

A Comparative Analysis of India's Anti-Trafficking Laws and International Standards

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ABSTRACT

Human trafficking, often termed modern-day slavery, is a pervasive global issue encompassing exploitation such as sexual slavery, forced labor, and organ trafficking. This paper undertakes a comparative analysis of India's anti-trafficking laws against international standards to identify gaps and propose reforms. The aim is to assess how India's legal framework aligns with global conventions, such as the UN Palermo Protocol, and to suggest strategies for strengthening domestic and international efforts to combat trafficking. India's legislative framework, offers substantial protections. However, these laws remain fragmented and fail to comprehensively address all forms of trafficking, particularly forced labor and organ trade. Furthermore, uneven enforcement, lack of victim-centered rehabilitation programs, and limited cross-border cooperation hinder their effectiveness. By comparing India's efforts with international frameworks such as the Palermo Protocol, CEDAW, and ILO conventions, this study highlights critical deficiencies, including the absence of a unified law and insufficient victim support mechanisms. The objective of this study is to emphasize the need for robust legislative reforms that align India's laws with global standards while promoting victim-centric approaches. Strengthening international collaboration, improving law enforcement capacity, and increasing public awareness are essential steps to dismantle trafficking networks and rehabilitate survivors. This analysis concludes that addressing human trafficking requires a cohesive strategy integrating legal, institutional, and socio-economic measures. It advocates for a consolidated anti-trafficking law in India, enhanced global cooperation, and proactive initiatives for prevention and rehabilitation. By doing so, India can significantly bolster its role in global anti-trafficking efforts, setting a model for other nations while ensuring justice, dignity, and freedom for victims.

Keywords: Human Trafficking; Anti-Trafficking Laws; International Standards; Victim-Centric Approach

INTRODUCTION:

Millions of people worldwide have become victims of human trafficking, referred to as modern-day slavery, which encompasses a whole gamut of exploitative acts focused towards vulnerable groups such as sexual exploitation, forced labor, and organ trafficking. A robust system of local and international laws would be needed to resolve such a complex issue as human trafficking transcends national boundaries. The United Nations' recognition of human trafficking as a major worldwide threat led to adopting thorough international conventions like the Palermo Protocol to combat, protect, and prosecute.

Despite the complex socio-economic situation in India, people are still being trafficked into and out of the country. Though the nation continues to face difficulties in adequately solving this problem, with constitutional protection against exploitation and several legislative initiatives, efforts such as the Immoral Traffic (Prevention) Act, 1956, prove that India is seriously trying to solve the problem of human trafficking. The success of these efforts is hindered by socioeconomic

disparities, uneven enforcement, and a general failure to conform to the norms across borders.

This research compares India's anti-trafficking legislation to others in the rest of the world. It evaluates how strongly these legislations fit together; the areas they fail; and where change is called for. The purpose of this research is to identify major flaws and provide solutions by comparing and contrasting the requirements of international conventions with Indian legislation. In order to strengthen India's domestic efforts and increase its participation to global anti-trafficking activities, it is essential to address these shortcomings. This research aims to shed light on the complex relationship between national and international legal systems in the fight against human trafficking. By doing so, it hopes to promote more cohesive and efficient approaches.

International Legal Framework on Human Trafficking

International agreements and norms are necessary to create a united framework to prevent human trafficking across borders. One of the most important international instruments in this respect is the United Nations Protocol

to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, or the Palermo Protocol. The protocol outlines steps to fight trafficking, protect victims, and punish perpetrators; it was adopted in 2000 under the United Nations Convention against Transnational Organized Crime (UNTOC). It defines trafficking in detail and emphasizes the need for global collaboration to combat the problem.

Another important international framework which aims to prevent the exploitation of women and children is the Convention on the Elimination of All Forms of Discrimination Against Women, or CEDAW. In addition, the International Labor Organization has issued agreements such as the Forced Labour Convention, 1930 and the Worst Forms of Child Labour Convention, 1999 in order to combat trafficking for labor exploitation. These treaties include forced labor elimination, worker protection, and victim rehabilitation. On a global scale, these international instruments address human trafficking by taking all these treaties in their entirety. In launching international initiatives to fight human trafficking, the United Nations has contributed significantly. The United Nations has set up technical cooperation, policy guidance, and capacity development programs for its member countries through initiatives such as the Palermo Protocol and the United Nations Office on Drugs and Crime (UNODC). The 2010 United Nations Global Plan of Action to Combat Trafficking in Persons focuses on international cooperation and victim-centered approaches.

These efforts are complemented by other international organizations that promote awareness-raising, support the rehabilitation of victims, and enhance cooperation between countries in the fight against trafficking, such as Interpol and the International Organization for Migration (IOM). Crucial to dismantling trafficking networks, these organizations operationalize international norms of the law, ground support, and information sharing. An effective global framework exists for combating human trafficking, among which is the United Nations and its subsidiary bodies.

India's Anti-Trafficking Legal Framework

Human trafficking is a severe issue worldwide but more critical for developing countries like India. Lacking socioeconomic development contributes heavily to the prevalence of this crime and worsens it. Therefore, there is a strong need to analyze various legislative approaches which aim to tackle this issue. Through legislative frameworks, human trafficking may be combated effectively by giving legal definitions, imposing fines on offenders, and rights on victims. Both the prevention of trafficking and rehabilitation as well as reintegration into society of survivors are major objectives of such legislation. For these steps to be well executed in ridding society of trafficking, a comprehensive approach must be considered, integrating education, community involvement, and socio-economic development. Human trafficking and other societal ills were expected to be alleviated by the passage of the *Bharatiya Nyaya Sanhita, 2023 in the post-colonial period. Here is the*

list of laws that deal with Human Trafficking in India-

“The Immoral Traffic (Prevention) Act, 1956 (ITPA)”

The ITPA is the major legislation dealing with human trafficking in India as it focuses on preventing and eradicating commercial sexual exploitation. Selling, buying, and acting in any other way whereby a person takes advantage of another for prostitution is covered under this law and will be illegal. Operating a brothel, deriving livelihood as prostitute, or soliciting public places are considered unlawful along with heavy punishments. It requires special courts to expedite proceedings and offers measures for victims' rehabilitation. But its detractors say it ignores other types of trafficking like forced labor and organ sale in favor of prostitution.

“Bonded Labour System (Abolition) Act, 1976”

This law prohibits the practice of enslavement through bonded labor, or enforced labor for the redemption of debts. It empowers district administrations to locate and liberate bonded workers, and cancels bonded labor contracts as void and voidable. Rehabilitation programs have also been created under the act to facilitate the rehabilitation of freed bonded workers in society. Strongly structured, its execution has been marred by corruption, a lack of accountability, and socioeconomic challenges.

“Child Labour (Prohibition and Regulation) Act, 1986”

This legislation governs the work conditions for children under 14 in nondangerous occupations as well as forbids their labor in dangerous industries. Except for family enterprises, from 2016 amendments even its hiring for any type of work was forbidden. With regard to monitoring methods, as well as socio-economic factors forcing children into labor, implementation is still a challenge for this law despite its great influence in the suppression of child trafficking for labor.

“Protection of Children from Sexual Offences Act, 2012 (POCSO)”

POCSO is a particular law that specifically prevents sexual exploitation and abuse against children. Child prostitution and child pornography are the other sexually abused crimes, under strict restriction, and related to human trafficking. Emphasis is laid on the child's best interest as this act promises child-friendly reporting, investigation, and trial process. Its prohibition is mainly resorted to when the provisions of other trafficking laws cannot manage instances involving children.

“Transplantation of Human Organs and Tissues Act, 1994”

The legislation prohibits the commercial trade in human organs by regulating their removal, storage, and transplantation. Harsh punishments are provided for violators of this law, which criminalizes trafficking for the purpose of organ commerce. This establishes the appropriate authorities that oversee the organ donation and transplantation operations as required by the statute. Organ trafficking is therefore prevalent despite its

intentions, which is due to a lack of prosecution and a high market for illicit transplants.

“Juvenile Justice (Care and Protection of Children) Act, 2015”

The children victimized by human trafficking shall be cared for, protected, and rehabilitated through this law. This law requires that the children trafficked are put in institutions for child care because their treatment involved mistreatment. The persons who aided in the trafficking or exploitation of minors shall be prosecuted under the legislation.

Comparison of Indian and International Frameworks

Many international legal frameworks have been prepared to combat human trafficking, and India's laws in this regard are highly convergent with those. The Palermo Protocol ratified by the United Nations in 1994 is one of such protocols. It contains issues like trafficking of children and women for prostitution that comes within the purview of the ITPA of 1956. These objectives are similar to protecting, prosecuting, and preventing the crimes under this act. The law aligns with the international effort to abolish sex trafficking by criminalizing some acts that involve using people as a means to make money, like running a brothel or being a prostitute.

Section 143 and 144 of the Bharatiya Nyay Sanhita define what constitutes the crime in agreement with the Protocol: Trafficking involves any type of exploitation; this would include sexual exploitation and forced labor, all of which are illegal. The inclusion of physical force and deceitful tactics in human trafficking statutes globally sets a standard for this crime. Inadequate training and knowledge among law enforcement agencies often leads to failures in implementing the rules of BNS, and uneven distribution of justice in different areas, despite these laws complying with the international definitions of trafficking.

Although enacted with the aim of eradicating child labor, the Child Labour (Prohibition and Regulation) Act, 1986 prohibits employment of minors in hazardous jobs. This is in conformity with international efforts under the ILO Worst Forms of Child Labour Convention, 1999. The legislation manifests an international law aim: to prevent minors from being exploited as laborers through human trafficking. However, there still are a few barriers in the monitoring and enforcement processes, particularly in rural areas where children are trafficked due to lack of socio-economic reasons and forced into labor; they often face it as an outcome of trafficking.

The global approaches recommend victim-centric policies. The Protection of Children from Sexual Offences Act, 2012, also falls into this category. Importantly, the statute ensures that procedures regarding reporting, investigation, and trial of cases concerning young victims of trafficking are child-friendly. According to the Palermo Protocol guidelines, it places the child's best interest first and provides for

severe punishment against perpetrators who abuse children. However, irregular court treatment of trafficking cases and lack of special assistance for children victims often undermine the efficacy of the statute.

However, the substantial loopholes in India's anti-trafficking legislative structure hinder complete conformity with global norms. The ITPA's narrow focus on sex trafficking is a big problem; it does little to address other types of trafficking, such as trafficking in children for other kinds of exploitation or trafficking in organs. This myopic view is at variance with the more inclusive definition of trafficking in the Palermo Protocol, which includes any kind of exploitation.

Besides, Indian law is often against international practice in terms of the undervaluation of victim protection and rehabilitation. There are just a few formal rehabilitation and reintegration programs for victims; however, there are only a few of them while some laws provide for releasing trafficked individuals from exploitative situations. Inconsistencies in dealing with trafficking across sectors are a result of the lack of a unified legal framework, which further complicates the response to trafficking. This is because several laws with overlapping authorities cause enforcement uncertainty. These disparities are made more worse by enforcement issues. Some of the reasons for inadequate enforcement of laws against trafficking include poor training for law enforcement, corruption, and social stigmatization of trafficked persons. Lack of sufficient resources and political will in fighting trafficking is also an impediment in the legal system. International cooperation is required for the successful combating of human trafficking, but local Indian law does not meet this need, even though international agreements like the Palermo Protocol underline the need for cross-border cooperation.

Challenges in Implementation

There is a strong legislative foundation, but it is not being effectively implemented due to various legal, institutional, and procedural obstacles. One of the major obstacles in India is disjointed anti-trafficking legislation. It addresses many different types of trafficking through various laws that lead to ambiguity and overlap in their enforcement. Because of this fragmented system, it is harder for law enforcement to cooperate effectively across jurisdictions and to prosecute. Vague wording in these statutes may lead to inconsistent enforcement and varying judicial interpretations. Inadequate resources, such as insufficient numbers of judges and prosecutors with experience in trafficking cases, cause special courts established under the ITPA to suffer delays in procedures, despite its intended expedition. The poor conviction rate in trafficking cases is further compounded by the widespread issue of inadequate training for law enforcement agents. These systemic flaws make the judicial system ineffective and lead to insufficient punishment for traffickers. Social, cultural,

and economic issues further complicate the execution of anti-trafficking legislation in India.

One major obstacle is the pervasive cultural and societal stigmas that victims of human trafficking face. Even after rescue, there are various social stigmas that may prevent victims from returning to their communities. Social stigmas may make these victims avoid seeking help and reporting such crimes. Other forms of obstacles in human trafficking include the lack of means to sustain themselves and little access to education. In times of economic uncertainty, many people, especially women and children from low-income families, resort to exploitative behaviors in order to make ends meet. Human traffickers find easy prey in areas where people are economically disadvantaged and social support institutions are weak. There is also very little assistance for victims to recover and get on with their life after trafficking due to the underutilization of current social protection programs. It complicates the combat of trafficking further by depending economically. Such reliance reduces the efficacy of initiatives aimed at being preventive as well as at rehabilitation.

This complex picture can be traced through legal, institutional, procedural, social, cultural, and economic considerations about the difficulties posed to enforce anti-trafficking legislation in India. Instead, to surmount these kinds of hurdles, a more comprehensive strategy focusing on social and economic causes of trafficking is necessary in addition to building the legal environment. This strategy should lay down steps to strengthen the capability of law enforcement, improve the education of judges, and give powerful social protections to victims in order to fight human trafficking more effectively and unitedly.

Judicial Pronouncement

“T. Jacob v. State of Kerala”

Sections 7 and 8 are the only provisions of the SITA Act that describe prostitution as a crime. For section 7(1) to be applicable, prosecution must establish that the defendant engaged in consensual sexual conduct. Evidence from several clients of the prostitute is not required in order to prove this claim, for this widespread and indiscriminate sexual conduct is but a fruit of the situation.

“Prerna v. State of Maharashtra”

The supreme court has promulgated rules designed to protect children and adolescent girls from the atrocities of human trafficking. One fundamental restriction is that no Magistrate have jurisdiction over individuals under the age of eighteen, irrespective of their risk status or involvement in criminal activity.

“Vishal Jeet v. Union of India and Others”

The Indian Supreme Court, in this case, asserted that governments must be accountable for offering necessary help to victims of workplace sexual assault, including protection, treatment, advancement possibilities, and rehabilitation. The court has mandated that legislators appoint suitably qualified individuals to rehabilitation

institutes. The nation's highest court has delivered a grave admonition to both federal and state authorities, compelling them to promptly eradicate the practice of child prostitution.

“Gaurav Jain v. Union of India”

The Court in this case concluded that regular supervision of young children is important due to the significant dangers they and the public encounter while unattended. Individuals need to experience safety and respect in public environments when presented with possibilities for community integration.

Recommendation

Comparative analysis of India's anti-trafficking framework against worldwide norms reveals significant deficiencies that need rectification and specific measures that might be implemented to combat human trafficking. India's anti-trafficking legislation, though robust, is also capable of further perfection through better alignment with the international conventions like the UN Palermo Protocol. An overarching legislation is very essential in consolidating the various provisions made in the IPC, Immoral Traffic (Prevention) Act, and other relevant acts. It must promote victim-centered approaches. As the proposed Trafficking in Persons (Prevention, Care, and Rehabilitation) Bill includes a comprehensive approach to prevention, prosecution, and rehabilitation. The legal framework must ensure that all forms of trafficking—such as forced labor, organ trafficking, and cyber-enabled exploitation—are penalized, with an emphasis on child-specific and gender-sensitive laws.

Human trafficking is a global challenge; therefore, increased international collaboration is needed to address the issue. Shared task forces, expedited extradition agreements, and information sharing are areas where India and its bordering countries could benefit from collaborative efforts. Improved trans-border investigations may help to dismantle trafficking networks through bilateral cooperation with bodies such as SAARC and the UNODC. India can increase its international commitments by participating in international anti-trafficking programs and developing financial collaborations for victim rehabilitation.

The judiciary, social care agencies, and law enforcement must all be strengthened. Improved effectiveness can be achieved through specialized training programs that collaborate with foreign experts to identify and counter trafficking. The campaigns in public awareness with the digital platforms and the involvement of the community must reach vulnerable groups to educate about dangers of human trafficking and report suspicious activities. Victim aid and grassroots prevention networks can be built through cooperation with nongovernmental organizations and civil society.

India can move significantly forward in its efforts against human trafficking and ensure justice and protection for all victims by harmonizing its laws with international standards, promoting global cooperation,

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and financing awareness campaigns and capacity-building programs.

CONCLUSION

Several shortcomings of India's anti-trafficking laws and policy framework against international standards can be found. Constitutional protections and the Immoral Traffic (Prevention) Act demonstrate the progressive laws in India, but these prohibitions are often not at par with international norms like the UN Palermo Protocol. Lax rehabilitation programs for victims, uneven enforcement, and disintegrated laws form the significant hurdles. For this purpose, the laws have to be formulated in a way that keeps the victim on the top and supports capacity-building with robust international cooperation.

In general, the results have implications for global anti-trafficking programs. India's case reflects the necessity of developing cross-border cooperation and making local frameworks converge with international standards. Global elimination of human trafficking requires focusing on the victim, strong preventive measures, and accountability at all levels of society. The Indian experience could be instructive to the rest of the world, particularly in terms of learning to accept the interplay between local and global concerns. It is possible that the fight against human trafficking will continue its march towards its ultimate objective: the guarantee of dignity, freedom, and justice for all.

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