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## HUMAN TRAFFICKING LAWS IN INDIA: EFFECTIVENESS VS REALITY

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### ABSTRACT:

Human trafficking continues to be a pervasive and deeply entrenched human rights violation in India, affecting vulnerable populations across socio-economic, gender, and caste divisions. While India has enacted a multilayered legal framework—including constitutional safeguards, penal provisions under the *Bharatiya Nyaya Sanhita (BNS)*, 2023, and special laws such as the *Immoral Traffic (Prevention) Act, 1956*, and *POCSO Act, 2012*—the implementation remains fraught with systemic challenges. This paper critically examines the effectiveness of India's anti-trafficking laws against ground realities marked by poor conviction rates, victim re-traumatization, corruption, and institutional gaps.

Through a comparative analysis with international frameworks such as the *Trafficking Victims Protection Act (TVPA)* of the United States and the *Modern Slavery Acts* of the UK and Australia, the study reveals India's lack of a unified, survivor-centric statute. The paper also explores structural drivers such as poverty, unregulated migration, and inter-state coordination failures, highlighting their role in perpetuating trafficking networks. It concludes with evidence-based policy recommendations, advocating for legal reform, institutional strengthening, and victim empowerment through a holistic, rights-based approach.

**Keywords:** Human trafficking, India, Bharatiya Nyaya Sanhita, ITPA, victim protection, prosecution, Modern Slavery Act, TVPA, poverty, legal reform, rehabilitation, inter-state coordination, criminal law, bonded labour, gender-based violence.

### Introduction

Human trafficking—often referred to as modern-day slavery—is one of the most egregious violations of human rights and dignity. Globally, it affects an estimated 27.6 million people, including men, women, and children, with South Asia being one of the most vulnerable regions<sup>1</sup>. India, by virtue of its vast geography, porous borders, socio-economic inequality, and dense population, has emerged as both a source and destination country for various forms of trafficking, including sexual exploitation, forced labour, organ trade, and domestic servitude<sup>2</sup>.

The legal battle against human trafficking in India is not new. The Indian Constitution enshrines a strong normative framework to prohibit exploitation, particularly under Article 23, which explicitly outlaws trafficking in human beings and forced labour<sup>3</sup>. This provision, along with various sections of the Indian Penal Code, 1860 (notably Sections 370 and 370A), and special laws like the Immoral Traffic (Prevention) Act, 1956 (ITPA), the Bonded Labour System (Abolition) Act, 1976, and the Protection of Children from Sexual Offences (POCSO) Act, 2012, collectively provide a seemingly robust legislative apparatus<sup>4</sup>. Despite this, trafficking remains deeply entrenched in Indian society, often flourishing in the shadows of poverty, gender inequality, social exclusion, and systemic corruption<sup>5</sup>.

Over the years, both the judiciary and civil society have played pivotal roles in advocating for stronger anti-trafficking enforcement. In cases like *Bachpan Bachao Andolan v. Union of India*, the Supreme Court not only acknowledged the grave nature of child trafficking but also emphasized the State's duty to take proactive measures in identifying and rescuing victims<sup>6</sup>. However, such judicial pronouncements have not been consistently translated into

<sup>1</sup> International Labour Organization, "Global Estimates of Modern Slavery" (2022) [https://www.ilo.org/global/topics/forced-labour/publications/WCMS\\_854733/lang--en/index.htm](https://www.ilo.org/global/topics/forced-labour/publications/WCMS_854733/lang--en/index.htm) accessed 1 January 2026.

<sup>2</sup> United Nations Office on Drugs and Crime (UNODC), "Trafficking in Persons: Global Patterns" (2023) <https://www.unodc.org/unodc/en/human-trafficking/publications.html> accessed 1 January 2026.

<sup>3</sup> Constitution of India, Art. 23.

<sup>4</sup> Indian Penal Code 1860, Ss. 370, 370A; Immoral Traffic (Prevention) Act 1956; Bonded Labour System (Abolition) Act 1976; Protection of Children from Sexual Offences Act 2012.

<sup>5</sup> Human Rights Watch, "Breaking the Silence: Child Trafficking in India" (2023).

<sup>6</sup> *Bachpan Bachao Andolan v. Union of India*, AIR 2011 SC 3361.

concrete policy outcomes, often due to fragmented law enforcement, lack of inter-agency coordination, and absence of survivor-centric rehabilitation mechanisms<sup>7</sup>.

Recent empirical studies suggest that the conviction rate for human trafficking cases in India remains significantly low, with less than 30% leading to convictions in several jurisdictions<sup>8</sup>. A vast number of victims remain unidentified or misclassified, and traffickers often escape punishment due to procedural lapses and weak prosecutions<sup>9</sup>. Additionally, the absence of a comprehensive and unified anti-trafficking law has led to overlapping jurisdictions, inconsistent definitions, and ineffective implementation of existing provisions<sup>10</sup>.

This paper critically examines the effectiveness of India's legal response to human trafficking in contrast to the ground realities faced by victims and law enforcement. It analyses statutory frameworks, judicial trends, and enforcement practices while drawing comparative insights from global best practices. Ultimately, it aims to identify the structural gaps and propose policy-oriented reforms to bridge the chasm between legal intent and on-ground impact.

## I. Legal Framework Governing Human Trafficking in India

Human trafficking in India is addressed through a complex legal mosaic comprising constitutional guarantees, penal provisions, special legislation, and judicial interpretations. Despite the availability of a substantial framework, trafficking remains widespread due to poor implementation, corruption, and socio-economic vulnerabilities. The recent legislative reforms through the Bharatiya Nyaya Sanhita (BNS), 2023 and Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 aim to modernize the legal system by replacing the colonial-era Indian Penal Code (IPC) and Code of Criminal Procedure (CrPC). This section discusses the key components of India's legal framework on human trafficking.

### A. Constitutional Provisions

The Constitution of India provides a foundational bulwark against human trafficking through Article 23(1), which prohibits "traffic in human beings and begar and other similar forms of forced labour."<sup>11</sup> This provision is part of the Fundamental Rights and is enforceable not only against the State but also against private individuals, making it unique among fundamental rights. It creates an obligation on the State to prevent trafficking and ensures individuals have recourse to judicial remedies.

The judiciary has interpreted Article 23 broadly. In *People's Union for Democratic Rights v. Union of India*, the Supreme Court held that any form of forced labour, including through coercion, economic compulsion, or underpayment, constitutes a violation of Article 23<sup>12</sup>. Thus, the constitutional prohibition is not restricted to trafficking for sexual exploitation but extends to bonded labour, child labour, and forced domestic work.

Other constitutional provisions also reinforce protections. Article 39(e) and 39(f), though part of the Directive Principles of State Policy, mandate that the State must ensure children and women are not abused and are provided opportunities for development with dignity<sup>13</sup>. Article 21, the right to life and personal liberty, has been interpreted by the Supreme Court to include the right to live with dignity, thus extending its protection to survivors of trafficking<sup>14</sup>.

### B. Statutory Framework

#### 1. Bharatiya Nyaya Sanhita, 2023 (Previously Indian Penal Code, 1860)

One of the central penal statutes governing trafficking was Section 370 of the IPC, introduced via the Criminal Law (Amendment) Act, 2013, in the aftermath of the Nirbhaya case. It defined human trafficking in alignment with the UN Palermo Protocol, focusing on acts, means, and purposes of exploitation<sup>15</sup>. With the introduction of BNS, 2023, this provision has been recast under Section 139.

Section 139 of BNS penalizes trafficking of persons for purposes of exploitation, including sexual exploitation, slavery, servitude, and organ trade. It provides for rigorous imprisonment of 7–10 years, extendable to life imprisonment in aggravated cases, such as trafficking of minors or by public officials<sup>16</sup>. Section 141 of BNS criminalizes use of a trafficked person, establishing culpability for those who knowingly benefit from trafficking, even if they were not involved in the act itself<sup>17</sup>.

These provisions mark a continuity and expansion of anti-trafficking law under the BNS, but implementation remains the critical issue.

#### 2. Immoral Traffic (Prevention) Act, 1956 (ITPA)

The ITPA remains India's primary legislation addressing trafficking for commercial sexual exploitation. It penalizes running brothels (Section 3),

<sup>7</sup> S Pawaiya, "Protecting Innocence: Legal Perspectives on Child Trafficking in India" (2025) 5(10) International Journal of Legal Research <https://ijlr.iledu.in/wp-content/uploads/2025/09/V5I1031.pdf>

<sup>8</sup> A Pradhan, "An Overview of Child Rights in India" (2025) SSRN [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=5216201](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5216201).

<sup>9</sup> National Crime Records Bureau (NCRB), "Crime in India Report" (2024).

<sup>10</sup> Ministry of Home Affairs, "Status of the Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill, 2021" <https://www.mha.gov.in/> accessed 1 January 2026.

<sup>11</sup> Constitution of India, Art. 23(1).

<sup>12</sup> *People's Union for Democratic Rights v. Union of India*, AIR 1982 SC 1473.

<sup>13</sup> Constitution of India, Art. 39(e)–(f).

<sup>14</sup> *Francis Coralie Mullin v. Administrator, Union Territory of Delhi*, AIR 1981 SC 746.

<sup>15</sup> Criminal Law (Amendment) Act, 2013, s 370.

<sup>16</sup> Bharatiya Nyaya Sanhita, 2023, s 139.

<sup>17</sup> Bharatiya Nyaya Sanhita, 2023, s 141.

procuring or inducing women for prostitution (Section 5), and soliciting clients (Section 8)<sup>18</sup>. However, the Act has been criticized for its moralistic and punitive approach, often targeting sex workers rather than traffickers or exploiters<sup>19</sup>. Victims are frequently detained in "protective homes" without consent, thereby violating their rights.

Legal scholars and human rights advocates argue that the ITPA fails to differentiate between consensual sex work and forced prostitution, leading to re-victimization of survivors and misuse of power by law enforcement agencies<sup>20</sup>.

### 3. Protection of Children from Sexual Offences (POCSO) Act, 2012

Since a significant portion of trafficking victims in India are children, the POCSO Act plays a vital role. It criminalizes all forms of child sexual abuse, including trafficking for pornographic purposes and commercial exploitation. POCSO introduces child-friendly mechanisms for recording evidence and mandates speedy trials through Special POCSO Courts<sup>21</sup>. It complements BNS provisions when trafficking intersects with child abuse.

### 4. Bonded Labour System (Abolition) Act, 1976

This Act abolishes the bonded labour system and declares any form of bonded or forced labour illegal. It empowers District Magistrates to rescue, rehabilitate, and compensate bonded labourers. However, enforcement is often weak due to lack of data, administrative apathy, and insufficient budgetary support<sup>22</sup>.

### 5. Juvenile Justice (Care and Protection of Children) Act, 2015

Under the JJ Act, child trafficking victims fall under the category of "children in need of care and protection." The Act mandates the Child Welfare Committees (CWCs) to provide immediate care, interim shelter, counseling, and rehabilitation. It also promotes non-institutional care options such as foster care and sponsorship<sup>23</sup>.

### 6. Bharatiya Nagarik Suraksha Sanhita, 2023 (Previously CrPC)

The BNSS, 2023 has replaced the Code of Criminal Procedure, with a view to simplify and expedite criminal trials. Trafficking cases often fail due to procedural delays, witness intimidation, and inadequate investigation.

BNSS introduces Section 193, which mandates strict time frames for framing charges and judicial oversight of investigation<sup>24</sup>. The provision may help accelerate justice in trafficking cases, provided courts enforce timelines strictly.

## C. Judicial Interpretations

The Indian judiciary has played a proactive role in expanding the scope of anti-trafficking jurisprudence. In *Bachpan Bachao Andolan v. Union of India*, the Supreme Court held that every case of a missing child must be treated as trafficking unless proven otherwise and directed the State to create Anti-Human Trafficking Units (AHTUs) in every district<sup>25</sup>.

In *Gaurav Jain v. Union of India*, the Court examined the rights of children of sex workers, calling for rehabilitation, education, and protection from stigmatization, reaffirming their rights under Articles 21 and 21A<sup>26</sup>.

Further, in *Prajwala v. Union of India*, the Court issued comprehensive guidelines for the rescue and rehabilitation of victims, including the establishment of Standard Operating Procedures (SOPs) for victim identification, legal aid, and reintegration into society<sup>27</sup>.

Yet, the gap between judicial mandates and their implementation remains wide. A report by the NHRC (2022) noted that less than 40% of AHTUs were functional, and rehabilitation funds often remained unused, underscoring the systemic challenges in translating legal protections into real outcomes<sup>28</sup>.

## II. Effectiveness of Anti-Trafficking Laws in India

Despite a detailed legal framework comprising constitutional guarantees, criminal statutes, and special legislation, the effectiveness of anti-trafficking laws in India remains questionable. Systemic weaknesses in implementation have meant that lofty legislative goals often fail to deliver justice to victims. The three primary indicators of legal effectiveness—prosecution and conviction rates, victim identification and rehabilitation, and the need for a unified anti-trafficking law—reveal significant shortcomings.

### A. Prosecution and Conviction Rates

The effectiveness of criminal law in combatting human trafficking significantly hinges on how well law enforcement agencies are able to investigate, prosecute, and secure convictions. However, the data shows that India performs poorly in this regard.

According to the National Crime Records Bureau (NCRB) 2022 Report, out of 2,189 registered trafficking cases under Section 370 of the IPC and other laws, only 31% led to chargesheets being filed, and less than 12% led to convictions.<sup>29</sup> Conviction rates are particularly dismal in cases involving child

<sup>18</sup> Immoral Traffic (Prevention) Act, 1956, ss 3–9.

<sup>19</sup> N Chopra and MR Guharoy, "Legal Framework of Human Trafficking" (2024) *Journal of Scientific Research and Technology* <https://www.jsrtjournal.com/index.php/JSRT/article/view/102>.

<sup>20</sup> Human Rights Watch, "Breaking the Silence: Child Trafficking in India" (2023).

<sup>21</sup> Protection of Children from Sexual Offences Act, 2012, ss 3–13.

<sup>22</sup> Bonded Labour System (Abolition) Act, 1976, s 2(g).

<sup>23</sup> Juvenile Justice (Care and Protection of Children) Act, 2015, s 2(14).

<sup>24</sup> Bharatiya Nagarik Suraksha Sanhita, 2023, s 193.

<sup>25</sup> *Bachpan Bachao Andolan v. Union of India*, AIR 2011 SC 3361.

<sup>26</sup> *Gaurav Jain v. Union of India*, AIR 1997 SC 3021.

<sup>27</sup> *Prajwala v. Union of India*, Writ Petition (Crl.) No. 56 of 2004.

<sup>28</sup> NHRC India, "Annual Report on Human Trafficking" (2022).

<sup>29</sup> National Crime Records Bureau, Crime in India Report 2022, Ministry of Home Affairs, Government of India.

trafficking and bonded labour.<sup>30</sup>

Several factors contribute to these poor outcomes. First, investigative quality is often subpar due to lack of training, understaffing in Anti-Human Trafficking Units (AHTUs), and inadequate forensic support.<sup>31</sup> Law enforcement agencies are sometimes complicit or indifferent, especially in regions where trafficking networks operate with local protection.<sup>32</sup>

Second, procedural delays in the criminal justice system result in hostile witnesses, compromised evidence, and prolonged trauma for victims.<sup>33</sup> The recent introduction of Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, which replaces the Criminal Procedure Code, proposes time-bound investigations and trials (e.g., Section 193), yet its actual enforcement remains uncertain.<sup>34</sup>

Moreover, traffickers often exploit legal loopholes and escape through bails, poor charge framing, or lack of material evidence. Prosecutions also suffer due to lack of witness protection and limited access to victim testimony, especially in rural or illiterate populations.<sup>35</sup>

As per a 2025 report by Khushi and Singh, "the rate of conviction is alarmingly low compared to the magnitude of the crime," and judicial decisions often lack the teeth to trigger systemic change.<sup>36</sup> Without deterrent penalties and strong prosecutions, traffickers continue to operate with impunity.

## B. Victim Identification and Rehabilitation

The identification of victims is a prerequisite for their protection, prosecution of offenders, and successful rehabilitation. However, India's mechanisms for identifying trafficked persons are flawed. The lack of a national database, absence of clear victim profiles, and the tendency to treat trafficked individuals as offenders severely impact identification efforts.<sup>37</sup>

As per a 2025 study by Sanjay A., "there is no standard protocol used by the police across states for screening potential trafficking victims."<sup>38</sup> This results in many victims being misclassified as migrants, prostitutes, or runaways, particularly in urban police stations where awareness is low.<sup>39</sup>

Even when victims are rescued, rehabilitation remains grossly inadequate. The Ujjawala Scheme, launched by the Ministry of Women and Child Development to support rescued women and children, has faced severe criticism for mismanagement, underfunding, and irregular monitoring.<sup>40</sup> Shelter homes often lack security, counseling, legal aid, or vocational training.

The Juvenile Justice Act, 2015 and the POCSO Act, 2012 provide mechanisms for child protection, but CWCs (Child Welfare Committees) are overburdened and under-resourced, leading to arbitrary decisions in care and repatriation.<sup>41</sup>

As Khushi and Singh (2025) point out, many victims "fall back into the trafficking cycle due to a lack of post-rescue economic opportunities and social stigma."<sup>42</sup> Additionally, cross-border repatriation—especially of Bangladeshi and Nepalese victims—is often delayed for months due to poor diplomatic coordination and lack of legal identity documents.<sup>43</sup>

Another concern is the absence of survivor-centric justice models. Court proceedings are rarely sensitive to trauma; victims often relive their abuse during depositions. The need for trained trauma-informed prosecutors and support personnel is yet to be realized in most districts.<sup>44</sup>

## C. Lack of a Unified Law

One of the most fundamental criticisms of India's anti-trafficking legal regime is its fragmented nature. Trafficking-related offences are scattered across multiple laws, including the Bharatiya Nyaya Sanhita (BNS), 2023 (Sections 139–143), Immoral Traffic (Prevention) Act, 1956, Bonded Labour System (Abolition) Act, 1976, POCSO Act, 2012, and Juvenile Justice Act, 2015. This has led to overlaps, jurisdictional confusion, and inconsistency in enforcement.<sup>45</sup>

In 2018, the Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill was introduced in Parliament but lapsed with the dissolution of the Lok Sabha. It proposed a centralized anti-trafficking authority, specific definitions of exploitation, and uniform procedures for rescue, rehabilitation, and prosecution.<sup>46</sup>

A revised draft bill in 2021 proposed even broader mandates, including the creation of Anti-Trafficking Police Officers, Special Courts, National Anti-

<sup>30</sup> SK Khushi and A Singh, "Human Trafficking Laws: Evaluating Legal Measures to Combat Modern Slavery" (2025) *Human Rights Law Review* <https://humanrightslawreview.in/wp-content/uploads/2025/04/Human-Trafficking-Laws-Evaluating-Legal-Measures-to-Combat-Modern-Slavery.pdf>.

<sup>31</sup> M Imran and S Mishra, "A Comparative Analysis of India's Anti-Trafficking Laws and International Standards" (2025) *ACR Journal* <https://acr-journal.com/article/a-comparative-analysis-of-india-s-anti-trafficking-laws-and-international-standards-1921/>.

<sup>32</sup> A Sanjay, "A Critical Analysis of the Enforcement of Human Trafficking Laws: Are They Effective?" (2023) *Indian Journal of Legal Research* 10(1), HeinOnline.

<sup>33</sup> Ibid.

<sup>34</sup> Bharatiya Nagarik Suraksha Sanhita, 2023, s 193.

<sup>35</sup> Khushi and Singh (n 2).

<sup>36</sup> Ibid.

<sup>37</sup> Human Rights Watch, "Breaking the Silence: Child Trafficking in India" (2023).

<sup>38</sup> Sanjay (n 4).

<sup>39</sup> National Commission for Protection of Child Rights, *Status of AHTUs in India*, 2022.

<sup>40</sup> Ministry of Women and Child Development, "Evaluation Report on Ujjawala Scheme" (2021).

<sup>41</sup> Juvenile Justice (Care and Protection of Children) Act, 2015, s 27.

<sup>42</sup> Khushi and Singh (n 2).

<sup>43</sup> Ibid.

<sup>44</sup> Sharma J and Sanepa L, "Rights of Crime Victims: An Analysis in Reference to Human Trafficking" (2024) *ResearchGate* <https://www.researchgate.net/publication/359032878>

<sup>45</sup> AV Mehra and G Sharif, "Legal Framework and International Cooperation in Combatting Human Trafficking" (2024) *International Journal for Policy Research* <https://semanticscholar.org>.

<sup>46</sup> Ministry of Home Affairs, *The Trafficking of Persons Bill, 2018*, Government of India.

Trafficking Bureau, and Asset Forfeiture Mechanisms against traffickers. However, it attracted criticism for being overbroad, having ambiguous definitions, and criminalizing consensual sex work.<sup>47</sup> Civil society groups called it "carceral feminism" that would harm the very women it sought to protect.<sup>48</sup>

As of 2026, India still lacks a comprehensive law that consolidates all forms of trafficking and brings consistency, clarity, and coordination into enforcement. A unified legislation modeled on the Palermo Protocol would provide coherence across legal provisions, increase accountability, and establish clear institutional roles.

According to a 2025 comparative study by Imran and Mishra, countries with dedicated anti-trafficking legislation, such as the United States (TVPA) or the UK (Modern Slavery Act), have demonstrated better inter-agency coordination, data sharing, and prosecution outcomes.<sup>49</sup> India's piecemeal approach continues to be a barrier to efficiency and justice.

### III. Ground Realities and Challenges

Despite India's comprehensive legal framework to combat human trafficking, ground realities reveal stark discrepancies between legislative intent and implementation. These gaps are deeply embedded in systemic corruption, socioeconomic vulnerabilities, and institutional dysfunction, particularly the lack of inter-state coordination. Each of these challenges hampers the efficacy of anti-trafficking efforts and demands targeted policy intervention.

#### Corruption and Complicity

Corruption is one of the most pervasive and deeply rooted challenges in India's anti-human trafficking regime. It creates a protective shield around trafficking networks, enabling them to operate with impunity. Law enforcement officials, border patrol agents, and even politicians have, in documented cases, been complicit in trafficking operations, either through willful blindness or active participation. In many instances, traffickers pay bribes to evade arrests, manipulate evidence, or secure the release of co-accused individuals.<sup>50</sup>

This systemic corruption weakens the deterrent effect of laws and reduces public confidence in institutions. Victims often fear approaching police or government shelters due to past experiences of harassment, victim-blaming, or threats.<sup>51</sup> Even when cases are registered, the manipulation of charge sheets, tampering with witnesses, or procedural delays orchestrated through corrupt actors lead to low conviction rates.<sup>52</sup>

A study conducted in West Bengal and Jharkhand, two major trafficking source states, revealed that traffickers often maintain informal links with local law enforcement, allowing them to operate under the radar.<sup>53</sup> Furthermore, Anti-Human Trafficking Units (AHTUs), established by the Ministry of Home Affairs, remain under-resourced and often ineffective due to lack of autonomy and bureaucratic interference.<sup>54</sup>

#### Poverty and Migration

Poverty remains the single most significant push factor in human trafficking in India. With nearly 16% of India's population still living below the poverty line<sup>55</sup>, impoverished families in rural and semi-urban regions are highly susceptible to the false promises of traffickers offering employment, education, or marriage prospects for their children. The root of this vulnerability lies in the absence of economic opportunities, lack of access to education, and limited state-sponsored social security schemes.<sup>56</sup>

Migration, both intra-state and inter-state, plays a dual role—on one hand, it is a coping mechanism for poverty; on the other, it creates a fertile ground for trafficking. Unskilled laborers moving to cities or across state lines often fall prey to forced labor, bonded servitude, or sexual exploitation.<sup>57</sup> Many trafficked women and children are recruited by middlemen in villages and sold across state borders. They are usually undocumented, making their detection and rescue even more difficult.<sup>58</sup>

In the wake of economic disruptions, such as the COVID-19 pandemic or recent climate-induced displacements in Bihar and Assam, traffickers have exploited the desperation of families to lure victims. The socio-economic devastation caused by disasters often precedes a spike in trafficking cases, particularly of minors and adolescent girls.<sup>59</sup>

Moreover, tribal communities and Dalits, historically marginalized and economically deprived, are disproportionately affected.<sup>60</sup> Lack of birth certificates, caste-based discrimination, and exclusion from government schemes further exacerbate their vulnerability.

#### Inter-State Coordination Failures

Human trafficking in India is often inter-state and cross-border in nature. Victims are frequently trafficked from poor, rural areas of states like Jharkhand, Odisha, Bihar, and West Bengal to metropolitan cities such as Delhi, Mumbai, and Bengaluru. This necessitates seamless coordination between state law enforcement agencies, child welfare committees, judiciary, and NGOs. However, in practice, inter-state cooperation remains fragmented, inconsistent, and marred by jurisdictional confusion.

The lack of a centralized database on trafficking victims and accused persons severely impedes investigations.<sup>61</sup> States often use different procedures, formats, and even definitions when recording trafficking cases, making harmonization difficult. Rescue operations are delayed due to bureaucratic hurdles

<sup>47</sup> Human Rights Law Network, "Critique of the 2021 Anti-Trafficking Bill" (2022).

<sup>48</sup> Lawyers Collective, "Statement on Anti-Trafficking Bill" (2022).

<sup>49</sup> Imran and Mishra (n 3).

<sup>50</sup> H Trivedi and P Chamar, *Human Trafficking in India: Legal Frameworks, Challenges and Policy Recommendations*, VIDYA Journal of Gujarat, 2025, <http://vidyajournal.org/index.php/vidya/article/view/611>.

<sup>51</sup> NHRC, *Report on Trafficking in Women and Children in India*, Vol. 1 (2004), pp. 78–82.

<sup>52</sup> US Department of State, *Trafficking in Persons Report – India* (2023), p. 212.

<sup>53</sup> Sanlaap and Anti-Trafficking Network, *Field Study Report on Trafficking Routes* (2022).

<sup>54</sup> Ministry of Home Affairs, Government of India, *Status Report on Anti-Human Trafficking Units*, 2023.

<sup>55</sup> NITI Aayog, *National Multidimensional Poverty Index* (2023).

<sup>56</sup> UNICEF, *Mapping Vulnerabilities: Child Trafficking in India* (2022), p. 14.

<sup>57</sup> D.K. Jha, *Illegal Migration in India: Threats and Strategic Solutions for National Security*, PhilPapers (2025), <https://philpapers.org/rec/JHAIMI-2>.

<sup>58</sup> Save the Children, *Lost Childhood: Case Studies of Child Trafficking in India*, 2021.

<sup>59</sup> ILO and UNICEF, *COVID-19 and Child Labour: A Time of Crisis* (2022).

<sup>60</sup> India Justice Report, *Access to Justice for Dalits and Adivasis* (2022).

<sup>61</sup> National Crime Records Bureau (NCRB), *Crime in India*, Annual Report 2023.

like verification of identity, transit permissions, and delays in issuing rehabilitation orders.<sup>62</sup>

Furthermore, there is no consistent standard operating procedure (SOP) for repatriation or reintegration of victims. As a result, rescued individuals are often left in limbo, spending months in shelter homes awaiting court orders or inter-state correspondence.<sup>63</sup>

The 2018 Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill attempted to introduce inter-state investigation protocols and a National Anti-Trafficking Bureau, but it lapsed in Parliament.<sup>64</sup> The newer legislative proposals, while promising, remain unpassed as of 2026. Meanwhile, states continue to function in silos with limited information-sharing.

Cross-border trafficking—especially from Nepal and Bangladesh—adds another layer of complexity. India lacks comprehensive bilateral victim protection agreements, leading to diplomatic bottlenecks in repatriation.<sup>65</sup> Moreover, porous borders and informal migration routes make surveillance difficult, especially in regions like the Indo-Bangladesh border in West Bengal and Assam.

#### IV. Comparative Perspective

Understanding human trafficking as a global crime demands a comparative examination of legal frameworks across different jurisdictions. This analysis evaluates and contrasts anti-trafficking legislation in India with prominent legal regimes in the United States, United Kingdom, and Australia—focusing particularly on the *Trafficking Victims Protection Act (TVPA)* of the U.S., the *Modern Slavery Act 2015* of the U.K., and the *Modern Slavery Act 2018* of Australia. This comparative lens reveals both strengths and lacunae in India's response and highlights best practices for legal reform.

##### United States: Trafficking Victims Protection Act (TVPA)

Enacted in 2000, the TVPA was one of the earliest comprehensive legislations targeting human trafficking in all its forms. It established a *three-pronged approach*—prosecution, protection, and prevention—commonly referred to as the “3Ps”. The law criminalized trafficking for both sexual exploitation and forced labor, with strong penalties of up to life imprisonment in aggravated cases<sup>66</sup>.

A unique feature of the TVPA is its focus on *victim protection*, especially non-citizens. The T-Visa allows foreign trafficking victims to remain in the U.S. and access services if they cooperate with law enforcement<sup>67</sup>. Additionally, the TVPA mandates the *Trafficking in Persons Report*, which evaluates other countries' anti-trafficking efforts, thereby leveraging U.S. foreign policy for global anti-trafficking enforcement<sup>68</sup>.

Comparatively, India lacks a visa framework for foreign victims and does not consistently apply a victim-centered approach, especially for those trafficked across borders. Moreover, India does not have an equivalent mechanism to assess and influence international anti-trafficking practices.

##### United Kingdom: Modern Slavery Act 2015

The *Modern Slavery Act 2015* consolidated several offences under one legislative umbrella and took a victim-centric approach. It defines slavery broadly to include human trafficking, forced labor, and servitude<sup>69</sup>. The Act created a *Statutory Defense* (Section 45) that shields victims from criminal prosecution for unlawful acts committed as a direct result of being trafficked<sup>70</sup>.

Another critical innovation is the *Transparency in Supply Chains* provision (Section 54), which mandates large businesses to disclose efforts to prevent slavery in their supply chains<sup>71</sup>. This created a regulatory incentive for corporate due diligence, thereby addressing structural causes of trafficking through business accountability.

India's anti-trafficking laws, including the *Immoral Traffic (Prevention) Act, 1956*, do not impose corporate obligations or address supply chain complicity. While some state laws and proposed national bills discuss rehabilitation, the systemic approach of the U.K. in attacking trafficking via market dynamics remains absent in India.

##### Australia: Modern Slavery Act 2018

Australia's *Modern Slavery Act 2018* mirrors the U.K. model but improves upon it by introducing a centralized public registry for modern slavery statements and making reporting requirements stricter for companies with annual revenues over AUD 100 million<sup>72</sup>.

Unlike India, which still criminalizes aspects of sex work under the ITPA, the Australian framework refrains from conflating voluntary sex work with trafficking. This separation is critical, as it prevents the misidentification of sex workers as trafficking victims, ensuring resources are directed more effectively<sup>73</sup>.

Australia also funds independent Anti-Slavery Commissioners at state levels, further decentralizing the monitoring of compliance and victim assistance. In contrast, India lacks an independent oversight body with similar authority.

##### India: A Fragmented Framework

India's current anti-trafficking framework is fragmented and predominantly focused on trafficking for sexual exploitation. The *Immoral Traffic (Prevention) Act, 1956* (ITPA), while criminalizing aspects of human trafficking, has been criticized for being outdated and lacking comprehensive scope<sup>74</sup>. Other laws such as the *Bonded Labour System (Abolition) Act, 1976*, *Child Labour (Prohibition and Regulation) Act, 1986*, and sections of the *Indian Penal Code (IPC)* address specific aspects, but not in an integrated manner<sup>75</sup>.

<sup>62</sup> Childline India Foundation, Standard Operating Procedures for Rescue and Rehabilitation (2021).

<sup>63</sup> H. Singh, Rehabilitation Challenges in Shelter Homes, *Indian Bar Review*, Vol. 48, No. 3, 2024.

<sup>64</sup> Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill, 2018.

<sup>65</sup> R. Basu, *Capacity Building Through Governance Innovations: South Asia*, Taylor & Francis, 2024, Ch. 2.

<sup>66</sup> Kandathil, R. (2005). "Global Sex Trafficking and the Trafficking Victims Protection Act of 2000." *Michigan Journal of Gender & Law*, 12(1).

<sup>67</sup> Holman, M. (2008). "The Modern-Day Slave Trade: How the United States Should Alter the Victims of Trafficking and Violence Protection Act." *Texas International Law Journal*, 44.

<sup>68</sup> Hepburn, S., & Simon, R. J. (2013). *Human Trafficking Around the World: Hidden in Plain Sight*. Columbia University Press.

<sup>69</sup> UK Modern Slavery Act 2015, Section 1.

<sup>70</sup> Simpson, B. (2023). *The Non-Criminalisation of Victims of Human Trafficking and Modern Slavery: An Anglo-American Perspective*. ProQuest.

<sup>71</sup> Modern Slavery Act 2015, Section 54.

<sup>72</sup> Faulkner, E. A. (2023). *The Trafficking of Children: International Law, Modern Slavery, and the Anti-Trafficking Machine*. Springer.

<sup>73</sup> Segrave, M., Milivojevic, S., & Pickering, S. (2017). *Sex Trafficking and Modern Slavery: The Absence of Evidence*. Routledge.

<sup>74</sup> SK Khushi & A Singh (2025). *Human Trafficking Laws: Evaluating Legal Measures to Combat Modern Slavery*. *Human Rights Law Review*.

<sup>75</sup> Indian Penal Code, Sections 370, 372, 373.



India's 2018 *Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill*, though approved by the Lok Sabha, lapsed in the Rajya Sabha. Critics argued it leaned excessively on criminalization without sufficient emphasis on rehabilitation or victim agency<sup>76</sup>.

Unlike the U.S., U.K., or Australia, India lacks comprehensive legislation that brings under one roof multiple forms of trafficking, including forced labor, organ trafficking, and child exploitation, along with mechanisms for victim protection and corporate accountability.

#### Lessons and Best Practices

1. Unified Legal Framework: India's piecemeal laws should be consolidated into a single, comprehensive statute like the TVPA or Modern Slavery Acts. This would enhance coherence in enforcement and victim protection.
2. Victim-Centric Approach: Legal systems like the U.K. and U.S. offer protection mechanisms including safe housing, legal aid, and immunity from prosecution. India needs similar systemic guarantees embedded in law, not left to judicial discretion or NGO intervention.
3. Corporate Accountability: The Indian legal system must recognize the role of economic actors. Adopting transparency obligations like those in Australia and the U.K. would push businesses toward ethical sourcing and reduce exploitative labor practices.
4. Independent Oversight Bodies: The establishment of Anti-Trafficking Commissioners, akin to Australia, can improve accountability and victim services in India, preventing local bureaucratic inertia.
5. Data Transparency and Reporting: India lacks publicly accessible and centralized data on trafficking. Learning from the U.S. TIP report or Australia's modern slavery registries, India should develop mechanisms for open data collection and reporting.

## V. Conclusion

Human trafficking remains one of the gravest human rights violations in contemporary India, undermining constitutional promises of dignity, liberty, and equality. While the country has made significant legislative strides, including the incorporation of trafficking offences under the Bharatiya Nyaya Sanhita, 2023, and procedural reforms through the Bharatiya Nagarik Suraksha Sanhita, 2023, the implementation of anti-trafficking laws continues to be fraught with challenges.

The analysis reveals that prosecution and conviction rates remain low, victims are often misidentified or revictimized by the system, and inter-agency and inter-state coordination is weak. A fragmented legal framework—spread across multiple statutes like the *Immoral Traffic (Prevention) Act, 1956*, *Bonded Labour Act, 1976*, *POCSO Act, 2012*, and juvenile justice laws—adds to the confusion.

Comparative experiences from jurisdictions such as the United States (TVPA), United Kingdom (Modern Slavery Act 2015), and Australia (Modern Slavery Act 2018) suggest that a unified, survivor-centric legal framework, supported by institutional accountability and corporate transparency, can yield more robust results.

Trafficking in India is not merely a legal issue—it is a developmental, social, and governance issue, deeply intertwined with poverty, migration, caste and gender hierarchies, and corruption. Therefore, a multi-dimensional strategy is required to combat it effectively.

## VI. Recommendations

- Enact a comprehensive anti-trafficking legislation that unifies existing laws and explicitly addresses all forms of trafficking, including forced labour, organ trade, and online exploitation.
- Establish fully operational and independently monitored Anti-Human Trafficking Units (AHTUs) in every district with trained personnel and dedicated budgets.
- Ensure victims are treated as rights-holders by providing them with legal aid, compensation, psychological counselling, and non-prosecution guarantees for crimes committed under coercion.
- Revamp rehabilitation programs like the Ujjawala Scheme to include structured vocational training, economic reintegration plans, and long-term housing and educational support.
- Develop and maintain a centralized national trafficking database with disaggregated data on victims, traffickers, and case outcomes to guide policy and improve transparency.
- Introduce corporate accountability through mandatory modern slavery disclosures for businesses, focusing on supply chain audits and ethical labor practices.
- Strengthen bilateral and regional cooperation agreements for cross-border victim repatriation, legal aid, and intelligence sharing with neighboring countries.
- Launch grassroots community engagement programs focused on trafficking prevention, especially in vulnerable regions, through awareness campaigns, education, and livelihood access.
- Integrate trafficking-related training into regular law enforcement, judiciary, and child welfare personnel curricula to ensure trauma-informed, victim-centric handling.
- Appoint independent oversight bodies or commissioners at state and national levels to monitor anti-trafficking initiatives, review compliance, and publish annual performance reports.

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