

Arun Jaitley
Minister of Finance, Corporate Affairs
and Information & Broadcasting
India

15 December, 2014

MESSAGE

I am very happy to know that Campus Law Centre (CLC), University of Delhi, Delhi is hosting a three-day International Conference from 13th - 15th February, 2015 on the theme "*Combating Human Trafficking: With Special Reference to Women and Children*".

Any society, any nation is judged on the basis of how it treats its weakest members. In India, as in the case of several developing nations, women and children constitute its weakest and most vulnerable inhabitants who are highly susceptible to trafficking and enslavement. This social malaise continues to haunt our society and calls for urgent and proactive measures to curb and eradicate this pernicious evil.

Law as a tool of social engineering has the impetus to mitigate this heinous crime against humanity. It is highly commendable that Campus Law Centre is providing a forum for the academia, Bench, Bar, researchers, policy and law makers and various other bodies and agencies across the world to deliberate and extend solutions for combating this crime through enhanced coordination between various investigation, anti-trafficking, prosecution agencies and also spreading public awareness and for victim services.

I wish Campus Law Centre, University of Delhi all success for a fruitful and result-oriented Conference.


(Arun Jaitley)

Prof. (Dr.) Usha Tandon
Professor In-Charge
Campus Law Centre
University of Delhi
Delhi - 110 007.





Shri D.V. Sadananda Gowda
Hon'ble Union Minister of Law and Justice

डी वी सदानंद गौड़ा
D.V. Sadananda Gowda



सत्यमेव जयते

D.O.No. 149 MLJ/MP/2015
मन्त्री

कानून एवं न्याय
भारत सरकार

MINISTER
LAW AND JUSTICE
GOVERNMENT OF INDIA

21 JAN 2015

MESSAGE

It is heartening to know that the Campus Law Centre (CLC), University of Delhi, is organizing an International Conference on "Combating Human Trafficking: With Special Reference to Women and Children" from 13th to 15th February, 2015. It is befitting that a souvenir is being published to mark the event.

Human trafficking is a form of modern slavery where people profit from the control and exploitation of others. Traffickers use force, fraud or coercion to control other people for the purpose of engaging in commercial sex or forcing them to provide labour services against their will. They use violence, threats, deception, debt bondage and other manipulative tactics to trap victims in horrific situations. All trafficking victims share one essential experience – the loss of freedom. I believe the Conference will provide the participants a forum to gather and proffer solutions for combating this crime.

I wish the Conference a grand success.


(D.V. Sadananda Gowda)

Prof. (Dr.) Usha Tandon,
Professor In-Charge,
Campus Law Centre,
University of Delhi,
Delhi – 110 007.





Mrs. G. Rohini
Hon'ble Chief Justice, High Court of Delhi

JUSTICE G. ROHINI
CHIEF JUSTICE



HIGH COURT OF DELHI
SHER SHAH ROAD, NEW DELHI - 110503
PHONES.: 011-23387949, 011-23382951
(FAX) 011-23782731

MESSAGE

I am delighted to learn that Campus Law Centre, University of Delhi is hosting a three day International Conference on the theme "*Combating Human Trafficking: With Special Reference to Women and Children*".

Trafficking is one of the most organized crimes in the world transcending culture, geography and time. The vulnerable sections have become more prone to this 'gendered crime'.

This conference provides for a platform to engage in an open discussion to this immense and noble struggle.

I believe that this Conference is an outstanding contribution in empowering each one in addressing human trafficking from the human rights perspective.

This Conference would help to evolve an understanding and sensitivity towards the issue. It is a unique orientation program for the law enforcement agencies and the entire fraternity working for the protection of political, social and legal rights of women and children.

I congratulate the Campus Law Centre for taking up this issue of promoting and protecting the human rights of individuals especially women and children. I extend my best wishes for its success.


(G. ROHINI)





Patron in Chief

Shri A.K. Sikri
Hon'ble Justice, Supreme Court of India

Justice A. K. Sikri
Judge
Supreme Court of India



Tel.: 23016022
23016044

February 02, 2015

MESSAGE

Human trafficking is a global problem and one of the world's most shameful crimes, affecting the lives of millions of people around the world and robbing them of their dignity. Traffickers deceive women, men and children from all corners of the world and force them into exploitative situations every day. While the best known form of human trafficking is for the purpose of sexual exploitation, hundreds of thousands of victims are trafficked for the purposes of forced labour, domestic servitude, child begging or the removal of their organs.

The theme of the conference: International Conference on Combating Human Trafficking: With Special Reference to Women and Children is an apt one as this burning issue needs to be resolved at the earliest in order to save millions of lives.

I congratulate the Campus Law Centre, and Prof. (Dr.) Mrs. Usha Tandon in particular, for taking up this issue and organizing this conference and I extend my best wishes for its success.


(A.K. SIKRI)





Patron

Justice Mohan Parasaran
Senior Advocate

MOHAN PARASARAN

B.A., L.L.M. (CANTAB)
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Message

It gives me immense pleasure to know that Campus Law Centre (CLC), University of Delhi is organizing an international conference on the theme "Combating human trafficking: with special reference to women and children" from 13th-15th February 2015.

The plague of human trafficking is a real and serious threat to the stability and well-being of any civilized society that holds dear the freedom of its members. It is nothing but enslavement of human beings for the purpose of their exploitation, which results in the grossest of abuse of their basic human rights. Our fundamental rights, so fervently revered as supreme, are rooted in free will and dignity. It was what our forefathers have strived to achieve; this is how our Constitution came into being. Yet, thousands of women and even children are sold into sexual slavery at brothels, or pushed into forced labour, condemned to a life of hopelessness and misery.

Why is this happening when we have the requisite laws in place to combat trafficking? Though unpleasant to state, the fact remains that such a large scale and systematic endeavour of enslaving so many individuals cannot take place without the involvement of corrupt law enforcement agencies. The need of the hour therefore, is to take steps for effective enforcement of laws and ensure proper investigation and prosecution. The international conference on Combating Human Trafficking will enable academia, Bench, Bar, researchers, diplomats, policy makers and law makers to come together and proffer solutions for combating this heinous crime.

I congratulate Campus Law Centre for taking up this burning issue and extend my best wishes for publication of the souvenir and for the great success of the Conference.

New Delhi
01.02.2015


(MOHAN PARASARAN)





Patron
Shri Sidharth Luthara
Senior Advocate

Sidharth Luthra
M.Phil (Cambridge)

SENIOR ADVOCATE

28th January, 2015

Prof. (Dr.) Usha Tandon
Professor-In-Charge
Campus Law Centre
University of Delhi
Delhi.

Dear Prof. (Dr.) Tandon,

I was pleased to hear that the Campus Law Centre, Faculty of Law, a premier institution in the field of law is hosting an International conference on Human Trafficking from 13th February to 15th February, 2015.

The issue of human trafficking has plagued the world over the past few centuries and retains its presence in various societies and nations even today.

International treaties and conventions have sought to address this menace over the years however, it continues to be a concern for developing societies and underprivileged groups who are the subject of human trafficking.

As India is poised to take its place as a leader amongst the nations, it is imperative that this deplorable activity is studied along with its various ramifications including its nexuses with organized crime, human rights, prostitution and terrorism.

The Campus Law Centre is striving hard to raise topical issues of academic and social debate and to ensure that its students get the best exposure possible during their study of law as also the Campus retains its position as a centre of excellence in the teaching and research in law.

I wish the organizers all the best.

Sidharth Luthra





Advisor

Professor Ashwani Kumar Bansal
Head & Dean



विधि संकाय

Professor Ashwani Kumar Bansal
Head & Dean

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31 Jan 2015

Message

Campus Law Centre (CLC), a prominent unit of the Faculty of Law of University of Delhi deserves accolades for addressing the theme "Combating human trafficking of women and children", for its international conference on 13-15 February 2015. The sensitization of scholars against a crime victimizing innocent and vulnerable people is a yeoman service that CLC is striving to render to accomplish freedom from the menace and rehabilitation of the victims.

Let us vow to fight the misery unleashed by terrible crime on Humanity and work together for rehabilitation of trafficked Victims. I am confident that the resource persons and participants would discuss and chart out a road map to eradicate the evil of human trafficking and all sorts of exploitation of women and Children by keen enforcement of the laws and suggest legislative interventions necessary to achieve an exploitation free environment.

With this path breaking event by Campus Law Centre at Faculty of Law, I reaffirm the faith of this great institution having completed 91 years of legal education contributing to emancipation of teeming masses of this country, to continuously work for a better life for all human beings of this nation especially women and children.

I extend my greetings and best wishes to Prof. Usha Tandon and Campus Law Centre for the success of all its efforts through the conference to help eradicate the evil of human trafficking.

Prof Ashwani Kr Bansal
Head and Dean



Coordinators (Left to right): Mayank Mittal, Moatoshi Ao, Shourie Singh, Cheshta Dahiya

*“Never doubt that a small group of thoughtful, committed citizens can change the world.
Indeed, it is the only thing that ever has.”
Margaret Mead .*



Coordinators' Column

After the formation of the League of Nations in 1919-1920 the women's movement shifted its focus on international issues. These efforts lead to the International Convention for the Suppression of the Traffic in Women and Children (United Nations 1950), which was signed in Geneva in 1921 by 33 States. The Convention refers to the offences mentioned in the 1910 Convention on White Slave Traffic. In addition, the Convention requests countries to take necessary measures to prosecute persons who are engaged in the traffic in children of both sexes.

In 2000 the United Nations Protocol against Trafficking in Persons was adopted and it came into force in 2003. Based on the Trafficking Protocol the approach of three P's was developed indicating that prevention, protection and prosecution must all be addressed in the fight against trafficking. The follow-up to the Trafficking Protocol involved some regional actions and the focus has moved towards more specific questions such as the rights of victims. The issue of forced labour as well as the connections between trafficking and migration are increasingly discussed at international forums. The future may also bring forward some new forms of trafficking such as organ trafficking, which have become prolific due to new opportunities afforded by increased technological innovations. And we hope that this conference will be a small but firm step in eradicating this menace.

As coordinators we are very blessed by our centre Head, Prof. (Dr.) Usha Tandon, Professor-in-Charge, CLC. Respected Madam is an epitome of inspiration. Extremely humble and approachable with a keen desire for perfection she has been there for us 24x7. Without her scrupulous planning and unflinching support, this conference would not have seen the light of day. Last but not least, we ever remain grateful to her for giving us the opportunity to be coordinators of this prestigious conference.

The help rendered by senior and fellow colleagues is indispensable for the success of this conference. We are sincerely grateful to all the committees for their timely help and support for making this event come true.

We sincerely thank the delegates and participants for taking keen interest in this conference and taking the trouble of travelling to Delhi to attend this conference. We hope the sessions will enable Conference participants to leave with a strong sense of insight, ways of providing leadership, and have practical ideas for their 'tool kits'.



COMBATING HUMAN TRAFFICKING
WITH SPECIAL REFERENCE TO WOMEN AND CHILDREN

13TH - 15TH FEBRUARY 2015

CAMPUS LAW CENTRE





Technical Session – I

Friday, February 13, 2015 | 12:00 p.m. – 01:45 p.m. | Venue: Seminar Hall, CLC

Human Trafficking: Definition, Causes & Effects

Chairperson: **Hon’ble Mr. Justice Manmohan Sarin**
Former Chief Justice, Jammu and Kashmir High Court Judge;
High Court of Delhi and Lokayukta NCT Delhi

Co-Chairperson: **Professor (Dr.) P.S. Lathwal**
Professor, CLC

Rapporteur: **Ms. Anju Sinha**
Assistant Professor, CLC

(i) Human Trafficking in Costa Rica

Gaby Curras Schoepflin

J.S.D./Doctoral research scholar
St. Thomas University School of Law, Miami, Florida, USA



A relatively highly educated and politically stable country in Central America, the Democratic Republic of Costa Rica continues to enjoy an equally steady economic growth. Main contributing trading factors include agricultural, services and industrial products. A popular vacation destination, tourism continues to be a large and vital foreign economic contributor for the Country, especially ecotourism, due to Costa Rica’s extraordinary biodiversity. Boasting with lush rainforests, beautiful beaches, exuberant wildlife, mesmerizing volcanoes and historical richness, it ranks 47th overall on the Travel and Tourism competitive index, (6th in the Americas region). Costa Rica continues to be a strong tourist destination mainly due to its natural resources. There is also a strong underground tourism base that continues to chip away at the inner fabric of human rights in the territory; one served by human trafficking and primarily in the area of sex tourism.

This paper utilizes the New Heaven School of Policy Oriented Jurisprudence approach as methodology to further explore the topic of Human Trafficking in Costa Rica. Firstly, it will look to delineate the problem by defining and identifying Human Trafficking as a serious international crime and specifically in the context of Costa Rica, particularly sex tourism. Secondly, conflicting claimants will be considered by exposing insight (bases of power) from the victims, traffickers, solicitors, religion and NGO’s perspective. Thirdly, will discuss past trends in decision and their condition factors by looking at International and Domestic Law instruments to help combat Human Trafficking in the context of Costa Rica, including the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children. Penultimate part will contemplate future decisions in light of changed and changing conditioning factors. Lastly the paper will appraise and provide alternatives and present recommendations on how to help prevent human trafficking in Costa Rica.



(ii) Child Trafficking: An Analytical Study in Children Homes

Apeksha Kumari

Ph.D Scholar (Law)
JamiaMilliaIslamia University
Delhi, India

Prashant Chaudhry

Ph.D Scholar (Social Work)
JMI, India



The most innocent phase in human life is the childhood, it is that stage of life when human foundation is laid for a successful adult life, it is the phase when we are carefree, fun loving and in a process of learning, playing with full enthusiasm and if we go back into our childhood then there are beautiful memories for most of us, we were carefree and joyful as we had parents, grandparents etc; but there are children who are always scared, tormented and controlled by others. They hate their childhood. They would do anything to get out of this dangerous childhood as these children are the innocent victims of the illicit trade known as 'trafficking'. Now it has become high time to know about trafficking menace, its hidden types, nature and extent as it has become so widespread from one state to another and from one country to another. And moreover, it is being taking shape

of an organized crime in various forms and types which is spreading day by day by organized gangs at source, transit and destination points and if not worked to control this menace then consequences could be horrible. We have various machineries like NGOs. Police, civil societies and administrative actions all are working in combating this crime, they all work enthusiastically to eliminate trafficking and some of them especially work in combating child trafficking.

The present study is exploratory in nature based on non-doctrinal techniques of data collection just to have an insight into the issue. The objective of the present paper is to understand the process involves in trafficking of children and aftermath impact including their psychological needs. The data collection involves interviews and focused group discussion with the victims and survivors of trafficking to gather insight information on trafficking scenario with respect to children in Delhi which is particularly transit, destination and source point, in spite of being Capital of India.



(iii) Human trafficking as a consequence of armed conflicts situations to persons with disabilities

Ivan Mugabi. K

Ph.D Scholar

Cardiff University, U.K.



The paper explores invisibility and vulnerability of persons with disabilities to acts of human trafficking as a result of; firstly their bodily limitations to use the bodily function for self-protection and secondly their exposure to areas with armed conflicts. The deaf and blind can be victims of the lucrative transactions in human beings which have been lately exacerbated by the increasing situations of armed conflicts across the global spectrum. The paper seeks to enhance a better

understanding of the typologies of human trafficking by exploring the places where (areas with armed conflicts) and the more vulnerable people (against whom) human trafficking can flourish by looking at them as victims and indeed a potential target. The approach taken looks at how armed conflicts tend to devastate centres for disability support that inhabit and protect persons with visual or auditory impairments. The paper develops the idea further to explain why the devastation of such centres exposes persons with disabilities to the human trafficking in the present day communities. The paper shall justify why human traffickers and their activities thrive well amid times of armed conflicts. Secondly the paper narrows the scope further through explaining with a few case studies on the deaf and blind as persons with disabilities. Paper advances a view that those who are relatively higher are more exposed to cases of trafficking than other persons. The paper also underscores some case studies of some disabilities such as blindness and deafness as instances of visual and auditory impairment in relation to the likelihood of human trafficking during armed conflict. Paper highlights the motives of human trafficking such as sex industry, organ donation, illegal adoption and labour exploitation. Paper shall highlight how the attainment of such motives is not in any way hindered but could instead benefit from the victims' disability. This paper gives reasons for increased vulnerability explaining the inability by such disabled people to recognize or even identify their surroundings makes them a hotspot target by human traffickers. The paper highlights problems of securing evidence from oral and testimonial accounts from disabled persons as victims of armed human trafficking. Paper shall reflect upon CRPD Convention and explore the protection given to disabled people against slavery and forced labour. Methodologies used include the mixed research study in which case studies of media and academic commentary shall be taken into account. More still written reports are also taken into consideration.



(iv) Commercial & Coerced Surrogate Motherhood as an emerging form of Human Trafficking

Sonali Kusum

Ph.D scholar

National Law School of India University (NLSIU)

Bangalore, India



In all socio legal discourses related to trafficking, the definition of human trafficking is narrowly confined to merely cases of sexual trafficking or prostitution at the exclusion of non sexual or other forms of trafficking such narrow, exhaustive definition may face inherent limitation to control and deter the practices of human trafficking.

Surrogacy as an assisted reproductive technology securing children to infertile couple has gained legitimacy as well sufficient popularity across the world, but due to large scale unregulated , commercial, overseas or cross border arrangements surrogacy has also brought with itself the socio legal evil of human trafficking as the of the glaring abuse of technology under the guise of surrogacy.

In the recent years there has been reported cases of human trafficking under the garb of commercial surrogacy , At Gujarat infertility doctors along with this leading reproductive law attorney of California have been arrested on charges of human trafficking. cases of abduction , forced confinement, bodily exploitation of women to be commercial surrogate mothers are reported from south Asian nations as China, Nepal Thailand, Myanmar and India others. Thus, the existing statutory, treaty laws on trafficking may be necessarily revised to read into these instruments cases above mentioned for this purpose a perusal may be made of the progressive legal instruments as the UN Convention against Transnational Organized Crime (UNTOC)", the Optional protocol to UNCRC, judicial decisions as BachpanBachao&Ors. vs Union Of India & Othersthat identifies non sexual form of trafficking or such other forms of exploitation therefore provides for an inclusive , broad definition of human trafficking as the in order put an absolute end to all or any form of human trafficking.

The objective of the paper is to consider commercial and coerced surrogate motherhood as contemporary form of human trafficking and a gross human right violation issue at both the national, international level for similar reasons related to trafficking as bodily exploitation compelling socio economic reasons as poverty, illiteracy, imposition of servile conduct , breach of right to person bodily dignity, autonomy, integrity and human rights. Followed with these similarity in the recruitment process by middle men, agents and stay arrangement secluded from society for both surrogate mothers in surrogate hostel, brothel for prostitute both respectively .





(v) Trafficked Bride: Whether a Dream from Hell to or a Reality Heaven for Sexual Exploitation: A Study

Navtika Singh

Assistant Professor
Galgotias University
Greater Noida, India



The human race developed its conscious delicately and has become one of the complicated social creatures of the nature. With experiences and a wisdom to have a dignified life and to serve the society, the mankind tried to establish a positive set of obligations and restraints within their community so that the spirit of humanity deliver collectiveness instead of individualism. Human traffickers find a fitting breeding ground in the fast-growing southern metros, luring victims with huge salaries and better lifestyles.

Trafficking in human beings is a global phenomenon which has been subject to increasing international attention in recent years. Bride trafficking is a recently developed kind of trafficking. In the era where women have a right to choose a suitable partner for herself, but still there are some unfortunate folks who are enforced into, the practice of selling a women into wedding against her wishes. This is known as 'marriage of convenience'. The traffickers then sell the women to those who are willing to pay for brides. To keep them, from escaping during the transaction to transportation and being sold, women are often drugged. The traffickers in this case pretend to be marriage brokers/ intermediaries for families in distant areas. Violence is used to convince women to leave their homes. These women are largely from rural villages. They get lured by false promises from traffickers. It is a common scenario that one woman will be sold multiple times as a bride to different men. An important step to eliminating gender bias and the attached issues of gender based crimes is pulling down the religious and cultural barriers that prevent families from accepting girls as persons with rights and freedom and not as liabilities.

In this present paper the researcher wants to put focus on 'bride trafficking as a problem' especially major trafficking from Bihar, West Bengal and South to Haryana, Rajasthan and UP. What are the different causes of Bride trafficking, what could be the measures to curb this problem, is bride has any matrimonial rights in bride trafficking or not, and at last rights and duties of so called husband.

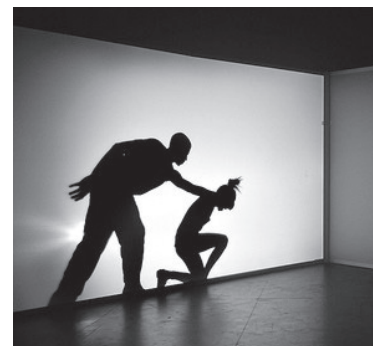




(vi) Definition, Causes & Effects of Human Trafficking: With special reference to Trafficking in women for sexual exploitation; Commercial Sexual Exploitation of Children (CSEC)

Pooja Gopal

Ph.D Research Scholar
Centre for Canadian, US & Latin American Studies (CCUSLAS)
Jawaharlal Nehru University (JNU), India



Trafficking of human beings, according to Article 3 of the Trafficking Protocol (2000), is defined as transportation or transfer of human beings by means of threat or other forms of coercion or abuse of power and having control over another person for the purpose of exploitation. In the modern world, it is a wide spread practice or rapidly growing phenomenon, but it should not be confused with 'smuggling' of human being (which refers to illegal immigration). Though, it is difficult to make clear separation between both, because an individual can be first smuggled and then trafficked. Trafficking has been recognized as modern-day slavery and a crime against the dignity of humanity (defined under Article 7 of the Rome Statute). Undoubtedly, it is a criminal justice issue.

In today's globalised world, the very first cause of human trafficking is that human lives are reduced to being commodities that are traded, used, and abused. Abject poverty, persistent unemployment, illiteracy, human deprivation, gender bias, corruption, rural-urban migration, and promises of jobs and education are other reasons which play an important role in fostering human trafficking, because of the prevailing 'vulnerability' factor.

There exist some problematic areas, which will be addressed in the paper. First problematic area is Article 4 of the Trafficking Protocol (2000) which provides that 'the offence of trafficking must be transnational in nature'. In reality, people are trafficked internally as well. Simultaneously, Article 3 of the Organized Crime Convention excludes that trafficking which takes place within national boundaries and does not consider internal transportation as trafficking under its subparagraph (b). It seems the issue of prevailing bias. Secondly, problems come in identifying victims of trafficking. It is argued that human trafficking can be distinguished from sex work and from illegal immigration. But, it seems a problem if prostitution and illegal immigration is consensual, then it is not seen as human trafficking.

In terms of tackling the issue of trafficking, crime and immigration control has been the usual step at the national level. In order to combat trafficking completely, correct identification of victims; effective collaborations among criminal justice and victim services agencies, local, national, and international governments and groups is required. As well as, there is a need to overcome enforcement barriers to anti-trafficking laws. Rescued victims should be provided all necessary help in regaining their human dignity.

Moreover, the complex trafficking-migration-exploitation nexus is needed to be addressed which is often considered separately. In addition to dated definitions, a need for revised definition is felt that will focus the light on the nuances of migration and exploitation in human trafficking.





Technical Session – II

Friday, February 13, 2015 | 02:30 p.m. – 04:15 p.m. | Venue: Seminar Hall, CLC

Forms of Human Trafficking

Chairperson: **Hon'ble Ms. Justice Aruna Suresh**
Former, Judge, High Court of Delhi

Co-Chairperson: **Professor Rajiv Khanna**
Director, Faculty of Law, SGT University, Gurgaon

Rapporteur: **Ms. Harleen Kaur**
Assistant Professor, CLC

(i) Trafficking of Humans from Nepal: A Dark Reality

Bipin Ghimire

Faculty member
Department of International Relations and Diplomacy
Tribhuvan University
Nepal



Trafficking of humans is a bleeding wound of tiny Himalayan country Nepal, as it is very rare to find out the trafficking-free communities. It is a grave problem in the sense that, despite of several efforts from the side of government and from the nongovernmental organizations, the problem continues to exist in nook and corner of Nepalese society.

Human trafficking in Nepal traditionally, perceived as the issue exclusively related to the Nepalese girls serving as sex slaves in the Indian brothels. But this narrow definition could not cover the new forms of trafficking in humans. With the high trend of foreign labor migration across the country border especially India, the problem of human trafficking came in front with its new dimensions, which brought other types of trafficking in light such as child trafficking, bonded labor and servitude, foreign labor exploitation and trafficking of humans for the organ transplantation. This research studies these different forms of human trafficking existing in the country and also analyses its interwoven relationship with the openness of international border and the socio political situation of the people in the country.

Nepal and India shares 1850 kms open border and it is accessible to enter into either of country from any point of the border. The similarity in cultures and traditions, the similar geographical locations, the existence of family relationships across the border, the linguistic similarity and the similar way of life led to the openness of the border and it is this openness, which has been exploiting by the tight knot networks of the traffickers and their helpers.





Surprising to know, the family itself, the near relative and the well known family friends turn out to be the traffickers, which is another serious challenge for the government bodies to control the trend. The existence of the rampant poverty, low socio economic status of the rural people, the high rate of illiteracy in the country, the decade long insurgency, unregulated open border, the existence of institutional corruption especially in police force, lack of social security measures from the side of government, and the prolonged political instability are some critical causes for the increasing human trafficking cases occurring throughout the country.

This research paper studies the different forms of human trafficking that have been existing in Nepal and how the open International border between Nepal and India has been exploited as a good medium for the traffickers to operate in both side of the frontier and to transport the victim to India and to third countries through India. Moreover the study also gives emphasis on how the cross border trafficking networks functions and analyses the contributing factors for the increasing trend of human trafficking in Nepal.

(ii) Justice Verma Committee, Prostitution, Trafficking and Exploitation: A Socio Legal Perspective

Nikita Audichya
Research Scholar
Centre for Law and Governance
JNU, New Delhi
India



“What is wrong with Prostitution?” The academia, the jurists and the feminist discourse, however, are still struggling to answer satisfactorily as to precisely what is wrong with prostitution? The idea that sex work should be seen like just any other form of work wherein services are rendered for a certain sum of money, the economic rights of the commercial workers should be respected and prostitution should be legalized, has begun to resonate in the recent years. The idea gets even greater backing with the unionization of the sex workers that has taken place all over the globe in the recent years. Against this background, the initial convergence of prostitution with trafficking and its consequent linking with prostitution by the Justice Verma Committee created a huge furore amongst some activists, feminists and primarily by the unionized sex workers. It was argued by them that this step would go further in robbing them and their work of the dignity that they have been fighting for. Further, legally it would be a huge impediment in their effort to decriminalize prostitution. Owing to their sustained pressure, the Criminal Amendment Act, 2013 omitted the word prostitution while defining the conditions under which trafficking is said to have taken place. It also delinks exploitation from prostitution and instead introduces the word “sexual exploitation” that is achieved through “force or any other form of coercion”. Thus the Act fits into the model of prostitution as “sex work” where it is tolerated as long as it is not forced and is being pursued by choice by the



concerned “sex worker”. The question arises, however, what exactly is meant by choice? Is prostitution really sex work? Is there something inherently exploitative with prostitution that inadvertently links it with human trafficking? Will legalization help in annihilating this aspect of prostitution?

These are the core questions that I wish to analyze in my paper. My paper would entail the analysis of JVC, the Criminal Amendment Act 2013 and the Palermo Protocol. From there on, I will use the two theoretical devices introduced by Catherine Mackinnon to see if prostitution fits better into the sex work or sexual exploitation model. In my conclusion, I will link my analysis with the JVC report to find out if prostitution is indeed trafficking and exploitation and how correct has the report been in its understanding of prostitution and the prostituted.

(iii) Trafficking with special reference to prostitution among girls and women in India: Interventional Strategies

Rashi

Research Scholar
Department of Social Work
University of Delhi
Delhi, India



Over the decades, human trafficking is a worldwide problem and it is constantly increasing in numbers not in the developed but also in developing nations. The commonplace understanding of Women trafficking as akin to ‘prostitution’ is one the major reason. Trafficking with prostitution has hidden several human rights violations such as the right to life, the right to liberty, human dignity and security of person, the right to freedom from torture or cruelty, inhumane or degrading treatment, the right to a home and family, the right to education inherent in all the forms of Trafficking. India is fast becoming a source, transit point as well as a destination for Traffickers is a great cause for concern. NGO estimates that approx 200 girls and women in India entered prostitution on a daily basis and 80 percent were coerced into it. Migratory populations specifically women and girls are more prone to become trafficked victims. In India, various forms of trafficking arising continuously like trafficking for sexual exploitation with focal point on forced prostitution and marriage and others forms are labor and illegal activities such as (begging, organ trade).

In India, Prevention of human trafficking requires several types of interventions. Prevention as a strategy to combat trafficking has to focus on areas of sensitization and awareness among the public, particularly those who are more vulnerable of trafficking. Interventional strategies need to emphasize on the people mental, physical health interventions with the process of rescue, repatriation, rehabilitation, and redressal, including counseling services. This paper addresses the magnitude of the prostitutions and trafficking causes and consequences and explores how this form of trafficking affects the women lives in the society.





(iv) Human Organ Trading: An International Concern

Dr.Ajai Singh

Assistant Professor
Faculty of Law
University of Allahabad, India

Vibhav Mishra

LL.B.Student,
Faculty of Law
University of Allahabad, India



With the exponential rise in the organ trade statistics, it seems that the law proves to be far behind to check these activities. With the advent of new, secured and encrypted technologies, the modus operandi of such traders are such that it generally slips out of the grill of law executors. It is not so that international community was not vigilant about these illicit activities, but it seems that due to absence of unanimity amongst the developed and the developing nation vis-à-vis alienation for other international issues piled up the issue of organ trading under the load of „other serious concerns. But with the alarming rate of organ trading and transplant tourism, there was felt a need to urgently address the matter. It was only in mid 1980s that the world community began a debate over this issue. With several global initiatives such as declaring organ trade as illegal in 1987, UN Convention on the Right of Child in 1989, WHO guiding principle on Human Organ Transplantation in 1991, Council of Europe Convention on Human Rights and Biomedicine in 1997 and its Optional Protocol Concerning Transplantation of Organs and tissues on Human Origin in 2002 and UN Protocol etc., the international community also stepped in to eliminate this crime. But by mere adopting the protocols and signing the declarations, such organ trading cannot be checked out. Also these protocols and declarations do not redress all issues in universal perspective. In addition, there are also arguments in favour of organ trading which are no less logical and are based on cogent reasons. This creates a deadlock and gives rise to a debate as to whether organ trading is justifiable or not and if, upto what extent.

Where on one hand countries like USA, India, China, South Africa, Philippines are against organ trades in any manner, Iran is the only nation to legalise such trading. Provisions related to monetary compensation finds its place in countries like Australia and Singapore when it comes to organ transplant. Bold steps taken by Iran is both praised and criticised, because in the cloak of trading gross human right violations are going on in order to satisfy the shooting demands.

If example of India is taken where Transplantation of Human Organs Act, 1994 allows transplantation is allowed in between near relatives subject to S.9(1). But this provision also creates a lot of practical difficulty while getting an organ which may suit the body of recipient and for orphans. Another prominent, contemporary cum specific issue is of Human Gene Trafficking which is also becoming a problem for the law makers and executors. In most of the nations there are almost no means to redress the issue.



(v) Trafficking and Commercial Sexual Exploitation: An International Perspective

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Women and children have been captured, bought and sold in market places from time immemorial for commercial sexual exploitation. Human trafficking is one of the most lucrative criminal activities. International conventions exist to punish and suppress trafficking especially women and children. Trafficking is now defined as an organized crime and a crime against humanity. The United Nations Convention for the Suppression of the Traffic in Persons and of the Exploitation of Prostitution of Others is the primary international treaty that protects the right of sex workers. The Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children is the most recent international instrument on the issue. It is complementary to the United Nations Convention against Transnational Organized Crime. In May 2011 India ratified the UN Convention against Transnational Organized Crime (UNTOC) and its protocols. This protocol is written in a language that is quite similar to the 1949 Convention and thus, there is not much substance that protects the interests and the rights of women who are in the profession of prostitution. It, also, does not differentiate between forced prostitution and trafficking on one hand and consensual prostitution on the other hand. This, there is a denial of basic rights of these sex workers. SAARC has also been instrumental in combating the evil of prostitution. India has ratified the SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution which acts as a combatant in prevention of trafficking and sexual exploitation but there has been great criticism to this effect.

In India the view of judiciary regarding the problem of prostitution is changing and is moving towards a progressive state. Having said this, it is still beyond imagination to see this evil being eradicated from the country completely in the near future. There needs to be an organised effort towards the rehabilitation of women and children who have been in the profession of prostitution. Also, stricter application of laws is required to penalise the main kingpin of the trade, including brothel owners, pimps and corrupt officials who derelict their duty. Laws and treaties put upon nations a burden to protect the interests of women and children trapped in the vicious circle of prostitution.

The Paper will address the main cause of the concept of sex slavery in the country and the abroad. Further it will also be emphasized that the essential rights of 'victims' are protected and the real culprit behind this activity be punished. Thus, there should a mandate guiding the law enforcement agencies. Women and children, who have been into prostitution, should be given





skill enhancement and knowledge to exploit skills. Moreover, children born out of this act be given primary education so as to improve their conditions in the present as well as future. Above all a change in the mindset of the society is required.

(vi) Child Trafficking - Scenario in India

Dr. AparnaSrivastava

Researcher

High Level Committee on the Status of Women

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India



Child trafficking is one of the worst forms of child in the recent decades. Affecting 1.2 million children worldwide, child trafficking is the movement of children from place to place-through force, coercion or deception - into situations involving their economic and sexual exploitation and is a crime under international & domestic law. Children form a heterogenous category divided on the basis of their social and economic status, physical and mental ability', geographical location etc. The difference in situation explains the difference in the degree of their vulnerability. Girls in vulnerable situation such as poverty, disability, homelessness etc. find themselves doubly disadvantaged, by their gender and the physical, economic, political, social situation that they find themselves in. It is therefore imperative to take a gender perspective in examining the situation of children.

Trafficking is not a discrete act - it is a series of events, which takes place in the child's home, community, transit points, and final destinations. Whenever a child is relocated and exploited, it is trafficking. All those who contribute to it and profit from it-recruiters, middlemen, document providers, transporters, corrupt officials, employers and service providers-are traffickers.

Most children continue to be trafficked into commercial sexual exploitation. However, many children are also trafficked into other forms of labour exploitation, including domestic service, armed conflict, service industries like restaurants and bars, and hazardous work in factories, agriculture, construction, fishing, and begging. India too is witnessing shrinking of resources, a greater move towards privatization of basic services such as health and education, coupled with much greater consumerism led by the market forces are ample reasons for the poor to submit their children to conditions that abet trafficking.

The paper highlights that it is difficult to assess the magnitude of Child trafficking in the country as no comprehensive statistical data is available on child trafficking in all its forms and purposes. Many cases still go unreported. Crime statistics may not always be available in terms of cases reported under each and every section of the IPC. Whatever little statistical data is available is related to women and children in prostitution. Most of it is based on micro studies and to a large extent are projections and estimates.





Technical Session – III

Saturday, February 14, 2015 | 09:30 a.m. – 11:15 a.m. | Venue: Seminar Hall, CLC

International Conventions Pertaining to Human Trafficking

Chairperson: **Hon’ble Mr. Justice Suresh Kait**
Judge, High Court of Delhi

Co-Chairperson: **Mr. S.K. Gupta**
Associate Professor, CLC

Rapporteur: **Ms. Cheshta Dehiya**
Assistant Professor, CLC

(i) Exploring the Potential Impact of then 2014 to the Forced Protocol Labour Convention, 1930

Professor (Dr.) Donald K. Anton

Professor of International Law
Griffith University Law School
Australia



Two major Conventions adopted in the 20th Century under the auspices of the International Labor Organization (ILO) prohibit forced or compulsory labor in all its forms: Conventions 29 and 105. Convention 29 was adopted in 1930. Forced labor at the time was mostly seen as related to the dictates of colonial administrations, along with a few states. Despite this perceived limited context, the ILO adopted an open-ended definition of prohibited forced labor without listing specific prohibitions. The definition continues to apply to every possible form of forced labor and to all workers no matter whether in the public or private sector. Convention 105 was adopted in 1957. It advances Convention 29 by requiring the immediate abolition of forced labor in five specific cases related to forced labor by the State for economic purposes or as a means of political coercion.

Yet, for some time, it has been felt that gaps existed and additional measures were needed to strengthen international cooperation to combat modern forms of forced labor. In 2013, an ILO tripartite meeting of experts concluded that “[d]espite the broad reach of Convention No. 29...significant implementation gaps remain in the effective eradication of forced labour and need to be urgently addressed in terms of prevention, victim protection, compensation, enforcement, policy coherence and international cooperation...” The experts also concluded “that there was added value in the adoption of supplementary measure to address the





significant implementation gaps remaining in order to effectively eradicate forced labour in all its forms.”

Acting on these conclusions, the 103rd Session of the International Labour Conference (ILC) voted on its third major instrument designed to strengthen international efforts to end all forms of forced labor. With 437 votes for, 8 against, and 27 abstentions, the General Conference of the ILO adopted the Protocol of 2014 to the Forced Labour Convention, 1930. This contribution explores the potential of the new Protocol, especially in the areas of prevention and victim protection.

(ii) The Effectiveness of United Nations Trafficking Protocol 2000 in Combating Immoral Trafficking: A Critical Analysis

B.G. Akhila

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Jawaharlal Nehru University
New Delhi, India



Trafficking is a transnational complex issue involving multiple actors acting at different causative stages. Combating human trafficking is impossible unless, a holistic and effective mechanization operates both at national and international level. This paper highlights few of the theoretical and practical questions international instruments like the UN Protocol to Prevent, Suppress and Punish Trafficking in Person, Especially Women and Children 2000 and its parent instrument UN Convention against Transnational Organised Crime 2000 have left unanswered. Firstly, the definition of trafficking in the Palermo Protocol is not exhaustive as its scope is limited (a) to the demand side of the trade; (b) it refers only to transnational trafficking totally neglecting the wrath caused by it within the boundaries of a state; (c) the terminology of the definition is complexly and ambiguous framed that it raises uncertainty during application at national level. The terms like slavery, servitude forced labour in the definition requires more elaboration and specificity. Secondly, the much debated issue prostitution is not exhaustively covered (by using the term “minimum” to the exploitation) and effectively linked to trafficking by the Protocol, thereby allowing the states (those who legalise and criminalise prostitution) to have diversified laws operating at their domestic levels. Thirdly, though Article 5 of the Protocol criminalises trafficking, there is no provision that calls the state parties to impose severe penalties on the traffickers (travauxpreparatoires shows that the penalty provision was accepted during the negotiations but omitted in the final text). Fourthly, the Part III of the Protocol dealing with the prevention of trafficking does not impose mandatory duties on the state parties to prevent trafficking, but uses non-obligatory phraseology like endeavour thereby exhibiting passivity. Fifthly, the contracting state parties are unable to implement the Protocol





in letter and spirit at their domestic legal systems for reasons such as; (i) trafficking being transnational in nature requires a state to exercise its extra-territorial jurisdiction to combat it, which consequently raises the issue of national sovereignty (Article 4 of UN Convention Against Transnational Organised Crime, since both the Convention and Protocol operate concurrently); (ii) the extradition issues crop up requiring this crime to satisfy double criminality principle; (iii) since contracting states have diverse anti-trafficking laws, the enforcement of the international instruments becomes difficult as their national legislations have to go through the transformation. Hence, this paper after considering the above theoretical and practical issues argues and optimistically looks forward for a holistic, stringent, specific and interdisciplinary mechanism both at national and international levels to combat human trafficking effectively.

(iii) Towards a Gender Perspective on Human Trafficking

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Human trafficking often dubbed as the ‘modern-age slavery’, is a worldwide phenomenon peaking to the level of a global crisis. The clandestine nature of its activity makes it difficult to assess its scale but it is roughly estimated that more than twenty million people are victims of trafficking and billions of illegal profits are generated annually from it. Despite heightened efforts to combat it, it shows no

sign of abating. Analysis of the current international legal framework on human trafficking, principally the Palermo Anti- Trafficking Protocol 2000 reflects varied concerns-principally of security, law enforcement, organizational crime and in some measure of victim protection. The dominant focus of most States has also been border control and tackling organized crime. There is however, equally a need to apply a gender based perspective to the issue of human trafficking to shift the focus on rights of the trafficked persons, majority of whom are women and children. A gender based analysis is also required to understand the interplay of forces-social, economic, cultural and political, at micro and macro level, which make women more vulnerable to being trafficked than men. For instance patriarchal control over women’s movement, education, employment and consequent gender violence are a predictor of exploitative trafficking. Similarly cultural practices like ‘devdasi’ in India, of young girls being offered in service to deities and being exploited by the priests provides fertile ground for trafficking for sexual exploitation. Globalization and economic necessity also drive women to migrate to better income prospects only to get caught in trafficking cycles with most traffickers being persons known or related to the women. Treating human trafficking as merely a criminal



activity leads to disregard of the rights of the victims-women and children including those conferred upon them under other international instruments. Trafficked women are mostly penalized as illegal migrants. Threat and fear of traffickers and lack of legal protection makes them reluctant to approach the enforcement agencies against the traffickers.

The aim of this paper is to understand the need for developing a more gender-sensitive approach to human trafficking in international law and practice. In the first part of the paper I undertake a gender analysis of the many causes and contours of human trafficking, in the second part there is a discussion on the events and debates leading to the passing of the UN Convention against Transnational Organized Crime, 2000 and the two Protocols thereto and the adoption of the "consent or coercion" formula in the Anti-Trafficking Protocol as the basis to determine trafficking. An analysis of the Palermo protocol and State practices in applying the same is undertaken in the third part. In the concluding part, the means and challenges towards building a more gender-sensitive and rights oriented environment to tackle human trafficking are discussed.

(iv) Child Soldiers

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The term War as we know it has gained multifarious meanings in today's ever changing global politics. The war has not confined itself to only direct hostilities between authorized personnel from two oppositions but has acquired a proxy character. A trend in such warfare is creation of child soldiers. These child soldiers are ones who haven't even attained the proper age to distinguish between rights and wrongs. They are used by the military commanders to get their mission targets achieved.

Thousands of children are serving as soldiers in armed conflicts around the world. These boys and girls, some as as young as 8-years-old, serve in government forces and armed opposition groups. They may fight on the front lines, participate in suicide missions, and act as spies, messengers, or lookouts. Girls may be forced into sexual slavery. Many are abducted or recruited by force, while others join out of desperation, believing that armed groups offer their best chance for survival. Trafficking of these young children is a viable options for the military establishments to create an army of child soldiers who shall be non accountable to any authorized form of government.

The paper will spot the nations whcih have become the centres of child soldiers, will deal in detail a case of the child soldiers of Sierra Leone, analyse the role of international organizations in tackling this problem, and required efforts of reintegration of child soldiers in the society.



Technical Session – IV

Saturday, February 14, 2015 | 11:30 a.m. – 01:15 p.m. | Venue: Seminar Hall, CLC

Regional Institutional Legal Framework

Chairperson: **Hon'ble Mr. Justice Jayant Nath**
Judge, High Court of Delhi

Co-Chairperson: **Ms. Kim Haing,**
President, Korean Institute for Gender Equality, Promotion and Education

Rapporteur: **Mr. Mayank Mittal**
Assistant Professor, CLC

(i) Implication of the Mutual Legal Assistance Act in Eradication of Human Trafficking in Indonesia

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Based on World Bank data in the end of 2014, out of a population of 237 million, more than 28 million Indonesians currently live below the poverty line and approximately half of all households remain clustered around the national poverty line set at 200.262 rupiahs per month (\$16.6). It has strong relationship with the unemployment rate in Indonesia. The poverty has led to the high unemployment rate. One of the





reasons of unemployment is that the lack of available field works. This tends to insist some vulnerable groups to find jobs in foreign countries. That situations are used by some people to transfer those groups who have no job in Indonesia to other countries in bad faith. The government has responded by establishing the Act No. 21 of 2007 on Human Trafficking Eradication. The Act regulates what can be called as human trafficking and how such actions shall be eradicated. However, the problem that arises is the human trafficking usually involves other countries which led to the complicated law enforcement. To cope with the situation, Indonesia has the Act No. 1 of 2006 on Mutual Legal Assistance. The Act regulates how Indonesia shall cooperate with other countries in dealing with the crimes. The question that should answer: how the Act on Mutual Legal Assistance assists the eradication of human trafficking in Indonesia? What is the mutual legal assistance reduced the state sovereignty in law enforcement? This paper aims to examine how the eradication of human trafficking which involves other countries in relation to the mutual legal assistance in Indonesia. This study is a normative-legal research using literature review to dissect secondary data. Among the secondary data that this study has dissected are statutory regulations, various legal documents, past studies, and other references which are relevant with the eradication of human trafficking. The elaboration of the Act No. 21 of 2007 focuses on how the Act regulates whether an action is human trafficking or not and what are the authorities of the law enforcement to cope with human trafficking. Furthermore, the law enforcement regarding the human trafficking involving foreign countries will be explored. This will mainly discuss the mutual legal assistance system in Indonesia. The agreements made between Indonesia and other countries regarding the human trafficking will also be explained in details. The suggestions of the paper are to optimize mutual legal assistance agreements with foreign countries in eradication human trafficking.

(ii) Trafficking of Women and Children: A Global Social Evil

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Dr. Kavita Solanki

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Trafficking of human beings is considered to be a global crime that respects no boundaries and is prevalent in South East Asia, Middle East, Europe, South and North America etc. Throughout the world including United States men, women and children are trafficked for commercial purposes. After drugs and Arms trade, trafficking of persons is considered to be the





third largest global organised crime which is mounting and swelling up everyday. Women, girls, children are trafficked within the country from one state to another state or even intercountry like Bangladesh to Pakistan, Burma to Thailand, Nepal to India so on and so for. Girls and women are trafficked for the purpose of prostitution, forced marriage and domestic work. Children are trafficked for the purpose of bondages. It could be working in brick kilns, mining, bidi industries, rice mills, agriculture sector, embroidery factory etc. Young girls and women may be due to poverty, strained relations with family members or in laws, unemployment etc are forced into prostitution. Once entered they are unable to come out of this profession due to various factors. They are not only shunned and spurned by the society but are also ostracised and banished by their family members. As a result, left with no other choice they remain in the world of commercial sex willingly or unwillingly and suffers from diseases like HIV/AIDS, cervical cancer, drug abuse, unwanted pregnancy etc. Its not that nothing has been done globally on this staid and sombre issue but the efforts and laws that have been enacted are inadequate and deficient to combat this menacing and ever elevating problem. No doubt every country has laws on prohibition of human trafficking but are the laws enough to combat trafficking? Whether by enacting laws are we able to curb the ever climbing problem of human trafficking? Should stringent laws be able to finish or rather reduce trafficking? Should uniform and comprehensive laws be able to solve this deep rooted problem? Are these persons whose life has been wrecked and devastated rehabilitated? These and many more questions keep on bringing frown on the faces of the people and one thing is certain that if immediately nothing is done on this grave, grim and dismal issue than human beings who are considered to be the best creation of Almighty on this earth will continue to suffer for no fault of theirs. The authors in the present paper would be focussing on position of trafficking of women and children in various countries and would also be dealing with case studies of different trafficked people. Additionally, the laws that have been enacted and recommendations to curb this global evil would also be provided. The authors would also be dealing with the rehabilitation scenario of these ill fated people.

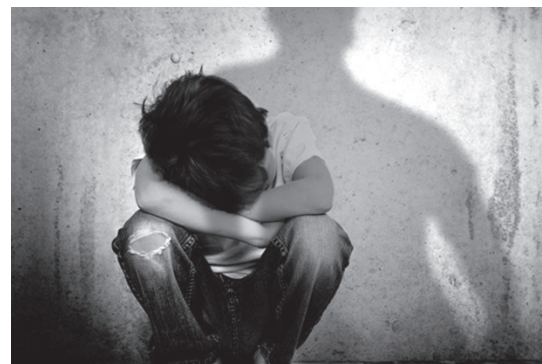
(iii) The Slave across the street: Acknowledging and Combating Labour Trafficking

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The Slave across the street: Acknowledging and Combating Labour Trafficking Human trafficking is a crime involving the cheating or deceiving of people into sexual servitude or labour for the purpose of their exploitation. Whilst human trafficking has procured unparalleled global contemplation and castigation over the previous decade, the legal instruments advanced to confront this phenomenon have so far turned out to be inadequate. Further, current endeavors help an alarmingly small number of individuals out of the multitudes which as of now are seen as falling under the classification of trafficked persons, and even in these few cases, the aid provided is of debatable value. Generally, the anatomy of trafficking is thought of majorly as sexual exploitation of women and children and the exploitation which occurs outside the sex industry is neglected. Agenda of the paper is to make the readers view a different picture by shifting the focus which is mainly on sexual exploitation of women and children to that on labour-related trafficking which occurs in a wide range of sectors, such as agriculture, fishing, manufacturing, mining, forestry, construction, domestic servitude and various other areas. The ubiquity of human trafficking for labor trafficking is more pronounced now than at any point in history.

The paper will discuss and examine the complex forms and facets of labour trafficking and its intricate relation with forced labour. This research paper hence calls for a structural shift in anti-trafficking policy: a step away from the presently established human rights perspective regarding trafficking and the reception of a labor approach that focuses on the constitution of labor markets susceptible to critically exploitative labor practices. The article puts forward that this shift proffers more effective and applicable strategies for countering trafficking.

After establishing the contention for this structural shift, the research paper evinces the procedure for incorporating it into existing anti-trafficking regimes. The research paper also suggests the techniques for administering anti-trafficking stratagems based on the labor approach such as: preventing the criminalization of workers who report abuse, ensuring the right to unionize, reducing the power of mediators, eliminating binding arrangements and enforcing and extending the application of employment and labor laws to vulnerable sect of workers.

(iv) A Study of Anti-Trafficking Measures and its Impact on the Discourse of Sex Trafficking

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Displacement, conflict, poverty, social exclusion, civil unrest, unequal global trade patterns, and other push factors of





migration has a considerable impact on citizens of countries belonging to lower stack in the hierarchy of a global economic pyramid. Migration is adopted as the alternative mechanism to combat these economic and political changes. They move for a better living, but unfortunately these journeys for many (mostly women and children) end tragically as they are trapped in the hands of traffickers. Therefore trafficking, a global occurrence, involves illegal transportation of individuals across borders, holding them in bondage, recruiting, and engaging them in slavery like practices.

The commercial sexual industry over a decade has extended its network immensely accounting to factors such as sex trafficking, which has gross extent throughout the world. Factors contributing for sex trafficking are- secondary status ascribed to women in society, low education, unemployment, abuse within and outside family, prejudices against the girl child, caste and class structure, urbanization, capitalist society, globalization, loose borders, corrupted authorities, flawed legal system and others. However, the present paper attempts to analyze the factor of legal system designed to combat the problem of trafficking and its impact on sex trafficking. One could state that the measures against trafficking in women are comprised of policies that aim at introducing more stringent criminal legislation and improving international police cooperation, as well as schemes and campaigns geared towards protecting victims and informing young women about the dangers of trafficking. The paper would seek to problematize the politics of anti-trafficking measures and its implementations to overcome the problem of trafficking.

(v) Child Trafficking: a New Form of Slavery with Special Reference to Ancient India

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The 2014 Global Slavery Index collected data on 167 countries, each of which was cited as having some percentage of slavery affecting its population. In total, a staggering 35.8 million people are reportedly enslaved worldwide. Over 14 million adults and children are trapped in modern slavery in India today, a recent report has revealed, the most of any country in the world. Published earlier this month by Walk Free Foundation, a “global human rights organisation dedicated to ending modern slavery”, the 2014 Global Slavery Index defines ‘enslaved’ and ‘slavery’ by including the presence of human trafficking, debt bondage, forced labour, forced or servile marriage and commercial sexual exploitation. There is an assumption that slavery is an issue from a bygone



era. Or that it only exists in countries ravaged by war and poverty. These findings show that modern slavery exists in every country. The estimated prevalence of people in modern slavery has increased from 2013.

Slavery in India began in ancient times, and it escalated with invasions of India in 8th century, and particularly after the 12th century. The study of its history in India is complicated by contested definitions, ideological and religious perceptions, difficulties in interpreting written sources, and perceptions of political impact of interpretations of written sources.

The term *dasa* and *dasyu* in Vedic and other ancient Indian literature has been translated as slave, but other scholars have translated it as servant, religious devotee and an abstract concept depending on context.[3][4] Kautilya's *Arthashastra* dedicated a chapter to *dasa*, granted them legal rights, and declared abusing, hurting and raping a *dasa* as a crime. Passages of *Arthashastra*, *Smritis* and the Epic *Mahabharata* suggest that the social institution of slavery existed in India by 1st millennium AD, likely by the lifetime of the Buddha.

Historical consensus points to escalation of slavery in India with the military campaign of Muslim armies in India. There was extensive slavery in India's Islamic period from 8th century AD through the 18th century. Slaves were also seized in India and exported to Islamic societies outside the subcontinent. Scott Levi states that, "the institution of slavery continued (in India), in various manifestations, well after the decentralization of the Mughal Empire in the early 18th century"



Technical Session – V

Saturday, February 14, 2015 | 02:15 p.m. – 04:00 p.m. | Venue: Seminar Hall, CLC

Comparative / Domestic Human Trafficking Law

Chairperson: **Hon'ble Mr. Justice Manmohan**
Judge, High Court of Delhi

Co-Chairperson: **Professor (Dr.) B.T. Kaul**
Chairperson, Delhi Judicial Academy

Rapporteur: **Mr. Moatoshi Ao**
Assistant Professor, CLC

(i) An Examination of the Legal Framework on Trafficking in Persons in Nigeria

Dr. (Mrs) Erimma Gloria Orié

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Trafficking in persons is inhuman, immoral and an offence under the laws. It represents the world's third largest area of organized crime—after drugs and arms trade. Globally, there are about 127 countries of origin, 98 transit countries and 137 destination countries, and there is hardly any country that is invulnerable. In Africa, 80% of trafficked persons are young girls including minors of between 12-16 years.



Nigeria together with other national governments and ECOWAS, assisted by international and local partners, have developed a Plan of Action against trafficking for West Africa and a Multilateral Cooperation Agreement with Central African countries. In addition many countries have adopted national legislations resulting in increase in detections, investigations, prosecutions and convictions. Nigeria has ratified the international regulation on trafficking and has also transmitted it into the Nigerian legal system.

However, despite the existence of many international instruments and Nigerian legislation against trafficking in persons, the illegal trade and atrocious crime of trafficking in persons for the purposes of sexual exploitation, slavery or forced labour has assumed an unprecedented frightening dimensions.

This paper examines the nature of human trafficking in Nigeria, the policies, legal and institutional framework for its prohibition. It also analyses the factors that exacerbate the trade. It argues that since it is in most cases a trans-national crime, such a crime offends the fundamental values of the international community. The challenge here is to examine key





concepts, add respolicies, institutions and behavioural patterns, present and expected, that are necessary and relevant to the achievement of the objective.

The paper finds that trafficking in persons is the largest manifestation of slavery today,at hreat to global development, democracy and peace and a multi-dimensional endemic problem. Under the current legal regime in Nigeria, victims of trafficking are often notable to access protection that is open, targeted, supportive and transformational. The paper also finds that as a threat beyond borders no single national/ domestic strategy is sufficient. It therefore recommends a carrot and stick approach with emphasison law enforcement, prosecutionof perpetrators of the crime, and a co-ordination of efforts between security services and all stake holders within and outside Nigeria.

(ii) Rampant Human Trafficking: Barbaric Face of Civilized Nations

Professor (Dr.) Rajni Malhotra Dhingra

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Human trafficking is the modern day criminal manifestation of a problem that has vexed humanity from the beginning of recorded history. A disease that is affecting humanity since ages remain uncured, despite the antidote suggested at national and international level. According to the United Nations, Human trafficking is the second largest global organized crime today surpassing every other criminal enterprise except the drug and arm trades. This global crime generates billions of dollars in profits for the traffickers. The International Labour Organization estimates that 20.9 million people are victims of forced labour globally. Human trafficking is generating approximately 31.6 billion USD each year. Specifically, trafficking for sexual exploitation generates 27.8 billion USD per year.



According to the United Nations Report, the most common form of human trafficking (79%) is sexual exploitation followed by forced labour (18%). The pervasiveness of the pernicious evil of trafficking since ages is a classical example to exhibit that in a status-oriented hierarchical society there is no respect for the dignity of individual who was in the lower rungs of the social ladder or in an economically impoverished condition. Trafficking can be sex based or non- sex based.

Many countries are trying to crack down on the sex for sale industry but all these efforts of stemming the flourishing sex trade industry will fail for sure without finding treatment for poverty. Poverty has forced many women and children into prostitution as a mean of economic survival. Impoverished families are conned by pimps under false pretenses that they will help their children to get well paying job. In addition to this the international response to the





increased misuse has generally been weak. The nations that are committed in theory to stamp out prostitution in practice are very slow in instituting real reform aimed at penalizing and prosecuting the person involved in this trade.

In India, thousand of Indians are trafficked everyday to some destination or the other and are forced to lead lives of slavery. They are trafficked for sexual exploitation, pornography, drug peddling smuggling, organ trade, for entertainment and sports, for circus, dance troupes, beer bars and for bonded labour.

This Article examines the reason for this socio economic evil and also analyzes the constitutional and legal provisions to eradicate this insidious practice. It will also be discussed that despite considering it as an insidious social evil what compel societies to tolerate this abominable crime so far? This Article will also highlight the lacunae in the existing legal provisions and judicial response towards this problem. An attempt is made to suggest how a problem that is enfolded so firmly can be grappled? It will also be analyzed that whether stringent rules and regulations alone is a panacea for this deep rooted socio-legal problem? Whether severe punishment can put any effect on those who have nothing to lose (neither the reputation nor the money)?

(iii) Role of Indian Judiciary on Human Trafficking

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Dipali Patel

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Human Trafficking in women and children is arousing concern worldwide. Trafficking is done for various purposes including serious crimes like that of sexual harassment. Around 4566 cases of trafficking were recorded in the year 2013 in India. Out of these most of the cases are pending in trial. Human Trafficking violated an individual's right as mentioned in Article 21 of the constitution of Indian. Further the founding fathers realised the problem related with human trafficking and hence they mention about the criminalization of trafficking in Article 23(1) of the Constitution of India. The parliament has incorporated several laws from time to time like The Immoral Traffic (Prevention) Act 1956, Bonded Labour System (Abolition) Act 1976. An important feature of Article 23 is that it is not





only against state but also against a private individual.

Despite having all these laws the most important role is played by the Judiciary. In the year 2013 only 13 people were convicted on the offences of Human Trafficking throughout India, which shows the delay in judicial proceedings. The judiciary has also enlarged the view of Article 21 and 23 by various judgements. In the case of People’s Union for Democratic Rights v. Union of India (AIR 1982 SC 1473) the Supreme court said that all unwilling labour is forced labour whether paid or not and is therefore violative of Article 23. In Bandhua Mukti Morcha v. Union of India (AIR 1984 SC 802) the court declared bonded labour as a crude form of forced labour and hence prohibited under Article 23. In the late 1990’s after the landmark judgements of the Supreme Court in the cases of Vishal Jeet v. Union of India (1990) and Gaurav Jain v. Union of India (1997), in which the court issued directions to the Union and state governments to study traffic in dept and prepare a national plan to address the problem. As a result of the same the Government of India formulated the National plan of action to combat trafficking and sexual exploitation of Women and Children. In the case of Vishaka v. State of Rajasthan (AIR 1997 SC 3011) wherein the court laid down guidelines related to sexual harassment at workplace.

In Bandhu Mukti Morcha case, the Court has linked Arts. 21 and 23 in the context of bonded labour and observed “it is the fundamental right for everyone in this country, assured under the interpretation given to Art.21 to live with human dignity, free from exploitation.”

Prostitution is also a widespread concept under human trafficking, Parliament has passed the Immoral traffic Act, 1956 for suppressing the evils of prostitution in women and girls and achieving a public purpose. The main of this research is to find out the judicial approach in modern times, and checking the legislative acts with that of other countries acts on Human Trafficking.

(iv) Human Trafficking for the Purpose of Prostitution: Legislative Framework in India

Ms. Monica Chaudhary

Assistant Professor CLC

University of Delhi

Delhi, India

Human trafficking is the world’s third largest profit-making illicit industry, after arms and drugs. It is violative of several inalienable, non-negotiable and universal human rights. Women and children form a particularly vulnerable class in the abusive world of human trafficking. India is a source, transit and destination country for human trafficking. Broadly speaking, the victims are trafficked for sex-based as well as non-sex-based exploitation. Sex based exploitation includes brothel based and non-brothel based commercial sexual exploitation which includes





prostitution, pornography, paedophilia and sex tourism. Sex based exploitation would also include trafficking for the purpose of marriage due to the falling sex ratio in certain parts of the country as well as culturally sanctioned exploitative practices such as devadasis, jogins etc. On the other hand, non-sex-based exploitation would include bonded or forced labour, domestic servitude, industrial servitude, servitude in the entertainment industry as well as trafficking for drug peddling, begging, adoption, sale of organs etc.

The proposed paper would make a critical evaluation of the legislative framework in India relating to human trafficking for the purpose of prostitution. Apart from tracing the history of laws relating to prostitution in India, the proposed paper will also analyse the manner in which the developments at the international level have influenced the laws relating to trafficking for the purpose of prostitution in India. It will examine how human trafficking for the purposes of prostitution continues unabated despite the specific prohibition on “traffic in human beings” under Article 23 of The Constitution of India, 1950 and despite the constitutional guarantee of “a life with dignity” to all “persons” under Article 21 of The Constitution of India. Apart from various other relevant provisions in Part III and Part IV of The Constitution of India, the paper will also critically analyse the principal Central enactment for dealing with prostitution in India viz., The Immoral Traffic (Prevention) Act, 1956 (ITPA). The ITPA was originally enacted as The Suppression of Immoral Traffic in Women and Girls Act, 1956 (SITA) to fulfil India’s obligation as a signatory to the International Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others, 1949. Despite the use of the word traffic in its title, the ITPA does not define trafficking. Unlike the “abolitionist” philosophy underlying the 1949 Convention, the SITA and its later version, the ITPA, adopts a “tolerationist” approach towards prostitution. It does not make prostitution per se punishable, but targets people who profit from or exploit the prostituted person. Hence, it penalises activities like brothel keeping, pimping, procuring, taking or detaining a person for the purpose of prostitution, living on the earnings of prostitution etc.

Apart from the ITPA, the relevant provisions under The Indian Penal Code, 1860, which penalise the various criminal activities that are associated with trafficking for the purposes of prostitution and The Juvenile Justice (Care and Protection of Children) Act, 2000, which contains provisions relating to child sex workers and children of prostitutes will also be referred to. An attempt will be made to highlight the lacunae in these laws and to make suggestions for an appropriate legal framework that is consistent with relevant international instruments and standards but also addresses the specific concerns of India as a nation.

(v) Human Trafficking in India: The Need of Active Judicial Intervention

Manjula Raghav

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“Slaves lose everything in their chains, even the desire of escaping from them.”





Jean Jacques Rousseau

Human trafficking is one of the largest lucrative criminal industries in the world. The illegal practice of human slavery is not new, and it is evident to be existing

since the inception of civil societies. Human trafficking is “inhuman forced slavery” and is an illegal trade of human beings. Under the exploitation of trafficking limitless control of the master appears on the slave. Although, the problem of human trafficking is disturbing not only for the developing countries but for the developed countries also. Similarly, India is also not untouched by the problem. The main trigger behind trafficking is cheap labour, bonded labour, domestic work, begging, organ trade, forced prostitution, sex tourism, pornography etc.

The main reasons for trafficking are poverty, unemployment, illiteracy, lack of awareness, increasing perverse nature and also this industry is successfully generating high profits with low risks. High profile people are also involved in this industry and because of this reason; culprits easily escape from the clutches of law and procedure. As per the Global Report of United Nations Office on Drug and Crime on trafficking, in 2012, approximately, 3554 cases of trafficking for sexual exploitation were investigated and against 7056 people prosecution were commenced for ITPA.

The constitution of India has abolished and discarded the practice of human trafficking and stringently held it illegal and punishable by providing “Right against exploitation” under Article 23 and 24. Not only this, to eradicate this immoral and unethical act, the Legislature has enacted “The Immoral Trafficking Prevention Act” and “Bonded Labour Abolition Act”. Even then, the evil of human trafficking is still very much in existence in India. It is a disturbing fact that women and children they are considered the easiest prey of this hardest crime. Unfortunately, it is a huge racket of human trafficking. As per the Indian mentality, women are considered less valuable and consequently they are more vulnerable to this heinous trade, likewise the plight of children is not different. This malpractice is deeply engrained in India. The impetus of this crime is the golden rule of demand and supply. The victims of human trafficking suffer from mental problems as well as health issues that have far reaching effects on them. In spite of the legislations, Constitutional provisions and U.N. Conventions the menace is still running with full pace. The present paper attempts to analyze the concerned issues and challenges in the enforcement of the legislation and the reasons behind the weak execution and regulatory mechanism in curbing human trafficking in India. It goes on to explore a right victim centric approach and positive judicial intervention to cover troubling gaps. In furtherance, what else can be done on the off side of legal aspect? At the end, the paper seeks to suggest remedial and humanitarian suggestions to kill this worldwide monster of human trafficking.





Technical Session – VI

Saturday, February 14, 2015 | 04:15 p.m. – 05:45 p.m. | Venue: Seminar Hall, CLC

Trafficking, Trade and Migration

Chairperson: **Hon'ble Ms. Justice Hima Kohli**
Judge, High Court of Delhi

Co-Chairperson: **Maj Gen, Professor Nilendra Kumar**
Director, Amity Law School, Noida

Rapporteur: **Mr. Neeraj Gupta**
Assistant Professor, CLC

i) Center of Conscientization: A Study on a Preventive Method against Child Trafficking in Jharkhand, India

Sarah Angeli

Ozanam Scholars Program
St. John's University, USA

Human trafficking endangers human development and security, putting particularly individuals from a low socio-economic background, suffering under gender inequality, and whose human rights are violated at risk. It is defined as an organized crime with an international profit of about 32 billion USD within the illegal industry. An estimated 150,000 individuals are annually trafficked for forced labor or marriages, and organ trade in South Asia (UNODC). Hence, different legislations, such as "Immoral Traffic Prevention Act" (ITPA), have been issued to protect the rights of vulnerable populations and prohibit their exploitation (National Legal Research Desk). Jharkhand has been identified as strongly affected by human trafficking within India due to its high rates of tribal communities whose socio-economic disadvantage put them at risk (UNICEF). In this study, the effectiveness of a center of conscientization that seeks to counsel parents in Jharkhand, India on the significance of formal education through collaboration with village leaders and various social institutions is examined. 30 participants from rural communities in Lohardaga, Jharkhand took part in this study. A semi structured interview was used to explore the main problems individuals and specifically, children faced within these communities, the main causes behind them, potential suggestions to solutions, what had been done so far by these to address the problems, and whether the implementation of the given center would be beneficial in increasing and stabilizing school attendance among children. This qualitative research was utilized to empower interviewed participants to become an active part of their problems' solutions, and to encourage them to think critically about them. The findings one, identified a lack of school attendance, quality education as some of



the main problems, and two, indicated that a stronger collaboration between different social institutions that work on eradicating these problems would be beneficial in increasing school attendance rates.

(ii) Trafficking in Human Beings with special Reference to Reproductive Trafficking: Issues and Challenges

Dr. Reddivari Revathi

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The Tamil Nadu Dr. Ambedkar Law University
Chennai, India



Human trafficking is the trade in humans. It is a highly organized crime. It is multi-faceted and multi-dimensional issue. It is a threat to the humanity. It is a long term exploitation of human beings for profit. The impacts of human trafficking are devastating. Victims suffer physical and emotional abuse, rape, threats against self and family and even death. It deprives people of their human rights and fundamental freedoms. It fuels growing networks of organized crime. Trafficking in the name of slave trade was common phenomenon. The incidence of inter and intra-country trafficking is very high in India. Victims face numerous physical, mental and health risks. Many a times the traffickers loot income and neglect the victims. It is incompatible with dignity and worth of human person. Though the focus

of international efforts to combat trafficking is on the rise the crime of human trafficking continues to flourish unabated. India has a number of laws apart from constitutional provisions explicitly prohibiting trafficking in no uncertain terms. However none of the laws provide a clear definition of 'trafficking'. The existing legal framework is limited to defining trafficking only in terms of trafficking for prostitution.

Trafficking in women and girls is in existence since times immemorial. Women and girls are trafficked for various purposes such as commercial sex, domestic servitude, removal of organs for transplantation and reproductive trafficking etc. Trafficking in women is exploitative, either sex or non-sex based. Sex traffickers use a variety of methods to condition victims. Growing commodification of the female body and new waves of migration sustain the increase of trafficking in women. Trafficking in women and girls has emerged as a key human rights issue of concern both at national and international levels. The impact of globalization, information technology and the assisted reproductive technology (ART) propelled trafficking in women in variety of ways. Several modern scientific developments such as trade in gametes through





sperm banks, egg banks, IVF clinics, DNA technology and surrogacy arrangements emanating from genetic science lead to reproductive trafficking. It poses ethical and legal issues. Surrogacy is posing a challenge on the presumption of the legitimacy of the child under the Evidence Act. There is also medicalization, commodification and commercialization of surrogate mother. The sacred motherhood of a surrogate mother is lost. Determination of parentage, parentage law and citizenship policy create considerable difficulty for the family after the child is born. The result of medical tourism can be stateless children. Further there is no law to regulate ART except a Bill. There is a need to enact a specific law on trafficking covering broadly all kinds of offences in line with Trafficking Protocol, the SAARC Regional Convention on Trafficking and other models. In the research paper, an attempt is made to critically analyze the issues and challenges posed due to reproductive trafficking. At the end, suggestions are mooted to remedy the situation.

(iii) Intra-national Trafficking of Children for Labour: Lived Experiences of Children from Jharkhand

Sandhya Kumari
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Delhi, India



Jharkhand is a rich state with poor inhabitants. It is rich in natural resources; still more than forty per cent of its residents are poor, mostly from rural and tribal background. To evade poverty people of Jharkhand have been migrating since British era and the tribal population of Assam and Tripura are stated to belong originally to Jharkhand. They had migrated to work in brick kilns of Agartala and tea gardens of Assam. This route to Agartala is still followed. Earlier, the adult male used to migrate in groups, along with their family. Now, as a part of recent trend of illusive migration, children are being allured to migrate to metropolitan cities of India. They are pulled by the limelight of an urban life, exposure to various media (especially for boys) and pushed by monetary need and difficult rural life marred by Left Wing Extremism that is naxalism.

Their hope turns into despair when they are firstly sold or leased out by the carrier (person who brings them); objectified, abused and confined by the placement agents and later exploited in every possible manner by their employers. They still hope that they would do better in their life, would study and later work; how far it is practical, is the question we need to answer.





In this paper the presenter would deal with the background of the state and the child victims of trafficking, the problem of migration and trafficking in the state, movement and exploitation of the child victims and their optimism for the future, laced with expectation from the government and related agencies.

(iv) Migrant Rights and Protections for Human Trafficking

Dr. Shabnam

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Delhi, India



The inhumanity of human rights in human trafficking as it gains prominence disregard of barriers amongst States calls for a deep indulgence into the issue of State responsibility for combating the crime. The wealth gap of the Nations tilts towards favoring the rich and issues of the vicious circles of poverty in developing and underdeveloped countries to give in to the demands of those exploiting the situation. Legal responses internationally and nationally focus more on prevention and devising strategies for those who might get deported for further exploitation. Prohibitions and rooted cause problems are seldom dealt with most States. The paper tries to look into the root causes and the hindrances faced by these differential migrants based on international conventions and differences in domestic legislations of various countries. States may have different laws governing state crimes. International legal responses call for a uniform working of all States to prevent and punish the offenders of this crime. The state acceptance of international conventions also provides a legal obligation of the State to deal with these human rights issue.

(v) Human Trafficking: Human Rights Perspective

Ms. Chintu Jain

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Lloyd Law College
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A new form of slavery has emerged by a relatively innocuous title - 'human trafficking'. Human Trafficking is an illustration of the dynamic character of the social and antisocial forces





that conspire to undermine the idea of human dignity in the world community. The human trafficking problem in global terms is defined by staggering statistics and immense misery and tragedy for the victims. Human beings simply form the resources to be exploited for the sole profit of the trafficker. Today, the term 'human trafficking' is considered as a legal symbol to describe practices whereby human beings are physically moved either within or across state lines into situations in which they lose their ability to exercise freedom of choice and respect to those, for profit have acquired control over them through fraud, misrepresentation, deceit, and coercion. The paper seeks to examine some uses of the transatlantic slave trade in modern anti-human trafficking efforts and discourse as well as the impact those uses can cause. In addition to that, the efforts made against white slavery in the late nineteenth century and twentieth century is sought to be examined in the light of the modern anti-human trafficking discourse. However, it has always been the efforts made against the white slavery that has taken into consideration while tackling modern human trafficking discourse. This paper makes an analysis of the transatlantic slave trade and of white slavery which would enable understanding of human trafficking, an understanding which may be further useful to combating modern trafficking in humans more effectively than current efforts. Before making an examination and analysis of the transatlantic slave trade and white slavery in all its aspects, it is pertinent to understand to understand modern human trafficking, its causes and the international instruments which are in force to deal with human trafficking.

(vi) Immoral Trafficking in Women: Social and Legal Contours

Savi Nagpal

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Social anthropologists are of the view that prostitution has always been present in the society in one form or another. In the 19th century there were customs like the institution of devadasis which encouraged prostitution. Gradually as society changed with the advent of rapid industrialization, urbanization was a phenomenon attracting more women to this social evil; and these women were certainly the prostitutes with the exception of the ones already in profession by customs or otherwise.

Prostitution is widely operating in two forms, firstly, there is a class of women who constitute a hereditary class and for them this is more or less an ancestral profession; secondly, there are those unfortunate women who are in the profession recurrently by reason of causes beyond their control like destitution economy constraints matrimonial failures and some time even desire to lead easy life etc. Over the years, a new trend has started and prostitution has assumed commercial dimensions, where, in most of the cases profit motive is the guiding





principal. Taking into consideration the three elements of the prostitution, namely, payment, promiscuity and emotional disturbances, there can be two broad categories of prostitutes- professional and non-professional (clandestine). Professional or the public prostitute derives her sole and only livelihood, from this profession in a brothel or in red light districts in big town. The higher type in this profession are street walkers and 'call girls' who find their clients in hotel-lobbies, bars and luxurious establishments. Non-professionals are those who conduct the business in a clandestine manner under the garb of different commercial activities like beauty parlours, massage parlour and social clubs.

According to the Indian law, prostitution per se is not an offence, but commercialization of prostitution is always punishable. The Immoral Trafficking (Prevention) Act 1956 (PITA) was enacted to suppress immoral traffic in person and prevent exploitation of prostitution of others. The object of the Act was to prohibit and abolish commercialized vice scilicet the traffic in person for the purpose of prostitution as an organized means of living. India adopted the British Model of dealing with the problem of prostitution and immoral traffic which is basically the regulation approach. In this approach, prostitution has been accepted as a necessary will and the laws aim to minimize its evil effect on the society.

In this paper presentation, review of the PITA would be done to find out the social and legal contours of immoral trafficking in person in India. The definition of human trafficking recently added under section 370 of the Indian Penal Code, the responses of the family, the society and the state machinery towards the victims of immoral trafficking shall be examined. Critical examination of a new thinking that is gaining ground to invent a new strategy in law to break the demand-supply nexus responsible for immoral traffic in India and revival of important decisions of the Supreme Court on the subject shall be done.





Technical Session – VII

Sunday, February 15, 2015 | 09:30 a.m. – 11:15 a.m. | Venue: Seminar Hall, CLC

Religious, Traditional Practices and Ritual Servitude

Chairperson: **Hon'ble Ms. Justice Indermeet Kaur**

Judge, High Court of Delhi

Co-Chairperson: **Professor (Dr.) Donald K. Anton,**

Professor, Griffith University Law School, Australia

Rapporteur: **Mr. Neeraj Kumar**

Assistant Professor, CLC

(i) Pigs, Mats & Kids: Child Trafficking in the South Pacific in the Name of Custom

Professor Sheryl Buske

Law Lecturer

Faculty of Law

University of the South Pacific, Fiji



Most Pacific Island countries have a plural legal system: the state legal system and kastom (customary law). Kastom courts have remained active post-Independence and the majority of the disputes are still resolved at the kastom level. The more severe cases, those involving great bodily harm or murder, however, often end up in the legal system, even when the parties are content with the kastom decision and would take it no further.

When there has been great bodily injury or death, there is a long standing kastom practice in the islands in which the offender's family gives pigs, mats and children, usually young girls, as compensation, or restitution, to the victim's family. While the incident may have been resolved to everyone's satisfaction through the kastom process, the defendant is often charged in the state legal system as well. If convicted, the state law system in many island countries requires that the court take into consideration any kastom restitution as mitigation for sentencing purposes.

Restitution in this manner is not limited to the Pacific Islands; similar traditional practices involving the re-assignment of children as a form of restitution or debt compensation occur in other countries as well. This presentation will share theories and strategies of legal challenges to the practice in a culture where it is not only deeply rooted in tradition, but it is permitted, and therefore legitimized, by the formal legal system.





(ii) Trafficking of Women under the Guise of Marriage

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Delhi, India



In contemporary times, trafficking of women for commercial sexual exploitation has emerged as one of the crucial issues of global concern. The

Indian subcontinent, which is intrinsically connected to the dreadful world of trafficking, is witnessing an indigenous process of trafficking network in the country where women viewed as 'prospective brides' are trafficked within and across its borders in the name of 'marriage' which actually ends up in sexual slavery and bonded labour for them, not just a single time but as many times as they are re-trafficked as brides. This process, popularly termed as 'bride trafficking' although has its roots in the Medieval era (the story of draupadi having the five pandavas was husband), is desperately growing in the country in modern times as an organised crime, worsening the socio-economic status of women, especially the poverty-stricken ones, for women are being used as 'commodities' who can be easily bought, sold and recycled to quench man's insatiable carnal lust. Shocking although it sounds in a country like India, where marriage is held high as a pious institution, trafficking of women under the guise of marriage is the grim reality where thousands of women every year falling prey to traffickers are displaced from their homes and under the guise of marriage get themselves caught in the bondage of slavery- physical, mental and sexual, generally finds no means of escape and no path of returning back to normal lives.

After closely analyzing this specific issue of bride trafficking or trafficking under the guise of marriage it can easily be concluded that there has been little research done in this field and whatever literature available has a micro understanding of trafficking that is understood only in light of prostitution or commercial sexual exploitation which ignores other kind of trafficking where both sexual and labour exploitation is done in the veil of marriage. Lack of adequate law, and a well equipped criminal justice system which will be the aim of the researcher to try and better understand the problem areas in existing law, the gap in laws, the absence of law particularly in context of bride trafficking, the factors contributing or perpetuating trafficking of women in the veil of marriage and what all can be done to combat this menace.



(iii) Tradition as Sanction to Human Trafficking: A Look at Early Practices and Rituals

Namrata Gogoi

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National Law University and Judicial Academy
Assam, India

Human trafficking involves the trade in people and this trade constitutes mostly women and girls. This voluminous trade in India that exists in India where women and girls of varying ages, mostly minors, are trafficked from one place to another to be sold, has its roots in religious and traditional practices rooted in early Indian society. Most of the trafficked women are sold to brothels, dance bars or to those who can afford them, where they have no control over their bodies, their earning or any other aspect of their lives. Although women in early India have been depicted as an emancipated lot, yet evidences from textual sources denote otherwise and we see how the transition from a pastoral to an agricultural society enslaves women, making her the private property of a man. She remains a ward of the men of her household. On the other hand, to satisfy a man's desire outside wedlock, the institution of prostitution evolves, where a woman is paid for favors granted to a man. It becomes an accepted yet at the same time vilified aspect of early Indian society. This ambivalence can be explained only taking a closer look at the complicated nature of the institution in this period. Similarly, in the medieval period, we see the emergence of temple dancers, girls dedicated to serve in the temple and the priests. This was the Devadasi system, known variously by different terms in parts of southern India and Maharashtra. This ritual servitude had religious sanction, where women's bodies again become the site of both economic and political control. Here minor girls are dedicated by their family to serve in the temples for life after they have gone through a ceremony that signifies their union with the temple divinity. Once the girl has reached puberty, any well-to-do man may procure her services in return for generous donations to the temple. Since these practices have religious sanction, they have continued till the modern ages. This paper attempts to link both these aspects i.e. religious and traditional practices; and ritual servitude, as encapsulated in the Devadasi tradition, to the present day trafficking of women in India and how these practices lend sanction to women being treated as sub-human and as property to be traded. Women as Chattel and as items of gifts and trade is a practice rooted in traditional social practices of early Indian society and dealing with human trafficking in present times requires a look at these practices, some of which still exist and how best to eradicate them and all that they entail.





(iv) Angry kids of America: Are Video Games Spreading Violence among Younger Americans?

Mehdi Mohammadi

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Video game are a new phenomena of the post-modern age and one the most popular means of entertainment among a wide spectrum of people and today the video games industry is one the biggest entertainment moguls worldwide. This multibillion dollar industry makes thousands of video games of all genres every year and makes billions of dollars of profit annually. Since its introduction as the new means of entertainment, video games have reached from very primitive levels of “point and click”, to several thousand dollar high-tech electronic devices simply known as “consoles” where three dimensional imagery is a necessity and is considered as a “must-have “experience while playing a video game. As the birth place for many electronic and entertainment innovations, America is the origin of this new phenomena; and high-tech giants such as Google, Microsoft, Bethesda, EA Games, and many other multibillion dollar high-tech behemoths are all located in American, more specifically in the Silicon Valley, California. Due to its very nature of “entertainment”, video games have mostly been playing by the younger people worldwide. Gender is also another important factor, as the percentage of male youngsters is significantly more than the percentage of females who contribute their time to playing video games. According to the poll conducted by the Pew Internet & American Life Project in 2008, 97percent of kids play video games regularly. Another study conducted by NPD Group determined that around 91% of kids aged 2-17 play video games, comprising a group nearly 64 million children strong.



(v) Bride Trafficking in North India: A Socio- Legal Study

Garima Singh

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Nidhi Mutreja

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The skewed sex ratio as a result of aggressive female foeticide in North Indian states like Haryana, Punjab, Uttar Pradesh, Rajasthan have led us to face the grim reality of new form of human trafficking in these areas. The lack of suitable matches for the purpose of marriage and procreation have led the men to adopt practice of bride trafficking, purchasing bride is seen as an easy and suitable measure for tackling this gender imbalance. Often the demand of the missing bride is fulfilled by importing women from the low income and poverty stricken families from Assam, Bangladesh, West Bengal, Jharkhand, Bihar, and Orissa on the basis of false promises and bogus marriages. The women trafficked to these areas are exploited as sex objects bought specially for reproducing sons, they also act as unpaid domestic and farm labour, often they are resold later too. Paro and Molki are the words used to denote these women. They are known by other names like "Jugaad" (temporary) in Haryana too. Haryana having the old custom of Karewa or Levirate marriage (Choodi Pehnana/ Chadar dalna) wherein the right over widowed women is given to her elder or younger brother in law or to a cousin brother of the same family, now also ranks first in terms of cases of bride trafficking. Mostly girls from the age of 13-24 are the most vulnerable victims; the condition of these women is even worse as they are treated as temporary outsiders to the community and enjoy no social status. Even as brides the women do not have any legal status. In the state of Haryana, the Khap Panchayats do not consider the legal validity of such marriages and rights of such women. Law is also ineffective and unsupportive for these women.

The paper seeks to analyze the concept of bride trafficking and attempts a Socio- Legal study on Bride Trafficking in North India as There are no specific laws dealing with bride trafficking. It is broadly covered under the provisions of the Indian Penal Code, 1860, under offences namely, kidnapping, abduction, kidnapping of girls for compelling her to get married etc. The Immoral Traffic (Prevention) Act, 1956, Prohibition of the Child Marriage Act, 2006, Child Labour (Prohibition and Regulation) Act, 1986, Juvenile Justice (Care and Protection) Act, 2000 are also ineffective for the same. This is one of the worst forms of human trafficking, for which even the laws are ambiguous. There is a lacking on the part of the legislature to look into the problem of bride trafficking by enacting a specific law too.



Technical Session – VIII

Sunday, February 15, 2015 | 11:30 a.m. – 01:15 p.m. | Venue: Seminar Hall, CLC

Role of NGO's, Civil Societies, Administrative Machineries, and Police in Combating Human Trafficking

Chairperson: **Hon'ble Mr. Justice Rajiv Sahai Endlaw**
Judge, High Court of Delhi

Co-Chairperson: **Professor (Dr.) Usha Tandon**
Professor -In-Charge, CLC

Rapporteur: **Mr. Shourie Anand Singh**
Assistant Professor, CLC

(i) Enforcement of Procedural Justice in Combating Human Trafficking: An appraisal

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Bangladesh

Resolution regarding a special issue should be ended keeping in mind the views and concerns of the stakeholders and procedural justice is the best method in this aspect. This paper examines the role of procedural justice in combating human trafficking which is a very heinous crime. Procedural justice may ensure the making and implementing of a better decision relating to this crime with the active participation of the stakeholders i.e. victims, assembly works with the issue (national and international), researchers and experts as well as law enforcing agencies. Victimized group will feel affirmed if the procedures that are adopted treat them with respect and dignity, making it easier to accept even outcomes they do not like. It authenticates the authority of the lawmakers and ensures deliberate participation in the process by the stakeholders. Moreover, it emphasizes on the access to information relating to a projected decision and access to proper justice where rights are violated. In a word, this paper expects to assist decision-makers to understand and identify public interest concerns while formulating policies for combating human trafficking.





(ii) Some Recent Insights to Address Sex Trafficking of Children and Women in India

Dr. Archana Ranka

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Certainly India has legal provisions to counter sex trafficking of children and women in accordance to ITPA1986 (Immoral Trafficking prevention Act, 1986) but the success in uprooting this menace is highly disappointing. In 2008 the central govt launched an integrated plan of action to prevent and combat Human Trafficking, to reintegrate this segment of sufferers to main stream. But the states and centre still appear to be too weak and non sympathetic. The new government came in power has infact showed no intention to fight out against this epidemic till yet. NGO estimate 1500-6000 woman and children are trafficked in this sub continent. Trafficking from north east is too high but it is often over looked particularly, reaching 600 girls or more from Assam alone. It is one of the hardest crime to track and investigate. The child prostitution has the highest supply of trafficking children. This research paper enquires into III largest profitable industry in the world in regards to initiates and failures of govt. and to suggest new tools and techniques and measures to bring solace to sufferers despite corruption as well as lack of funds and other flaws thereto, as pretended always by the government at state and in the centre.

(iii) Human Trafficking: A Modern Day Slavery

Dr. Basheer Noorani

Research Scholar
Afghanistan

Human trafficking a modern term for slavery has become a humongous problem across the human habitat .Every year, countless number of women and children around the world becomes fodder of human traffickers whether for sexual exploitation, forced labor, domestic work or other purposes,. This phenomenon has taken on such proportions that it can be described as a modern form of slavery. It has become one of the main sources of income for organized crime and terrorists after gun and drug business. It has become an attractive industry as the dividends are very high, the risk profile is one of the lowest and investment is almost next to nothing. It is a complex and dynamic problem which needs a holistic and wholehearted approach by all the stakeholder .An integrated and comprehensive program will have be chalked out taking all the concerned parties on board that is the country of origin, the transit point and the final destination .I think it is one of the





pitfall of capitalism, in other words the unequal distribution of wealth force people to look for greener pastures across countries, beyond regions and continents. Henceforth the solution should also lay in the equal opportunity and development of the least privileged part of the earth.

(iv) Combating Human Trafficking with Special Reference to Women and Children

Sonam Dikshit

LL.M. (Constitutional law)
Symbiosis Law School
Pune, India

Shodhika Sharma

LL.M. (Human Rights)
Symbiosis Law School
Pune, India

India is a source, destination, and transit country for forced trafficking. While people in India are trafficked for multiple purposes, commercial sex remains the most dominant driver. There is also an alarming number of young children who get trafficked for illicit purposes. The Ministry of Home Affairs, Government of India, Department of Women and Child Development, National Commission for Women, Ministry of Social Justice, Ministry of Labour, the National Human Rights Commission and the National Aids Control Organization are some of the government bodies engaged in combating trafficking. Many NGOs in India like Shakti Vahini, Prerna, Prajwala, Sanlaap, STOP, HAQ etc. have also been working in this area. The Indian police is the most important institution in the struggle to eradicate trafficking. However, the role of police has been a subject of criticism owing to endemic corruption and ineffectiveness in curbing the menace.



While trafficking in India continues to be on a rise, there are several reasons attributable for the inadequate response by administrative agencies in the fight against trafficking. The present paper aims to make an analysis of the same and suggest reforms. To address trafficking, the foremost requirement would be to give the crime a high priority and recognise the human rights violations of victims. The law enforcement agencies including both police





and immigration authorities should be sensitized and trained on the issue of trafficking. Victim friendly procedures should be incorporated in the law. The trafficked victims should not be prosecuted. Police problems like understaffing, ignorance of law, lack of adequate infrastructure, lack of women police, lack of training of grassroot level officers like sub-inspectors and constables should be solved. The vicious nexus between traffickers, police authorities and politicians should be broken. The issue of missing persons and its link to trafficking should be prioritized by police. The system of nodal officers on anti-trafficking in all the states should be linked with NGOs in India. Community policing techniques like social surveillance should also be encouraged. A National level Nodal Agency to monitor trafficking in India should be established. While police and NGOs should work in partnership, effective social and economic rehabilitation schemes for victims should be provided by government agencies. Corporate Social responsibility should be tapped in to raise funds.

(v) Combating Human Trafficking: Down to Earth Realities in Enforcement of Laws in India

Dr. Ajinkya S. Dagaonkar

Advocate and Executive Member
The Bar Association of India, New Delhi
Visiting Faculty
University Teaching Department - School of Law
Devi Ahilya University
Indore, Madhya Pradesh, India

Through this paper, my effort will be to enlighten the down to earth realities in enforcement of laws in Combating Human Trafficking in India in fast developing and emerging challenging trends especially in multidisciplinary perspectives and approaches. There is general awareness of Combating Human Trafficking all over the



world including India, but not adequate protection of the Rights and enforcement of laws. After Independence, India which is the biggest democracy of the world and is still a developing nation been able to Combat Human Trafficking in reality by enforcement of laws?

In India, Human Trafficking especially in Women and Children is widely spreading which is rooting now towards the third stage cancerative syndrome. Even, Terrorism is spreading. These heinous crimes needs to be combat earliest starting from zero to hundred with well planned International and National multidisciplinary co-operative efforts by the Governments with the help of Educational institutions, Non-Government Organisations and the like. The Judiciary





of India has all along taken a great activist role and who has truly been the torch bearer in this regard in interpreting different constitutional rights by considering the national and International laws relating to Combat Human Trafficking especially in Women and Children.

Now in this regard, to save our lovely planet from this heinous crimes and to restore peace, honest implementation of laws by the Governments is required so that the rule of law should prevail and this is the right time when Constitutional functionaries in particular and the citizens in general need to address this aforesaid question urgently and therefore, as a concerned citizen best will be done to address the question through this paper.

(vi) Human Trafficking: A Legal Perspective with Special Reference to India

Priti Rana

Ph.D Scholar
Faculty of Law
University of Delhi
Delhi, India

Trafficking of human beings is a global phenomenon which has gained momentum in recent years. Each year, millions of persons are trafficked both domestically and internationally. According to UNODC.(2011),Global Report on Human Trafficking in Persons, trafficking in persons, a 9 billion USD industry, is estimated to be the fastest growing enterprise of the 21st century. This crime comes at an incalculable human cost and represents one of the most shameful facets of the modern world. Unsurprisingly, the majority of victims of human trafficking are women and children, most marginalised segments of society in developing countries. Trafficking of women and children is one of the gravest organised crimes, extending beyond boundaries and jurisdictions. Trafficking in persons for labor and/ or sexual exploitation is a widespread and serious problem in india. India is home to over 14 million victims of human trafficking. The paper in first place, investigates the causes of human trafficking which make India both a source and a destination of trafficking in persons, as it continues to grow globally. The second section examines human trafficking operations in India and the efforts of the Indian government, non-governmental organizations, and various international organisations to put a stop to trafficking by prosecution of traffickers and providing assistance to survivors of trafficking. In the final section of the paper viable solutions to effectively reduce India’s tolerance to human trafficking and to secure people from being trafficked internally and to various countries are worked out. The legal arrangements for the protection of human rights and the dignity of women and children in the Indian context and the efforts which the government ought to take in order to eradicate this evil are suggested.



Technical Session – IX

Sunday, February 15, 2015 | 02:15 p.m. – 04:00 p.m. | Venue: Seminar Hall, CLC

Rehabilitation of Trafficked Victims: Challenges

Chairperson: **Hon'ble Mr. Justice Pradeep Nandrajog**
Judge, High Court of Delhi

Co-Chairperson: **Professor (Dr.) S.C. Raina**
Professor, CLC

Rapporteur: **Mr. Akash Anand**
Assistant Professor, CLC

(i) Human Trafficking of Africans in Egypt: What can be done?

Emad Daoud

American University in Cairo
Egypt

There are two types of human trafficking crimes committed in Egypt; one involves the trafficking of Egyptians to countries outside Egypt –mainly for sexual exploitation; while the other involves the network of Egyptian traffickers who kidnap, torture and deal in African foreigners who have managed to arrive in Egypt one way or another with the aspiration of traveling to Israel or Europe in pursuit of a better life. The scope of this thesis is on the study of the second problem; which is the transnational human trafficking crime committed against African foreigners in Egypt.

From the title of the paper, one can assume that this thesis aims at criticizing the Egyptian government on its poor efforts in dealing with this matter and further putting an end to the suffering of many Africans; however, as will be mentioned below, human trafficking is not a crime to be dealt with a narrow mind without having a deep study of all the factors involved in it. These factors involve first, the reasons why victims become easy prey in the first place; second, the gaps in the national and international legal framework that allows these traffickers leeway in committing their crimes; third, the role of the executive authorities – from top to bottom - in states whether in colluding with traffickers or being actively involved in attacking them; fourth, the efforts taken by international and civil society aiming at reducing the crime; fifth, what governments offer the victims in order to rebuild their lives again. I was intrigued to conduct a thorough analysis of what is actually going on in Sinai, Egypt. I was also encouraged by the fact that most of the accounts addressing the problem provide a descriptive analysis based on debriefing the surviving victims without touching on the legal amendments required for effectuating the efforts for preventing this crime.



The paper has a purpose to investigate the current legal system in place, its ability to address human trafficking of Africans in Egypt, and potential for improving the system's efficiency. In order to reach the results of the thesis, I will break my quest into subtopics that focus on specific areas including: analyzing the current international legal framework that governs the human trafficking issue; and evaluating the efficiency of this framework by highlighting the current gaps that are directly affecting the efforts of curbing human trafficking. I will then work on mapping the scope of the problem in Egypt and analyze all the work carried out by the Egyptian government in tackling the problem. Then I will attempt to uncover the efforts by international organizations that hold a stake in combating human trafficking and evaluate the efficiency and sufficiency of their efforts.

(ii) Prostitution - A Modern form of Slavery and Challenges before Rehabilitation

Reena Gupta

Adjunct Faculty

National Institute of Criminology and Forensic Institute

Rohini, New Delhi

Guest Faculty

Guru Gobind Singh University

Dwarka, Delhi, India

Human Trafficking is the gravest forms of crime against humanity and a serious form of human right violation. It is a form of organized crime and affecting almost every country involving the exploitation of men, women and children for financial gains. Human trafficking involves an act of recruiting , transporting , trafficking harboring receiving a person through a use of force, coercion or other means for the purpose of exploiting the victim .The victims are lured





or abducted from their homes and subsequently forced to work against their wishes through various means indulged in prostitution and other forms of human trafficking such as forced labor, Bonded labor ,slavery and sometimes incapacitated or even killed for the purpose of begging or trade in human organs. Human trafficking is not comprehensively defined in the Indian Law. There are many laws with reference to different forms of human trafficking. In India human trafficking is broadly dealt with four laws such as The Indian Penal Code 1860 (Sec 366 A, 366 B, 372,373), Immoral Traffic Prevention Act 1956, Juvenile Justice (care and protection of children) Act 2000 and Bonded labour system (Abolition) Act 1976.

This paper is a delineated attempt to analyses the forms of prostitution and sexual violence from the ancient times to the present era as sexual violence and prostitution is considered as the gravest forms of crime and against humanity. The presenter attempts to focus upon the historical background of Immoral Trafficking Act 1956 with the help of International instruments in this regard especially with regard to the rights of women. The presenter also attempts to focus upon the causes of prevalence of these worst forms of crime from the socio-psychological aspect and the relevant provisions of Indian Penal Code 1860 and Immoral Trafficking Act 1956 to eliminate this evil from the society. The presenter attempts to deal with the various case laws related with prostitution and sexual violence prevalent in our society.

Despite the various legislative provisions this worst form of crime is increasing day by day in the society so the Author wants to focus upon two aspects –one is to curb this menace and secondly the rehabilitation of the victim of prostitution and sexual violence. In this regard the Author wants to focus upon the role of civil society and NGOS for the rehabilitation and restitution of the victims as prostitution and sexual violence leaves a scar upon the victim and her family not only physically but psychologically also throughout their life.

(iii) A brief Study of the Relationship between Trafficking in Human Beings and the Internet

Miguel Paredes Oblitas

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 Cochabamba, Bolivia
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 University of Vienna
 Austria

The use of the internet transformed the way in which we exchange information across the globe. Never before has humanity had the capacity to transfer the





vast amounts of information and at the speeds seen today. The growth rate of the internet is seemingly exponential. As the internet grows in both size and capability, so does the global capacity for internet to be used as a tool for Trafficking in human beings, mainly in cases of sex trafficking. In part the growth is related to the increased global usage. Globally internet usage grew 676.3 % between 2000-2014, and more dramatically, the regions of African and the Middle East grew 5,219.6 % and 3,060.9 % respectively. Vast academic and private research has taken place observing and analysing this phenomena.

The paper will try to explore the actual status of the international law regime in reference to the Trafficking in Human Beings facilitated, enabled or amplified by the use of Internet.

The international tendency of the States and community of States trying to control and monitoring the usage of internet legitimated by the official discourse of prevention from crimes such as terrorism or trafficking in persons, will be closely analyzed. The conflict between a "Big Brother" kind-of-legislation and the personal civil liberties and the human right to privacy will also be discussed.

(iv) Globalisation, Sex Industry Regulation and Vulnerability of Trafficked Woman: Challenges and Responses

Ms. Aakriti Mathur

Advocate
New Delhi
India

Human trafficking is the fastest growing and the third most widespread criminal enterprise in the world. It can be largely attributed to the increasingly globalised world, where everything including humans are a commodity to be traded



and sold. Human trafficking owing to its nature of a borderless criminal activity, is able to feed the insatiable demand of the sex industry. Human traffickers exploit the different models of sex regulation prevalent in domestic jurisdictions to amplify the vulnerability of the victims.

In common parlance prostitution and trafficking in woman are often used interchangeably or at least seen as having cause and effect relationship, the reality however is not as simplistic. While it is an undeniable truth that many trafficked women are forced into prostitution, the vulnerability faced by trafficked women depends significantly on the manner in which the domestic sex industry, to which they are trafficked is regulated. Thus to sufficiently identify and address the concerns of these women, it is imperative to understand the models of regulation of sex industry and appreciate the unique challenges each of these model poses. The three





models of sex industry regulation are the criminalization and prohibition model, the legalisation and licencing model and the decriminalisation model. Each model despite having distinct ideological considerations ultimately aims at protection of women. Ironically, each model creates its own unique challenges and concerns for protection of women.

This paper attempts to identify the challenges these models of regulation of the sex industry pose for protection of trafficked woman and to suggest the best ways to address these challenges within these frameworks. The paper also aims to identify the relative merits of these models to suggest the best possible method for attaining the highest standard of protection for trafficked women.

(v) Rehabilitation of victims of Human Trafficking in India and challenges

Anjali Dileep and Chinmai Ajith

IIInd year students
National University of Advanced Legal Studies (NUALS)
Kalamassery
Kerala, India

Often little attention had been given on how trafficking victims integrate into society and what type of rehabilitation and reintegration victims required. This paper addresses the needs of survivors of human trafficking, challenges, strategies and techniques regarding rehabilitation in India. It also advocates the need for personalized schemes to suit the individual needs of rehabilitation. The victims of human trafficking are often subjected to physical harm, mental trauma and are marginalized. They may also lack basic skills to support themselves. The rehabilitation in the context of human trafficking means to enable the victim to be free from the physical, psychological or social impact of the trafficking. Various steps involved in the rehabilitation include identification of the victims, interviewing the victims, providing basic education and other social skills, providing direct assistance like shelters, medical aid, legal support etc. The victims should be provided with vocational and soft skill training

The rehabilitation often suffers from various challenges such as lack of proper law, ambiguities in the existing law, proper implementation, considering the victims as the offenders, corruption and lack of funding. The victims are found to be often unenthusiastic about return and reintegration largely due to the economic risks still in place. Lack of family support, stereotypical attitude of the general public add to the challenge. Many victims of human trafficking often loss their identity hence get excluded from the government schemes. Hence they should be provided with UIDs and identity cards.





Proper statute for human trafficking have to frame rather than depending upon abducting sections of IPC, or on vague provisions of Bonded Labor Act, Juvenile Justice Act, ITPA etc. The framed laws must be implemented through a transparent network and the international conventions and protocols signed have to be properly executed. There is need of victim centric approach and to provide adequate compensation to the human trafficking victims. The victims should be provided with vocational, soft skill training and job placements in order to ensure that they remain economically independent. The self-employment schemes and rehabilitation centers have to be properly funded and functioned. Moreover it is the attitude of the society to be treated, so as to accommodate the victims. Encouraging former victims to share their experiences in community groups or schools may reduce social stigma and discrimination towards trafficked victims. An effective rehabilitation and reintegration framework must ensure in general terms safety and wellbeing of victims while safeguarding them against revictimization, reprisal or retaliation

(vi) Human Trafficking and Challenges to Rescue, Rehabilitation and Reintegration of Survivors

Ms. Neelam Tyagi

Assistant Professor
Amity Law School
Delhi, India

Trafficking is the illicit and clandestine movement of person across national borders, largely from developing countries with the end-goal of forcing women and girls into sexually or economically oppressive and exploitative situations for profit of recruiters, traffickers and crime syndicates and other activities. It is one of the most shameful crimes that affect the lives of many. It is estimated that there

are about 1 million child prostitutes in Asia; 3 lakhs in India, 2 lakhs in Thailand; 1 lakh in the Phillipines and 40 thousand in Vietnam. According to experts, it is estimated that at the current rate, trafficking industry is expected to grow steadily. High profitability, low investigation and prosecution rate are the motivating factors behind this alarming trend. Traffickers mislead women and children and force them into exploitative situations. While primarily human trafficking is for the purpose of sexual exploitation, forced labour, domestic servitude, child begging or the removal of organs are other aspects of human trafficking.





Poverty, socio-political and economic instability, industrialization, orphanage, destitution, development induced displaced, natural calamities and deprivation makes women and children vulnerable to trafficking. Women and children are deceived into migrating on the pretext of getting jobs, for domestic work, false marriages, and false adoption. Sometimes violence, threat of violence and abuse of authority are used as a mean to induce consent. Victims of trafficking suffer complexity of experiences and challenges, exploitation, torture and human rights violations. However, because of their illegal status, they may not have a ready access to the police, law enforcement agency or a non-governmental organization.

The growing incidence of trafficking of women and children for prostitution is a matter of serious concern and has been highlighted time and again at the national and international fora. However, combating trafficking is not at all easy due to the involvement of innumerable complexities and deviations. It is gradually becoming more and more complicated but the government initiatives and assistance for trafficking victims, fails to tackle the basic reasons behind this upward trend. Laws are inadequate and enforcement is poor. Corruption in the law enforcement agencies is manipulated by the traffickers. The rescue, rehabilitation and reintegration of individuals seeking to escape the sex trade have been largely ignored and are underrepresented. It is necessary to assess the pervasiveness of trafficking and then undertake appropriate social measures and political measures to plug loopholes wherever necessary. This paper is an attempt to holistically addresses the challenges and strategies in the context of rescue, rehabilitation and reintegration process for the survivors of trafficking to check this global problem.



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MINUTE TO MINUTE DETAILS

International Conference

On

Combating Human Trafficking with Special Reference to Women and Children

Schedule of February 13th, 14th & 15th, 2015

Day One | Friday, February 13, 2015

08:30 a.m. – 10:00 a.m.	Registration of Delegates
10:00 a.m. – 10:45 a.m.	High Tea
10:45 a.m. – 11:45 a.m.	Inaugural Session
11:45 a.m. - 12:00 p.m.	Tea Break
12:00 p.m. – 01:45 p.m.	Technical Session – I
01:45 p.m. – 02:30 p.m.	Lunch
02:30 p.m. – 04:15 p.m.	Technical Session – II
04-15 p.m. - 04.30 p.m.	Tea Break
06:00 p.m.	Boarding of Bus from CLC to Dinner Venue
07:00 p.m. – 08:30 p.m.	Welcome Dinner
Venue:	Mumtaz Hall Hotel Taj Palace, Sardar Patel Marg, Diplomatic Enclave, New Delhi

Day Two | Saturday, February 14, 2015

09:30 a.m. – 11:15 a.m.	Technical Session – III
11:15 a.m. – 11:30 a.m.	Tea Break
11:30 a.m. – 01:15 p.m.	Technical Session – IV
01:15 p.m. – 02:15 p.m.	Lunch
02:15 p.m. – 04:00 p.m.	Technical Session – V
04:00 p.m. – 04:15 p.m.	Tea Break
04:15 p.m. – 05:45 p.m.	Technical Session – VI
05:45 p.m. – 06:00 p.m.	Tea Break
06:00 p.m. – 07:00 p.m.	Cultural Event: Qawalli by Husain Brothers

Day Three | Sunday, February 15, 2015

09:30 a.m. – 11:15 a.m.	Technical Session – VII
11:15 a.m. – 11:30 a.m.	Tea Break
11:30 a.m. – 01:15 p.m.	Technical Session – VIII
01:15 p.m. – 02:15 p.m.	Lunch
02:15 p.m. – 04:00 p.m.	Technical Session – IX
04:00 p.m. – 05:30 p.m.	Valedictory Session
05:30 p.m. – 06:00 p.m.	High Tea



Inaugural Session

13th February, 2015 | 10.45 a.m.- 11.45 a.m. | Venue: Auditorium, CLC

- 10.45. - 10.47 a.m **Lighting of Lamp and Felicitation**
- 10.47 – 10.55. a.m. Welcome Address and Introductory Remarks
Professor (Dr.) Usha Tandon
Professor-In-Charge, CLC and Conference Director
- 10.55- 11.05 a.m. **Key Note Address**
Ms. Kim Haing, President,
Korean Institute for Gender Equality, Promotion and Education
- 11.05.- 11.25 a.m **Inaugural Address**
Hon'ble Mr. Justice K.G. Balakrishnan
Chairperson, National Human Rights Commission, New Delhi
- 11.25- 11.35 a.m. **Presidential Address**
Professor (Dr.) A.K. Bansal
Dean, Faculty of Law, University of Delhi
- 11.35-11.45 a.m. **Vote of Thanks**
Professor (Dr.) P.S. Lathwal
Professor, CLC

Campus Law Centre

University of Delhi Cordially Invites you to the

Welcome Dinner And

Cultural Event For

International Conference On

Combating Human Trafficking with Special Reference to Women and Children

Dinner Venue: Mumtaz Hall

Hotel Taj Palace

Sardar Patel Marg, Diplomatic Enclave, New Delhi

Date: 13th February, 2015, Time : 7.00 p.m. to 8.30 .pm.

Cultural Event: Qawwali by Hussain Brothers

Venue : CLC Auditorium

Date: 14th February, 2015, Time: 6.00 p.m.to 7.00 p.m. Campus Law Centre





Valedictory Session

15th February, 2015 | 4.00 p.m.- 5.30 p.m. | Venue: Auditorium, CLC

4.00 p.m.- 4.05 p.m. Felicitation of Guests

4.05 p.m.- 4.15 p.m. **Welcome Address , Closing Remarks and Presentation of Conference Report**

Professor (Dr.) Usha Tandon

Professor-In-Charge, CLC and Conference Director

4.15 p.m.-4.25 p.m. **Address by Guest of Honour**

Mr. Mohan Parasaran

Senior Advocate, Formerly Solicitor General of India

4.25p.m.-4.35 p.m. **Address by Guest of Honour**

Professor (Dr.) Donald K. Anton,

Professor, Griffith University Law School, Australia

4.35 p.m.- 4.50 p.m. **Address by Special Guest of Honour**

Hon'ble Mr. Justice Pradeep Nandrajog

Judge, High Court of Delhi

4.50p.m.-5.15p.m. **Valedictory Address by Chief Guest**

Hon'ble Mr. Justice Arjan Kumar Sikri

Judge, Supreme Court of India

5.15 p.m.- 5.20 p.m. **Release of Book by Chief Guest**

on "Gender Justice: A Reality or Fragile Myth"

Edited by

Professor Usha Tandon

Foreword by

Hon'ble Ms. Justice Gita Mittal

Distribution of Certificates

5.20 p.m.-5.30 p.m. **Vote of Thanks**

Professor (Dr.) S.C. Raina

Professor, CLC

5.30 p.m.- 6.00p.m. **High Tea**







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