

CHILD TRAFFICKING IN INDIA

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ABSTRACT

Trafficking is historically linked to slavery, which involves the sale and purchase of human beings as chattel, treating them as commodities that could be bought and sold. Child trafficking is generally defined as the process of recruitment, transfer, transport, harbor or receipt of a person under the age of 18 for the purpose of exploitation. The constitution of India explicitly prohibits trafficking of human beings and forced labour, and makes both offenses punishable under Article 23(1) of Indian Constitution. The causes of child trafficking are poverty, lack of employment and education opportunities, breakdown of social structures etc. The international law says that the trafficked persons cannot be discriminated simply because they are non-nationals. The international human law applies to everyone within a State's territory or jurisdiction regardless of the nationality or citizenship and how they came to be within the territory. The anti-trafficking measures need to be spread throughout the globe especially in trafficking prone area, both rural and urban.

Key words: *Anti-Trafficking, Article 23, Slavery, Child*

1. INTRODUCTION

Child trafficking is defined as any person under 18 who is recruited, transferred, transported or received for the purpose of exploitation, either within or outside a country. According to the National Crime Records Bureau (NCRB), there have been many cases where children just disappear overnight, as many as one every eight minutes. In India, there is a large number of children trafficked for various reasons such as begging, forced labour and sexual exploitation. In India, over the last decade, the volume of child trafficking has increased though the exact numbers are not known still. It is one of the most lucrative criminal trade which is undertaken by highly organized criminals. The causes of child trafficking are poverty, lack of employment opportunities or education, breakdown of social structures etc. It causes physical and mental exploitation of the victims and there after they are not able to lead a healthy and stable life. Trafficking in human beings, especially in women and children has become a matter of serious national and international concern. Women and children are been exposed to unprecedented vulnerabilities which has become a massive organized crime and a multimillion dollar business today. Trafficking is one of the hardest crimes to track and investigate

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because the data is hard to obtain. The latest figures estimate that 1.2 million children are trafficked worldwide year and Child prostitution has the highest supply of trafficked children. India is a source, destination, and transit country for trafficking for many purposes such as commercial sexual exploitation, begging or forced labour. Majority of the trafficking is within the country but there are also a large number trafficked from Nepal and Bangladesh. A report produced by the United Nations Population Fund provides the following assessment: (a) women and girls are, generally, less valued they are more often seen and used as commodities ...they are easy targets for traffickers. Where children lack stable home environments and financial security, and where the opportunities available to them are slim, trafficking tends to flourish. Rates of trafficking are frequently high in areas where there are limited job possibilities; where children have minimal education and vocational skills; and where children are living without parents or primary caregivers (including in orphanages)

Trafficking of human beings is not a new phenomena. Trafficking is historically linked to slavery, which involves the sale and purchase of human beings as chattel, treating them as commodities that could be bought and sold. The owner has absolute rights over they slaves, they considered as a private property of the owner. Brazil was last to abolish the transatlantic slave in 1888. The year 2007 was marked as the 200th anniversary for abolition of slave trade. However, recent reports by the UN and NGOs say that slave trade exists even today and one of the worst manifestations is the trafficking of both adults and children. This contemporary slavery has taken various forms such as women forced into prostitution, child slavery in agriculture supply chains or whole families working for nothing to pay off generated debts, to child marriage, all of which affects the world's most vulnerable people

2. OBJECTIVES OF THE STUDY

- To know about the legal framework to address trafficking in India
- To study the present status of child trafficking in India
- TO suggest measures for preventing child trafficking in India

3. LIMITATIONS

- This article is limited only to the issues faced by the children
- This article is confined only to the Indian laws formulated for the benefit of the children.

4. DEFINITION:

4.1. According to UNICEF

"Any person under 18 who is recruited, transported, transferred, harbored or received for the purpose of exploitation, either within or outside a country".

4.2. According to ILO

"Child trafficking³ is about taking out of their protective environment and praying on their vulnerability for the purpose of exploitation"

³ Child trafficking in India, HAQ: Centre for Child Rights, 2000.

5. HUMAN RIGHTS OF TRAFFICKED PERSONS

The UN and Universal declaration of Human Rights confirm that the rights are universal, they apply to everyone irrespective of their caste, sex, race, ethnic origin, etc. Trafficked persons are entitled to full range of human rights even if they are outside their country of residence. The international law says that the trafficked persons cannot be discriminated simply because they are non-nationals. The international human law applies to everyone within a State's territory or jurisdiction regardless of their nationality or citizenship and how they came to be within the territory. Individuals who are belonging to specific trafficking are subject to or may be in a position to claim additional rights. For example, The international Human Rights law imposes important and additional responsibilities on State when it comes to child trafficking. The Government of India signed the Trafficking Protocol on 12 December 2002. This is a huge step forward in advancing the human rights of trafficked people as it not only prevents and protects the victims of trafficking but also punishes the traffickers.

6. ANTI - TRAFFICKING LAWS IN INDIA

6.1. The Constitution of India

The constitution of India explicitly prohibits trafficking of human beings and forced labour, and makes both offenses punishable under Article 23(1) of Indian Constitution. Article 23(1) provides that 'Traffic in human beings and begar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law'

6.2. The Indian Penal Code, 1860

The India Penal Code, 1860 contains various provisions related to child trafficking. For instance, criminal penalties for kidnapping, buying or selling a minor for prostitution, abduction(including for the purpose of compelling marriage), unlawful compulsory labour, importing/procuring girls and buying or selling a person for slavery.

6.3. The immoral traffic prevention Act, 1956

It is the main legal instrument addressing the trafficking of human beings. The Act is focused on trafficking for the purpose of prostitution. The prime objective has been to abolish traffic in women and girls for the purpose of prostitution as an organized means of living.

6.4. The child labour (Prohibition and Regulation) Act, 1976

This Act prohibits the employment of children in the specific occupation which is set forth in Part A of the schedule of the Act. As per the Act, no child can work for more than three hours and the interval of rest for atleast a hour is stipulated.

6.5. The Juvenile Justice (care and protection of children) Act, 2000

The main focus of this Act is to provide for proper care, treatment and protection of child's development. Section 29 of the Act, empowers state governments to constitute child welfare committee. Section gives these committees the ultimate authority to dispose the cases, Under Section 34, state government can establish and maintain children's homes for the care and protection of children independently and Section 39 is the prime objective of the children's home or shelter is the restoration and protection of childhood.

6.6. Goa's Children Act, 2003

The features of this Act are as follows:

- Trafficking was given a legal definition for the first time in the Indian Jurisprudence
- The definition of sexual assault was expanded to incorporate every type of sexual exploitation.
- The photo studios are required to periodically report to the police that they have not shot any obscene photographs of children.

7. PRESENT STATUS OF TRAFFICKING IN INDIA

It is difficult to obtain the comprehensive data on the extent of human trafficking in India. Generally, it is accepted that, India is a source, destination and transit country for trafficking of persons including young girls. End of Child Prostitution in Asian Tourism (ECPAT) estimates that 150,000 women and children are trafficked from South Asia annually, most from, through or to India. The combined estimates for Nepal and Bangladesh range from 500 to 10,000 girls being trafficked to India annually; another estimate puts the figure at more than 200,000 over a period of seven years. At present, there are no laws governing the returning of trafficking victims from India to Bangladesh and Nepal and concerned organizations have sought to assist girls in reaching their homes by liaising with partner organizations in these countries.

According to India's National Crime Records Bureau (NCRB) reported 65,038 missing children in the country in 2012. But the official agencies are limited in their ability to estimate the extent of child trafficking, and their estimates fall far short of those by researchers and activists. India is now a destination, and a place of origin and transit for human trafficking. For two decades there has been a steady rise in the trafficking of children from the region due to increasing trans-border mobility.

As per the NHRC report⁴, the maximum percentage of interviewed women and children had been trafficked from Andhra Pradesh (25.9 per cent)

Karnataka (15 per cent)

West Bengal (12.5 per cent)

Tamil Nadu (12.3 per cent). The report also found that in most states, intra-state trafficking was a common phenomenon. This was particularly true for a state like Tamil Nadu, where, out of a total of 156 interviewed trafficked victims, 148 (94.8 per cent) had been subjected to intra-state trafficking. Similarly, in Rajasthan, intra-state trafficking is 88.5 per cent, followed by Assam and Meghalaya at 88.4 per cent, Bihar at 80.26 per cent, and Uttar Pradesh at 73.5 per cent⁵.

8. SUGGESTIONS

In India, not only the Central Government but also the concerned State Governments must act to uphold the constitutional principles and work toward the full enjoyment of rights by all citizens, regardless of caste or descent. The steps which are needed to be taken are as follows:

⁴ Hameed, Sadika, Sandile Hlatshwago Tanner. *Human Trafficking in India: dynamics, efforts and intervention opportunities for the Asia foundation*

⁵ Nai, PM., IPS, and national study team. *A report on trafficking in women and children in India 2002-2003*

- The offence of child trafficking has been defined in only one state law (Goa Children's Act), the offence of child trafficking should be defined
- New laws should be enacted which include support for the victims of trafficking, such as legal support, mental support by helping to return to their country, village and community.
- A child protection authority should be established to address child abuse and exploitation including trafficking and commercial exploitation.
- Enact provisions which protect children from becoming victims again, if once they have been rescued and also ensure that laws do not further victimize them for any offence they may have committed while being trafficked.
- Lastly, NGOs, not just individuals, should be allowed to file a First Information Report (FIR) in trafficking cases. Currently if an NGO wants to file an FIR, an individual working for the NGO must file the FIR personally. If that individual later leaves the NGO or takes on too many other cases, that individual is still the only person who can officially take part in the court proceedings. This is problematic not only for the individual and the organization in cases that can last seven years, but also for the safety of the individual. In many cases, traffickers have threatened individuals who filed an FIR while working for an NGO.

9. CONCLUSION

Child Trafficking is a very heinous Crime that not only violates human right but also child right and the dignity of the child at the same time. It is a crime that disgrace the entire humanity and is complex problem which requires very effective and stringent mechanism to control it. The Govt. of each/every nation is putting all out efforts to combat child trafficking. They are not lacking in their responsibility to put measures to fight against the crime. But traffickers always find new device/means of trafficking the child as it is most profitable business. This is the only reason that inspite of various legislative provisions introduced at both Nationally/Internationally, child trafficking is very much prevalent across the globe. The anti-trafficking measures need to be spread throughout the globe especially in trafficking prone area, both rural and urban. Poverty, Education and unemployment are the major factors behind the trafficking of children. Hence, there is need to introduce effective and stringent legislative provisions for the upliftment of poverty and for providing compulsory education to all children and steps should also be taken to reduce unemployment. Therefore, the Govt. of every country needs to play important role for introducing strict different/various laws. Only introducing the laws will not solve the problem, there is need for proper implementation of the laws as well. Moreover the education of child has to be made compulsory for all children and their parents should take the responsibility for providing education to their own child. Thus, In order to fight against trafficking government, and non-government organization, civil society, pressure groups, International bodies, all have to play an important role. Law alone cannot take care of all problems.