

Child Trafficking in India

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Abstract

Trafficking is defined as a trade in something that should not be traded for various social, economic or political reasons and Human Trafficking is a commercial trade of human beings, who are subjected to involuntary acts such as begging, prostitution or forced labour.

Child trafficking is generally defined as the process of recruitment, transport, transfer, harbour or receipt of a person under the age of 18 for the purpose of exploitation. It is a problem that affects all nations due to porous borders and weak domestic laws.

Article 3 of the UN Protocol to Prevent, Suppress, and Punish Trafficking in Persons, especially Women and Children, supplementing the UN Convention Against Transnational Organized Crime, 2000, states: “*Trafficking in Persons’ shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs*”.

India has also signed this UN convention.

It is estimated that some 1.2 million children are trafficked each year worldwide.

Keywords: Trafficking, Violation, Constitution, Prohibited, Contravention, Punishment, Deterioration, Prostitution, Vulnerable

1. Introduction

Trafficking in human beings especially of children has become a matter of serious concern at National and International level. It is a global phenomenon and is not limited to any geographical region or country. It is a gross violation of the human rights and fundamental freedoms of children. It infringes upon the child’s physical and mental integrity, which are central to the experience of human dignity and, poses a significant threat to the child’s life. Child trafficking is inherently a dynamic, hidden phenomenon that is difficult to identify^[1].

Children and their families are often lured by the promise of better employment and a more prosperous life far from their homes. Others are kidnapped and sold. Trafficking violates a child’s right to grow up in a family environment and exposes him or her to a range of dangers, including violence and sexual abuse. In India too, over the last decade, the volume of human trafficking has increased, it is one of the most lucrative criminal trades, next to arms and drug smuggling undertaken by highly organized criminals^[2].

1.2. Causes of Trafficking

The causes of global trafficking are varied and complex, but notably include poverty, lack of opportunities, the economic gains to be made through the exploitation of children, entrenched gender discrimination and discriminatory cultural practices. Human trafficking, over 20 % of which is trafficking in children, is believed to be a multi-billion dollar industry. Trafficked children have many faces examples, prostitutes, mail order brides, beggars, child soldiers & labourers in homes and in mines. Increasingly, they are being recruited to aid in

the manufacture of drugs and weapons. 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. Porous borders and the presence of natural disasters/conflicts further enhance vulnerability to trafficking, as does forced migration. Children without birth registration or identity documents also face a heightened risk of trafficking^[1].

1.3. Factors Responsible for Trafficking

The contributing factors for trafficking are often divided into push and pull factors. The push factors include: poverty, child marriage, unemployment, domestic violence, false promises of job or marriage/ love etc^[3] which are described in brief as:-

1.3.1 Poverty: Poverty is the major reason, which makes the majority of children vulnerable.

1.3.2 Child Marriage: Child Marriage still exists in our country and so does dowry. The girls are thus trafficked in the name of marriage.

1.3.3 Unemployment: Unemployment is still a major problem in the country. When men are unable to find jobs, the children undergo immense pressure to fend for the family needs.

1.3.4 Domestic Violence: Women have little economic emancipation especially in the family sphere. So the woman & children are forced in such also vulnerable and as such become experiments in the hands of traffickers.

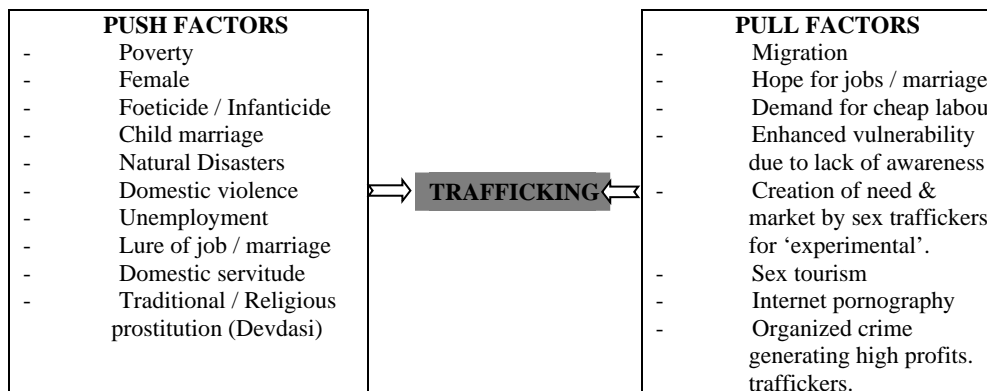
1.3.5 False Promises & the Lure of Job/Marriage/Love: Many children are lured out of their homes by false promises of love, marriage or work. They may accompany their friend or

lover or acquaintance and then find themselves trapped in a vulnerable situation.

1.4. The Pull Factors

With globalisation and increasing competition, there is a growing demand by employers and enterprises for Cheap Labour of women and children.

Development policies and patterns of development promoting



Tourism, Industrialization and Rural to Urban Migration particularly of males has enhanced the demand for commercial sex and ensured a viable proposition for the traffickers by providing them the market and the infrastructure to sell minors and women^[4].

The Pull and Push factors for trafficking can be described in flow chart as:-

2. How Trafficking Victimizes and Violates Human Rights of Child

Trafficking is an offence and the trafficker is liable to punishment, irrespective of the consent of the trafficked person. Other than the fact of being trafficked, the traffickers deprive the victims of their most basic human rights in the following manner

- They have no access to education and basic needs of life.
- They are subjected to physical violence and sexual abuse, and are held under duress against their will.
- They receive low or no wages. Hence, they have little or no savings. This combined with indebtedness to the trafficker keeps them in a situation of debt bondage and slavery.
- They are forced to work extremely long hours in inhuman working conditions leaving little time for rest.
- They are subjected to poor living conditions with abysmal hygiene and sanitation facilities.
- The trafficker restricts their access to health or medical facilities.
- They face social stigma and social ostracism in their daily lives and as a result undergo constant humiliation.
- They are exposed to drugs and other addictions, and sometimes forcibly made addicts in order to ensure their continued dependence on the trafficker.
- They face a continuous assault on their physical, psychological, and emotional health.
- They face health risks such as physical injury, STD, HIV/AIDS, unwanted pregnancies, repeated abortions, gynecological diseases, tuberculosis, and other diseases.
- They also face harassment from the police and prosecution, and convicted by the judicial system under the ITPA.
- Organ trade such as sale of kidneys.
- Purchase and sale of babies for adoption, both within the country and abroad, against established laws and procedures for adoption ^[5].

3. Present Status of Trafficking in India

Although it is often difficult to obtain comprehensive data on the extent of human trafficking in India, it is generally accepted that India is a source, destination, and transit country for trafficking of persons, including young girls. It is estimated that ninety percent of trafficking in the country is internal, with victims of trafficking mostly being used for forced labour. Child victims of trafficking in India are exploited in many ways – including factory and agricultural workers, domestic servants and beggars. Girls, in particular, are vulnerable to trafficking for the purpose of forced marriage and commercial sexual exploitation.

The porous borders in the region are often cited as a contributing factor to cross- border trafficking, including the trafficking of girls from Nepal and Bangladesh to India. ECPAT International 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 repatriation 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^[6].

National and international pressure to address child trafficking in India has failed to produce results. The Supreme Court of India has also issued directives to the government to take the matter seriously. But there has been little effort to link increasing cases of missing children with the flurry of trafficking — a recent Indian government report estimates that around half a million children have been abducted and forced to work in Indian cities.

Child trafficking is on the rise. In 2010, almost one in every three missing children was untraced. But in 2013 one in two missing kids was lost forever. 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.

There is little effort on the part of the official agencies to link up child trafficking with cases of abduction, forced labour, child labour and child marriage. 18,266 children were abducted in 2012. Yet the justice system fails to punish most offenders. The average conviction rate for these crimes was just 11 per cent in 2012. Anti-trafficking laws focus on sexual exploitation and have ignored more recent reasons for child trafficking. These include domestic, commercial, industrial or bonded labour; tourism; and other forms of exploitation, such as organ sale, adoption, begging, criminal activity or camel jockeying. Despite legal prohibition, India continues to have 12.66 million child labourers. Cases of labour migration in post-liberalised India are also linked to child trafficking. Child marriage is also considered to be a major modus operandi of child trafficking and there has hardly been any respite from this rampant social evil even after the passing of the Prohibition of Child Marriage Act, 2006. Clearly, any attempt to measure the extent of child trafficking in India would be baffling as the figure would be close to one million a year^[7].

4. Legal Provisions for Protection of Children

Though these provisions are in General for Human Being but also applicable and protect Children from victimization.

4.1. The Constitution of India

Trafficking is prohibited by the Indian Constitution. The right against exploitation is Fundamental Right guaranteed by the Constitution of India under Article 23(1) which provides that “traffic in human beings and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law”. This right is enforceable against the state and private citizens.

4.2. The Indian Penal Code, 1860

The relevant provisions under the Indian Penal Code are Section 293, 294, 317, 339, 340, 341, 342, 354, 359, 361, 362, 363, 365, 366, 370, 371, 372, 373, 375, 376, 496, 498, 506, 509 and 511. Of significance are section 366A, which makes the procurement of a minor girl from one part of India to another, punishable and section 366B, which makes the importation of a girl below the age of 21 years punishable. Section 374 allows for punishment for compelling any person to labour against their will.

4.3. The Immoral Traffic (Prevention) Act, 1956

In 1986 SITA was drastically amended & renamed the Immoral Traffic (Prevention) Act, 1956. It is a special legislation that deals exclusively with trafficking.

4.4. The Child Marriage Restraint Act, 1929

This Act sets down the legal age for marriage as 18 years for girls and 21 years for boy. The act empowers the court to issue injunctions prohibiting Child Marriage.

4.5. The Child Labor (Prohibition and Regulation) Act, 1976

The Act prohibits the employment of children in the specific occupations set forth in Part A of the schedule of the Act. It lays down the conditions of work of the children, and as per the Act, no child can work for more than three hours, after which an interval of rest for at least one hour is stipulated.

4.6. The Juvenile Justice (Care and Protection of Children) Act, 2000

This Act was passed in consonance with the Convention on the Rights of the Child. The focus of this act is to provide for the proper care, protection and treatment of the child’s developmental needs and adopts a child friendly approach. Section 29 empowers state governments to constitute Child Welfare Committees (CWC) for such areas as they may deem fit and it also outlines the powers of the committee and the procedures to be followed by it and section 31 gives these committees the ultimate authority to dispose of the cases. Under Section 34, a state government can establish and maintain children’s homes for the care and protection of children independently and u/s 39, the primary objective of the children’s home or shelter is the restoration and protection of childhood.

4.7. Goa Children’s Act, 2003

This Act addresses several child rights in an integrated manner. The features of this act are:

- ❖ Trafficking was given a legal definition for the first time in Indian jurisprudence.
- ❖ The definition of sexual assault was expanded to incorporate every type of sexual exploitation,
- ❖ The responsibility of ensuring the safety of children on hotel premises was assigned to the owner and the manager of the establishment,
- ❖ Photo studios are now required to periodically report to the police that they have not shot any obscene photographs of children^[8].

5. Combating of Trafficking

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, especially those vulnerable pockets of trafficking at source areas as well as convergence of a development services to forestall conditions responsible for it.

5.1. Role of State

- ❖ Government to introduce effective & stringent legislative for the upliftment of poverty and steps should also be taken to reduce unemployment. The Govt. at level must confirm proper implementation of laws to protect child trafficking.
- ❖ Government at local level and source areas should create compulsory high quality education, employment opportunities and income generation programme.
- ❖ Government should produce relevant IEC materials; promote sensitization programmes for teachers in government schools, parents and community workers.
- ❖ Government should include gender centered education curricula in schools and introduce subjects of child sexual abuse and trafficking.

- ❖ The government of different nations must share the information with each other to evolve a programme that will help both the countries in preventing trafficking.

5.2. Role of NGOs

- ❖ The community should be sensitized about trafficking, the community members should be motivated to keep a watch in the community for irregular movement of child victims to and from area their possible traffickers and hideouts.
- ❖ NGOs working in the rural areas should ensure that parents are aware of safe migration practices.

5.3. Role of Media

Media attention reaches several hundred thousand viewers and should therefore serve the following important functions:

- ❖ The media should transmit appropriate message to ensure that the victims learn that they are not alone.
- ❖ Victims can be made aware of places and institutions where they can seek help.
- ❖ Create awareness that human trafficking is inappropriate and illegal and has negative consequences.
- ❖ Wide publicity should be given regarding the legal, penal provisions against trafficking and the modus operandi of the traffickers through radio, television etc.

5.4. Awareness and Advocacy

- ❖ Awareness and advocacy is required at the policy level i.e. National Planning Commission, bureaucrats, politicians and the elite of the society. Awareness at the local level, in the community through workshops, songs, drama, poems, meetings, leaflets and posters especially in the rural areas is also required.
- ❖ The role of gender in daily life and training programmes and activities for gender sensitization must be conducted by NGOs. The key to prevent trafficking in children and their exploitation in prostitution is awareness among the children, parents and school teachers.
- ❖ The government must launch media campaigns that promote children's right and elimination of exploitation and other forms of child labour.
- ❖ Police advocacy is an important intervention that has to be fine-tuned.

6. 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.

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