
ILLEGAL ORGAN AND HUMAN TRAFFICKING DURING COVID 19

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Introduction

There is no country in the world who is unaffected by wrath of 'illegal organ and human trafficking'. Worst thing is that most of the involved criminals are experts in medical sciences and practice. The argument by these white-collar criminals is they are saving life, but at what cost? People who can not afford basic livelihood are forced to sell their self ("So called organ donation program"). Human saving life of other human is just like man playing god. It should be within the boundaries of ethics.

Eleven countries have biggest number of illegal human and organ trafficking. These includes Thailand, Ghana, Sri Lanka, Pakistan, India, Nepal, Uganda, Brazil, Haiti, China and Bangladesh. However Bangladesh stands for large number of organ and human trafficking in the world. Among these 11 countries, India, Sri Lanka, Ghana, Uganda, Haiti has extremely high rate of child and women forced into begging, free labor and prostitution. This is serious kind of offence. Its well accepted fact that world of shadows is bigger than world in light, and those shadows are now tying to takeover god by ruining fate of innocent.

Since 2019 the whole world witnessed the unexpected pandemic situation which is popularly known as THE COVID-19. This pandemic has destroyed and disturbed educational system, global economy along with human lives. In this pandemic people are affected with health problems and financial problems.

The World Health Organization declared the outbreak a Public Health Emergency of International Concern on 30 January 2020, and a pandemic on 11 March 2020¹ In India our hon'ble Prime Minister Shri. Narendra Modi declared 22nd March 2020 as "JANTA CURFEW". And the battle of COVID-19 in India started in second last week of March 2020.

¹ WHO Director-General's opening remarks at the media briefing on COVID-19 - 11 March 2020, WWW.WHO.COM Available at WHO Director-General's opening remarks at the media briefing on COVID-19 - 11 March 2020, last seen 23/05/2021

Government of India issued all required restrictions and named it as Lockdown.² In April 2020 COVID-19 was in peak. It restricted movement of people and stopped all educational organization rather we can say COVID-19 stopped the whole world. Many people lost their jobs, lost their loved ones, lost their parents but these all situations was naturally occurred.

Then a huge problem came into this pandemic which is known as “Organ and human trafficking”.

This problem was not new to India. But in COVID-19. India is one of the largest source, destination and transit corridor for trafficking for forced labour, domestic servitude, forced marriages, commercial sexual exploitation and other emerging forms of trafficking like organ trafficking, etc. According to the Global Slavery Index, in 2016 the National Crime Records Bureau (NCRB) stated that there were 8,132 reported human trafficking cases across India. The same year, close to 9,000 victims out of approximately 15,000 victims were below 18 years of age. Though traffickers are increasingly exploiting established international migration routes to traffic people outside India, the majority of trafficking in India is within states or across states.

Among the effects of COVID-19 in our societies, there is the huge possibility that that there is class of society which is specifically vulnerable viz. Woman, children, can become victims of human trafficking, abuse and exploitation. The government of India imposed lockdown for India’s 1,3 billion inhabitants.³ Till May 2020 over 1.2 million people in our country lost their jobs. Near about $\frac{3}{4}$ of them were daily wage labours, small traders. This led to mass unemployment in our country. This ultimately resulted into many families becoming economically unstable and which unfortunately resulted into increasing the vulnerability of children.

One of the reported cases says that “the father who lost his job due to COVID-19 sold his four-month-old child to a wealthy couple and the worst thing was the mother of child was unaware of this. The man was daily wage worker and because of unemployment he couldn’t feed his family, he sold his baby in desperation.

Due to COVID-19, there is huge increase in forced marriages. This is also one of the dangers

² Press Information burro, Available at [PR_NationalLockdown_26032020.pdf](#) (mha.gov.in). last seen 23/052021

³ Centre for monitoring Indian Economy

in society. The basic reason behind family marrying their daughters is to have one less mouth to feed. Some researchers have come across cases where children as young as 13 have been fall a prey of trafficking into a forced marriage. Furthermore, because of Covid education is through online mode. In the rural areas not everyone has a good internet access, in fact in some village there is no availability of network at all. This made many children unable to attend online school and ultimately tends to lack of education. Because of this, there is a huge risk of increasing in child labour once we return to our normal life like pre-covid era.

The Covid 19 pandemic crated global job losses. As a result, desperate people are finding, realizing, creating, experimenting, searching, looking for new ways to make money. social media is platform widely used for the sake. And evidence observes this situation creating the environment favourable to deadly surge in illicit organ-trafficking. “The conditions are becoming favourable for trafficking,” says Aimée Comrie, project coordinator at the GLO. ACT is an anti-trafficking initiative at the United Nations Office on Drugs and Crime. This is type of smuggling that is shaping into severe organ mafia and global trafficking. Far fewer transplants have been performed over the past six months globally as hospitals closed or diverted resources to treating COVID-19, creating a significant backlog of patients on waiting lists.⁴ Plummeting supplies have only added to an already increasing global demand for organs. Prior to the pandemic, less than 10 percent of the global need for organ donations was met every year, a World Health Organization (WHO) spokesperson told SciDev.Net. In recent years, organ 'brokers' had already used Facebook pages, Instagram pages as a recruiting medium for the so-called Black market. But the financial difficulties and restrictions on movement caused by the pandemic have turbo-charged this illicit use of the platform as a place for sellers to advertise. The Facebook page which Nandram posted in, entitled Selling of Kidney, has been active for over a year. In the six-month period April to September since lockdowns began, comments from sellers more than doubled compared to the previous eight months.⁵ Nandram says he has spoken to three people who claim to have sold kidneys through these networks in the past three months. The page was among more than two dozen that SciDev.Net identified, most with names as obvious as kidney buyer or donate a kidney for

⁴ COVID-19 a 'perfect storm' for organ trafficking victims, phys.org, available at <https://phys.org/news/2020-11-covid-storm-trafficking-victims.html>, last seen 21/05/2021

⁵ COVID-19 a 'perfect storm' for organ trafficking victims, scidev.com, available at <https://www.scidev.net/global/features/covid-19-a-perfect-storm-for-organ-trafficking-victims/>, last seen 22/05/2021

cash. Comments from users since the pandemic began across this sample of pages have numbered well over 900.

MEANING AND DEFINITION OF ORGAN TRAFFICKING

Human trafficking means transportation of individual i.e. men, women, children from one country to other for the purpose of forced labour or sexual exploitation. Human trafficking is offence against mankind. It is violation of human rights. Organ trafficking is another worst version of human trafficking. In organ trafficking, organs of individual are sold or purchased for money.

Organ trafficking is the practice of selling organs for transplant illegally. There are both legal and illegal forms of organ transplantation, typically in which living individuals undergo removal of an organ or part thereof which is later sold to be transplanted into someone else's body. While organ trafficking may involve the transfer of organs between willing donors who volunteered for the process due to their desperate need for money, there is also some evidence that not all donors actually volunteer their organs, are capable of giving informed consent, or are compensated appropriately.⁶ Organ transplant may prove to be a boon if it is life saviour but it may prove to be a bane if it takes life of one.

INDIAN LAWS PROHIBITING ILLEGAL HUMAN TRAFFICKING

Indian legislature has passed laws for prohibiting human trafficking. Both the parliament and state legislature have taken required steps time again to stop this inhuman offence of trafficking.

Following is the review of different laws prohibiting illegal human and organ trafficking in India.

- **Constitution of India**

Article 23 of the Indian constitution states that Protects against exploitation, prohibits traffic in humans and beggar and makes this practice punishable under law⁷. Further, Article 24 Protects

⁶ Lainie Peterson, what is organ trafficking?, available at What is Organ Trafficking? (with pictures) (mylawquestions.com), last seen 23/05/2021

⁷ Article 23, the constitution of India

children below age 14 from working in factories, mines or other hazardous employment.⁸ Article 23 and 24 of the constitution which provides the people including children a fundamental right for saving themselves to fall a prey for Trafficking.

- **Indian Penal Code**

There are around 25 provisions for trafficking but some of the significant among them are as below-

1. Section 366A- Inducing any minor girl under the age of eighteen years to go to any such place with intent to forced or seduced illicit intercourse with another person shall be a punishable offence⁹. This specifically penalises the prostitution among young children especially minor girls, which is the major problem these days.
2. Section 366B- Importing any girl under twenty-one years with the intent that she will be, forced or seduced to illicit intercourse with another person is a punishable offence.¹⁰ This section punishes prostitution of adult girl child.
3. Section 374- Punishes any person who for unlawfully compels any person to labour against his will.¹¹ This prevents forced labour.

- **Immoral Traffic (Prevention) Act 1956**

Further parliament have passed specific law for preventing illegal human trafficking. The Immoral Traffic (Prevention) Act, 1956 is the primary legislation for the prevention of sexual exploitation for women and girls. This act has not made an effort to define term trafficking. Thus, while the ITPA is the main legislation related to the commercial sexual exploitation of children, it does not define trafficking. The word “Trafficking” found to be defined only by the Goa Children’s Act, 2003, which is a state law.

Thus, as per goa children’s act, 2003 the term trafficking means The immoral trafficking act makes the following offences punishable under the act.

Offences specified are:

⁸ Article 24, the constitution of India

⁹ Section 366A, Indian penal Code. 1860

¹⁰ Section 366B, Indian penal Code. 1860

¹¹ Section 374, Indian penal Code. 1860

1. Keeping a brothel or allowing premises to be used as a brothel
2. Living on the earnings of prostitution
3. Attempting, procuring or taking person for the sake of prostitution
4. Detaining any person in premises for prostitution
5. Prostitution in the vicinity of public places
6. Seduction of a person in custody

- **Child Labour (Prohibition and Regulation) Act, 1986**

This act being labour law is social welfare legislation. The Act prohibits employment of children below specific age and in certain specified occupations. It also imposes punishment for the employment of minor children.

- **Information Technology Act, 2000**

The act penalises transmission of any such material relating to children, individual, in electronic form which is inappropriate and lascivious. This act also addresses the problem of child pornography. Following are the different offence enlisted under IT act 2000 Section 67A Punishes publication or transmission of material containing sexually explicit act in electronic form.¹² Section 68B- Punishes publication or transmission of material depicting children in sexual explicit act in electronic form.¹³ • Juvenile Justice (Care and Protection of Children) Act, 2000

The law is relevant for children who are vulnerable and are therefore likely to be the victim of trafficking. It protects juveniles in need of care and protection.

Besides this central law following are some state laws passed by state legislature to combat the serious offence of human trafficking.

- **Karnataka Devadasi (Prohibition of Dedication) Act, 1982**

This act provides that Act of dedication of any girl with or without consent of the dedicated

¹² Section 67A, Information technology act

¹³ Section 67B Information technology

persons engaging her in prostitution is unlawful and punishable. • Andhra Pradesh Devadasi (Prohibiting Dedication) Act, 1989

This law prohibits any ceremony dedicated as Devadasi in any manner and imposes a penalty of imprisonment for three years and fine.

- **Goa Children's Act, 2003**

This act is defined precisely in Trafficking. It includes every type of sexual exploitation in the definition of sexual assault. Manager and owner of the establishment are responsible for the safety of minors or children in hotel premises. There are strict laws on about the safety of children and publishing pornographic materials.

JUDICIAL VIEW ON CHILD TRAFFICKING

Since India has signed the Optional Protocol to Prevent, Suppress and Punish Trafficking in Persons especially Women and Children, the definition in the protocol should apply until a definition has been introduced into local legislation. The Hon'ble Supreme Court in two of its leading judgements held that International Treaties/Conventions to which the state is a party to apply around the country in the absence of domestic legislation to that effect or to file contrary. Under Article 14 of the Constitution, the judgement of the SC is applicable, it can be argued that these international definitions should be applied locally, but the practice is otherwise. Unfortunately, this definition has not yet been accepted by Indian courts.

USA, Federal has awarded over \$1,00,000 to victims of Human Trafficking. As on April 30, 2004, the pending 152 trafficking investigation was more than twice the number open in January 2001.

INTERNATIONAL TRAFFICKING OF HUMAN ORGAN

The Black market has both national and international forms. The difference is often the degree of organization of the brokers, the middlemen who take the lion's share of the fees and coordinate between the medical professionals conducting transplants, recipients and sellers. Egypt has become safe heaven for both its highly localized organ trade, and as a prominent hub for international networks. Recipients in the international networks have factually traveled to the country from wealthier Gulf states and surrounding African countries, often paying hundreds of thousands of dollars in a practice sometimes known as transplant tourism.

Refugees in Egypt with limited working and social welfare rights—primarily Sudanese, Eritreans and some Syrians—are most vulnerable to the trade as the financial conditions of society is poor. Also in these countries legal mechanism is not strong to curb these malpractice. Sabae says coronavirus has compounded the already severe financial vulnerabilities for them. Seán Columb is an organ trafficking expert and a University of Liverpool lecturer in law. He also stresses refugees may bear the greatest cost of the pandemic in Egypt. Since Egypt's lockdown restricted activity on 25 March, until reopening in late June, recorded sea crossings dropped to 8,045 according to UN figures, compared to 16,198 last year—and the lowest for this period in five years. April saw the lowest monthly crossings on record, at 1,187. On the one hand, smugglers' prices have gone up because of greater border control, he says. On the other, the build-up of refugees arriving in Libya unable to travel to Europe due to travel restrictions may now mean a “two-to-three-month” wait for an available ship. “you've paid that money to the smugglers already in advance, you're never going to get that back because it's illegal,” he adds. “Because there's more debt involved, they are being pushed to further extremes. India was once one of the world's hotspots for the international trade before the stringent laws were made in 1994. But close family and spouses are allowed to donate organs, a legal loophole which has proven open to exploitation, as brokers forge documents pretending these relationships between sellers and recipients. Partly because family ties are harder to prove for foreign recipients, central commands for international networks have stirred more to neighboring countries like Sri Lanka and Bangladesh. In Kerala, South India, local sales are still “very, very common” says Davis Chiramel, a priest in the Southern Indian district of Thrissur and founder of the Kidney Federation of India, which works to encourage kidney donation post death. He receives calls from people looking to trade their kidneys who have misunderstood the aim of his charity, and says he has seen a rise in such calls since the pandemic struck. In the past six months, he has received two to three calls a day, or several hundred since India's lockdown, which according to him is twice as many as during the same period in 2019. The vast majority, he says, are driven by financial difficulties.¹⁴

INTERNATIONAL INSTRUMENTS

A list of Conventions and contents to eliminate the children's sexual abuse-

1. International Conventions for the Suppression of the Traffic in Persons and of the

¹⁴ <https://phys.org/news/2020-11-covid-storm-trafficking-victims.html>

- Exploitation of the Prostitution of others, 1949 (Signed by India on May 9, 1950).
2. The Convention on Consent to Marriage, Minimum Age for Marriage and Registration for Marriages- Convention enforced with effect from 9th December 1964
 3. The Convention on the Elimination of All forms of Discrimination against Women (CEDAW)- Convention enforced with effect from 3rd September 1981.
 4. The United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules) 1985, adopted by the United Nations General Assembly in November 1985.
 5. The Convention on the Rights of the Child (CRC), 1989 adopted on 2nd Sep 1990 (India ratified in November 1992)
 6. United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines), 1990, adopted by the General Assembly in December 1990, complement the previously adopted Beijing Rules.
 7. The Declaration on the Elimination of Violence Against Women, 1993
 8. The International Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (ILO Convention 182), 1999- Convention enforced with effect from 19th November 2000.
 9. The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Trafficking Protocol), 2001.
 10. The Optional Protocol on the sale of children, Child prostitution and child pornography, 2000- UN adopted on 18th January 2002.
 11. Regional Instruments- (SAARC Conventions)
 12. At regional (South Asia level) we are signatory of two/instruments, dealing with the sexual exploitation. Those instruments are : (1) SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution, 2002; and (ii) SAARC Convention on Regional Arrangements for the promotion of Child welfare in South Asia, 2002

LARGELY TRAFFICKED HUMAN ORGANS: KIDNEY, LIVER, CORNEAS AND SKIN

Kidneys are by far the most trafficked organ, though liver sales too are on the rise. Occasionally, unconfirmed reports also mention corneas, plasma and skin transplants. While illicit organ sales remain an issue all over the world, the sellers who supply both national and international red markets come disproportionately from countries in the global South. “It’s still a big problem in India, Nepal, Bangladesh, Pakistan, Egypt—maybe Syria,” says Debra Budiani-Saberi, founder of Coalition for Organ-Failure Solutions (COFS), which promotes advocacy, prevention of organ trafficking and support to victims globally. As well as the Gulf, foreign recipients travel from places such as the United States and Europe for transplants. Sometimes they fly to third countries to which sellers are also transported, and from which these networks operate.” Israel’s been renowned for its sophisticated international rings, in coordinating transplants in South Africa, with Brazilians, and in Turkey,” says Budiani-Saberi. In one case which made headlines around the world, doctors at the Kosovo-based Medicus clinic were found to have carried out at least 24 operations in 2008. Recipients were largely from Israel and paid up to US\$100,000 for the operation, while mostly low-income sellers came from Eastern Europe, Central Asia and Russia and received sometimes only US\$8,500. Other reports show victims have received fees as low as US\$2,500. A 2013 OSCE report argues organ trafficking has been growing over the last ten to 15 years” and the UN’s Comrie agrees, telling SciDev.Net: “In my view, it’s getting worse.” While in theory organ sales can be consensual, Comrie admits she is yet to see a case without “deceit or fraud,” while she has seen a “good amount” of cases where victims are scammed and receive no money at all. The typical victim, she says, is male, poorly educated, marginalized and from a rural area, and who is facing financial difficulties. Brokers will often lie and tell potential sellers things such as “your organ will grow back like a fruit on a tree,” she says. As the coronavirus accentuates these vulnerabilities, a WHO spokesperson told SciDev.Net: “We need to remain vigilant and protect affected populations.” According to WHO estimates from 2007, the most recent available, around five to 10 percent of global kidney transplants annually are commercial—which would mean almost 10,000 last year. The practice is legal only in Iran, where it applies just to nationals and the Iranian diaspora. Budiani-Saberi says COFS has assisted around 250 victims of organ trafficking per year for the past five years. Though it identifies hundreds of victims each year, it does not have the resources to support any more than this. She says that although the “clandestine nature” of this abuse prevents her from having accurate data on organs trafficked per year, she estimates it at least in “in the hundreds” and

possibly in the thousands. The UN's most recent Global Report on Trafficking in Persons recorded around 100 cases of organ trafficking from 2014-17. But Comrie calls this a “vast underrepresentation,” as figures are self-reported by member states when local authorities catch people involved in the illicit trade. She argues that the shame accompanying organ removal and criminalisation of victims prevents those affected from speaking out.” No country wants it to be known that its citizens are selling their body parts to survive,” she explains, arguing NGOs are sometimes even disbanded for exposing these issues as national problems. “Wilful blindness” by authorities who have other priorities also plays a part, while amateur trade in makeshift venues remains too underground to monitor. “Most of the [data] gathering has been episodic by the occasional researcher who was studying at one place at one time,” adds Lawrence Cohen, senior medical anthropologist at UC Berkeley and co-founder of antitrafficking organization Organs Watch.¹⁵

PREVENTION OF TRAFFICKING

The human trafficking can be prevented by several types of intervention. It needs to focus on areas of sensitization and awareness in public and with those vulnerable areas which are responsible for creating such an environment for human trafficking.

ROLES OF STATE

A compulsory high-quality education, income generation and employment opportunities should be created. Promote high-quality programmes for teachers in government schools. A preventive measure by different nations should be shared among each other to help both the countries in preventing trafficking.

ROLES OF NGOS

The community should keep a vigilant watch on the movement of child victims of the area of traffickers. They should educate and ensure to make parents are aware about the safe migration practice.

ROLES OF MEDIA

Media has a very important role due to major viewership. Transmitting the appropriate message

¹⁵ Organ trafficking, Coalition for organ failure solution.com, available at <http://cofs.org/home/>, last seen 23/05/2021

to the victim to ensure that they have a backup and are not alone. A programme to make citizens aware of places and institutions to seek help in case if they are victimised. Educate and spread awareness that human trafficking is illegal and inappropriate and that it has negative consequences.

CONCLUSION

Human developed medical science to the extent that now human can do genetic modification, but still human is not yet able to recreate human. Human is complex piece of creation of god and medical science is no where near to build synthetic organs for permeant replacement. This is limitation of science where human became monster, organs of another human are not commodity for sale. No laws are sufficient to bar this malpractice because the motivation for illegal organ trafficking lies in root of social evils such as Poverty, Lack of education, lack of moral education. International community is making efforts through enacting, signing various treaty but the question remains as to can morals be taught through laws? It is human right of all the person to live and share the planet, no one can take that right away from the person. Human beings are different because of its intelligence but that intelligence, if used is in such way there will be very less humanity left on the planet. During the harsh time of COVID -19 only one hope keeps us alive and that is humanity if we fail to maintain in humanity then all the progress we made, all the sacrifice made for protection of humanity will be in vain.