
WOMEN'S RIGHTS AS HUMAN RIGHTS: GLOBAL AND NATIONAL PERSPECTIVES ON HUMAN TRAFFICKING IN INDIA

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ABSTRACT

Human trafficking blocks women from claiming their basic rights, especially in poorer nations such as India, where money struggles and unfair treatment based on gender run deep. Looking at patterns worldwide and within one nation reveals how deeply this crime harms women's freedom, worth, and fairness under law. International tools matter here - the 2000 Palermo deal along with CEDAW - both aim to fight abuse and protect dignity across borders. Inside India, legal safeguards exist too: promises woven into the Constitution through Article 14, which demands equal treatment, Article 21, guarding life and personal freedom, plus Article 23 banning forced labour outright. Criminal laws also step in - Section 370 and later Section 370A of the Indian Penal Code and Section 143 of BNS target traffickers directly by making such acts punishable offenses.

Through careful analysis, this work looks at different kinds of trafficking - like sex exploitation, bonded labour, child smuggling, and coerced marriages - noticing how these issues hit women and kids harder. Starting from real numbers, it turns to India's latest official crime report from 2023, showing above two thousand recorded cases and six thousand people found trapped, most being female or underage. Landmark court rulings shape part of the discussion, with cases like Vishal Jeet versus Union of India, then Gaurav Jain against the same authority, followed by Budhadev Karmaskar versus. West Bengal's legal stance along with the People's Union for Democratic Rights versus the Union of India shaped how rights are upheld in trafficking cases. Though separate events, each played a role in guiding court thinking on protection. One came from regional governance struggles, the other through civil society challenging national policy. Together they shifted judicial focus toward individual entitlements rather than state discretion. Their influence grew slowly, embedded in rulings that followed. Not declared loudly but seen in subtle shifts during hearings. What emerged was less about procedure, more about dignity under law.

Keywords: Women's Rights; Human Trafficking; India; NCRB Data, CEDAW

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1. Introduction

Lately, more people see women's rights as key to human rights overall. Even so, abuses still happen - trafficking stands out as especially harmful. When women and girls get trafficked, it rips away their basic freedoms: who they are, their choices, fairness, safety. This isn't just illegal; it shows how money gaps, bias against women, and weak systems feed into each other.

Persists still, despite laws built wide and deep, the shadow of trafficking across India - a nation shaped by uneven growth and layered struggles. Not because rules lack strength, but because how they work on ground often falls short. Viewed closely, this trade in people ties tightly to how women's lives are valued - or ignored - within broader human dignity. Ideas about freedom, safety, body autonomy, form roots here, tangled though they may be. Laws exist, yes, yet what shape do they take when met with poverty, migration, gender bias? Different faces appear: forced labour, sold brides, children pulled into hidden circuits. Behind each lies push factors like debt, displacement, empty chances. Responses roll out slowly - some aid arrives, some arrests made - although whether these shift real outcomes stay unclear. Measured not just by policy pages, but lived nights.

2. Conceptual Framework: Women's Rights as Human Rights

2.1 Evolution of the Concept

The theoretical awareness of women rights as human rights were developed with the **Vienna Declaration and Programme of Action (1993)** which stressed that the violation of the women rights should not be seen as a personal issue but as an international one. Human trafficking is one of the worst forms of such violations, which involves the use of force, misleading information, misuse of power and exploitation. Because of structural inequalities which include poverty, illiteracy and inability to access economic opportunities, women and girls are disproportionately affected. In that regard, trafficking should be perceived not only as a criminal justice problem but a larger human rights issue that has to be approached in a gender-specific and victim-focused way.

2.2 Human Trafficking is a Violation of Human Rights

Caught in hidden chains, people lose their freedom before anyone even notices. Moving them across borders often follows lies or threats meant to control. Power twists turn lives into tools

for profit without consent. Stripped of choice, each person fades under someone else's grip. Dignity dissolves when force becomes routine. Rights crumble where silence grows too loud.

2.3 Gender Differences in Trafficking

Most people caught in trafficking are female, simply because society often treats women unfairly. Poverty, missing school, or living under strict male-dominated rules raise the risk. Rights taken away show it's not just crime but also about unfair treatment based on gender.

3. Global Rules Against Human Trafficking

3.1 Palermo Protocol (2000)

A fresh look at global rules shows how one agreement shapes responses to exploitation. This deal draws clear lines around what counts as human trafficking. Instead of vague ideas, it lays out real steps countries must take. Prevention becomes a duty, not just an idea. Protection for those harmed is built into the system. Prosecuting offenders turns from optional to required. Each nation signs on knowing they must act. Laws shift because silence is no longer allowed. Support systems grow where none existed before.

3.2 Convention on the Elimination of All Forms of Discrimination Against Women CEDAW (1979)

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1979² is an important international legal instrument adopted by the General Assembly of United Nations. This Convention is considered as Bill of Rights for Women.

Article 17 of the Convention establishes a committee known as the Committee on the Elimination of Discrimination Against Women. This Committee considers reports from member parties regarding the compliance with the provisions of the Convention. The committee makes general recommendations on the specific Article of the Convention. Various recommendations of the committee identify poverty, unemployment, violence against women, armed conflicts as few contributory factors of trafficking in women.

Important provisions of this Convention are: For the purposes of the present Convention, the

² Adopted on 18 December 1979 and came into force on September 3, 1981

term 'discrimination against women' shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.³

3.3 International Tools at Work

The Universal Declaration of Human Rights (UDHR)⁴ was the first international legal instrument to acknowledge in its very preamble that the recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world. It provides that everyone is born free and with equal dignity and rights. From the language of the Article 1 that all human beings are born free and equal, the principle that slavery, the slave trade should be abolished must follow. No one should ever be treated as property, forced into slavery, or made to serve against their will. All forms of slavery and the slave trade must be completely abolished⁵. Every person has the right to move freely, live where they choose, and pursue work of their own choice. They are also entitled to fair, safe, and dignified working conditions⁶.

The International Covenant on Civil and Political Rights (ICCPR) is a multilateral treaty adopted by the General Assembly of the United Nations. This Covenant mostly elaborates various civil and political rights mentioned in the Universal Declaration of Human Rights, including the right to life, freedom of religion, freedom of speech, freedom of assembly, electoral rights and rights to due process and a fair trial. The Covenant till December 2025 had 74 signatories and 175 parties. The right to live free, from slavery is a right that every person should have and Article 8 of the Covenant is important because it helps to protect people from slavery.⁷

It says that no person should be treated like a slave. Every person should be free from situations where they are forced to depend on someone or be taken advantage of. This means that people should not be made to do things against their will. The idea is that every person should be free,

³ The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1979, Art 1

⁴ Universal Declaration of Human Rights, 1948

⁵ *ibid*, Art 4

⁶ *Ibid*, Art 13(1)

⁷ The International Covenant on Civil & Political Rights, 1966, Art 8

from being exploited or forced into doing something they do not want to do.⁸

4. National Legal Framework in India

4.1 Constitutional Provisions

Article 14 relating to equality before law. Equality before law ensures that every citizen or person shall be protected by the laws of the country⁹. This makes it essential for the State to ensure equality before law and a legal system which promotes justice on the basis of equal opportunity to all including the victims of human trafficking.

Article 15 that deals with prohibition of discrimination on grounds of religion, race, caste, sex or place of birth, are an integral part of fight against human trafficking¹⁰. However, people in India are still vulnerable to discrimination in their workplace, including sexual harassment. **Article 21** pertaining to protection of life and personal liberty has been assumed as right to live with human dignity and provide assurance against torture or cruel activities¹¹. India has a written Constitution, and the above provisions make it clear on the issues like penalizing or legalizing of human trafficking.

Provisions on Trafficking in the Constitution of India present in **Article 23** that prohibits trafficking in human beings and forced labor. It states that Traffic in human beings, beggars and other similar forms of forced labor are prohibited and any contravention of this provision shall be an offence punishable in accordance with law. This right is enforceable against the State and private citizens.

4.2 Statutory Framework

Article 35 of the Indian constitution with the object of inhibiting or abolishing the immoral traffic in women and girls. The Act aimed to rescue exploited women and girls, to prevent deterioration of public morals and to stamp out the evil of prostitution, which was rampant in various parts of the country. In 1978, SITA was amended by the Amendment Act 46 of 1978, which took effect from 2 October 1979.

⁸ Ibid, Art 8(2)

⁹ The Constitution of India, Part III, Art. 14

¹⁰ *ibid*, Art. 15

¹¹ Vikram, Human Trafficking in India: A Legal Analysis, 2010, 52 Journal of Indian Law Institute

Section 3 of the Act provides that any person, who keeps or manages or acts or assists in keeping or management of a brothel, shall be punishable on first conviction with rigorous imprisonment for a term not less than one year but not more than 3 years and also with fine which may extend to 2000 rupees and in event of a second or subsequent conviction with rigorous imprisonment for a term of 2 years to 5 years and also with fine which may extend to 2,000 rupees. This means keeping or managing a brothel or allowing premises to be used as a brothel is an offence.

The act provides for the punishment of those persons living on the earnings of prostitution by anybody, such persons acting as touts or pimps are liable to punishment with a fine. And where such earnings relate to prostitution of a child or minor, they shall be punishable with imprisonment for a term of not less than 7 years and not more than 10 years.¹² Procuring, inducing, trafficking or taking persons for the sake of prostitution, even an attempt to procure or take would constitute the offence¹³. Anybody who carries on prostitution or anybody with whom such prostitution is carried on, in the vicinity of public places such as hotels, vehicles, etc. is an offence¹⁴. Seducing or soliciting for the purpose of prostitution in any public place or within sight of a public place is an offence. It may be noted that the list of offenders who can be charged for soliciting includes pimps, agents, contractors, managers proprietors etc.¹⁵ Seduction of a person in custody for prostitution, including causing or assisting seduction is also an offence as per the Act.¹⁶

Section 143 of the Bharatiya Nyaya Sanhita, which expressly forbids human trafficking, is equivalent to the previous Section 370 of the IPC. A person is considered to be trafficked if they are recruited, transported, harboured, transferred, or received with the intention of exploiting them through coercion, threats, force, abduction, fraud, deception, abuse of authority, or inducement.

4.3 Institutional Mechanisms

The Ujjawala Scheme of the Ministry of Women and Child Development is an important one. Besides providing integrated services such as community awareness, rescue operations, safe

¹² *ibid*, s. 4

¹³ *ibid*, s. 5

¹⁴ *ibid*, s. 7

¹⁵ *Ibid*, s. 8

¹⁶ *Ibid*, s. 9

shelter, counselling, legal assistance, vocational training, and repatriation, the program pays attention to the trafficking as the commercial sexual exploitation. Trafficking has severe and long-term effects such as physical and psychological trauma, infringement of fundamental rights, social stigma, and economic exploitation, among others, that tend to place victims in perpetration of marginalization and vulnerability

5. Judicial Approach and Landmark Case Laws

The courts have also contributed a lot in terms of broadening the areas of these rights and enhancing protection against trafficking. In *Vishal Jeet v. Union of India*¹⁷, The Supreme Court, in 1990, through union of India, instructed the government to take a proactive action to eradicate child prostitution and trafficking and focused on rehabilitation. In *Gaurav Jain v. Union of India*¹⁸(1997) emphasized the need to offer education and social integration to children of sex workers to end the cycle of exploitation. Also, in *Budhadev Karmaskar v. State of West Bengal* (2011),¹⁹ according to the Court, which declared the dignity of sex workers, emphasized the necessity of having a rights-based framework of rehabilitation. Also, in *People's Union for Democratic Rights v. Union of India (1982)*²⁰ broadened the scope of Article 23 to cover several types of forced labour and in doing so gave the anti-trafficking jurisprudence a boost indirectly. These historic rulings are an indication of a forward-thinking court that incorporates human rights principles in the fight against trafficking.

6. Types and Forms of Human Trafficking

There are three major forms in Human Trafficking. They are:

1. Sex Trafficking: Sex Trafficking is broadly defined as “the recruitment, transportation, harbouring, provision or obtaining of a person for the purpose of a commercial sex act”. It is a well-known that women are traded, bought and sold like the objects of sex and are treated without human dignity. The term trafficking is used within the context of nation-state boundaries. The major factors that fuels sex trafficking are poverty, gender inequality, false marriage proposal, promise of a good job in another country, so on and so forth. As such, the victims of human

¹⁷ 3 S.C.C. 318; AIR 1990 SC 1412

¹⁸ 8 S.C.C. 114; AIR 1997 SC 3021.

¹⁹ 11 S.C.C. 538; (2022) 8 S.C.C. 101

²⁰ AIR 1982 SC 1473

trafficking are forced into various forms of commercial sexual exploitation, including prostitution, pornography, stripping, live-sex shows, military prostitution, and sex tourism

2. **Labor Trafficking (Bonded and Forced Labor):** Labor trafficking, a form of human trafficking, is predominant in the South Asian region. The caste system of the region is one of the main social factors on which the structure of bonded labour rests. Dalits or the so-called untouchables are denied access to land in India. Various factors such as poverty, discrimination, social exclusion and inadequate implementation of legislations are the root causes of labour trafficking for bonded labour across the world. It is probably the least known form of slavery. Victims become bonded labourers when their labour is demanded as a means of repayment for a loan or service, the terms and conditions of which have not been defined.
3. **Child Trafficking:** Child trafficking is the third form of trafficking and it is a global situation. This violates children's rights and infringes upon their physical and mental integrity, which is central to the experience of human dignity, and poses a significant threat to their lives²¹. Children are trafficked in South Asia for various purposes with sexual exploitation being the primary goal. Child labour is a form of work that is likely to be dangerous to the physical, mental, moral and social development of children and can also hamper their education²². Other purposes for exploitation include agricultural labour, factory works, domestic servitude, organ trade, child pornography, begging and other related criminal activities. Boys from Bangladesh and Pakistan have been trafficked to work in camel racing shows in the Middle Eastern countries²³. Trafficking for forced or arranged marriage is another critical issue in Afghanistan and Bangladesh where children are the major Victims. Debt release, dispute settlement and forced military recruitment are other causes of child trafficking²⁴.

²¹ United Nations Children's Fund (UNICEF), Child trafficking in South Asia: Strategy Paper, UNICEF Regional Office for South Asia, Kathmandu 2008

²² N.K. Bhoi, Human Trafficking in India: Problems and Perspectives, Regency Publications, New Delhi, 2005

²³ Global March Against Child labor, Ending Child Labor: A Roadmap for action, Global March Secretariat, New Delhi, 2013

²⁴ United Nations Children's Fund (UNICEF), Child trafficking in South Asia: Strategy Paper, UNICEF Regional Office for South Asia, Kathmandu 2008

7. Current Scenario

The present situation with references to the statistics on the National Crime Records Bureau (NCRB) demonstrates the terrifying number of trafficking in India. With 6,288 victims, and a high number of women and children, 2,183 cases of human trafficking were registered in the country alone in 2023. Among these victims, 3,787 were women and 2,501 men, which means that trafficking is gendered. It is noteworthy that about 43 percent of victims were under 18 years old in categories, which points to the susceptibility of children. The statistics also indicate that a quarter of the victims had been trafficked to be sexually exploited and a fifth to forced labour. The highest number of trafficking cases were reported in Maharashtra (388 cases), Telangana (336 cases), and Odisha (162 cases), which showed that the prevalence differs by regions. Although there were registered cases and more than 6,000 victims have been rescued, the low conviction rates and loopholes in the enforcement are still of concern.

Conclusion

Human trafficking is still a significant challenge to attainment of women rights as human rights in India. In spite of the extensive legal and institutional frameworks, there are still ongoing implementation, enforcement and victim protection challenges that are wreaking havoc. Trafficking is an issue that needs to be tackled in a multi-dimensional and holistic approach such as involving legal enforcement in conjunction with socio-economic development and gender justice. It is necessary to reinforce the institutional coordination and improve cross-border cooperation and a victim-centred approach aimed at rehabilitation and empowerment. Finally, the rights of women can only be protected by dealing with the structural inequalities and social situation that propagate trafficking hence a just and fair society.

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