

AS INTRODUCED IN THE RAJYA SABHA  
ON 5TH AUGUST, 2011

**Bill No. XXII of 2011**

THE PREVENTION OF TRAFFICKING OF GIRL CHILD FOR  
COMMERCIAL PURPOSES BILL, 2011

A

**BILL**

*to provide for the prevention of trafficking of girl child for commercial purposes by forcing her into flesh trade through various means and making her available for hiring or for taking possession by her client for promiscuous sexual acts in the garb of adventurous tourism or otherwise and for providing deterrent punishment including capital punishment for such commercialization and for matters connected therewith and incidental thereto.*

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

**1.** (1) This Act may be called the Prevention of Trafficking of Girl Child for Commercial Purposes Act, 2011.

Short title,  
extent and  
commence-  
ment.

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

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

**2.** In this Act, unless the context otherwise requires,—

Definitions.

(a) "appropriate Government" means in the case of a State, the Government of that State and in other cases the Central Government;

(b) "commercial trafficking of girl child" includes pushing or forcing the girl child into prostitution in order to earn money therefrom or using the girl child for any unlawful or immoral purpose or procuring or supplying the girl child for such purpose by charging or earning money or hiring or obtaining possession of a girl child for promiscuous sexual purposes by any person including foreign tourists;

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(c) "Girl child" means a female human being who is below the age of eighteen years;

(d) "prescribed" means prescribed by rules made under this Act;

(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.

10 45 of 1860.  
104 of 1956.

Prohibition of  
commercial  
trafficking of  
girl child.

**3. (1)** Notwithstanding anything contained in any other law for the time being in force commercial trafficking of girl child in any manner or purposes whatsoever, is hereby prohibited.

(2) Whoever contravenes the provisions of sub-section (1) shall be guilty of an offence under this Act.

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Penalties.

**4.** Notwithstanding anything contained in any other law for the time being in force whoever,—

(a) abets or induces, by any means including emotional blackmail, a girl child to have sexual intercourse or unnatural sex with any person including foreign tourist in return for money notwithstanding the family relation of such girl child with the accused or under any prevailing custom shall be punished with rigorous imprisonment for life and also with fine which may extend to rupees two lakh;

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(b) forces or pushes, by using any coercive or cruel means, any girl child into prostitution or for unnatural sexual acts for earning money or otherwise shall be punished with death;

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(c) acts as a agent in commercial trafficking of girl child shall be punished with imprisonment which shall not be less than seven years but may extend to life imprisonment and also with fine which may extend to rupees five lakh;

(d) lures, procures or kidnaps any girl child for commercial trafficking of such girl child shall be punished with rigorous imprisonment for a term which shall not be less than ten years but may extend to life imprisonment and also with a fine which may extend to rupees five lakh;

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(e) owns or runs a brothel or uses any house, premises or hotel to keep a girl child as prostitute or sex worker, such owner or manager by whatever name known shall be punished with life imprisonment and also with fine which may extend to rupees five lakh;

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(f) hires, procures or obtains possession of a girl child for promiscuous sexual intercourse or indulge in unnatural sexual acts with her shall be punishable, notwithstanding the foreign citizenship of the accused, with life imprisonment and also with fine which may extend to rupees five lakh;

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(g) dedicates a girl child as *Devdasi* or *Bhavin* or by whatever name called, who ultimately ends up in prostitution, notwithstanding that accused is a natural guardian of the girl child or related to her in any manner shall be punished with imprisonment which shall not be less than five years but may extend to ten years and also with a fine which may be extended to rupees two lakh.

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Rescue,  
Rehabilitation  
and Welfare  
measures.

**5. (1)** The Central Government shall, as soon as may be, but within six months of commencement of this Act, formulate a national policy for the rescue, rehabilitation and welfare measures for the girl child covered under this Act for being uniformly implemented throughout the country.

(2) Without prejudice to the generality of the provisions of sub-section (1) the measures referred to therein may provide for,—

5 (a) rescue of the girl child forced into commercial trafficking through the local police by making it mandatory for the police to raid the brothels and such other places within its territorial jurisdiction where the girl child is kept or has reasonable grounds for believing that girl child is kept therein;

10 (b) taking custody of the rescued girl child and as far as practicable reunite her with her family and in case she is homeless or without natural guardians provide her board, lodging and other facilities in children home established by the appropriate Government for the purpose;

(c) welfare measures like free medical care, education including vocational technical and medical education and training wherever required;

(d) provision of employment in public employment through reservation and other means;

15 (e) marrying the girl child when she becomes major and costs for which to be borne by the appropriate Government;

(f) such other measures as may be deemed necessary for the welfare and rehabilitation of the girl child covered under this Act.

2 of 1974. 20 6. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 the offences under this Act shall be cognizable and non-bailable. Offences to be cognizable and non- bailable.

7. (1) The Offences under this Act shall be tried by the Fast Track Courts to ensure expeditious trial of such offences. Offences to be tried by Fast Track Courts.

(2) The trial shall be held in camera on daily basis till the case is decided and judgement delivered.

25 (3) The appropriate Government shall establish such number of Fast Track Courts within its territorial jurisdiction as it may deem necessary for carrying out the purposes of this Act.

30 8. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide requisite funds for the establishment and running of Fast Track Courts, Children Homes and for other purposes of this Act. Central Government to provide funds.

9. 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 but save as aforesaid 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 have overriding effect.

35 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

In our country there was a time when girl child used to be worshipped as deity and this ritual still persists in some parts particularly during *Navratras*. But the fact remain that the girl child is most unwanted in our country to-day. Most families and married couples do not want a daughter in the family and indulge in rampant sex determination tests and female foeticides in the country resulting in huge gap in the sex ratio in most parts of the country which is a major cause of concern. However, in case a girl child is born, she is neglected and treated shabbily. The girl child of poor families in a new phenomena are being pushed into flesh trade for commercial gains and their trafficking is going on a very large scale in the name of adventure tourism particularly in places of tourism importance in the country. Since, the girl child prostitute fetch more money than the women prostitutes from the prospective clients more and more adolescent girls are being forced into this centuries old profession by the professional pimps, anti-social elements, organized criminal gangs, underworld dons, brothel keepers, hoteliers, tour operators and in many cases even by their natural guardians and near and dear ones. There are some tribes who traditionally subsist on prostitution and they push their girls in this profession at their tender age. In other cases, the girls are generally lured on the promise of a decent and luxurious life and then forced into trafficking. Thousands of minor and adolescent girls go missing from various parts of the country every year and most of them remain untraced. In fact these unfortunate girls are kidnapped for prostitution for commercial gains. It has also been noticed that pimps become active when the areas, mostly in villages and remote areas, are affected by natural calamities to lure the poverty stricken girl child into their net for using them for commercial trafficking. Since the earning in this trade is very high, the girls are even imported from our neighbouring countries like Nepal, Bangladesh, Bhutan, etc. for commercial trafficking by the gangs having international connections. This commercialization is gaining momentum because adventure tourism is also becoming popular throughout the globe and tourists do indulge in sex tourism for which they spend large amount of money and the locals are always ready to provide them with minor girls. Of course, we can not and should not blame all the tourists but it is happenings in many parts of the country. Similarly, in some parts of our country, young girls are dedicated to temples as *Devdasi* or *Bhavin* and then forced into flesh trade. Now the lives of these innocent girls have been endangered due to spread of deadly AIDS and other sexually transmitted diseases. In a welfare State like ours, it has become necessary to stop this trafficking of girl child for commercial purposes by the State by providing deterrent punishment to the offenders including capital punishment so as to save the innocent girl child from the clutches of cunning traffickers and also from AIDS and other sexually transmitted diseases. The State has also to undertake their proper rehabilitation and welfare.

Hence, this Bill.

DR. AKHILESH DAS GUPTA

#### FINANCIAL MEMORANDUM

Clause 5 of the Bill provides for rehabilitation and other welfare measures for the girl child who is rescued from prostitution. Clause 7 provides of the establishment of Fast Track Courts for trying the offences. Clause 8 makes it obligatory for the Central Government to provide funds for the establishment and running of Fast Track Courts, Children Homes, etc. The Bill, if enacted will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees ten thousand Crore may involve as recurring expenditure per annum.

Non-recurring expenditure to the tune of rupees fifty thousand Crore may also involve from the Consolidated Fund of India.

#### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the 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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BILL

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*(Dr. Akhilesh Das Gupta, M.P.)*