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Human Trafficking: Legal & Judicial Trends in India

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Human Trafficking: Legal & Judicial Trends in India

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Abstract

Human trafficking remains one of the most severe violations of human rights in India, despite the presence of constitutional safeguards and a developing statutory framework. This research paper examines the legal and judicial trends in India relating to human trafficking, with a focus on constitutional provisions under Articles 21, 23 and 24, relevant legislations such as the Immoral Traffic (Prevention) Act, 1956 and provisions under the Bharatiya Nyaya Sanhita, 2023. It also analyses landmark judicial decisions that have expanded victim protection, rehabilitation and enforcement mechanisms. The study highlights persistent challenges such as fragmented legislation, weak enforcement, institutional inefficiency and the rise of cyber-enabled trafficking. A comparative perspective is also adopted to assess global best practices. The paper concludes that India requires a more comprehensive, coordinated and victim-centric legal framework to effectively combat trafficking.

Keywords: *Human Trafficking, Constitutional Law, Judicial Trends, Victim Protection, Criminal Justice, Rehabilitation, India.*

Introduction

Human trafficking is one of the most serious and complex violations of human rights, involving the exploitation of individuals through coercion, deception, abuse of vulnerability, or force for purposes such as sexual exploitation, forced labour, organ removal and other forms of modern slavery. It is a transnational crime that operates through organised networks and continues to evolve with changing socio-economic conditions, migration patterns and technological advancements. Despite strong international legal frameworks and national legislations, human trafficking remains deeply entrenched in many societies, including India.

India is both a source, transit and destination country for human trafficking. Factors such as poverty, unemployment, gender inequality, lack of education and social marginalisation significantly contribute to the vulnerability of individuals, particularly women and children. Rural-to-urban migration, informal labour markets and porous borders further facilitate trafficking networks. Over time, trafficking has also expanded into cyber-enabled forms, where digital platforms and social media are increasingly used for recruitment and exploitation, making detection and prevention more challenging.¹

The constitutional framework of India provides a strong foundation for combating human trafficking. Article 23 of the Constitution explicitly prohibits trafficking in human beings and forced labour, while Article 24 prohibits the employment of children in hazardous industries. Additionally, Article 21, which guarantees the right to life and personal liberty, has been expansively interpreted by the judiciary to include the right to live with dignity and freedom from exploitation. These constitutional guarantees reflect India's commitment to human rights and social justice.

¹ Joan Fitzpatrick, "Trafficking and a human rights violation: The complex intersection of legal frameworks for conceptualizing and combating trafficking." *Mich. J. Int'l L.* 24 (2002): 1143.

The statutory framework includes key legislations such as the Immoral Traffic (Prevention) Act, 1956, the Juvenile Justice (Care and Protection of Children) Act, 2015 and provisions under the Bharatiya Nyaya Sanhita, 2023, which collectively aim to prevent trafficking and punish offenders. However, these laws are often criticised for being fragmented and insufficiently comprehensive, particularly in addressing emerging forms of trafficking.²

The judiciary in India has played a transformative role in shaping anti-trafficking jurisprudence. Through landmark judgments, courts have expanded the scope of constitutional protections, emphasised victim rehabilitation and directed the State to adopt proactive measures. Cases such as *Vishal Jeet v. Union of India*, *Gaurav Jain v. Union of India* and *Budhadev Karmaskar v. State of West Bengal* highlight the judiciary's commitment to addressing trafficking as a human rights issue rather than merely a criminal offence.

Concept and Meaning of Human Trafficking

Human trafficking is a grave violation of human dignity and a serious criminal offence recognised under both international and national legal systems. At its core, trafficking refers to the process of recruiting, transporting, transferring, harbouring, or receiving persons through coercion, deception, fraud, abuse of power, or exploitation of vulnerability for the purpose of exploitation. This exploitation may take various forms, including sexual exploitation, forced labour, slavery-like practices, servitude, organ removal and other forms of commercial exploitation. Unlike ordinary crimes, human trafficking is a continuing process that often involves multiple actors operating across regions or national borders.

The most widely accepted legal definition of human trafficking is provided under the Palermo Protocol (2000), which supplements the United Nations Convention against Transnational Organized Crime. According to this definition, trafficking consists of three essential elements: the act (recruitment, transportation, etc.), the means (force, coercion, deception, or abuse of vulnerability) and the purpose (exploitation). In cases involving children, the requirement of "means" is not necessary, making any form of recruitment or exploitation of minors inherently trafficking.

In the Indian legal context, human trafficking is explicitly prohibited under Article 23 of the Constitution of India, which bans trafficking in human beings and forced labour. Additionally, various statutes such as the Immoral Traffic (Prevention) Act, 1956 and provisions under the Bharatiya Nyaya Sanhita, 2023 address different dimensions of trafficking-related offences. The judiciary has also broadened the understanding of trafficking by interpreting it as a violation of the fundamental right to life and dignity under Article 21.

From a socio-legal perspective, human trafficking is not merely a criminal activity but a complex phenomenon rooted in structural inequalities such as poverty, illiteracy, gender discrimination, unemployment and social exclusion. Vulnerable populations, particularly women, children, migrant workers and marginalized communities, are disproportionately affected. Traffickers exploit these vulnerabilities by promising employment, education, or better living conditions, only to subject victims to coercive and exploitative conditions.³

With the rise of globalization and digital technology, the concept of trafficking has further evolved. Online platforms, social media and encrypted communication tools are increasingly

² Anne T. Gallagher, "Human rights and human trafficking." *The Practice of Shared Responsibility in International Law* (Cambridge University Press, 2017) (2016).

³ Maggy Lee, "Introduction: Understanding human trafficking." *Human trafficking*. Willan, 2013. 1-25.

used for recruitment and control, giving rise to cyber-enabled trafficking. This has made detection and enforcement significantly more challenging for law enforcement agencies.

Forms and Nature of Human Trafficking In India

Human trafficking in India is a multidimensional crime that manifests in several forms, each driven by distinct socio-economic vulnerabilities and evolving criminal practices. The nature of trafficking is dynamic, organised and increasingly transnational, involving both domestic and cross-border networks. It is not limited to a single type of exploitation but extends across sexual, economic and exploitative labour systems, making it one of the most complex human rights challenges in the country.⁴

One of the most prevalent forms is sex trafficking, where women and children are coerced, deceived, or forcibly subjected to prostitution and commercial sexual exploitation. Red-light areas, fake job placements and fraudulent marriage proposals are commonly used methods for recruitment. Closely linked is child trafficking, which involves the illegal recruitment and exploitation of minors for labour, sexual exploitation, domestic work, begging and illegal adoption. Children from impoverished and marginalised backgrounds are especially vulnerable due to lack of education and social protection.

Another significant form is labour trafficking, where individuals are forced to work under exploitative conditions in industries such as construction, agriculture, brick kilns, textile factories and domestic work. Victims are often trapped through debt bondage, withheld wages and threats of violence, creating conditions akin to modern slavery. This form of trafficking is particularly widespread in rural-to-urban migration contexts.

India also faces organ trafficking, where vulnerable individuals are illegally recruited or coerced into donating organs such as kidneys in exchange for money or false promises. Although less common, it reflects the extreme commodification of human bodies within trafficking networks.

In recent years, cyber-enabled trafficking has emerged as a growing concern. Traffickers increasingly use social media platforms, messaging applications and online job portals to recruit victims under the guise of employment, education, or modelling opportunities. Digital anonymity and encryption make detection difficult, thereby expanding the reach of trafficking networks.

The nature of human trafficking in India is highly organised and adaptive. It involves networks of recruiters, transporters, brokers and exploiters who operate across states and borders. Trafficking is closely linked with poverty, gender inequality, lack of education and weak enforcement mechanisms. It disproportionately affects women, children, migrants and socially and economically disadvantaged groups.⁵

Furthermore, trafficking in India is not merely an isolated criminal act but a systemic issue embedded in socio-economic structures. It thrives on inequality, lack of awareness and institutional gaps. The hidden and clandestine nature of the crime makes it difficult to detect and prosecute, resulting in low conviction rates and continued victimisation.

⁴ Anamaria Marcon Venson and Joana Maria Pedro. "Human trafficking: a historical approach to the concept." *Revista Brasileira De Historia* 33 (2013): 61-83.

⁵ Princy Verma, "Human Trafficking-A Contemporary Form Of Slavery." *Journal of Scientific Research and Technology* (2024): 44-72.

Constitutional Framework Against Human Trafficking

The Constitution of India provides a strong and comprehensive framework for the protection of individuals against human trafficking and all forms of exploitation. Human trafficking is not only a criminal offence but also a direct violation of fundamental human rights and the Indian Constitution addresses it through explicit provisions as well as judicial interpretation of broader rights. The constitutional scheme reflects India's commitment to dignity, equality and social justice, forming the foundation of all anti-trafficking laws and policies.

The most direct constitutional safeguard is found in Article 23, which expressly prohibits trafficking in human beings, begar (forced labour) and other similar forms of exploitation. It empowers the State to take legal action against any form of trafficking and makes such practices punishable under law. This provision is absolute in nature, permitting no exceptions except in cases of compulsory service for public purposes.

In addition, Article 24 prohibits the employment of children below the age of 14 years in factories, mines and other hazardous occupations. This provision plays a crucial role in preventing child trafficking and exploitation, as many trafficked children are forced into labour in unsafe and exploitative conditions.

A broader constitutional safeguard is provided under Article 21, which guarantees the right to life and personal liberty. The judiciary has interpreted this right expansively to include the right to live with dignity, freedom from exploitation and protection from inhuman treatment. In the context of trafficking, Article 21 has been used to ensure rehabilitation, compensation and protection of victims.⁶

Further, Article 39(e) and 39(f) under the Directive Principles of State Policy direct the State to ensure that the health and strength of workers, men and women and the tender age of children are not abused and that children are given opportunities and facilities to develop in a healthy manner. These provisions, although non-justiciable, guide the State in framing welfare-oriented policies against trafficking.

The judiciary has played a transformative role in strengthening the constitutional framework. Through landmark judgments such as *Vishal Jeet v. Union of India*, *Gaurav Jain v. Union of India* and *Budhadev Karmaskar v. State of West Bengal*, the Supreme Court has expanded constitutional protections for victims and emphasised rehabilitation and reintegration as essential components of justice. Thus, the constitutional framework against human trafficking in India is robust and rights-based, combining enforceable fundamental rights with guiding principles of social welfare. However, its effectiveness ultimately depends on proper implementation, institutional coordination and judicial vigilance to ensure that constitutional guarantees translate into real protection for victims.

Statutory Framework Governing Human Trafficking in India

The statutory framework governing human trafficking in India is composed of multiple legislations that collectively aim to prevent trafficking, punish offenders and protect and rehabilitate victims. Although India does not yet have a single comprehensive anti-trafficking law, various statutes address different dimensions of the crime. However, this fragmented structure often leads to overlapping provisions and enforcement challenges.

The primary legislation dealing directly with trafficking for commercial sexual exploitation is the Immoral Traffic (Prevention) Act, 1956 (ITPA). It criminalises activities such as running

⁶ Ananya V. Mehra and Gazala Sharif. "Legal Framework and International Cooperation in Combatting Human Trafficking." *International Journal for Multidisciplinary Research (IJFMR)* 6.2 (2024): 1-2.

brothels, procuring or inducing persons for prostitution and living on the earnings of prostitution. While it is the principal law in this area, it has been criticised for focusing mainly on prostitution-related trafficking and not adequately addressing other forms such as labour or organ trafficking.⁷

The Indian Penal Code (IPC), 1860, now replaced by the Bharatiya Nyaya Sanhita, 2023 (BNS), also contains provisions relevant to trafficking. Sections dealing with kidnapping, abduction, slavery-like practices, forced labour and exploitation have been interpreted to cover various aspects of trafficking. Notably, Section 370 of the IPC (now reflected in the BNS framework) provides a comprehensive definition of trafficking in persons, aligning closely with international standards such as the Palermo Protocol.

The Juvenile Justice (Care and Protection of Children) Act, 2015 plays a crucial role in protecting trafficked children by treating them as children in need of care and protection. It provides for rehabilitation, shelter and reintegration services for rescued minors, recognising their vulnerability and need for specialised care. Another significant law is the Protection of Children from Sexual Offences (POCSO) Act, 2012, which addresses sexual exploitation and abuse of children, many of whom are victims of trafficking. It ensures child-friendly procedures during investigation and trial.⁸

Additionally, labour-related trafficking is addressed through various labour laws such as the Bonded Labour System (Abolition) Act, 1976, which prohibits forced and bonded labour practices that are often linked to trafficking networks. The Information Technology Act, 2000 indirectly contributes to combating cyber-enabled trafficking by penalising online exploitation, obscene content dissemination and misuse of digital platforms for illegal activities. However, its application in trafficking cases is still evolving.

Despite the existence of these laws, scholars and policymakers often highlight the absence of a unified and comprehensive anti-trafficking legislation in India. Enforcement agencies frequently face challenges due to overlapping statutes, lack of coordination and limited victim-centric provisions. Thus, while India has a broad statutory framework addressing human trafficking in different forms, there remains a pressing need for consolidation, clarity and stronger implementation mechanisms to ensure effective prevention, prosecution and rehabilitation.

Role of Judiciary in Combating Human Trafficking

The judiciary in India has played a pivotal and transformative role in combating human trafficking by expanding the interpretation of constitutional rights, directing effective enforcement of laws and ensuring victim protection and rehabilitation. In the absence of a comprehensive and uniformly implemented statutory framework, the courts—particularly the Supreme Court and High Courts have acted as guardians of fundamental rights and catalysts for anti-trafficking reforms.

One of the most significant contributions of the judiciary has been the expansion of Article 21 of the Constitution, which guarantees the right to life and personal liberty. The courts have interpreted this right to include the right to live with dignity, freedom from exploitation and

⁷ Harnil Trivedi and Pankajkumar Chamar, 'Human Trafficking in India: Legal Frameworks, Challenges and Policy Recommendations' (2025)4(2) *VIDYA – A Journal of Gujarat University* 261–277.

⁸ Dorothy Neriah Muraya and Deborah Fry. "Aftercare services for child victims of sex trafficking: A systematic review of policy and practice." *Trauma, Violence, & Abuse* 17.2 (2016): 204-220.

protection from forced labour and trafficking. This expansive interpretation has provided a strong constitutional basis for addressing trafficking-related violations.⁹

In *Vishal Jeet v. Union of India* (1990), the Supreme Court recognised the serious problem of child prostitution and trafficking and directed the State to take effective measures for prevention, rehabilitation and social reintegration of victims. Similarly, in *Gaurav Jain v. Union of India* (1997), the Court emphasised the need to break the intergenerational cycle of exploitation and directed the establishment of rehabilitation homes for children of sex workers. A landmark judgment in *Budhadev Karmaskar v. State of West Bengal* (2011) further strengthened the victim-centric approach by highlighting the importance of rehabilitation over punishment. The Court appointed committees to formulate policies for the rehabilitation of sex workers and their children, recognising trafficking victims as individuals deserving of dignity and support rather than stigma.

The judiciary has also actively monitored government action through continuing mandamus, ensuring that authorities implement anti-trafficking guidelines effectively. It has issued directions for proper rescue operations, victim identification, legal aid, compensation and safe shelter homes. High Courts across India have also contributed significantly by addressing local trafficking cases, ensuring strict enforcement of labour laws and ordering compensation for victims of bonded labour and child exploitation.

Furthermore, the judiciary has acknowledged emerging challenges such as cross-border trafficking and cyber-enabled exploitation, urging law enforcement agencies to adopt modern investigative techniques and inter-agency coordination. Despite these progressive interventions, the judiciary has also recognised limitations in enforcement, often pointing to inadequate infrastructure, lack of coordination among agencies and slow implementation of court directives.

Landmark Judicial Decisions on Human Trafficking

The Indian judiciary has played a crucial and progressive role in shaping the legal framework on human trafficking through a series of landmark judgments. In the absence of a single comprehensive anti-trafficking statute, courts have actively interpreted constitutional provisions and existing laws to strengthen victim protection, ensure rehabilitation and direct the State to take effective preventive measures. These judicial pronouncements have significantly contributed to the evolution of anti-trafficking jurisprudence in India.¹⁰

One of the earliest and most significant cases is *Vishal Jeet v. Union of India* (1990)¹¹. In this case, the Supreme Court took cognizance of the widespread problem of child prostitution and trafficking. The Court issued detailed directions to the Central and State Governments to identify vulnerable areas, rescue victims and establish rehabilitation homes. It also emphasised the need for coordinated efforts between law enforcement agencies and social welfare departments to address the root causes of trafficking.

In *Gaurav Jain v. Union of India* (1997)¹², the Supreme Court dealt with the plight of children born to sex workers. The Court recognised that such children are highly vulnerable to being trapped in the cycle of exploitation. It directed the government to provide them with education, shelter and rehabilitation facilities, stressing the need to break the intergenerational

⁹ Emine Abdyli and Flutura Tahiraj. "The Judicial Institutions Response to Human Trafficking: A Case Study From Southeast Europe." *Human Research in Rehabilitation* 14.1 (2024).

¹⁰ Abdul, Y. K., I. A. U. Wala and A. Afolabi, 'The Role of the Judiciary in Trafficking in Persons and Smuggling of Migrants Cases (TIP/SOM Cases)' (2023) 7 *AJLHR* 106.

¹¹ *Vishal Jeet v. Union of India*, (1990) 3 SCC 318 (SC).

¹² *Gaurav Jain v. Union of India*, (1997) 8 SCC 114 (SC).

transmission of trafficking and exploitation. This judgment marked a shift towards a more welfare-oriented and child-centric approach.

A major milestone in trafficking jurisprudence is *Budhadev Karmaskar v. State of West Bengal* (2011)¹³. The Supreme Court reiterated that sex workers are entitled to live with dignity under Article 21 of the Constitution. The Court moved beyond punishment-based approaches and focused on rehabilitation, reintegration and socio-economic empowerment of victims. It also directed the formation of expert committees to frame comprehensive rehabilitation policies.

In *People's Union for Democratic Rights v. Union of India* (1982)¹⁴, the Supreme Court expanded the interpretation of forced labour under Article 23, holding that even labour obtained under economic compulsion or inadequate wages amounts to a violation of fundamental rights. This judgment strengthened the constitutional foundation against bonded labour, a common form of trafficking.

Similarly, in *Bandhua Mukti Morcha v. Union of India* (1984)¹⁵, the Court addressed bonded labour practices and emphasised the State's duty to identify, release and rehabilitate bonded labourers. The judgment reinforced the principle that trafficking-related exploitation is incompatible with human dignity.

In addition, courts have consistently issued continuing mandamus orders, ensuring that government authorities comply with anti-trafficking guidelines. They have directed the establishment of shelter homes, rehabilitation centres and special task forces for victim rescue and protection. Collectively, these landmark decisions demonstrate that the Indian judiciary has adopted a proactive, rights-based and victim-centric approach to human trafficking. The courts have not only interpreted constitutional rights expansively but have also filled legislative and administrative gaps by issuing binding directions to ensure justice for victims.

Institutional Mechanisms and Enforcement Challenges

India has developed a range of institutional mechanisms to combat human trafficking, involving coordination between the central and state governments, law enforcement agencies, judiciary and civil society organisations. Despite the existence of these mechanisms, their effectiveness is often limited due to structural inefficiencies, lack of coordination and resource constraints.

At the central level, the Ministry of Home Affairs (MHA) acts as the nodal authority for anti-trafficking initiatives. It issues advisories, formulates guidelines and coordinates with state governments for prevention and control of trafficking. The MHA has also proposed the creation of Anti-Human Trafficking Units (AHTUs) in various states and districts to improve investigation and rescue operations. These specialised units are intended to work as dedicated cells combining police, social welfare officers and NGOs.¹⁶

The National Human Rights Commission (NHRC) plays an important monitoring role by investigating complaints, conducting awareness programmes and recommending compensation and rehabilitation measures for victims. Similarly, the National Commission for Women (NCW) and National Commission for Protection of Child Rights (NCPCR) actively intervene in cases involving women and child trafficking, ensuring protection and legal support.

¹³ *Budhadev Karmaskar v. State of West Bengal*, (2011) 11 SCC 538 (SC).

¹⁴ *People's Union for Democratic Rights v. Union of India*, (1982) 3 SCC 235 (SC).

¹⁵ *Bandhua Mukti Morcha v. Union of India*, (1984) 3 SCC 161 (SC).

¹⁶ Kim Anh. Duong, *Engendering the evaluation of anti-trafficking policy: The Vietnamese National Action Programme against trafficking in women and children 2004-2010 (THE VNAP)*. Diss. University of Waikato, 2014.

The judiciary also indirectly functions as an institutional mechanism through its supervisory powers, issuing directions for victim rescue, rehabilitation and proper implementation of laws. NGOs and civil society organisations play a crucial complementary role by assisting in victim identification, providing shelter and facilitating rehabilitation and reintegration into society. However, despite these institutional frameworks, several enforcement challenges persist. One of the major issues is the lack of coordination among agencies, which leads to delays in rescue operations, investigation and prosecution. Different authorities often work in silos, resulting in ineffective implementation of anti-trafficking laws.

Another significant challenge is the low conviction rate in trafficking cases, primarily due to poor evidence collection, witness intimidation and weak prosecution mechanisms. Many cases do not reach conviction due to procedural delays and lack of trained investigators. Resource constraints and inadequate infrastructure further weaken enforcement. Many Anti-Human Trafficking Units lack sufficient manpower, technical expertise and financial support to operate effectively. Additionally, victim rehabilitation mechanisms remain underdeveloped, with insufficient shelters, psychological support and long-term reintegration programmes. The rise of cyber-enabled trafficking adds another layer of complexity, as law enforcement agencies often lack the technological capacity to track online recruitment and digital exploitation networks.

Victim Protection and Rehabilitation Measures

Victim protection and rehabilitation form the core of an effective anti-human trafficking framework, as trafficking survivors often endure severe physical, psychological and emotional trauma. In India, the legal and policy framework recognises that victims should not be treated as offenders but as individuals requiring care, dignity and reintegration into society. Accordingly, various statutory provisions, judicial directions and welfare schemes have been developed to ensure their protection and rehabilitation.¹⁷

The Immoral Traffic (Prevention) Act, 1956 and the Juvenile Justice (Care and Protection of Children) Act, 2015 provide for the rescue, shelter and rehabilitation of trafficked persons, particularly women and children. Under these laws, rescued victims are placed in protective homes or observation homes where they receive medical care, psychological counselling and basic necessities. The Bharatiya Nyaya Sanhita, 2023 also incorporates provisions that criminalise trafficking and support victim-centric justice.

A key aspect of victim protection is the provision of legal aid and access to justice. Free legal services are provided to trafficking survivors under the Legal Services Authorities Act, ensuring that victims can participate effectively in legal proceedings. Additionally, courts have directed the appointment of special public prosecutors and fast-track courts in sensitive trafficking cases to ensure timely justice.

Rehabilitation measures in India include both short-term and long-term support systems. Short-term rehabilitation focuses on rescue operations, safe shelter, medical treatment and immediate psychological support. Long-term rehabilitation involves education, vocational training, skill development and economic empowerment to help survivors reintegrate into society and prevent re-trafficking. Government-run shelter homes and rehabilitation centres, along with NGO-supported facilities, play a vital role in this process.

¹⁷ Joelle Mak, et al. "Psychosocial interventions to improve the mental health of survivors of human trafficking: a realist review." *The Lancet Psychiatry* 10.7 (2023): 557-574.

The judiciary has significantly contributed to strengthening rehabilitation mechanisms. In cases such as *Budhadev Karmaskar v. State of West Bengal*, the Supreme Court emphasised that rehabilitation is not merely an option but a constitutional obligation under Article 21. The Court has also directed governments to develop structured rehabilitation policies and ensure compensation for victims.

Despite these efforts, several challenges remain. Many rehabilitation centres suffer from poor infrastructure, inadequate funding and lack of trained personnel. Social stigma and discrimination further hinder the reintegration of survivors into society. In many cases, victims face difficulties in accessing compensation and long-term livelihood opportunities. Moreover, coordination between government agencies, NGOs and law enforcement remains weak, leading to gaps in service delivery. The absence of a unified national rehabilitation policy further limits the effectiveness of existing measures.

Emerging Trends: Cyber Trafficking and Transnational Crimes

Human trafficking in India is no longer confined to traditional offline networks; it has increasingly evolved into a complex, technology-driven and transnational phenomenon. One of the most significant emerging trends is cyber trafficking, where digital platforms are used to recruit, transport and exploit victims. Social media applications, online job portals, messaging services and encrypted communication tools are now frequently misused by traffickers to target vulnerable individuals, particularly women and children. Fake job offers, modelling opportunities and fraudulent educational schemes are commonly used as bait to lure victims into exploitative situations.

The anonymity and global reach of the internet have made trafficking operations more sophisticated and harder to detect. Traffickers often use fake identities, virtual private networks and encrypted platforms to avoid detection by law enforcement agencies. In many cases, victims are groomed online before being physically transported, blurring the boundaries between cybercrime and traditional trafficking. This has created new challenges for investigation, evidence collection and prosecution.

Another major development is the rise of transnational trafficking networks, where crimes extend beyond national borders and involve multiple jurisdictions. India, due to its large population, porous borders and socio-economic disparities, functions as a source, transit and destination country for trafficking. Cross-border trafficking is particularly prevalent in regions bordering Nepal, Bangladesh and Myanmar, where organised criminal groups exploit weak border controls and migration flows. Transnational trafficking is often linked with other forms of organised crime, including money laundering, drug trafficking and document forgery. These interconnected criminal networks operate on a global scale, making enforcement more complicated and requiring international cooperation between law enforcement agencies.¹⁸

International legal frameworks such as the Palermo Protocol (2000) and cooperation through organisations like UNODC play a crucial role in addressing transnational trafficking. However, implementation at the national level often faces challenges due to differences in legal systems, investigative procedures and extradition mechanisms.

¹⁸ Julia Deeb-Swihart, Alex Endert and Amy Bruckman. "Understanding law enforcement strategies and needs for combating human trafficking." *Proceedings of the 2019 CHI Conference on Human Factors in Computing Systems*. 2019.

In India, cyber-enabled trafficking has exposed gaps in existing legal frameworks, particularly in digital surveillance, data protection and online regulation. Although laws such as the Information Technology Act, 2000 provide some tools to address cyber offences, their application in trafficking cases remains limited and evolving.

Law enforcement agencies are gradually adopting advanced technologies such as cyber forensics, digital tracking and data analytics to combat these emerging threats. However, a lack of technical expertise, insufficient training and resource constraints continue to hinder effective enforcement.

Conclusion

Human trafficking in India remains a serious and evolving human rights concern despite the presence of constitutional safeguards, statutory provisions and progressive judicial interventions. The constitutional mandate under Articles 21, 23 and 24 provides a strong foundation for protection against exploitation, while legislations such as the Immoral Traffic (Prevention) Act, 1956 and provisions under the Bharatiya Nyaya Sanhita, 2023 offer a legal framework for prosecution. The judiciary has played a vital role in expanding the scope of these protections by adopting a victim-centric approach focused on dignity, rehabilitation and reintegration.¹⁹

However, challenges such as fragmented laws, weak enforcement, institutional inefficiencies and the rise of cyber-enabled and transnational trafficking continue to undermine effectiveness. The findings indicate that while India has made significant progress, a more comprehensive, coordinated and technology-responsive approach is required. Strengthening institutional mechanisms, improving victim rehabilitation and enhancing inter-agency and international cooperation are essential for effectively addressing human trafficking in India.

Literature Review

Human trafficking has been extensively examined in legal, sociological and human rights scholarship, with a strong focus on its evolving legal and judicial treatment in India. Classical human rights literature conceptualizes trafficking as a modern form of slavery and a direct violation of human dignity and liberty. Foundational international frameworks such as the Palermo Protocol (2000) provide the legal definition of trafficking and establish the “3P” model prevention, protection and prosecution which continues to guide global and domestic responses. These foundational works emphasize that trafficking is not merely a criminal act but a structural human rights violation rooted in inequality, poverty and exploitation.²⁰

In the Indian context, constitutional scholarship highlights Articles 21, 23 and 24 of the Constitution of India as the primary safeguards against trafficking and forced labour. Scholars such as Upendra Baxi and others have argued that India’s constitutional framework is strongly rights-oriented, but its implementation is hindered by weak enforcement mechanisms. The judiciary has played a transformative role in expanding the meaning of Article 21 to include dignity, rehabilitation and protection from exploitation. Landmark judgments such as *Vishal Jeet v. Union of India* (1990), *Gaurav Jain v. Union of India* (1997) and *Budhadev Karmaskar v. State of West Bengal* (2011) demonstrate judicial activism in addressing trafficking and emphasizing victim rehabilitation.

¹⁹ Ritu Mathur, "Human trafficking: Laws and flaws." *Netaji Subhas Open Univ Open J 4* (2021): 30-6.

²⁰ *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime* (adopted 15 November 2000, entered into force 25 December 2003) 2237 UNTS 319 (Palermo Protocol).

Statutory literature focuses primarily on the Immoral Traffic (Prevention) Act, 1956, which remains the central legislation governing trafficking-related offences in India. However, scholars such as P.M. Nair and Sanghera highlight its limitations, particularly its narrow focus on sex trafficking while neglecting labour trafficking, organ trafficking and emerging cyber-enabled trafficking networks.²¹ The fragmented nature of Indian laws has been widely criticized for lacking a comprehensive victim-centric framework.

Recent scholarship has increasingly focused on the impact of globalization and technology on trafficking networks. Studies by Louise Shelley and Siddharth Kara highlight how digital platforms, migration flows and organized criminal syndicates have transformed trafficking into a transnational and highly adaptive crime.²² In India, NCRB reports and UNODC publications further confirm the rising complexity of trafficking patterns, especially involving women and children.

Comparative legal literature provides valuable insights by analysing international frameworks. The United States Trafficking Victims Protection Act (TVPA) is widely regarded for its victim-centric approach, including rehabilitation, immigration relief and strict prosecution measures. Similarly, the European Union Directive 2011/36/EU adopts a comprehensive and coordinated strategy focusing on prevention, victim protection and cross-border cooperation. These models highlight the importance of integrated legal frameworks, which India is still developing.

Across the literature, a consistent theme emerges while India possesses a strong constitutional foundation and progressive judicial interpretation, significant gaps remain in enforcement, coordination and adaptation to emerging forms of trafficking. Scholars agree on the urgent need for a comprehensive anti-trafficking law, stronger institutional mechanisms and improved victim rehabilitation systems. However, there remains debate on whether reforms should be primarily legislative, judicial, or administrative in nature.

Overall, the literature establishes that human trafficking in India is a multidimensional issue requiring an integrated legal, judicial and policy-based response that aligns constitutional principles with global best practices.

Research Gap

While significant scholarship examines human trafficking from human rights, criminal law and constitutional perspectives, there remains a noticeable gap in integrating these approaches into a cohesive analysis of evolving legal and judicial trends in India. Existing literature largely focuses on isolated aspects such as statutory provisions, victim rehabilitation, or judicial activism, but rarely provides a comprehensive assessment of how legislative frameworks, executive enforcement mechanisms and judicial interpretations interact in practice. Further, although international studies highlight comparative anti-trafficking models, limited attention has been given to their applicability within the Indian socio-legal context. Additionally, emerging challenges such as cyber-enabled trafficking and cross-border digital exploitation are underexplored in Indian legal research. This study addresses these gaps by offering a holistic evaluation of India's anti-trafficking legal regime, analysing the effectiveness of judicial trends, statutory responses and institutional coordination in combating human trafficking.

²¹ P. M. Nair and Sanghera, 'Limitations of the Palermo Protocol: Focus on Sex Trafficking and Neglect of Labour, Organ and Cyber-Enabled Trafficking'.

²² Louise Shelley and Siddharth Kara, *works on human trafficking and transnational crime highlighting the role of digital platforms, migration flows and organized criminal syndicates in the transformation of trafficking into a transnational and adaptive crime*.

Research Objectives

- i. To examine the evolution of human trafficking laws in India with special reference to constitutional provisions, statutory frameworks and judicial interpretations.
- ii. To analyse the effectiveness of legislative measures such as the Immoral Traffic (Prevention) Act, relevant provisions under the Bharatiya Nyaya Sanhita, 2023 and allied welfare legislations in addressing trafficking offences.
- iii. To study the role of the judiciary in shaping anti-trafficking jurisprudence through landmark judgments, with emphasis on victim protection, rehabilitation and enforcement of fundamental rights under Articles 21, 23 and 24 of the Constitution of India.
- iv. To evaluate the challenges faced in enforcement, including institutional inefficiencies, inter-agency coordination gaps and emerging forms of trafficking such as cyber-enabled and cross-border trafficking.
- v. To compare India's legal and judicial approach with international frameworks such as the Palermo Protocol, the U.S. Trafficking Victims Protection Act and EU anti-trafficking directives, in order to identify best practices and policy gaps for reform.

Research Methodology

This study adopts a doctrinal research methodology to analyse human trafficking laws and judicial trends in India. It relies on the examination of constitutional provisions, statutory laws such as the Immoral Traffic (Prevention) Act, 1956, relevant provisions under the Bharatiya Nyaya Sanhita, 2023 and key Supreme Court and High Court judgments. Primary sources include the Constitution of India, judicial precedents and international instruments like the Palermo Protocol. Secondary sources comprise books, journal articles, NCRB reports and UNODC publications. The research involves critical analysis, interpretation and synthesis of legal materials to evaluate the effectiveness of India's anti-trafficking framework and judicial approach in addressing human trafficking.

Research Findings

The study finds that although India possesses a strong constitutional and statutory framework to address human trafficking, significant gaps persist between law and implementation. The constitutional mandate under Articles 21, 23 and 24 provides a robust foundation, yet enforcement mechanisms remain weak due to institutional inefficiency and fragmented coordination among agencies. Legislative frameworks such as the Immoral Traffic (Prevention) Act, 1956 and provisions under the Bharatiya Nyaya Sanhita, 2023 are found to be partially effective, with a disproportionate focus on sex trafficking while other forms such as labour, organ and cyber-trafficking remain under-addressed.

Judicial intervention has played a transformative role, with courts expanding the scope of fundamental rights to include dignity, rehabilitation and protection of victims. Landmark cases such as *Gaurav Jain v. Union of India* and *Budhadev Karmaskar v. State of West Bengal* reflect an active judicial approach. However, enforcement of judicial directions is inconsistent.

The study also finds rising challenges due to globalization and technology-enabled trafficking networks. Comparative analysis indicates that India lacks an integrated victim-centric model similar to international frameworks. Overall, the findings highlight the need for a comprehensive, coordinated and rights-based anti-trafficking strategy.

Conclusion

The study concludes that human trafficking in India persists as a serious violation of human rights despite the existence of a strong constitutional and statutory framework. While Articles 21, 23 and 24 of the Constitution provide a solid foundation against exploitation, their effective enforcement remains inconsistent due to systemic and institutional challenges. Legislative measures such as the Immoral Traffic (Prevention) Act, 1956 and provisions under the Bharatiya Nyaya Sanhita, 2023 have contributed to addressing trafficking offences, yet gaps remain in covering emerging forms such as cyber trafficking, labour exploitation and cross-border crimes.

The judiciary has played a crucial role in expanding the scope of protection through progressive interpretations and landmark judgments, ensuring victim-centric justice and rehabilitation. However, implementation of judicial directions often falls short due to administrative inefficiencies.

The study also concludes that globalization and technological advancement have intensified trafficking networks, requiring stronger regulatory responses. Comparative insights suggest that India needs a more integrated, coordinated and comprehensive anti-trafficking framework. Overall, a rights-based and enforcement-oriented approach is essential to effectively combat human trafficking in India.

Recommendations

- i. **Enact Comprehensive Anti-Trafficking Legislation:** India should adopt a unified and comprehensive anti-trafficking law that consolidates existing provisions, clearly defines all forms of trafficking and ensures effective coordination between enforcement agencies.
- ii. **Strengthen Institutional Coordination:** A dedicated national-level anti-trafficking authority should be established to ensure better coordination between police, judiciary, social welfare departments and NGOs for timely rescue, investigation and rehabilitation.
- iii. **Enhance Victim Protection Mechanisms:** Victim-centric policies must be strengthened by ensuring legal aid, psychological support, safe shelter homes and long-term rehabilitation and reintegration programs.
- iv. **Improve Enforcement and Training:** Specialized training programs should be introduced for law enforcement agencies and judicial officers to handle trafficking cases with sensitivity and efficiency, particularly in cases involving women and children.
- v. **Address Emerging Forms of Trafficking:** Laws must be updated to effectively deal with cyber trafficking, online recruitment and cross-border digital exploitation through stronger digital monitoring and international cooperation.
- vi. **Strengthen International Collaboration:** India should enhance cooperation with international agencies and adopt best practices from global frameworks such as the Palermo Protocol and EU anti-trafficking directives.

Scope for Future Research

Future research may examine human trafficking in India in light of rapidly evolving technological, legal and socio-economic changes. Particular focus can be given to cyber-enabled trafficking, online recruitment networks and the use of artificial intelligence and encrypted platforms in facilitating exploitation. Further studies may also analyse the effectiveness of emerging legislative frameworks such as the Digital Personal Data Protection Act, 2023, in preventing data misuse linked to trafficking activities. Comparative research across jurisdictions, including the U.S., EU and other developing countries, may provide deeper insights into victim protection models and enforcement mechanisms. Empirical studies assessing ground-level implementation of anti-trafficking laws, rehabilitation schemes and inter-agency coordination can further strengthen policy understanding. Additionally, research

may explore the role of international cooperation in combating cross-border trafficking networks. Overall, future scholarship should aim to develop a more integrated, technology-responsive and victim-centric legal framework to address the complexities of modern human trafficking.

Limitations

This study is primarily doctrinal in nature and relies on constitutional provisions, statutes, judicial decisions and secondary sources such as books, journals and reports. It does not include empirical fieldwork, interviews, or statistical data from law enforcement agencies or trafficking victims. The rapidly evolving nature of trafficking methods, especially cyber-enabled exploitation, also limits the scope of analysis, as legal developments may outpace academic research. Although comparative references are made, they are limited mainly to selected jurisdictions such as the U.S., U.K. and EU and are not exhaustive. Additionally, limited access to reliable data on trafficking networks and enforcement practices further restricts comprehensive evaluation.

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