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## VERACITY OF CHILD PROSTITUTION IN INDIA \*

### ABSTRACT:

The elimination of child prostitution requires immediate redressal measures. Education and economic independence of women will counter their vulnerability and lead to the recognition and respect of women's and the girl child's dignity. Trace and analyse the life pattern of prostituted girl children. Wanted to explore the reality behind cultural guise for this practice.

### BACKGROUND OF STUDY

India is a country with unbelievable injustices spread across the streets for all to witness. With 192 million people in its lowest tier of society, immense poverty and a staggering lack of education, India is a perfect breeding ground for human trafficking. An estimated 14 million people are in slavery in India. This is not acceptable.<sup>2</sup>

Meet Rachna. : At just seven years old, Rachna is feisty and beautiful. She is an intelligent young girl but like more than half of Delhi's slum-dwelling children, she does not attend any school. Rachna earns money by dancing in between the cars on the busy roads of Delhi.

As time goes on and Rachna's family increases, her pitiful earnings from dancing are not enough to feed her brothers and sisters and she becomes one of the hundreds of thousands of children sold into sexual slavery. Drugged and confused, she will be violently raped several times until she blindly accepts her fate. Locked in a cage until she is chosen by men three times her age, Rachna will be the victim of sexual crimes many times each night. Sex crimes in India, whilst prolific, are enormously under-punished and often a blind eye is turned. If she tries to escape, she will be beaten or worse. This will be Rachna's future until she dies, she is too old to be wanted, or she is rescued.

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Rachna's life, her beauty, her intelligence, her future and her hope have been stolen. It's more than bleak. It's evil, and not just Rachna. This story could be told by millions. Destiny Rescue is fighting for these children. Horrific tales like this are prevalent right across India. We are desperate to rescue these children from such unbelievable horrors. We want to see children like Rachna smiling again because they have been restored and given hope.

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1. Dean & Associate Professor, Chanderprabhu Jain College of Higher Studies & School of Law, GGSIPU, Delhi.
  2. Prostitution. From Wikipedia, the free encyclopedia. Available from :<http://en.wikipedia.org/wiki/prostitution>.

Will you join us in this fight? Will you give of your time and money to help us rescue young children like Rachna from a life of ashes and mourning to give them a crown of beauty and gladness?

### **OBJECTIVES OF STUDY**

The elimination of child prostitution requires immediate redressal measures. Education and economic independence of women will counter their vulnerability and lead to the recognition and respect of women's and the girl child's dignity. Trace and analyse the life pattern of prostituted girl children. Wanted to explore the reality behind cultural guise for this practice. About one quarter of India's population comprises of girl children up to the age of 19 years.<sup>3</sup> However, they are discriminated socially, psychologically, economically and sexually. This gender discrimination is socially defined and continues from cradle to grave. One of India's most striking characteristics is its material poverty. Violence against women, assault, and rape of women are not individual sexual or physical crimes. Desperation seems to characterize the lives of India's poor. This desperate poverty is often cited as the root of India's growing prostitution problem.<sup>4</sup>

### **UNDERSTANDING CHILD PROSTITUTION.**

Children are often forced by social structures and individual agents into situations in which adults take advantage of their vulnerability and sexually exploit and abuse them. Many believe that the majority of prostituted children are from Southeast Asia and the majority of their clients are Western sex tourists, but sociologist Louise Brown argues that, while Westerners contribute to the growth of the industry, most of the children's customers are Asian locals.

Prostitution of children usually occurs in environments such as brothels, bars and clubs, homes, or particular streets and areas. Maureen Jaffe and Sonia Rosen from the International Child Labor Study Office write that cases vary widely: "Some victims are runaways from home or

State institutions, others are sold by their parents or forced or tricked into prostitution, and others are street children. Some are amateurs and others professionals. Although one tends to think first and foremost of young girls in the trade, there is an increase in the number of young boys involved in prostitution. The most disquieting cases are those children who are forced into the trade and then incarcerated. These children run the possible further risk of torture and subsequent death."<sup>5</sup>

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3.Nag M. Sexual behaviour in India with risk of HIV/AIDS transmission. Health Transition Rev 1995;5:293-305.

4.Gilada IS. Women in prostitution in urban centres: Study perspectives and positional problems for social interventions. Paper presented to the NGO Forum of World Conference to Review and Appraise the Achievements of the United Nations Decade for Women: Nairobi; July, 1985.

5.Gilada IS. No date: Prostitution in India: Causes, extent, prevention, rehabilitation. Indian Health Organization, Mumbai.

## **HUMAN TRAFFICKING**

Human trafficking is defined by the United Nations Office on Drugs and Crime (UNODC) as "the recruitment, transport, transfer, harbouring or receipt of a person by such means as threat or use of force or other forms of coercion, of abduction, of fraud or deception for the purpose of exploitation. In 2007 the UN founded United Nations Global Initiative to Fight Human Trafficking (UN.GIFT). In cooperation with UNICEF, the Organization for Security and Cooperation in Europe (OSCE), and the United Nations Development Fund for Women (UNIFEM) the United Nations took a grant from the United Arab Emirates to establish UN.GIFT. UN.GIFT aims to fight human trafficking through a mutual support from its stakeholders which includes governments, businesses, and other large global actors. Their first initiative is to spread the word that human trafficking is immoral and has become a growing problem that it will take a global cooperation to cease its continuation.

Human trafficking is the trade of humans, most commonly for the purpose of sexual slavery, forced labour or commercial sexual exploitation for the trafficker or others. This may encompass providing a spouse in the context of forced marriage, or the extraction of organs or tissues, including for surrogacy and ova removal. Human trafficking can occur within a country or trans-nationally. Human trafficking is a crime against the person because of the violation of the victim's rights of movement through coercion and because of their commercial exploitation.<sup>6</sup> Human trafficking is the trade in people, and does not necessarily involve the movement of the person from one place to another. Human trafficking represented an estimated \$31.6 billion of international trade per annum in 2010. Human trafficking is thought

to be one of the fastest-growing activities of trans-national criminal organizations. Psychotherapist Mary De Chesnay identifies five stages in the process of sex trafficking: vulnerability, recruitment, transportation, exploitation, and liberation. The final stage, De Chesnay writes, is rarely completed. Murder and accidental death rates are high, as are suicides, and very few trafficking victims are rescued or escape.

Sex trafficking is a lucrative business due to the low risk and high demand for its existence. The return of high profits acts as a primary incentive driving the spread of human trafficking. Today, most markets are operated online disguised as salon parlors making it harder to enforce sex trafficking laws. Examples are online escort services, residential brothels, brothels disguised as

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6. Mukherjee KK. *Flesh trade: A report*. Gram Niyojan Kendra: Ghaziabad; 1989.

massage businesses or spas, many of which enslave children to their services.<sup>7</sup>

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**SURVIVAL SEX** The other primary form of prostitution of children is "survival sex". The US Department of Justice states: "Survival sex" occurs when a child engages in sex acts in order to obtain money, food, shelter, clothing, or other items needed in order to survive. In these situations, the transaction typically only involves the child and the customer; children engaged in survival sex are usually not controlled or directed by pimps, madams, or other traffickers. Any individual who pays for sex with a child, whether the child is controlled by a pimp or is engaged in survival sex, can be prosecuted.<sup>8</sup>

A study commissioned by UNICEF and Save the Children and headed by sociologist Annjanette Rosga conducted research on prostitution of children in post-war Bosnia and Herzegovina. Rosga reported that poverty was a strong contributing factor. She stated, "The global sex trade is as much a product of everyday people struggling to survive in dire economic straits as it is an organized crime problem. Jaffe and Rosen disagree and argue that poverty alone does not often force children into prostitution, as it does not exist in a large scale in several impoverished societies. Rather, a number of external influences, such as poor family situations and domestic violence, factor into the problem.

## CONSEQUENCES

### Treatment of prostituted children

Prostituted children are often forced to work in hazardous environments without proper hygiene. They face threats of violence and are sometimes raped and beaten. Researchers Robin E. Clark, Judith Freeman Clark, and Christine A. Adamec write that they "suffer a great deal of abuse, unhappiness, and poor health" in general.<sup>9</sup> For example, Derrick Jensen reports that

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7. Mukherjee KK. *Flesh trade: A report*. Gram Niyojan Kendra: Ghaziabad; 1989.

8. *Trafficking in Women and Children in India*, by P. M. Nair, Sankar Sen, Institute of Social Sciences, New Delhi, India. National Human Rights Commission, UNIFEM South Asia Regional Office, New Delhi. Published by Orient Blackswan, 2005. ISBN 81-250-2845-5.

9. Clark, Robin; Freeman Clark, Judith; Adamec, Christine A. (2007). *The Encyclopedia of Child Abuse*. Infobase Publishing. ISBN 0788146068.

female sex trafficking victims from Nepal are "'broken in' through a process of rapes and beatings, and then rented out up to thirty-five times per night for one to two dollars per man".<sup>10</sup> Another example involved mostly Nepalese boys who were lured to India and sold to brothels in Mumbai, Hyderabad, New Delhi, Lucknow, and Gorakhpur. One victim left Nepal at the age of 14 and was sold into slavery, locked up, beaten, starved, and forcibly circumcised. He reported that he was held in a brothel with 40 to 50 other boys, many of whom were castrated, before escaping and returning to Nepal.

Criminologist Ronald Flowers writes that prostitution of children and child pornography are closely linked; up to one in three prostituted children have been involved in pornography, often through films or literature. Runaway teenagers, he states, are frequently used for "porn flicks" and photographs. In addition to pornography, Flowers writes that, "Children caught up in this dual world of sexual exploitation are often victims of sexual assaults, sexual perversions, sexually transmitted diseases, and inescapable memories of sexual misuse and bodies that have been compromised, brutalized, and left forever tarnished."<sup>11</sup>

## PHYSICAL AND PSYCHOLOGICAL EFFECTS

According to Humanium, an NGO that opposes the prostitution of children, the practice causes injuries such as "vaginal tearing, physical after-effects of torture, pain, infection, or unwanted pregnancy". As clients seldom take precautions against the spread of HIV prostituted children face a high risk of contracting the disease, and the majority of them in certain locations contract it. Other sexually transmitted diseases pose a threat as well, such as syphilis and herpes. High levels of tuberculosis have also been found among prostituted

children. These illnesses are often fatal. Former prostituted children often deal with psychological trauma, including depression and posttraumatic stress disorder (PTSD). Other psychological effects include anger, insomnia, sexual and personality confusion, inability to trust adults, and loss of confidence. Drug-related health problems included dental problems, hepatitis B and C, and serious liver and kidney problems. Other medical complications included reproductive problems and injuries from sexual assaults; physical and neurological problems from violent physical attacks; and other general health issues including respiratory problems and joint pains. Child prostitution leads to negative

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10. Asian Development Bank. *Combating Trafficking of Women and Children in South Asia: Regional Synthesis Paper for Bangladesh, India and Nepal*. Manila, 2002
  11. Flowers, Ronald (1994). *The Victimization and Exploitation of Women and Children: A Study of Physical, Mental and Sexual Maltreatment in the United States*. Mc Farland. ISBN 0899509789

effects on the wellbeing and mental health of the child later on in life, since they frequently become pimps themselves.<sup>12</sup>

## PROHIBITION

Prostitution of children is illegal under international law, and the United Nations Convention on the Rights of the Child, Article 34, states, "the State shall protect children from sexual exploitation and abuse, including prostitution and involvement in pornography."<sup>[36]</sup> The convention was first held in 1989 and has been ratified by 193 countries. In 1990, the United Nations appointed a Special Rapporteur on the sale of children, child prostitution, and child pornography. While the legality of adult prostitution varies between different parts of the world, the prostitution of minors is illegal in most countries, and all countries have some form of restrictions against it.

## SUGGESTED AMENDMENTS BY NATIONAL COMMISSION OF WOMEN IN IMMORAL TRAFFICKING ACT

1. The word 'person' used in the Act for the purpose of punishment, should be substituted with the words 'man and woman' because the women in prostitution only are punished and the man who play an important role in the process goes without punishment.
2. In place of the words 'commercial sex worker' the word 'prostitute' should continue to be used.
3. The names of the women in red-light areas should be included in the voters' list.

4. A group insurance scheme should be introduced for the women in red light areas.
5. There should be a provision in the Act to distinguish the girls who are thrown forcibly into the prostitution through an act of rape and intimidation and the punishment should be made more stringent for the person responsible. Very often such girls are rescued only after their prolonged stay in the brothels and it is not possible to point out who was the first client although the first client is invariably committing rape on her. In case of such girls, the Brother owner, pimps and touts should be charged as abettors and onus of the proof should be on them that they have not abetted/forced the girl/woman to enter into prostitution through the act of rape. The law enforcement machinery should also be made more effective to save those girls in time who are likely to be forced into prostitution.
6. As per the recent figures of crimes recorded by Delhi Police, of all the persons arrested under different provision of the Act nearly 85 to 95 % accused were women. This clearly brings out the  
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12.ECPAT International. Global Monitoring Report on the Status of Action Against Commercial Sexual Exploitation of Children  
fact that the present law is not very effective in stopping prostitution because the men involved in promoting prostitution are mostly not considered guilty. It is especially surprising to note that there are many more women arrested for being pimps and touts.
7. It is also necessary to bring out suitable amendment in the Act to punish the customer who visits the red light areas for having sex at a commercial price.
8. Provision should be made to provide Free Education to the women in prostitution under various non-formal/adult education scheme.
9. Schemes for vocational training should be available to the women in prostitution so that they can earn their livelihood by other means if they decide to come out of the flesh trade.
10. There should be a specific provision that police personnel/related department should render help and support to the NGOs and communities who are working for the welfare of the women in prostitution.

### **CHILD PROSTITUTION AND THE LAW**

Indian constitution has guaranteed Fundamental Right to save and protect the human life under Article 21, also Article 23(1) provides that trafficking in human beings is prohibited and any contravention of these provisions shall be an offence. Besides the Fundamental Right, the following Directive Principles also have relevance; (Article 39(a), 39(c), 39(f), 42, 46 and 47 etc.) Under the provisions of the Indian Evidence Act 1872, Section 114(a) and 151 are relevant in the context of trafficking. Also section 51(2), 53(2), 98, 160, 327(2) and 357 of the

CrPC have relevance in this context. Provisions were also made in the IPC to deal with sexual offences. Sections 372, 373, 354, 366, 497 and 498 give the power and strength to the women. The current laws in India that legislate sex workers are fairly ambiguous. It is a system where prostitution is legally allowed to thrive, but which attempts to hide it from the public. The primary law dealing with the status of sex workers is the 1956 law referred to as The Immoral Traffic (Suppression) Act or (SITA). Recently the old law has been amended as The Immoral Traffic (Prevention) Act or PITA

- THE IMMORAL TRAFFICKING PREVENTION ACT, 1956 (“PITA”) -

Passed by both Houses of Parliament came into force from Monday 26th January 1987, is the main statute dealing with sex workers in India, does not criminalize prostitution or prostitutes per se, but mostly punishes acts by third parties facilitating prostitution like brothel keeping, living off earnings and procuring, even where sex work is not coerced. The PITA also contains a provision for presumption of guilt on the part of a person under certain circumstances when the victim is a child who has been sexually abused.

Under this new act there are three categories of victims-children, minors and majors. Children are defined to be individuals up to 16 years of age, minors are those between 16 to 18 years of age and majors are individuals above 18 years of age. The earlier act recognized only women and girls – a woman being one who has completed 21 years. Punishments for offences committed against these categories differ in severity. Offences committed against children and minors will be dealt more severely than those against majors.

- THE JUVENILE JUSTICE ACT, 1986

The Juvenile Justice Act, 1986 has elaborate provisions for the care, protection, treatment, education, vocational training, development and rehabilitation of children rescued from those procuring, inducing or taking persons for the sake of prostitution and detaining persons in premises where prostitution is carried on. Such children are the juveniles who live in a brothel or with a prostitute or frequently goes to any place used for the purpose of prostitution or is found to associate with any prostitute or any other person who lives an immoral, drunken or depraved life.<sup>13</sup>

- THE OFFENCES AGAINST CHILDREN BILL, 2005 –

The Offences Against Children Bill 2005 (The Bill), purports to be an Act to cover all forms of abuse against children and to clearly define the rights and remedies available to them. It comprehensively lists instances of sexual abuse. Further, the Bill also encompasses within its scope sexual activities which may not be specified as an offence under the Act. Other welcome provisions of the bill include enhanced punishment for abuse of trust and individuals who have been found convicted for child sexual abuse in the past. There are, however, three substantive provisions in the Bill that merit a discussion.



- IT ACT, 2000

In recent years child pornography has increased due to the easy access of the internet, & easily available videos on the internet. Child pornography is the most heinous crime which occurs and has led to various other crimes such as sex tourism, sexual abuse of the child etc. Child pornography is a crime in India.

- INFORMATION TECHNOLOGY ACT, 2000 & INDIAN PENAL CODE, 1860  
Provides protection from child pornography. According to the new (amended) Information  
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13. Guidelines for psychological evaluations in child protection matters. Committee on Professional Practice and Standards, APA Board of Professional Affairs.

Technology Bill Section 67 has been amended –“that not only creating & transmitting obscene material in electronic form but also to browse such sites is an offence.”

#### SUGGESTIONS

All these legal framework has helped, of course over the years, to reduce the massively increasing cases of child sexual abuse. Still a lot needs to be done. My suggestion and conclusions are presented herein:

- Loopholes in the IPC, such as- IPC Sec. 375 doesn't protect male victims. IPC Sec. 354 lacks a statutory definition of "modesty". It carries a weak penalty and is a compoundable offence. Moreover, what about the outrage of the modesty of a male child? In IPC 377, the term "unnatural offences" is not defined. These loopholes have to be amended.
- With respect to existing legislation, the IPC fails to include many other activities such as recruiting, harbouring, transporting, transferring or receiving trafficked children. This needs to be ratified.
- Indian legislators have proposed amendments to the Immoral Traffic Prevention Act but they have not yet been enacted as law. Appropriate and effective implementation of existing laws is essential in order to effectively protect children and remains a problem. The Government must increase efforts to identify sexually abused victims among at-risk groups such as children arrested for prostitution and illegal migrants, and at the same time improve the prosecution and conviction of trafficking offenders.
- The Government should establish a child-friendly legal process where victims of trafficking are not criminalised or punished in any way, but are provided with proper legal counsel and guardianship. At a minimum, child victims must be provided with health and psychosocial care, vocational training, legal counselling and repatriation/reintegration services.
- Religious and culturally sanctioned prostitution of children, particularly among scheduled tribes and castes, must be systematically combated by sensitizing the issue.

- Efforts to increase birth and marriage registration nationwide must also be prioritised, as these are valuable protective mechanisms against CSEC.
- NGOs and Community Based Organisations should be included in the process of reintegration to ensure the protection of children and effective results.
- Formation of community vigilance groups in source areas and disaster prone areas .Child Help Lines to be established and widely publicised at the village level.
- Media should help promote the issue just like Amir Khan's Satyamev Jayate. The impact of the show was vast as soon after the show thousands of children called the helpline services to report their abuses. Sexual abuse victim must be taken to a therapist to cope. Play therapy, Projective and drawing therapy and CAT (Children's Apperception Test) should be used to overcome the emotional trauma.

## CONCLUSIONS

The subject of child sexual abuse is still a taboo in India. Part of the reason lies in a traditional conservative community structure that does not talk about sex and sexuality at all. Parents do not speak to children about sex and puberty changes. A girl feels shy to talk to her mother about menstruation as she is scared. How will she tell about her uncle who molests her? No complaint is filed in order to save the social image of the girl or the boy. This silence encourages the abuser to continue the abuse and to press his advantage to subject the child to more severe forms of sexual abuse. There are number of reports and documents on the issue of child sexual abuse, but there is very little systematic effort so far to collate them.

As a result, although there are interventions being made across the country by various groups and individuals, not much is known about these efforts. With a proper organized information centre being set up, this gap is going to be filled to some extent. There is a permissive attitude about violence against children that allows this kind of abuse to occur at such high rates. India is not alone in that. Many other cultures, including Western cultures, hold the same attitudes. Only by challenging those attitudes, speaking out loud, taking steps individually and in groups, forcing the government to take immediate steps only will we be able to bring change. That is not an easy thing to do, either for the victims or for the culture at large, yet it is something we all need to do if we truly want to stop child abuse.