



# INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS

Open Access, Refereed Journal Multi Disciplinary  
Peer Reviewed Edition :

[www.ijlra.com](http://www.ijlra.com)

## **DISCLAIMER**

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Managing Editor of IJLRA. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of IJLRA.

Though every effort has been made to ensure that the information in Volume 2 Issue 7 is accurate and appropriately cited/referenced, neither the Editorial Board nor IJLRA shall be held liable or responsible in any manner whatsoever for any consequences for any action taken by anyone on the basis of information in the Journal.

Copyright © International Journal for Legal Research & Analysis

IJLRA

## **EDITORIAL TEAM**

### **EDITORS**



### **Megha Middha**

*Megha Middha, Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar*

*Megha Middha, is working as an Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar (Rajasthan). She has an experience in the teaching of almost 3 years. She has completed her graduation in BBA LL.B (H) from Amity University, Rajasthan (Gold Medalist) and did her post-graduation (LL.M in Business Laws) from NLSIU, Bengaluru. Currently, she is enrolled in a Ph.D. course in the Department of Law at Mohanlal Sukhadia University, Udaipur (Rajasthan). She wishes to excel in academics and research and contribute as much as she can to society. Through her interactions with the students, she tries to inculcate a sense of deep thinking power in her students and enlighten and guide them to the fact how they can bring a change to the society*

### **Dr. Samrat Datta**

*Dr. Samrat Datta Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Samrat Datta is currently associated with Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Datta has completed his graduation i.e., B.A.LL.B. from Law College Dehradun, Hemvati Nandan Bahuguna Garhwal University, Srinagar, Uttarakhand. He is an alumnus of KIIT University, Bhubaneswar where he pursued his post-graduation (LL.M.) in Criminal Law and subsequently completed his Ph.D. in Police Law and Information Technology from the Pacific Academy of Higher Education and Research University, Udaipur in 2020. His area of interest and research is Criminal and Police Law. Dr. Datta has a teaching experience of 7 years in various law schools across North India and has held administrative positions like Academic Coordinator, Centre Superintendent for Examinations, Deputy Controller of Examinations, Member of the Proctorial Board*



## Dr. Namita Jain



*Head & Associate Professor*

*School of Law, JECRC University, Jaipur Ph.D. (Commercial Law) LL.M., UGC -NET Post Graduation Diploma in Taxation law and Practice, Bachelor of Commerce.*

*Teaching Experience: 12 years, AWARDS AND RECOGNITION of Dr. Namita Jain are - ICF Global Excellence Award 2020 in the category of educationalist by I Can Foundation, India. India Women Empowerment Award in the category of "Emerging Excellence in Academics by Prime Time & Utkrisht Bharat Foundation, New Delhi.(2020). Conferred in FL Book of Top 21 Record Holders in the category of education by Fashion Lifestyle Magazine, New Delhi. (2020). Certificate of Appreciation for organizing and managing the Professional Development Training Program on IPR in Collaboration with Trade Innovations Services, Jaipur on March 14th, 2019*

## Mrs.S.Kalpana

*Assistant professor of Law*

*Mrs.S.Kalpana, presently Assistant professor of Law, VelTech Rangarajan Dr. Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law, Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr.Ambedkar Law College, Pudupakkam. Published one book. Published 8 Articles in various reputed Law Journals. Conducted 1 Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration. 10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.*



## Avinash Kumar



*learning.*

*Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC - NET examination and has been awarded ICSSR - Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and*

## **ABOUT US**

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS

ISSN

2582-6433 is an Online Journal is Monthly, Peer Review, Academic Journal, Published online, that seeks to provide an interactive platform for the publication of Short Articles, Long Articles, Book Review, Case Comments, Research Papers, Essay in the field of Law & Multidisciplinary issue. Our aim is to upgrade the level of interaction and discourse about contemporary issues of law. We are eager to become a highly cited academic publication, through quality contributions from students, academics, professionals from the industry, the bar and the bench. INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.

# **TRAFFICKING OF WOMEN AND CHILDREN IN INDIA: A SOCIOLEGAL PERSPECTIVE**

AUTHORED BY - TRUPTI AGARKAR

Final Year (X Sem)

Symbiosis Law School, Nagpur

## **ABSTRACT**

The complicated and widespread problem of trafficking of women and children in India has significant socio-legal ramifications. This socio-legal research explores the many facets of this serious issue, offering insights on the interrelated causes of trafficking, the efficacy of current legal systems, and the hardships of sufferers in the Indian setting. Thousands of women and children are subjected to abuse, exploitation, and deprived of their most fundamental liberties in the shadowy world of human trafficking, which plagues India, a country lauded for its linguistic richness and prosperity. The current research examines the underlying factors that contribute to trafficking, such as hardship, prejudice based on gender, illiteracy, and exclusion from society. It analyzes India's legislative reaction, evaluating the benefits and drawbacks of combating trafficking laws, enforcement initiatives, and victim assistance programs. The report also emphasizes the significance of societal and cultural standards in determining how legal rules are put into practice and emphasizes the necessity for global collaboration to combat transnational illicit networks. This study seeks to give voice to campaigning and based on proof policy suggestions through a thorough analysis, eventually working to safeguard the liberties, honor, and fate of women and children in India that are still at risk of abuse and slavery.

## **CHAPTER I: INTRODUCTION**

In India, trafficking of children as well as that of women is persistent also is a highly unsettling phenomenon that continues to have a detrimental impact on the socioeconomic makeup of our nation. In our country, the gross violation of rights entitled to humans affects millions of people, with marginalized individuals being particularly vulnerable. Women and Children with limited resources and underprivileged caste suffer greater risks.

Trafficking is characterized as the forceful, deceitful, harboring of people among individuals with an aim to get profit from their exploitation. Trafficking can happen for an array of motives, including sexual abuse, criminal activity and forced labor. There is no more terrible or detrimental sort of trafficking than others; they deteriorate the health leaving bodily and psychological consequences. Human trafficking has emerged as one of the profitable categories of organized crime, alongside narcotics and weapons. The frequency is incomprehensible and inconceivable; therefore, this organized crime of trafficking has reached a terrifying scale. According to the UNODC study, the majority of victims found worldwide were targeted for sex trafficking, nevertheless this trend stands in non-uniformity through entirety areas. Although illegal human trading intended for the labor exploitation is the most typically discovered kind in sub-Saharan Africa, trafficking intended for imposed labor as well as carnal abuse is remarkably more relevant in Central and South Asia. As per the data from the National Crime Records Bureau, India documented 5,264 number of cases pertaining to the trafficking of people in the year 2018, wherein sixty four percent involved females and forty eight percent pertained to children under the age of 18. Individuals hailing from economically disadvantaged backgrounds and marginalized minority communities are more susceptible to such forms of exploitation.<sup>1</sup>

The battle against trafficking has yielded both gains and setbacks. Laws, such as the Bonded Labor System (Abolition) Act, 1976, in addition to Immoral Traffic (Prevention) Act, 1956, lay groundwork for dealing with the trafficking concerns, with an emphasis on mitigation, assistance, treatment and penalty. Nevertheless, enforcing the abovementioned regulations continues to be a challenging task, hampered by concerns, including incompetence in government agencies, inadequate funding, and illicit trade groups. Additionally, anti-trafficking campaign must prioritize the recovery and socialization of the trafficked survivors. To accomplish this, extensive assistance such as protective homes, psychotherapy, and job assistance are required. However, the problem continues to provide a significant obstacle that calls for ongoing observations, flexibility and invention. Taking into account factors including statutory meaning of trafficking, survivor assistance programs, this research will evaluate the pros and cons of India Legal approach.

---

<sup>1</sup> Deepshikha Sharma, Infographic: Human Trafficking In India (Jul 30, 2020)  
<https://feminisminindia.com/2020/07/30/infographic-human-trafficking-india/>

## LITERATURE REVIEW

- 1) **Trafficking of women and children: A culture of silence by Divya Malhotra<sup>2</sup>** : This article talks about that even if India's law adequately address the issue of sexual abuse, since trafficking necessitates for multifaceted actions, the state must employ diverse and complex strategies to combat the groups that operate all over the world. In order to make sure that traffickers cannot locate a haven for safety anywhere in the country, states and NGOs must cooperate. Without such well- organized measures, trafficking of women and children cannot be reduced. However, many opponents would contend that even society must fulfil its obligations by becoming more aware of upholding sound laws. The notion of right to live with dignity must be empathized and understood by all the society, not simply the judicial and executive branches.
  
- 2) **Trafficking of Women and Children: Vulnerability Compounded by Discrimination by A. Aruna Sri Lakshmi<sup>3</sup>**: This article talks about the fragility of women and children is primarily viewed as objects of target for exploitation. Discrimination towards them for various causes is a worsening factor. The Indian Government has taken steps to combat the problem of human trafficking by improving border security and assisting survivors with adequate funds. In spite of the will to combat the situation, it is clearly evident they lack the will. This is evident by the rise in crime rates associated with human trafficking, lack of transparency in police investigations. This article talks about the Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill,2018 to be passed as soon as possible. Once approved, the bill's strict requirement will make it possible to reduce the threat of human trafficking as well as regionally based anti- trafficking teams to criminalize the several kinds of trafficking.”
  
- 3) **Analyzing the Root Causes of Child Trafficking Using Supply and Demand Logic by Ruma Bordoloi and Manish Neog<sup>4</sup>**: This article talks about how the trafficking undermines initiatives to advance the gender equality and prevent bias against women and children since it includes not just criminals but also law enforcement officials and reinforces patriarchal ideas and behavior. One approach to categorize the methods applied

---

<sup>2</sup> Malhotra D. (2005) Trafficking of Women and Children: A Cultural of Silence

<sup>3</sup> Lakshmi Sri Aruna A. (2019) Trafficking of Women and Children: Vulnerability Compounded by Discrimination

<sup>4</sup> Bordoloi R and Neog M. (2016-17) Analyzing the Root Causes of Child Trafficking Using Supply and Demand Logic

to eradicate child trafficking is as follows: supply-side methods are employed in places where children are employed, while demand-side methods are utilized in locations where trafficked children are mistreated. To reduce the "demand" of trafficked children, it is necessary to prosecute traffickers and their accomplices. It is also necessary to make it illegal to pay for sexual activities from a particular category of people, which is known as "exploiting the sex industry of others," and to influence men and boys who do so through non-punitive means.

## **HYPOTHESIS**

If legislative regulations and measures pertaining to trafficking of women and children are strengthened, then instances of trafficking will decline.

## **RESEARCH OBJECTIVES**

- 1) To study about socio-economic factors, increase the risk that women and children become susceptible to trafficking.
- 2) To study about institutional law enforcement agency corruption, affect the investigation of traffickers, and what steps might be taken to lessen it.
- 3) To study about the legal framework and statutes for combating and prosecuting the exploitation of women and children, and, if there is any gap how it can be addressed.
- 4) To study about the international framework would have a significant influence on the worldwide struggle against trafficking of women and children.

## **RESEARCH QUESTIONS**

- 1) How socio-economic factors increase the risk that women and children become susceptible to trafficking?
- 2) How does institutional law enforcement agency corruption affect the investigation of traffickers, and what steps might be taken to lessen it?
- 3) What are the legal framework and statutes for combating and prosecuting the exploitation of women and children, and, if there is any gap how it can be addressed?
- 4) How would the international framework have a significant influence on the worldwide struggle against the infamous trafficking of children and women?

## **RESEARCH METHODOLOGY**

The qualitative research methodology employed for this project encompasses a thorough examination of Indian law, encompassing pertinent statutes, case law, and academic literature. The study involves a comprehensive review of existing literature on the subject, coupled with an in-depth analysis of case law related to the trafficking of women and children in India. Data for this analysis is sourced from online legal databases and other relevant platforms. Primary data for the doctrinal research is drawn from legal databases such as SCC Online, Westlaw, and LexisNexis. Simultaneously, secondary data includes academic literature and pertinent government reports. The research methodology delves into a doctrinal analysis of the legal framework addressing trafficking in India. This involves scrutinizing relevant statutes, articles, case reports, case laws, and scholarly works.

Ensuring the study's impartiality and the representation of the current legal and regulatory framework in India is a fundamental aspect of the research methodology. The researchers have conducted an analytical and comparative examination of the contemporary status of trafficking in children and women in India. The primary data utilized comprises official documents, complemented by secondary data encompassing books, articles, blogs, and similar sources.

### **CHAPTER II: How socio-economic factors increase the risk that women and children become susceptible to trafficking?**

The Socio-economic factors like illiteracy, poverty and unemployment add to the vulnerability of women and children getting exposed to trafficking. Socioeconomic status significantly influences vulnerability to human trafficking. Lower income, education, and employment stability, increase the susceptibility to exploitation. Those from disadvantaged backgrounds, including the homeless and individuals with mental health issues or substance abuse history, are severe at risk. Poverty, lack of education, and limited healthcare access make individuals susceptible to traffickers promising better prospects.

Poverty and unemployment knowingly manipulate human trafficking, often causing persons to direct to labour or sex work to nourish their families, chiefly when scholastic prospects are constrained. Poverty is a global issue with far-reaching effects on various aspects of daily life, including healthcare, education, and economic development. Traffickers frequently target

impoverished communities, taking advantage of people with limited financial resources by promising higher-paying jobs abroad. The relationship between poverty and human trafficking is complex, as poverty heightens vulnerability by making it difficult for individuals to protect themselves or escape exploitative situations. Similarly, the lack of access to education significantly contributes to trafficking. Education typically enhances employment prospects, enabling individuals to support themselves and their families. Conversely, those without education due to financial limitations may be forced into labour-intensive, low-paying jobs with no benefits and dangerous working conditions. Limited education hinders trafficking victims from finding better-paying jobs.

Women and girls are disproportionately susceptible to trafficking, experiencing sexual abuse, and forced labour. In many nations, gender inequality persists, limiting their rights. If they seek to escape abusive situations, they often face obstacles in accessing education and healthcare, hindering their ability to attain financial independence or escape their abusers. Economic limitations can push women into exploitative labour like domestic service or agricultural work, and traffickers frequently target them for recruitment into trafficking networks. Just like India, in many developing countries where human trafficking is prevalent, there is a shortage of accessible healthcare facilities. This forces individuals with illnesses or injuries to depend on local healthcare providers or hospitals, and if they cannot afford treatment, traffickers may trap them in debt bondage to cover medical expenses. Poor health, including physical disabilities, limiting mobility and mental health issues hindering help-seeking, is associated with a prominent threat of being smuggled for forced labour or carnal abuse.

Human trafficking thrives on a lucrative yet low-risk paradigm, wherein traffickers anticipate substantial financial gains with minimal apprehension of facing penalties or legal repercussions. This criminal enterprise ranks as the 2<sup>nd</sup> highest lucrative illicit business, surpassed of course only by the drug industry. Unlike narcotics, which are typically sold and consumed only once, women and children, or more specifically, people, can be exploited repeatedly, resulting in low operational costs and exceptionally high profits. According to the ILO, the yearly earnings generated from smuggling and forced labour of persons is estimated at \$150 billion<sup>5</sup>.

---

<sup>5</sup> Hannah Gould, unicef USA, WHAT FUELS HUMAN TRAFFICKING? (January 13, 2017) [What Fuels Human Trafficking? | UNICEF USA](#)

The economic dynamics of the interplay between the availability of victims (supply) and the demand for their exploitation drive people trafficking. It is a basic principle that a surge in demand drives a corresponding increase in supply. It points out that the rising consumer demand for inexpensive goods leads corporations to seek cheap labour, often resulting in the exploitation of workers at the lower end of the supply chain. Additionally, there is a growing demand for commercial sex, particularly involving minors, which prompts venues like strip clubs, pornographically and prostitution hubs to hire thereby exploiting women and teenagers.

Furthermore, the general gaps and disparities create certain groups additionally susceptible to taking advantage of mercilessly. Elements such as bulk transposition along with excessive shortage of funds, limited educational prospects followed by intensely poor job openings further adding on to violence, detrimental communal customs such as child marriages drive persons forward into human trading situations. Families living in extreme poverty are prone to accept such unsafe and dangerous employment propositions, and whilst young daughters are denied access when it comes to education, their parents may become more and more inclined to get their daughters arranged married.

In summary, detrimental social norms and systemic injustices play a crucial role in fuelling human trafficking, as traffickers deliberately target vulnerable individuals living in scarcity, working in desperation, lacking educational opportunities and genuine employment, or seeking to escape violence.

To mitigate these vulnerabilities, it is essential to prioritize poverty reduction, educational enhancement, and employment prospects. Enhancing educational accessibility and fostering economic empowerment enables individuals to acquire the expertise and capabilities required for safeguarding themselves against exploitation. Furthermore, increasing awareness about trafficking risks and delivering assistance to victims can serve as preventive measures and provide support to survivors. The socio-economic factors like literacy and targeted legal interventions can reduce the risks and vulnerability involved with trafficking, further mitigating the risk of exploitation.

## CHAPTER III:

### **How does institutional law enforcement agencies and corruption affect the investigation of traffickers, and what steps might be taken to lessen it?**

Institutional law enforcement agencies like the NGOs, Corruption in organized law enforcement organizations can have a substantial effect on the investigation of traffickers. Corruption within the core law enforcement organizations hampers the prosecution of the traffickers undermining the investigative processes. To combat this issue, implementation of comprehensive anti-corruption measures within the system would aid to a greater extent. There was a report written by the United Nations Office on Drugs and Crime<sup>6</sup>, and according to this, corrupt and unethical conduct of the law enforcing professionals could support the traffickers in recruiting, transporting, and exploiting their victims. Corrupt criminal justice agencies may also hinder the investigation and prosecution of cases, thereby preventing the ample security of victims of the offense.

To moderate the impact of corruption on trading of children and women, it is imperative to formulate and enact anti-human trading policies and schemes that specifically target the interconnectedness of corruption and persons being trafficked. The report further advocates for the customization of anti-trafficking programs and schemes as a means to effectively counter the problem of trafficking. Furthermore, it being paramount importance to enhance the ethical standards within law enforcement agencies through various measures, including the enhancement of recruitment and training practices focusing on ethics and cultural sensitivity, the establishment of data collection mechanisms to monitor interactions such as traffic stops with the public, and the implementation of appropriate investigative procedures. These investigative procedures should be determined based on the nature of the corruption revealed, and they can involve internal disciplinary actions within the organization or external processes through regulatory or criminal avenues. Additionally, it holds significance to gain insights into the legal, institutional, and environmental elements that impact the examination and the legal pursuit of human trafficking cases. A research article published in the Springer publication highlights that comprehending these factors can contribute to the formulation of efficacious strategies aimed at combating

---

<sup>6</sup> [United Nations Office on Drugs and Crime \(unodc.org\)](https://www.unodc.org/)

corruption in this context<sup>7</sup>.

Human trafficking is a lucrative but low-risk criminal enterprise due to the substantial profits it offers compared to the minimal risk of getting caught and prosecuted. Corruption, however, plays a significant role in perpetuating this incentive. Factors contributing to human trafficking include the allure of employment, attractive living conditions because of a lot of money rolling in there, and demand for unskilled labour; nonetheless to say that other factors like poverty, unemployment, war, and political instability. These factors have intensified with globalization and geopolitical changes, turning people into commodities.

Experts believe that corruption has facilitated the rapid expansion of human trafficking in the era of globalization. It protects traffickers from prosecution, aids the movement of victims, disregards laws and judicial processes when trafficking is discovered, and enables the concealment of trafficking profits. The lack of global mechanisms against money laundering allows bribery and influence to move illicit proceeds. Additionally, human trafficking networks often intersect with those involved in the trade of drugs and arms.

In recent decades, there has been a discernible association between the rise in human trafficking and the proliferation of corruption within the public sector. Notably, nations that exhibit low scores on the Corruption Perceptions Index as assessed by Transparency International often emerge as significant origins of trafficked individuals.<sup>8</sup> A robust correlation exists between a nation's acceptance of human trafficking and the extent of corruption within its public sector. Corruption even slightly existing in human trafficking (which also involves trafficking of women and children), involves various institutions and even extends to ministries, legislatures, and law enforcement agencies. It can mutate into state capture, with examples of police commissioners allegedly blocking trafficking investigations in some cases.

Even countries known for low corruption levels can be implicated, such as embassy staff issuing visas to traffickers in exchange for payments. Governments may also contract third-party vendors

---

<sup>7</sup> Ambagtsheer, F. Understanding the challenges to investigating and prosecuting organ trafficking: a comparative analysis of two cases. *Trends Organ Crim* (2021). (03 June 2021). [Understanding the challenges to investigating and prosecuting organ trafficking: a comparative analysis of two cases | Trends in Organized Crime \(springer.com\)](#)

<sup>8</sup> Maryse Tremblay and Camille Karbassi (03/2011) Transparency International the global coalition against corruption, Corruption and Human trafficking. Alt-Moabit 96 10559 Berlin Germany. [Microsoft Word - TI-Working Paper Human Trafficking 28 Jun 2011 CM.doc \(transparencycdn.org\)](#)

involved in trafficking. Corruption in these instances not only involves financial losses but also undermines justice, human rights, and human dignity.

The non-governmental organizations (NGOs) have the potential to aid law enforcement agencies in scrutinizing and pursuing legal actions against the said trafficking cases. This assistance may encompass the provision of data and proof related to suspected trafficking endeavours within the localities where they operate. Furthermore, these NGOs may extend their support by offering legal aid to the victims i.e., women and children involved. To mitigate the influence of corruption on human trafficking, it is imperative to formulate and execute the strategies and procedures aimed at anti-trafficking, that specifically acknowledge an association between corruption and trafficking. These strategies and procedures must be tailored to address the specific requirements and nuances of countering the trafficking against children and women. Furthermore, law enforcing entities have capability to employ digital technology for the interception of human trafficking activities. Collaborative efforts between technologically adept law enforcement organizations and non-governmental organizations (NGOs) can contribute greatly in reduction of the incidence of human trafficking cases. This collaboration aims to combat individuals who employ coercion or force to compel others into involuntary labour and various other forms of exploitation<sup>9</sup>.

## **Chapter IV:**

### **Legal framework and statutes for combating and prosecuting the exploitation of children and women, and if there is any gap how it can be addressed.**

The legal regime of trafficking in humans aims at reducing the problem.

- **The Immoral Traffic (Prevention) Act, 1956**<sup>10</sup>

Immoral Traffic (Prevention) Act, 1956 law discusses trafficking related to prostitution, and not in relation to other domains of trafficking such as domestic abuse, child labor. The aforesaid act of the year 1956 deals with children below the age of 18. According to the Act, child is anybody

---

<sup>9</sup> Matt Parker and Mark Gambill, (Dec 28, 2021) How law enforcement can use digital technology to intercept human trafficking. [The role of digital intelligence in human trafficking investigations \(police1.com\)](https://www.police1.com)

<sup>10</sup> [Microsoft Word - A1956-104.docx \(indiacode.nic.in\)](#)

below the legal age of eighteen. The initial section of the legislation delineates the unlawful character of trafficking and the sanctions associated with managing a brothel or a comparable establishment, or with deriving income from prostitution, such as in the case of a procurer. As per Section 5 of the statute, in the event that an individual procures, induces, or ensnares a minor with the intention of involving them in prostitution, the minimum imprisonment term is set at seven years but may extend up to a life sentence. If an individual is discovered in the company of a child, it is construed that they had custody of the minor solely for the purpose of sexually exploiting them. Consequently, the offender is subject to a minimum prison term of seven years, with the potential for a life sentence, or a term of imprisonment that may extend up to ten years. In addition, the perpetrator may be liable to a maximum fine of one lakh rupees. In situations where a child is detected within a brothel and subsequent investigation reveals evidence of sexual abuse, it is presumed that the minor was confined there with the intent of engaging in prostitution.<sup>11</sup> Anyone found guilty of trafficking in public when a child is present faces a maximum fine of Rs. 1 lakh, seven years in jail, or a period that may extend to 10 years. If child prostitution is carried out with the understanding of the owner of a business, such as a hotel, the hotel's license will likely be revoked, and imprisonment and/or penalties may also be imposed.<sup>12</sup> There are instances where Apex Court and High Court hearing matters with a view to enhance the administration and numerous legal entities established under different statutes. Additionally, they continue to keep an eye on different programs for rehabilitating victims of trafficking. The judiciary is judiciously exercising its powers to safeguard fundamental rights, as evidenced by numerous judicial pronouncements. For instance, in the case of Vishal Jeet vs The Union of India, the Supreme Court reached the determination that, despite the existence of stringent and rehabilitative legal provisions across various enactments, the desired outcomes have remained elusive, particularly in the context of the escalating exploitation of young women and children in trafficking activities. The Supreme Court mandated the thorough examination into the roots and consequences of this as well as taking logical steps to eradicate this problem by establishing advisory committees.

Similarly, in the case of Gaurav Jain vs Union of India<sup>13</sup>, the Apex Court issued an order calling for, among other things, the formation of a commission to conduct a thorough investigation into the issues relating to prostitution to assist in the development of appropriate plans for their escape

---

<sup>11</sup> Section 6, Immoral Traffic (Prevention) Act, 1957 [Microsoft Word - A1956-104.docx \(indiacode.nic.in\)](#)

<sup>12</sup> Section 7, Immoral Traffic (Prevention) Act, 1957 [Microsoft Word - A1956-104.docx \(indiacode.nic.in\)](#)

<sup>13</sup> Gaurav Jain vs Union of India (1997) 8 SCC 114

and recovery. The Supreme Court noted that beyond the regulatory action that seeks to apprehend women involved in illicit trafficking under the Immoral Traffic (Prevention) Act through inter state set ups, it is essential to delve into the realities on the ground in order to take stringent actions.

- **Indian Penal Code,1860**

When the constitutional framework of India was enacted in 1950, it included several portions of the Indian Penal Code, that had become not up to time in 1860. Surprisingly, the subject of trafficking in humans was tackled in the Indian Penal Code, which specifically barred slavery of women and girls in coerced servitude in India and provided severe consequences for violators.<sup>14</sup> The act clearly states that anybody who bought or trade a person who is not the above of age 18 for the purpose of any sex activity or for illicit purpose can get the imprisonment up to 10 years or fine.<sup>15</sup> The IPC acknowledges overseas trafficking into any involvement of any sex activity and stipulates that importing a girl below the age of twenty- one into India from any other country with the expectation that she may be seduced to engage in any sexual activity than that person is entitled to imprisonment up to 10 years or fine.<sup>16</sup> When having sex with youngsters or minors, with or against their agreement, or with women who are forced or threatened so as to them staying in brothels, proprietors, employees, and patrons of brothels are directly subject to these prohibitions.

- **The Constitution of India, 1950**

The Indian Constitution forbids human trafficking and upholds many of the globally recognized fundamental universal human rights principles<sup>17</sup>, including the right to live and individual liberty<sup>18</sup>, the right to equal treatment<sup>19</sup>, the right to freedom<sup>20</sup>, and the rights to legal recourse<sup>21</sup>. One of the essential rights guaranteed to everyone in India is the right to be free from exploitation<sup>22</sup>. Additionally, the Indian Constitution states that human trafficking should be outlawed in all forms, and it stipulates that anybody who violates this provision would be

---

<sup>14</sup> Section 366B Indian Penal Code [1501764525-THE-INDIAN-PENAL-CODE-1860 \(indiacode.nic.in\)](https://www.indiacode.nic.in/1501764525-THE-INDIAN-PENAL-CODE-1860)

<sup>15</sup> Section 373, Indian Penal Code,1860 [1501764525-THE-INDIAN-PENAL-CODE-1860 \(indiacode.nic.in\)](https://www.indiacode.nic.in/1501764525-THE-INDIAN-PENAL-CODE-1860)

<sup>16</sup> Section 366B, Indian Penal Code,1860 [1501764525-THE-INDIAN-PENAL-CODE-1860 \(indiacode.nic.in\)](https://www.indiacode.nic.in/1501764525-THE-INDIAN-PENAL-CODE-1860)

<sup>17</sup> Article 23, The Constitution of India, 1950 [COI...pdf \(legislative.gov.in\)](https://www.legislative.gov.in/COI...pdf)

<sup>18</sup> Article 21, The Constitution of India,1950 [COI...pdf \(legislative.gov.in\)](https://www.legislative.gov.in/COI...pdf)

<sup>19</sup> Article 15, The Constitution of India,1950 [COI...pdf \(legislative.gov.in\)](https://www.legislative.gov.in/COI...pdf)

<sup>20</sup> Article 19, The Constitution of India,1950 [COI...pdf \(legislative.gov.in\)](https://www.legislative.gov.in/COI...pdf)

<sup>21</sup> Article 226, The Constitution of India,1950 [COI...pdf \(legislative.gov.in\)](https://www.legislative.gov.in/COI...pdf)

<sup>22</sup> Article 17, The Constitution of India,1950 [COI...pdf \(legislative.gov.in\)](https://www.legislative.gov.in/COI...pdf)

punished.<sup>23</sup>

- **Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989,**

The prevention of crimes including atrocities committed against the people of the Scheduled Castes and the Scheduled Tribes, as well as the establishment of specialized and reserved Special Courts for the trial of such crimes and helping and recovering of their victims. Because human traffickers target disadvantaged individuals in economically as well as socially underdeveloped places, a large portion of victims are from marginalized groups. This Act protects SC/ST women and young girls while also placing an increased burden on traffickers to demonstrate their lack of involvement in the crime. If the perpetrator is aware of the victim's situation, this could work. It encompasses particular types of exploitation of women for sexual purposes, forced or bonded labor, and trafficking in persons.”

From the abovementioned legislative framework, it is clearly evident that there are certain gaps which should be addressed. Firstly, there is a need of one holistic legislation that covers all forms of exploitation not keeping it to specific to handle one kind of trafficking. Secondly, it is essential to make sure that legal structure gives survivors’ rights and interest keeping them as their priority. This includes survivor care and protection which requires additional funding and consideration. Thirdly, the trafficking is a worldwide problem it often calls for international cooperation and coordination. Thoroughly combating nationwide trafficking requires the creation of extensive legal agreements with neighboring nations.

There was even an attempt by the Minister of Women and Child Development by introducing the Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill, 2018<sup>24</sup>, before Lok Sabha which was eventually lapsed. This bill included provisions for the avoidance, assistance, and the restoration of trafficking individuals. The current legislation/well-intended but expired Bill overlooked the reasons that push individuals to unsafe circumstances and neglected to incorporate lessons learnt by anti-trafficking stakeholders after the enactment of the United Nations Trafficking Protocol.

---

<sup>23</sup> Article 23(1), The Constitution of India, 1950 [COL...pdf \(legislative.gov.in\)](#)

<sup>24</sup> Bill 89 [The Trafficking of Persons \(Prevention, Protection and Rehabilitation\) Bill, 2018 \(prsindia.org\)](#)

## **CHAPTER V:**

### **International framework would have a significant influence on the worldwide struggle against trafficking of women and children.**

The constitution, rules, agreements, and ordinances represent national and international worries regarding protecting women and children suffering severe abuses. According to Article 7 of the 1948 Universal Declaration of Human Rights<sup>25</sup>, "all have equal status before the law and are guaranteed the same safeguards of the law without undue discrimination." It suggests that neither of these terms seek to achieve what the Preamble of the Constitution refers to as equality of status, which entails equal and full justice. A crucial protocol is the mighty, Trafficking Protocol, better known as the UN Protocol, to Avoid, Eliminate, in addition Penalizing Trafficking in Humans, especially in those of Women and Children. Additionally recognized as the Palermo Protocol. This document is an addendum to the UN Convention against Transnational Organized Crime<sup>26</sup>. The UN General Assembly approved the agreement in the year 2000, and it became operative on December 25, 2003. According to the convention, states that have ratified it are obligated to avoid or tackle human trafficking, safeguard and assist survivors of trafficking, and foster interstate collaboration to achieve these goals. It assumes that the victim of trafficking's consent is unimportant.

As of September 2017, 171 parties had approved it. The United Nations Office on Drugs and Crime (UNODC) is critical to the protocol's implementation. It provides States with practical assistance in writing legislation, developing thorough national anti-trafficking programs, and aiding with funding for enforcing initiatives. This program was well-received since it focused on a subject that is frequently ignored: the mental health of children living in shelter families. Additionally, UNODC has worked with one of its partners in the state of Andhra Pradesh to strengthen victim/witness protection, with the goal of achieving the following results: more traffickers will be convicted, more witnesses will appear in court, more charge sheets will be filed, fewer cases of re-trafficking will occur, and cases will be resolved quickly. Additionally, the NGO received help to teach the judges to ensure quick case resolution, lowering the likelihood that traffickers will escape punishment. Due to these measures, the state's punishment rate for traffickers and brothel owners has increased.<sup>27</sup>

---

<sup>25</sup> [Universal Declaration of Human Rights | United Nations](#)

<sup>26</sup> [United Nations Convention against Transnational Organized Crime \(unodc.org\)](#)

<sup>27</sup> [United Nations Convention against Transnational Organized Crime \(unodc.org\)](#)

India ratified the SAARC Convention (South Asian Association for Regional Cooperation)<sup>28</sup> on January 5, 2002. This global agreement strives to avert and eradicate the smuggling of children and women. As it acknowledges the necessity of global enforcement of authority and abduction rules, it is crucial. Other legal documents, such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), were amended to include the ban of forced labor and illicit sexual activity of women.

Countries are required to shield youngsters from exploitation under the 1989 Convention on the Rights of the Child, which states: "The States members are obligated to safeguard the child from harm." States parties are required to implement all necessary steps, in specifically, to avoid the force or promotion of children to partake in any kind of sexual conduct, the exploitation of children for prostitution or other illegal sexual activities, and the use of children in pornographic acts and materials. According to Article 35 of the Convention on the Rights of the Child, "States party must implement every necessary national, bilateral, and multilateral measures to avert the kidnapping purchase or illicit trade in children for any reason in any form." The International Labor Organization Convention on the Worst Forms of Child Labor, 2000, significantly broadens the restriction on child trafficking and exploitation.<sup>29</sup>

## **CONCLUSION**

Despite advancements in a number of related areas, the trafficking of women and children in India remains to be a horrifying story that plagues the country. This socio-legal study uncovered the intricate structure of reasons that go into this serious problem, from ingrained poor and sex disparity to the lack of thorough laws and difficulties with implementation. It is obvious that the societal fabric of India continues to be marred by the continual assault on weak people, especially women and children. The analysis highlights the requirement for coordinated and comprehensive actions to prevent trafficking. Although India has passed legislation that tackles some aspects of the issue, the legal system clearly has holes that must be filled right now. These inadequacies are related to the absence of a unified anti-trafficking statute, the inconsistent application of current law among states, and the requirement for an expanded survivors' strategy that places a premium on security, assistance, and recovery.

---

<sup>28</sup> <http://www.asianlii.org/saarc/other/agrmt/scopactiwacfp876/>

<sup>29</sup> <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>

India must undertake laws that are compliant with global standards, deal with the true roots of illicit trade, boost security capabilities, and offer survivors comprehensive support if it is to successfully fight this problem. In addition, cooperation with neighboring nations is essential to combating transnational trafficking organizations. This socio-legal study reinforces the idea that battling traffickers in India requires tireless dedication and a united front of state agencies, charities, members of the public, and the outside world.

The most endangered elements of society—women and children—deserve an existence without abuse and terror. This is an appeal to act to safeguard their rights, honor, and potential. There is optimism that a holistic, victim-centric, and unified strategy might finally clear the path for an improved more just tomorrow of everyone in the midst of this persistent crisis.

### **LIST OF REFERENCES**

1. <https://feminisminindia.com/2020/07/30/infographic-human-trafficking-india/>
2. Hannah Gould, unicef USA, WHAT FUELS HUMAN TRAFFICKING? (January 13, 2017) [What Fuels Human Trafficking? | UNICEF USA](#)
3. [United Nations Office on Drugs and Crime \(unodc.org\)](#)
4. Ambagtsheer, F. Understanding the challenges to investigating and prosecuting organ trafficking: a comparative analysis of two cases. *Trends Organ Crim* (2021). (03 June 2021). [Understanding the challenges to investigating and prosecuting organ trafficking: a comparative analysis of two cases | Trends in Organized Crime \(springer.com\)](#)
5. Maryse Tremblay and Camille Karbassi (03/2011) Transparency International the global coalition against corruption, Corruption and Human trafficking. Alt-Moabit 96 10559 Berlin Germany. [Microsoft Word - TI-Working Paper Human Trafficking 28 Jun 2011 CM.doc \(transparencycdn.org\)](#)
6. Matt Parker and Mark Gambill, (Dec 28, 2021) How law enforcement can use digital technology to intercept human trafficking. [The role of digital intelligence in human trafficking investigations \(police1.com\)](#)
7. Immoral Traffic (Prevention) Act,1957 [Microsoft Word - A1956-104.docx \(indiacode.nic.in\)](#)
8. Gaurav Jain vs Union of India (1997) 8 SCC 114
9. Indian Penal Code [1501764525-THE-INDIAN-PENAL-CODE-1860 \(indiacode.nic.in\)](#)
10. The Constitution of India, 1950 [COI...pdf \(legislative.gov.in\)](#)

11. [Bill 89 The Trafficking of Persons \(Prevention, Protection and Rehabilitation\) Bill, 2018](#)  
[\(prsindia.org\)](#)
12. [Universal Declaration of Human Rights | United Nations](#)
13. United Nations Convention against Transnational Organized Crime (unodc.org)
14. <http://www.asianlii.org/saarc/other/agrmt/scopactiwacfp876/>
15. <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>

### **ARTICLES**

1. Trafficking of women and children: A culture of silence by Divya Malhotra - Malhotra D. (2005) Trafficking of Women and Children: A Cultural of Silence
2. Trafficking of Women and Children: Vulnerability Compounded by Discrimination by A. Aruna Sri Lakshmi - Lakshmi Sri Aruna A. (2019) Trafficking of Women and Children: Vulnerability Compounded by Discrimination.
3. Analyzing the Root Causes of Child Trafficking Using Supply and Demand Logic by Ruma Bordoloi and Manish Neog - Bordoloi R and Neog M. (2016-17) Analyzing the Root Causes of Child Trafficking Using Supply and Demand Logic

### **CASES**

- 1) Vishal Jeet vs The Union of India
- 2) Gaurav Jain vs Union of India (1997) 8 SCC 114

IJLRA