

# LEGALFOXES LAW TIMES

## BRIDE TRAFFICKING IN INDIA

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### **I. Introduction:**

Women are trafficked for marriage both nationally and internationally. Bride trafficking means buying of brides through human trafficking, it is a practice of forced arranged marriage. This brides are sold by their parents. When a man is not able to find a bride for him in an arrange marriage system he opts to marry a inter-region women from poor communities to continue family lineage by purchasing the bride. The bride's family sells the daughter in order to receive financial compensation and to avoid dowry. Such cases are seen in Bihar, West Bengal, Jharkhand, Andhra Pradesh, Orissa and in Northeast India (Assam).

These brides are been arranged in four ways: by family and friends, brokers, mediators and the husband of trafficked brides. These brides many problems such as mental health issues, racism, social isolation, etc. These brides also faces difficulties to obtain justice for them. According to some people this is the best arrangement for the marriage, while for others in it is nothing more than slavery.

Delhi High court in the case of *Amita Ahluwalia v. Union of India & Others*, directed the government to enact strict policies for trafficking of women in context to marriage and especially when she is married to another country's citizen.

In *State of Assam v. Binarabha & Others*, the court on the proven case of bride trafficking held the punishment of three years and six months of rigorous imprisonment.

Bride selling is also a taboo therefore when any bride is been sold she is sold to those caste and religion which socially accepts this ancient tradition. Khap panchayats and activists try to lobby the government in this matter by permitting to the registration of such marriages and also make it mandatory.

## **II. Definition Of Bride Trafficking:**

Trafficking for the purpose of marriage or under the pretext of marriage, in which a trafficker traffics a woman or child before or after marriage with intent of exploitation. Exploitation includes forced prostitution, polyandry, and rape before or after marriage, re-trafficking, abandonment or other exploitative forced conditions of life such as slavery or servitude.<sup>1</sup>

There are also cases where in order to escape from economical condition and to get higher wages the girls of poor family leaves home and then they become easy targets of such traffickers. These girls are sold on the basis of their physical appearance, virginity, health from rupees 5000 to rupees 40,000. After getting married the brides are not given any freedom nor allowed to get education. These brides faces many health related complications during the child birth and this becomes main cause of their early death.

## **III. Causes Of Bride Trafficking:**

- *Sex Ratio differences:*

UNODC (United Nations Office on Drugs and Crime) in its 2013 report stated that one of the major cause of bride trafficking is poor sex ratio where this practice is carried out i.e. Western Uttar Pradesh, Rajasthan, Punjab and Haryana. The sex ration of these states were 912, 928, 895and 897 respectively per 1000 males. Therefore, the only solution left for these men is to

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<sup>1</sup> Upadhyay N.K. Bride Trafficking in India: Aspects, Causes and Potential Solutions. *BRICS Law Journal*. 2021;8(3):67-92. <https://doi.org/10.21684/2412-2343-2021-8-3-67-92>

import brides of other region. The data states that it will take the time period of many years to achieve stabilization. These cases were also been reported from the Kutch district of Gujarat wherein the Bengali speaking women and women from Bangladesh are imported. This do not stop here as some women are forced into sex trading.

The major factor affecting to bride trafficking is high female feticide practice in these region and Haryana is famous amongst all. The old patriarchal tradition of continuing the family have lead to preference given to son and dowry while the daughters are considered as economic burden on the family.

- ***Bride Purchasing:***

It is not that every person from each class and cast face the issue of finding a bride for him. Amongst Ahirs, Rors, Yadavs, Jats and Brahmins there is a severe shortage of brides. However, the men with better economic condition in them do not face this issue as it is faced mostly by the men who are from poor families, unemployed, less educated, little older and who may not own much land This issue is also faced by Muslims and lower communities. There this situation results into bride purchasing.

- ***Poverty And Dowry:***

These are the obvious leading factors of bride trafficking. In the states like Punjab, Haryana and Western Uttar Pradesh the dowry system is prevalent and it is consider as part and parcel of marriage. Due to high dowry demand the bride's family is unable to find the groom for their daughters in this region as they cannot afford to pay dowry. So, even they are left with one choice, to make their daughter marry the outsider as they do not demand dowry and instead gives them some financial compensation. Also, in this types of marriage the expenses of marriage are borne by the groom's family as generally they have better economic condition. All this conditions pave the way for bride traffickers in this regions.

The other reason is poverty, when the groom and is family cannot afford the expenses for the marriage the bride trafficking becomes a cheap option for them because, they will avoid to spend huge amount of money by not doing traditional form of wedding and not performing important

rituals of marriage instead they just need to pay an amount which is not huge. Therefore, both this issues are interlinked. Poverty, communal conflicts, unemployment, natural disasters, migration from rural to urban areas, armed conflict are the common reasons in Bihar and Assam for bride trafficking. The parents in this regions also send their children to urban areas for education and for labor (for higher wages) and these children end up being trafficked.

- ***Selling of Daughters:***

Poverty become the major reason for the bride's parents to sell their daughter for marriage while in few cases when the girl is been married to a richer man the parents think that he is the husband of their daughter but, they are unaware about the fact that actually he is the middle man and had married to re-sell their daughter. In such kind of marriage the situation is such that the disadvantaged man gets the bride so both buyer and seller gets something in return of something.

- ***Lack of Awareness, Negligent Intervention Of Government and NGOs:***

As per the 2004 report of NHRC (National Human Rights Commission), the people and the law enforcement agencies have very low awareness pertaining to the human trafficking issues in the source area while in low priority area it is lower than the prior. Thousands of women and children who are missing are still missing.

The Ministry of Home Affairs has considered the human trafficking as violation of civil and fundamental rights guaranteed by the government. Unlike, few English newspapers even the mainstream media has failed to address this issue. NGO's have also played limited role in addressing and solving this issue. However, some organizations such as *Empower People* and *Shakti Vahini* are fighting to win against the issue.

#### **IV. Human Trafficking Laws:**

Any form of human trafficking is prohibited under Article 23(1) of Indian Constitution it read as "Traffic in human beings and beggar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law ."<sup>2</sup> However there is no provision particularly for bride trafficking. Even the Immoral Traffic (Prevention) Act 1956, recognizes only the forced sex at public place and brothels and fails to address the bride trafficking. There are few provisions of law under which bride trafficking not explicitly prohibited such as under the Child Marriage Restraint Act, 1929 the legal age to marry for male is of 21 years and for female it is of 18 years.

India is signatory member of UN Convention on the Rights of the Child since 11 December 1992. Juvenile Justice Act, 2000 was passed as a result of this. The act was amended in 2015 as a consequence of Nirbhaya Rape case of Delhi. The acts provides protection to the children who are at risk of sexual exploitation. As the act is only limited for the children not all victims of sexual exploitations are covered under it. The government has also enacted Prohibition of Child Marriage Act, 2006.

India is also a party of two other United Nations convention: (a) Convention on the Elimination of All Forms of Discrimination Against Women 1979 (CEDAW) and (b) the Convention on the Rights of the Child 1989 (CRC). Article 16(1)(b) and Article (16)(c) read as " The same right freely to choose a spouse and to enter into marriage only with their free and full consent;" " The same rights and responsibilities during marriage and at its dissolution" respectively.<sup>3</sup>

The CRC do not exactly talks about child marriage but it does talk about issue pertaining to is such as sexual exploitation under Article 19(1) and Article 19(2) which read as " Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child"<sup>4</sup> "Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as

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<sup>2</sup> Indian Kanoon, <https://indiankanoon.org/doc/705639/> (last visited Nov. 6, 2021).

<sup>3</sup> OHCHR (Office of the High Commissioner for Human Rights), <https://www.ohchr.org/en/professionalinterest/pages/cedaw.aspx> (last visited Nov. 8, 2021)

<sup>4</sup> OHCHR (Office of the High Commissioner for Human Rights), <https://www.ohchr.org/en/professionalinterest/pages/cedaw.aspx> (last visited Nov. 8, 2021)

for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement."<sup>5</sup> respectively.

Also the Article 34 which read as " States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:(a) The inducement or coercion of a child to engage in any unlawful sexual activity; (b) The exploitative use of children in prostitution or other unlawful sexual practices; (c) The exploitative use of children in pornographic performances and materials."<sup>6</sup>

Other laws and International conventions which provides protection to the victim and penalize the act of human trafficking are:

- **Immoral Traffic (Prevention) Act, 1956 (ITPA),**
- Bonded Labour System (Abolition) Act 1976,
- Child Labour (Prohibition and Abolition) Act 1986,
- Juvenile Justice Act 2015,
- **Indian Penal Code 1860,**
- **UN Convention Against Transnational Organized Crime,**
- **Universal Declaration of Human Rights (1948),**
- **Blue Heart Campaign (by The United Nations Office on Drugs and Crime).**

Any of the above stated law or convention do not explicitly talks about bride trafficking therefore, these laws can just become the measure to connect the bride trafficking cases with it and punish the accuse.

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<sup>5</sup> OHCHR (Office of the High Commissioner for Human Rights), <https://www.ohchr.org/en/professionalinterest/pages/cedaw.aspx> (last visited Nov. 8, 2021)

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## V. Problems Faced By The Victims Of Bride Trafficking

The trafficked bride faces many problems such as bonded labour, re-buying and re-selling, physical exploitation and sexual exploitation. The major problems are discussed below:

**Health Issues:** The victims of bride trafficking faces serious issues pertaining to health; sexually, physically and mentally along side of human rights exploitation. The other problems are physical abuse, pre-mature pregnancy, forced abortion, STD (Sexually Transmitted Diseases) and other pregnancy complications.

**Forced Sex And Bonded Labor:** The common this between the victims of prostitution and bride trafficking is that both are physically and sexually abused and in order to have better life ahead, many women and girls get married to rich man from Punjab and Haryana. Such trafficked marriages are displayed as voluntary marriage. In case of bride trafficking even the other males of family exploits the victim sexually and treat them as sex slaves. If the victim resist for the same than they are brutally tortured. Once the person is satisfied with the bride and he sell to someone else and for the bride the same exploitation cycles begin to repeat. Western U.P, Punjab and Haryana not only have lowest sex ration but they are rich in agriculture. Therefore, there is always the need of agricultural laborers and these brides are forced to household chorus as well as bonded labor.

**Property Rights And Social Support System:** Any bride married under bride trafficking posses not much rights. Therefore in most case they are not even consider as permanent member of the groom's family because they might sell her to someone else in future. Therefore the women doesn't get the property rights of husband. In the case if not sold to someone else the life of these brides is in miserable condition once their husband dies because usually the groom's family disown her. So, these brides merely gets any support irrespective of the fact that her husband is alive or dead.

**Selling And Purchasing:** 'Paro' is the term referred for the bride from other border or coming from far region. The NGO, Empower People in it 2013 report stated that in Mewat district of Haryana in 2013 there were Paro from different class and religion and all are sold for different times. The data is as follows:

- 4% Are Dalits
- 6% Sold for more than three times
- 17% Are from Scheduled Tribes
- 21% Sold thrice
- 56% Sold twice
- 71% Do not participate in festivals
- 79% Are Muslim,
- 76% Don't have right to say in family matters
- 80% Don't possess Voter's Id Card/Ration Card.

**Language Issues:** India has diversity in terms of everything like from the food, language, culture etc. so whenever, the bride from eastern states are brought to western states of India than the faces problem due to the diversity. It is observed that the people of north-eastern states cannot speak Punjabi, Haryanvi or Hindi. The language becomes a medium to identify them as a purchased brides or Paro and this is the abusive word used for these trafficked brides. The discrimination is not limited to them. Even their children are called as son/daughter of Paro, in an abusive tone.



## VI. Bride Trafficking Interventions:

- ***Beti Bachao, Beti Padhao Yojana:***

By initiating the scheme the government have attempted to create awareness amongst the people and have improved the welfare services for girl child by starting with the initial funding of 100 crore. The scheme especially targets those state who has low sex ratio and Haryana is recovering well under this scheme. Haryana has taken strict actions against the major cause of bride trafficking i.e. Female Foeticide. The sex ration of Haryana has raised to 914 (2018) from 834 (2012). In fact, the sex ratio of Ratia (Comprising of 53 villages) of Haryana was 1003 by the end of year 2018.

- ***Apni Beti, Apna Dhan Yojna:***

Under this scheme the government pay to the family of girl child if they delay their daughter's marriage up till the age of 18 years. They pay rupees 500 on her birth and if she is unmarried on her 18th birthday. The government aims that the value of girl child will be increased by the implementation of this scheme and the chances of her getting education will also increase.

- ***Bill Of 2016, 2018 and 2021:***

The Trafficking Persons (Prevention and Rehabilitation) Bill was published in the year 2016. Prior to the publication of bill the Indian legal framework for human trafficking lacked in coordination between the state and district agencies. However, the bill appeared to be the first anti-trafficking law as it focus on prevention, protection and rehabilitation of victims. The bill also aim to remove the women for the environment full of exploitation and to assure that she is prevented from re-trafficking. This bill had some lacunas therefore it was criticized. They are as follows:

- No clear definition of term trafficking
- No clear measures for rehabilitation is provided.
- Lack in long-term commitments.

The bill was again published in 2018 but again due to back leash it was re-published by Ministry of Women and Child Development in 2021. It came to be known as the "Trafficking in Persons (Prevention, Care and Rehabilitation) Bill, 2021". The bill of 2018 was not able to pass in Rajya Sabha. The new provision of 2021 bill are as below:

- a. Extended to is citizen even outside of India.
- b. It includes women, children and trans-genders.
- c. Provides definition of exploitation
- d. Includes the government officials, defence personnel, para-medical staff, doctor or any person in authority under the ambit of offender.
- e. Property brought by the money of trafficking will be dealt under Money Laundering Act.

- f. Made NIA (National Investigation Agency) as a chief agency to deal with human trafficking matters.
- g. For child trafficking the punishment is of minimum seven years to ten year and penalty upto rupees five lakhs. When there is more than one child, life imprisonment is the punishment.

## **VII. Conclusion:**

The issue of bride trafficking continuous to destroy many women's life each year. The problems such as forced sex, prostitution, bonded labour, cultural differences, social stigma and domestic violence are associated with the bride trafficking. Another major reasons affecting the issue are poverty, dowry, high demand for agricultural labour, illiteracy and lower sex ratio in the states of bride trafficking area. It is not only the states like Rajasthan, Western Uttar Pradesh, Punjab and Haryana to be the centre of bride trafficking even some of the districts of Madhya Pradesh and Gujarat have become the destination for bride trafficking. The government, main-stream media and NGO have failed in addressing this issue. The regions of Jharkhand, Hyderabad, Bihar and North Eastern states are considered as the source of bride trafficking.

Talking about the laws, no laws in India particularly address the issue of bride trafficking and this is the biggest lacuna of Indian legal framework. Even the bill of 2021 pertaining to human trafficking do not discuss about bride trafficking.