



HUMAN TRAFFICKING: CHALLENGES AND LEGAL FRAMEWORKS

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ABSTRACT

The term "trafficking" refers to dealing or trading in something illegal. Human trafficking involves the trade or exploitation of human beings, both male and female, for unlawful purposes such as forced labour, sexual exploitation, or coerced begging. In extreme cases, it even extends to organ trafficking, where children's organs are sold for monetary gain. Human trafficking is a widespread issue in many parts of the world, violating fundamental human rights and exposing victims to severe physical and emotional trauma. This article provides an in-depth analysis of human trafficking, covering aspects such as methods used, causes, legal frameworks, and international laws related to human trafficking. Additionally, this article will examine the victims of human trafficking, the long-term consequences they face, and the vulnerable groups most at risk. Finally, this paper will suggest preventive measures and strategies to combat human trafficking effectively.

Keywords: Human Trafficking, Forced Labour, Violation of Human Rights, International Conventions, Domestic Legislation.

INTRODUCTION

Human trafficking is one of the most common illegal practices that have been prevalent since time immemorial. It is not a new phenomenon but a long-standing issue that continues to affect societies worldwide. From childhood, we have been warned by our parents and elders not to talk to strangers, not to accept food or drinks from unknown individuals, and to always be cautious. Many of us have grown up hearing stories about children being kidnapped, often by strangers using deceitful tactics. A common method involved a stranger approaching a child, pretending to have been sent by their parents, offering sweets, and luring them away. Enticing children was an easy task, making them vulnerable to abduction. But why were these children

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kidnapped? The answer is simple: either to extort money from their parents or to sell them for a large sum of money. However, human trafficking is not limited to minors. Even young boys and girls are abducted and sold, particularly for sexual exploitation. Many young girls are trafficked to other countries and forced into the sex trade. If they resist or attempt to escape, they face brutal beatings, harassment, and even death.

Children between the ages of 7 to 12 are often forced into begging. They are drugged before being sent out to beg, making them addicted. Once addicted, they are manipulated and controlled, forced to continue begging to sustain their addiction. If they refuse, they are beaten or offered more drugs. It is well known that drug addicts can go to extreme lengths to obtain their next dose, even committing violent crimes. In even more horrific cases, traffickers deliberately mutilate children, cutting off their hands or legs so that they appear physically disabled, making it easier to evoke sympathy and increase earnings from begging. Every year, around 1 to 2 million children,¹ Women and men fall victim to human trafficking. It has grown into a multi-billion-dollar industry, operating across borders and affecting countless lives. One of the most alarming aspects of human trafficking is the forced transportation of women from one country to another for sexual exploitation. This remains one of the biggest threats to global human rights and security.

Many girls have been rescued from trafficking networks, but the problem persists. In some cases, poverty forces families to sell their daughters in exchange for money, often unaware of the horrific fate that awaits them. Another common scenario involves young girls who run away from home in pursuit of their dreams. These vulnerable individuals often cross paths with traffickers who disguise themselves as well-wishers, offering money, job opportunities, and a glamorous future. These false promises lure them into the hands of traffickers, who ultimately sell them into forced labour or the sex trade. Once trapped, it is nearly impossible to get out. The victims are exposed to inhuman treatment, and psychological and physical violence, and are even compelled to lose their identity. Human trafficking is not just a crime; it is a systematic assault on human dignity that calls for immediate action, stricter laws, and more vigorous enforcement to prevent vulnerable individuals from falling into these very sophisticated traps.

¹ Inter-American Development Bank, *Human Trafficking's Dirty Profits and Huge Costs*, (Dec. 4, 2019), <https://www.iadb.org/en/news/human-traffickings-dirty-profits-and-huge-costs>

WHO IS SUSCEPTIBLE TO HUMAN TRAFFICKING²

Human trafficking affects people from all walks of life. Anyone can become a victim, but the most vulnerable are often targeted by traffickers. Certain groups are at a higher risk, including:

1. **Children without Parents or Those Whose Parents are incarcerated** – Children who are abandoned or left without guardians are particularly vulnerable to exploitation.
2. **Children Who Have Experienced Abuse or Trauma** – Those who suffer abuse or emotional trauma in childhood are at risk of being manipulated by traffickers who promise love, protection, and security.
3. **Homeless Individuals** – People living alone or who are homeless are often preyed upon by traffickers who offer them a false sense of safety or belonging.
4. **Racial and Ethnic Minorities** – Discrimination and marginalization make certain ethnic or racial groups more likely to be exploited by traffickers.
5. **Poverty-Stricken Individuals** – People living in poverty or struggling financially are often coerced or deceived into human trafficking through promises of employment or a better life.
6. **Runaways (dependents):** Minors who run away from home are often targets of human traffickers, as they are particularly vulnerable. These young individuals are typically seeking a better life or attempting to escape from difficult home environments, but they are easily manipulated by traffickers.
7. **Illegal migration:** migrant workers or migrant labourers are also vulnerable and are easy targets of Human traffickers.

ROOT CAUSES OF HUMAN TRAFFICKING³

The reasons behind human trafficking are varied and can be categorized into political, economic, social, and cultural factors, with each country experiencing its own unique set of circumstances. However, there are common factors that transcend borders and affect people worldwide. Some of these factors include:

1. **Employment and Poverty** – Lack of job opportunities and economic hardships make people, especially those in impoverished regions, vulnerable to traffickers who offer false

² Megha S, Human trafficking and legal framework In India, International journal of law (2020)<https://www.lawjournals.org/assets/archives/2020/vol6issue3/6-3-56-468.pdf>.

³ United Nations Office on Drugs and Crime, Toolkit to Combat Trafficking in Persons 9-2 (2008), https://www.unodc.org/documents/human-trafficking/Toolkit-files/08-58296_tool_9-2.pdf

promises of better work or financial stability. People desperate for survival are often willing to take risks, not realizing the repercussions that lie ahead.

2. **Lack of Education** – Uneducated individuals, especially in rural areas or economically disadvantaged regions, are more likely to fall prey to traffickers. Limited knowledge about the risks of human trafficking makes them easy targets.
3. **Lack of Opportunities** – Many people are forced to migrate to other regions or countries in search of better living conditions and job opportunities. When they fail to find opportunities, they become displaced and vulnerable, often falling into the hands of traffickers.
4. **Organized Crime Groups** – Certain organized criminal networks are involved in the trafficking industry, using manipulative tactics to exploit people. These groups target vulnerable individuals and use them for forced labour, sexual exploitation, and other forms of abuse.
5. **Desire for Money and Inferiority Complex** – The greed for money drives people to commit unethical acts, such as participating in human trafficking. The inferiority complex that some individuals experience leads them to seek quick, easy money, regardless of the moral consequences. This mentality contributes to the continued existence of human trafficking, as people become willing to exploit others for their gain.
6. **Migration** – Migrant workers seeking better opportunities often find themselves trapped in situations where they are exploited. Forced to migrate due to the lack of opportunities in their home regions, they often lose their identity in the crowd of migration, making it easier for traffickers to prey on them. These individuals, desperate to find work, are at risk of becoming victims of trafficking, unaware of the potential dangers involved.

IMPACT OF HUMAN TRAFFICKING ON SURVIVORS

It has a very severe impact, psychologically and physically. Children, women, and men are abused physically and sexually, and it becomes difficult for the victims to deal with the trauma. Rehabilitation often doesn't help with the depth of trauma these victims go through, and some even commit suicide. Facing society becomes difficult, and they live in constant fear and anxiety. The physical abuse they endure shakes them deeply. Some even die because of the abuse. While they may gain physical freedom from traffickers, they cannot escape the psychological trauma and are unable to return to a normal life.

INTERNATIONAL LEGAL FRAMEWORK TO COMBAT HUMAN TRAFFICKING

1. **The United Nations Office on Drugs and Crime (UNODC)** has introduced various conventions to address human trafficking and has emphasized the abolition of all forms of slavery. In 2007, UNODC launched the United Nations Global Initiative to Fight Human Trafficking (UN.GIFT) to raise awareness, support victims, and strengthen international cooperation in combating human trafficking.⁴
2. **International Covenant on Civil and Political Rights (ICCPR):** The ICCPR explicitly prohibits slavery, slave trade, and compulsory labour, including all forms of human trafficking. *Article 8* of this covenant specifically addresses the prohibition of all forms of slavery, slave trade, and forced labour, reinforcing international commitments to combat human exploitation.⁵
3. **ILO Convention:** The International Labour Organization (ILO) has condemned forced labour, modern slavery, and trafficking in persons. According to the ILO, forced labour is a violation of human rights, affecting 27.6 million men, women, and children worldwide. The primary causes include poverty, unemployment, lack of opportunities, and lack of education. The ILO aims to eradicate forced labour and eliminate all forms of discrimination against the poor.⁶
4. **United Nations Convention against Transnational Organized Crime (UNTOC):** The UNTOC aims to suppress all forms of trafficking, prevent such practices, and ensure strict punishment for those involved in human trafficking and related transnational crimes.
5. **Universal Declaration of Human Rights (1948):** Article 4 of the Universal Declaration of Human Rights (UDHR) states that no person shall be held in slavery or servitude and that slavery and the slave trade must be prohibited in all forms.⁷
6. **The United Nations Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1949):** This convention aims to punish individuals who exploit prostitution, traffic people for that purpose, and impose stricter penalties on those who lure or entice individuals into prostitution. It also criminalizes operating brothels, renting accommodations for prostitution, and all forms of human trafficking.
7. **SAARC Convention on Combating and Prevention of Trafficking in Women and Children for Prostitution (2002):** This convention primarily focuses on the trafficking of

⁴ University of Denver, International Law and Human Trafficking,

<https://www.du.edu/korbel/hrhw/researchdigest/trafficking/InternationalLaw.pdf>

⁵ International Human Rights Association, *International Covenant on Civil and Political Rights*,

⁶ International Labour Organization, *Forced Labour, Modern Slavery and Trafficking in Persons*,

⁷ Megha S, Human trafficking and legal framework In India, *International journal of law* (2020)

women and children who are sexually exploited by traffickers. It suggests preventive measures and ensures that states strictly follow the guidelines to combat and prevent human trafficking. This convention also aims to promote cooperation among member states to effectively address the issue of human trafficking. **Article IX** of the convention specifically focuses on the care and rehabilitation of victims, ensuring that proper support is provided to those affected by trafficking.⁸

NATIONAL LEGAL FRAMEWORK ON HUMAN TRAFFICKING

The Government of India has focused extensively on addressing human trafficking, particularly among women and children, who are considered the most vulnerable groups in society and are at a higher risk of becoming victims of trafficking. The BNS 2023 includes provisions for stringent punishment for those involved in human trafficking.

Bharatiya Nyaya Sanhita (BNS), 2023⁹

1. **Section 143** of the BNS 2023 mandates strict punishment for individuals involved in human trafficking.
2. **Section 144(1)** provides severe punishment for those involved in the sexual exploitation of trafficked children, with sentences ranging from 5 years of imprisonment to life imprisonment.
3. Special provisions are made to tackle crimes specifically targeting women and children.
4. **Sections 95 to 99** address offenses against children and impose strict punishments for offenders. These sections focus on crimes such as hiring, employing, or engaging a child to commit an offense, procuring a child, and selling or buying a child for purposes of prostitution. The punishment for these offenses ranges from three years to fourteen years of imprisonment.
5. Additionally, **Section 139** of the BNS 2023 prescribes punishment for kidnapping or maiming a child to beg.
6. Section 141 provides punishment for the importation of a girl or boy from a foreign country for illicit sexual exploitation, with penalties ranging from ten years to life imprisonment.

⁸ SAARC Secretariat, *SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution*, <https://www.saarc-sec.org/index.php/resources/agreements-conventions/50-saarc-convention-on-preventing-and-combating-trafficking-in-women-and-children-for-prostitution/file>

⁹ Press Information Bureau, *Government of India*, Press Release

The Immoral Traffic (Prevention) Act, 1956 (ITPA) aims to prevent the commercial exploitation of individuals through prostitution. It provides mechanisms for punishing traffickers and also includes provisions for the rehabilitation and protection of the victims.

Protection of Children from Sexual Offences (POCSO) Act, 2012, The Protection of Children from Sexual Offences (POCSO) Act, 2012 is designed to protect children from all forms of sexual assault, both penetrative and non-penetrative. It also prohibits all forms of sexual exploitation of children, establishing strict penalties for offenders.

The Indian Constitution ensures fundamental rights, including the right to life and liberty, and prohibits discrimination. It mandates compulsory education for children between 6 to 14 years of age, ensures children's right to live with dignity, and prohibits all forms of sexual exploitation. Additionally, it prohibits the employment of children less than 14 years old in factories or industrial areas. These provisions aim to protect children from exploitation and ensure their well-being and education. Article 23 (1) prohibits trafficking in human beings.

The state has also enacted legislation to deal with human trafficking. For example, The *Punjab Prevention of Human Smuggling Act, 2012*, is a state-level legislation aimed at combating human trafficking, particularly in the context of human smuggling.¹⁰

International Justice Mission (IJM) India collaborates with local governments, agencies, and corporations to address violence against women and children, including human trafficking. It provides legal services and technical consultation to develop solutions aimed at eradicating human trafficking. The organization works on multiple fronts, including prevention, rescue, and justice for victims.

Various provisions exist to combat human trafficking, and the state must address this issue with care. Article 15(3) allows the creation of laws specifically for women and children, while Article 15(4) empowers the government to create laws for Scheduled Castes (SC) and Scheduled Tribes (ST). These legal provisions, coupled with effective implementation, are in place to protect women, children, and men from trafficking across different regions of the country.

MEASURES TO PREVENT HUMAN TRAFFICKING

¹⁰ Ministry of External Affairs, Government of India, *Human Trafficking*, <https://www.mea.gov.in/human-trafficking.htm>.

1. **Awareness Campaigns:** Educate marginalized sections of society, poor communities, and students about the risks associated with human trafficking.
2. **Anti-Trafficking Cells:** Establish anti-trafficking cells in every district and Tehsil to address trafficking-related issues.
3. **Law Enforcement:** Ensure coordination between local governments and law enforcement agencies to implement trafficking prevention policies effectively.
4. **Rehabilitation Centers:** Improve the vigilance of rehabilitation centers and provide better support to victims of trafficking.
5. **Shelter Homes:** Increase the number of shelter homes for the homeless to provide safe spaces.
6. **Community Involvement:** The success of these measures depends on active participation from local communities.
7. **Encourage Reporting:** Promote awareness regarding the consequences of trafficking and reduce the fear of reporting incidents to encourage more victims and witnesses to come forward.

CONCLUSION

Human trafficking cannot be easily eradicated; proper law enforcement is crucial. The root causes of trafficking are poverty, unemployment, and lack of education are significant factors, especially in India, where poverty is the leading cause. People are forced into labour, children are exploited, and abuse is rampant. Although laws exist and are strictly enforced, trafficking continues due to the enormous financial gain. NGOs and institutions must work to support victims, and public involvement is essential to combat trafficking. Citizens must report incidents and advocate for timely action, while the state must ensure proper implementation of guidelines.