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## ***ABOUT US***

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provide dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

**"HUMAN TRAFFICKING AND LEGAL PROTECTION  
MECHANISMS: A SOCIO-LEGAL OVERVIEW"  
EXAMINES THE CONFLUENCE OF POVERTY,  
GENDER, AND LAW ENFORCEMENT.**

AUTHORED BY - JOYLIN JACOB Y\*<sup>1</sup>

**Abstract**

Human trafficking is one of the worst things that may happen to people's rights nowadays.

It crosses boundaries and socioeconomic groupings, taking advantage of weaknesses caused by poverty, gender inequity, violence, and bad government. This study conducts a socio-legal analysis of human trafficking, emphasizing the interplay of law, poverty, and gender, while assessing the initiatives of both national and international legal frameworks to tackle this intricate issue. The study meticulously examines the function of legal protection mechanisms within Indian law, encompassing the Indian Penal Code, the Immoral Traffic (Prevention) Act, and new legislative measures, in conjunction with international frameworks such as the Palermo Protocol and CEDAW. It looks at the problems that law enforcement, prosecution, and victim rehabilitation face, and it finds systemic flaws that keep trafficking going.

The data also indicates that Indian courts have made crucial decisions that illustrate how vital the courts are in making sure that justice is centred on the victim. The author of this study aims to make substantial changes that will make systems for prevention, protection, and punishment better. In the end, the author supports a holistic approach that includes tactics for legal, social, and economic empowerment.

**Key terms:** human trafficking, socio-legal framework, gender, poverty, law enforcement, Palermo Protocol, ITPA, and judicial activism.

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## Introduction

Human trafficking has emerged as one of the fastest-growing criminal enterprises worldwide, second only to drug trafficking. It involves the recruitment, transportation, transfer, harbouring, or receipt of persons by means of threat, coercion, deception, or abuse of power for the purpose of exploitation. Exploitation includes, but is not limited to, sexual exploitation, forced labour, organ removal, servitude, or slavery-like practices. The United Nations Office on Drugs and Crime (UNODC)<sup>2</sup> defines trafficking as a multifaceted crime involving both organized and unorganized networks that thrive on human vulnerability.

Human trafficking can be for Sexual exploitation, Bonded Labour, Domestic servitude, Begging, Drug peddling/smuggling Forced marriage, forced criminality, Child soldiers, Organ harvesting. Factors Leading to Trafficking Poverty, Lack of employment opportunities Religious/Traditional Prostitution, Child Marriage, False promises for job/marriage, Migration Sex tourism, Internet Pornography and this is not only women and children but also men are subject to human trafficking. In India, a large number of people are trafficked not only for sex trade but also for other various kinds of servitude. Human Trafficking means action or practice of illegally transporting people from one country or area to another, for the purposes of forced labour or sexual exploitation. Human trafficking is a serious crime and grave violation of human rights. Sexual exploitation of the children for any country is worse than any other offence against the children. Article 51A (e) of the Constitution<sup>3</sup> imposes the duty on every citizen of India in mandatory form which says that "It shall be the duty of every citizen of India, to renounce practices derogatory to the dignity of women".

In India, trafficking is intricately linked with poverty, gender-based violence, and socio-economic inequalities. The majority of trafficked victims are women and children, primarily from marginalized and impoverished communities. Trafficking networks operate both domestically and across borders, with victims often forced into commercial sex work, bonded labour, or domestic servitude. Despite the presence of comprehensive legal frameworks, implementation gaps, corruption, and lack of coordination among agencies continue to impede effective enforcement.

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<sup>2</sup> The United Nations Office on Drugs and Crime (UNODC)

<sup>3</sup> Article 51A (e) of the Constitution

This article adopts a socio-legal perspective, analysing how social structures, economic disparities, and legal systems interact to perpetuate or combat human trafficking. It examines both preventive and punitive mechanisms and the extent to which legal instruments uphold human rights and justice for victims. The study also explores the tension between criminal law enforcement and social welfare responsibilities, underscoring the need for a rights-based and victim-centred approach.<sup>4</sup>

## Background of the Study

The historical roots of human trafficking can be traced back to colonial-era practices of slavery, indentured servitude, and bonded labour. Despite international abolitionist movements, the commodification of human beings persists under modern disguises. The globalization of labour markets, increased migration, and digital exploitation have created new avenues for traffickers. According to the **GLOBAL REPORT ON TRAFFICKING IN PERSONS (UNODC, 2022)**,<sup>5</sup> over 50,000 victims were detected in 148 countries, with women and girls accounting for nearly 65% of the total.

In India, trafficking has deep socio-economic foundations. The **NATIONAL CRIME RECORDS BUREAU (NCRB)**<sup>6</sup> reported over 6,500 registered trafficking cases in 2022, although actual figures are estimated to be far higher due to underreporting. Rural distress, lack of employment opportunities, gender discrimination, and caste-based hierarchies form fertile ground for traffickers. Internal trafficking within India—particularly from states such as West Bengal, Bihar, Jharkhand, and Odisha to metropolitan cities—remains rampant.

From a legal perspective, the Indian state has evolved from moral regulation under the **SUPPRESSION OF IMMORAL TRAFFIC IN WOMEN AND GIRLS ACT, 1956**<sup>7</sup> (later the **IMMORAL TRAFFIC (PREVENTION) ACT, 1956**<sup>8</sup>) to rights-based and victim-oriented frameworks through the **CRIMINAL LAW (AMENDMENT) ACT, 2013**<sup>9</sup> and The **TRAFFICKING OF PERSONS (PREVENTION, PROTECTION AND REHABILITATION) BILL, 2018**<sup>10</sup>. The judiciary, particularly through Public Interest

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<sup>5</sup> Global Report on Trafficking in Persons (UNODC, 2022)

<sup>6</sup> The National Crime Records Bureau (NCRB)

<sup>7</sup> Suppression of Immoral Traffic in Women and Girls Act, 1956

<sup>8</sup> Immoral Traffic (Prevention) Act, 1956

<sup>9</sup> Criminal Law (Amendment) Act, 2013

<sup>10</sup> Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill, 2018

Litigations (PILs), has expanded the constitutional interpretation of the right to life under Article 21 to include the right to live with dignity and freedom from exploitation.

The **socio-legal approach** emphasizes that legal reforms alone cannot eradicate trafficking; rather, structural social issues such as gender inequality, poverty, and migration vulnerabilities must be addressed concurrently. This study, therefore, situates human trafficking within a broader socio-economic and legal matrix, identifying the gaps between legislation, enforcement, and lived realities.

### Objectives of the Study

1. To examine the socio-legal dimensions of human trafficking with reference to poverty, gender, and law enforcement.
2. To evaluate the effectiveness of national and international legal protection mechanisms against trafficking.
3. To identify legal and institutional challenges in the implementation of anti-trafficking laws.
4. To analyse relevant judicial pronouncements shaping anti-trafficking jurisprudence in India.
5. To propose legal, policy, and social recommendations for strengthening victim protection and rehabilitation frameworks.

### LEGAL FRAMEWORK

India has wide range of laws enacted by the Parliament and some State legislature, apart from provisions of the Constitution which is the basic law of the country.

#### CONSTITUTION OF INDIA

Article 23- Protects against exploitation, prohibits traffic in humans and beggar and makes this practice punishable under law.<sup>11</sup>

Article 24- Protects children below age 14 from working in factories, mines or other hazardous employment.<sup>12</sup>

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<sup>11</sup> Constitution of India Article 23- Protects against exploitation, prohibits traffic in humans and beggar and makes this practice punishable under law.

<sup>12</sup> Constitution of India Article 24- Protects children below age 14 from working in factories, mines or other hazardous employment.

## **BHARATIYA NYAYA SANHITA, 2023**

### **Section 140 – Procurement of Child<sup>13</sup>**

“Whoever, by any means whatsoever, induces any child to go from any place or to do any act with intent that such child may be, or knowing it to be likely that such child will be, forced or seduced to illicit intercourse with another person, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.”

This section criminalizes the procurement or inducement of a child (defined as anyone below 18 years of age) to go to any place or perform any act with the intent that the child will be forced or seduced into illicit sexual intercourse with another person. The term “by any means whatsoever” gives the law broad scope, covering all possible methods coercion, deception, persuasion, inducement, or any form of manipulation. The intention or knowledge of the offender is key; even if the act is not completed, the inducement itself constitutes the offence.

### **Section 141 – Importation of Girl or Boy from Foreign Country<sup>14</sup>**

“Whoever imports into India from any country outside India any girl under the age of twenty-one years or any boy under the age of eighteen years with intent that such person may be, or knowing it to be likely that such person will be, forced or seduced to illicit intercourse with another person, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.”

This provision targets cross-border trafficking for sexual exploitation. The offence consists of importing into India (i.e., bringing from a foreign country) any girl under 21 or boy under 18, with intent or knowledge that the person will be forced or seduced to illicit intercourse. The offence applies even if the intended exploitation does not occur mere importation with the requisite intent is enough. The law aims to combat international human trafficking, especially for sexual purposes.

### **Section 146 – Unlawful Compulsory Labour<sup>15</sup>**

“Whoever unlawfully compels any person to labour against the will of that person shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.”

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<sup>13</sup> Bharatiya Nyaya Sanhita, 2023  
Section 140 – Procurement of Child

<sup>14</sup> Section 141 – Importation of Girl or Boy from Foreign Country

<sup>15</sup> Bharatiya Nyaya Sanhita, 2023  
Section 146 – Unlawful Compulsory Labour

This section criminalizes the act of forcing a person to work against their will. It upholds the constitutional guarantee under Article 23 of the Constitution of India, which prohibits “traffic in human beings and beggar and other similar forms of forced labour.” The term “labour” includes both physical and mental work, whether paid or unpaid. The compulsion may arise from coercion, threat, confinement, debt bondage, or any form of intimidation.

### **CHILD LABOUR (PROHIBITION AND REGULATION) ACT, 1986<sup>16</sup>**

The Act prohibits employment of children below specific age and in certain specified occupations. It also imposes punishment for the employment of minor children.

### **INFORMATION TECHNOLOGY ACT, 2000<sup>17</sup>**

The act penalises transmission of any such material in electronic form which is inappropriate and lascivious. This act also addresses the problem of pornography.

Section 67A- Punishes publication or transmission of material containing sexually explicit act in electronic form.

Section 68B- Punishes publication or transmission of material depicting children in sexual explicit act in electronic form.

### **JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT, 2000<sup>18</sup>**

The law is relevant for children who are vulnerable and are therefore likely to be the victim of trafficking. It protects juveniles in need of care and protection.

### **ANDHRA PRADESH DEVADASI (PROHIBITING DEDICATION) ACT, 1989<sup>19</sup>**

This law prohibits any ceremony dedicated as Devadasi in any manner and imposes a penalty of imprisonment for three years and fine.

### **GOA CHILDREN'S ACT, 2003**

This act is defined precisely in Trafficking. It includes every type of sexual exploitation in the definition of sexual assault. Manager and owner of the establishment are responsible for the

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<sup>16</sup> Child Labour (Prohibition and Regulation) Act, 1986

<sup>17</sup> Information Technology Act, 2000

Section 67A- Punishes publication or transmission of material containing sexually explicit act in electronic form  
Section 68B- Punishes publication or transmission of material depicting children in sexually explicit act in electronic form.

<sup>18</sup> JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT, 2000

<sup>19</sup> ANDHRA PRADESH DEVADASI (PROHIBITING DEDICATION) ACT, 1989

safety of minors or children in hotel premises. There are strict laws on about the safety of children and publishing pornographic materials.

## INTERNATIONAL INSTRUMENTS

A list of Conventions and contents to eliminate the children's sexual abuses

1. International Conventions for the Suppression of the Traffic is Persons and of the Exploitation of the Prostitution of others, 1949<sup>20</sup>
2. (Signed by India on May 9, 1950).
3. The Convention on Consent to Marriage, Minimum Age for Marriage and Registration for Marriages-Convention enforced with effect from 9th December 1964<sup>21</sup>
4. The Convention on the Elimination of All forms of Discrimination against Women (CEDAW)- Convention enforced with effect from 3rd September 1981.<sup>22</sup>
5. The United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules) 1985, adopted by the United Nations General Assembly in November 1985.<sup>23</sup>
6. The Convention on the Rights of the Child (CRC), 1989 adopted on 2nd Sep 1990 (India ratified in November 1992)<sup>24</sup>
7. United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines), 1990, adopted by the General Assembly in December 1990, complement the previously adopted Beijing Rules.<sup>25</sup>
8. The Declaration on the Elimination of Violence Against Women, 1993<sup>26</sup>
9. The International Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (ILO Convention 182), 1999- Convention enforced with effect from 19th November 2000.<sup>27</sup>

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<sup>20</sup> INTERNATIONAL CONVENTIONS FOR THE SUPPRESSION OF THE TRAFFIC IS PERSONS AND OF THE EXPLOITATION OF THE PROSTITUTION OF OTHERS, 1949

<sup>21</sup> THE CONVENTION ON CONSENT TO MARRIAGE, MINIMUM AGE FOR MARRIAGE AND REGISTRATION FOR MARRIAGES-CONVENTION ENFORCED WITH EFFECT FROM 9TH DECEMBER 1964

<sup>22</sup> The Convention on the Elimination of All forms of Discrimination against Women (CEDAW)- Convention enforced with effect from 3rd September 1981.

<sup>23</sup> The United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules) 1985, adopted by the United Nations General Assembly in November 1985.

<sup>24</sup> The Convention on the Rights of the Child (CRC), 1989 adopted on 2nd Sep 1990 (India ratified in November 1992)

<sup>25</sup> United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines), 1990, adopted by the General Assembly in December 1990, complement the previously adopted Beijing Rules.

<sup>26</sup> The Declaration on the Elimination of Violence Against Women, 1993

<sup>27</sup> The International Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (ILO Convention 182), 1999- Convention enforced with effect from 19th November 2000.

10. The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Trafficking Protocol), 2001.<sup>28</sup>
11. The Optional Protocol on the sale of children, Child prostitution and child pornography, 2000- UN adopted on 18th January 2002.<sup>29</sup>

## Legal Challenges and Contemporary Issues

Human trafficking persists not because of the absence of law but because of deep structural failures in enforcement and socio-economic inequality. Despite India's robust constitutional and statutory framework, the criminal justice response remains fragmented and often re-victimising.

### 1. Weak Law Enforcement and Prosecution

The first challenge lies in the inconsistent enforcement of anti-trafficking laws. The **Immoral Traffic (Prevention) Act, 1956 (ITPA)**<sup>30</sup> is often criticised for focusing on penalising sex workers rather than traffickers. Police raids frequently result in the detention of victims instead of their rescue and rehabilitation. According to NCRB data (2022), conviction rates for trafficking offences remain below 25 percent. Investigations are hampered by lack of inter-state coordination, poor evidence collection, and corruption.

Further, trafficking cases often involve multiple jurisdictions—rural source areas, urban destinations, and cross-border routes—making jurisdictional clarity difficult. The absence of specialised investigative units and witness-protection mechanisms also deters victims from cooperating with authorities.

### 2. Gender and Socio-Economic Dimensions

Trafficking is deeply gendered. Women and girls are disproportionately affected, often trafficked for sexual exploitation or domestic servitude. Patriarchal norms, dowry, and child marriage amplify vulnerabilities. Poverty, caste, and illiteracy create structural inequalities that traffickers exploit through false promises of employment or marriage. From a socio-legal lens, these intersections reveal that trafficking is both a **crime of violence** and a **crime of inequality**. The state's response, therefore, must transcend punitive measures and embrace empowerment through education, livelihood, and

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<sup>28</sup> The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Trafficking Protocol), 2001.

<sup>29</sup> The Optional Protocol on the sale of children, Child prostitution and child pornography, 2000- UN adopted on 18th January 2002.

<sup>30</sup> The Immoral Traffic (Prevention) Act, 1956 (ITPA)

gender justice.

### 3. Gaps in Legislative Frameworks

Although India has several anti-trafficking provisions the **ITPA 1956**, the **BONDED LABOUR SYSTEM (ABOLITION) ACT 1976**,<sup>31</sup> **THE CHILD LABOUR (PROHIBITION AND REGULATION) ACT 1986**<sup>32</sup> and the **Protection of Children from Sexual Offences (POCSO) Act 2012**—the legal regime remains piecemeal.

The **Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill 2018** sought to integrate these laws, establishing national and state authorities, victim funds, and special courts. However, critics argued that the Bill leaned towards criminalisation without sufficiently addressing rehabilitation, leading to its lapse. A revised draft (2021) remains under consideration.

Internationally, the **UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (2000)** the Palermo Protocol has set global standards, emphasising the 3 frameworks: **Prevention, Protection, and Prosecution**. While India ratified the Protocol in 2011, harmonisation of domestic laws with its human-rights-based approach is incomplete.

### 4. Contemporary Trends: Digital Trafficking and Migration

The rise of technology has transformed trafficking dynamics. Social media, online recruitment, and the dark web enable traffickers to lure victims and conceal operations. The COVID-19 pandemic exacerbated vulnerabilities—mass unemployment, school closures, and migration crises increased susceptibility to exploitation.

Cross-border trafficking from neighbouring countries such as Nepal, Bangladesh, and Myanmar continues despite bilateral agreements. Loopholes in border management and victim identification lead to deportation of victims as illegal migrants rather than survivors entitled to protection.

### 5. Victim Rehabilitation and Reintegration

Rehabilitation remains the weakest link. Shelters under the **Ujjawala** and **Swadhar Greh** schemes are under-funded and poorly monitored. Survivors often face social stigma, lack of livelihood options, and re-trafficking risks. Legal aid and compensation under Section 357-A CrPC are rarely implemented. A human-rights-based

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<sup>31</sup> BONDED LABOUR SYSTEM (ABOLITION) ACT 1976

<sup>32</sup> CHILD LABOUR (PROHIBITION AND REGULATION) ACT 1986

rehabilitation model—centred on dignity, autonomy, and participation—is urgently needed.

## Case Laws

Judicial activism has significantly shaped anti-trafficking jurisprudence in India.

### 1. **Vishal Jeet v. Union of India, (1990) 3 SCC 318**<sup>33</sup>

The Supreme Court directed the central and state governments to devise measures to prevent child prostitution and rehabilitate victims. The Court emphasised the state's duty under Articles 23 and 24 to prohibit trafficking and forced labour.

### 2. **Gaurav Jain v. Union of India, (1997) 8 SCC 114**<sup>34</sup>

Recognising the right to equality and dignity of sex workers' children, the Court ordered the establishment of separate schools and vocational centres, reflecting a shift towards social inclusion rather than moral condemnation.

### 3. **Bachpan Bachao Andolan v. Union of India, (2011) 5 SCC 1**<sup>35</sup>

The Court expanded the definition of trafficking to include forced and bonded labour, reinforcing the obligation of state authorities to rescue and rehabilitate victims.

### 4. **Prajwala v. Union of India, W.P. (Crl.) No. 56 of 2004**<sup>36</sup>

A landmark PIL in which the Supreme Court issued comprehensive directions for victim-friendly trial procedures, privacy protection, and establishment of anti-trafficking units.

### 5. **People's Union for Civil Liberties v. Union of India, (1982) 3 SCC 235**<sup>37</sup>

Although not a trafficking case per se, it reaffirmed the concept of bonded labour as a violation of Article 21 and Article 23, expanding the constitutional scope of exploitation.

### 6. **International Jurisprudence**

Cases such as **Rantsev v. Cyprus and Russia** <sup>38</sup>(2010) ECHR 22 have affirmed state responsibility for preventing trafficking and protecting victims, influencing global human-rights law and indirectly shaping Indian judicial reasoning.

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<sup>33</sup> Vishal Jeet v. Union of India, (1990) 3 SCC 318

<sup>34</sup> Gaurav Jain v. Union of India, (1997) 8 SCC 114

<sup>35</sup> Bachpan Bachao Andolan v. Union of India, (2011) 5 SCC 1

<sup>36</sup> Prajwala v. Union of India, W.P. (Crl.) No. 56 of 2004

<sup>37</sup> People's Union for Civil Liberties v. Union of India, (1982) 3 SCC 235

<sup>38</sup> Rantsev v. Cyprus and Russia

## Suggestions and Recommendations

### 1. Strengthening Legal Frameworks

- Enact a comprehensive **Anti-Trafficking Act** consolidating all scattered provisions.
- Align national law with the Palermo Protocol's human-rights standards, ensuring clear definitions of consent, exploitation, and victim rights.

### 2. Institutional Reforms

- Establish **National and State Anti-Trafficking Bureaus** with inter-state coordination powers.
- Create **specialised fast-track courts** and **witness-protection programmes**.
- Mandate gender-sensitive training for police, prosecutors, and judiciary.

### 3. Socio-Economic Empowerment

- Introduce targeted **poverty-alleviation programmes** in high-risk districts.
- Promote **skill-development and micro-finance** schemes for at-risk women and youth.
- Integrate anti-trafficking measures into school curricula and community-awareness campaigns.

### 4. Victim-Centric Rehabilitation

- Replace institutional shelters with **community-based rehabilitation** that prioritises counselling, education, and sustainable employment.
- Ensure **legal aid, compensation, and restitution** under the Victim Compensation Scheme are automatic rather than application-based.
- Encourage **public-private partnerships** and NGO collaboration in reintegration programmes.

### 5. International and Regional Cooperation

- Enhance cooperation with **SAARC** and neighbouring states for cross-border rescue and repatriation.
- Develop **data-sharing platforms** to monitor trafficking trends and prosecute networks effectively.

### 6. Digital Regulation

- Strengthen **cyber-surveillance units** to trace online recruitment and exploitation.
- Mandate accountability for digital platforms that facilitate trafficking advertisements or child sexual abuse material.

## 7. Judicial and Policy Innovation

- Encourage **judicial guidelines** for victim-friendly trials, anonymity, and in-camera proceedings.
- Integrate **trafficking impact assessments** into social-welfare policies.
- Foster **interdisciplinary research** combining law, sociology, and technology studies.

## Conclusion

Human trafficking is not merely a criminal offence; it is a social tragedy reflecting failures of governance, justice, and equality. The socio-legal analysis reveals that while laws exist in abundance, implementation is undermined by poverty, gender discrimination, and institutional apathy. Effective eradication of trafficking demands a comprehensive and inclusive strategy—anchored in human rights, social justice, and economic empowerment.

India's constitutional mandate under Articles 21 and 23 compels the state to secure a life of dignity for every person. Legislative reforms must therefore align punitive measures with preventive and rehabilitative strategies. The fusion of strong law enforcement, judicial vigilance, and community participation offers the most sustainable path forward. Human trafficking can only be dismantled when society collectively affirms that human beings are not commodities but citizens entitled to liberty, equality, and justice.

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