

Means (How People are Trafficked)

In order to establish the offence of trafficking in adults, the activity (recruitment, transportation, transfer, harbouring or receipt of the victim) must have been accomplished through any of the following means:-

1. the threat or use of force or other forms of coercion,
2. abduction,
3. fraud,
4. deception,
5. the abuse of power or of a position of vulnerability or
6. the giving or receiving of payments or benefits to achieve the consent of a person having control over another person.

The threat or use of force or other forms of coercion may be directed towards the victim or a third party who the victim may desire to protect. This could be a relative or friend. Various forms of coercion may be used such as drugging the victim, threatening to expose the victim's sexuality, past secrets, etc.

Deception may be partial or full in nature. In the former instance, a victim may be told he will work on a farm but may thereafter be exploited through forced labour with little or no payment and under horrific working conditions. In the latter, a victim may be promised a job in one country as a nurse and thereafter be trafficked to another country and forced into prostitution.

Persons may abuse the authority they have over another person in order to mobilise them for the purpose of exploitation. The victim may be in their employ, a member of their family, a person dependent upon them or otherwise under their care or influence.

On the other hand, persons having care and control over others may choose to receive payment or benefits from traffickers in order to cause dependent persons to enter a trafficking situation. This has been seen with parents who are poor and sell their children to traffickers.

In other instances, a person may be trafficked through the abuse by a trafficker of the victim's position of vulnerability. The cause of the vulnerability may be varied. It could arise from mental or physical disability, poverty, illiteracy, lack of experience with the world, lack of language skills or unfamiliarity with culture as in the case of migrants or prior substance abuse, physical or sexual abuse.

Three important points to remember are:-

1. Because the use of the above means has the effect of deceiving a victim, counter trafficking legislation usually states that the consent of the victim of trafficking to the exploitation shall not constitute a defence for the trafficker.
2. Because they were unable to properly consent or refuse to participate in the trafficking process, victims of trafficking are also not to be prosecuted for offences they committed as a result of the trafficking process.
3. There is no need to prove Means where the victim of trafficking is under 18 years of age.