

ALL RIGHTS

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Scourge of Child trafficking



‘जेपी’ का
जाल-2

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विश्वरूपम बवालिया
नहीं सवालिया
फ़िल्म है!

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Accounting
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Scourge of Child trafficking

by Subodh Kumar

That afternoon things turned murkier for Saddam. He and his two-year-old sister were playing in an auto rickshaw parked near their home, suddenly a man who Saddam remembers, as “tall, short haired with a limp in his right leg” appeared on

the driver’s seat and started maneuvering the auto-rickshaw through the pathways. “At a speed breaker when the vehicle slowed down, the boy, then four years old jumped out. Watching the vehicle going afar, desperately, he shouted. “Please someone

Child :Anisha

Parents: Fatima

Missing Since: 1990

Adopted in: 1991

Country: Germany

Agency: International Social Service (ISS)- German Branch

Indian Agency- Tender Loving Care

Fatima had been divorced from her husband when she was pregnant. Working in a household as a domestic maid she was taken to delivery to St. Theresa’s Tender Loving Care Home, an adoption agency in Hyderabad, Andhra Pradesh. After delivery, the agency demanded Rs 10,000 for the same. Fatima could only pay Rs 1,500, she was allowed to take her baby to home, but only under circumstances that she would have to pay the remaining amount later. After few days, the agency reached Fatima’s house and forcibly took the baby away from her. Repeated attempts by Fatima to reclaim her baby failed and she was threatened with police action. Anisha has since met Fatima twice. But Fatima continues to miss her daughter every day. Fatima is not one alone who is deprived of her parents’ rights.

save my sister.”

Since then Jabeen has never returned. That was November 1998 and the place was Washermanpet in north Chennai.

Jabeen was one of the 100 children Malaysian Social Service (MSS) had given up for adoption overseas. There are number of the participating adoption agencies have been in the news for inter-country adoption rackets and have done nothing to assist families whose children were fraudulently or forcefully taken away and put into inter-country adoption, giving them a new name, fabricated history and an obviously uncertain future for them.

Holding a international conference on adoption on February 19 and 20 in the capital child rights activists pitched impassioned plea and demanded that international adoption should be banned from India till comprehensive laws are put in place to prevent ‘trafficking’ of children in the name of adoption.

The event was organised by the Indian Central Adoption Resource Authority (CARA) and other government officials and adoption agencies like ACT (Against Child Trafficking Org.), Sakhi and HAQ (Center for Child Rights) in an attempt to promote India’s mutual cooperation on inter-country adoption, to discuss issues and challenges and to demand urgent government intervention in the matter.

Child Trafficking a Key Concern

The stories of trafficking of children for and through adoption are not unknown. But the woes remain the same and now new negotiations are taking place in the business of adoption at the international meets. CARA claims better regulation of inter-country adoption through the new



Child: Satish

Parents: Kathirvel and Nagarani

Missing Since: 1999

Adopted in: 2000

Country: Netherland

Agency: Meiling

Indian Agency: Malaysian Social Service (MSS)

It was 3’O clock in the night, no electricity in the house, when she woke up to feed her child (Satish) who was sleeping outside the house, there was no one, her son went missing.

In May 2007, a Dutch TV programme showed an extensive documentary about the case of Satish and other possible stolen children who have been sent to Netherland. Subsequently, the Dutch Minister of Justice ordered a three tier administrative inquiry. The parents personally lodged a police complain in the Netherland and the India but till date they have never seen their son, not received any information about him.

While telling the tale of her missing child Nagarani’s eyes burst into tears as she says her only desire to see her son and she has came here only to seek justice with great hope in her heart.

2011 adoption guidelines but hold back information on number of children adoption through the new 2011 adoption and number of Indian parents waiting to adopt. It treats NRI adoptions as domestic adoptions, but gets the NRI adoptive parents to pay the

same fee as that charged from foreign adoptive parents. Voices raised against the existing system are met with legal cases filed against the adoption those who raise them.

And amidst all these parents, who have been craving to meet their missing children, subsequently located in different parts of the world with their adoptive parents, have met with no justice whatsoever. In nation like India where government's perception is "one is not poor if he/she earns Rs 32 a day" not all can afford litigation and not all can have the means to fight for justice.

Responding to queries in Raja Sabha, then Minister of State for Home Affairs, Jitendra Singh had said that as many as 5,000 children were reported missing in 2011.

It makes clear that, a child goes missing every eight minutes in India. Between 2010 and 2011, the number of cases of kidnapping and abduction went up by 43 percent, as per a report prepared by the Ministry of Statistics and Programme Implementation.

More than 3700 children went missing from Delhi in the last five years and are still untraceable, according to a status report filed by the Delhi government in Supreme Court

during the hearing of a PIL.

"As these cases show, many such kidnapped and missing children are victims of gangs which place children in overseas adoption with the help of adoption agencies," said Anjali Pawar of Sakhi, a Pune based NGO, referring to the families who had come to the national capital to protest inter-country adoptions.

In 1984 the supreme court of India ruled clearly in favour of domestic adoptions over inter-country adoptions. The Supreme Court also looked at the issue of child trafficking that could pave the ways for regulation on adoptions in a manner that would prevent illegalities and exploitations of children. However, the implementation of the judgment has failed to prevent child abduction for adoption, as adoption instead has become a booming industry.

Thousands of women and children are trafficked every day. Within the overall profile of trafficking in South Asia, India is a country of both transit and destination. There is a considerable degree of internal trafficking as well as some trafficking from India to Gulf States and to South East Asia. Sale of children and their movement across the state borders takes place within the country too.

Adoption and Child Trafficking

The biggest challenges are that most agencies across the world fail to make the connection between adoption and trafficking. Even agencies like UNICEF, at the global level, hesitate to link adoption with child trafficking; they are rather reluctant to use the word trafficking in the case of

adoption, though they do accept that children are bought and sold for the purpose of adoption.

Absence of a comprehensive, well-monitored programme enables hundreds of children to be given away in adoption in informal and perhaps illegal ways.

In India, while the discussions in the Lakshmi Kant Pandey case went into the issue of trafficking and how, in the name of adoption, there are possibilities of children being trafficked and how children are suffering, the Court revolved more around the procedural aspects and did not look at the question of establishing the rights of the children in the context of trafficking for adoption.

In the wake of this lack of awareness, there are cases where children have been stolen, grabbed by the adop-



tion mafias or just removed from the custody of their biological parents. Families register an FIR with the local police as a case of missing child. These FIRs get documented and become spume statistics somewhere. In few such cases, it has been later found that the children were placed in adoption to foreign through a legal process and they were living and growing abroad.

The children who lost their biological parents and are now with adoptive parents remain undetermined, and there is the question of the rights of adoptive parents who adopted through a legal process to continue to have their children.

The common mind-set with which inter-country adoptions are promoted needs to be questioned. There also needs to be a new law on trafficking that covers all forms and purposes of child trafficking.

Argument in support of Inter-country adoption

- Inter-country adoption can help provide a better life to children. It is seen as taking children out of hell and into heaven. Those who contend this are seen as people against children and child rights.

- In India, there are no takers for certain children, even if they are for example, children with minor correctable disability. Therefore some children will never find Indian parents and will have to be given to foreign parents, who do come forward to adopt them.

- There are hardly any numbers being placed in inter-country adoptions. In 2009, only 666 children were given in inter-country adoption as opposed to 1,852 placed in domestic adoption. The children who are going into inter-country adoptions are who have repeatedly not been accepted by

Cases of Kidnapping and Abduction of Children (below 18 years) that qualify as cases of Trafficking

YEAR	2003	2004	2005	2006	2007	2008
Various Purposes of kidnapping/abduction/trafficking	Out of 2265 cases of kidnapping and abduction that qualify as trafficking	Out of 2265 cases of kidnapping and abduction that qualify as trafficking	Out of 2445 cases of kidnapping and abduction that qualify as trafficking	Out of 3549 cases of kidnapping and abduction that qualify as trafficking	Out of 4183 cases of kidnapping and abduction that qualify as trafficking	Out of 5193 cases of kidnapping And abduction that qualify as trafficking
Adoption	21	15	41	23	36	34
Begging	6	20	19	24	13	17
Camel Racing	0	0	0	0	0	0
Illicit Intercourse	383	414	501	676	649	825
Marriage	1369	1593	1693	2621	3224	4003
Prostitution	58	101	117	148	130	130
Selling body Parts	0	1	3	1	0	0
Unlawful activity	109	92	58	30	84	138
Slavery	6	16	4	15	35	32
Sale	13	13	9	11	12	14

Source : Crime in India 2003-2005, National Crime Records Bureau, Ministry of Home Affairs, and Government of India

Indian families.

Against Inter-country adoption

Those oppose inter-country adoption and favour in-country adoptions argue that the first choice for homes must be within the country, in a social milieu that they can identify with as they grow up; several other factors also come into play.

"We don not have a law on adoption and guidelines can not be a law," said Bharti Ali of HAQ.

"The government and the societies should first look for the inter-state adoption in 80 per cent cases and inter-country adoption should be the last choice," Bharti had emphasized.

- How can the government allow inter-country adoption, when there are many Indian parents in waiting?

- Why there is poor linkage among the different states or

simply not allowed when it comes to in-country adoptions, to the contrary there is a well established inter-country adoption system. This reflects on the lack of a political will to promote domestic adoptions.

- Inter-country adoptions only promote illegal sourcing of children.

Dishonest and illegal Practices continue

There can be no denial of the fact that illegal practices are going on in the name of adoption across the States. Prosecution of offenders in cases involving adoption and child trafficking is far more difficult in the absence of a comprehensive law. The existing legal framework and various dichotomies within that framework have only led to further vulnerability of the child is the way to check trafficking. Improper paper work and corruption make things worse. Making the implementing

agencies transparent and accountable is therefore critical.

The root of the problem lies in illegal sourcing of children

- The most common form of illegal sourcing thrives on exploiting the most vulnerable population of India- the poor.

- Recent fact-finding has brought to light the big competition among agencies to get babies from the government under the cradle baby scheme. Investigations have shown evidence of mothers being coerced, tricked or surrender documents simply forged in order for brokers to acquire the babies through what appears to be a willing surrender. Currently there are no DNA (Dioxiribo Nucleic Acid) testing requirements in place.

-In Orissa, a study has been done on informal trafficking i.e. trafficking from hospitals/nursing homes. This study established that the hospitals have a whole list of contact persons to whom they hand over abandoned children. Out of the children abandoned in the hospitals, only 10 per cent are coming to the recognized childcare institutions whereas 90 per cent of them go the non-recognised agencies. Hospitals definitely need to be mentioned.

-Also, all hospitals need to ensure 100 per cent birth registration.

-Only 20 per cent of our districts have a (Child Welfare Committee) CWC, lack of CWCs in many of the districts also leads to child trafficking through not only the non-licensed news agencies but licensed agencies and many of the hospitals and/or childcare centers as well.

A 70-year-old Kisabai Lokhande of Pune, in her voice wobbled with emotions recalls, "I had placed my two grandchildren Ashwini and Komal



in a boarding school in the Observation Home in Satara. Without my consent they (Observation Home) transferred both to Preet Mandir, an orphanage cum adoption agency in Pune."

Since Kisabai has not heard from her grandchildren as she came to know that they were given to adoptive parents in Spain, through the mediation of a Spanish adoption agency. The adoptive family denies all contact.

"I want to see my grandchildren before my last breath," she choked up while describing her last wish.

Trafficking in Human Beings and World Scenario

According to INTERPOL (World's largest International Police Organisation) trafficking in human beings is a crime under international law and many national and regional legal systems. Given the complexities of the issue, a multitude of strategies are necessary

at a range of levels in order to reduce the problem.

Trafficking in human beings is a multi-billion-dollar form of international organized crime, constituting modern-day slavery.

Victims are recruited and trafficked between countries and regions using deception or coercion. They are stripped of their autonomy, freedom of movement and choice, and face various forms of physical and mental abuse.

There are three main types of human trafficking:

- Trafficking for forced labour;
- Trafficking for sexual exploitation;
- Trafficking of organs.

Closely connected is the issue of people smuggling in which smugglers procure, for financial or material gain, the illegal entry of an individual into a country of which he is neither a citizen nor a permanent resident. Generally speaking, once payment is completed, the relationship between the illegal immigrant and the smuggler is terminated.

Child Protection

All children have the right to be protected wherever they are — at home, in school, on the streets, and at all times — in times of peace or conflict or calamity. Their right to protection is as intrinsic to their well being, as is the right to survival, development and participation. Children deserve to live in an environment where good governance and the full enjoyment of human rights are mutually reinforcing.

In its simplest form, child protection addresses every child's right not to be subjected to harm. It thus complements other provisions that ensure that children receive all that they need in order to survive, develop and thrive. It must relate to the child's capacity for



self-reliance and self-defence and to the roles and responsibilities of family, community, society and State.

Children are 'un-protected' and vulnerable due to both acts of omissions (neglect and denial of basic rights) and commission (acts of violence, abuse and exploitation).

ALARMING STATISTICS

- In 2008, 5193 cases of kidnapping of minors amounting to child trafficking were registered
- Between 2003 and 2008, kidnapping of minors amounting to child trafficking increased by 164 %.
- 3/4th of all incidents of kidnapping of minors amounting to child trafficking in 2008 related to kidnapping for marriage.
- Kidnapping of children for unlawful activities saw a 64.3% increase between 2007 and 2008.
- In 2008, there was a 30.8% increase in kidnapping of children for begging while kidnapping for sale of children

Arund Dohle of Against Child Trafficking (ACT), Netherlands and Brussels based organisation, which claims to have reunited 20 plus adopted kids to their biological families, says, "In the discourse on foreign adoption, we have forgotten Jabeen and similar other cases."

Dohle adds that in cases where adopted children were able to trace their parents of birth, the damage done was irreparable. "By that time, they are grown up adults. They don't speak Hindi and are not accustomed to the Indian culture."

There is no law governing adoptions in India. There are only CARA guideline based on child protection principles and provisions mandated in Juvenile Justice (care & protection of children) Act.

CARA guidelines say that adoption agencies have to follow 80-20 ratio between domestic and foreign adoptions, failing which they can lose their licenses.

The guidelines say that while sending children for inter-country adoptions, agencies should give priority to Indian nationals, Indian nationals living abroad (NRI), Overseas Citizen of...India card holders, and foreign nationals, in that order.

Between 2009 and March 2012, more than 13000 children were placed in domestic adoption against 1848 inter-country adoptions, as per CARA data.

For every adoption, domestic or inter-country, Child Welfare Committee (CWC), a quasi-judicial body formed under the Juvenile Justice Act- has to declare a child legally free for adoption.

But in many cases, says Enakshi Ganguly of HAQ- Centre for Child Rights, a Delhi based NGO, the committee's role has been unsatisfactory. "Gangs involved in adoption mislead the committee," she says.

In international law, trafficking was first defined by the 2000 UN Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, (known as the "Palermo protocol"). This does not restrict trafficking to cases of force or deception but also inculcates "the abuse of power or of a position of vulnerability." Thus, consent can never constitute a defence to a charge of trafficking. Deception or lack of consent may not be present at all stages. Making stringent laws alone will not take the society to a pedestal better than the one we find it at now. It is in recognition of this fact that the nation has to write separate chapter that can deal with the proposition of bringing about police reforms. Such reforms are necessary not only to curb gender based violence but also to deliver justice effectively.

Rather than treating child trafficking as an isolated issue, the government of India should respond by creating comprehensive and integrated child protection mechanisms. Trafficking is hard to define simply. The stereotypical image is of young women or girls sold into sexual slavery, but the reality is more complex. Not to put too fine a point on it, child trafficking is serious threat to the society and there is need to unveil the reality. ■

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