

## CHILD TRAFFICKING AFFLICTION : A SCOURGE TOWARDS PROGRESSIVENESS !

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### ABSTRACT

*Human trafficking, especially of women and children has become a matter of serious National and International concern, as women and children inclusive of both boys and girls have been exposed to unprecedented vulnerabilities. Commercial exploitation of these vulnerabilities has become a massive organised crime and a multimillion-dollar business. Nations are attempting to combat this trade in human miserly through Legislative, Executive, Judicial and Societal Actions .Trafficking in person is a serious crime especially child trafficking; trafficking of children is a worldwide phenomenon not only affecting large numbers of boys & girls every day but also affecting the progress of the concerned Country because children are the future nation builder. The present study / paper is based on the Doctrinal method of research with some constituent of empirical study, topic 'Child Trafficking Affliction: A Scourge Towards Progressiveness ' is an effort by the writer to highlight the 'hurdles' with remarkable summation & suggestions for betterment of child development.*

**Keywords** - child trafficking, factors, legal framework, role of state & other agencies.

### PRELUDE :

Trafficking in person is a serious crime & a grave violation of humanitarian laws especially human rights. Every year, thousands of men, women and children fall into the hands of traffickers, in their own Countries & abroad. Almost every Country in the World is affected by trafficking whether as a country of origin, transits or destination for victims. Human trafficking is believed to be the third largest criminal activity in the World. It is the modern form of Slavery denying freedom to nearly 20.9 million people around the World. According to the US (State) Department, they are approximately 600,000 to 820,000 people trafficked a year across International borders and up to 50% of these are children. Human trafficking, 'especially of women & children has become a matter of serious National & International concern as women and children have been exposed to unprecedented vulnerabilities. Commercial exploitation of these vulnerabilities has become a massive organised crime and a multimillion-dollar business. Nations are attempting to combat this

trade in human misery through different enforcement agencies. Thus trafficking of children is a worldwide phenomenon affecting the whole gamut.

**Meaning & Definition of Child Trafficking:** The Oxford English Dictionary defines traffic as 'illegal trade'(as in drugs),it has also been described another transportation of goods, the coming and going of people or goods by road, rail, air, sea etc. The word trafficked or trafficking is described as 'dealing' in something illegally(as in the case of trafficking narcotics)'.

According to UNICEF 'Child Trafficking' is defined as 'any person under 18,who is recruited, transported, transferred, harbored or received for the purpose of exploitation, either within or outside a country'.

Black's Law Dictionary defines it as " a contract between two parties called respectively the 'seller' or 'vendor' or the 'buyer' or 'purchaser' by which the former, in consideration of the payment or promise of payment of a certain price in money, transfers to the latter the title and the possession of the property". IN simple words we can define trafficking of children as" sale and purchase of children for gain, within the country (intra- country) and across borders (inter- country), by deceit, fraud or force, resulting in exploitation of the person trafficked".

The most comprehensive definition of trafficking is the one adopted by the UN office of drugs and crime in 2000, known as the "UN protocol to prevent, suppress and punish trafficking in persons, especially women and children" under the UN Convention against National Organised crime(UNTOC). The Government of India has signed this Convention. Article 3 of the Act defines- a)trafficking in persons shall mean the recruitment, transportation, transferring 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 of receiving of payment or benefits to achieve the consent of the 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 services, slavery or practices similar to slavery, servitude or the removal of organs;

b) The consent of a victim of trafficking in persons to the intended exploitation set forth in sub paragraph (a) of this article shall be irrelevant where any of the means set forth in sub paragraph (a) has been used;

c)The recruitment, transportation transfer, heralding or receipt of a child for the purpose of exploitation shall be considered 'trafficking in person' even if this does not involve any of the means set forth in sub paragraph (a) of the article;

d)Child shall be any person under 18 years of age.

**Elements of Child(Human) Trafficking :** are based on the definition given in the Trafficking in persons protocol, it is evident that trafficking in persons has constituent elements;

1.**The Act (what is done?):**Recruitment, transportation, transfer, harbouring or receipt of persons.

**2. *The Means (how it is done?)***: Threat or use of force, coercion, abduction, fraud, deception, abuse of power or vulnerability, or giving payments or benefits to a person in control of the victim.

**3. *The Purpose (why it is done ?)***: for the purpose of exploitation, which includes exploiting the prostitution of others, sexual exploitation, forced labour, slavery or similar practices and the removal of organs.

### ***Smuggling or Trafficking ?***

People smuggling is the facilitation of illegal entry, in breach of immigration law, either clandestinely or through deception or the use of false documentation. In this sense 'smuggling' refers to the illegal transport of a person or persons across state borders, which results in a financial benefit for the smuggler. It follows that the person being smuggled will be complicit, often paying large amounts of money to be transported, and once in the country they will be left to their own devices. Human trafficking on the other hand specifically targets the trafficked person as an object of exploitation. There maybe one or more individuals involved as traffickers and facilitators but the purpose is to exploit the person and to gain a profit. Types of exploitation can include sexual exploitation, force labour, domestic servitude, organ harvesting, criminal activity and benefit fraud etc.

### ***Forms of Child Trafficking :***

The various forms which take child trafficking across the globe has failed to receive adequate attention even though it takes place in large numbers and in various forms, for various purposes some of them being absolutely gruesome. While data available on child trafficking is inadequate and scattered, it surely provides useful insights on the various forms and purposes of trafficking in children. An attempt has been made in this analysis to present them systematically, based on available literature, the following list maybe drawn:-

#### ***i) Illegal Activities -***

- \*Begging.
- \*Organ trade.
- \* Drug peddling & smuggling.

#### ***ii) Sexual Exploitation-***

- \* Forced Prostitution .
- \* Socially & religiously sanctified forms of prostitution.
- \* Sex tourism .

\* Pornography.

**iii) Labour-**

\* Bonded Labour .

\* Domestic Work.

\* Agricultural Labour .

\* Construction Work.

**iv) Entertainment & Sports-**

\* Circus, dance troupes, beer bars etc.

\* Camel jockeys.

**v) For and through marriage.**

**vi) For and through adoption.**

**vii) As child soldiers or combatants in armed conflicts.**

**FACTORS BEHIND CHILD TRAFFICKING:**

There are many contributing factors to child trafficking.

- Economic deprivation .
- Lack of employment opportunities .
- Social status .
- Political uprisings .

***Supply factors;***

Poverty.

Female foeticide/infanticide .

Child marriage.

Natural disasters.

Domestic servitude

Traditional/Religious.

Prostitution (Devadasi).

Lack of employment opportunities.

***Demand factors;***

Migration .

Hope for jobs/marriage .

Demand for cheap labour .

Enhanced vulnerability due to lack of awareness .

Creation of need and market by sex traffickers for 'experimental' & 'tender' sex.

Sex tourism .

Internet Pornography .

Organised crime generating high profits with low risk for traffickers.

Many of the families in India are unable to afford the basic necessities of life, which forces the parents to sell their children off to gangs, & the Gangs to exploit them with approximately half of the population living below the poverty line in India, it is no surprise just desperate measures are being taken at making money in every possible way; as they aren't even decent employment opportunities available, parents to anything from sweeping the streets to selling their kids easier, even if it only makes them a few rupees the fact is that children are moved vulnerable than adult making them and easier target and a commodity for games they are looked upon as more expandable than the rest of the population, which makes them available as objects to be sold. Another cause of sexual exploitation is that people around the world find pleasure in the outcomes of this abuse, therefore causing a demand for it. Political uprisings lead to a demand for soldiers and as children are more vulnerable, they are forced to conscript and use their bodies as sacrifices.

**LEGAL FRAMEWORK IN INDIA TO CURB HUMAN TRAFFICKING:**

**Constitution of India ;Article 23** of the Constitution guarantees right against exploitation; prohibits traffic in human beings & forced labour and makes their practice punishable under law.

**Article 24** of the Constitution prohibits employment of children below 14 years of age in factories, mines or other employment.

**Indian Penal Code,1860;**There are 25 provisions relating to trafficking-significant among them are-

- **Section 366A**-procurement of a minor girl(below 18 years of age)from one part of the country to the other is punishable.
- **Section 366B**-importation of a girl below 21 years of age is punishable.
- **Section 374**-provides punishment for compelling any person to labour against his will.

**Immoral Traffic (Prevention)Act (ITPA)1956**-renamed as such by drastic amendments to the SUPPRESSION OF IMMORAL TRAFFICK IN WOMEN & GIRLS ACT1956(**SITA**),deals

exclusively with trafficking; objectives is to inhibit/abolish traffic in women & girls for the purpose of prostitution as an organised means of living; offences specified are -

- Procuring, including or taking persons for prostitution;
- Detaining a person in premises where prostitution is carried on;
- Prostitution is or visibility of public places;
- Seducing or soliciting for prostitution;
- Living on the earth has of prostitution;
- Seduction of a person in custody;
- Keeping a brothel or allowing premises to be used as a brothel.

**Child Labour(Prohibition & Regulation)Act 1986** Prohibits employment of children in certain specified occupations and also lays down conditions of work of children.

**Information Technology Act 2000** Penalizes publication or transmission in electronic form of any material which is lascivious or appeals to prurient interest or if it's effect is such as to tend to deprive and corrupt persons to read, see or hear the matter contained or embodied therein.

The law has relevance to addressing the problem of pornography. India has also adopted a code of conduct for Internet Service Providers with the objective to enunciated and maintain high standard of ethical and professional practices in the field of internet and related services.

**Juvenile Justice (Care & Protection)Act 2000** enacted in consonance with the Convention on the Rights of the Child (CRC); and consolidates and amends the law relating to Juveniles in conflict with law and to children in need of care & protection. This law is especially important / relevant to children who are vulnerable & are therefore likely to be inducted into trafficking.

**Karnataka Devadasi(Prohibition of Dedication)Act 1982** Act of dedication of girls for the ultimate purpose of engaging them in prostitution is declared unlawful whether the dedication is done with or without consent of the dedicated persons.

**Andhra Pradesh Devadasi (Prohibition Dedication)Act 1989** Penalty of imprisonment for three years & fine are stipulated in respect of anyone, who performs, promotes abuts or takes part in Devadasi Dedication Ceremony.

**Goa Children's Act 2003** defines trafficking; Every type of sexual exploitation is included in the definition of sexual assault', responsibility of ensuring safety of children in hotel premises is assigned to the owner and manager of the establishment; photo studios are required to periodically report to the police that they have not sought obscene photographs of children; stringent control measures established to regulate access of children to pornographic materials.

**Central Adoption Resource Agency (CARA);** An autonomous body of Ministry of Social Justice and Empowerment in India is the only Central Authority in the country that oversees in-country adoption and regulates inter-country adoption procedure. It is set on the guidelines given by the Indian Supreme Court in a series of judgements passed during 1980-1990.

CARA has 69 placement agencies throughout India. The child has to be legally free for adoption before he or she can be placed in an Indian home. The process of a child becoming legally available for adoption is guided mainly by the Guardianships and Wards Act (GAWA) passed by the Indian Government in 1980. There are 13 Voluntary Coordinating Agencies recognised by CARA for carrying out Cross-Country Adoptions. There are 247 Foreign Agencies of CARA in more than 25 countries across Europe, USA & Middle East, working in Junction with the VCAs.

### **Magnitude of the Problem :**

In India, a large number of children are trafficked not only for the sex trade but also for other forms of non-sex based exploitation that includes servitude of various kinds such as domestic labour, industrial labour, agricultural labour, begging, organ trade and false marriage. Trafficking in India is on rise and nearly 60% of the victims of trafficking are below 18 years of age (NCRB 2005 & according to NHRC report on traffic in women and children in India)

The population of women and children in sex work in India is stated to be between 70,000 and 1 million of these 30% at 20 years of age nearly 15% and 25% enter between 15 and 18 years (Mukerjee & Das's report on crime against child, 1996).

A rough estimate prepared by an NGO call and children's prostitution in Asian Tourism reveals that there are around 2 million prostitutes in India. 20% among them are minors. A study conducted in 1992 is estimated that any one time, 20,000 girls are being transported from one part of the country to another for above purposes.

### **COMBATING TRAFFICKING !**

Unless a public opinion is built, laws are effectively designed and implemented, the situation is constantly monitored and the nexus of traffickers is exposed, children will continue to be trafficked. Coordinated efforts are required to stop and prevent child trafficking. Government must ensure that adequate legislation is in place to protect children who are forced to being trafficked & that these laws are enforced. 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.

***Role of State :***

- 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 centred education curricula in schools and introduce subjects of child sexual abuse and trafficking.
- The Government of different Nations must share the information which each other to evolve a programme that will help both the Countries in preventing trafficking.

***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 hideous.
- NGOs working in the areas should ensure that parents are aware of safe migration practices.

***Role of Media :*** Media attention reaches several hundred thousand of viewers & should therefore serve the following main 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 the places and Institutions where they can seek help.
- Create awareness that human trafficking is inappropriate and illegal with its 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.

***Institutional Mechanisms :***

In the last two decades, the Government of India has also taken several steps towards publicly advanced children's rights. These include;

- The Juvenile Justice (Care and Protection) Act 2000( amended in 2006) Prohibition of Child Marriage Act 2006,
- The formation of the National Commission for Protection of Child's Rights 2005,
- National Plan of Action for children 2005,
- Right to Information (RTI) 2005,
- The Goa Children (amendment)Act 2005,
- The Child Labour (Prohibition and Regulation) Act 1986 ( two notifications in 2006 & 2008), expanded the list of banned & hazardous processes vis a vis occupations.
- Integrated Child Protection Scheme 2009 and advancing legislations such as Right to Education Bill 2009 and Prevention of Children from Sexual Offences (POSCO) Act 2012.



**INFERENCE :**

Our former Prime Minister Pandit Jawaher Lal Nehru rightly explained on this count that *“The building of Nations depends on building men and women, and the process of building men and women depends very considerably on what is done to the children. It is therefore of high importance that we pay attention to the well-being and growth of children. The basic habits formed in early and the way their minds have been conditioned then, will play an important part when they grow up, therefore a great deal of attention should be paid to children and national policies should be let down”*, because the present and the future as they represent the next wave of parents, grandparents caregivers, teachers, doctors, police officers, judges, community leaders faith based leaders, politicians and decision-makers. Therefore selected group of seven strategies which have been identified & assembled in a package known as **'INSPIRE'** should be followed;

1. Implementation & enforcement of laws,
2. Norms & values,
3. Safe environments,
4. Parent & caregiver support,
5. Income & economic strengthening,
6. Response & support services,
7. Education & life skills.

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