

Human Trafficking in India Law, Migration, and the Limits of Enforcement*

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Abstract

India is the world's largest origin country for international migrants. Even though migration is a major economic driver, human trafficking has become a critical challenge for the country both at the domestic as well as at the transnational level. It is pervasive and deeply rooted issue manifesting itself in various forms like forced labour, sexual exploitation, child trafficking, organ trade etc. The country faces significant challenges in enforcement, inter-state coordination, victim rehabilitation as well as dealing with new digital forms of trafficking in spite of various laws and policy measures taken from time to time. This paper adopting a Human Rights-Based Approach (HRBA) as its primary analytical lens examines the current landscape of the human trafficking challenge by evaluating policy and legislative frameworks, implementation barriers and migratory movements, offers some prioritised policy recommendations. Using a qualitative policy analysis and desk reviews from official data sources of NCRB, UNODC and ILO, NGO reports along with journalistic accounts from established media channels the paper also pays attention to methodological limitations of the study which includes definitional inconsistencies and underreporting. With India accounting for nearly 22 per cent of global modern slavery the authors argue that human trafficking has become embedded in the country's labour markets, informal economy and supply chains and is no longer an issue of the criminal justice system. They thus conclude that from the current punitive measures adopted the country needs a paradigm shifts in addressing human trafficking based on a rights-based, survivor informed and a development-oriented approach which needs the support of all stakeholders both governmental and non-governmental in addition to an active civil society engagement.

Keywords: Human trafficking, Indian migration, sex trafficking, migration law, Judiciary

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5.0 Introduction

India is the largest migrant-sending country in the world today, with a stock of 18.5 million migrants and the number of Indian emigrants tripling from 6.5 million to 18.5 million between 1990 and 2024 (UN DESA 2024). Indian share among global out-migrants increasing from four per cent to six per cent with destination locations include GCC countries¹, North America, Australia, Europe, and Southeast Asia.

Human trafficking follows dangerous migration pathways such as the "donkey route"², an illegal and hazardous method migrants use to travel to other countries, particularly for work or to join family putting these migrants at a heightened risk of exploitation, smuggling, and trafficking. This phrase 'donkey route' originated from the Punjabi word "daunki" meaning "to move from one place to another" and typically involves unlawful border crossings via indirect routes with multiple stops (TOI Newsdesk 2023). In many studies it was found that people are forced to use dangerous and irregular routes due to such factors as (a) lack of proper information and regular emigration channels; (b) anti-immigration policies and heightened border controls in wealthy countries, and (c) high aspirations or unemployment-driven desperation (International Organisation for Migration (IOM) 2022 and UNODC 2020).

Using a qualitative policy analysis and desk reviews from official data sources of National Crime Records Bureau (NCRB), the United Nations Office on Drugs and Crime (UNODC) and International Labour Organisation (ILO), along with Non-Governmental Organisation (NGO) reports and journalistic accounts from established media channels, this paper examines the extent of human trafficking in India at both the domestic and transnational levels. While the existing literature documents human trafficking either through the criminal justice statistics i.e. the NCRB reports and/or case studies of the various NGOs in this field, this paper uses the HRBA analytical lens to evaluate policy, legislative framework and key implementation barriers and concludes offering policy recommendations.

Three original contributions are attempted through this paper:

1. **Linking migration routes to trafficking outcomes:** By systematically connecting illegal migration through the "donkey route" phenomenon, anti-immigration policies in Global North, and an internal labour migration as a single causal chain that creates trafficking vulnerability, the paper takes an approach that appears largely absent in current policy or media discourse.
2. **Emphasis on digital trafficking:** Unlike other desk reviews, this paper treats cyber-enabled trafficking such as scam centres in Myanmar and Cambodia and recruitment through social media as a distinct analytical category rather than a footnote to sex and labour trafficking.
3. **Governance gap analysis through an HRBA lens:** This paper identifies not only who or what fails, but also whose rights are violated and which state obligation remains unfulfilled, thereby shifting the focus from crime control to rights accountability. This is achieved by applying a Human Rights-Based Approach (HRBA) approach across legal, enforcement and rehabilitation domains.

5.1 Methodology

This paper conducts a qualitative policy analysis and desk review of human trafficking involving Indian migrants at both domestic and transnational levels.

5.1.1 Data sources

The analysis draws from four categories of sources:

- Official data: NCRB's "Crime in India" series (2018–2022); UNODC Global Reports on Trafficking in Persons and ILO forced labour estimates.
- Policy and legal documents: Indian Legislations such as Immoral Traffic (Prevention) Act (ITPA), Protection of Children from Sexual Offences Act (POCSO), Bharatiya Nyaya Sanhita (BNS) 2023) and international frameworks such as Palermo Protocol and Global Compact for Migration.
- NGO and advocacy reports: Findings and reports from Hope for Justice, Prajwala and Taftesh Consortium were used to examine trafficking patterns, survivor experiences, and policy gaps.
- Journalistic accounts: Reports from Times of India, BBC, Reuters, and The Hindu: used primarily to illustrate on-the-ground dynamics and cases that are not fully captured in official data.

5.1.2 Source selection criteria

Sources were included if they: (a) provided nationally representative or jurisdiction-specific data; (b) originated from institutional stakeholders such as governments, the UN, or the ILO; and/or (c) offered documented case evidence from reputable news organisations adhering to established editorial standards.

Limitations: Three methodological limitations constrain this analysis. First, NCRB data is affected by significant underreporting, since many victims do not approach law enforcement authorities (Maqbool 2024). Second, inconsistencies in definitions across different sources, particularly regarding the distinction between “trafficking” and “smuggling”, make cross-source comparisons difficult and limit data uniformity. and Third, media reporting may introduce selection bias, covering sensational cases or sex related cases over routine or non-sexual forms of exploitation. Wherever possible, this paper tries to triangulate journalistic accounts with official or NGO data.

5.1.3 Source distinction throughout

The paper clearly distinguishes between (a) official government statistics such as NCRB, UNODC data, (b) advocacy-generated estimates produced by NGOs and the ILO and (c) illustrative journalistic cases.

5.2 Conceptual and Theoretical Perspective

5.2.1 Defining Human Trafficking

The United Nations Office on Drugs and Crime (UNODC n.d.) defines human trafficking as "the recruitment, transportation, transfer, harbouring or receipt of people through force, fraud or deception, with the aim of exploiting them for profit." Exploitation may include sexual exploitation, forced labour, criminal activity, organ removal, and/or other forms of abuse. The victims of human trafficking are irrespective of sex, gender, age, religion, ethnicity etc. with traffickers operating in all geographies. Traffickers' modus operandi include, but is not limited to, fraudulent employment promises, fake promises of education, false assurance of a better life, and deceptive romantic relationships used to lure victims. Coercion, violence, threats and emotional blackmail are generally used to maintain control over the victims.

Human trafficking differs from human smuggling. Smuggling involves the consensual and secretive illegal crossing of international borders with the association between smuggler and the smuggled individual typically terminating upon arrival at the destination country. However, as smuggling is a costly operation, it can lead to a person's indebtedness for the smuggling operation culminating in trafficking as a means to resolve that debt to the smuggler (UNODC 2018 & 2004).

UNODC (n.d.) also notes that "human trafficking consists of three core elements: (1) the act, (2) the means and (3) the purpose". Traffickers use various tactics to control victims including physical and sexual abuse, blackmail, emotional manipulation, and confiscation of official documents. The United Nations recognises that human trafficking is a violation of human rights and an important issue of public health and global development, with Target 8.7 of the 2030 Sustainable Development Goals (SDG) calling upon member states to take immediate and effective measures to eradicate human trafficking, forced labour, and modern slavery.

5.2.2 Economics of Crime

Human trafficking is a highly profitable business involving a chain of intermediaries who share in the profits. The ILO (2024: 13) estimates that profits from human trafficking and forced labour amount to \$226 billion annually. A Non-profit organisation called Hope for Justice (2023), in its estimates, places the annual profit generated from modern slavery and human trafficking at well over US\$245 billion. Profits from this crime at such low costs create a self-sustaining cycle expanding the criminal networks and weakening the system meant to stop it.

Human trafficking is driven from both the supply and demand sides. While the supply side creates a pool of vulnerable people facing poverty, debt, exploitative systems, conflict, and instability from which they seek to escape, the demand side operates through cheaper products through labour exploitation, cheap sex, cheap domestic servitude, demand for organs and forced criminality.

Traffickers maximize gain through multiple methods including illegal system of financial transactions and involving other criminal activities such as money laundering and arms trafficking.

5.2.3 Why a Human Rights-Based Approach?

An empowered human is best and active partner of effective migration governance. They can not only make governance accountable, but also can join as partners in the ever dynamic process of governance. Human trafficking cannot be handled without the active and informed participation of migrants themselves and other stakeholders in the process.

A (UNODC) report (2008) conceptualises trafficking not simply as a matter of criminal justice, but as a serious violation of fundamental human rights, including the rights to dignity, freedom from exploitation, and access to justice. Within this human rights framework, victims are recognised as rights-holders entitled to protection, rehabilitation, and legal redress, while the state bears the primary responsibility for preventing trafficking, prosecuting offenders, and protecting victims.

The core principles of the Human Rights-Based Approach (HRBA) are often summarised by the acronym PANEL, as outlined by the United Nations Sustainable Development Group (UNSDG) (n.d.). PANEL stands for:

1. **Participation:** Anti-trafficking policies must involve survivors and affected communities in decision-making processes.
2. **Accountability:** Duty-bearers, such as states, must be held accountable for their human rights obligations.
3. **Non-discrimination and Equality:** Policies should prioritise the most marginalised groups to ensure equality, equity, and non-discrimination.
4. **Empowerment:** Individuals must be made aware of their rights and empowered to claim them.
5. **Legality:** All actions must align with national and international human rights legal standards.

It is through the HRBA framework that one can understand how structural conditions, rather than merely individual criminal acts produce trafficking outcomes. For example, restrictive immigration policies in wealthy nations often push migrants toward irregular migration routes, demonstrating how the political economy of trafficking and migration governance intersects with state failure.

5.3 Scope and Forms of Human Trafficking in India

India experiences multiple forms of human trafficking. It includes (i) sex trafficking in which women and girls are trafficked into brothels, dance bars and private homes under coercion or false promises, (ii) labour trafficking with men and women trafficked into bonded labour arrangements in brick kilns, agriculture, mining and textile industries and (iii) child trafficking in which children are trafficked for forced labour, child marriages, begging and illegal adoption and finally organ trafficking in which victims are coerced or deceived into organ donation, often under duress or in financial desperation.

Geographic Patterns of trafficking include source states like Bihar, Jharkhand, West Bengal, Odisha, Assam and Chhattisgarh; transit/hub areas like Delhi, Mumbai, Hyderabad and Chennai and destination points being both within India's major urban centres and abroad, particularly in the Gulf, Southeast Asia and parts of Europe.

Singh (2024) writes that India recorded as many as 10,659 cases of human trafficking between 2018 and 2022 with as many as 26,850 persons arrested for being involved in human trafficking as per data tabled by Ministry of Home Affairs in Lok Sabha. SDD (2023) mentions that India alone has 11 million victims, comprising men, women and children trapped in this vicious cycle with certain states like Telangana, Maharashtra and Assam reporting higher trafficking cases making them vulnerable to cross-border trafficking facilitated by criminals in neighbouring countries.

It is "The National Crime Records Bureau (NCRB)" which publishes annual reports on crime statistics, including human trafficking, under its "Crime in India" series. The most recent report available as of early 2024 is the "Crime in India 2022" report, released in December 2023. This report compiles data on human trafficking cases registered across India, encompassing both internal trafficking (within the country) and cross-border trafficking detected by Indian authorities. According to it in 2022, the total number of human trafficking cases registered in India was 2,250. This figure includes cases filed under various legal provisions, such as the Immoral Traffic (Prevention) Act, Section 370 of the Indian Penal Code (IPC) which pertains to trafficking of persons and other relevant sections like those addressing the procurement of minor girls.

TNN (2024) writes that more than 44 per cent of human trafficking victims are under 18-year-old with nearly half of these victims lured by aspirations of a better life, making them vulnerable to the trap. News reports paint a grim picture with many Indians trapped in foreign countries by false jobs offers. For example, Mollan (2024) writes about the 5000 Indians, most of who are young and tech-savvy stuck, lured with jobs, are stuck in Cambodia and forced to operate cyber-fraud schemes like money laundering, crypto fraud and love scams. Similarly, a PTI (2018) report and The TNIE Online Desk (2023) report mention about the 32 people from Bengal allegedly held captive in Malaysia by two organisations that had hired them and how recruiting agents and companies in Thailand, Myanmar and Cambodia are entrapping Indian nationals with fake jobs and then forcing them to work for crime syndicates.

However, anti-trafficking charities claim that the Indian human trafficking figures might be much higher than the figures quoted as many victims choose not to report their stories to law-enforcement agencies due to fears of social stigma and reprisal from traffickers (Maqbool 2024). Further even official data shows that traffickers rarely get convicted and manage to evade punishment in India despite the country's effective legal framework to crack down on the practice. This can be seen from the NCRB data of a 19.2 per cent conviction rate in human trafficking cases in 2022. A study carried out by Taftesh, an anti- trafficking consortium in India, found that less than one percent of the traffickers charged by law-enforcement agencies in the southern states of West Bengal and Andhra Pradesh, both of which are hubs of human trafficking, were punished by courts (ibid.).

5.3.1 Global Trafficking Estimates

The clandestine nature of the crime, underreporting, and due to definitional ambiguity, it is challenging to estimate the total number of human trafficking victims worldwide. Most estimates are made on available data provided by several reputable organisations. A joint report by ILO, Walk Free Foundation, and IOM (2022) estimated that approximately 49.6 million people were in modern slavery on any given day in 2021, with 27.6 million in forced labour and 22 million in forced marriages.

According to the International Organisation for Migration (IOM 2019), Counter-Trafficking Data Collaborative (CTDC), approximately 50 per cent of identified trafficking victims are trafficked for sexual exploitation, while 39 per cent are trafficked for forced labour in sectors such as manufacturing, agriculture, construction, and domestic work.

A UNODC (2024) reports a 25 per cent rise in the number of trafficking victims detected globally in 2022 compared to 2019 pre-pandemic figures with detected victims of forced labour having surged by 47 per cent globally between 2019 and 2022 showing disquiet in the labour markets. Regional estimates show Asia and the Pacific at 29.3 million; Africa: 7 million; Europe and Central Asia: 6.4 million; Americas: 5.1 million; and Arab States: 1.7 million (Exodus Road 2023) demonstrating that human trafficking is present globally and affects all countries irrespective of their income levels.

Internet and digital media have introduced new dimensions to human trafficking with Mollan (2024) quoting a UN report of August 2023, as to how at least 120,000 people in Myanmar and another 100,000 in Cambodia are being forced to operate cyber-fraud schemes after being entrapped through false job offers.

5.3.2 Implications for India

With 11 million victims (SDD 2023), a WalkFree (n.d) 2023 Global Slavery Index (GSI) report mentions that “India ranks sixth out of 27 countries in Asia and the Pacific and 34th out of 160 countries globally” with these estimates not capturing trafficking for the purpose of organ removal or the use of children in armed conflict for which the report mentions evidence. This is a disproportionate burden for India given its share of world population (17.5-18%). This figure also indicates that trafficking is not merely a criminal justice issue in India as is made out to be but embedded in India's labour markets, informal economy, and social hierarchies such as caste and bonded labour systems.

Why this matters is because Asia and the Pacific's 29.3 million victims represent nearly 59 per cent of the global total as per WalkFree (n.d) and 2021 Global Estimates of Modern Slavery. India, as South Asia's largest economy and migrant-sending nation, needs to be understood also from the regional dynamics with trafficking networks operating across Nepal, Bangladesh, and Myanmar borders.

5.4 Critical Evaluation of Legal and Policy Frameworks

5.4.1 International Framework

There are various was these International legal and policy framework works like the Palermo Protocol. Besides, there are customary international laws that are widely accepted across the countries. Conventions from the International Labour Organisation (ILO) like the ILO Convention No.29 and Convention No. 105 which address forced labour including situations related to trafficking. They provide guidelines for the elimination of forced labour and the protection of worker's rights. Other International Instruments include various international instruments such as the Convention on the Rights of the Child which contain provisions related to preventing and combating trafficking, particularly in the context of children. Global Compact for Migration (GCM) provides a human right frame work to deal with Human Trafficking challenges in its objective no.10. However, the gap between ratification and implementation remains wide with the country having still not enacted a comprehensive anti-trafficking law aligned with the Palermo Protocol's victim-protection principles. Its legal framework is currently negotiated through fragmented, strengthened statutes and drafted specific legislation like the Trafficking in Persons (Prevention, Care and Rehabilitation) Bill 2018, a gap this paper addresses in its recommendations.

5.4.2 Indian Legal Frameworks: Fragmentation and Contradictions

India signed the Protocol to Prevent, Suppress and Punish Trafficking in Persons (Palermo Protocol) on 12 December 2002, and officially ratified it on 5 May 2011. However, its domestic legal framework comprises multiple overlapping statutes. A snapshot of this fragmented framework starts with the Constitution of India which recognises the right to be free from exploitation and trafficking. Article 23 specifically prohibits traffic in human beings ensuring the fundamental right against exploitation and all forms of forced labour.

Under the category of laws there is Indian Penal Code (IPC), 1860 which criminalises various offences related to trafficking, such as kidnapping, abduction and buying or selling of minors for prostitution; The Immoral Traffic Prevention Act, 1956 (ITPA), a key legislation addressing sex trafficking and related activities. It criminalises various offences related to prostitution and trafficking for commercial sexual exploitation; the Bonded Labour System (Abolition) Act 1976, prohibits bonded labour and addresses situations where individuals are forced to work against their will: the Juvenile Justice (Care and Protection of Children) Act, 2015, which focuses on the protection and welfare of children and includes provisions to prevent and address the trafficking of minors and finally the POCSO Act 2012, which protects children from sexual exploitation and abuse . Besides the above there are some states that have enacted specific laws to address trafficking for example the Goa Children's Act 2003.

The new penal code or the Bharatiya Nyaya Sanhita (BNS) 2023, has Section 143 to 146 which provide penal provisions for various forms of trafficking in persons, habitual dealing in slaves and unlawful compulsory labour.

Then there are the Judicial Decisions including those made by the Supreme Court and various High Courts which shape the legal framework. These decisions interpret and apply existing laws to combat trafficking effectively.

5.5 Critical insights on the Legal and Policy Framework

- 1) There is a conflict between ITPA and victim protection with the ITPA failing to distinguish between consensual sex work and forced trafficking. This leads law enforcement to penalise and detain the trafficked victims and treat them as offenders, rather than act against traffickers. This aspect of the law contradicting the HRBA principles.
- 2) Fragmentation across statutes: Human trafficking prosecution in itself is complex and they become further complicated when a single trafficking case may involve ITPA, POCSO (if a minor), Bonded Labour Act, and BNS which require application of the proper law after understanding the case by the insufficiently trained practitioner, with no single statute covering all forms of trafficking comprehensively. In the absence of proper training and availability of manpower and funds practitioners look at their convenience which again contradicting the HRBA principles.
- 3) No implementation accountability mechanism: While laws exist, there is any independent body monitoring their enforcement or receiving complaints about non-implementation of these laws, a huge structural gap that explains the low conviction rates and any course correction.
- 4) Lack of digital forensic capacity: Technology and Cyber Trafficking has changed the nature of exploitation with traffickers increasingly using encrypted platforms, social media and dark web networks for recruitment and exploitation. Cyber-trafficking cases (online grooming) fall under IT Act & IPC, but cyber cells often lack training or sensitisation on trafficking laws as well as manpower, funds or the will to pursue traffickers.

Lack of a cohesive, survivor-centric anti-trafficking law which has faced legislative delays and remains unpassed compounds the complex problem. Judicial decisions have been partially filling these critical gaps. For example, *Prajwala v. Union of India* case brought into focus the insufficiency of India's existing legal regime in dealing with trafficking as a distinct and multidimensional offence. The court in its judgment emphasised the need for a single and comprehensive legislative framework. In the *Budhadev Karmaskar v. State of West Bengal* case the court recognised the status of women in prostitution as persons entitled to dignity, equal protection, and meaningful rehabilitation. However, these judicial pronouncements remain mere advisory without any legislative backing.

5.6 Implementation Challenges seen through a HR Lens

The anti-trafficking efforts face multiple implementation barriers and rather than operating as isolated problems, these challenges interact systemically. For better understanding they have been grouped into six thematic clusters:

5.6.1 Structural Drivers

Poverty, illiteracy, caste discrimination, gender-based violence, and lack of rural opportunities remain root causes of Indians' vulnerability to trafficking. Economic distress during and after COVID-19, which exacerbated vulnerabilities, especially among migrant workers. Without adequate welfare schemes and employment opportunities, vulnerable communities

remain fertile recruitment grounds. These drivers are not merely background conditions — they are actively exploited by traffickers who map their operations onto existing inequalities.

5.6.2 Governance Failures

Managing safe migration and governance is important for not only for migrants but also for sending, receiving and transit countries and regions. The following areas are of utmost important to address for enabling a better governance system in place.

- **Absence of a unified legal framework:** While several laws exist, no cohesive and comprehensive survivor-centric anti-trafficking law exists, leading to fragmented enforcement and jurisdictional confusion.
- **Weak coordination between agencies:** Human trafficking is inter-state (domestic) as well as transnational, requiring cooperation between central agencies (NIA, CBI, BSF, Ministry of Home Affairs), state police, Anti-Human Trafficking Units (AHTUs), district-level officials (Child Welfare Committees, Labour Departments), and NGOs. Poor coordination leads to delayed rescues (traffickers move victims before raids), lack of intelligence-sharing, duplicate investigations, and many trafficking cases not being transferred to AHTUs. Poor coordination leads to delayed rescues (traffickers move victims before raids), lack of intelligence-sharing (states don't alert each other about trafficking routes) and duplicate or missed investigations (multiple agencies work in silos).
- **Inconsistent implementation across states: Different implementation of laws like ITPA (Immoral Traffic Prevention Act) across states leading to confusion and allowing traffickers to slip the prosecution dragnet.**

5.6.3 Criminal Justice Gaps

Another important area of concern is the criminal justice system which is critical in handling the sensitive issues like human trafficking. There are three important areas such as:

- **Low conviction rates (19.2% as per NCRB 2022 due to poor evidence collection, witness intimidation and delayed trials don't help the anti-trafficking cause. Police complicity in trafficking rings, especially in border states like West Bengal, Bihar and the Northeast India as well as lack of specialised training for police and prosecutors on trafficking laws further undermine law enforcement efforts.**
- **Judicial backlogs with trafficking cases lingering for years due to overburdened courts (2.4 million pending cases in High Courts as of 2024), compounded by low prioritisation of trafficking cases. The Pune case study (see Case Insight 3) exemplifies this.**
- **Inadequate law enforcement and corruption: Police complicity in trafficking rings, especially in border states (both within India and around international borders) as well as lack of specialised training for police and prosecutors on trafficking laws further undermine law enforcement efforts.**

5.6.4 Victim-Centric Failures

- *Poor victim protection and rehabilitation:* Survivors lack access to financial support, psychosocial care, education, legal aid, and livelihood training. Government shelter homes remain under-resourced. Victims become non-cooperative when they perceive lack of care and support.
- *Social stigma:* Prevailing social stigma prevents survivors from reintegrating into society or testifying against traffickers
- *Ineffective implementation of schemes:* NGOs face funding approval delays; schemes suffer from mismanagement and poor monitoring. Government-run shelter homes (Swadhar Greh, Ujjawala) are frequently under-resourced or insufficient. Lack of awareness about helplines like "Childline 1098" and the Anti-Trafficking Nodal Agency exacerbates problems.

5.6.5 Emerging Threats

Technological advancement is rapidly adopted by the actors involved in trafficking. For example, cyber trafficking in which traffickers are increasingly using encrypted platforms, social media, and dark web networks for recruitment and exploitation while Indian law enforcement agencies are ill equipped with digital forensic capacity and adequate trafficking specific training. Secondly, there are porous borders with neighbouring countries of Nepal, Bangladesh, and Myanmar which facilitate transnational trafficking. In the absence of SOP's and clear protocols along with ad hoc cooperation between the border states and neighbouring countries, traffickers operate with impunity.

Information and Education Communication for Development (IEC4D) which uses learning, communication, and knowledge-sharing to drive behavioural changes, empower communities, and promote societal advancement is missing as a part of the policy framework. Hence very little or no focus on demand reduction and no campaigns for making consumers aware of the trafficking elements in cheap products, make the fight against trafficking difficult.

5.6.6 Cluster Intersectionality

All the above mentioned thematic clusters do not operate independently but intersect on various levels. For example: (a) governance failures as depicted in cluster 2 worsen criminal justice gaps as demonstrated in cluster 3; (b) structural drivers explained in cluster 1 because of economic distress and lack of jobs push vulnerable youth toward fake online job offers resulting in the thriving of cyber trafficking which also is a result of lack of digital capacity of the law enforcement as detailed in cluster 5; (c) consumerist culture with the demand of cheap products and the absence of IEC4D as explained in cluster 5 along with structural drivers of cluster 1 result in increase of trafficking helped by cluster 2, 3 and 4; and (d) technological advancements as detailed in cluster 5 are used to exploit structural drivers as in cluster 1.

5.7 Case Insights: Three Illustrative Trafficking Dynamics and Best Practices

The following three case insights from media reports and other sources highlight how these clusters operate along with their HRBA implications.

5.7.1 Case Insight 1: The "Donkey Route" Migration-Trafficking Nexus

The “dunki” route or illegal crossings via multiple countries exemplifies how migration restrictions create trafficking vulnerability. According to US Customs and Border Protection (2023), 96,917 Indians were apprehended at the US border (October 2022 to September 2023), up from 30,662 in 2021. A Reuters (2024) investigation across seven Haryana villages found unemployment and lack of skilled jobs as primary drivers. The report quoting experts also mentions that “the number of Indians betting it all to migrate to wealthy countries is as much about aspiration as fleeing poverty, migration”. Once on irregular routes, migrants face debt bondage, physical abuse, and forced criminality - transitioning from smuggled persons to trafficked victims.

HRBA implication is that restrictive immigration policies in destination countries do not deter migration; they displace it into unregulated, trafficking-prone channels for which sending countries like India bear disproportionate responsibility.

5.7.2 Case Insight 2: Cyber-Scam Trafficking to Southeast Asia

Mollan (2024) documents at least 5,000 Indians trapped in Cambodia, forced to operate cyber-fraud schemes (money laundering, crypto fraud, love scams). Globally, UN reports estimate 120,000 people in Myanmar and 100,000 in Cambodia are forced into such operations.

HRBA implication: Technology-enabled trafficking outpaces law enforcement capacity. Existing cyber cells lack trafficking-specific training, and no bilateral repatriation agreements exist between India and Cambodia or Myanmar for these victims.

5.7.3 Case Insight 3: Domestic Legal Failure, The Pune Brothel Case

Maqbool (2024) writes about the case of two young women aged 18 and 20 who were rescued from a brothel in Pune (Maharashtra) in 2013 where the two accused suspects against whom the police submitted a charge-sheet (another two suspects involved could not be prosecuted as they were not apprehended) got away scot-free. Even though the police submitted the charge-sheet within a month of rescue of the girls at a courthouse in Pune, the case carried on for 10 years and was finally disposed of in 2023 with the exoneration of the suspects with the court citing laxities by the police during their investigation.

HRBA implication: Even with the police acting promptly, judicial delays and stringent evidentiary standards undermined accountability resulting in the violation of victims' right to timely justice under Article 21 of the Constitution, with no provision of any effective remedy by the state.

5.8 Cases of Best Practices and Innovations

It is important to adopt some of the best practices which can give better tried and tested formulas to curb human traffic.

- West Bengal’s AHTUs (Anti Human Trafficking Units) have improved coordination with NGOs like “South Kolkata Hamari Muskan”, which has been working in Kolkata since 2009 and introduced technology tools like the Swayamsiddha mobile app for real-time reporting.

- National Child Helpline 1098 is managed by CHILDLINE India Foundation and is a 24x7 emergency service in identifying and rescuing trafficked children.
- NGO-Driven Models like Prajwala (Hyderabad) which provides rescue, rehabilitation, reintegration, and legal support to survivors; Rescue Foundation (Mumbai) works across borders to combat sex trafficking with a focus on legal prosecution and survivor care and South Kolkata Hamari Muskan is an anti-trafficking organisation working in Kolkata since 2009 working in red light areas of Sonagachi and Bowbaz and collaborating with other non-profits and charities. TOI (2025) quoting the IG of Railway Protection Force (RPF) details how the RPF takes action in coordination with NGO Bachpan Bachao Andolan (BBA).

5.9 Policy Recommendations: Top 5 Actionable Priorities

Based on the five thematic clusters of implementation challenges, this paper recommends five priority actions:

- 1) The Indian State should enact the *Trafficking in Persons (Prevention, Care and Rehabilitation) Bill* as a unified, survivor-centric law to help solve the fragmented legal framework as detailed in cluster 2. There also needs to be adequate public discussion on the various aspects of the bill including public inputs and other stakeholder's inputs to make the bill comprehensive (The 2021 bill, which has not been passed, doesn't seem to have taken these into consideration). This should involve Ministry of Women and Child Development, Ministry of Home Affairs and the Indian Parliament along with a strong political will.
- 2) Fast-track courts for trafficking cases with a 12-month disposal timeline should be established to address criminal justice gaps and low conviction as detailed in cluster 3. This should involve the Ministry of Law and Justice, Supreme Court of India and central and state Governments in consultation with their respective High Courts.
- 3) Annual digital forensic training for AHTUs and cyber cells should be mandated to address criminal justice gaps and low conviction in cluster 3 and emerging threats in cluster 5.
- 4) A National Trafficking Database, operating in real-time and interoperable across states should be created to address data gaps and weak coordination between states. This should involve NCRB, Ministry of Electronics and Information Technology.
- 5) Survivor-led rehabilitation programmes with a minimum three years of post-rescue support should be funded to address the victim-centric failures detailed in cluster 4. This we believe will involve Ministry of Finance and Social Justice and both centre and state governments plus strong political will.

5.9.1 Additional Recommendations (Lower Priority but Important)

- a) Border cooperation agreements with Nepal, Bangladesh, and Myanmar should be formalised. Porous borders with these neighbouring countries facilitate cross-border

trafficking because cooperation between Indian states and these neighbouring countries remains ad hoc. Traffickers exploit these jurisdictional gaps to evade detection.

- b) Corporate supply chain audits for forced labour in sectors such as clothing, electronics, and agriculture should be mandated. This will help push the corporate towards ethical supply chains and reduce demand for cheap trafficked labour.
- c) National awareness campaigns targeting vulnerable districts identified by NCRB data should be launched. This can help reduce demand for cheap products; thereby reducing demand for trafficked labour.
- d) AHTUs should be strengthened through increased funding and staff training, and by ensuring that newly created AHTUs are fully resourced and operational.
- e) Stricter punishment for officials and personnel involved in trafficking should be enforced through a monitoring and accountability framework, thereby increasing survivors' confidence in the survivor support framework

5.10 Conclusion

HRBA shifts the central question from "How many traffickers were prosecuted?" to "Whose rights were violated, and what state obligations remained unfulfilled?" Thus, India's human trafficking crisis must be understood not merely as a failure of law enforcement but as a systematic failure to uphold fundamental rights.

The evidence presented in this paper viewed through a HRBA lens reveals a consistent pattern of denial of various rights. For example the structural drivers of trafficking i.e. poverty, caste discrimination, and lack of rural opportunities, under Articles 15, 21, 23 of the Indian Constitution represent a violation of the right to livelihood and non-discrimination; the governance failures and a fragmented legal framework, deny the right to an effective remedy for the victims; the criminal justice gaps with a 19.2 per cent conviction rate and cases dragging on years violate the right to timely justice; the victim-centric failures in rehabilitation and the stigma survivors face in the absence of rehabilitation and compensation deny them the rights to dignity, health, and social reintegration and the emerging threats like cyber trafficking outpacing state responses are clear violation of the state's duty to protect.

HRBA puts the following three demands in accountability: First, non-discrimination requires that anti-trafficking policies explicitly address how caste, gender, migration status, and poverty create intersecting vulnerabilities. Second, participation mandates that survivors and affected communities be included in designing, implementing, and monitoring anti-trafficking interventions, a practice largely absent today. Third, accountability requires tracing enforcement failures to specific state actors and creating independent monitoring mechanisms with complaint-receiving authority.

The paper's five priority recommendations flow directly from this framework. Enacting unified survivor-centric legislation operationalises the right to remedy. Fast-track courts realise the right to timely justice. Digital forensic training fulfils the duty to protect against emerging

threats. A national trafficking database enables transparency and accountability. Survivor-led rehabilitation programs embody the principle of participation.

Crucially, HRBA rejects the false choice between punishment and protection. Prosecuting traffickers and protecting victims are not opposing goals but mutually reinforcing rights obligations. However, the current system's near-exclusive focus on criminal justice metrics i.e. cases registered, arrests made, without corresponding attention to conviction rates, victim compensation, and rehabilitation outcomes, betrays a punitive rather than rights-based orientation.

From an HRBA perspective the stories from NGO's and other sources detailed in this paper of many missed opportunities, cases not transferred to anti-human trafficking units (AHTUs), the lack of interest shown by survivors in prosecution because of the victimisation at the hands of police, lawyers and courts, cases being long drawn out with low percentage of prosecution with no compensation and rehabilitation in sight, are clearly violation of rights for which the responsibility lies with the state.

Thus, from viewing trafficking as a crime to be punished a paradigm shift will involve the state looking at the issue as a crisis in rights that needs to be remedied. To address trafficking from the HRBA framework will not only require political will but also cross-sectoral collaborations along with international collaborations especially neighbouring states across the international border. Above all it would require the state to meaningfully include survivors not as passive beneficiary but as right holders and a key to solving the problem of trafficking.

India's fight against trafficking is a story of progressive laws coupled with weak implementation, corruption, and lack of victim support which if reframed through HRBA framework becomes an actionable policy. Thus the way forward is change the metrics of anti-trafficking efforts to incorporate the state's duty to protect its citizens followed by the rights of survivor's couple with prosecution of traffickers. This can only be done by embedding the human rights principles at various levels of government functioning

Thus, from this paper one can see that unsafe migration is a real challenge for the country and requires stronger regional and international cooperation. Besides unsafe migration the other issues compounding human trafficking in India are the structural drivers making people vulnerable; state's inability to protect citizens and prosecute traffickers; and help the return and rehabilitation of trafficked victims. All these work against the rights of the very individuals who are marginalised and vulnerable. Thus the only way forward for India as well for the larger humanity is a Human Rights-Based Approach to combat trafficking in persons.

Endnotes

1. GCC stands for **Gulf Cooperation Council**. It is a political and economic alliance of six Gulf countries namely, Saudi Arabia, United Arab Emirates, Qatar, Kuwait, Bahrain and Oman. The GCC was established in 1981 to promote economic, political, security, and cultural cooperation among these countries.
2. Donkey route refers to irregular migration routes used by migrants through multiple countries and illegal border crossings, often facilitated by smugglers or traffickers.

Declaration of AI Use

We hereby declare that limited artificial intelligence (AI) tools were used only for language refinement, grammar correction, formatting assistance, and organisational in preparing this manuscript. The core ideas, field data, interpretations, analysis, arguments, and conclusions are entirely my own original academic work. We remain solely responsible for its authenticity, accuracy, and ethical integrity. No AI-generated content was used as primary research data or as a substitute for fieldwork, ethnographic interpretation, or scholarly analysis.

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