



INDIAN JOURNAL OF
LEGAL REVIEW

VOLUME 5 AND ISSUE 1 OF 2025

INSTITUTE OF LEGAL EDUCATION



INDIAN JOURNAL OF LEGAL REVIEW

APIS – 3920 – 0001 | ISSN – 2583-2344

(Open Access Journal)

Journal's Home Page – <https://ijlr.iledu.in/>

Journal's Editorial Page – <https://ijlr.iledu.in/editorial-board/>

Volume 5 and Issue 1 of 2025 (Access Full Issue on – <https://ijlr.iledu.in/volume-5-and-issue-1-of-2025/>)

Publisher

Prasanna S,

Chairman of Institute of Legal Education

No. 08, Arul Nagar, Seera Thoppu,

Maudhanda Kurichi, Srirangam,

Tiruchirappalli – 620102

Phone : +91 94896 71437 – info@iledu.in / Chairman@iledu.in



ILE Publication House is the
**India's Largest
Scholarly Publisher**

© Institute of Legal Education

Copyright Disclaimer: All rights are reserved with Institute of Legal Education. No part of the material published on this website (Articles or Research Papers including those published in this journal) may be reproduced, distributed, or transmitted in any form or by any means, including photocopying, recording, or other electronic or mechanical methods, without the prior written permission of the publisher. For more details refer <https://ijlr.iledu.in/terms-and-condition/>

UNVEILING THE SHADOWS: UNDERSTANDING WOMEN TRAFFICKING IN THE MODERN WORLD

AUTHOR – HEBA JAWED, ADVOCATE & INDEPENDENT AUTHOR FROM NEW DELHI

BEST CITATION – HEBA JAWED, UNVEILING THE SHADOWS: UNDERSTANDING WOMEN TRAFFICKING IN THE MODERN WORLD, *INDIAN JOURNAL OF LEGAL REVIEW (IJLR)*, 5 (1) OF 2025, PG. 91-112, APIS – 3920 – 0001 & ISSN – 2583-2344.

ABSTRACT

This dissertation seeks to offer a thorough examination of women trafficking, uncovering its intricate characteristics, underlying reasons, and socio-economic consequences. Utilizing theoretical models, empirical investigations, and real-world cases, it delves into the intricate workings of trafficking networks, the vulnerabilities faced by victims, and the impact of counter-trafficking efforts. By analyzing the interplay of gender, migration, and globalization, this study aims to enrich discussions on human trafficking and guide policy measures to combat this grave infringement of human rights. Reaching out to the issue of Women trafficking involves a lot of perception. The concept of Women trafficking refers to the criminal practice of exploiting women by treating them like commodities for profit¹⁸⁹. Human trafficking is expressly prohibited under the Constitution of India under Article 23.



¹⁸⁹ Dr. C.M. Prakasha, *A Study of Human Trafficking in India: An Overview*, 7 Int'l J. Mgmt. & Soc. Sci. 11 (2019).

Table of Cases

1. People’s Union for Democratic Rights v. Union of India AIR 1982 SC 1473
2. Vishal Jeet v. Union of India AIR 1990 SC 1412
3. Gaurav Jain v. Union of India (1997) 8 SCC 114, AIR 1997 SC 3021, 1997 (4) SCALE 657
4. Neerja Chowdhary v State of Madhya Pradesh AIR1984SC1099
5. Smt. Kaushaliya v. State of Uttar Pradesh AIR 1963 ALL. 71
6. Upendra Baxi & Lotika Sarkar V/s State of Uttar Pradesh 1998 (8) SCC 622

List of Abbreviations

1.	SC	Supreme Court
2.	HC	High Court
3.	AIR	All India Reporter
4.	NCRB	National Crime Record Bureau
5.	SITA	Suppression of Immortal Act
7.	ITPA	Immortal Traffic (prevention) Act
8.	UN	United Nations
9.	ILO	International Labour Organisation

CHAPTER-1

Introduction

Women Trafficking is like modern-day slavery where women are forcefully transported from one place to another. It's a really big problem worldwide, with lots of people getting affected by it. Both men and women are victims of human trafficking, but women and girls are way more likely to be trafficked. Out of every ten people trafficked, five of them are women.

Most women who get trafficked end up being forced into prostitution or marriage. Some are also forced to work in people's homes and on farms. Women and girls from places like Bangladesh and Nepal are brought to India for sexual exploitation, and children from Nepal are even brought here to work in circus acts! Indian women are also trafficked to the Middle East for the same reason.

This is a huge problem that needs to be addressed soon, because so many people are getting hurt and taken advantage of. It's important for everyone to be aware of what's going on and to do something about it.

Literature Review

1. In Women’s trafficking in twenty-first century India: Looking for geographical differences: A study by Tarun Kumar Mandal & Bhaswati Pal highlights the prevalence of women trafficking in India, stressing the need for concerted efforts and targeted interventions to tackle this critical issue. The researchers also investigate regional variations in women trafficking across India, based on data from the National Crime Bureau (NCRB) between 2001 and 2016. Additionally, they explore the socioeconomic and cultural factors that impact the patterns of human trafficking. The study reveals that millions of Indian women and girls

are adversely affected in terms of their well-being and dignity, underscoring the severity of women's trafficking as a grave human rights violation.

2. Human Trafficking in India: Theoretical Perspectives with special reference to the Human Trafficking scenarios in The North Eastern Part of India by Ms. Shatabdi Bagchi-

In this paper the author portrays the situation of Indian women and children who are vulnerable to trafficking. It reviews some contemporary theories and literature related to human trafficking in India. This paper also discusses the various theoretical prospectives on human trafficking, such as the feminist perspective, the human rights perspective, the economic perspective and the sociological perspective. This paper analyses the trafficking scenarios in the North Eastern states of India, which are the bordering areas with the neighboring countries. This paper concludes that human trafficking is a complex and multidimensional problem that requires a holistic and integrated approach. It also suggested some recommendations for combating trafficking.

3. "The Immoral Traffic (Prevention) Act" By

B.R. Beotra- The author looked at the act's definitions, scope, enforcement, fines, rehabilitation, and impact from a variety of angles. It also draws comparisons and contrasts between the law and other pertinent legislation, such as the Indian Penal Code, the Juvenile Justice Act, and the Protection of Children from Sexual Offenses Act. The Immoral Traffic (Prevention) Act, 1956, is a progressive and all-encompassing law that attempts to punish the traffickers and safeguard the rights and dignity of the victims, according to the article's conclusion. However, it also recognizes that there are numerous obstacles and issues facing the law, including a lack of expertise, ineffectiveness, lack of coordination, resources, and statistics. It offers some suggestions and recommendations for promoting victim care, bolstering interagency cooperation, raising public awareness, and assuring accountability

and transparency in order to improve the legislation and its enforcement.

4. Critical Analysis of Women Trafficking- Law and The Reality' by Shivansh Singh Thakur-

This article addresses the limitations of India's anti-trafficking laws as well as an overview of the issue of women trafficking on a national and international scale. It also makes some recommendations for how to successfully handle the problem. According to this page, the trafficking of women is the unethical act of denying someone their freedom in exchange for forced marriage, drug sales, enslavement, or commercial sexual exploitation. In order to demonstrate the scope and effects of women trafficking on both the victims and society as a whole, it also quotes a number of studies and figures. It also looks at the state of women trafficking in several nations, including Bangladesh, Nepal, the United States, and Japan. It also discusses certain efforts and difficulties in the worldwide fight against human trafficking. Overall, this essay comes to the conclusion that women trafficking is a severe threat to women's security and dignity as well as a grave violation of their human rights.

5. The Legalization of Prostitution" by Jean D'Cunha- In this article D'Cunha critically examine the Suppression of Immortal Traffic act (SIT ACT).

The legal systems pertaining to prostitution in Western and Indian countries are examined in this book. The author examines the laws, their historical background, and their ramifications for sex workers through a sociological lens. This work offers a thorough grasp of the difficulties involved in regulating or legalizing prostitution. The author also discusses the ideological underpinnings of prostitution legislation and provides important context for the larger conversation about prostitution.

Research Questions

1. What are the underlying causes and factors that contribute to human trafficking?
2. How does the Woman Trafficking impact physical and mental health of victims?

3. Are there legal provisions to protect victims from retaliation or re-trafficking?

4. What legislative gaps exist in the legal framework for combating women trafficking? And how effective are existing anti-trafficking laws in addressing women's specific vulnerabilities?

Purpose of the Study

1. This research helps us to understand the phenomena and comprehend the complexities of trafficking, including its causes, patterns, and dynamics.

2. It will help us in examining the experiences of trafficked women, we gain insights into their vulnerabilities, recruitment methods, and exploitation.

3. Another purpose for studying human trafficking is to identify patterns and trends in order to improve prevention efforts and enhance victim support services.

4. To understand and analyze the role of the society and the government to stop this heinous crime.

Hypothesis

Women trafficking remains a pressing global issue, affecting millions of lives. In India, where the problem is particularly acute, legal frameworks play a crucial role in addressing this menace and that despite laws like the Immoral Traffic (Prevention) Act in India, enforcement against women trafficking continues to struggle due to various issues, such as corruption, low awareness, inadequate funding, social stigma, and complexities stemming from cross-border trafficking

Research Methodology:

This research paper examines the developments in laws and policies by utilizing secondary and Doctrinal data sources throughout the investigation. Reputable governmental organizations provided the key data for this investigation. Numerous legal frameworks have been thoroughly analyzed,

including the Indian Criminal Code, the Immoral Traffic (Prevention) Act of 1956, and several international agreements. Examining various policies has also shed light on the current state of affairs. The research incorporated information from journals, newspaper articles, statistics from non-governmental organizations, periodicals, e-books, and internet sources in addition to the sources and techniques listed below. Additionally, law enforcement authorities have submitted data of their inquiries, interviews, historical records, Supreme Court of India and High Court verdicts.

CHAPTER-2

Ancient India and Women

Trafficking: A Historical Overview

Women trafficking has a veritably long and grave history, gauging colourful societies and ages. During ancient times in India, the practice of women trafficking, though not explicitly nominated as similar, was told by colourful social, profitable and artistic factors.

During the Indus Valley Civilization (circa 3300 – 1300 BCE)

In the Indian key, there existed an early civic civilization with a strong trading network. Although there is little direct archaeological evidence of slavery or human trafficking, some researchers hypothesize that the existence of trade routes may have made it easier for enslaved individuals, especially women, to migrate.

Vedic Period (circa 1500 – 500 BCE)

The Vedas, a collection of Hindu holy texts that mention yoke and servitude, came into being during the Vedic era. Women were occasionally taken as war booty or taken as doxies by occupying rulers, suggesting a type of human trafficking connected to oppression and conflict.

Maurya Empire (circa 322 – 185 BCE)

An advanced political and commercial structure governed the Maurya Empire, a well-

known ancient Indian state. Mauryan laws-controlled slavery and permitted women to be held as slaves by a variety of creative mechanisms, such as debt thrall, heritage, or imprisonment during hostilities.

Gupta Empire (circa 320 – 550 CE)

The Gupta Empire, which is renowned for its artistic achievements and immigration, supported modern slavery and exploitative methods. Women from households that were captured or from lower-class neighbourhoods might be sold into slavery or subjected to various sorts of labour, such as housework, agricultural work, and entertainment.

Medieval Period (circa 600 – 1700 CE)

India's medieval era saw the rise of numerous dynasties and fiefdoms, each with its own set of social structures and legal systems. Women from underprivileged backgrounds, such as lower gentries or ethnic groupings, were more susceptible to being exploited and trafficked. New types of yokes and slavery were brought about by Arab and Turkic incursions, where women were regularly kidnapped and traded for slave requests.

European Colonialism (16th – 19th centuries)

The socioeconomic landscape of India underwent major transformations when European powers started to exert their influence. European traders, like, really got into trafficking Indian women for domestic servitude and sexual exploitation, as well as participating in the transatlantic slave trade. The British East India Company and the British Raj were especially big into this whole trafficking business, exploiting women and others in the process.

Women Trafficking in 20th Century

Systematized criminal networks specializing in human trafficking for various purposes, such as forced labour, prostitution, and domestic servitude, emerged during the 20th century. Just like during World War II, international conflicts have further exacerbated the

trafficking of women, especially in Asia, where they were known as "comfort women" for the military. As the world became more globalized and communication and transportation methods improved, it became much easier for trafficking networks to expand and move people across borders for exploitation.

Modern Times:

In the late 20th and early 21st centuries, the problem of human trafficking, especially of women, has really taken off and become this huge global issue. Millions of girls and women are affected by it every year, being forced into labour, sexual exploitation, and all kinds of other forms of exploitation. To try and combat this growing issue, the UN Protocol to Prevent, Suppress, and Punish Trafficking in Persons (the Palermo Protocol) was created. It's helped raise awareness about the whole situation and encouraged people to take action.

But there's still more that needs to be done, you know? Like addressing the bigger picture stuff that makes women and girls so vulnerable to trafficking in the first place. Stuff like widespread gender discrimination, poverty, conflict, and limited access to education and economic opportunities. All of these things just make it easier for traffickers to target and exploit people.

CHAPTER-3

Women Trafficking in India

In India, women and girls are trafficked from Bangladesh and Nepal, two nearby countries, mainly for the purpose of commercial sexual exploitation. This creates a difficult reality for victims of women trafficking and exploitation. Furthermore, youngsters from Nepal are entrapped in forced labour in Indian circus productions. While it is possible for Indian migrants who freely travel to the Middle East and Europe to inadvertently work for human trafficking organizations, the region also serves as a hotspot for Indian women who are subjected to similar forms of exploitation.

Due to the widespread use of fraudulent recruitment techniques, vulnerable individuals run the risk of being coerced into forced labour and debt bondage. Because of the hefty recruitment expenses, they are susceptible to being used by unscrupulous companies in the destination countries. These victims endure physical and sexual abuse in addition to not receiving compensation for their labour or having their freedom curtailed. They are victims of forced labour.¹⁹⁰

What keeps women who are prostitutes trapped in this trade is revealed by a recent poll that was carried out in India. Their justifications, which are shared by all interested nations, consist of:

1. Poverty and unemployment: Many people who are struggling financially turn to the sex trade.

2. Insufficient Reintegration Services: Their susceptibility is maintained by a lack of support when it comes to leaving the trade.

3. Limited Options: Some people stick to this dangerous lifestyle because there are no other feasible options.

4. Stigma and Societal Attitudes: These women are further marginalized by societal judgment.

5. Pressure and Obligations from the Family: The dynamics within the family are important.

6. Resignation and the Adjustment: Some people grow accustomed to their situation over time.

Which indicators point to human trafficking?

The U.S. Department of State has compiled a list of several significant warning signs which include physical signs, behavioural signs, control and exploitation, living and working conditions, relationship and interactions and signs in specific industries that may indicate

someone is being trafficked and need to be reported:

- Physical signs include the physical abuse like unexplained injuries, bruises that indicates the signs of forced labour. It also includes malnutrition and lack of medical care and they may also have labelled tattoos or some other kind of marks that indicates the ownership by the traffickers.
- Behavioural signs include the fear and anxiety or nervousness exhibit by the victims and they may avoid eye contact and seem overly submissive and they also display the symptoms of trauma such as depression or panic attacks.
- Control and exploitation include isolation where victim frequently experience isolation from family, friends and the community. It also includes debt bondage and coercion and threats of damage to themselves or loved ones.
- Relationship and interaction include Submissive Behaviour where the victims may show a high degree of submission to their captors. And the victims often avoid authorities as they are afraid to ask assistance for fear of being arrested or deported and they could be reluctant to divulge specifics about their predicament

India has passed two important laws pertaining to prostitution and trafficking in order to address this serious problem:

1. The Suppression of Immoral Traffic in Women and Girls Act of 1956 (SITA): This landmark law was designed to prevent trafficking in women and girls.

2. The Immoral Traffic (Prevention) Act of 1986 (ITPA), also referred to as PITA, is a 1986 amendment to SITA that places a stronger emphasis on protection and prevention.

The aforementioned legal frameworks aim to safeguard susceptible individuals and break down the networks of exploitation. Nonetheless, the fight against human trafficking is still

¹⁹⁰ Dr Saraswati Raju Iyer & Mrs. N. Radha, *Women Trafficking in India: A Critical Analysis*, 4 (2016), available at https://shanlaxjournals.in/pdf/ASH/V4N2/Ash_V4_N2_017.pdf (last visited Apr. 29, 2024).

continuing and calls for cooperation from the general public, law enforcement, and political leaders.

The NCRB's statistics was used in a report by Child Rights and You (CRY) that expressed concern over the situation of kidnappings, human trafficking, and missing girls in India. According to the survey data, there were 2189 recorded cases of human trafficking in 2021 compared to 1714 in 2020, a 27.7% rise. Nearly 172 girls went missing on every single day in 2022. The fact that a sizable fraction of these girls was never located or recovered raises questions about societal issues that may be at play.

In India in 2022, there were 2,250 recorded cases of human trafficking. Of them, 6,036 victims—including 2,878 juveniles, of whom 1,059 were girls—were identified. In addition, 1,1190 girls were prevented from being victims of human trafficking during that year; yet, a portion of the girls who were spared had already been victims of trafficking the year prior.

Alarming statistics indicate that there were about 62,099 reported cases of kidnapping or abduction of girls in 2022. The total number of events increased to 1.02.328 when the unrecovered cases from previous years were taken into account. Of these, 63,513 females were determined to be still alive, while 590 girls were found to be dead.¹⁹¹

Top states in India that have witnessed significant incidents of human trafficking involving women and girls are the following: -

1. West Bengal: It has a high rate of human trafficking-related crime and a large number of recorded incidents.

2. Rajasthan: Rajasthan is among the top states in this regard due to the high number of incidences of human trafficking that it experiences.

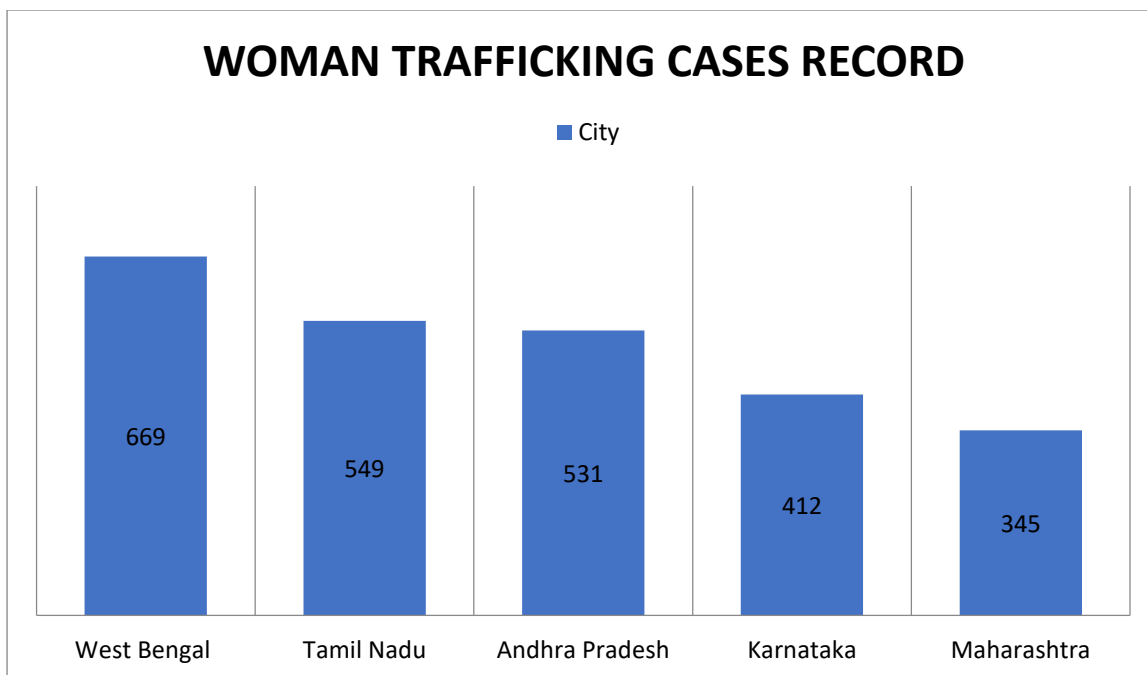
3. Gujarat: Another state where human trafficking is still a major issue is Gujarat.

4. Telangana: This state tops the list of states with the most incidences of human trafficking reported in the last several years.

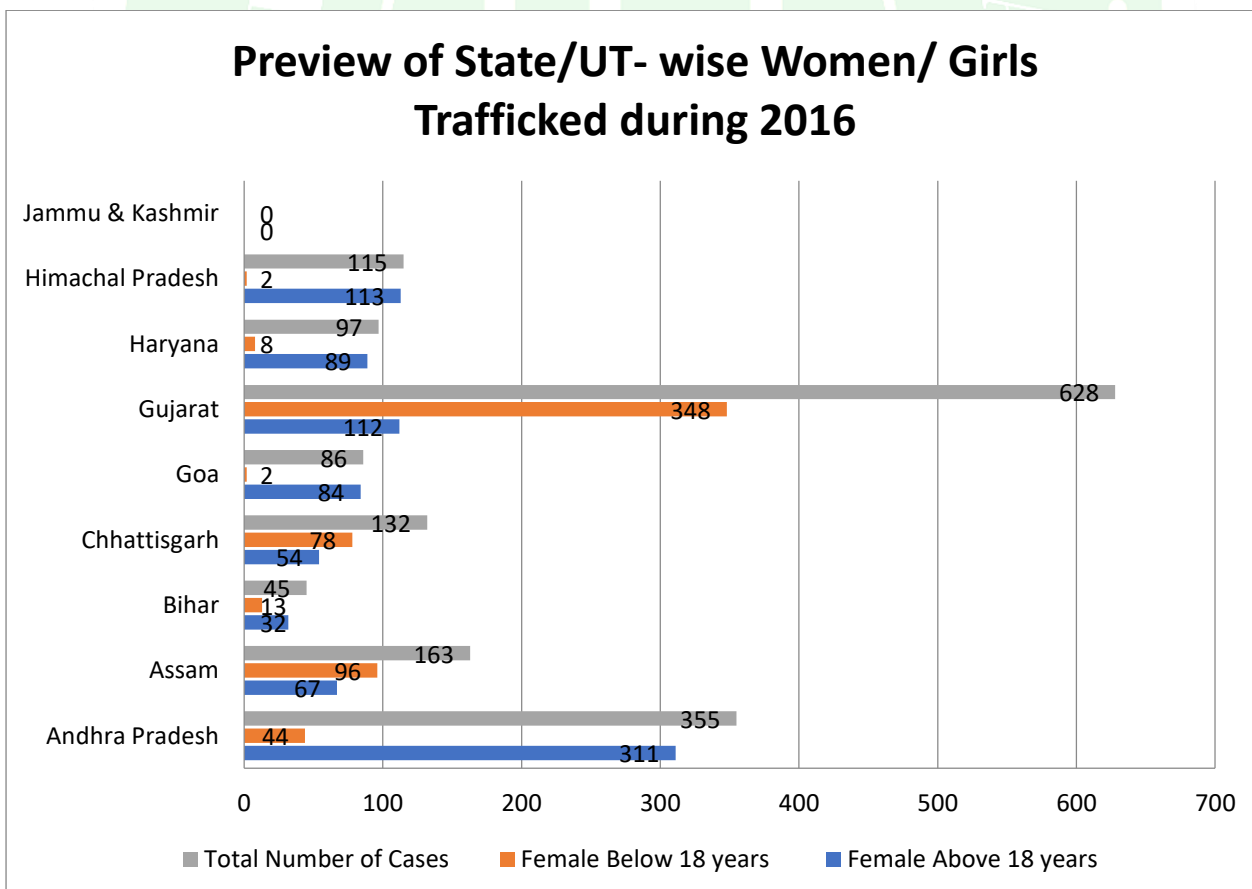
5. Maharashtra: There are a lot of trafficking incidents in Maharashtra, particularly involving women and girls.

6. Assam: Assam is one of the states that is having problems with human trafficking.

¹⁹¹New Indian Express, *As NCRB Data Suggests Poor Women and Child Safety Records, Experts Raise Concerns*, (Aug. 30, 2022), available at https://shanlaxjournals.in/pdf/ASH/V4N2/Ash_V4_N2_017.pdf (last visited Apr. 29, 2024).



Preview of State/UT Wise Victim Trafficked During 2016 (First 10 Record according to NCRB)



Preview of 'Number of Women rescued as per Published Report of NCRB from 2016-2018

Heads	2016	2017	2018
Number of Women Trafficked	5239	2040	2472
Number of Women Rescued from trafficking	7238	2211	2493

CHAPTER-4

Reason for Increased Women/Young Girl Trafficking in India

India's trafficking issue is complicated, resulting from a confluence of social, economic, and cultural elements. Women and girls trafficked mainly for the purpose of prostitution, forced marriage and domestic works.¹⁹² But the main root cause of the women trafficking can be the gender-based inequality throughout the India. Since gender-based prejudice kills almost 239,000 Indian girls under the age of five each year, it is one of the variables that contributes to the causes of human trafficking in India. Gender discrimination is a cultural norm in India because families revere men more than daughters. In this deeply patriarchal society, there are gaps between the sexes in terms of literacy rates and potential wages since girls' access to education is restricted.

The 2013 census revealed that men were paid 25% more than women, and the 2011 census revealed that 82 percent of men and 65 percent of women were literate. Gender discrimination has resulted in a major skewness in the sex ratio in India.¹⁹³

Due to the high preference for men over women in Indian society, gender-based discrimination has caused men to become self-destructive. This has resulted in a desire for the trafficking of women into India for marriage.

Following are the main reasons for the increasing women and girls trafficking in India: -

1. Forced Marriage:

Girls and women are not only trafficked for prostitution, but in places where there is a shortage of women as the sex ratio is reported to be gradually declining in several parts of the nation, such as states like Rajasthan, Haryana, and others, which has led to an uncommon problem of women trafficking (and where reports of wife-swapping among brothers exist), they are also purchased and sold into forced marriages as a result of child marriage. The poor are particularly vulnerable to the trafficking of women and children, half of whom are between the ages of 11 and 14. The National Human Rights Commission of India reports that children from drought-prone areas and areas hit by natural or man-made disasters make up the great majority of the casualties, along with members of socially impoverished segments of society.¹⁹⁴

2. Sex Trafficking

The inability of many Indians, particularly uneducated women, to support their family in the country's impoverished communities is another factor contributing to human

¹⁹²Katarzyna Rybarczyk, *For Indian Girls, Every Case of Trafficking Is a Failed Revolution*, *The Diplomat* (Sept. 20, 2022), available at <https://thediplomat.com/2022/09/for-indian-girls-every-case-of-trafficking-is-a-failed-revolution/> (last visited Apr. 29, 2024).

¹⁹³Kamble, R. *Human Trafficking of Women in India: Issues and Perspectives* 9 *J. Hum. Trafficking* 27 (2019), <https://doi.org/10.15406/jhaas.2017.01.00027>.

¹⁹⁴Graham Peebles, *Trafficking of Children and Women in India*, *Truthout* (2024), <https://truthout.org/articles/trafficking-of-children-and-women-in-india/> (accessed Apr. 28, 2024).

trafficking. Just 43% of Indian women held paid or regular wage jobs in 2012. Many young, illiterate girls from low-income households in rural parts of India are victims of sex trafficking. Notwithstanding the country's declining rate of poverty, 28% of Indians still live in impoverished conditions.

Since they frequently use greater work chances or debt relief to entice victims, human traffickers target impoverished neighbourhoods more than others. For young women, who have few options for earning money, it is difficult to say no to such offers. Due to the belief that younger girls are less likely to carry sexually transmitted diseases, the average age of victims of sex trafficking has decreased from 14 to 16 years old to 10 to 14.¹⁹⁵

3. Bonded Labour:

According to the non-governmental organization Anti-Slavery, "the most widely used method of enslaving people is probably debt or bonded labour, which is probably the least known form of slavery today." According to estimates from the ILO¹⁹⁶, the Asia-Pacific area is home to at least 11.7 million people who are forced to work, most of whom are in debt bondage. The root causes of bonded labour are poverty and illegal exploitation. People in need of the money needed for daily sustenance, who frequently lack land or education, sell their labour and their lives for money.¹⁹⁷

In addition, examining this matter from the perspective of supply and demand variables reveals that some of the reasons behind trafficking can be determined by the trafficking's growth. These factors fall within several headings, including sociocultural, political, and economic¹⁴ influences. They are the following:¹⁹⁸

1. The main cause of trafficking is poverty in India as the poor migrant workers are vulnerable to trafficker's manipulations including bogus employment offers and women are easily lured by the attraction of false marriages as a means of escaping poverty.

2. Conflict and Instabilities: Hotspots for human trafficking are typically found in areas that are vulnerable to conflict, political instability, or natural catastrophes. Traffickers prey on displaced communities that are weak and desperate, especially taking advantage of women and children.

3. Patriarchal attitudes, little regard for women's rights, low levels of education for girls, limited access to opportunities and resources, marginalization of women, and dowry practices all have a detrimental impact on trafficking in the same way that poverty does. Traffickers exploit the helplessness and vulnerability of persons living in disadvantaged neighbourhoods.

4. Organized Criminal Syndicates: Networks for international trafficking are quite sophisticated. For a range of illegal purposes, such as forced marriages, sex trafficking, forced labour, and organ trafficking, these organized crime gangs trade women and girls.

5. Necessity for Inexpensive workforce and Sexual Abuse: One of the main reasons that women and girls are trafficked in sectors including domestic service, agriculture, construction, and the sex industry is the necessity for low-cost labour. Traffickers take use of this need to coerce victims into forced work, forced marriages, or forced sexual exploitation.

6. Minimal Education: The risk of human trafficking is increased by the absence of easily accessible education, particularly for girls. People who lack literacy or education are more

¹⁹⁵Jillian Baxter, Causes of Human Trafficking in India, The Borgen Project (Feb. 3, 2019), <https://borgenproject.org/causes-of-human-trafficking-in-india/> (accessed Apr. 29, 2024).

¹⁹⁶ International Labour Organisation

¹⁹⁷Graham Peebles, **Trafficking of Children and Women in India**, Truthout (2024), <https://truthout.org/articles/trafficking-of-children-and-women-in-india/> (accessed Apr. 28, 2024).

¹⁹⁸Himika Deb, Tanmay Sanyal, **Human Trafficking: An Overview with Special Emphasis on India and West Bengal**, 22(9) IOSR J. Hum. & Soc.

Sci., available at https://www.researchgate.net/publication/319998554_Human_Trafficking_an_Overview_With_Special_Emphasis_on_India_and_West_Bengal_Himika_Deb1_and_DrTanmay_Sanyal_Corresponding_Author_iosr_jhss_vol22_iss_ue_9_version_5 (accessed Apr. 29, 2024).

susceptible to manipulation and deception by human traffickers who lure their victims with promises of training or education.

7. Abuse of Authority and Inadequate Law Administration: Because of corruption in the legal system and law enforcement agencies, traffickers can operate with impunity. Effectively combating human trafficking becomes more challenging when laws are not properly applied and enforcement is lax.

In order to effectively address the problem of women and young girls being trafficked in India, a comprehensive strategy that strengthens legal frameworks, enhances law enforcement operations, increases public awareness, and offers extensive victim care services is needed.

CHAPTER-5

Impact of Trafficking on Victims and Society

Human trafficking has grave repercussions that include disruption of families, loss of childhood, violation of fundamental human rights, and grave effects for mental health.

The United Nations defines human trafficking as “The act of recruiting, transporting, transferring, harbouring, or receiving individuals is known as trafficking.” The US Department of State estimates that at any given moment, about 27 million individuals are trafficked globally. Women and girls make up 7 out of 10 victims of human trafficking whereas the boys and men are also the victim.¹⁹⁹

For those who are trafficked, the effects are profound and extensive. The victims experience extreme trauma and have their lives turned upside down. In addition, society, the economy, and the nation as a whole are all impacted by human trafficking.

Impact of Human Trafficking on Survivors

Depending on the kind of trafficking and the particular circumstances, the effects on victims

and survivors of human trafficking differ. However, studies have found a number of problems that survivors and victims may encounter.

Human trafficking victims frequently endure severe physical abuse, such as working excessive hours without the necessary tools or protection, or witnessing their captors using force against them. Victims might also be at risk for diseases like HIV/AIDS, infections, and drug misuse. Being trafficked puts them at significant risk for mental health problems, including trauma, fear, worry, and insecurity. Numerous research findings suggest that survivors exhibit elevated levels of Post-Traumatic Stress Disorder (PTSD). Additionally, memory loss, sadness, suicidal thoughts, and impaired cognitive function can result from trafficking.

Due to their youth, juveniles who have been trafficked are considerably more at risk. The proper development of a child's emotional, physical, and overall psychological development is significantly impacted by trafficking of any form.²⁰⁰

Additionally, victims are susceptible to social exclusion. They frequently lose contact with their social networks, which makes it difficult for them to interact with others or ask for assistance. Due to communication difficulties, unfamiliarity with the local area, and cultural differences, victims of international trafficking may not be able to seek assistance or attempt to escape.

Basically, the consequences/impacts can be understood by the following categories:

1. Psychological Impact: Dementia in the lives of those impacted. In addition to mental anguish, human trafficking causes anxiety and sadness in its victims. Victims experience shame and self-consciousness about who they are and what happened to them. The afflicted frequently distance themselves from society.

¹⁹⁹Amy Novotney, 7 in 10 Human Trafficking Victims are Women and Girls: What are the Psychological Effects? Am. Psychol. Ass'n (Apr. 2023), <https://www.apa.org/topics/women-girls/trafficking-women-girls> (accessed 2024).

²⁰⁰United Nations Office on Drugs and Crime (UNODC), *An Introduction to Human Trafficking: Vulnerability, Impact and Action*, UNODC (2008).

2. Physical Impact: Children and women in particular sustain physical harm, fatigue, and thirst while being transported by traffickers; some may even pass away in transit. Sexual assault causes physical and psychological harm to victims of human trafficking. When they work as child workers, children endure terrible physical abuse.

Impact of Human Trafficking on Society

Human trafficking has a seriously negative impact on society as a whole, not just for the individuals directly involved. It doesn't matter if it happens in one country or multiple countries; the effects can be seen throughout the whole nation, like in the United States. The bad effects of human trafficking range from where the victims come from (the source nation or community) to where they travel through (the transit nation or community) and finally to where they end up (the destination nation), where they suffer abuse. Studies show that migration and human trafficking often happen together because of big differences in income between countries, humanitarian crises, or when certain countries don't have enough social aid. The most common places where human trafficking starts are Eastern Europe, Asia, Africa, and South America. In conclusion, human trafficking is a global issue that has serious consequences for everyone involved, and it doesn't just affect one specific group of people. It's important for governments and organizations to work together to find ways to stop this terrible crime and help the victims.

It is no doubt that human trafficking takes a huge toll on our society's human capital. Traffickers prey on innocent individuals for personal financial gain, while simultaneously violating their basic human rights. These victims are subjected to various forms of abuse, including physical violence that can sometimes lead to death. What's more, those who fall into the trap of human trafficking might have been contributing immensely to our society had they not been exploited. They could have used their labour, skills, and experience to better the lives

of everyone around them. Instead, they find themselves stuck in a cycle of exploitation that only serves to enrich traffickers and other criminals.

The victims of human trafficking are often forced into either forced labour or sexual exploitation, both of which rob them of the opportunity to meaningfully contribute to society. This loss of potential productivity has a direct negative impact on our economy as a whole. Furthermore, human trafficking undermines social capital by destroying trust, solidarity, and reciprocity within communities. When individuals are exploited and abused in such a manner, it weakens social cohesion and disrupts the networks of cooperation and support that are crucial to maintaining the overall well-being and resilience of society.

The exploitation of trafficking victims frequently has serious negative effects on their physical and mental well-being. Resources from other areas of need are diverted away from healthcare systems and social services due to the increased burden of healthcare costs involved with treating these illnesses and injuries. Due to their exploitation, abuse, and dehumanization, victims of human trafficking have a disruption in their sense of self, identity, and purpose. By eroding ties of empathy, compassion, and solidarity among its members, this erosion of personal identity and agency threatens the social fabric of society.²⁰¹

There are other detrimental effects of human trafficking on society besides the loss of human capital. Other areas including social development, gender parity, public health, and the rule of law are affected. The safety, well-being, and dignity of persons are undermined by human trafficking in numerous ways, which has a substantial impact on the content of human security in society.

²⁰¹Mohammad Alrefath,, *Impact of Human Trafficking on Society*, Academia.edu, https://www.academia.edu/12185570/Impact_of_Human_trafficking_on_society?auto=download (accessed Apr. 29, 2024).

Human trafficking deprives the victim's economic security by forcing them for cheap or unpaid labour. Victims often forced into long working hour with little or no pay, making them to face difficulty in fulfilling their basic necessities. Trafficking also subjects the victim to the physical harm, abuse and violence. Environmental effects of human trafficking are possible, especially in sectors where natural resource exploitation is prevalent, like mining, fishing, and agriculture. The safety and health of victims of human trafficking may be jeopardized by dangerous working conditions, deforestation, pollution, and other environmental risks.

Comprehensive policies that prioritize prevention, protection, and prosecution efforts while simultaneously addressing the underlying causes of vulnerability, such as poverty, inequality, and social exclusion, are necessary to address human trafficking as a loss of human capital. Restoring and optimizing the human potential lost to human trafficking requires investments in social support networks, education, skill development, and economic possibilities.

Chapter-6

Legal Framework: Review key of National and International laws addressing women trafficking in India.

National Laws to Counter/ Address women trafficking in India:

Millions of individuals worldwide are impacted by human trafficking, which is a terrible and heinous violation of human rights. In contemporary times, forced labour, sexual exploitation, and other forms of exploitation are carried out through the recruitment, transportation, and exploitation of people. Countries all around the world have realized how urgently they must combat human trafficking by enacting comprehensive legal

frameworks and coordinating efforts across all sectors in order to address this intricate and diverse issue.

Developing a strong National Framework to Combat Human Trafficking is crucial, especially in India, where the practice is quite prevalent. A paradigm of this kind addresses the underlying causes and extrinsic motivators of this horrible crime, as well as providing a strategic road map for the avoidance, identification, prosecution, and rehabilitation of victims of human trafficking.

In order to combat human trafficking in all of its forms, the National Framework to Counter Human Trafficking in India includes a multifaceted strategy that includes cross-sectoral cooperation, victim-centric interventions, law enforcement initiatives, and legislative measures. It highlights India's determination to protect everyone's rights and dignity, particularly the most marginalized, and to break up the exploitative networks that support human trafficking.

Women Trafficking and the National Law related to it

1. Constitution of India 1949

Human trafficking can be tackled by laws found in the Indian Constitution's fundamental rights and directive principles for state policy. The Indian Constitution has three articles that address this subject; Article 23 of Indian Constitution states 'Prohibition of traffic in human beings and forced labour'. As this article prohibits trafficking in human beings and beggar and other similar forms of forced labour.²⁰² And Article 39(e) and 39 (f), as Article 39(e) emphasizes the health and strength of workers, both men and women as well as the tender age of children and it aims to prevent the abuse of health and strength due to economic necessity and no citizens can be forced into by the economic necessity to do work unsuited to their age or strength and that childhood and youth should be protected

²⁰² India Const. art. 23 (1949).

against exploitation.²⁰³ And Article 39(f) seeks to protect childhood and youth from exploitation and moral and material abandonment.²⁰⁴

In the Case of *People's Union for Democratic Rights v. Union of India*²⁰⁵, According, to the Indian Supreme Court, "any factor which deprives a person of a choice of alternative and compels him to adopt one particular course of action" might be considered "force" in the context of "forced labour." This covers coercion through physical force, coercion through legal provisions for fines or jail, and economic coercion resulting from hunger and desperation, which may lead an individual to take compensation below the minimum wage that they are legally entitled to. Article 23 of the Constitution defines "forced labour" as any labour or service that is required as a result of such a force.

2. Immoral Traffic Prevention Act, 1956:

The ITPA, 1956 is the only primary legislation for addressing trafficking, which is based on the UN Convention of 1949. It penalises women and children trafficking for commercial sexual exploitation. However, this act does not define what is trafficking. Trafficking in humans for bonded or exploitative labour is not recognized under the Act, which views it as a felony related to prostitution rather than a distinct criminal.

3. The Indian Penal Code 1860.

India's main criminal law is the Indian Penal Code (IPC), which was passed in 1860. The text covers a range of criminal activities, encompassing offenses and crimes associated with human trafficking, which includes the trafficking of women. In addition to outlining measures to stop and punish such actions, the IPC acknowledges the seriousness of trafficking as a crime against humanity.

In order to exploit people, especially women and girls, women trafficking, a type of contemporary slavery, entails the enlistment,

compulsion, transfer, harbouring, or reception of individuals. Sexual exploitation, forced labour, forced marriage, and organ removal are just a few of the ways that this exploitation can occur.

Key sections related to women trafficking are the following:

1. Section 366 of the Indian Penal Code deals with acts that involve Kidnapping or abduction of women with the intention of forcing them to marry against her will or forcing or seduction them to illicit sexual relations. And if anyone found guilty under this section can face imprisonment for the term which can be extended up to 10 years and fine as well. Basically, this section is carefully worded to deal with circumstances in which women are forced or tricked into marriages against their choice.

2. Section 370 of the code mainly addresses the critical issues of human trafficking including women and children for the purpose of exploitation. It points out various forms of trafficking such as buying and selling of a person for any purpose, recruiting, transports, harbours, transfer and receives by using threats or by using force or any other form of coercion or by abducting the person, etc. This section also provides punishment and penalties for those involved in such activities.

3. Section 370A Specifically addressing the trafficking of children for the purpose of exploitation, this section was eventually introduced to the IPC. It describes numerous facets of the offense and stipulates penalty for trafficking. And the punishment for the trafficked minor includes rigorous imprisonment for a term which shall not be less than five years, but it may be extent up to 7 years and shall be liable to fine also. Punishment of exploitation of trafficked adult include rigorous imprisonment for a term which shall not be less than three years, but may extend up to five years, and shall also liable to fine.

4. Section 372 deals with the serious offence connected to the exploitation of minors. A person under the age of eighteen who is sold,

²⁰³ India Const. art. 39(e) (1949).

²⁰⁴ India Const. art. 39(f) (1949).

²⁰⁵ AIR 1982 SC 1473.

rented out, or otherwise gets rid of with the intent to use them for prostitution, engage in illicit sexual relations with anyone, or have any other unethical or illegal intent at any age is accused of these offenses. In the event that a person is found guilty, they could face a maximum sentence of 10 years in jail of any kind in addition to a fine.

5. Section 373 of the code mainly deals with the grave offense related to the buying of minors for the purposes such as slavery, prostitution and illicit or immoral activities. On the other hand, this clause also applies to those who know it is likely that they may be employed or utilized for any of the aforementioned purposes at any age. If an offender is found guilty under Section 373, they could face a fine in addition to either type of imprisonment for a maximum of ten years.

4. Criminal Law (Amendment) Act, 2013.

The Indian government took a major legislative move to reduce violence against women with the Criminal Law (Amendment) Act, 2013 after the Delhi Gang Rape of 2012. This act expanded the definition of trafficking as the act of enlisting, transporting, transferring, harbouring, or receiving individuals through threats, coercion, abduction, fraud, deception, misuse of authority, or inducement for the purpose of exploitation, encompassing forced labour or services, prostitution, slavery or practices analogous to slavery, servitude, or organ harvesting. And this act also provide punishment for the offenders. It identifies aggravated forms of trafficking can include specific aggravating circumstances like trafficking in minors, trafficking in several persons, or recurrent offenses. For more severe types of trafficking, the penalty consists of a fine in addition to a minimum sentence of ten years in prison, with the possibility of a life sentence.

The Act also include regulations for the defense and rehabilitation of victims of human trafficking. The importance of offering victims support services such housing, counselling, healthcare, and legal assistance is emphasized.

In order to ensure that victims of crimes under the Act receive justice in a timely manner, the Act calls for the creation of special courts.

Protection and aid policies, programs, and initiatives

Until recently, the Indian authorities focused on internal trafficking. However, the focus has shifted to addressing cross-border trafficking. Following are the important steps taken by government of India for tacking trafficking related to women.

The major government entity that deals with protection and aid policies and programs is the

- **Political Commitment** include The Department of Women and Child Development (DWCD) within the Ministry of Human Resources development²⁰⁶. While the particular tasks and responsibilities of DWDCs vary by region and jurisdiction, these organizations often play an important role in protecting women from trafficking by implementing a variety of preventive, protective, and rehabilitative measures. In the ***Vishal Jeet v. Union of India case***²⁰⁷ in 1990, the Supreme Court mandated that the government provide care, protection, development, treatment, and rehabilitation to victims of commercial sexual exploitation. Additionally, a central advisory body was established. The organization was established in the same year, and a national seminar was held. In 1994, the Central Social Welfare Board conducted a survey and held a national consultation. Six regional workshops were organized to develop strategies with stakeholders (DWCD 1998). And In 1998, DWCD developed a nationwide action plan to address trafficking and commercial sexual exploitation of women. The plan included

²⁰⁶National Human Rights Commission of India, *Final Report of Action Research on Trafficking in Women and Children*, vol. I, Sankar Sen coord., P.M. Nair principal investigator, U.N. Dev. Fund for Women, Inst. of Soc. Sci. 20021, at 38.

²⁰⁷ *Vishal Jeet v. Union of India*, A.I.R. 1990 S.C. 1412.

prevention, awareness raising, economic empowerment, rescue, and rehabilitation.

In September 2001, the Indian government established the 'Swadhar' plan for underprivileged women. This plan aims to offer refuge and care for women without social or economic support.²⁰⁸

- The National Human Rights Commission (NHRC) has highlighted trafficking as a key issue and is addressing it from a human rights viewpoint.

Some of the important projects and programs focused at preventing and treating human trafficking, notably of women are the following:

1. **UJJAWALA** Scheme Launched in 2016 which is a comprehensive initiative taken by the Ministry of Women & Child Development in India and its main objective is to prevent women and children trafficking for the purpose of Commercial Sexual exploitation. It also aids in the rescue of victims from the site of their exploitation and placement in safe custody and to give victims with immediate and long-term rehabilitation services by providing essential amenities/needs such as shelter, food, clothes, medical treatment (including counselling), legal aid and guidance, and vocational training.

2. **Nirbhaya 2012** was launched in 2012 to aid the safety and security of women at various levels and it also guarantees the high-level privacy and confidentiality of victim's identity and any sort of information related to them.

3. **The Trafficking in Persons (Prevention, care and Rehabilitation) Bill, 2018** was introduced to stop and counter human trafficking especially women and children and this bill provides a law which includes all sorts of investigation related to trafficking, and rescue, protection and rehabilitation of victims who are trafficked.

4. **Mahila Shakti Kandra's (MSK)** was introduced in 2017 to establish an atmosphere in which women may access healthcare, quality

education, guidance, job, and so on and to make these possibilities available at the block and district levels across the country.

5. Working women hostel was established to provide safe housing for working women, especially those who have been rescued from trafficking situations and it also attempts to establish a supportive environment in which women can pursue career and education without fear of exploitation.

Global initiatives to advance women's human rights.

Given the transnational character of human trafficking, international law is a key area for addressing the practice. The UN Trafficking in Persons Protocol is an important international legal tool for preventing, suppressing, and punishing human trafficking.²⁰⁹

The various Conventions, treaties and international laws that India is governed regarding women Trafficking and there are over 23 main UN provisions relating to Human rights and five of them is mainly related to the Women and they are the following:

- Convention on Political Rights of women (1952)
- Convention on the nationality of married women, and Convention on the recovery abroad of maintenance (1956).
- Convention on the consent of marriage, minimum age of marriage and registration of marriages (1957).
- Convention on the elimination of all forms of discrimination against Women (1979).²¹⁰

Several international instruments address discrimination against women, either exclusively or partially. The UN Charter was the first international accord to recognize gender equality as a fundamental right. The Universal

²⁰⁹Radhika Gupta, *National Legislative Framework – Human Trafficking*, in *Rights of Women and Children* 20, available at <https://ebooks.inflibnet.ac.in/hrdp05/chapter/national-legislative-framework-human-trafficking/> (last visited Apr. 29, 2024).

²¹⁰U.S. Department of State, *Trafficking in Persons Report 2023, India (Tier 2)*, available at <https://www.state.gov/reports/2023-trafficking-in-persons-report/india/> (last visited Apr. 29, 2024)

²⁰⁸P. M. Nair & Sankar Sen, *Trafficking in Women and Children in India* (Orient Blackswan 2005).

Declaration of Human Rights states that all rights and freedoms shall be provided without discrimination based on race, color, gender, or any other status. The Convention on the Elimination of All Forms of Discrimination against Women (COEDAW), approved by the UN General Assembly in 1979, is the most comprehensive international human rights treaty focused on women. The agreement offers a broader definition of discrimination than that provided in the prior treaties, embracing both equality of opportunity and equality of result.²¹¹

In 1975, the United Nations marked International Women's Year and hosted the first global summit on women in Mexico City. Two more UN conferences were held: Copenhagen (1980) and Nairobi (1985). The Fourth World Conference on Women will be held in Beijing, China on September 19th.²¹²

CHAPTER-7

Judicial Activism on Women Trafficking

Judicial activism occurs when courts have the authority to review State action. According to Article 13 and Articles 32 and 226 of the Indian Constitution, the higher judiciary has the authority to declare any legislative, executive, or administrative action invalid if it violates the Constitution. Judicial review is fundamental to the Indian Constitution.²¹³

The process of judicial interpretation gives all provisions of the Constitution and laws adopted by the legislature their true meaning and import. The Constitutional mandate and several statutes that provide for protective discrimination in favour of women in various facets of their social, economic, and political lives have been brought before the courts. Superior Courts in India have developed gender jurisprudence through various devices such as

judicial review, judicial activism, social action litigation, and the duty to enforce fundamental rights, giving substance and life to the constitutional scheme of protective discrimination in favour of women.²¹⁴

Role of Judiciary in Preventing Women Trafficking

The Judiciary has a key role in fighting human trafficking, notably in prosecuting and protecting victims. Whereas the Indian Supreme Court's misguided and insensitive attitude has led to the marginalization of the issue of trafficking of women and girls. The Court's bias against prostitute victims and discriminatory interpretations of existing statutes must be addressed. Objectivity in the Supreme Court's approach can promote justice and defend victims' fundamental human rights.

The judiciary in India has a tough time dealing with sex trafficking, and it's not just because there's so much of it. They've done great work in other areas, but sex slavery is a different beast altogether. One big challenge is figuring out how to balance everyone's rights and needs. The constitution says one thing, the law says another, and society has its own ideas too. And then there's the tricky business of making sure everyone gets a fair trial without letting the bad guys slip through the cracks.

It's not easy being a judge these days, but they're doing their best to navigate these tricky waters. They know they have to do something, and they're trying their hardest not to make things worse in the process. It is really not surprising that there just aren't a ton of court cases specifically about sex trafficking. But still, there have been a few important ones that show the judges are trying to do something about it.

People who really care about this issue, like activists and NGOs, have been the ones to take

²¹¹ Indriani Sen Gupta (ed.), *International Conventions on Women Trafficking: A Legal Framework*.

²¹² Narinder Kumar Dogra & Sukhchain Singh, **Women Trafficking: A Challenge to Women Rights in India**, 74(3) Indian J. Pol. Sci. 395 (2013).

²¹³ L. Chandra Kumar v. Union of India, (1997) 3 S.C.C. 261.

²¹⁴ Koneru Anuradha, *Judicial Activism in Protection and Promotion of Women in India with Special Reference to Indian Constitution*, Legal Service India, available at <https://www.legalserviceindia.com/legal/article-116-judicial-activism-in-protection-and-promotion-of-women-in-india-with-special-reference-to-indian-constitution.html> (last visited Apr. 29, 2024).

cases to court in the first place. These cases have led to some big legal decisions that have helped a lot. The judges have said it's important to focus on helping the victims, getting them the help they need to get better and making sure everything is done with their best interests in mind. So even though there aren't a ton of cases about sex trafficking, the ones that have happened have made a difference. And its people who care about the issue who have made that happen. Some decisions are initiated by public-spirited individuals who oppose female slavery.

In *Vishal Jeet v. Union of India*²¹⁵ case, the Supreme Court, in this case, was like, "trafficking of women is a serious issue, and we need to set some ground rules." So they defined trafficking differently from other forms of exploitation and abuse, which is important because it helps us understand what's going on. They also said that trafficking violates an individual's basic rights, especially those of women, and the government needs to step in and do something about it.

The Court also pointed out that prostitution is a complex issue that involves both social and economic factors. They said that instead of just punishing people, we should focus on preventing it from happening in the first place. And they weren't here for this idea of the Central Bureau of Investigation (CBI) just randomly investigating stuff, cause that's not how it works.

In the end, the Court was like, "Look, we need to protect these victims and make sure they're safe. We need to help them get out of the situation they're in and get back on their feet." So, they laid down the law on what needs to happen to combat forced prostitution and keep these women safe. Basically, this ruling is a big deal because it gives us a solid legal foundation to fight against human trafficking, especially when it comes to women in India.

In the case of *Gaurav Jain v. Union of India*²¹⁶, the Supreme Court mainly addresses the relevant issues related to the rights of Prostitutes, children and strategies related to eliminate the prostitutes. The Supreme Court laid down guidelines for rehabilitation of the children of prostitutes as well as made it mandatory for the State to ensure their education and rehabilitation.

In the *Neerja Chowdhary v State of Madhya Pradesh*²¹⁷ case, the Supreme Court really focused on what should happen to freed bonded laborers. They made it clear that just rescuing people from being bonded laborers isn't enough - we also need to make sure they get rehabilitated. Otherwise, they'll end up going back to being bonded laborers because they're poor, helpless, and super desperate.

In the Case of *Smt. Kaushaliya v. State of Uttar Pradesh*²¹⁸, dealt with the Suppression of Immoral Trafficking in Women and Girls Act, 1956, and also had to sort out the Section 20²¹⁹ part of it because the High Court had already struck it down because it violated some basic human rights protected by the Constitution, you know? The High Court didn't really dig into the whole prostitution thing though, and just focused on the specific section.

Justice W. Broome was like, "Well, if someone's doing something really immoral like prostitution, then the state can totally ban it, and no one can say that's not fair." He also mentioned that if a profession or trade is inherently immoral, then the state can impose a total ban on it.

Anyway, the High Court didn't really discuss the fundamental issues of prostitution or whatever, but Justice Broome was still like, "Yeah, if someone's involved in prostitution, the state can control where they live and move around." He added that the law isn't actually trying to ban

²¹⁶ *L. Chandra Kumar v. Union of India*, (1997) 8 S.C.C. 114, A.I.R. 1997 S.C. 3021, 1997 (4) SCALE 657

²¹⁷ *Neerja Chowdhary v. State of Madhya Pradesh*, A.I.R. 1984 S.C. 1099.

²¹⁸ *Kaushaliya v. State*, A.I.R. 1963 All. 71.

²¹⁹ *SITA, Sec. 20* (Removal of prostitute from any place in order to prohibiting her from re-entering a place without permission is in force, re-enters the place without such permission).

²¹⁵ *Vishal Jeet v. Union of India*, A.I.R. 1990 S.C. 1412.

prostitution directly, but it's more about controlling the movement and residence of prostitutes. He explained that the law says if a woman is found to be involved in prostitution, she can't just choose to stop and live somewhere else if she wants to stay within the magistrate's jurisdiction. Like, if the magistrate thinks she's been a prostitute in the past, he can just kick her out of the area without asking any more questions. Plus, she could get kicked out of the whole district, not just one town.

In the case of *Upendra Baxi & Lotika Sarkar V/s State of Uttar Pradesh*²²⁰, concerned the terrible conditions found in a Protective Home that was operating under Sections 17, 19 and 21 of SITA in Agra, India. The case spanned a period of 16 years, from when SITA was in effect until 1997, when ITPA was implemented, and it all started with a Letter to the Editor written by two professors at Delhi University, Upendra Baxi and Lotika Sarkar, to a justice of the Supreme Court of India, Justice P.N. Bhagwati. The letter, published in the Indian Express, described horrifying conditions at the Agra Protective Home (which we'll call the Home from now on). The Supreme Court decided to turn the letter into a writ petition, and ordered the Home's superintendent to explain the accusations made in it. From 1981 to 1997, the Supreme Court kept a close eye on the situation, and found lots of abuses and omissions in the Home's operation, but they never really did anything to punish the people responsible.

In summary, the Upendra Baxi & Lotika Sarkar case is all about protecting the rights and dignity of vulnerable people, especially those living in protective homes. The Court's decision to step in was definitely a good thing, because it helped make sure that these girls had a better place to live and could get the help they needed to get back on their feet. Overall, this case just goes to show that sometimes the law can actually make a real difference in people's lives.

These landmark cases have seriously impacted India's legal response to women trafficking, showing how important it is to have comprehensive laws, effective ways to enforce them, and victim-centered strategies for prevention, rescue, and rehab. They've also raised awareness about the issue and added to the broader conversation about human trafficking in the country.

CHAPTER-8

Conclusions and Suggestions for Preventing Women Trafficking

Conclusions:

Women's trafficking has become a widespread global phenomenon in the twenty-first century, crossing national lines and offering a severe challenge to governments all over the world. This criminal conduct includes not only human rights violations, but also economic empowerment and social justice issues. Indeed, it is the world's third most common crime, trailing only guns and narcotics. Addressing this complicated issue requires a diverse and multinational approach, as governments around the world have recognized their limitations in dealing with such a large problem alone.

Traffickers frequently use complex strategies, such as conspiracy, document forgery, visa, mail, and wire fraud. As a complex issue, women trafficking can be looked at from various angles. Picking the right perspective is super important. It's embedded in the social, political, and cultural context, but might not be the main reason it happens. The people who commit these crimes are the traffickers, and we actually know pretty much nothing about them. Like, really, it's crazy.

Anyway, we need to take urgent action to address this situation and figure out why there's such high demand for trafficking in the first place. It's a serious violation of human rights

²²⁰ *Upendra Baxi & Lotika Sarkar v. State of Uttar Pradesh*, 1998 (8) SCC 622.

and just straight-up dehumanizes people. It's not cool, you know?

Until recently, cross-border trafficking in South Asia just wasn't a huge deal. Like, the countries sending people out, like Nepal and Bangladesh, were totally down for the countries they were sending people to, like India and Pakistan, to acknowledge their role in the whole process. But the countries that were actually getting the people, like India and Pakistan, were just not willing to admit that the cross-border part of it all was a big deal.

This whole situation made it really hard to solve the problem of cross-border trafficking because everyone was just playing the "blame game" instead of actually taking responsibility for what was going on. It was just a mess, you know? Nobody wanted to work together or anything.

The analysis brings up a whole lot of stuff that contributes to the issue of women trafficking. Like, poverty, illiteracy, and stressful situations make it harder for people to protect themselves. Plus, some folks might get taken advantage of or not realize the risks involved. There's also a desire for adventure or to move to a more developed place, which can be tempting. And let's not forget about weekends and the media – they can play a role too.

But it's not just about those things. Sometimes, women trafficking happens because of the gender ratio in certain countries. And sometimes, parents might not handle things the best way they could. And hey, let's be real, money can be a big motivator for some people, even if it's not always the best reason. And of course, relationships can be complicated and strained, which doesn't help either.

In the end, fighting against women trafficking needs to be approached from all sides. We can't just focus on one thing and expect it to fix everything. It's a complex issue that requires a balanced approach if we ever want to make a real difference.

There is a real need for a comprehensive, human rights-based approach to combating trafficking that includes preventing traffickers, assisting victims, and ensuring that laws and policies reflect the intricacies of the situation.

India has made some headway in amending its criminal legislation to align with the UN Trafficking in Persons Protocol's definition of human trafficking, but it is now critical to properly implement these laws and defend victims' rights.

Suggestions to Prevent Women Trafficking:

To counteract women trafficking, we need to take quick and long-term actions all around. It's super important for people to know about human trafficking, like, right now! The media can actually be really helpful with spreading the word. But in the long run, poverty reduction programs can also make a difference.

To prevent people from getting trafficked, the Indian government should focus on boosting border security measures. That includes building fences and making sure their enforcement is on point.

We can take following suggestions into Considerations:

- To promote human rights, it's crucial to raise awareness through social media and printed materials. Also, human rights clubs or committees should be set up in schools, colleges, and universities to educate students and the general public about their rights. Human rights organizations need to be created in each state to deal with violations and make sure everyone's rights are being protected.
- It is really important to stay on top of legislation, judicial rulings, and administrative matters by keeping an eye on them and providing regular updates to those in control. We must work together to create a better future for everyone on Earth, no matter how different we are, based on ideals of

justice, freedom, and solidarity. And we must do all of this with zeal to make it happen in the face of contemporary challenges.

- The National Human Rights Commission really needs to step up its game when it comes to trafficking. They should definitely conduct a thorough study on the issue and then host a national workshop to discuss possible solutions. And of course, they need to help out with actually enforcing those laws once they're put in place.
- The Supreme Court shall safeguard the rights of trafficked women and girls, including freedom of movement, life, non-deportation, protection from discrimination, and access to vital services.
- Stop rape and human rights violations by paramilitary forces and police during the "Search and Seize" operation.
- The Government welcomes recommendations for amending laws related to women's rights, but significant modifications are needed to make plans a reality. Although laws to protect women's rights have not been implemented, a monitoring mechanism is necessary. Women should be promoted and given opportunities. Women's issues should receive adequate attention. Women have a dearth of effective tools to address their issues. Lip service alone cannot bring about change.
- Women must have a minimum of 50% representation in parliament. Women face unequal pay for equal effort in the private sector. They deserve equal pay for equal work. They are exploited due to their lack of representation in the private sector.
- A "special mechanism" should be established to address transgressions against women in the private sector.

- "Women Recreation Centres" should totally be set up, like, every week, so ladies can hang out and have fun together. And they can, like, engage in recreational activities and stuff, too. But also, they could, like, discuss current social and national issues, you know? It'd be a great way to, like, bond and learn from each other.
- Also, laws should totally be made to, like, improve the lives of women and make sure they're being treated fairly and according to human rights. That's super important! Like, no one wants anyone to be mistreated or anything.

References

1. Doe, J. (2024). "A Study of Human Trafficking in India: An Overview." *International Journal of Modern Research (ijmr.net.in)*, 10(2), 123-145
2. Bagchi, S. (2016). "Human Trafficking in India: Theoretical Perspectives with Special Reference to Human Trafficking Scenarios in the North Eastern Part of India." *International Journal of Research in Economics and Social Sciences (IJRESS)*, 6(9), 109-119
3. Pal, B., & Mandal, T. K. (2021). "Women's Trafficking in Twenty-First Century India: A Quest for Regional Variations." *International Journal of Research in Economics and Social Sciences (IJRESS)*, 11(3), 45-62
4. Rathour, M., & Sharma, S. K. (2021). "Women Trafficking in India: A Threat to Gender Equality." *The Routledge Handbook of Exclusion, Inequality and Stigma in India*, 37, 45-62
5. Beotra, "The Immoral Traffic (Prevention) Act, 1956"
6. Ushma Srivastva, *Women and Crime*, Common Publishers, New Delhi, 2008
7. Raj Kumar (ed.), *Women and Sexuality*, Anmol Publishers, New Delhi, 2000, p.113.
8. https://journals.lww.com/jaanp/fulltext/2019/12000/understanding_the_mental_health_impact_of_human.6.aspx

9. <https://www.legalserviceindia.com/legal/article-116-judicial-activism-in-protection-and-promotion-of-women-in-india-with-special-reference-to-indian-constitution.html>
10. Indri ani Sen Gupta (ed.), International Conventions on Women Trafficking: A Legal Framework
11. Narinder Kumar Dogra and Sukhchain Singh, "Women Trafficking: A Challenge to Women Rights in India" (2013) 74(3) The Indian Journal of Political Science 395
12. National Human Rights Commission of India. Final Report of Action Research on Trafficking in Women and Children. Volume I. Coordinator: Sankar Sen. Principal Investigator – Researcher: P.M. Nair, IPS. New Delhi: UNIFEM, Institute of Social Sciences, 20021, page 38

