



## Child trafficking: A crime against the asset of the nation

Kajal Tiwari<sup>1</sup>, Dr. Anil Kumar Dixit<sup>2</sup>

<sup>1</sup> Student, B.A.LL.B. (H), 10<sup>th</sup> Semester, Law College Dehradun, Uttaranchal University, Dehradun, Uttarakhand, India

<sup>2</sup> Associate Professor, Law College Dehradun, Uttaranchal University, Dehradun, Uttarakhand, India

### Abstract

Trafficking in children is one of the worst abuses of human rights. Human trafficking is the third largest organized crime in the globe, but it is very difficult to estimate the scale of the phenomenon as trafficking is closely related to child labour, bonded labour, child marriage, kidnapping and abduction and prostitution even though these phenomena can exist also independent of trafficking. The purpose of this research paper is to know the lackness of the government to carry their responsibilities because they usually use the term 'missing' instead of 'trafficking'. India has failed to comply with certain international standards to combat the crime. However, there are so many laws for human trafficking like The Immoral Traffic (Prevention) Act, 1956; The Indian Penal Code, 1860; The Juvenile Justice (Care and Protection) Act, 2015. There is Anti-Trafficking Bill which was proposed in the year 2016 as Cabinet approved the Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill, 2018 on 28<sup>th</sup> February, 2018, but it is yet to come into existence as a law. Currently there is no single law dealing with this heinous crime. This article highlights the need to develop a multidimensional approach and focuses attention on structural factors of child trafficking for recommending meaningful tactics to counter the social evil.

**Keywords:** trafficking, immoral, kidnapping, abduction, prevention

### Introduction

Trafficking in children is a growing problem in our country. Trafficking can be defined as, "*the recruitment, transportation, transfer, harbouring of persons, by means of threat, force, coercion, fraud, abuse of power, deception of payment for the purpose of exploitation*" [1]. Children become victims of trafficking due to various diverse factors. After being kidnapped from their families, they are trafficked. It is also common due to poverty and prospects for higher wages and standard of living, due to regional disparities, lack of employment, prevalence as organized crime and corruption. The children are the national asset of a country and therefore, welfare of a nation depends upon the welfare and well-being of the children of that nation and they require special protection & attention of the society and the state has an obligation towards its children to look after them [2]. Trafficking in human beings is an organized crime and children are trafficked because there is a demand for them. The supply comes easy as children are the most vulnerable section and they can be manipulated, coerced, brought and sold. Every year, almost 40,000 children go missing in India, out of which 11,000 are traced and ultimately very few are rescued [3].

### Historical Background

Child Trafficking has existed since the dawn of time. Child Trafficking has been practiced just as long as slavery. Many of the world's great ancient cultures accepted trafficking and slavery as a part of their life. It wasn't until during the enlightenment period when people began question the act of trafficking. Human trafficking for sexual purposes first legally

recognized in Europe by the term "white slavery" [4]. It means obtaining of a white woman or a girl by the use of force, drugs or by dishonestly. The Britishers were the first to make a law against slavery in 1807 i.e. Slave Trade Act, 1807 [5] and that made the Trans-Atlantic slave trade illegal. In 1899 and 1902, International Conferences were held in Paris, to talk about the white slavery. In 1904, an International agreement was created against the 'white slavery trade' with a focus on migrant women and children. In 1910, 13 countries signed the International Convention for the suppression of white slave trade. This convention leads to the creation of National Committees to work against the trafficking of white women. In 1921, the League of Nation held an International Conference in Geneva, in which the term "white slavery" was chased to traffic of women and children, where 33 countries duly signed this convention. In 1949, The U.N. Convention of the traffic in person and the exploitation of the prostitution of others was passed. This was the first convention about human trafficking that was legally binding to the countries that signed it and required them to make prostitution illegal [6]. In 1956, India passed Immoral Traffic (Prevention) Act so as to prevent the trafficking and sexual exploitation of women & children [7]. In 2002, the U.N. Protocol was passed trafficking in person and made it all forms of trafficking illegal. In 2003, India enforced the U.N. Convention against trans-national organized crime, which includes three protocols, i.e. protocol to prevent, suppress and punish trafficking in person (especially women & children). However, Child Trafficking continues behind the scene and is still widely popular due to large demands.

### Legal Framework to Combat Child Trafficking

Immoral trafficking has become a matter of tremendous

concern in the present days due to the gross violation of human rights, particularly of women and minor girls. There are number of international as well as national instruments which have been undertaken in addition to the legislative provisions. An overview of the instruments is given below:

### International Perspective

Firstly in 1904 the agreement was made for the suppression of 'white slave trade'. Later on in 1910 the International Convention for the Suppression of 'White Slave Traffic' was adopted to combat the international traffic in women and girls, which stipulated that any person who has hired, abducted, enticed a women or a girl who is a minor, for immoral purposes shall be punished. The 1926 Slavery Convention, an international treaty created under the auspices of the League of Nations and first signed on 25 September 1926. It was registered in League of Nations Treaty Series on 9 March 1927, the same day it went into effect. The objective of the Convention was to confirm and advance the suppression of slavery and the slave trade<sup>[8]</sup>. In *Hadijatou Mani v. Republic of Niger*, Community Court of Justice (27 October 2008), The Court held that Hadijatou had been held as a slave for almost ten years & she had been subjected to psychological abuse, physical violence, sexual exploitation, forced house and fieldwork, and control over her movements. The moral element of the slave condition was constituted by the fact that Naroua (her master to whom she was sold) intended to exercise his property right over Hadijatou, even after releasing her as a slave. The characteristics of Hadijatou's condition met the definition of slavery found in the 1926 Slavery Convention and the indicators of enslavement. The Court also cited that slavery can exist without torture or ill treatment. The court mentioned her country, Niger did not protect her rights and she was awarded a compensation of 10 million francs CFA for her suffering<sup>[9]</sup>. Article 1 and Article 4 of International Labor Organization Forced Labor Convention, 1930 prohibit trafficking for immoral purposes. The Universal Declaration of Human Rights, 1948 sets the stage for most of the international instruments. Where, Article 4 says that, no one shall be held in slavery or servitude. Slave and slave trade shall be prohibited in all forms. The U.N. Convention on the Rights of the Child, 1989 received universal ratification by 189 countries & this convention gives a comprehensive foundation standard for all the world's children. After so many conventions and covenants, various NGOs are also trying their best for the protection and prohibition of trafficking in women and children in the international level such as 'Development and Education Programme for Daughters and Committees' (DEPDC) in Thailand, 'Lawyers for Human Rights and Legal Aid' (LHR & LA) in Pakistan etc.

### Indian Perspective

India has a fairly wide framework of laws enacted by the Parliament as well as some State Legislatures. The Constitution of India, Article 23 deals with the prohibition of traffic in human beings and forced labour, Article 39 (e) and 39 (f) of the Directive Principles of State Policy directs the state to secure the tender age of children are not abused and forced by economic necessity and also direct to ensure children are given opportunities to develop in a healthy

manner and in condition of freedom and dignity. Under Indian Penal Code, 1860, Section 366A procurement of a minor girl (below 18 years of age) from one part of the country to another is punishable. Section 366B importation of a girl below 21 years of age is punishable. Section 374 provides punishment for compelling any person to labor against his will. The Immoral Traffic (Prevention) Act, 1956 was passed for the purpose to abolish commercialized sexual abuse and exploitation and the traffic in persons as an organized means of living. The traffickers of women and children very often take the help of obscene pictures, books, pornographic sites in internet etc. so as to induce the trafficked children or women for immoral purposes. The Young Persons Harmful Publications Act, 1956<sup>[10]</sup> was passed to prevent the dissemination of certain publications harmful to young persons. It is a dedicated campaign for a month where several activities are taken up by the State Police personnel to trace and rescue the missing children and reunite them with their families.

An India-based movement *Bachpan Bachao Andolan*, campaigning for the rights of children. It was started in 1980 by Nobel Laureate Mr. Kailash Satyarthi. Its focus has centred on ending bonded labour, child labour and human trafficking, as well as demanding the right to education for all children. It has so far freed more than 83,000 children from servitude, including bonded labourers, and helped in their successful re-integration, rehabilitation and education<sup>[11]</sup>. There is also one anti-trafficking organization i.e. *Prajwala* in Hyderabad which works on the issue of sex trafficking of women and children. Out of its 200 employees, 70% are survivors themselves. *Prajwala* works on the five pillars of Prevention, Protection, Rescue, Rehabilitation & Reintegration. *Prajwala* also forms partnerships with local communities, civil society, corporate agencies and government bodies on various aspects of prevention, protection and prosecution throughout India and the world. In the last one decade it has become one of the most powerful voices nationally and globally for ensuring holistic victim services<sup>[12]</sup>. The Union government's initiative is based on a successful operation titled "Operation Smile" taken up by the Ghaziabad Police, Uttar Pradesh during September 2014. Approximately 100 plus Police officers of various ranks were trained about the issues related to missing children. The trained officers visited various parts of the country to recover missing children in connection with various FIRs lodged at police stations in Ghaziabad. One of the major findings was that children residing in shelter homes, on railway platforms, at bus stands and religious places and on the roads, etc. were part of the missing children<sup>[13]</sup>.

**Table 1:** States where highest number of children were trafficked

State	2015	2016
West Bengal	1,792	3,113
Rajasthan	2,387	2,519
Karnataka	178	332
Tamil Nadu	143	317
Maharashtra	295	172

*Source:* Press Information Bureau, Government of India<sup>[14]</sup>.

The Ministry of Women and Child Development told parliament that 19,223 women and children were trafficked in

2016 with the highest number of victims recorded in the state of West Bengal <sup>[15]</sup>.

**Table 2:** Missing Children in State of Uttarakhand

Year	Missing	Returned	Untraceable
2000	329	301	28
2001	279	236	43
2002	345	287	58
2003	340	252	88
2004	331	289	42
2005	414	366	48
2006	377	338	39
2007	321	280	41
2008	331	282	49
2009	377	315	62
2010	503	469	34
2011	542	509	33
2012	537	471	66
2013	279	228	51
2014	275	189	86
2015	768	295	473
2016	859	589	270
2017	418	243	175
Total	7,625	5,939	1,686

**Source:** Times of India Newspaper.

As per the above data even in State of Uttarakhand, in the last 17 years, 5,939 of 7,625 missing children have either returned or were rescued in police operations.

### Conclusion

Children, the most precious group of our society are being sexually abused and exploited to a great extent in almost every corner of the country. At the same time, child trafficking has also posed a great challenge before the society which should be prohibited in all its form. Trafficking in human beings, especially children, is a form of modern day slavery and requires a holistic approach to address the complex dimension of the problem. It is a problem that violates the rights and dignity of the victims so it requires essentially a child rights perspective while working on its eradication.

In the fight against trafficking Government Organizations, Non-Governmental Organizations, civil society, pressure groups, International bodies, all have to play an important role. Law can not be the only instrument to take care of all problems. There is also need to create a systematic and centralized mechanism for tracking large number of children who either run away or are missing from their homes and to facilitate their recovery and rehabilitation.

### References

1. Available at - <http://www.dailystar.com.lb/News/World/2018/Feb-28/439735-india-cabinet-clears-first-anti-human-trafficking-bill.ashx> Visited on 28<sup>th</sup> February, 2018.
2. Available in book- Child Rights and The Law by Dr. Nuzhat Parveen Khan, Universal Law Publishing, Second Edition.
3. Sheela Barse v. Union of India, AIR SC, 1873-1986.
4. Ali Bharti. Children brought and Sold/Role of Different Stakeholders in Preventing Combating Trafficking, Stage

for Child Rights, New Delhi. See - <https://www.google.co.in/search?q=Ali+Bharti%2C+Children+brought+and+Sold%2FRole+of+Different+Stake+Holders+in+Preventing+Combating+Trafficking%2C+Stage+for+Child+Rights%2C+New+Delhi.&aq=chrome..69i57.1693j0j7&sourceid=chrome&ie=UTF-8> Visited on 26<sup>th</sup> February 2018.

5. See, [https://en.wikipedia.org/wiki/White\\_slavery](https://en.wikipedia.org/wiki/White_slavery) Visited on 26<sup>th</sup> February, 2018.
6. See, [https://en.wikipedia.org/wiki/Slave\\_Trade\\_Act\\_1807](https://en.wikipedia.org/wiki/Slave_Trade_Act_1807) visited on 27<sup>th</sup> February, 2018.
7. Available at-<https://googleweblight.com/i?u=http://juliewedam.blogspot.com/2010/02/history-of-human-trafficking.html&hl=en-IN&tg=185&tk=1475658260683766272> Visited on 1<sup>st</sup> March, 2018.
8. See, <http://www.hrln.org/hrln/child-rights/laws-in-place/1715-the-immoral-traffic-prevention-act-1956.html> Visited on 1<sup>st</sup> March, 2018.
9. See, [https://en.wikipedia.org/wiki/1926\\_Slavery\\_Convention](https://en.wikipedia.org/wiki/1926_Slavery_Convention) visited on 5<sup>th</sup> March, 2018.
10. Available at - file:///C:/Users/User/Downloads/wcms.pdf visited on 5<sup>th</sup> March, 2018.
11. Act No. 93 of 1956. For Statement of Objects and Reasons, see Gazette of India, Extra, Section. 1955; 2(2):357.
12. [https://en.wikipedia.org/wiki/Bachpan\\_Bachao\\_Andolan](https://en.wikipedia.org/wiki/Bachpan_Bachao_Andolan) visited on 6<sup>th</sup> March, 2018.
13. See, <http://www.prajwalaindia.com/> and <https://en.wikipedia.org/wiki/Prajwala> visited on 6<sup>th</sup> March, 2018.
14. See, Available at- <http://vikaspedia.in/social-welfare/women-and-child-development/child-development-1/handling-missing-children/operation-smile> Visited on 1<sup>st</sup>, 2018.
15. See, [https://www.telegraphindia.com/1170310/jsp/bengal/story\\_139976.jsp](https://www.telegraphindia.com/1170310/jsp/bengal/story_139976.jsp) visited on 5<sup>th</sup> March, 2018.
16. See, <https://in.reuters.com/article/india-trafficking/almost-20000-women-and-children-trafficked-in-india-in-2016-idINKBN16H0VR> Visited on 1<sup>st</sup> March, 2018.