
ECHOES OF EXPLOITATION: BUILDING STRONGER EVIDENTIARY STANDARDS FOR CHILD TRAFFICKING

Shruthi Keerthana Alampally, School of Law, Mahindra University

Goteti Kumari Saigayatri, School of Law, Mahindra University

ABSTRACT

Trafficking of human beings, especially children, has emerged as a serious concern around the world. Child trafficking involves the exploitation of children who are subjected to coercive circumstances, where the issue of consent does not arise. This constitutes form of modern slavery, characterized by a multifaceted system that subjects' children to severe human rights violations, including forced labour, sexual exploitation, criminal activities, and other forms of abuse. This pervasive global issue is transcending not only regional but also cross-border creating an impediment situation.

Despite its prevalence there are persistently insufficient number of prosecutions and convictions against traffickers. At the core of the Indian Constitution, Article 23 explicitly prohibits human trafficking and forced labour, within which child trafficking constitutes a distinct subcategory. In comparison, United States federal law notably the TVPA serves as a foundational statute, wherein individuals under the age of 18 engaged in commercial sex act are presumed to be victims, eliminating the requirement to prove coercion, fraud, or force.

While these legislations are reinforced by complementary statutes, its practical effectiveness remains a subject in question. Conviction rates in child trafficking cases remain low, primarily because of evidentiary challenges and the vulnerability of victims that complicate the process of securing reliable testimony and evidence. The U.S. presumption of victimhood for minors under the TVPA and India's consent-bar under the POCSO Act offer legal advantages, yet both systems struggle with enacting these provisions into effective prosecutions. This paper undertakes a harmonised approach to child-centric evidentiary standards, strengthening investigative capacities, and expanding the use of corroborative and digital evidence with the aid of technology, which are essential to bridge the gap between legislative intent to judicial outcomes.

Keywords: Child Trafficking, Legislative Intent, Human Rights, Evidentiary Standards, Victim Testimony

INTRODUCTION

A 13-year-old girl who fled her home in Delhi, after a fight with her father over a month ago was trafficked, got married in Uttar Pradesh for financial gain, and was raped.¹ Across the world, a 15-year-old girl was migrated alone to the United States and was sent to live with a relative, however she was placed in a factory, working long hours, dangerous night shifts, deprived of proper wage and liberty.² Despite this geographical separation, these stories represent the same harsh reality, that child trafficking is a global crime which capitalizes on innocent children and flourishes in the shadows.

Nelson Mandela once observed, *“There can be no keener revelation of a society’s soul than the way in which it treats its children.”* At its core, child trafficking involves the recruitment, transport, or harbouring of minors for purposes of exploitation, which includes sexual abuse, bonded labour, servitude, and organ trade.³ It is one of the most heinous violations of child rights, and is common form of violence against children, and an awful act that continues to expand within and beyond borders.⁴ International agreements such as the United Nations Convention on the Rights of the Child (UNCRC)⁵ and the Palermo Protocol⁶ urge countries to criminalize and combat this threat, but the efficacy of any reaction ultimately rests with the functioning of the domestic courts and not international declarations, where prosecutions rise and fall based on the quality of evidence.

Evidentiary standards in child trafficking cases present unique challenges. Children are often traumatized, fearful, stigmatized to testify, and even when they do, their exposition maybe inconsistent due to age or psychological strain.⁷ Relying solely on victim testimony risks

¹ Girl ‘kidnapped, forcibly married, raped’; Delhi Police busts trafficking racket, four held, THE HINDU, (Aug. 19, 2025, 07:30 am) <https://www.thehindu.com/news/cities/Delhi/girl-kidnapped-forcibly-married-raped-delhi-police-busts-trafficking-racket-four-held/article69950024.ece>

² Hannah Dreier, Alone and Exploited, Migrant Children Work Brutal Jobs Across the U.S., The New York Times (Feb. 28, 2023) <https://www.nytimes.com/2023/02/25/us/unaccompanied-migrant-child-workers-exploitation.html>

³ “Child Trafficking,” UNICEF USA (last visited Aug. 26, 2025), <https://www.unicefusa.org/what-unicef-does/childrens-protection/child-trafficking>

⁴ Understanding Child Trafficking, United Nations Office on Drugs and Crime (July 2024), last visited Aug. 26, 2025, http://unodc.org/unodc/frontpage/2024/July/explainer_-understanding-child-trafficking.html

⁵ Convention on the Rights of the Child, Nov. 20, 1989, 1577 U.N.T.S. 3.

⁶ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime, Nov. 15, 2000, 2237 U.N.T.S. 319.

⁷ David Crump, *Child Victim Testimony, Psychological Trauma, and the Confrontation Clause: What Can the Scientific Literature Tell Us?* 8 J. Civ. Rts. & Econ. Dev. 5 (Fall 1992), <https://scholarship.law.stjohns.edu/cgi/viewcontent.cgi?article=1497&context=jcred>

retraumatizing children and undermining the fairness of proceedings. The victims struggle to testify forcing courts to rely on alternative evidence which includes digital records, circumstantial and corroborative evidence.⁸ This has often resulted in low conviction rates, leaving children unprotected and offenders unpunished. India and the United States illustrate two different approaches. India's framework emphasizes child-friendly mechanisms yet struggles with enforcement consistency.⁹ The U.S., by contrast, emphasizes constitutional safeguards like due process and the Confrontation Clause.¹⁰ Although these safeguards ensure fairness to the accused, but they also establish stringent standards for the admissibility evidence, making prosecutions more difficult at times. This paper undertakes a cross-jurisdictional analysis of evidentiary standards in child trafficking cases under Indian and U.S. law.

LEGAL FRAMEWORK ON CHILD TRAFFICKING: INDIA & U.S.

LEGAL FRAMEWORK IN INDIA

India confronts significant challenges in preventing child trafficking due to its enormous population and different socioeconomic backgrounds.¹¹ Child trafficking involves various facets, including forced labour, forced marriages, sexual exploitation, domestic servitude, organ trafficking, and illegal adoption. India has progressively established a multi-tiered legal framework based on criminal law, welfare laws, constitutional safeguards in acknowledging the enormity of this issue. At the core of the Indian constitution, the prohibition against trafficking is enshrined in fundamental rights. Article 23 explicitly prohibits trafficking in human beings, beggar and other forms of forced labour, making it punishable under law.¹² Article 24 pertains to the prohibition of child labour by providing protection to children in factories, mines, or hazardous occupations.¹³ These constitutional provisions serve as the foundation for India's anti-trafficking legislation and policies. Moving beyond the constitutional safeguards, Section 143 of the Bhartiya Nyaya Sanhita, 2023 provides a

⁸ Ramaswamy, Devgun, Seshadri & Bunders, "When an Elephant Has Its Foot on the Tail of a Mouse..." *Trauma-Focused Court Preparation Interventions for Sexually Abused Child Witnesses*, 19 J. Indian Ass'n Child & Adolescent Mental Health 273 (July 2023), <https://doi.org/10.1177/09731342231221357>

⁹ Protection of Children from Sexual Offences Act, 2012, No. 32, Acts of Parliament, 2012 (India).

¹⁰ U.S. Const. amend. VI, cl. 4.

¹¹ Das & Azad, *An Analytical Study on Child Trafficking in India and Strategies for Prevention and Rehabilitation*, 14 J. Chem. Health Risks 426 (2024) <https://jchr.org/index.php/JCHR/article/download/6737/4016/12643>

¹² INDIA CONST. art. 23.

¹³ *Id.* art. 24.

definition and penal framework for the offence of trafficking of persons.¹⁴ The act defines trafficking as recruiting, transporting, harbouring, transferring, or receiving a person for exploitation by means of threats, force, abduction, coercion, fraud, deception, abuse of power, or inducement.¹⁵ Importantly, when the victim is a child, the law prescribes stringent punishment and holds the victim's consent irrelevant in determining the crime of trafficking. Section 144 specifically criminalizes the exploitation of trafficked persons and provides situations where an individual knowingly engages a trafficked child for sexual exploitation.¹⁶ Section 111 of the BNS, 2023, criminalizes organized crime, which includes activities such as human trafficking and trafficking for prostitution.¹⁷ Section 99 punishes buyers or hirers of children for prostitution or other illegal sexual/immoral purposes.¹⁸ Lastly, Section 141 extends protection to children trafficked across borders, making it an offence to import a girl under 21 or boy under 18 into India for illicit sexual purposes.¹⁹ Alongside the BNS, The Immoral Traffic (Prevention) Act, 1956 is a key legislation against trafficking for commercial sexual exploitation.²⁰ This act criminalizes procurement of children for prostitution and punishes brothel keeping, living on earnings of prostitution, and trafficking networks.²¹ The presumption clauses under this act play a vital role in combating trafficking by shifting the evidentiary burden onto the accused. Sections 6(2) & 6(2A) presume detention for CSE where a child is found in a brothel or medical evidence shows assault.²² Section 6(3) presumes detention for CSE if a woman or girl's threats are made to prevent her departure.²³ The act permits search without warrant when credible information exists that a child is confined in a brothel. Magistrates may record statements immediately to prevent later hostility.²⁴ Section 15 empowers a special police officer, to enter and search premises without warrant if there is reasonable belief that an offence is being committed.²⁵ The search itself becomes an evidentiary act, and any material objects, documents, or articles such as seizures, witness signatures and medical certificates recovered during this process serve as key exhibits at trial. Section 17 involves magistrate inquiry and statements of victims recorded in this process, along with

¹⁴ Bharatiya Nyaya Sanhita, 2023, § 143, No. 45, Acts of Parliament, 2023 (India).

¹⁵ *Id.*

¹⁶ *Id.* § 144.

¹⁷ *Id.* § 111.

¹⁸ *Id.* § 99.

¹⁹ *Id.* § 141.

²⁰ Immoral Traffic (Prevention) Act, 1956, No. 104, Acts of Parliament, 1956 (India).

²¹ *Id.* § 5.

²² *Id.* §§ 6(2), 6(2A).

²³ *Id.* § 6(3).

²⁴ *Id.* § 17

²⁵ *Id.* § 15.

inquiry reports, form critical evidence both for proving exploitation and for determining appropriate rehabilitation measures.²⁶ The Protection of Children from Sexual Offences Act, 2012 (POCSO) offers a child-centric evidentiary framework in cases of sexual exploitation, which commonly coincides with trafficking.²⁷ It mandates that statements of child victims be recorded, in the presence of a supportive adult, and by officers which is in consonance with section 183 of BNSS also permitting audio-video electronic means.²⁸ Under Sec. 33 and 36, the trial court must adopt child-friendly procedures, such as in-camera hearings, screens to prevent confrontation with the accused, and the prohibition of aggressive cross-examination, video graphed statements are admissible.²⁹ The burden of proof may shift under Sec. 29, where courts presume the accused guilty once sexual assault is established.³⁰ Further, the Juvenile Justice Act recognizes that any child who has been trafficked or is vulnerable to being trafficked falls within the category of a child in need of care and protection.³¹ Section 81 criminalizes the sale and procurement of children for any purpose.³² This legislation ensures that trafficked children are not treated merely as victims of crime but also as individuals entitled to welfare and rehabilitation.³³ The Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) and the Bharatiya Sakshya Adhiniyam, 2023 (BSA) provides the procedural and evidentiary framework in India.³⁴ Section 185 BNSS, 2023 provides for the examination of rape victims by a registered medical practitioner,³⁵ in consonance with sec 26 of POSCO mandates timely medical examination of a child victim of a sexual offense, even before a formal FIR is registered.³⁶ BSA strengthens admissibility of electronic and digital evidence, which are crucial in trafficking cases. Cyber-forensics is vital in these cases to track online grooming, cross-border links, and money trails.³⁷ Section 39 BSA, 2023 allows courts to rely on expert opinion on technical matters such as DNA evidence, electronic call records, and CCTV footage.³⁸ Sec 63 governs

²⁶ *Supra* note 24

²⁷ *Supra* note 9.

²⁸ *Id.* § 24; Bharatiya Nagarik Suraksha Sanhita, 2023, § 183, No. 46, Acts of Parliament, 2023 (India)

²⁹ POCSO Act, *supra* §§ 33, 36.

³⁰ *Id.* § 29

³¹ Juvenile Justice (Care and Protection of Children) Act, 2015, § 2(14), No. 2, Acts of Parliament, 2015 (India)

³² *Id.* § 81

³³ Bhanu & Mishra, Child Trafficking in India, 2 Int'l J. L. 33, 35 (2016), <https://ssrn.com/abstract=5219473>

³⁴ Bharatiya Nagarik Suraksha Sanhita, 2023, No. 46, Acts of Parliament, 2023 (India); Bharatiya Sakshya Adhiniyam, 2023, No. 47, Acts of Parliament, 2023 (India).

³⁵ *Id.* § 185.

³⁶ *Supra* note. 9 § 26.

³⁷ NAT'L JUDICIAL ACAD., *Workshop on Human Trafficking: SE-08 Programme Report* (Nov. 19–22, 2021), [https://nja.gov.in/Concluded_Programmes/2021-22/SE-08_\(19-22%20Nov%202021\)%20Programme%20Report.pdf](https://nja.gov.in/Concluded_Programmes/2021-22/SE-08_(19-22%20Nov%202021)%20Programme%20Report.pdf)

³⁸ Bharatiya Sakshya Adhiniyam, 2023, No. 47, Acts of Parliament, 2023, § 39 (India).

the admissibility of electronic records as evidence, subject to certification.³⁹ Section 124 recognizes competency of child witnesses, provided they can understand questions.⁴⁰ Despite the existence of this comprehensive legal structure, its implementation remains a major challenge. The deterrent effect of the legislation is undermined by low conviction rates, inconsistent enforcement between states, and inadequate training of law enforcement officials. Furthermore, poverty, social marginalization, ignorance, and the covert nature of trafficking networks all contribute to the cycle of vulnerability.

LEGAL FRAMEWORK IN U.S.

The United States has emerged as one of the leading destinations for human trafficking and exploitation, with children constituting the majority of the group.⁴¹ Statistics indicate that nearly 100,000 children fall victim to trafficking each year within the States, where the gravity of the issue is undermined and in a need for a robust legal framework to tackle it.⁴² Prior 2000's there was no comprehensive law that existed in the States which penalizes the range of offenses involved in trafficking. To combat with the rising issue of traffickers, The Victims of Trafficking and Violence Protection Act of 2000 was introduced by the Congress with the aim to combat trafficking and reauthorize certain federal programmes facilitated provisions for both prosecution of traffickers and protection of victims. Among them lies the birth of the Interagency Task Force to Monitor and Combat Trafficking, established under Section 105 of the Act.⁴³ This task force was entrusted with coordinating enforcement efforts, gathering evidence, providing support to trafficking victims, and serving as a crucial linkage in addressing cross-border issues.⁴⁴ By virtue of this law, establishing a trafficking violation typically requires a three-part analysis which involves the act, the means, and the purpose. However, in cases involving child trafficking, the element of "means" is not required, as the exploitation of minors exhibits that component is legally irrelevant.⁴⁵ Section 107(b) of the Act outlines the assistance provided by the federal government to victims of trafficking. Under this provision, victims are afforded a status to that of refugees, with access to services administered

³⁹ Id. § 63.

⁴⁰ Id. § 124.

⁴¹ UNICEF USA, Child Trafficking, <https://www.unicefusa.org/what-unicef-does/childrens-protection/child-trafficking> (last visited Aug. 21, 2025).

⁴² Katherine Kaufka Walts, *An Introduction to Child Trafficking in the United States*, 14 U. St. Thomas L.J. 1 (2012).

⁴³ Trafficking Victims Protection Act, 2000, § 105, Pub. L. No. 106-386, 114 Stat. 1464 (2000) (U.S.).

⁴⁴ Trafficking Victims Protection Act, 2000, § 106, Pub. L. No. 106-386, 114 Stat. 1464 (2000) (U.S.).

⁴⁵ U.S. Department of State, <https://www.state.gov/what-is-trafficking-in-persons> [(last visited Aug. 21, 2025)].

by the Legal Services Corporation and other agencies.⁴⁶ These agencies are further obligated to submit detailed reports on the assistance provided and facilitate victims' stay in the United States to support the prosecution of traffickers. However, despite these significant federal and state efforts, the Act imposes a numerical limitation that no more than 5,000 individuals per year may be granted non-immigrant or visa status. This ceiling limit stands in contrast to the scale of the problem, given that trafficking cases are estimated more than 100,000 victims annually. 18 U.S. Code Section 3509 (b)(1) talks about child victims and child witness rights where there is a testimony by 2-way closed circuit television is followed, and if the court deems fit court shall order that the child's deposition be taken and preserved by videotape presided by the trial judge which can be admitted in lieu of child's trial.⁴⁷ Under Section 1591, minors engaged in commercial sex are legally presumed to be trafficking victims. The statute eliminates the need for prosecutors to prove force, fraud, or coercion in the case of children under 18.⁴⁸ This evidentiary presumption prevents re-traumatization by sparing children from having to recount exploitative circumstances. Under the above code the victim or their representative need not prove that he/she was a minor when the defendant had reasonable opportunity to observe the child. In such a case, necessity and degree of the evidence that must be proved also decreases and appearance, communication, context becomes sufficient. In addition to the above laws, the Justice for Victims of Trafficking Act of 2015 (JVTA) is considered as one of the most important developments in the field of anti-trafficking laws of United America, as it not only penalizes and punishes the traffickers but also revamp evidentiary and procedural approaches in cases of child trafficking. One of the significant features of this act is that it encourages diversion mechanisms instead of prosecution for child victims, thereby descending reliance on their courtroom testimony as it mainly focuses on circumstantial and corroborative data such as digital communications, financial records, and third-party testimony. The JVTA also acts like a nexus between agencies and the government where admissibility of the evidence is derived from intercepted communications and digital surveillance which is also enforced by the PROTECT Act of 2003.⁴⁹ Lastly, this act also adds as an extension for the statute of limitation where victims are allowed to bring the case in court of law up to 10 years after turning 18. Apart from JVTA, the 8 U.S. Code § 1232 which states

⁴⁶ Victims of Trafficking and Violence Protection Act of 2000, § 107(b), Pub. L. No. 106-386, 114 Stat. 1464 (2000) (US).

⁴⁷ Crime Control Act, § 3509(b)(1), Pub. L. No. 99-646, 100 Stat. 3592 (1986) (U.S.).

⁴⁸ Crime Control Act, § 1591, Pub. L. No. 99-646, 100 Stat. 3592 (1986) (U.S.).

⁴⁹ American Bar Association, "Child Sex Trafficking: Legal Overview," October 1, 2015, https://www.americanbar.org/groups/public_interest/child_law/resources/child_law_practiceonline/child_law_practice/vol-34/october-2015/child-sex-trafficking--legal-overview (last visited Aug. 22, 2025).

that efforts to combat the trafficking of children the child advocate will not be compelled to provide any evidence or opinion or information received from the child during the proceedings and aims at victim protection and care for child's mental health.⁵⁰ In spite of numerous statutes, the implementation of anti-trafficking laws in the United States continues to face challenges. Over the past decade, federal convictions have increased from 578 in 2012 to 1,118 in 2022; however, these figures remain disproportionately low compared to the scale of trafficking.⁵¹ Moreover, under the JVTA, fewer than 35% of states submitted trafficking data to the FBI in 2016, with some states reporting zero offenses.⁵² This highlights issue of underreporting also a lack of uniform enforcement capacity across jurisdictions. Evidence remains the cornerstone of every case, with the rapid advancement of technology, there is a need to relook at how evidentiary processes can be transformed in cases of child trafficking.

PARALLEL PERSPECTIVE: INDIA vs. U.S

Trafficking of children is the most alarming issue around the globe today. The U.S., and India are examples of destination countries.⁵³ Although both the nations have legislative frameworks, to combat child trafficking, there are significant variations. Consent of the child is rendered irrelevant in Indian, and the courts focus on establishing age, movement, and the purpose of exploitation.⁵⁴ Once these are demonstrated, the prosecution benefits from certain statutory presumptions, which shift the burden of rebuttal to the accused. Both India and the States treat minority as the decisive factor.⁵⁵ In India, age is established primarily through documentary evidence such as birth certificates or school records; ossification tests are used only in cases of doubt.⁵⁶ Once minority is proven, consent is irrelevant. The majority of traffickers threaten to harm them if they disclose what the abuser has done to others.⁵⁷ India has adopted extensive procedural safeguards to reduce the trauma of child testimony. POCSO mandates child-friendly measures such as recording statements at the child's residence by a woman officer, in-camera trials, shielding the child from direct confrontation with the accused,

⁵⁰ William Wilberforce Trafficking Victims Protection Reauthorization Act, § 1232, Pub. L. No. 110-457, 122 Stat. 5044 (2008) (U.S.).

⁵¹ Bureau of Justice Statistics, <https://bjs.ojp.gov/library/publications/human-trafficking-data-collection-activities-2024>(last visited Aug. 22, 2025).

⁵² Maureen Q. McGough, *Ending Modern-Day Slavery: Using Research to Inform U.S. Anti-Human Trafficking Efforts*, Journal Issue 271, NATIONAL INSTITUTE OF JUSTICE (NIJ), (2013).

⁵³ Hart, *Destinations: A Comparison of Sex Trafficking in India and the United States*, 83 U. Colo. L. Rev. 1149 (2012), <https://scholar.law.colorado.edu/lawreview/vol83/iss4/6>

⁵⁴ *Supra* note. 14

⁵⁵ *Supra* note. 48

⁵⁶ *Supra* note 31, § 94(2).

⁵⁷ *Supra* note. 7

and completion of evidence within a prescribed time frame.⁵⁸ The U.S., while constrained by the Sixth Amendment's Confrontation Clause, provides alternative testimonial mechanisms under 18 U.S.C. § 3509, including closed-circuit television testimony and videotaped depositions, subject to judicial finding.⁵⁹ To safeguard confrontation rights, the defendant and counsel are allowed real-time communication during such testimony. Electronic evidence forms a growing part of trafficking prosecutions. In India, admissibility is governed by strict procedural rules. However, under Section 63(4) without proper certification, electronic chats, social media records, or call data may be inadmissible, regardless of their substantive relevance.⁶⁰ In U.S., under Federal Rules of Evidence, Rules 902(13) and 902(14) allow self-authentication of electronic data verified by digital hashes or certifications.⁶¹ A significant illustration is found in *United States v. Kerby Brown, Jr.*, where the defendant's conviction for child sex trafficking was upheld based on the victim's testimony corroborated by digital evidence such as phone records and online advertisements, the Court reaffirmed that in trafficking cases, victim testimony, if credible, may stand alone as sufficient proof, but technological evidence now plays a central corroborative role.⁶² Similarly, in *U.S v. Daniel Alan Puff*, the Fourth Circuit Court of Appeals affirmed appellant's convictions for attempted coercion and sex trafficking of a minor, on the basis that there was ample evidence showing he knowingly sought sex with a 13-year-old, including undercover text messages, his surveillance of the meeting site, and payment of money.⁶³ His deletion of records and false statements after arrest further indicated guilt. The jury was entitled to reject his claim that he did not know the victim's age. Therefore, his sentence was upheld. Forensic and medical examinations also play a key role. In India, medical examination by a female doctor for girl victims and requires reports to be prepared promptly is mandated. Medical experts make up about 40% of testifying experts at the federal level in U.S.⁶⁴ The courts admit medical evidence under Rule 803(4) and rely on expert testimony scrutinized under the Daubert standard. The "Daubert Standard" is a systematic approach which enables a trial court judge to analyse the legitimacy and validity of expert witness testimony before it is presented to a jury.⁶⁵ Whereas the Frye Standard, which

⁵⁸ *Supra* note. 28

⁵⁹ *Supra* note. 47

⁶⁰ *Arjun Panditrao v. Kailash Kushanrao Gorantyal*, AIR 2020 SC 4908

⁶¹ Fed. R. Evid. 902(13)–(14).

⁶² *US v. Kerby Brown, Jr.*, No. 2-14056 (11th Cir. Jan. 10, 2025).

⁶³ *US v. Daniel Puff*, No. 23-4457 (4th Cir. 2025)

⁶⁴ Sanders, Ten Years of Judicial Gatekeeping Under Daubert, 95 Am. J. Pub. Health S74 (Supp. 1 2005), <https://doi.org/10.2105/AJPH.2004.044776>

⁶⁵ Daubert Standard, LII: Legal Information Institute (Cornell Law School), https://www.law.cornell.edu/wex/daubert_standard

states the expert's testimony had to be "generally accepted" in the relevant scientific/medical community.⁶⁶ Child trafficking presents serious challenges in India and the U.S., each using different evidentiary approaches. India relies on legal presumptions and protective measures, whereas the U.S. focuses on confrontation rights and procedural safeguards. In both, digital and medical evidence play a crucial role in prosecutions and victim protection.

CURRENT DAY PARADIGMS

2024 Global Trafficking in Persons Report released by the United Nations Office on Drugs and Crime (UNODC), from the period 2019–2023 reflects a rise in child trafficking.⁶⁷ Out of which 28,418 were children. Within this group, 38% of trafficked children were girls, with 22% subjected to sexual exploitation. In contrast, 16% were boys, who were primarily exploited for forced labour and other forms of trafficking. The U.S., issued a report wherein they classified India under tier 2 category as it failed to comply with minimum standards for the elimination of trafficking. Notably, 21 out of 36 states and UT's neither reported nor registered any cases reflecting significant lacunae in enforcement.⁶⁸ Furthermore, even in circumstances where the victims were identified there was still drawbacks as it took them years together to receive justice and compensation they deserve.⁶⁹ Apart from these hindrances, the Criminal laws in India majorly focus on sex trafficking rather than penalizing all forms of trafficking. Complementing this, according to the National Crime Records Bureau (NCRB) the rescue rate of victims below 18 has shown no significant improvement.⁷⁰ In addition, efforts were initiated to establish a computerized network connecting all districts, aimed at creating comprehensive framework for each state to monitor cases of child trafficking more diligently.⁷¹ However, issue of child trafficking witnessed an alarming rise after COVID-19. In the case of, New Delhi alone reported a 68% surge in child trafficking cases, reflecting the gaps in enforcement

⁶⁶ Joseph & LeQuang, Black Robes and White Coats: Daubert Standard and Medical and Legal Considerations for Medical Expert Witnesses, 16 *Cureus* e69346 (Sept. 13, 2024), <https://doi.org/10.7759/cureus.69346>

⁶⁷ United Nations Office on Drugs and Crime, *Global Report on Trafficking in Persons 2024* (Vienna: UNODC, Dec. 2024), https://www.unodc.org/documents/data-and-analysis/glotip/2024/GLOTIP2024_BOOK.pdf

⁶⁸ U.S. Department of State, 2024 Trafficking in Persons Report: India, <https://www.state.gov/reports/2024-trafficking-in-persons-report/india> (last visited Aug. 22, 2025).

⁶⁹ *Id.*

⁷⁰ Ministry of Home Affairs, Child Trafficking: Victims Rescued Under 18 in India (2018–2022), Press Information Bureau, July 30, 2024, <https://www.pib.gov.in/PressReleasePage.aspx?PRID=2039058> (last visited Aug. 23, 2025).

⁷¹ Human Rights First, Child Trafficking and Child Labor Continues to Plague India, <https://humanrightsfirst.org/library/child-trafficking-and-child-labor-continues-to-plague-india/> (last visited Aug. 23, 2025).

mechanisms.⁷² In the judgement of *Pinki v State of Uttar Pradesh*, arose from an appeal against Allahabad Court's order granting bail to thirteen individuals accused of trafficking minor children. In this Judgment, the SC made several observations, directing all pending child trafficking trials must be concluded within six months.⁷³ Furthermore, it mandated the appointment of special prosecutors and the need for effective rehabilitation measures for child victims. Fundamentally, the Court observed low conviction which primarily arises from inadequate evidence, procedural delays, and the ease with which accused persons secure bail which also delay the prosecution's case. Lastly, all cases involving missing children should presumed to be treated as matters of abduction or trafficking unless proven otherwise.⁷⁴

Analogously, the situation in U.S. is not significantly better when compared to India as there is still room for improvement. In 2024, nearly 40% were minors who were trafficked. However, the studies show that these numbers are still less in number due to underreporting. In recent years adding to the complexity, traffickers in U.S. have relied on social media and other digital platforms to recruit, control and transport victims, shifting illicit trade into online spaces.⁷⁵ These digital footprints have become critical to both investigative and prosecutorial processes. For instance, the National Centre for Missing & Exploited Children (NCMEC) used AI tool *SPOTLIGHT* to match an online advertisement to a suspected trafficker, resulting in an arrest and addressing the persistent challenge of identifying offenders who are frequently relocated.⁷⁶ We can also observe that Digital platforms have transformed the modus operandi of traffickers, making child trafficking operations online, which serve as common entry points where traffickers establish deceptive relationships with minors. Apart from the above, Department of Homeland Security recently discovered there are 65,000 reports on children at the border.⁷⁷ Recent federal system illustrates the problem present when law enforcement takes down multi-state child sex trafficking networks since evidence has difficulties. For example, Tren de Aragua and the Sinaloa Cartel have been implicated in wide-ranging trafficking rings. These

⁷² Times of India, "Delhi Saw 68% Surge in Child Trafficking After Pandemic," <https://timesofindia.indiatimes.com/city/delhi/delhi-saw-68-surge-in-child-trafficking-after-pandemic/articleshow/103916337.cms> (last visited Aug. 23, 2025).

⁷³ *Pinki v. State of Uttar Pradesh*, (2024) SCC OnLine SC 1264.

⁷⁴ *Id.*

⁷⁵ Matt Parker, Digital Evidence, LE Training and Partnerships are Key to Combating Human Trafficking, 0 FORENSIC MAG. 1, 1–3 (2024).

⁷⁶ Patricia Davis, Spotlight on AI: Finding Hidden Trafficking Victims, N, MISSINGKIDS.ORG (Aug. 24, 2025, 5:14 pm), <https://www.missingkids.org/blog/2025/spotlight-on-ai-finding-hidden-trafficking-victims>

⁷⁷ U.S. Dep't of Homeland Sec., DHS Leads Efforts to Rescue Child Victims of Sex and Labor Trafficking, DHS.GOV (July 25, 2025), <https://www.dhs.gov/news/2025/07/25/dhs-leads-efforts-rescue-child-victims-sex-and-labor-trafficking>.

organizations rely on advanced operations across borders.⁷⁸ Because of this, victim testimony is difficult to obtain and fraught with trauma. Even though the DHS adopted digital forensic tools and made advanced technological efforts, the sheer volume of evidence and delays often allow for traffickers to remain at large.

RECOMMENDATIONS

1. INTEGRATION OF AI-BASED INVESTIGATIVE TOOLS

AI-driven tools like Spotlight have transformed anti-trafficking enforcement by quickly identifying victims through algorithmic analysis. In 2025, Spotlight generated 541 confirmed matches, demonstrating the role of technology in complex digital investigations. While India could strengthen enforcement by adopting such innovations, the U.S. must continue refining these systems to ensure accuracy, efficiency, and broader impact in combating trafficking.

2. STANDARDIZED PROTOCOLS FOR AUTHENTICATING DIGITAL EVIDENCE

A stronger protocol is essential for authenticating digital evidence. India still lacks clear statutory guidance on admissibility, leaving victims at a disadvantage. In the U.S., advanced forensic tools are used, but uneven authentication standards cause inconsistency. Establishing uniform, binding protocols is crucial.

3. VICTIM-CENTRIC DIGITAL ALTERNATIVES TO TESTIMONY

Recognizing the trauma faced by child victims, legislative frameworks must provide alternatives to direct in-court testimony. Judicially sanctioned measures such as videotaped depositions or testimony can preserve the child's well-being while minimizing harm. When supported by digital corroboration, these approaches reduce traumatization.

4. BLOCKCHAIN-BASED EVIDENCE CHAIN MANAGEMENT

Blockchain ensures chain of custody for digital evidence. Courts and investigative agencies should use permissioned blockchain networks, which authorizes stakeholders to add/verify

⁷⁸ Tren de Aragua and Sinaloa Cartel: Transnational Criminal Activities, REUTERS (Aug. 19, 2025), <https://www.reuters.com/world/us-declares-tren-de-aragua-other-cartels-are-global-terrorist-organizations-2025-02-19/>.

data. This decentralizes record-keeping, and minimizes risks of manipulation, data loss, or unauthorized access.

5. STRENGTHENING LEGAL FRAMEWORKS

By integrating special evidentiary rules for child victims, digital forensics, and cross-border cooperation, we can overcome gaps of delay and inconsistency. A victim-centric, harmonized legal structure would ensure faster trials, higher conviction rates, and alignment with global anti-trafficking norms.

CONCLUSION

In conclusion, the pervasive problem of child trafficking continues to pose significant legal and evidentiary challenges in both India and the United States, despite substantial legislative frameworks. Comparative analysis reveals that while both nations acknowledge the vulnerability of child victims and attempt to ease their evidentiary burden, gaps in implementation, digital evidence management, and procedural safeguards persist. Strengthening victim-centered mechanisms, integrating advanced technology for evidence gathering, and standardizing evidentiary procedures are essential for closing these gaps and ensuring robust protection for child victims.