

## Child Trafficking in India: A Good Governance Perspective

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### ABSTRACT

Good governance is a dynamic conception and has several components that qualify it; one such component is protection and promotion of human rights. In this age of human rights (under good governance), child rights constitute one of the vital aspects. But the optimum realisation of child rights in India, has become a distant dream, due to the existence of several evils that act against these rights, one such evil is child trafficking. Although, there are number of initiatives, policies, conventions, laws, protocols and regulations against child trafficking at regional, national and international level, the issue continues to exist and also is on rise. It is assumed that the government and public authorities play a vital role in the elimination of child trafficking through policy formulation and implementation as parts of good governance agenda. But the continuous existence of child trafficking poses serious concerns that are the government and public authorities serious in their implementation of these laws and policies towards curbing child trafficking? Where does the problem lie? Who are entrusted to implement the preventive measures? Why are the enforcement agencies/ public authorities blamed for continued existence of child trafficking in India? Are there problems with so-called policy management? In this background, this paper gives a brief overview of child trafficking in India and an attempt is made to link the existence of child trafficking as a result of lack of good governance. To that end, the scope of this paper has been descriptive and reliance is placed primarily on available books, papers published in journals, documents, and research reports, publications of various organizations, paper clippings, search engines, blogs and corroboration through discussion with experts in the field.

**Keywords:** Child trafficking, good governance, child rights, conventions, descriptive etc.

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### The Problematic

'Human trafficking' is a complex and worldwide phenomenon, which has become a matter of grave concern at regional, national and international level. Human trafficking is both a human rights violation and the fastest growing criminal industry in the world (Deane, 2010). Child Trafficking has been considered as one of the key social perils in India and hence stands as one of the deterrents in the attainment of good governance. Although, there are number of initiatives, policies, conventions, laws, protocols and regulations against child trafficking through legislative, executive, judicial and social action, there is no end to their formulation yet is

little beginning in their implementation. Hence, the issue continues to exist at all levels and is on rise. It is evident through extensive scholarly studies that reasons are alike as to why and how the children are trapped into this menace and the consequences thereof. Trafficking of human beings is modern form of slavery through a systematic process and extensive commercial motives at the cost of colossal exploitation of the rights of the trafficked such as girls and boys and women and men. The explanations on definitions, dimensions and dynamics are more than many with contesting contentions in the literature adding to confusions and inconsistencies.

The protection and promotion of the rights of the children has to be utmost priority areas of the governments and public authorities, but are they proactive in their actions and delivery? It is the government and public authorities who largely shoulder the responsibility of the attainment of welfare of the children through the implementation of various child oriented welfare programmes and legal instruments that counter crimes and offences against the children and their rights as part of their good governance agenda. But the continuous existence and increase in the rate of child trafficking in India conforms that the implementation of preventive laws and post rescue operations are not successful. In fact, there is no direct study, which links the existence of child trafficking to the issues of good governance. There are certain references that blame government and public authorities for their inaction, particularly in India (Nair, 2005; Annie George, 2010; U.S. State Department, 2013; Mishra, 2014; Niumai, 2016; Mohanty, 2017; Khan, Undated.).

At the heuristic level, there are a lot of things at stake. Where does the problem lie? Who are entrusted to implement the preventive measures? Why are the enforcement agencies/ public authorities blamed for continued existence of child trafficking in India? Are there problems with so-called policy management? There are several studies that narrate the inefficiency of the government and public authorities in curbing the social peril child trafficking in India. But none made any attempt to link the existence of child trafficking is due to bad governance or it exists because of lack of good governance.

Therefore, in this article the issue of child trafficking is viewed in the good governance perspective in which a correlation is established between the two. This paper gives an overview of child trafficking in India in order to understand the complexity of the heuristic linkage between the existences of child trafficking and the instrumentalities of good governance. To that end, the scope of this paper has been descriptive and reliance is placed primarily on available books, papers published in journals, documents, and research reports, publications of various organizations, paper clippings, search

engines, blogs and corroboration through discussion with experts in the field.

### **Child Trafficking In India: an Overview**

Before attempting an overview on child trafficking in India, the concepts of Child Trafficking and good governance need to be brought in order. 'Children' are one of the most vulnerable victims next to women and men, in which child is exposed to extensive violence and exploitation both in the pre, during and post trafficking scenario across the globe. According to United Nations Protocol (To Prevent, Suppress and Punish Trafficking in Persons), 2000, human trafficking means 'the recruitment, transportation, transfer, harbouring 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 receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.' In the same line, the recruitment, transportation, transfer, harbouring or receipt of a child (child shall mean any person under eighteen years of age) for the purpose of exploitation shall be considered as 'child trafficking' (Gozdiak, 2008). This definition is widely used by the scholars to understand and to address the evil of human trafficking; however the motive of trafficking may vary from region to region.

The dynamic concept of good governance gained momentum in the past three decades. Today, it has become a buzzword for the political leaders, international organisations, social reformers, media, and academicians and so on. One understands good governance through its prominent components such as, protection and promotion of human rights, participation of people in decision-making, transparency, accountability, consensus oriented decision making, responsive, responsible, free of corruption, maintenance of rule of law, effective and efficient delivery of services and etc., on the part of government in dealing with its citizens (Godbole, 2014). If any one of these components is missing in the process of governance then it cannot be qualified as good governance system.

India has the highest volume of child population in the world, which accounts for 472 million (Census of India, 2011). Hence, children in India are trapped into various evils such as, child labour, child marriage, malnutrition, child prostitution, infanticide, child in need of Care and Protection (CNCP), honour killing and the like. One such crime of crimes (Nair, 2005) is child trafficking, in which it hinders their welfare and violates their rights extensively. Several scholars tend to agree that India is the hub of human trafficking in general and child trafficking in particular (Nair and Sen, 2004). Accordingly, India is considered as a point of transit, destination and source of human trafficking. Trafficked people are taken from and to India and thereafter they are sorted out to different destinations with innumerable transit points in between.

The route for trafficking is discussed under three broad heads such as local, national and international levels in terms of source, transit and destination (Mohanty, 2017:275). Major destinations for both Indian and foreign child trafficked victims include Kolkata, Mumbai, Bengaluru, Delhi, Surat and Hyderabad. Certain sensitive borders in this context are said to include the Indo-Nepal border, the Indo-Bangladesh border and nonetheless the Indo-Myanmar border. US State Department (2017) says that the Nepalese women and girls are increasingly subjected to sex trafficking in Assam, and other cities such as Nagpur and Pune.

The statistics with regard to child trafficking in India is confusing and difficult to obtain since this menace is illegal and secretive. Although, there is a dearth of actual statistics the experts estimate that millions of women and children are trafficked in India. Even though there is a huge estimates about the trafficked victims it is only 6,877 cases of crime relating to human trafficking was registered in 2015 as compared to 5,466 cases during the year 2014 (NCRB: Crimes in India -2015). The crime under human trafficking during the year 2015 has increased by 95.5% over 2011 (ibid). A total of 6 cases of importation of girls from foreign country were registered during 2015 compared to 13 cases in 2014 showing a decline of 53.8% over the previous

year. These were registered in West Bengal (4 cases) and Uttarakhand (2 cases) during 2015 (ibid). In this systematic process of trafficking brothel managers and the madams, the hotelier, the customer or clientele, the financiers, abettors, recruiters, seller, purchaser, contractor, agent, transporters, harbours and the parents are identified as traffickers, work hand in hand to achieve their unlawful motive (Mohanty, 2017).

There are two vital factors for which the victims fall prey to trafficking; those are, the supply factors (poverty and unemployment, so better prospects in another place) and demand factors (globalization, migration, development etc.) (Deane, 2010). Children are trafficked for huge set of purposes such as, for 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), for Illegal Activities (Begging, organ trade, drug peddling smuggling), for Sexual Exploitation (Forced prostitution, socially and religiously sanctified forms of prostitutions, sex tourism, pornography), for Entertainment and Sports (Circus, dance troupes, beer bars etc.) for camel jockeys, for and through marriage, for and through adoption and for child soldiers or combatants in armed conflicts. Therefore, child trafficking stands as one of the most profitable criminal trades, next to arms and drug smuggling undertaken by highly organized criminals (Khan, Undated). Throughout this pre and post trafficking process children are abused, threatened, brutally beaten and in some cases even killed. So, this inhuman exploitation largely hinders the welfare and rights of the children.

There are several stringent laws in India to protect the rights and to prevent crimes against the children. The crime of child trafficking is prohibited and punishable under exclusive Constitutional Provisions (Articles 23 and 24), Indian Penal Code 1860 (Sections 366A, 366 366 B, and 374) and Central and State Acts (such as Immoral Traffic (Prevention) Act (ITPA) 1956, [renamed as such by drastic amendments to the Suppression of Immoral Traffic in Women and Girls Act, 1956 (SITA), India's Bonded Labour System (Abolition) Act, 1976,

Karnataka Devadasi (Prohibition of Dedication) Act, 1982, Child Labour (Prohibition and Regulation) Act, 1986, Andhra Pradesh Devadasi (Prohibiting Dedication) Act, 1989, Information Technology Act, 2000, Juvenile Justice (Care and Protection of Children) Act, 2000, Goa Children's Act, 2003 Prohibition of Child Marriage Act 2006, Prevention of Human Smuggling Act, 2012, Protection of Children from Sexual Offence (POCSO) Act, 2012, Criminal Law Amendment Act, 2013 etc). Apart from these preventive laws within the country, India is also signatory to the UN initiatives towards the protection of the rights and prevention of crimes against the children. These legal instruments directly or indirectly aim at the prevention and punishment of child trafficking.

Along with this legal mechanisms the Government of India under certain ministries have also taken several comprehensive administrative measures and initiatives for the welfare of the victims of child trafficking such as, Anti Trafficking Cell, Several Advisories since 2009, Anti Human Trafficking Units, Workshops for Police Officers, Prosecutors, Judicial Colloquium at High Court level to sensitize , under the Ministry of Home Affairs, National Plan of Action, 1998, Central Advisory Committee to advise on methods and tactics to address the problems , Child Line, UJJAWALA scheme 2007-08, Kishori Shakti Yojana, Swadhar Greh etc., under the Ministry of Women and Child Development (MWCD )and Human Trafficking Management Information System (HTMIS) by the Government of India in 2008.

### **Perils of Child Trafficking and Problems of Good Governance**

It is very much applicable in Indian scenario that the component of protection and promotion of human rights is largely missing in relation to the child rights as such as par as the agenda of good governance is concerned. The welfare of the children lies in the hands of the state and its governments, since children constitute good portion of country's population, which matters in the future the country. Therefore, it is the duty of the state to secure the

welfare of the children by eliminating the stumbling blocks that come in this process.

To point out, the rights of the children in India are largely violated and neglected. Children are exposed to huge number of social evils that hinder their freedom and rights. Child trafficking falls in the same line of evils which damage the freedom and rights of the children. (As mentioned earlier) This social menace not only violates their rights but also exposes them to end number abuses and exploitation.

It is assumed that governments and public authorities (especially the civil servants and the police) play a crucial role to curb child trafficking as part of their good governance agenda. As discussed before, there is no dearth of administrative measures and initiatives and preventive laws but their implementation is largely invisible. Here, civil servants and the police officers constitute fundamental agents of good governance through their roles of proper implementation of administrative measures and initiatives and available preventive laws to eliminate the issue of child trafficking. But the menace of child trafficking continues to exist and also is on rise. Since the issue is on-going, the blame is largely shaded upon the enforcement agencies for their inaction. One can make out through movies and media that the brothel houses are frequently visited by the police officers, including lawyers, politicians and businessmen and largely these brothel houses are filled with trafficked women and girls. Neither they disclose this matter to the outside world nor do they take efforts to help the victims, who are stranded in these brothel houses.

The experience of the NGOs working in this field (Annie George *et al.* 2010) and the report of US State Department (2017) go on to posit that the traffickers are in close contact of the enforcement agencies especially the police. The police work not as enforcement officers but as facilitators of traffickers. The police are paid huge bribes by the traffickers to not to arrest, investigate and report their cases. The victims who are traced by the police, further exploited in the name of investigation. It is also

necessary to mention that the governments did not report investigations, prosecutions or convictions of government officials in human trafficking offences (*ibid*).

Weak institutions offer weak protection. Pay-offs to police, courts and other public sector officials result in state institutions being willing to turn a blind eye to trafficking gangs or even to participate in them. The relatively low risk of getting caught is matched by the lure of large profits from selling the victims into prostitution, forced labour and other forms of abuse. The mix of profit and impunity through easily “bought” protection from law enforcers and politicians has created a “high reward/low risk” scenario (Maryse, 2010) for human traffickers and their accomplices. Trafficking networks often overlap with organised crime networks.

Corruption facilitates the illegal economy just as transparency and the rule of law enable legal markets. Organised trafficking simply cannot take place without corruption. It has been argued that trafficking in persons would not be as prevalent and widespread if it was not for the leverage supplied by corruption. Similarly, it has been noted that human trafficking could not occur on the scale it does if it were not for the complicity and collusion of corrupt officials with criminal gangs (Holmes, 2009:84). The aim of corruption in the trafficking in person’s cycle is said to have four main goals: 1. to allow the crime to be invisible, 2. to facilitate the impunity once a case of trafficking in persons is detected, 3. to facilitate the execution of the crime, and 4. to assure the re-victimisation of the trafficked victims (IACC, 2010:2).

Corrupt law enforcement agents facilitate the recruitment, transportation and exploitation of trafficking victims, and corrupt criminal justice authorities can help traffickers by obstructing investigations and prosecutions of cases as well as hinder the protection of victims of trafficking. Corrupt officials play an important role in the different stages of the trafficking in persons supply chain. Obtaining fraudulent invitations or forged documents may be facilitated by corrupt officials at the recruitment stage.

At the transportation stage, officials may turn a blind eye and ignore victims of trafficking – allowing them to cross borders – in exchange for bribes. At the exploitation phase, they may practice extortion (UNODC, 2008:429). Corruption involving the private sector – for example travel agencies, model agencies, marriage bureaus, and hotels – may also contribute to trafficking in persons (UNODC, 2011:4). Since corruption is central to the success of traffickers, corruption becomes a necessary investment for criminals. Studies suggest that corruption is one of the most important cost factors for traffickers (PACO, 2002:10). Corruption allows for the massive enrichment of traffickers and helps to lure individuals from the public and private sector into trafficking networks – either by joining the networks or facilitating their operations.

### **Linkage between Good Governance and Child Trafficking**

Being a complex phenomenon trafficking can be viewed in different perspectives. The process demands numerous debates and arguments. The problem is deeply rooted in the socio-economic, political, spatial and cultural reality of the context in which it occurs. The gravity of the problem leaves scope for genuine minds to deeply reflect on the problem and keeping in mind the vulnerabilities of people most affected. Human trafficking is a complex puzzle requiring not only actionable solution but also meaningful explanation. The question of alternative approaches for addressing child trafficking in India arises because not only are there rising cases of trafficking across the country due to lack of awareness and ill governance but also that child trafficking exposes many children to exploitative practices that jeopardise their access to a safe and secure future. For the purpose of this paper, the linkage between good governance and child trafficking modelled out in the form of Table 1.

The linkage between good governance and child trafficking must be dealt with the use of two approaches such as need based and rights based approach. Under A need-based approach involves a comprehensive evaluation of the holistic needs

**Table 1:** Approaches to Linkage between Good Governance (GG) and Child Trafficking

Indicators of (GG)	Needs based Approach	Right based Approach
What	Recognizes the need and moral responsibility to promote social welfare and to do away with undue victimizations	All individuals have valid legal and moral claims to their human rights
Why	Meeting needs to combat	Realizing rights to safeguard
How	Focus on input and outcome to prevent and Focus on manifestations and immediate causes	Focus on process and outcome to promote and Focus on structural causes as well as manifestations
For whom	Victims compensation and rehabilitation	Right-holders to be treated with dignity
Who	Government, Development agencies, development organizations, social service providers	Duty-bearers- Rule of law, Equity and Inclusiveness, Transparency, Accountability and Responsiveness

of the vulnerable children and their families, the identifications of their plights and priorities and the cooperation of appropriate supports through an efficient use of resources. The needs of the children are not the same as those of adults. Childcare practitioners, enforcement agencies, researchers and policy makers should be ready for debates arising from diverse views on the best way to offer protection to children arising from equally diverse participants. The discourse on the protection of children also uncovers the voices of both proponents and opponents that show the evident power relations existing in society that reinforce the marginalisation of children and worsen their exploitation by the same people who see them as helpless and in need of protection. The intention should not simply be about rescuing children and uniting them with their families, because anti-trafficking interventions are based on rescue as well as reintegration. Policies should be flexible enough to understand if children need to go home or need a different environment, where they can have access to education, food and shelter; and such discussions should be made in consultation with their family members. Moreover, different outlooks to childhood have to be taken into consideration.

Human rights-based approach is a conceptual framework for the process of human development that is normatively based on international human rights standards and operationally directed to promoting and protecting human rights. It seeks

to analyze inequalities, which lie at the heart of development problems and redress dehumanising practices and wilful violations of human rights that impede the dignity of the trafficked. Therefore, in the quench for good governance in which human rights protection stands as one of the components needs to be attained particularly with respect to child rights.

Every prognosis follows a diagnosis. Good governance as a policy strategy needs to capture the nature and nuances of the issue before addressing it. Hence is the requirement of understanding the 'What' indicator. Children are the most vulnerable (the employers prefer hiring them because they cost less, are easier to cheat, exploit and intimidate, hard-working (Nair and Sen, 2004; Mohanty, 2017:281). The trade is secretive the vulnerable are victimised, the victims are silenced against their dignity and human rights and the traffickers use multiple strategies putting dust on the eyes of the enforcement instrumentalities which leave a question mark on the policy governance in particular and the moral responsibility of the society as whole.

The 'Why' aspect of good governance indicates an explanation of the proper implementation of designed policies and laws towards desired end. The apathy of government, the weak enforcement mechanism and rampant corruption on the part of enforcement agencies resulted in the continuous existence of child trafficking in India. It further

indicates there a huge gap between the cup and the lip (that the government and enforcement agencies are nowhere in tune with the concept of good governance). Thus, the continuous existence of child trafficking in India poses threat to good governance and darkens the dream of attainment of good governance towards not only meeting needs to combat but also realizing rights of the victim children to be safeguarded.

'How' aspect of good governance relate to the procedural and process dimension of effective victim protection. The effective victim protection efforts include the 3 R's Rescue, Rehabilitation and Reintegration. Prioritizing the rights and needs of victims provides a roadmap that goes beyond the initial rescue, restores survivors' dignity, and provides an opportunity for productive lives. There is a need to build the capacity of governments and NGOs to enhance victim protection in scores of countries worldwide. Rehabilitation efforts help provide emergency assistance and services; effective placement in stable, long-term situations; and access to educational, vocational and economic opportunities for survivors of modern slavery. Reintegration efforts include voluntary repatriation for trafficking victims and assistance at the appropriate level.

Policies and programmes are meant for those who need them. So targeting the victim and addressing their needs are acknowledged as true indicators of good governance. 'For whom' aspect relates to this very principle. Organization of trafficking jeopardize the interests and the rights of the people who become "highly profitable, low risk, expendable, reusable and resalable commodities (Richard, 1999) (Mohanty 2017:279). Addressing the needs and the rights of the child trafficking victims in the process of prevention, protection, prosecution and partnership (4 P's) may go on to indicate the due process of good governance. Prevention is better than cure. The preventive mechanism needs to be tightened and the law enforcement agencies must be proactive keeping their needs and rights in view as far as the child trafficking is concerned. The victims need to be handled with care and compensatory mechanism has to be simple. The

law enforcement agencies should take concrete action to penalize the culprits of child trafficking rather than aiding them. They should bring matter to the prosecution authorities and provide necessary evidences and claims so that the culprits pay for their crimes. Partnership with civil society groups, experts and activists has to be utilized so has to achieve the aim of elimination of child trafficking.

The government, public authorities, law enforcement agencies, civil society groups, activists and other development agencies qualify the 'Who' aspect as the important stakeholders in carrying forward their responsibilities towards the implementation of 4 P's instrumentalities. Hence, these agencies who are entrusted to maintain rule of law, equity and inclusiveness, transparency, accountability and responsiveness are hope against the hope. The trends such as networking (may involve police, local officials, railway/bus operators and employees, taxi/auto-rickshaw drivers or rickshaw pullers), insufficient reporting, poor enforcement, loopholes in judiciary, corruption and complacency, failure of governments to implement policies and provide adequate services for victims, play a role in perpetuating trafficking. Further people who protest trafficking in all its forms are not many. Response-response to human trafficking is one such area, which is much critiqued in literature. The three P paradigm- prevention, protection and prosecution continue to serve as the fundamental framework used by the governments around the world to combat human trafficking.

## Overview

Looking back to what is interrogated in the beginning, child trafficking being one of the social evils in India and stands as one of the huge challenges in obtaining good governance. Due to this menace rights of millions of children are at stake and they are exposed to severe violence, exploitation and even loss of their future or lives. Protection and safeguarding the rights and needs of the children has to be the prime areas of state affairs. Since the problem is not yet eliminated, the government and public authorities are questioned,

civil societies break their head and the academia is terrified. Therefore, the existence child trafficking is considered as the result of lack of good governance. Our intension in this paper has been to reconstruct 'what', 'why', 'how', 'who' and 'for whom' aspects of the trafficking menace.

Government, public authorities/civil servants and the police officers play an important role in the administration of 4 P's instrumentalities. The child trafficking in India is secretive. The stake holders are not proactive in their fight against child trafficking. The rampant corruption, involvement of enforcement officers in networking process of child trafficking, lack of reporting and improper rehabilitation facilities are lacunas of the enforcing agencies, so are they blamed.

Although the government has made concerted efforts to address this problem through introducing numerous legislations the source of the problem remains intact. (Preventive measure goes futile). The major solution is proper implementation of existing comprehensive administrative measures and initiatives and enforcement laws as sign of good governance mechanism. Apathy of government, the weak enforcement mechanism and rampant corruption on the part of enforcement agencies resulted in the continuous existence of child trafficking in India. It further indicates that there is a huge gap between the cup and the lip (that the government and enforcement agencies are nowhere in tune with the concept of good governance). Thus, the continuous existence of child trafficking in India poses threat to good governance and darkens the dream of attainment of the same.

In addition, sensitization of dark side of the issue of child trafficking among the children, parents and the members of the communities is essential. It is, nonetheless necessary to maintain village or local level data bank on movement of children. Government anti-trafficking programmes must include anti-corruption components as well as raise awareness about the broader development and poverty concerns that make victims vulnerable to recruiters. Solutions will only be effective when governments show political will and leadership

to end trafficking. They must develop measures that break the corruption that holds together the networks involved, from recruiters and middlemen, to police and high-level officials. Finally, the possible solution to end child trafficking is prevention (in terms of a reduction in the number of traffickers), protection (victim assistance in terms of rescue, care and support), prosecution (punishment or trial of the traffickers) and partnership (whole hearted involvement of all stakeholders) so that the dreams of good governance can be met.

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