

Responsibility in Tourism and the Goa Children's Act in the Context of Tourism

EQUATIONS

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The rapid growth of tourism is not just an economic boon for the tourism destinations; it often produces negative socio-cultural impacts for the communities in these destinations. Intensive lobbying and advocacy by civil society groups working on the rights of the child and child protection, resulted in the Goa Children's Act 2003 in the state of Goa. This was the first legislation in India that recognized exploitation of children in tourism and deals with the protection of children from various forms of exploitation. This paper provides a background to the Act, illustrates its salient features and highlights concerns regarding its implementation.

Tourism is viewed as a major economic growth opportunity in most countries. However, the rapid growth of tourism does not only represent an economic boon for most tourism destinations; it often produces negative socio-cultural impacts for the communities in these destinations.

Tourism is linked to people, environment and natural resources and directly impacts them. Government tourism policies (both national and state) focus more on the growth and promotion of tourism and hardly ever acknowledge the negative fallouts of tourism development. This results in unthinking promotion of investments in tourism and tourism development being unregulated and not monitored for its negative impacts. The mitigation of these negative impacts therefore is also not on the agenda.

A little known and even less acknowledged impact is that on children. Tourism development without responsibility, accountability and protective measures has led to sexual exploitation of children, trafficking and increase in child labour. Increased vulnerability to drugs, crime and alienation from communities and families are related problems.

Intensive lobbying and advocacy by civil society groups working on the rights of the child and child protection resulted in the Goa Children's Act 2003 in Goa. It was a landmark initiative of the local civil society groups in Goa with the support of the child rights groups through out the country. This was the first legislation that recognized exploitation of children in tourism and incorporated a section that recognizes and deals with the protection of children in the context of tourism. Subsequent to its being passed and a set of amendments in 2005, various stakeholders associated with the tourism and travel sector in Goa have engaged in discussions on how to implement the provisions and requirements of the legislation.

An overview of the Goa Children's Act, 2003 shows that the Act covers issues like the rights of children, education, health and nutrition, children's homes, child labour, child abuse, child sexual trafficking, children in different circumstances, girl child, differently-abled children, exploitation of children in tourism, violations and penalties and the children court which aims to make the process of law and justice child friendly.

The Goa Children's Act is unique because it does not merely recommend punitive measures against offenders, but suggests ways and means of dealing with the larger issues of protecting, promoting and preserving the best interest of children in Goa and to create a society that is proud to be child friendly. It attempts to place responsibility on different sections of the society and its institutions to play a role in protecting all children and in preventing the abuse of any child. The hotel owners, the photo studios, cyber care operators, the police, the tourism department, the travel and tourism trade industry are each expected to keep their eyes and ears open as well as perform particular roles to achieve this.

Within two years of its enactment this Act was amended in the year 2005.¹ The parent Act called for passing of many rules and sub-rules that would be necessary in order to implement the Act in its true spirit. However, the state government failed in part in its duty to formulate the rules in a fashion in which the spirit and core principles of the act could be seen in action thus making the legislation less effective. The amendment diluted the timelines without adequate rationale and omitted few important sections² from the Act. It must also be noted that the government has also introduced few welcome amendments by adding important definition on commercial sexual exploitation of children, child trafficking to the Act and by fixing specific penalty for non-implementation and conferring responsibility of protection of children to various public authorities.

Salient Features of the Act:

Section 7: Child labour and Trafficking

According to this Section no child under 14 years is permitted to work Penalties are defined for those who employ children and for those who are responsible for the trafficking of children. The Goa state is to prepare a Plan of Action to eradicate all forms of child labour in a phased manner and for the rehabilitation of children.

This Act has ignored the distinction between hazardous and non hazardous occupations and has declared all kind of child labour as prohibited. This Act has recognized that children working in tourism destinations such as those employed , in hotels, rag picking, plastic bag selling, nut selling, running errands, carrying loads of shoppers is undesirable and thus prohibits all forms of labour or employment .

Much before the recent Notification which was passed in the month of August 2006 by the Department of Labour and Employment, Government of India on banning child labour in domestic services and in hospitality sectors³ came up with the Goa Children Act which had identified and acknowledged the exploitation of children in the tourism industry. With this present notification the position gets reemphasized.

Employment of children in these occupations makes them vulnerable to exploitation and abuse -physical, mental and sexual. It affects their right to be protected from all kinds of abuse and maltreatment.

The State is bound by this law to ensure that a rehabilitation programme is made and to formulate a Plan of Action to eradicate all forms of child labour from the state with a period of two years from the commencement of the Act. However, the Government used the amendment to dilute the state's obligation by stating that it would "eradicate in a phased manner". It does not mention the plan of action which is to be undertaken in a phased manner and does not impose a definite time period to eradicate child labour. The status as on date is that The Goa Government is yet to come out with a Plan of Action. Child labour continues to be high in the tourist destinations of Goa. The Government seems to have retreated on its duties and has taken no visible action towards implementing the existing law on child labour.

This Section also states that trafficking of children for the purpose of employment shall be prohibited and any person who employs, aids, or abets trafficked or trafficking of children will be penalized. This Act recognizes that tourism creates situations which encourages child labour which in turn promote trafficking of children.

Tourism needs to be child friendly and children should be protected from all forms of exploitation in tourist destinations. If the public authorities truly make use of this provision and fulfill their duties and responsibilities in its spirit most cases of exploitation can be intercepted and stopped.

Section 8: Child abuse and Trafficking

This Section states that all children need to be assured of a safe environment in which they will not be abused in any way and their development will be nurtured. Penalties are defined for those who commit sexual assault. This section also provides sensitisation of the police and for all those involved in the healing, rehabilitation and other assistance programmes for child victims and better investigation techniques. The Act calls for the Tourism Department to evolve a Child Friendly Tourism Code in collaboration with the Travel and Tourism Trade of Goa for adopting good practices by the tourism industry in the best interests of children.

This Act prohibits adults to reside or keep any child who is not related by blood without permission from the competent authority⁴. The responsibility of taking permission shall lie with the person who resides or wishes to reside with a child not related by blood. The onus is on the adults⁵ which are defined by the Act. This is a prohibitory provision which is likely to be a deterrent for the tourists who intend to abuse children.

All hotels and other establishment⁶ providing boarding or lodging or any similar facility shall ensure that children are safe and not at risk of child abuse within their premises including all adjoining beaches, parks etc. Hotels are also responsible for ensuring that children do not have access to internet facilities that are not fitted with filters and that

they have no access to any objectionable materials through any other medium such as videos, cable⁷ etc. In the past, the industry never acknowledged incidents of exploitation of children within their premises and in adjoining areas. They have rarely reported such incidents to police and to other authorities or proactively taken action against such incidents. Now this Act has made the tourism industry legally liable and responsible for the protection of children against such abuse. The Law imparts obligation on the tourism industry to question any tourist accompanied by children and ascertain the safety of the child.

The responsibility lies with public authority like district Police, airport authority, border police, railway police, traffic police to identify and report suspected cases of trafficking of children for exploitation and abuse by adults.

It is the responsibility of the tourism department of the Goa to evolve a child friendly tourism code for the state in collaboration with the Travel and Tourism Trade of Goa. This section emphasis that Government and the tourism industry should work together to ensure the safety of children in the tourism destination and the code will be used as a protective means to protect children from exploitation through tourism.

Section 13: Other Provisions

This Section calls for formulation of child code by police department⁸ which includes child friendly police stations, interaction and behaviour patterns with children, mandatory sensitization programmes etc.

This is a very important provision in all cases of children in conflict with law. Be it tourism related or otherwise. In all such cases the child comes in close contact with police. Formulation of an exclusive child code will ensure that police are made aware of the issues and concerns with respect to the children.

Though tourist police are deputed in various places as part of this law, they have proved to be more tourist friendly than child friendly. They tend to pay attention to the needs of the tourists only resulting in the child being in situations of vulnerability, risk and abuse. Concientisation of the police is important to protect the rights of the children and the dangers that the children potentially face from tourists.

In order to press for implementation of the Act in its intended spirit, and to plug its loopholes, NGOs (Children's Rights in Goa, Arz, Jan Ugahi, Bailancho Saad, , WISE Bailancho EQUAT, Sangath, Child line, EQUATIONS etc) have initiated advocacy efforts with Goa Government to implement the Children's Act for the protection of the children. Sections of the industry have also come forward to partner in this process. They are also working in close association with Department of Tourism (DOT), Goa. Child Rights in Goa has also embarked on a mass campaign on beaches, important tourist centres, with panchayats and small hotels, cafes to implement and monitor the child friendly tourism guidelines.

The way forward to prevent exploitation of children is to involve all stakeholders of tourism such as local governments and communities, departments of tourism, culture, social welfare, environment & forests, commerce & industry, women & child and Panchayati Raj, the tourism industries and civil society groups to play a role in enforcing and imbibing the principles of responsibility in tourism in relation to protection of children and their rights.

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End Notes

1 The Goa Children's (Amendment) Act, 2005, amendment enforced from 15.12.2005

2 One of the important Section 8 (11) which stated that offences in case of tourism related to child sexual abuse shall be non-bailable offence under CrPC was amended. This section was important as it acknowledged the fact that children are sexually abused and exploited by tourists in Goa. The amendment repealed the section completely. There is high risk that this in turn will once again establish conducive atmosphere for tourists to engage in child sexual abuse and exploitation and trafficking in Goa. This actually makes the Act toothless in relation to sexual exploitation of children by tourists in Goa.

3 The Ministry of Labour and Employment, Government of India, issued a notification amending the Child Labour (Prohibition and Regulation) Act 1986 on the 1st August 2006. This Notification bans child labour in domestic and hospitality sector.

4 Competent authority is the Secretary, Department of Women and Child, Goa

5 Section 8(4) of the Act Onus on person- "it has been found that adults "keep" children with them for a number of ostensible reason and in many cases this is an arrangement for the sexual abuse of the child. All persons, who keep with them or reside wholly, partly or in any form with one or more child/children who is not related to them by blood, shall inform this fact immediately to the Director as per the prescribed form".

6 Section 8(10) (a) (d) "Tourism establishment have to prove that no abuse/exploitation of children happens in their premises and adjoining areas"

7 Article by Nishtha Desai from Child Rights in Goa on The Goa Children's Act and its implementation.

8 Section 13(14) of the Act