



## CHILD TRAFFICKING – A CANCER TO BE CURED

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### ABSTRACT

Childhood is the most beautiful of all life seasons. It is the age where creativity and imagination blossoms in one's mind. Unfortunately, in today's era millions of children are exploited and their lives have fallen prey to greedy men who abuse and engage them in immoral activities for financial gains.

Child trafficking has become a serious problem in India. This is unfortunately an organized crime which acts behind the screen and gives an impression of a petty issue that we encounter in our day to day life. Such children are abducted, trained, maimed and even drugged malnourished to gain the crowd's sympathy. There is not only abuse of children in such form of forced labor but severe aftermath effect is created. In India, by official statistics, roughly 60000 children disappear every year. In spite of a number of policies and laws set up for these purposes of helping such children, the government failed to curb this due to lack of political will. Some of it is covered as a crime under IPC, Articles in Indian Constitution and various Acts.

This paper will discuss various forms of child trafficking and the laws in India that prohibits the crime along with a brief insight about international conventions like Geneva Declaration of Rights of the Child adopted by

League of Nations, Declaration of the Rights of the Child adopted by the UN General Assembly. Through observations and case study suggestions will be arrived to effectively combat and protect child rights.

**Keywords:** child trafficking, child rights, international conventions, human rights, child.

### INTRODUCTION:

Child trafficking: A short definition

A child has been trafficked if he or she has been moved within a country, or across borders, whether by force or not, with the purpose of exploiting the child.<sup>1</sup>

Child trafficking can be defined as the process through which a person below the age of 18 years, is transported or relocated with the intention to exploit them. Undoubtedly it is a human right violation. Along with being exploitative it greatly endangers children's physical, emotional and overall development. This problem is predominantly found in developing and under-developed countries due to flimsy and ambiguous laws and brittle border issues. Such children are physically and sexually abused and are raised in a hostile environment deprived of their basic human rights. In India, the number of such incidences is rising at an alarming rate.

Child trafficking is a grave issue that has spread like wildfire in India. As per a report published by the U.S. Department of State, "India is a source, destination and transit country for men, women and children subjected to forced labour and sex trafficking".<sup>2</sup>

<sup>1</sup>NOTE ON THE DEFINITION OF CHILD TRAFFICKING available at, [https://www.unicef.org/southafrica/SAF\\_pressrelease\\_notetrafficking.pdf](https://www.unicef.org/southafrica/SAF_pressrelease_notetrafficking.pdf) (visited on Jan 2,2020).

<sup>2</sup>Narayan Lakshman, "India is a source, destination and transit country for trafficking", THE HINDU, Washington, Tuesday, July 28, 2015, p. 10.



The 2012 Global Report on Trafficking in Persons released by United Nations Office on Drug and Crime (UNODC) has revealed that 27 per cent of all victims of human trafficking officially detected globally between year 2007 and 2010 are children.<sup>3</sup> Child trafficking happens for immoral activities such as child prostitution, child labour and in the recent past, as child beggars. Another area of concern is the gender-based child trafficking, as the MHA data reveals. 2010-2014, out of the 3.85 lakh children who went missing across the country, 61% were girls.<sup>4</sup> Children who are often trafficked belong to poor and marginalized communities. Most of the cases involve parents who are deceived or coaxed for better livelihood options into selling their children or sending them for daily wages. The courts in India have stated that a child cannot be treated as an inanimate object or like a property by the parents.<sup>5</sup> Many children sent out for adoption to various nations usually end up in not getting shelter or a family. Some are exploited as sex slave and fall prey to the organ trade, drug trade, or get trained for Jihad, among other wrong reasons. This issue is burning globally.

### REPORTS:

Fortunately, India is not mentioned in the list of Tier 3 countries by the **Trafficking In Persons Report** (TIP) even when India has a

large number of women and children trafficked every year. Our country comes under the category of the Tier 2 as per the US government's TIP report.<sup>6</sup> This report explains the ground zero scenario of human exploitation and trafficking. Most of this happens within the national borders. Among the different forms of exploitation, the most widespread ones are trafficking of young women and girls for sexual exploitation and young boys who work as bonded labour in industries like coal, handlooms, brick, etc. These children are often sexually exploited or tortured and beaten by their owners in case of non-compliance.

Young boys are abducted mainly for factory work, while young girls are sold for sex trade. Kolkata has become a major passage and spot for girls coming from Nepal and Bangladesh and Raxaul and Gorakhpur have become their transit points.<sup>7</sup> The network of such traffickers are very complex and deeply rooted in the country which involves officers working under the government, police at the borders and the states and various politicians, all of whom share a sum of money as profit from this unruly business that works underground.

India has also become a hotspot for boys who are sent to Middle- Eastern countries for camel racing. Such boys are kept as bonded labours and brutally exploited. Another recent trend is child beggars in India. This is such an organized network and a billion dollar industry. In fact, children are

<sup>3</sup> United Nations Office on Drug and Crime (UNODC), Global Report on Trafficking in Persons, 2012, p.5.

<sup>4</sup> IANS, "One in every five missing children comes from West Bengal: CRY" HINDUSTAN TIMES, May 24, 2016.

<sup>5</sup> Dr Anupma Kaushik, "Rights of Children: A Case Study of Child Beggars at Public Places in India", No.

1 pp. 01-16, Journal of Social Welfare and Human Rights, (2014), Vol. 2, p.4.

<sup>6</sup> Department of State, United States of America, "Trafficking In Persons Report, June 2019" p.48.

<sup>7</sup> Neeraj Chauhan, "Well oiled network gets 50,000 Bangladeshi girls trafficked into India every year", Times of India, Wednesday, January 10, 2018.



frequently kidnapped to Saudi Arabia, especially during Haj, for this purpose. In India, begging gang bags often maim children and put them on to streets to get maximum collection from them.<sup>8</sup>

According to the National Human Rights Commission of India, over **40,000** children are reported missing every year of which over **11,000** remain untraced. This report assisted in exposing trafficking in Kerala. Children from various states were being brought into Kerala by train. At the station, they were stopped and the persons who were escorting them couldn't come up with an acceptable reason as to why they were being brought into Kerala. All escorting adults were arrested and now the Kerala High Court has ordered a CBI investigation into the matter.<sup>9</sup>

#### TYPES OF CHILD TRAFFICKING:

- Child Labours

Child is defined under the Child Labour (Prohibition and Regulation) Act 1986 as a person who has not completed the age of 14 years.<sup>10</sup> It is an age old tradition in India where children help their families and support them by engaging in domestic and farming activities. Thus, this issue becomes sensitive under certain social circumstances.

Child labors in India could be mainly classified as:

- 1) Industrial Child Labor

India's industrial sector is the largest employer of child labour. Approximately, over 10 million children between the age

group of 5 to 14 years are working in informal or small industries, including around 4.5 million girls. Since most of the industries that constitute a large number of children under the age of 18 are unorganized and operate in rural areas, they have become difficult to regulate. They employ so since it is easy to handle and affordable.

- 2) Domestic Child Labor

This includes mainly girls under the age of 14 years who are sent by their parents willingly and domestically employed by families to look after their domestic chores. Such children are deprived of proper education, time to play with friends and even adequate rest they require at their age.

- 3) Bonded Child Labours

This form of labour has significantly declined during the recent times due to stricter laws and increased supervision by authorities. Although this form of labour is banned, it is quietly being followed in certain backward places. The significant reduction was made possible due to laws banning child labor and a compulsory child education along with the efforts of UNICEF, various non-governmental organisations and other agencies

- Child Beggars:

Begging is defined in Indian law as soliciting or receiving alms in public place by exposing wound, injury, deformity or disease whether of himself or of any other person or animal.<sup>11</sup> It is the practice of imploring others to grant

<sup>8</sup> Ramesh Raja, "Missing Children of India", Issue 1 Vol.2, 15 Oct, 2015 available at <https://www.governancetoday.co.in/missing-children-of-india/>.

<sup>9</sup> *Debu C*, "Child Trafficking: India's silent shame", June 21, 2014 available at

<https://www.mapsofindia.com/my-india/government/child-trafficking-indias-silent-shame>.

<sup>10</sup> Child Labour (Prohibition and Regulation) Act 1986.

<sup>11</sup> Section 363A, clause 4(a) of the Indian Penal Code.



a favor, often a gift of money, with little or no expectation of reciprocation.<sup>12</sup>

Crippled and malnourished children are twice more likely to receive sympathy and alms as compared to the fit **child beggar**. Child beggars are a distress to the society. Child beggars are the most profit making form of begging among others. Such kidnapped children are allocated to far off places from their homes so that they remain untraceable lifelong. These kids are abused severely, drugged and even trained to beg in public places. Such children lack love, affection and security and some die while some others grow up to be social misfits and criminals.<sup>13</sup> To curb this menace, we need to stop giving alms

- Sex Trafficking

Child prostitution refers to the sexual exploitation of a child for remuneration in cash or in kind<sup>14</sup>. It is usually organized, but at times a family member, procurer or even a parent may sell the child into this vicious circle. Often these girls are between the age 11-18years but sadly kids are even sent at tender age of 6 years. Due to the poor familial conditions these children agree to come to work unaware of the abuse that they have to face. About 15% of the prostitutes in Mumbai, Delhi, Madras, Calcutta, Hyderabad and Bangalore are children. Sadly, many of them become commercial sex workers before completing minority.

Child prostitution is closely connected with child pornography. It refers to any visual depiction of sexually explicit conduct involving a child which includes photograph, video, digital or computer-generated image i.e. indistinguishable from an actual child.”<sup>15</sup> Conservative estimates state that around 300,000 children in India are suffering commercial sexual abuse, including work in pornography. It must be noticed that forced migration of children occurs for the purposes sex trade.

Other forms include Sex tourism, pornography, engaging in illegal activities like organ trade, Drug peddling/smuggling, labor such as Agriculture labor, garment industry, fish export in formal and informal economy. Children engaged in circus, dance troupes Camel jockeys for entertainment purposes can also be included to the list.

Currently various steps and measures to prevent child trafficking are being taken in India. These steps are multidimensional, and it involves both national and international agencies efforts to take the necessary steps. Also, there are a number of non-governmental organisations that work to address various forms of this problem.

### INTERNATIONAL CONVENTIONS FOR PROTECTION OF CHILDREN:

- **International Convention on the Rights of the Child**

#### Article 33

<sup>12</sup> Dr Anupma Kaushik, “Rights of Children: A Case Study of Child Beggars at Public Places in India”, No. 1 pp. 01–16, Journal of Social Welfare and Human Rights, (2014), Vol. 2 ,p.5.

<sup>13</sup> Dr Anupma Kaushik, “Rights of Children: A Case Study of Child Beggars at Public Places in India”, No. 1 pp. 01–16, Journal of Social Welfare and Human Rights, (2014), Vol. 2 ,p.10.

<sup>14</sup> Elaine Chase and June Statham, “Commercial Sexual Exploitation of Children and Young People in the UK - a review” Child Abuse Review 14: 4: 4-25 (2005).

<sup>15</sup> Protection of Children from Sexual Offence amended in 2019.



States Parties shall take all appropriate measures, including legislative, administrative, social and educational measures, to protect children from the illicit use of narcotic drugs and psychotropic substances as defined in the relevant international treaties, and to prevent the use of children in the illicit production and trafficking of such substances.

Article 35

States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.

- The Convention against Transnational Organized Crime, the Protocol to

Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children; and the Protocol against the Smuggling of Migrants by Land, Sea and Air, which supplement the Convention against Transnational Organized Crime.

The Committee recommends that the State party:

Establish an elaborate and systematic data collection mechanism, on child trafficking based on region, sex, national, ethnic origin, socio economic status with emphasis on those from vulnerable situations.

Conduct awareness-raising activities in order to make parents and

children aware of the dangers of both internal and external trafficking;

Further strengthen its cooperation with South Asian countries to combat

trafficking in children across States, including through the conclusion of bilateral and multilateral agreements.<sup>16</sup>

- Convention on Protection of Children and Cooperation In Respect of Intercountry

Signatory states recognizes that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding, recalling that each State should take, as a matter of priority, appropriate measures to enable the child to remain in the care of his or her family of origin, recognizing that intercountry adoption may offer the advantage of a permanent family to a child for whom a suitable family cannot be found in his or her State of origin, convinced of the necessity to take measures to ensure that intercountry adoptions are made in the best interests of the child and with respect for his or her fundamental rights, and to prevent the abduction, the sale of, or traffic in children.

- The United Nations Convention on the Rights of the Child is a human rights treaty which sets out the civil, political, economic, social, health and cultural rights of children. The Convention defines a child as any human being under the age of eighteen, unless the age of majority is attained earlier under national legislation<sup>17</sup>
- Optional Protocol to the CRC on the sale of Children Child prostitution and Child pornography

<sup>16</sup> UN Treaty convention on the rights of children CRC/C/IND/CO/3-4, July 2014.

<sup>17</sup> "Convention on the Rights of the Child". Office of the High Commissioner for Human Rights. Archived

from the original on 13 January 2015. Retrieved 20 January 2015.



This was enacted to ensure protection of children from sex exploitation especially in the form of pornography( especially young girls) and from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development<sup>18</sup>

- Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime

This convention declares that effective action to prevent and combat trafficking in persons, especially women and children, requires a comprehensive international approach in the countries of origin, transit and destination that includes measures to prevent such trafficking, to punish the traffickers and to protect the victims of such trafficking, including by protecting their internationally recognized **human right**<sup>19</sup>

- Universal Declaration of Human Rights<sup>20</sup>

*Article* 3.  
*Everyone has the right to life, liberty and security of person.*

*Article* 4.  
*No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.*

*Article* 5.  
*No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.*

- South Asian Association for Regional Cooperation Convention on Prevention and Combating Trafficking in Women and Children for Prostitution, in 2002.

The South Asian Association for Regional Cooperation (SAARC) deals with the problem of trafficking. The SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution of 2002 was signed by India. The main purpose of this Convention is to promote cooperation amongst Member States so that they may effectively deal with the various aspects of trafficking in women and children, i.e. the prevention of the use of women and children in international prostitution networks, particularly where the countries of the SAARC region are the countries of origin, transit and destination, the repatriation and rehabilitation of victims of trafficking.<sup>21</sup>

<sup>18</sup> UN Treaty convention on the Optional Protocol to the CRC on the sale of Children Child prostitution and Child pornography.

<sup>19</sup> Preamble, UN Treaty Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

<sup>20</sup> Universal Declaration of Human Rights.

<sup>21</sup> UN Women, Global Database on Violence Against Women, available in <https://evaw-global-database.unwomen.org/en/countries/asia/india/2002/south-asian-association-for-regional-cooperation> (visited on Jan 2, 2020).

**STATUTES IN INDIA:**

- The Criminal Law (Amendment) Act, 2013

provides a definition of trafficking in persons whereby an element of force or other forms of coercion, abduction, fraud and deception is required, including in the case of children, and it does not expressly exempt victims of trafficking from criminal prosecution.<sup>22</sup>

- Recovery and reintegration of victims

The Protocol on Pre-Rescue, Rescue and Post-Rescue Operations of Child Victims of Trafficking for Commercial Sexual Exploitation (2005) and the Protocol on Prevention, Rescue, Repatriation and Rehabilitation of Trafficked and Migrant Child Labour (2008).

The Committee is particularly concerned at:

- a. The lack of adequate facilities;
  - b. The lack of a method of accreditation for the registration of institutions, and
  - c. the lack of adequate counselling services and psychological support tailored to the needs of children;
  - d. Inadequate standards of care, supervision and commitment in institutions;
  - e. The lack of effective provisions for regular review and re-consideration of the child's placement in an institution;
  - f. Limited re-integration assistance for victims, once they leave an institution.<sup>23</sup>
- The Transplantation of Human Organ Act, 1994.
  - The Prevention of Illicit Traffic in narcotic Drugs and Psychotropic Substances Act, 1988.
  - The Child Marriage Restraint Act, 1929.

- The Bonded Labour System (Abolition) Act, 1976.
- The Goa Children's Act, 2003.
- The Bombay Prevention of Begging Act, 1959.
- The Immoral Traffic (Prevention) Act 1956, amended in 1986 to extend the scope of the law to bring both sexes exploited in commercial activities and intensifies penalties for offences engaging children. It includes overarching provisions for rescue, protection, treatment of victims of prostitution and punishes inducing, procuring persons to involve in it, keeping a brothel, living on prostitution income.
- The Juvenile Justice (Care and Protection Act of Children) Act 2000. This law deems it a crime to engage children in any hazardous employment or in bondage. It provides for juveniles 'conflict with law' and children in 'need of care and protection' by providing for their developmental needs and proper rehabilitation.
- Child Labour (Prohibition and Regulation) Act 1986, equally prohibits employment of children in some specified occupations and sets down conditions for children at work. The main object of this act is to prohibit employing children below 14 years in hazardous occupations identified in a list by this act. This list was expanded in 2006 followed by 2008.
- The Factories Act, 1948 prohibits child labour. This act provides protection to children against exploitation. It prohibits the employment of children below 14 years of age in any factory outlets. It also provides guidelines on who can employ, when and how long can a pre-adult between age of 15 and 18 years be employed in factory.

<sup>22</sup> UN Treaty convention on the rights of children CRC/C/OPSC/IND/CO/1 July 2014 p.8/11.

<sup>23</sup> UN Treaty convention on the rights of children CRC/C/OPSC/IND/CO/1 July 2014p.10/4.



- Karnataka Devadasi(Prohibition of Dedication) Act, 1982 for eliminating prostitution.
- The Children's Act, 1960. This act as well prohibits engaging children in begging and exploiting a child in any form of employment.

### MAGNITUDE OF VICTIMS:

In India 70% of trafficked women are employed in prostitution out of which 20% are children sadly. About 2.3 million girls and women are reported to be working in sex industry and more than 2 lakhs persons are trafficked within or through country every year.<sup>24</sup> Unfortunately India has 19% of world's child population and International Labour Organization(ILO) estimates that India has the largest child labour force comparing to any part of the world. Official Indian stats gathered the number to be around 11 million full timers and 10 million part timers.<sup>25</sup>

Both boys and girls are the victims of trafficking though girls constitute more, who are engaged for sexual purposes. 60% of the estimated 2.3 million women and child commercial sex workers in India come from scheduled castes or tribes, other backward classes and according to International Labour Organization (ILO) estimates. 15%-20% of them are children.<sup>26</sup> Every year thousands of tribal girls under 18 years of age are migrated

from the states like Jharkhand and Chattisgarh to the Metropolitan cities of the country. Even the survey conducted by People's Awakening for Traditional Revival and Advancement (PATRA) concludes that every year over 2500 to 3000 tribal girls moved from Jharkhand alone.<sup>27</sup> Every fourth day a child is trafficked from Jharkhand-a State that is striving to keep its children away from child labour and give them schooling. The latest National Crime Records Bureau (NCRB) report, released in 2016 estimates that a total of 90 children were trafficked from Jharkhand alone in 2015. Though this number is huge it can be tip of the iceberg, actual numbers much higher.<sup>28</sup>

The inability to address this serious problem of child trafficking has developed India into an easier catch for the traffickers to proceed further their heinous activities exacerbated.

Poverty, corruption, inequality, deceit, trickery, violence, criminality, political conflicts are some reasons for this menace to flourish. Where financial system has shrunk, education in such countries creates a false perception of opportunities abroad. This urge for better life, financial crisis in home country, under estimated value on women and children can push towards exploitative traffickers.<sup>29</sup> In fact the major challenge in dealing with this complex problem arises with the very fact that there is no single uniform definition of trafficking

<sup>24</sup> Dr. Shrivatsava Deepti."Child Trafficking – A Human Right Abuse", No. 1, The Indian Police Journal Vol., January-March (2007), p. 66.

<sup>25</sup> Gathia, Joseph "Child Trafficking is Increasing in India " available at [www.theindiancatholic.com](http://www.theindiancatholic.com). (visited Jan 2, 2020).

<sup>26</sup> See, Child Protection in Eleventh five year plan (2007-2012), Ministry of Women and Child Development Government of India, p.32.

<sup>27</sup> See, Child Protection in Eleventh five year plan (2007-2012), Ministry of Women and Child Development Government of India, p.32.

<sup>28</sup> Every fourth day a child trafficked from Jharkhand: NCRB, The Pioneer (India), September 9, 2019.

<sup>29</sup> Dr. Shrivatsava Deepti."Child Trafficking – A Human Right Abuse", No. 1, The Indian Police Journal Vol., January-March (2007), p.65.



including internationally recognized forums for trafficking in persons.

### IMPACT:

Often it creates devastating consequences for the victim children as they undergo horrifying experiences which can have negative impact and repercussions for the rest of their life. The form and purpose for which the child was trafficked greatly determine the magnitude of impact which lasts on the child in both physical and emotional level.<sup>30</sup> Depression and suicidal thoughts are common among them. Some of the emotional state of such victims includes helplessness, withdrawal, and self blame, malevolence followed by normalization and shaping so that victims convince themselves about the situation rather than calling it traumatic.<sup>31</sup> Some of the common symptoms of psycho-social disorders of children who are engaged in sex industry are severe depression, powerlessness, guilt, and deflated self-esteem, lack of trust, loneliness, multiple phobias, poor memory, and fear of unknown, lack of belief in everything.<sup>32</sup>

The definition of 'child' under different Indian legislations:

According to Indian Penal Code 1860,<sup>33</sup> "Nothing is an offence which is done by a child under age of seven years [ Sec. 82 IPC ]. The age of criminal responsibility is further raised to twelve years if the child is found to have not attained the ability to understand the

nature and consequences of his/her act"[Sec. 83 IPC].

According to Juvenile Justice (Care and Protection of Children) Act 2000<sup>34</sup>, 'Juvenile' or 'child' means the one who has not completed eighteenth years of age.

According to Child Labour (Prohibition and Regulation) Act 1986,<sup>35</sup> 'child' means a person who has not completed his fourteenth year of age. Hence it is evidently clear those variations in defining a 'child' exists.

Trafficking:

In India the only national legislation on trafficking amounts to The Immoral Traffic (Prevention) Act, 1956. It does not define what trafficking is but treats it on par with prostitution. But Goa Children's Act, 2003 which is one and only state legislation specifying and defining 'child trafficking'.

### LEGISLATIVE PROVISIONS IN INDIA:

In India, kidnapping is a crime under sections 360, 361, 384, 363, 363 A (kidnapping for begging), 366, 367, 369 of IPC.

Article 15(3) of the Indian Constitution enables the state to make special provisions for children.

Article 24 deals about prohibition of child labour and their hazardous employment.

Article 39(f) further directs the state in its policy towards the welfare of the children.

<sup>30</sup> Thakural, Enakshi Ganguly (ed.), CHILDREN IN GLOBALISING INDIA, CHALLENGING OUR CONSCIENCE, 2003, p.261.

<sup>31</sup> SAARTHAK and UNIFEM, "SAARTHAK: The Sound of Silence: A Manual for Forming Therapeutic Relationship", New Delhi (2002).

<sup>32</sup> Dr. Deb Sibnath, "CHILDREN IN AGONY: A SOURCE BOOK", 2007, p.213.

<sup>33</sup> Indian Penal Code 1860.

<sup>34</sup> Section 2(k) of The Juvenile Justice (Care and Protection of Children) Act 2000.

<sup>35</sup> Section 2(ii) of The Child Labour (Prohibition and Regulation) Act, 1986.



Article 39 (c) tender age children should not be subject to abuse and should be given opportunities to overall development.

Article 45 makes provision for free and compulsory education for children.

Article 47 explains duty of the state in raising the level of nutrition ,standard of living and in improving public health .

Article 23 of Constitution of India prohibits traffic in human beings and forced labour and any contravention of this provision is considered as an offence punishable by law.

Article 39 directs the State to secure children are not abused or forced due to economic constraints to be employed in unsuited works to their age, strength and that children, youth are protected against abandonment.

Section 361 Indian Penal Code 1860, deals with the kidnaping of a person from lawful guardianship.

Section 366A of the Indian Penal Code 1860, deals with procurement of minor girl child I e. any person who induces a girl below 18 years) with intend to engage her for forced illicit sexual intercourse shall be punished for ten years imprisonment and liable to fine.

Section 366B of the Indian Penal Code 1860, deals with importation of girl child below age of 21 years of age i.e. any person who imports such a girl with intention to engage her for illicit sexual intercourse shall be punished with ten years imprisonment and liable to fine.

Section 369 of the Indian Penal Code 1860 deals with kidnaping and abducting a child below 10 years of age with intent to steal from its persons, shall be punished with imprisonment of seven years and shall be liable to fine.

Section 370 of the Indian Penal Code 1860 deals with punishment for trafficking of person where any person recruits, transports, harbours, transfers, or receives, a person or persons for buying and disposing any person as slave, shall be punished with seven years rigorous imprisonment and liable to fine as well.

Section 371 of the Indian Penal Code 1860 provides punishment of ten years imprisonment or life with fine, for any person who habitually deals with slaves.

Section 372 of the Indian Penal Code 1860 provides punishment for persons engaged in selling of minor girls for prostitution or any form of illicit intercourse shall be punished with ten years imprisonment and shall be fined as well.

Section 373 of the Indian Penal Code 1860 prescribes punishment for any person who buys, hires or obtains possession a minor for prostitution or illicit intercourse shall be punished with imprisonment extending to ten years and shall be liable to fine.

Likewise Section 374 of the Indian Penal Code 1860 provides punishment extending to one year imprisonment with fine, for unlawfully compelling a person to labour against his will.

#### CAUSES:

Although the government has taken several initiatives to cure this cancer, the root cause still needs to be addressed. Children who are dropouts from school and children who are focused more to run the livelihood of family by earning are more likely to be trafficked. Unhappy children who leave their homes due to family troubles are also equally



susceptible. Poverty leads to malnutrition and poverty also leads to trafficking and child labour.<sup>36</sup> Child marriage also amounts to major reason. Girl children should be encouraged to pursue their education and not fall into child marriages which are a trap. Understanding it as a complex problem it can be eliminated completely by first attacking at its roots.

The root causes of trafficking in children can be varied as poverty, lack of employment opportunities, globalization, illiteracy, demand for cheap labour, growing demands for adoption, low socio-economic status, lack of medical and educational facilities, and awareness. Other factors include political uprisings and local cultural factors which are perennial factor which lead to prostitution, bonded labour etc.<sup>37</sup>

### JUDICIAL RESPONSE TO CHILD TRAFFICKING:

The Indian judiciary has played a commendable role in protecting children) from various causes of trafficking and has been instrumental in providing suitable rescue and rehabilitation to the affected victims.

In State v Freddie Peats and Others<sup>38</sup>This is an important case that brought a spark in the minds of Indian society and public, addressing the seriousness of child sexual abuse which is undeniably lasting in our society. The Sessions court held Freddie peat guilty for offences punishable under Section 292,293,342,355,328,337,323 of the Indian

Penal Code 1860, Section 9 of the Immoral Traffic (Prevention) Act 1956, Section 20 and 43 of the Juvenile Justice Act; Section 27 of the Drugs and Cosmetics Act 1940. Freddie peats was held guilty with life imprisonment with his appeal dismissed by the court.

In case of Public at large v. State of Maharashtra and Others<sup>39</sup>; based on an article of newspaper which brought to light about minor girls who were illegally confined and forced to be sex workers, a suo moto was taken by the Bombay High Court. A raid was carried out and about 473 minor girls and children engaged as sex workers were rescued and kept in juvenile homes. A committee was constituted on court's direction for rehabilitation of the rescued children.

In Vishal Jeet v. Union of India;<sup>40</sup> the Supreme Court issued directions that all state governments must direct the legal executives to take speedy steps against commercial sexual exploitation and set up advisory committees for suggestions and measures for eradicating child prostitution, provide rehabilitative homes for rescued girl children.

Likewise in Prena v. State of Maharashtra and Others;<sup>41</sup>The petitioners, a registered organization working in red light area of Mumbai to prevent trafficking of women and children, filed a PIL to protect children and minor girls from brothel keepers and shrewd pimps. The girls rescued from the sex trade were provided rehabilitation.

<sup>36</sup> Dr. Shrivatsava Deepti."Child Trafficking – A Human Right Abuse", No. 1, The Indian Police Journal Vol., January-March (2007), p.65.

<sup>37</sup> Thakural, Enakshi Ganguly (ed.), CHILDREN IN GLOBALISING INDIA, CHALLENGING OUR CONSCIENCE,2003, p.250.

<sup>38</sup> Session Court No. 24/1992, Criminal Appeal No. 4/1996.

<sup>39</sup> 1997(4) Bom. CP 171.

<sup>40</sup> (1990)3 SCC 318: AIR 1990 SC 1412.

<sup>41</sup> Criminal Writ petition No. 788 of 2002, Mumbai High Court.



**SUGGESTIONS:**

This issue of child trafficking involves common victims such as girls from the poor socio economic background and disadvantaged families, children living in rural or sub-urban areas who are trapped either in the name of employment or marriage without dowry. These children end up in brothels and red light areas through a well organized mafia groups.

Some of the critical measures to overcome this cancer are stated below.

1. Foster the spread of education

Due to high dropout rates and low literacy rates, people are driven into false pretexts of better livelihood in urban cities and trafficked. However educated children and their families are better aware and mature in comprehending the risks of child trafficking comparing to uneducated children.

2. Encouraging business not to engage in child labour

When business enterprises are not given silent approval to exploit children in their businesses, instances of child labour can be kept at minimum or removed completely.

3. Strict and stringent laws to prevent child trafficking

Effective laws and policy making backed by research, findings of need for reforms, engage with government agencies. Various statutes like Protection of Children Against Sexual Offences Act (2012) and Immoral Traffic (Prevention) Act, have been successful in demonstrating how legal acts and its proper execution can curb child trafficking.

4. Creating awareness among parents, families, communities

Due of lack of awareness situations arise where traffickers can exploit. Awareness about their rights guaranteed under the constitution and various offences relating to children can end this social evil to an extent. Parents and society which are more prone to such evil should be well educated and advised about the after effects of child trafficking. They should also be encouraged in educating the children and guiding about possibilities of better life in future.

**CONCLUSION:**

India is a prime area for child trafficking to happen. We still have many children trafficked to work in industries and farmlands for a meagre amount. Apart from this, horrific stories emerge daily about girls as young as 9 years old being forced into the sex trade. Children are also sold by their parents to work in factory and industries that are highly dangerous with toxic environments.<sup>42</sup>

The severity of the problem demands effort from government as well as NGO's to spread greater awareness. The suggestions mentioned above can be implemented for effectively curbing this menace. Hence with a hope that one day child trafficking will be eliminated completely not only in India but globally, let us strive to protect every child from the hands of evil predators.

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<sup>42</sup>Child trafficking –issues and views, available at <https://www.cry.org/issues-views/child-trafficking> (visited on Jan 7, 2020).