

Child Trafficking in India



Funded by:	Krishna Rao Foundation
Supported by:	iPartner India
Date:	22 June 2016
Venue:	Multipurpose Hall India International Centre, New Delhi
Time:	4 pm Onwards

THE 'ANATOMY' OF CHILD TRAFFICKING

The Campaign against Child Trafficking (CACT) was formally launched on 12 December 2001 in Delhi and has chapters in 13 states across the country. HAQ: Centre for Child Rights is the National Coordination Office for the Campaign.

CACT believes that trafficking of children is one of the gravest violations of human rights of children and hence it has been the first ever campaign in the country to draw specific attention to child trafficking. The members of the campaign work in source as well as destination areas to create awareness and undertake rescue and rehabilitation of trafficked children. The campaign's advocacy initiatives brought some significant changes in the government's policies. Notable amongst these are inclusion of all forms of child trafficking in the National Plan of Action for Children, 2005 and India's ratification of the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, also known as the Palermo Protocol on Human Trafficking.

What makes the issue of trafficking complex is that very often it is difficult to distinguish between the cause and purpose of trafficking. For example, while children are trafficked for religious prostitution, the cultural and religious sanction is the cause of trafficking. Similarly, marriage may be the means to traffic young girls for labour or prostitution, but trafficking may be for the purpose of marriage. A similar situation applies to adoption.¹

In 2000, HAQ: Centre for Child Rights undertook a

national study on 'Child Trafficking in India'. This report formed the basis of launching a national Campaign against Child Trafficking (CACT) in 2001.

Sixteen years since the last report, an update and assessment of the scenario was planned at a meeting with the 13 CACT state partners in January 2015. The report draws upon existing information, Governmental and others, to trace the changes that have taken place since 2000. It was also decided that a public hearing would be organised to bring the issue on the forefront.

¹ HAQ: Centre for Child Rights. Child Trafficking in India, pg 8. 2000

FORMS AND PURPOSES

Sexual Exploitation

- Forced prostitution
- Socially and religiously sanctified forms of prostitution
- Sex tourism
- Pornography

Illegal Activities

- Begging
- Organ trade
- Drug peddling and smuggling

Labour

- Bonded labour
- Domestic work
- Agricultural labour
- Construction work
- Carpet industry, garment industry,

fish/shrimp export as well as other sites of work in the formal and informal economy.

Entertainment and Sports

Adoption

Marriage “In the name of charity” and education.

Massage parlours

Escort services and use of online services

WHY ARE CHILDREN TRAFFICKED

POVERTY

FOOD INSECURITY

NATURAL CALAMITIES

DISPLACEMENT DUE TO DEVELOPMENT INITIATIVES

ETHNIC AND COMMUNAL STRIFE

CULTURAL NORMS AND TRADITIONS

SOCIAL ATTITUDES

ABUSE OF CHILDREN, AND THEIR BASIC RIGHTS

LACK OF GOOD LAW ENFORCEMENT

INSENSITIVE GOVERNMENT POLICIES

LACK OF POLITICAL WILL

WHAT HAS CHANGED SINCE 2000?

A More Inclusive Definition of Trafficking

It was following the ratification of the Palermo Protocol, that India expanded its definition of trafficking, which was finally included in the Indian law as Section 370 of the Indian Penal Code as part of the Criminal Law Amendment in 2013. This was a huge step forward in the building of an overarching and comprehensive understanding of the phenomenon of trafficking in the country. Although defining human trafficking broadly, it also covers child trafficking and recognises their vulnerability in prescribing a higher punishment for the child traffickers.

Recognition of the diverse forms and purposes of child trafficking is also to be found in the National Plan of Action 2005; the National Policy for Children 2013; the Juvenile Justice (Care and Protection of Children) Act 2015; and the Prevention of Child Marriage Act 2006. There have also been some landmark judgments that have elaborated on how child trafficking needs to be addressed.

Catering to the International *Bazaar* more than ever before

Children are trafficked within the country and across borders and that was always the case. When there is so much concern being expressed on the issue of missing children, it becomes critical to look at the international *Bazaar* to which these children are being sent. Globalisation has made the market bigger and the process of transportation easier.

Collation of information from the Trafficking in Persons (TIP) reports over the years shows that India is not just a **DESTINATION** or a **TRANSIT** country, it is also a **SOURCE** to 18 countries in Africa (Uganda, Kenya and South Africa), South Asia (Nepal, Pakistan and Bhutan) S.E Asia (Singapore and Malaysia), Middle East (UAE and Kuwait), Pacific Islands (Fiji), Europe (Cyprus, Belgium, Italy, Greece, Norway, Austria, Finland). And this is about Indian children, not the ones who are brought into India from neighbouring countries before being transported elsewhere.

Unfortunately, even at the very regional - South Asia level, the countries have not been able to put an agreed upon unified tracking mechanism in place. Children therefore remain at the mercy of multiple agencies and often get lost in the “system”.

WHAT REMAINS UNCHANGED?

The Data Challenge Remains

Despite a chapter on human trafficking in the Crime in India Report of the National Crime Records Bureau since 2006, data on child trafficking per se remains a challenge. This is firstly because trafficking transcends state and national borders and is closely related to migration. Secondly, the most reliable data pertains to only cases that get reported as crime, and this is a very small subset of the number of actual crimes that occur, and are not representative of the larger population of those trafficked. Finally, available data on human trafficking is not disaggregated by age and gender, making it difficult to enumerate cases involving minor victims.

Even a simple question on number of Anti-human Trafficking Units (AHTUs) in each state was not answered by the concerned department.

All districts do not have an AHTU

Every district in the country is meant to have a functioning AHTU established by the State Government. The reality, however, is different. According to the response to the Rajya Sabha Unstarred Question No. 2798, dated 23.12.2015, 225 AHTUs were set up during the period 2010-11 and 2011-12, whereas details available on the “stophumantrafficking” web portal of the Ministry of Home Affairs puts this figure at 218 AHTUs.

The biggest challenge has been the RTI information. Despite several appeals, responses have been delayed and the information received sparse and inconsistent across districts, making it difficult to use it as comparable data across districts or states.

Some highlights from RTI replies...

Missing information for Missing Children

Of the 13 states where RTI applications were filed with various Departments; no information was received from four states - Gujarat, Andhra Pradesh, Bihar and Jharkhand. Information received from the rest of the states was inconsistent across districts, partial and insufficient. What is more there were sometimes discrepancies between information received in reply to the same query/indicator from 2 different sources in the same state.

Different replies for the same indicators

Analysis of most of the RTI responses received show that in many cases data for the same indicator does not match or is highly questionable even when it is provided by the same source. In the response received from Karnataka police, the number of cases of children kidnapped and abducted for marriage for the years 2012, 2013 and 2014 are 6, 14 and 14 respectively. However, another reply on number of child victims kidnapped for marriage shows only 5 victims in 2014 and none in the years 2012 and 2013.

OF LOST CHILDHOOD

- ▶ A survey by MHRD says the number of children not attending schools in Kerala had gone up from 15,800 in 2009 to 33,200 in 2014, an increase of 110% in five years
- ▶ The Census 2011 also puts the number of children aged 5-14 years engaged in work at 45,400 in 2011, 74% up from 26,200 in 2001

It is children migrating from other states to Kerala who are engaged in child labour

Fr Joye James | CHAIRMAN, CHILD WELFARE COMMITTEE

RTI information was sought from 20 districts in Kerala. While no information was provided on child labour rescued in the year 2014, interestingly, the reply to the question on number of rescued child labour belonging to other states shows one child rescued from Kasargod district in the same year. News reports have constantly been highlighting a spurt in number of migrant child labour in Kerala. Besides, according to a Times of India news dated June 8, 2015, there has been a 110 per cent increase in out-of-school children between 2009 and 2014 as per a survey of the Union Ministry of Human Resources Development².

AHTUs unable to provide number of cases investigated

The AHTUs are also meant to keep records of all trafficking cases that they investigate. While some AHTUs shared number of cases of child trafficking received by them, none except Delhi AHTUs provided details of the cases investigated by them (Table 2).

Year	Cases Investigated by AHTUs in Delhi
2012	46
2013	16
2014	42
TOTAL	104

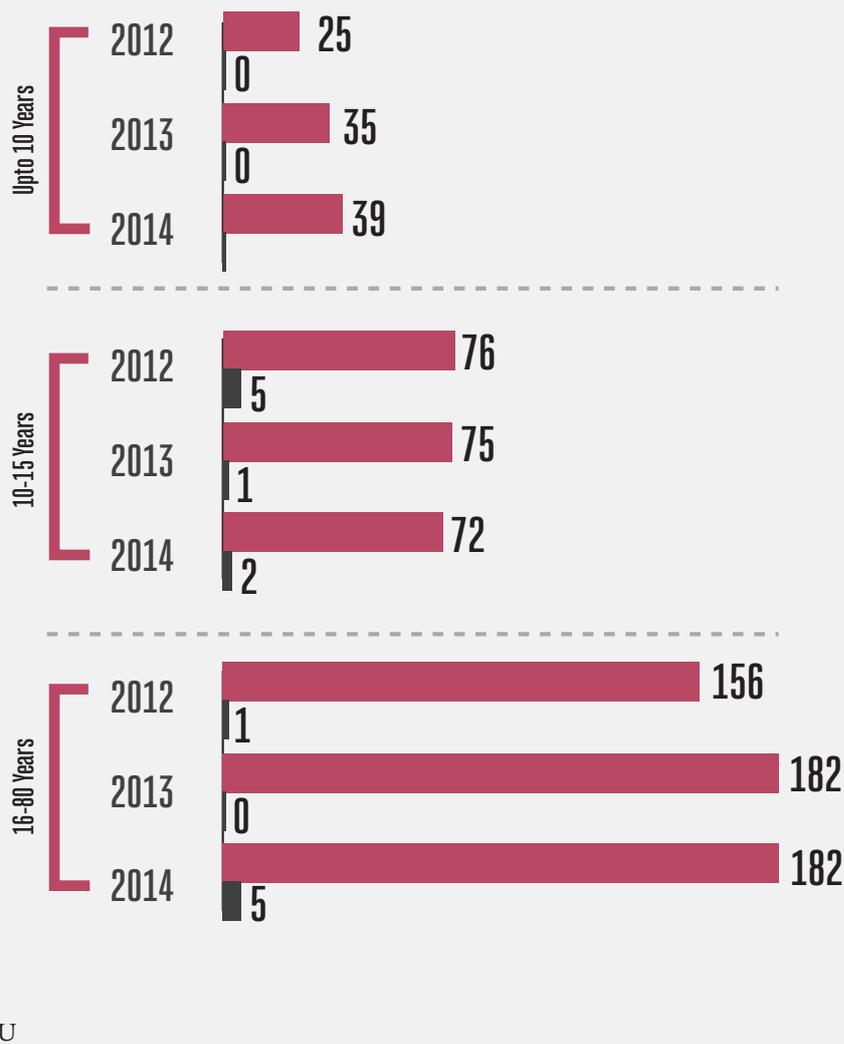
² Laxmi Prasanna Ajai, Spurt in child labour cases in Kerala, Jun 08 2015, The Times of India (Kochi). Available at: <http://epaperbeta.timesofindia.com/Article.aspx?eid=31811&articlexml=Spurt-in-child-labour-cases-in-Kerala-08062015006005>. Last accessed on 13 June 2016.

Lack of coordination between AHTUs and other government structures and agencies

RTI responses validate the critique that there is lack of coordination between the local police and specialised structures such as AHTUs. RTI replies for nine districts from Tamil Nadu for instance revealed that as against 843 children reported missing by the police between 2012 and 2014, the AHTUs listed only 14 cases of missing children. The trackthemissingchild portal of Tamil Nadu government, (<http://trackthemissingchild.gov.in/trackchild/tamilnadu>), as accessed on 13 June 2016 suggested that 2455 children went missing in the last one year, of which 1291 (52.6 per cent) were recovered. Even if one assumes that 50 to 60 per cent of children reported missing to the police are traced within the mandated six months before a case gets transferred to an AHTU, RTI data clearly suggests that all cases that remain untraced do not reach the AHTUs.³

Similarly, data maintained by the Maharashtra Commission for Protection of Child Rights (MSCPCR) for missing children during the period 1 April 2014 to 20 April 2015 reads 7233. Of these, 1351 were reported to have been traced/found (excluding Palghar district). On the other hand, RTI reply from Maharashtra police dated 05.08.2015 mentions that in 2014 alone 13,094 children went missing out of which only 7819 were traced/found (including Palghar). MSCPCR has a mandate to monitor implementation of child rights programmes, schemes and laws. Given the huge mismatch in the data provided by MSCPCR and Maharashtra Police, one wonders how much of this role are the Commissions able to perform and why should it not be able to coordinate with relevant agencies to get correct figures?

Comparison of missing children data received from Police and AHTUs
The Tamil Nadu Example



³ Laxmi Prasanna Ajai, Spurt in child labour cases in Kerala, Jun 08 2015, The Times of India (Kochi). Available at: <http://epaperbeta.timesofindia.com/Article.aspx?eid=31811&articlexml=Spurt-in-child-labour-cases-in-Kerala-08062015006005>. Last accessed on 13 June 2016.

Inadequate budgets, underutilisation of funds and poor budget planning make a mockery of AHTUs

Most of the budget for AHTUs lies unutilised. RTI response from Maharashtra for example points out that while the budget sanctioned to the AHTUs seems highly inadequate in the light of responsibilities assigned to them, even the sanctioned amount is not fully utilised by 5 out of the 6 AHTUs in the state.

The Ministry also needs to ask itself if it is wise to allocate the same budget to all AHTUs given that the number of cases is different in different AHTU jurisdictions.

Initiatives to address child trafficking remain inadequate

Given the complicated nature of the problem, a multi-pronged approach is needed to address trafficking in all its stages - prevention, rescue, repatriation where needed, rehabilitation and reintegration.

While there has been a lot of attention paid to rescuing children, not enough success can be seen in initiatives for prevention and rehabilitation/reintegration – sometimes resulting in re-trafficking.

At the level of the government of India, the problem of human trafficking, including child trafficking, is multidimensional and requires coordination between other ministries like the Ministry of Home Affairs, Ministry of Labour, Ministry of Overseas Indian Affairs, Ministry of External Affairs etc. The Ministry of Women and Child (MWCD) continues to be the nodal ministry and

is also responsible for inter-ministerial coordination for tackling this crime with respect to children.

Since the child victims of trafficking are children in need of care and protection, their responsibility vests with the Child Welfare Committees set up under the juvenile justice system and also the mechanisms laid down in the Integrated Child Protection Scheme (ICPS). Both of these are the responsibility of the MWCD in the centre and the departments in charge or women and children in the states. In addition, the National Commission for the Protection of Child Rights (NCPCR) and some State Commissions have undertaken a few initiatives to address child trafficking.

There has been a flood of Advisories and Standard Operation Procedures (SOPs) that have been drafted by different ministries, mostly by Ministry of Home Affairs, especially following Supreme Court Orders. It is not clear what purpose these serve as they do not have any legal binding. If what is contained in them must be implemented, they have to be made mandatory by enactment of law.

Clearly there are more problems to deal with. According to the 2015, TIP report - *“The Government of India does not fully comply with the minimum standards for the elimination of trafficking... Many Anti-Human Trafficking Units (AHTUs), which liaise with other agencies and refer victims to shelters, were not functioning and NGOs assessed that government victim care services were inconsistent and inadequate for the scale of India’s trafficking problem... Official complicity in human trafficking occurred at varying levels of government. The government did not report investigations, prosecutions, or convictions of government officials complicit in human trafficking offenses.”*



In fact, there seems to be indifference on part of the law enforcing agencies towards viewing trafficking as a **social menace** rather than as **hard-core crime and law and order problem**. The priority that this work receives is in accordance with this perspective. Much confusion prevails when it comes to using relevant sections of the laws related to trafficking. **The work of anti-trafficking and rescue is marked by tokenism and adhocism**, often depending on media reports about sex-rackets, pressure from NGOs, judicial activism and the individual interest shown by some committed officers.

OUR RECOMMENDATIONS...

There is little reason to dispute the fact that there has been a lot of progress in the understanding of the concept of trafficking as well in the interventions made to address the issue in the last decade.

But as consumerism (the result of globalisation and markets opening up) gains momentum, the nature and purposes of trafficking are mounting as are the number of children being trafficked.

While the campaign (till 2012) was to build a more holistic understanding of the problem of trafficking, the next few years needed to be spent in monitoring

the implementation of the law as well in providing support to the infrastructures and institutions created to address trafficking.

Gathering and managing data has been an intractable problem, and continues to remain so. As migration patterns increase and get closely intertwined with issues of trafficking, it is important that the challenge of estimating numbers of children and women trafficked be handled with urgency. There is need to estimate the numbers of children and women trafficked with a fair degree of accuracy for interventions to be effective.

Some recommendations for consideration include:

- 1 Investing in establishment of well-coordinated and systematic database for prevention, protection and rehabilitation in a mission mode.
- 2 Better coordinated humanistic and rehabilitation-oriented rescue operations.
- 3 Strengthening law enforcement and prosecution of offenders by filling the human resource and infrastructure gaps, training and addressing procedural gaps.
- 4 Strengthening the investigation is the key to prosecuting the offenders and reducing crime and the procedures as well as training for this needs to be standardised, with better coordination across different agencies.
- 5 Victim Compensation schemes in various states too require a review to ensure some standardisation.
- 6 Moving away from raids and rescues, the state governments should adopt the Protocol established by the Ministry of Women and Child Development for pre-rescue, rescue and post-rescue operations of child victims of trafficking for commercial sexual exploitation dated 2005. Also, immediate shelter should be provided to the victims without medical examination of the victim being a pre-requisite for victim intake/ admission into a shelter home.
- 7 Age verification must be mandatory in case of every victim appearing to be below the age of 21 years. The process to be followed by courts and other competent authorities for age verification in such cases should be as laid down under the Juvenile Justice (Care and Protection of Children) Act 2015 and the rules made there under [See judgement of the Supreme Court of India in Jarnail Singh vs. State of Haryana [Criminal Appeal No. 1209 of 2010].
- 8 Once rescued, there have to be established “Standards of Care” for all rescued victims, especially if they are placed in institutions.
- 9 Ongoing support post-rescue and return to the home remains a gap needing attention. Unfortunately, the victims who are sent back home and who require rehabilitation support in the form of medical care and treatment for the various kinds of diseases and illnesses they suffer and addiction, counselling and psychological care, education and skill development are not provided the same. It must be ensured that those who are unable to go back home must also receive such support in institutions where they live.
- 10 For rescued children who end up in long-term institutional care or those who enter a child care institution/shelter home late at the age of 16 or 17 years for instance, there should be well conceived after care programmes so that the girls are not suddenly left on their own to fend for themselves after they complete the age of 18 years.
- 11 In order to be successfully reintegrated, every woman or child who is rescued from prostitution or any other form of trafficking

requires an alternative source of income once they are older, which again is dependent on effective skills and training. They have to be provided such training which is why traditional skills that are still taught need to be re-thought. This is where there is need for linkage with the skills development initiatives. Good practices that have been established by organisations like Prajwala, Jabala, ARZ-Goa and such other NGOs need to be institutionalised and replicated.

12 Prevention strategies require much greater focus and although the Integrated Child Protection Scheme is meant to focus on creating a protective environment for children through the creation of child protection structures at different levels, the most important village level child protection committees (VLCPC) remain disempowered and unsupported.

13 An Inter-Departmental Coordination mechanism at all levels – village, district,

state, national, regional and international can help facilitate and monitor the process of rescue and rehabilitation. As an immediate measure, Oversight cum Advisory Bodies at Central and State levels must be set up to monitor trafficking, rescue, rehabilitation and reintegration of victims.

14 Allocation of adequate resources and its optimum utilisation has always remained a challenge. Child protection budgets are abysmal. Laws are often not backed by financial commitment. This needs to be addressed.

15 Despite the changes in law, there are gaps that remain and these need to be tackled. Unfortunately, the new Bill proposed by the Government - The Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill 2016' that is posted on the website of the Ministry of Women and Child Development for public comment, does not address these gaps. If anything, it confuses the issue further.

ABOUT THE PUBLIC HEARING

The Public Hearing on Child Trafficking will bring together CACT partners as well as rescued victims of child trafficking. Some of them, who are now adults, will share their experiences with an eminent jury. Based on the depositions, the jury members will announce their verdict and recommendations which will be shared with the government and other key stakeholders. This public hearing is being organised in partnership with the India International Centre and is funded by the Krishna Rao Foundation and supported by iPartner India.

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