

Child sex tourism: Expanding the scope of sexual offender legislation

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ABSTRACT: Countries adopt several strategies to attract tourists in a fiercely competitive tourism market. Many travelers prefer visiting nations that offer child sexual services and have weaker legal enforcement mechanisms. This demand for children has exposed children to several risks and made them vulnerable to offences like sale of children, kidnapping, trafficking, sexual exploitation, and pornography. Some countries have legislations that make it a criminal offense to abuse children in other countries. In India, any sexual activity with a child below eighteen years of age is a punishable offense. Indian law also prohibits the buying and selling of children. To combat this type of crime, governments must collaborate with the tourism industry. This research focuses on the legal regime to punish offenders in India.

Keywords: child sex tourism, trafficking, child sexual exploitation.

I. Introduction

International tourism has grown rapidly in recent decades.¹ A number of new destinations have emerged, resulting in increased demand for travel-related services.² There are two academic discourses on tourism. The first one is about sustainable tourism, while the second is regarding responsible tourism. Tourism industry has been accused of not following sustainable principles in tourism.³ The term 'sustainable tourism' includes economic, environmental, social responsibility of tourism as well as its responsibility towards tourists' global justice and equity.⁴ Sustainable tourism calls for better environmental preservation. Responsible tourism argues for more accountability in travel and tourist behavior on the physical environment, as well as on human beings.⁵ The tourism business is constantly trying to provide the necessary amenities and make the tourists feel comfortable and enjoy the holiday.⁶ New tour operators, guides, agencies, and even new passengers enter a foreign destination. The increasing number of tourists has led to an unregulated tourism sector in Southeast Asia, providing the perfect environment for the commission of sex crimes.⁷ These social factors have led to increase in crime rate specially the crime of child sexual exploitation.⁸

Data obtained from Ministry of tourism in India revealed 18.89 million International Tourist arrived in India in the year 2023.⁹ The Indian government is also promoting village level tourism. Tourists are encouraged to stay in rural areas and experience village life. The goal is to showcase the culture, heritage, and art of rural areas, and to support sustainable tourism.¹⁰ Most families look at this as a unique opportunity to earn an income they open the doors to the tourists by way of providing them accommodation, rooms, restaurants or other services. Children within such households come in contact with strangers through a family member.¹¹ Both domestic and foreign tourists may be involved in child sex offenses.¹² Children may resort to providing sexual services to tourists to survive financially.¹³ Every country has child sex tourism

hotspots, which are known to residents as well as tourists. India has become a hotspot of child sex tourism. Sex tourism is the complicated nexus of prostitution and tourism.¹⁴

- Methodology

This study helps to identify how tourism forms the catalyst for child trafficking and exploitation. The increase in the number of tourists visiting a country could lead to a surge in sex trafficking and thus increasing child exploitation cases. The researchers have studied published data associated of child sexual exploitation and reviewed this data to identify threats that could harm children. The study aims to help law enforcement officials to curb this crime by effectively enforcing the laws.

II. DEFINING SEX TOURISM AND CHILD SEX TOURISM

Sex tourism is the unfortunate reality of the tourism industry. There have been global efforts in different countries to renounce sex tourism.¹⁵ The growth of the travel and tourist industry has resulted in an increase in both sex tourism and commercial sexual exploitation of children in tourism.¹⁶ In 1995, the United Nations World Tourism Organization (UNWTO) General Assembly published the WTO Statement on the Prevention of Organized Sex Tourism. Sex tourism was defined as “trips organized from within the tourism sector, or from outside this sector but using its structure and networks, with the primary purpose of effecting a commercial sexual relationship by the tourist with residents at the destination”¹⁷ This definition given by UNWTO has faced severe criticism from scholars as it focuses only on tourists who might travel for sex.¹⁸ This definition has also missed out the situational tourist who have benefited from a situation.

The sex tourism industry could also include creation of nude videos and have performances of children dancing, where the tourists have no direct contact with the victim. These offences could include only voyeuristic acts. The second set of tourists are those who wish sexual gratification and those who are willing to pay for sexual services. To fulfill this, demand the victims operate from dance bars, clubs, fantasy entertainment clubs, resorts and maybe even brothels. The nature of sex tourism requires an investigation of the relationship between the body, sex, and self-identity, as well as the liminal character of holiday experiences, destinations, and the tourist role.¹⁹ There are many similarities between tourism and prostitution. Sex tourism can be defined as “tourism which has its primary purpose the effecting of a commercial sexual relationship.” Many countries, such as Netherlands, Finland and Spain, have legalized prostitution. India has laws to punish prostitution related activities.²⁰

Child sex tourism is a tiny subset of the bigger industry of sex tourism. Child Sexual Tourism (CST) is the sexual exploitation of children by one or more individuals who leave their home country, district, or geographic area to engage in sexual activity with minors. ECPAT International has developed this definition on child sex tourism. This definition has been adopted by UNODC.

A child is defined as a person below eighteen years of age.²¹ India is a signatory to the United Nations convention On Rights of a Child (UNCRC) and adopts the same definition as UNCRC in all its protective legislations for children.²² The Indian Law criminalizes the act of procuring a child for providing any kind of sexual service.²³ The law prohibits hiring, employing or using a child to create pornography or using a child for sexual gratification.²⁴

There are three kinds of tourists. The term “situational child sex tourists” refers to tourists who perpetrate sexual crimes against minors whenever vulnerable children are available. These individuals do not travel specifically for sexual relationships with children. These tourists may seek sexual exploitation by paying for sex with prostitutes, knowing fully well that sex with a child is a criminal offence.²⁵ The preferential child sex tourists, known as “paedophiles,” seek sexual exploitation with children. There is still the third kind of tourists who sexually coerce and get in contact with children to abuse and extort pornographic content from them for financial gain.

Tourists travel from one country to another. In a foreign land, they are strangers. This anonymity, their need for thrills and pleasure, and the unemployment and poverty of the local population all contribute to the rise in commercial sexual exploitation of children in tourist destinations.²⁶ India woke up to the problem of child sex tourism with the Freedy Peats case.²⁷ Peats a foreigner had started an orphanage in the village of Calangute in Goa and was sexually exploiting boys. After arresting Peats, the state realized there was no law to punish and prosecute Peats. The state of Goa responded by passing the Goa Children’s Act, 2003. This law

defines the offence of commercial sexual exploitation of children as “all forms of sexual exploitation of a child including visual depiction of a child engaged in explicit sexual conduct, real or stimulated, or the lewd exhibition of the genitals intended for sexual gratification of the user, done with a commercial purpose, whether for money or kind. It includes implying, allowing, using, inducing or coercing any child to engage in sexual conduct, it also includes the use of the child in assisting with other persons to engage in explicit sex.²⁸” This law also imposes a need for any stranger who travels with a child, who must register such a child with the Director of women and child in the state of Goa. Sadly, this legislation applies only to the state of Goa.

III. CHILDREN IN TOURISM

Children are important stakeholders and residents of tourism destinations. Child-sex tourism abusers view children as commodities, including their bodies. In this market, human beings have no worth. The younger the victim, the higher the demand and more is the money that is made.²⁹ There is no regard for child rights. Most trafficked victims are women and children; one-third of trafficked children are below the age of 18.³⁰ Tourists have exploited both male and female children.³¹

There are several social factors responsible for this crime, the increasing influx of tourists, the cheap availability of accommodation and transport, has facilitated child sexual exploitation.³² Needs for social companionship, dream fulfillment, family bonding, the desire to try something new, and opportunities for relaxation make tourist seek the company of children. Children are driven into prostitution or forced into it against their will, both legally and unlawfully.³³

Sex tourism is widely acknowledged to be a significant factor in forced prostitution, human trafficking, and child prostitution. In certain places, children are taken from low-income households. However, some local communities and local authorities show a special tolerance for it because of the substantial economic benefits that the presence of visitors/tourists brings to the area. This could lead to a number of additional crimes, including drug trafficking, vandalism, and intoxication.³⁴ Once the children are in custody of the exploiter their movement may be restricted. Many exploiters confiscate the documents of the children to prevent them from escape. They are given very little money and food. They are abused, bruised, blackmailed, and even killed. These little children may have to provide sexual services to the clients for upto 48 hours.³⁵ Many of the young victims are severely raped and occasionally sodomized, hence they are prone to all kinds of venereal illnesses. Some may be locked up in rooms or even in closets.

The United Nations and various regional organizations have sought to eradicate sex trafficking through enactments such as Council of Europe Convention on Action against Trafficking in Human Beings; and the ASEAN Convention against Trafficking in Persons, Especially Women and Children (ACTIP). Child sex tourism has been strongly denounced by the UN. The UN has also voiced worry that children's rights are in grave danger due to the deterioration of international safeguards.

1. CHILDREN ON THE STREETS

The victims are usually children who run away from home and are not able to find their way back home. These children are referred to as missing children. Such children usually live on the streets and might be easy targets of sexual abuse. The Ministry of Home Affairs, Government of India defines a missing child as “a person below 18 years of age whose whereabouts are not known to the parents, legal guardians or any other person who may be legally entrusted with the custody of knowing the whereabouts/well-being of the child whatever may be the circumstances/causes of disappearance. The child will be considered missing and in need of care and protection, until located and/or his/her safety/well-being is established.³⁶” The Juvenile Justice Care and Protection of Children Act, 2015 also defines all those children who are in need of care and protection. ³⁷ These categories of children like orphans, disabled children, children used for child labour, those who have become victims of crime, those children who are abandoned or surrendered by their parents could become potential victims.

2. CHILDREN IN ORPHANAGES

“Orphanage tourism” refers to tourists visiting and socializing with children under institutional care as part of a vacation or tourist experience. This may provide funding to the orphanage and tourists may volunteer at the orphanage. This type of tourism has grown in popularity as the United Nations appoints international celebrities as ambassadors, and they visit orphanages to hug and sponsor youngsters in the hopes of providing them with a brighter future. Orphanage tourism could include performances by children, using children to create pornographic content. The tourists usually come on the pretext of providing donations, goods, or on short-term volunteering and watching shows performed by the children

The concept of “orphanage tourism” was first documented in academic research in 2010 by Richter and Norman who described the advent of AIDS orphan tourism in South Africa as where “individuals travel to residential care facilities, volunteering for generally short periods of time as caregivers.”³⁸ This kind of tourism is also referred to as orphan volunteerism³⁹, orphan volunteer tourism,⁴⁰ orphanage voluntourism or hug-an-orphan vacations.⁴¹ Voluntourism involves tourists paying to volunteer in projects or take part in activities involving children. These travel-related activities ought to benefit the host locations.⁴²

Research in recent years has shown the lack of support offered by volunteer tourism and, in certain situations, it has caused harm and even exploited the children.⁴³ The 2016 Report of the Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography to the Human Rights Council highlighted evidence of orphanage operators using intermediaries to lure children into orphanages to meet the demand for orphanage volunteering. These children are kept in poor conditions.⁴⁴ Despite its popularity among tourists and volunteers, orphanage tourism has received increased scrutiny and criticism for its effects on child rights and development, as well as its role in driving unnecessary institutionalization of children, leading to child trafficking, and exploitation in residential care settings.⁴⁵

India has around 3,010 institutional care homes which includes orphanages. Over 60,000 children are living in institutional ca Child Care Institutions (CCIs).⁴⁶ Of these, 91% are non-governmental organizations, which means that only 9% receive government funding. There have been reports of child sexual abuse at government and non-governmental organization-run orphanages in Mahabalipuram, Tamil Nadu. Children were being used for sexual services for both Indian and foreign visitors, and the numbers of children whose sexual services were being obtained were decided over the phone or during an in-person meeting at the orphanage.⁴⁷ This kind of practice offers visitors the chance to teach English, care for children in orphanages, visit an orphanage for the day, and see a cultural performance by orphanage children, all in the guise of obtaining sexual services from children. The visitors must pay to enter the orphanage and engage with children.⁴⁸

On 5 May 2017, the Supreme Court of India issued significant directives to **governments in India** in the case of *Re: Exploitation of Children in Orphanages in the State of Tamil Nadu v. Union of India & Ors.*⁴⁹ This case took almost a decade to be decided. It was found that foreign and Indian tourists were receiving sexual services from children. There was sexual abuse of girls in these orphanages. The Court observed that the Juvenile Justice (Care and Protection of Children) Act, 2015 required that child care institutions must be registered with the Government of India. The court ordered that these institutions must be regularly inspected and supervised. The court found that there were many child care institutions which had not been registered. The court issued directions for registration of child care institutions.

The recruitment or transfer of children from their families into residential care with the intention of exploiting and profiting them is known as orphanage trafficking, which is a type of child trafficking. Orphanages are emerging as a venue for sexual exploitation.⁵⁰ There are even links between orphanage tourism and child trafficking.⁵¹

3. ADOPTION OF CHILDREN

Adoption is a legal method which could lead to child sexual exploitation. The Indian law JJ Act encourages orphanages to give a child in adoption. It is permissible to give a child in adoption to Indian as well as foreigners. Tourists often visit child care institutions to pick a child for adoption. The table below indicates the number of children who are given in adoption. These huge number of children in child care institutions is a concern for India.

Table 1. Indicates the number of children given in adoption.

Year	In country Adoption	Inter country Adoption
2023- 2024	2560	449
2022- 2023	3010	431
2021- 2022	2991	414
2020-2021	3142	417
2019-2020	3351	394
2018-2019	3374	653
2017-2018	3276	651
2016-2017	3210	578
2015- 2016	3011	666

Source – Central Adoption Resource Agency, Government of India.

Children in orphanages have been sexually abused, exploited, sold for sexual services. In the state of West Bengal, the National Commission for Protection of Child Rights found that children were given for adoption in gross violation of the law. The Supreme Court of India was very concerned and recommended that it was necessary to have a comprehensive review of the operation of orphanages throughout the country, the mode and method of adoption, and the treatment and care which was given to children.⁵²

4. CHILDREN EASILY ACCESSIBLE

Tourist who are on the lookout for sexual services from children often search the Internet and gather data regarding child sex tourism locations in foreign locations. This same person then makes travel and lodging arrangements and travels to the foreign country to now commit the offense. Such an offense begins with the preparation stage when the accused starts his search. It may be possible that, in some cases, the accused might never reach that country to commit the offense. However, the ‘preparatory stage’ of the offense is never punished.

There is another category of persons who claim to be film and documentary producers. They come in search of children for creation of pornographic content, such as images, videos, etc. these tourists take nude pictures of children and make them perform sexual acts. They also traffic pornographic materials, and the development of internet technology has made their job easier. Child sexual exploiters create, gather, and distribute child pornography. A juvenile sexual predator takes pictures of his victim and shares them online. They pick children who have been previously exploited or have gone missing.⁵³

In India viewing child pornography is not an offense. But when tourists use their social media and email accounts to search, download, and send child pornographic content, it is a serious offense. A similar instance occurred in India when the accused posted child pornographic material on his Facebook page. ⁵⁴Even storing child pornographic videos on one’s own mobile phone is an offense.⁵⁵

IV. LEGAL SYSTEM TO PROTECT CHILDREN IN INDIA - PROSECUTING CHILD SEXUAL OFFENDERS

Tourism is a seasonal activity. Each season new people are recruited to cater to the hospitality industry. As a result, it is difficult to maintain accountability of those involved. Though it is easy for India to control offenses within its jurisdiction, it is extremely difficult to prosecute offenders who commit offenses outside its jurisdiction and return to their home country. Most countries look at this problem under penal offenses, child trafficking laws, and pornography. According to an ECPAT assessment from 2008, extraterritorial child sex tourism offenses were placed in the domestic laws in 44 countries.⁵⁶ India does not have specific legislation. However, the offenses being sexual in nature are punished under Bharatiya Nyaya Sanhita, 2023,

the Protection of Children from Sexual Offences (POCSO) Act, 2012, and the Juvenile Justice (Care and Protection of Children) Act, 2015 (JJ Act).

The offence of child sex tourism involves the sale of children. The Indian law prohibits sale of a child.⁵⁷ The offence of sale of children includes the transfer of a child from one person (e.g., a parent) or a group of people (e.g., a family) to another for monetary or other payment. It may involve moving a child to a different location. When selling a child, the primary consideration is “remuneration or any other factor,” which typically includes monetary compensation. The individual who transfers or receives the child may receive payment. Prosecuting perpetrators who get remuneration is challenging due to the difficulty in identifying the individual responsible. This is the biggest lapse in the criminal justice system.

Commercial sexual exploitation⁵⁸ of children refers to sexual abuse of children. The tourists give payment in cash, gifts, or food is made to the child or a third party. Children often rely on prostitution to sustain their families and struggle to break free. Therefore, many children fail to report this crime. The offence of “sex tourism” or “child sex tourism” is not defined in the Indian legal system. The Indian law only punishes those activities promoting or encouraging prostitution like e.g keeping a brothel and exploitation of the victim.⁵⁹

The Protection of Children from Sexual Offences Act, 2013 (POCSO), defines the term “sexual assault”. This includes all sorts of sexual assault and abuse. Penetrative sexual assault⁶⁰ include real or simulated sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, between children or adults, regardless of gender, masturbation, sadistic or masochistic abuse in a sexual context, bestiality, and lascivious exhibition of a child’s genitals or pubic area. In cases of child exploitation. In the Indian legal system, children are not capable of giving their consent. The legal age for sexual relationship is eighteen years. The table below shows the number of offences registered under the Protection of children from Sexual Offences Act, 2012.

Table 2. Number of POCSO Cases filed.

Year	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
POCSO Cases	34449	34505	36022	32608	39827	47335	47221	53874	38,444	29936

Source – National Crime Records Bureau of India.

Between 2014 and 2022, there was a 36% increase in POCSO instances reported across India. There is an increase in the number of child sexual offences cases field before the courts in India. Many of these cases are where the offender is not traceable. In some cases, the offender has come on a holiday from another state in India and some could even be foreigners.⁶¹

Most of these crimes are punishable offences under the head of sexual assault, aggravated sexual assault, penetrative sexual assault and aggravated penetrative sexual assault. The minimum punishment for sexual assault is three years while the maximum punishment if five years. The minimum sentence for penetrative sexual assault was doubled from seven to ten years in jail.⁶² A new distinction is formed based on age; if the assault is conducted against a minor under the age of 16, the minimum sentence is twenty (20) years.⁶³ The maximum punishment for both scenario is life imprisonment. The minimum sentence for aggravated penetrative sexual assault was increased to twenty (20) years and maximum penalty was set at death penalty.

The police have adopted a Standard Operating procedure to speed up investigations under the POCSO Act, 2012. In 2019, the Department of Justice, under the Ministry of Law and Justice, launched a government supported initiative to establish 1023 Fast Track Special Courts (FTSCs), including 389 exclusive POCSO Courts (e-POCSO). India has 700 Fast tract special courts. There are also 383 e-POCSO courts, as of December 2021.⁶⁴ These developments have not helped. A major area of concern with POCSO cases is slow disposal and abysmal conviction rate.⁶⁵ The table below compares all new POCSO cases sent for trial each year to the disposal rate and conviction rate.

Table 3. Number of POCSO cases acquitted and convicted.

Year	Cases Acquitted	Cases Convicted
2012	2949	1158
2013	3502	1611
2014	4005	1774
2015	4188	2273
2016	4757	1869
2017	3750	1795
2018	4743	2194
2019	6480	3446
2020	3521	2148
2021	6985	3295

Source – National Crime Records Bureau of India.

It appears that the number of new cases filed each year is very high. The courts have convicted only a few offenders. Many offenders have been acquitted. This shows the lacuna in the legal system to punish the offenders.

1. THE VICTIM

The Indian legal system defines the victim as “a person who has suffered any loss or injury caused by reason of the act or omission of the accused person and includes the guardian or legal heir of such victim.”⁶⁶ The first step is to take the victim for a medical examination. If the victim is a girl child, Indian law encourages a female doctor to perform the medical examination.⁶⁷ This is a great hurdle to the investigation when the victim is based overseas. Most of the time, the victims are taken for medical examination in their home country and then brought back to India and reexamined. This causes great stress to the victims. The Supreme Court of India stressed the need to ensure that medical medications do not traumatize the victims.⁶⁸ In most cases, the police do not have a copy of the medical report and are unable to proceed further with registering the crime.

Identification of victims and “presumed victims” is essential to ensure their safety and protect them through the prosecution proceedings. The process of conclusively identifying victims may take a long time due to the complexity of the crime.⁶⁹ Indian legal system does not define a presumed victim, nor does it have provisions to protect them. The POCSO Act states that it is the duty of a person to report an offense if he is aware of it happening. While saving the personal data of the victims, the police must ensure that the victims' confidentiality is retained. Very often, details of victims are leaked out to the media, causing them embarrassment and stigma. It increases the risk of victims to further victimization. Throughout the trial, the victim's right to privacy must be protected.

Establishing a victim's age in the court presents another significant evidentiary challenge. This issue is especially problematic when photos of the accused participating in sexual conduct are produced as proof. Many victims do not have accepted legal documents from the domestic country to prove their birth. In India, the victim's presence is required in the court. The court must record the child's statement to convict the accused. This is a major hurdle when the child is unable to travel to a foreign country to try the accused.

Many victims do not wish to report the crime as they fear that their personal data will be misused. Victims also fear they will have to bear the expenses of relocating if the prosecution proceedings are held in a foreign country. They do not repose trust in the foreign authorities and, as a result, refuse to cooperate.⁷⁰ The police need to work on encouraging child victims to facilitate the investigative process.

The police are permitted to record the statement through audio-visual means, thus eliminating the need for the victim to enter India to register the offense.⁷¹ Sexual offenses invite punishment for more than ten years, and a Magistrate can directly record such offenses.⁷² The option to file a Zero FIR has been made available. Now, any information that the police acquire that reveals an offense was committed beyond the jurisdiction of a police station must be recorded in the book that the officer is required to keep.⁷³ This is a beneficial system as far as child sex tourism is concerned. Similarly, the police can record the First

Information Report electronically (e-FIR). However, the need to physically obtain the informant's signature just before the trial commences might cause hurdles to the trial.⁷⁴

Within ninety days of the investigation's start, the police officer must update the victim or informant on its status. Technology has been recognized as a legitimate means of communication for informing the informant or victim of the stage of the investigation.⁷⁵ In most cases, due to a lack of evidence and witnesses, the police, after registering the offense, end up withdrawing the trial. The law mandates that the victim must be given a chance to be heard by the court before the prosecution is dropped.⁷⁶

Every effort must be made to prevent victimization of the victims and prevent them from being punished.⁷⁷ The victims need to be trained to provide relevant information to the police and cooperate with the criminal justice system.

2. THE OFFENDER

The availability of trustworthy witnesses is essential to ensure right to a fair trial⁷⁸. If witnessed are intimidated right to fair trial is compromised.⁷⁹ This is a crime that involves influential and powerful people. Criminal groups frequently use threats and blackmail to suppress witnesses. There may be significant difficulties in getting witnesses' and victims' testimonies. This is a hidden offense, and there might not be any witnesses available.

Witnesses must participate in the judicial process without feeling intimidated or under duress. Each state in India has a special witness protection scheme.⁸⁰ Witnesses are less inclined to come forward and give their testimony if they are afraid for their lives and the safety of their families. This created a vicious circle of impunity by impeding investigations and prosecutions as well as giving offenders more confidence to evade the law.

India is obligated to uphold the rights of witnesses as a signatory to numerous international human rights Conventions. This includes giving them a right to a safe environment and the right to take part in criminal procedures. India has also formulated the Witness Protection Scheme, 2018 to protect vulnerable witnesses. The biggest challenge remains to provide accommodation and protection to overseas witnesses.

3. THE ACCUSED

Offenders may be domestic tourists or foreigners. Canada became the first country to punish a foreign citizen who had sexually exploited a child. ⁸¹The court sentenced him to eleven years of imprisonment. India has no provision in its legal system to punish offenders who are foreigners and have returned back to their home country.

The offenders always come up with two standard defenses. Firstly, they genuinely had reasons to believe that the person with whom they engaged in sexual activity is an adult. This becomes a big hurdle for law enforcement officials as the offenders groom these children throughout the courting period before approaching the child. The other big challenge for law enforcement officials is that several of the offenses involve actions that may be completely benign and unconnected to child sex tourism.

4. THE COURTS

In India special courts have been set up under the POCSO Act to try offenses committed against children. India has set up a victim-centric system that must be followed during investigation and trial. The victim cannot be forced to repeatedly revisit the horrific event and relive the anguish under the pretense of an inquiry and trial, nor can there be secondary victimization. Those in charge of the situation and who initially interact with the victim should be sensitive enough to treat her with the respect she deserves.

The first issue with the sexual activity offense is that it might be challenging to define what constitutes "sexual" behavior. The Indian legal system has not defined the word 'sexual.' The expression "exploitation" is defined within the definition of the word "trafficking," which shall include any act of physical exploitation or any form of sexual exploitation, slavery, or practices like slavery, servitude, beggary, or forced removal of organs. However, this explanation does not cover the aspect of moving the child from one place to another. In India, it is a taboo to have sex before marriage. Each country might constitute different acts as offenses

based on their societal norms and beliefs. Therefore, the courts will be the final authority left to interpret whether the conduct of the offender was 'sexual' or not.

The age of consent in this context is the age at which a girl/boy is considered capable of providing consent to engage in sexual activity which is eighteen years. This 'age of consent' may also vary from country to country. While there are no restrictions on when someone can have sex, it is assumed that someone is having sex if they are with another person. The question is: What is the position of this other person who watches and hears another person having sex? Would he be an offender or a co-accused?

There is a need to define the term 'sexual activity.' Many like to watch the offense but do not partake in the offense. Many countries also have 'live sex shows' where live sex is performed, and tourists pay to watch such acts. It is imperative that the term 'engage in sexual activity' requires an appropriate definition. The Indian legal system punishes a person who watches a sexual act and later transmits it using an electronic device. However, merely watching pornography is not punished. Several offenses, like procuring and grooming, are not punished until the accused has made some contact with a child.

The Indian requirement of the courts is to seek and rely on evidence gathered overseas. Getting evidence from foreign land causes difficulties. The police from one country may be prohibited from collecting evidence in another country. Therefore, there is necessity of collaborating with foreign law enforcement agencies.

V. DETERRENCE TO CHILD SEX TOURISM – THE PREVENTIVE MODEL

One of humanity's greatest accomplishments is the discovery of culture as the compass of life. Therefore, success and peaceful living are closely linked to a society's culture, and as such, any behavior that deviates from it is typically strongly condemned. Some societies allow the sexual exploitation of children and women, and such practices must be eradicated.⁸² Erroneous ideas and harmful cultural practices, such as the superstitious idea that having sex with children can cure HIV/AIDS, must be eradicated to stop child sexual abuse in rural areas.⁸³

Even though social problems might occasionally be challenging to eradicate, their socio-economic and political effects can be reduced, particularly if the primary underlying reasons are addressed. All social factors leading to child sexual abuse and trafficking like poverty, family debt, lack of food and basic amenities, poor education facilities, health care services, lack of employment opportunities must be addressed.⁸⁴ Negative cultural practices and traditional attitudes must be eliminated as soon as possible.⁸⁵

Prevention is the first step. If the abuse is going to happen, it must be stopped even before it starts. The focus of law enforcement officials must be on resolving the underlying vulnerabilities of children. An effective method to control the crime is deterrence. Traffickers take advantage of the hospitality industry's privacy and anonymity. Staff and guests may be unaware of the indicators of human trafficking, yet they allow unobtrusive operations.

Responsible Tourism is tourism 'that creates better places for people to live in, and better places to visit'. The tourism industry must make everyone involved take responsibility for making tourism more sustainable. Hotel staff must be trained to help identify and report sex trafficking activities. In order to end child sex tourism, the travel and hospitality sectors must abide by a code of conduct that requires all parties involved to have an ethical policy that forbids crimes. The staff must be trained at regular intervals. Incentives must be provided to those who report crimes of child sexual abuse. The employment contracts must forbid acts of CST and routinely inform visitors and travelers of the legal ramifications of committing an offence of CST.

India must enact a special law to deal with child sex tourism. Buying sex from a child and sextortion are some offences which must be defined. All other tourism related offences must be defined and punished. The prosecution of offenders must be ensured, and this will serve as a clear signal that an action or inaction is illegal and should be avoided at all costs. India also needs to increase its surveillance on orphanages and child care institutions. Adopt laws and rules to stop orphanage volunteering and tourism. Enact laws with sufficient offenses and penalties to stop and facilitate the prosecution of child rights violations in alternative care, such as orphanages.⁸⁶ The courts have held that when an offense is committed against a child, the offenders must be dealt with stringently, and no leniency should be shown when dealing with an offense.⁸⁷

Change in laws is not occurring at the necessary pace or scale. States must pass laws and regulations that hold travel and tourism enterprises, particularly information and communications technology (ICT) firms accountable. Tourism operations must be regularly monitored and regulated. A cross-sectoral strategy is necessary since child protection encompasses not just national tourism authorities but also the fields of law enforcement, labor, justice, child protection, and social protection in foreign countries. It is necessary to enhance efficient domestic and international coordination and information exchange.

VI. CONCLUSION

The purpose of criminal law is to punish sex abusers. The legal system must set a precedent that the offenders fear the law. Australia, Cambodia, France, Italy, Netherlands, New Zealand, Ukraine, the UK, and the USA have special laws to prevent child sex tourism. Sex tourists looking for children appear to relocate to a neighboring country as soon as preventative and protection measures are stepped up in that nation. Global efforts are needed to punish this crime. There is a need for a special Convention on CST alone, as societal evil is prevalent in most countries whose economic sustenance largely depends on tourism. India also needs to enact a special law rather than depending on existing provisions of laws. India must pass stringent laws that punish offenders and reinforce the 'abuse a child in this country, go to jail in yours.'⁸⁸ Countries must work towards changing their image from a child-sex tourist destination to an ex-tourist destination.⁸⁹ The Indian special courts, too, need to be prompt in dealing with CST crimes.

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or (vii) who is missing or run away child, or whose parents cannot be found after making reasonable inquiry in such manner as may be prescribed; or (viii) who has been or is being or is likely to be abused, tortured or exploited for the purpose of sexual abuse or illegal acts; or (ix) who is found vulnerable and is likely to be inducted into drug abuse or trafficking; or (x) who is being or is likely to be abused for unconscionable gains; or (xi) who is victim of or affected by any armed conflict, civil unrest or natural calamity; or (xii) who is at imminent risk of marriage before attaining the age of marriage and whose parents, family members, guardian and any other persons are likely to be responsible for solemnisation of such marriage;

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