# Human Trafficking and Forced Labor: An Analysis of Current LegalApproaches and Their Effectiveness in Combating the Crime

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**Abstract:** Among the most horrific crimes that still afflict contemporary civilization are forced labor and "human trafficking." They mistreat people by forcing them into forced labor, abuse of sexuality, and other sorts of exploitation, especially of "women & children." The trading or smuggling of human beings and forced labor still occur despite worldwide attempts to stop them. This paper examines current legal strategies to prevent forced labor and "human trafficking" and evaluates how well they work to solve this widespread issue. The study starts off by giving a general overview of trafficking in people and forced labor, including its prevalence and effects on society at large. The next section looks at the many legal systemsthat have been put in place to address these offences. These consist of national laws, regional accords, and international treaties. The report explores a number of case studies from India to access the efficacy of current legal strategies.

**Keywords:** Human Trafficking, India, Forced labor, legal frameworks, international treaties, Prevention, International treaties<sup>1</sup>

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## 1. Introduction

One of the most horrible crimes that occurs in worldwide today is "human trafficking" along with forced labor. Each year millions of people—mostly "women and children"—are coerced into forced marriages, forced labor, and sexual misconduct including other forms of exploitation on both the inside and outside of nations.

The "International Labour Organisation (ILO)" says approximately 21 million individuals are compelled to engage in labor globally, with women and girls making up the bulk of these victims. The majority of nations worldwide is afflicted by trafficking in people, either as asource, transit, or destination. The main purposes of "modern slavery" in "women and children" are for begging, the organ trade, trafficking in drugs, force labour, domestic labour, prostitution by force, sex travel, and pornography, as well as for entertainment and sports like beer bars, camel jockeys, and circus troops. <sup>1</sup>

A prominent issue in India is "human trafficking where it is thought that each year, 1.2 million children become victims. The "2020 Crime in India Report" was released by the "National Crime and Records Bureau (NCRB)" during the reporting period. Compared to the 2,088 trafficking instances recorded in 2019 and the 1,830 instances of trafficking reported in 2018, the government reported investigating 1,714 incidents of trafficking under the IPC in 2020. What IPC provisions were incorporated in the data was not disclosed by the government. 2020 saw the conclusion of 463 trafficking prosecutions, the conviction of 101 offenders in 49 cases, and the acquittal of 715 accused in 414 cases. In 2020, 89 percent of trafficking prosecutions ended in acquittals. They target people who are going through emotional or economical trauma. Many of them are duped into believing they will get better employment or education, and as a result, they are abused and exploited. <sup>2</sup>

As per UN, "trafficking in person" is, "the enlisting, shipping, movement, harbouring, or receiving of individuals, through ways such as the threat of or the application of mandate or other methods of coercion, of abducting someone, of deception, of fraud, of misuse of authority or of an advantage of being vulnerable or of the exchange or receipt of money or otheradvantages in order to gain the approval of an individual having authority over another individual, just for the intent of abuse." <sup>34</sup>

The minimum explanation of exploitation is the employment of someone else for different types of sexual mistreatment, and such as prostitution, along with coerced labor or services, bondageor practices resembling bondage, subjugation, or organ trafficking.

"Human trafficking," as stated by UNODC, is made up of three main components: "the act," "the means." and finally, "the purpose." It's a common misconception that relocating individuals within a country or community does not amount to "human trafficking," as opposed to transferring them across international borders which is a crucial aspect. However, crossingborders is only a requirement for defining the act as "human smuggling." <sup>5</sup>

# Various forms and subforms of human trafficking

Sex trafficking, forced labour, and domestic slavery are the three primary categories of

<sup>19&</sup>quot;IGNOU - Announcements - Latest - IGNOU Collaborates with MHA for Anti-Human Trafficking Programme"

<sup>20 &</sup>quot;Web Portal on Anti-Human Trafficking"

trafficking in person.<sup>6</sup>

**Trafficking in sex:** Humans are being exploited for commercial sex through activities like prostitution, pornography, sex tourism, etc. An illicit organization that operates within the confines of legal regulations demand & supply is "sex trafficking." It is estimated that there are

4.5 million individuals that have fallen into "sex trafficking" across the globe. The consequences of violence and exploitation often lead to physical injury, mental suffering, sexually transmitted diseases such as HIV/AIDS, and societal prejudice for those affected by sex trafficking.

#### Forced labor:

Instances when an individual is made to work against their wishes or provide services, including sexual services, through the use of coercion, it is known as compelled or unfree labour. The use of threats, imprisonment, violence, deceit, or pressure can all be employed to secure compliance. "Forced labor" is widespread in industries such as mining, fishing, textiles, construction, and farming, and workers in these fields are often paid very little, if at all. "Forced labor" is particularly prevalent among marginalized communities, such as Dalits. According to the "International Labour Organisation (ILO)", Over 20.9 million people are reportedly "victims of forced labor"

## **Domestic slavery:**

"Domestic slavery" is the term used to describe the scenario wherein nannies, maids, or livein assistants experience a level of confinement that is akin to enslavement. Owing to the
absence of adequate legal safeguards and the ease with which isolating circumstances can be
established in private residences, scenarios similar to those faced by domestic aides often
foster an exclusive, uncomfortable, and precarious environment. By establishing a workspace
that affords the perpetrator complete dominance over the victim and allows for exploitation,
the situation can become even more dire. To exert such authority, a range of tactics may be
employed. To begin with, in case the sufferer is a foreigner, the employer holds the authority
to seize the sufferer's passport and other documents related to travel, making them utterly
vulnerable and dependent on the employer. Moreover, the perpetrator may isolate the victim
from their dear ones by restricting them from stepping out of the house, which can be
executed by using coercion and intimidation.

#### Miscellaneous sub forms

Various other forms of "human trafficking" encompass the enslavement of minors, which encompasses forced labor in diverse industries such as agriculture and mining, in addition to commercial sex work and drug trafficking. Compelled marriages may also be classified as "human trafficking." The vending of organs constitutes another kind of trafficking, which is generally executed through one of the following three methods:

- Coercing the target into consenting by deceitfully proposing payment in return;
- pressurising the individual to undergo organ extraction and selling them off;
- Deceptively obtaining the victim's organs through the lie of treating a different medical

condition, and then selling them without their consent.

## 2. Research Method

This investigation attempts to clarify the problem of trafficking in people in India, paying special attention to the suffering of women & children. It will look into human trafficking's tendencies and patterns in addition to the structural and operational factors that support its growth. Additionally, it will look into the functions and accountability of both formal and informal groups engaged in the fight against this heinous crime. The study's overarching strategy focuses on the criminal activity of "human trafficking" as well as potential countermeasures and counteractions. In order to stop immoral trafficking, the "Immoral Traffic (Prevention) Act (ITPA) was established in 1956" has come in action.

The requirement for prostitution is examined in this study, as well as the viewpoints of those who have experienced human trafficking. The research's methodology includes a doctrinal approach and content analysis. The examination of documents, including laws and judgments rendered by courts, is planned. The Law Commission of India's findings, which offer legal and policy support to promote the efficient implementation and execution of measures to prevent human trafficking, will also be discussed.

## 3. Impact of forced labor and trafficking in people on society

Forced labor and human trafficking have a wide-ranging and complex influence on society. Some of the negative repercussions that these actions have on people and society are listedbelow:

- 1. Economic impact: The need for cheap labor frequently drives forced labor and human trafficking, which exploits weaker groups of people. As a result, the labor market is distorted, giving enterprises that use forced labor an unfair edge over those that don't. This could result in a general decline in both salaries and conditions of employment for employees in the impacted industry, as well as drop the performance and productivity. Health Impact: Physical & psychological abuse are frequent components of trafficking in people and forced labour, and the victims may suffer long-term health effects. Malnutrition, wounds, transmission, and mental wellness conditions like hopelessness, nervousness, and trauma-related stress disorder can all affect victims.
- 2. Social impact: Families and communities can suffer greatly as a result of trafficking in people and forced labor. Social cohesion may be compromised if victims are cut off from their family and social networks. Additionally, becoming a target of trafficking has a stigma and sense of shame that can cause marginalization and isolation.
- 3. Impact on gender: Forced labor and human trafficking disproportionately harm women and girls. They are frequently selected for forced labor or sexual exploitation in industries like domestic service, tourism, and agriculture. This can result in the normalization of assault against women & promotes sex inequality and discrimination.
- 4. Legal repercussions: Forced labor and human trafficking are both crimes that jeopardizes the enactment of regulations and the protection of the the rights of people. They undermine the efficacy of institutions charged with enforcing the law and support corruption and organized crime.

As a result, both trafficking in people and enslavement have terrible consequences for both

the victims and the wider society. They hurt people's health, violate human rights, skew labor markets, and promote societal and disparities in gender. Strong legal protections, efficient law enforcement, and all-encompassing victim assistance are required to stop these practices. The core root causes of trafficking and forced labor, such as poverty, prejudice, and a lack of accessto quality education and employment, must also be addressed.

## 5. Legal Framework against human trafficking in India

India has a robust legal system in place to combat the issue of "forced labor and human trafficking." The "Indian Penal Code, 1860" is the primary law in India that addresses human trafficking. In this section, we'll talk about the legal system introduce in India to tackle with this issue of "forced labor and human trafficking."

#### **Indian Constitution**

"Article 23: The act of trafficking humans and coercing them into work against their will isagainst the law and can result in legal repercussions, as stated in Article 23." "Article 24As per Article 24, it is prohibited for any child under the age of fourteen to beemployed in any hazardous profession, such as in a mine or a factory."

#### The 1956 Immoral Traffic Prevention Act:

It is its single law that expressly targets "human trafficking" and is yet subject to change. It makes women's and children's trafficking for purposes of exploitation sexually profitable. The Act also calls for the construction of safe houses for rehabilitation of trafficking victims.

India has also passed the "Bonded Labour System (Abolition) Act, 1976," <sup>11</sup> that forbids unfree labour and lays out the terms regarding the liberation & rehabilitation of laborers, in addition to the ITPA. Under the "Child Labour (Prohibition and Regulation) Act of 1986," it is illegal to usechildren younger than 14 in certain risky jobs and processes. To stop worker exploitation, the "Minimum salaries Act of 1948" establishes minimum salaries for a variety of industries. <sup>12</sup>

The "Criminal Law (Amendment) Act of 2013," also well-known as the "Nirbhaya Act," came into effect and replaced "Section 370 of the Indian Penal Code" with "Section 370A (IPC)," this document presents an all-encompassing strategy to tackle the serious problem of trafficking in people, encompassing the trafficking of minors for any type of misuse, such as sexual or physicalabuse, forced labor, captivity, or the compulsory harvesting of organs.

## 5.1. Trafficking and Forced labor related cases that paved the way to legal framework

• State of Maharashtra v. Prerna: The NGO Prerana filed a petition in this case to defend young girls and children who had been liberated against the flesh trade from pimps and brothel owners. Four suspects were indicted and remanded to police custody after being charged with violations of "Sections 3, 4, and 7(2) (a) of the Immoral Trafficking in Persons (Prevention) Act, 1956 (PITA)" The female girls were detained in accordance with PITA Sections 15 and 17 in order to determine their ages and familial histories before being transferred to the "Government Special Rehabilitation Centre for Girls." On April 24, 2002, the Magistrate granted bail to the four accused and ordered the adolescent females to appear before the adolescent Court while

also releasing the adult females. After hearing in-depth testimony from all parties, the petitioner went before the court and stated that practically every time girls are saved from brothels, it is discovered that the brothel owners have compelled the girls to engage in prostitution. The "Juvenile justice (care and protection of children) provision of 2000," sometimes known as the juvenile justice act or PITA, and its relevant legislative requirements were set forth by the court as being relevant to this case. An individual who is below 18 years old is referred to as either a "minor in conflict with the law" or a "minor in dire need of security and nurturing."," according to the Juvenile Justice Act. The court of law needs to discover a person's age in order to determine whether they are a juvenile.<sup>13</sup>

- "Union of India 2011 v. Bachpan Bachao Andolan SCC (5) 1": In this specific instance, the Indian attorney contended that every state administration ought to appoint a designated officer responsible for enforcing laws related to children. The verdict mandates that no child should be subjected to violations of their fundamental rights or be at risk of being trafficked or mistreated. 14
- Gaurav Jain V Union Of India (1997) 8 SCC 114: In 2006, social activist Gaurav Jain submitted a "Public Interest Litigation (PIL)" to the "Delhi High Court" inquiring the court to order the federal government to take action to eradicate the trading of women & children. Although there are laws in place to prohibit trafficking, he claimed that they have not been successfully implemented by the GOI, which has resulted in an increase in cases of forced labour and trafficking. As a result, the national government and state governments were given a number of orders by the Delhi High Court in 2009 to stop human trafficking and help victims. In accordance with Articles 145 and 142 of the Constitution, the Supreme Court used its extraordinary writ jurisdiction making power to establish a comprehensive plan to Saving and rebuilding the life of exploited victim.<sup>15</sup>

These are some well-known cases that paved the way to strong and improved legal framework addressing the threat of "human trafficking and force labor."

## **5.2 International Accords:**

India is a signatory to several international treaties and agreements that address "forced labor andhuman trafficking." These consist of:

**United Nations Convention against Transnational Organized Crime (UNTOC):** India joined the United Nations Convention against Transnational Organised Crime (UNTOC) in 2011, whichmandates that states make human trafficking a crime and offer victims protection and support.<sup>16</sup>

"Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children": In 2011, India adopted the "Protocol to Prevent, Suppress, and Punish Trafficking in Persons", Especially Women and Children, which forces countries to make trafficking illegal, offer protection to victims, and work in conjunction with other states to prevent trafficking. <sup>17</sup>

**International Labour Organization (ILO) Convention on Forced Labour:** India ratified the "International Labour Organisation (ILO)" Convention on Forced Labour in 1958, that outlaws and calls for the abolition of forced labour.

Convention on the Elimination of All Forms of Discrimination against Women (CEDAW): India joined the "Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)" in 1993. The CEDAW mandates nations to take action to end prejudice against women, especially in situations involving forced labour and trafficking in

people. 18

# 5.3 India's Stand to combat Human Trafficking and Forced Labor

- Mission titled "Strengthening the Indian law enforcement response against human trafficking through capacity building": In collaboration with the UN Office on Drugs and Crime, the government of India, via the "Ministry of Home Affairs," initiated a 24- month campaign to train the officials maintaining the law in West Bengal, Maharashtra, Goa, and Andhra Pradesh on the subject of "human trafficking." The project will be steered, governed, and monitored by a Project Steering Committee. The project aims to increase people (prosecutors & investigators) awareness of "trafficking in person" via a no. of training programmes. It also aims to increase their capacity to more effectively probe the offence and bring cases against those responsible.
- Anti-Trafficking Cells: The Indian government established a "nodal cell" for "anti-trafficking law" administered in September 2006. It is handled directly by central division with a pair of employees in charge of compiling and assessing information about people trafficking in the nation. It also has a responsibility to oversee the efforts made by the national & local governments to eradicate the scourge of trafficking. The first of its type in India, anti-trafficking police units were established in 2007 by three state governments. The Central Government outlawed the employing of children for domestic assistance in 2007.
- Anti Trafficking Units (AHTUs): The construction of 332 "Anti-Human Trafficking Units (AHTUs)" in various states across the nation was authorized is a component of the MHA's programme titled "Strengthening Law Enforcement Response in India Against Trafficking in Persons Through Training and Capacity Building"
  - The Ministry offers the States financial support for establishing the AHTUs. 264 AHTUshave already been established across the nation.
- **Certificate Programme from IGNOU:** The "Indira Gandhi National Open University (IGNOU)" initiated a course with a certificate in partnership with the Ministry of Home Affairs to foster coordination among students and the improvement of a comprehensive and practical meaning of "anti-human trafficking," as well as to raise awareness while acquiring skills & training in the areas of policies, law, rehabilitation, and eradication aspects of trading in people. Officers and officials who deal with the threat of "human trafficking" are required to take the aforementioned training.<sup>19</sup>
- Track Child Web Portal: In India, there is a website dedicated to fighting human trafficking that acts as a central location for stakeholders to access data and tools. The Indian government's MHA is in charge of the website, which goes by the name "TrackChild". The major goals of TrackChild are to assist with the search for andrecovery of these victims and to offer a thorough database of all missing children and victims of trafficking across the nation. In order to distribute information and synchronise their initiatives in the fight against human trafficking, law enforcement agencies, NGOs, and other stakeholders can use the portal, which acts as a centralised database. <sup>20</sup>

## 6. Result and discussion

In the course of trafficking, victims are abused and exploited, which typically leads to minor and serious short- and long-term mental and bodily assaults and ailments, encompassing STIs (sexually transmitted infections or HIV viruses). This illness may possibly result in demise or permanent impairment.

Disorientation, sadness, anger, estrangement, and attention problems are all direct effects of human trafficking.

Even the victims' recovery process does not guarantee a specific outcome. The trauma and psychological issues prevent the victims from fully recovering from the experiences they have gone through, despite the fact that they can recover from their physical difficulties. The tragic thing is that victims' rights continue to be violated even after they are no longer being exploited. They frequently become victims again.

The protection offered to trafficked individuals is frequently directly correlated with their willingness to collaborate with the appropriate authorities.

Though there are robust legal frameworks that works to eradicate the trafficking of people and forced labor enforced by world authorities the trafficking of people and forced labor continued tobe prevalent worldwide. In India, we can frequently see news related to the issue, like the 12 kids who were being trafficked to serve as slaves in a bangle factory in the northern province of Uttar Pradesh were rescued by the Indian police in August 2020. The children, who ranged in age from 8 to 14, had been seduced by the promise of big pay but were made to work in perilous settings for extended periods of time. Act of 1986 to Prohibit and Regulate Child Labour led to the arrest of the factory's owner & the filing of charges against him. Human trafficking and forced laborare hidden crimes, so the more such cases come in front the better it is for the people.

Forced labour and human trafficking are complicated problems that need to be addressed in a varied manner. Here are some ideas to assist resolve these problems:

Educate the public:It's important to educate people about the risks associated with forced labourand human trafficking. Governments, civil society groups, and the media may all play a significant part in raising awareness of these problems and enticing people to report any questionable conduct. NGOs can help by raising community members' awareness of the occurrence of human trafficking. It's also necessary to raise awareness in the local community, particularly in rural areas, through meetings, songs, plays, seminars, brochures, and posters. Additionally, they need to be cautious and report any missing people who might be trafficking victims. This can be advantageous in locating human traffickers' hiding places.

**Address the underlying issues:**In order to end forced labor and human trafficking, the underlying issues must be addressed. Poverty, a lack of access to education and career prospects, and sex discrimination are all included. Governments should endeavor to provide disadvantaged groups, particularly women & children that are most at risk of being affected, with economic andsocial opportunities.

**Corporate accountability:** Businesses need to be accountable for their supply networks and make sure that no forced labor is being used. To make sure that businesses are adhering to labor standards and refraining from exploitative practices, governments can regulate business practices and enforce legislation.

**International collaboration:** To combat forced labor and human trafficking, international collaboration is essential. To prevent human trafficking and forced labor, nations should collaborate to share information, offer one another legal support, and coordinate their activities.

**Right Implementation of legal framework:** For human trafficking and forced labor to be effectively addressed, the legal framework must be implemented properly. Training should be provided to courts, investigators, and other necessary authorities to support in the detection, probation, and prosecution of lawsuits of forced labor and "human trafficking." Topics including victim identification, interviewing strategies, and evidence gathering should be covered in this training. The legislative framework should be implemented with a victim-centered mindset at its core. This implies that victims' needs and rights should come first and that they deserve to be treated with respect. Legal assistance, medical attention, counselling, and other services should all be included in complete victim support programmes. So, that they can lead a good life after surviving such mishap.

## Conclusion

Forced labour and human trafficking are horrendous crimes that have a terrible impact on individuals, societies, and communities as a whole. Governments must act decisively to address these crimes because of their ubiquity, which is a severe problem.

At the national, regional, and international levels, legal frameworks have been developed to address these concerns, but their efficacy varies. To evaluate the effectiveness of current legal tactics, the paper looked at a few case studies from India. Although there has been significant improvement, there is still more to be done to successfully tackle forced labour and human trafficking.

Legal frameworks must be implemented correctly and with sufficient funding, while also needing to be coordinated, monitored, and evaluated. Partnerships between the public & private sectors and global collaboration should be promoted, as well as a victim-centered strategy.

But it needs to be understand that law cannot be the only medium to battle this threat, that's why awareness about laws and the cause is needed.

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