

Bill No. XLV of 2012

THE COMMERCIALISED GIRL CHILD TRAFFICKING
(PREVENTION, REHABILITATION AND WELFARE)
BILL, 2012

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to provide for the prevention of commercialized girl child trafficking wherein a girl child is forced into prostitution after luring, procuring or kidnapping her or dedicating her as devadasi for commercial gains by providing deterrent punishment including capital punishment for such commercialization and for rehabilitation of such girl child and for welfare measures to be undertaken by Government and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Sixty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Commercialized Girl Child Trafficking (Prevention, Rehabilitation and Welfare) Act, 2012.

Short title,
extent and
commencement.

5 (2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

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| Definitions. | 2. In this Act, unless the context otherwise required,— | |
| | (a) "appropriate Government" means in the case of a State, the Government of that State and in other cases the Central Government; | |
| | (b) "girl child" means a female who is below the age of eighteen years; | |
| | (c) "prescribed" means prescribed by rules made under this Act; | 5 |
| | (d) "trafficking" includes forcing the girl child into prostitution or for any unlawful and immoral purpose or procuring or supplying the girl child for such purpose or dedicating the girl child as <i>devadasi</i> or <i>bhavin</i> to ultimately end up as prostitute or hiring or obtaining possession of the girl child for promiscuous sexual purposes; | 10 |
| | (e) words and expressions used and not defined in this Act but defined in the Indian Penal Code, 1860 or the Immoral Traffic (Prevention) Act, 1956 shall have the meanings respectively assigned to them in those Acts. | 45 of 1860. 104 of 1956. |
| Prohibition of girl child trafficking for commercial purposes. | 3. (1) The Commercialized girl child trafficking, in any manner, whatsoever, is hereby prohibited. | 15 |
| | (2) Whoever contravenes the provisions of sub-section (1) shall be guilty of an offence under this Act. | |
| Penalty. | 4. Notwithstanding anything contained in any other law for the time being in force, whoever,— | |
| | (a) forces a girl child to prostitution for commercial gains, notwithstanding the family relation of such girl child with the accused shall be punished with death; | 20 |
| | (b) lures, procures or takes charge of a girl child for indulging in immoral traffic of such girl child for the purposes of prostitution or for any unlawful and immoral purpose, shall be punishable with imprisonment for life and also with fine which may extend to five lakh rupees; | 25 |
| | (c) hires or otherwise obtains possession of a girl child for promiscuous sexual abuse of her shall be punished with life imprisonment and also with fine which may extend to five lakh rupees. | |
| | (d) provides a girl child to his customers including any domestic or foreign tourist for prostitution or for any unlawful and immoral purpose shall be punishable with rigorous imprisonment for a term which shall not be less than ten years but may extend to life imprisonment and also with fine which shall not be less than two lakh rupees but may extend to five lakh rupees. | 30 |
| | (e) dedicates a girl child as <i>devadasi</i> or <i>bhavin</i> notwithstanding that the person is a natural guardian of the girl child, shall be punishable with imprisonment which shall not be less than five years but may extend to ten years and also with fine which may extend to one lakh rupees. | 35 |
| Girl child forced into commercialized trafficking to be rescued by the appropriate Government. | 5. (1) Any girl child forced into commercialized trafficking covered under this Act shall be rescued by the Appropriate Government through the local police and produced before a Magistrate or Judicial Officer so designated by such Government for being lodged in a shelter home which shall be established by that appropriate Government. | 40 |
| | (2) Every girl child rescued and lodged in a shelter home under sub-section (1) shall be provided,— | 45 |
| | (a) board and lodging with meals and other necessities of daily life free of cost; | |

(b) medical care free of cost;

(c) education including vocational, technical and medical education including training wherever required free of cost;

5 **(d) employment in public employment through reservation and other means;**

(e) such other facilities as may be prescribed.

6. The appropriate Government shall formulate rehabilitation and such other welfare measures for a girl child, forced into commercialized trafficking who may be rescued under this Act in such manner as may be prescribed.

Welfare measures.

10 **7. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide adequate funds, from time to time, for carrying out the purposes of this Act.**

Central Government to provide funds.

15 **8. The provisions of this Act and rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.**

Act to have overriding effect.

9. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being applicable to the subject matter of this Act.

Act to supplement other laws.

10. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

STATEMENT OF OBJECTS AND REASONS

It is a matter of grave concern that these days commercialized girl child trafficking is going on in a very large scale and many a time in the name of adventure tourism in many parts of the country particularly, in Goa, Mumbai, Orissa, Rajasthan, Tamil Nadu, Kerala and other tourist destinations. Unfortunately, girl child trafficking or prostitution is rampant not only in our country but throughout the world and more so, in Asian and African countries where poverty persists in a big way. More and more adolescent girls are being forced into commercialized prostitution by pimps, anti-social elements, organized criminal gangs, brothel keepers, hoteliers, tour operators and in many cases even by their natural guardians and near and dear ones. Mostly the girls are lured on one pretext or the other promising a decent and comfortable lifestyle and forced into trafficking. In other cases the girls are kidnapped and forced into prostitution. The girls are now even brought in from neighbouring countries like Nepal, Bangladesh, Myanmar, Bhutan, etc. for commercialized trafficking by organized gangs. In some parts of the country the young girls are dedicated to temples as *devadasi* or *bhavin* and then used for trafficking. For this shoddy affairs all the tourists cannot be blamed but a few tourists do indulge in sex tourism.

The lives of the girls child prostitutes are in constant danger due to deadly AIDS, many of them also suffer from other sexually transmitted diseases. But those who are involved in commercialized girls child trafficking are least bothered about these hapless girl children and deserve deterrent punishment. It is, therefore, proposed that whoever forces a girl child into prostitution should be awarded death penalty. Those who procure the girl child for sexual pleasure and those who provide the girl child to the clients should get life imprisonment. Similar other proposals have also been made in this Bill so that the hapless innocent girls are saved not only from the cruel and inhuman profession of prostitution but also from the dreaded disease of AIDS and other sexually transmitted diseases.

Hence this Bill.

DR. E.M. SUDARSANA NATCHIAPPAN

FINANCIAL MEMORANDUM

Clause 5 of the Bill provides for the establishment of Shelter Homes for the rescued girls child from trafficking with provision of basic necessities of life, education, medical care, etc. Clause 6 of the Bill provides for rehabilitation and other welfare measures for rescued girl child. Clause 7 provides for adequate funds to be provided by the Central Government for carrying out the purposes of this Act. The Bill if enacted will involve expenditure from the Consolidated Fund of India. Though it is very difficult to estimate the expenditure at this juncture it is estimated that a sum of rupees five hundred crore may involve as recurring expenditure per annum.

A sum of rupees one thousand crore may also involve as non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause **10** of the Bill gives power to the Central Government to make rules for carrying out the purposes of this Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

RAJYA SABHA

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(Dr. E.M. Sudarsana Natchiappan, M.P.)