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Justice Beyond Rescue: Legal Challenges in Protecting Human Trafficking Survivors

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Human trafficking is not merely a crime; it is a profound violation of human dignity and freedom. Every year, countless individuals are exploited through forced labour, sexual exploitation, and other forms of abuse, leaving lasting physical and emotional scars. Although nations across the world have enacted laws to combat trafficking, protecting survivors remains an ongoing challenge. Many victims continue to struggle with social stigma, inadequate rehabilitation, and barriers to accessing justice even after being rescued. This article explores the legal framework designed to protect victims of human trafficking, highlights the gaps in its implementation, and argues for a survivor-centred approach that goes beyond rescue. True justice lies not only in punishing traffickers but also in restoring the dignity, rights, and lives of survivors through effective rehabilitation and reintegration into society.

Keywords: *human trafficking, survivor, traffic victim plan, rehabilitation.*

INTRODUCTION

While modern constitutional frameworks universally presuppose an individual's right to life and liberty, the persistence of human trafficking exposes a profound failure of global statutory enforcement. Operating largely within the dark figures of crime, trafficking represents an illicit economy sustained by the commodification of human beings. The

traffickers have created a highly adaptable transnational illicit network, trafficking humans from one country to another illegally. The victims trapped in such conditions deserve justice and our help, which is our duty as humans. Human trafficking is a grave crime that is committed every day in our world, even though it is considered illegal under Indian Law.

Women and children are the most targeted victims in such crimes, who are easier to coerce and manipulate. The UN International Labour Organisation (ILO) has estimated that 27.6 million people worldwide fall victim to human trafficking.¹ According to the Indian Anti trafficking Units, they have seen 6036 victims being trafficked in the whole country, and only 2250 cases were registered. A more encouraging metric, however, is found in the recovery data, where 6693 victims were rescued in India, including some cases from previous years.² The enormous difference between 27.6 million victims of human trafficking worldwide, according to the International Labour Organisation (ILO), and 6,036 reported trafficking victims in India is not indicative of a lack of human trafficking in India but of how broken the reporting system is and how hidden the domestic trafficking market really is.

These humans are innocent beings who are caught by fraud, manipulation, kidnapping and honey traps which are planned by the traffickers. Certain common causes have lately made it easier to find their victims. The online presence of an individual who overshares their vulnerabilities to strangers has become a common cause where the criminals trap the victims who are already going through problems and tend to share them with the trafficker to feel comforted, and are later on kidnapped under the disguise of care. Other than this, females who are forced to leave their homes due to weak financial conditions in search of jobs are the majority of victims who are fooled by fraudulent job opportunities and are later on transported to other states and engaged in prostitution.

The victims are strategically used as follows: to use them as money earners for the traffickers:

- The children are mostly used for labour work in factories that requires excessive labourers on a cheap wage.

¹ 'Forced labour, modern slavery and trafficking in persons' (ILO) <<https://www.ilo.org/topics-and-sectors/forced-labour-modern-slavery-and-trafficking-persons>> accessed 01 June 2026

² 'RAJYA SABHA UNSTARRED QUESTION NO. 3664 TO BE ANSWERED ON 02.04.2025: HUMAN TRAFFICKING' (Digital Sansad) <https://sansad.in/getFile/annex/267/AU3664_ZnOK5f.pdf?source=pqars> accessed 01 June 2026

- Women and children become a great source for beggary who are migrated and sent to places like railway stations, bridges, markets, etc.
- Teenage girls and young women are highly used in prostitution, where they are sent to brothels and red-light areas. This is usually where women victims are trafficked.
- The children and healthy humans have to go through forceful organ removal where their organs are sold in illegal flesh markets, which immensely harms the individual's health and mostly leads to the death of victims due to unprofessional surgeries and medical negligence.
- Boys who are teenagers are also seen in terrorist organisations, who are subjected to ideological indoctrination during their formative developmental years, which destroys the humanity in the child, forcefully making him do acts of violence.

The rescued victims face trauma and psychological and physical damage due to the situation they have survived in, especially the children, who tend to go through a large amount of trauma, causing them to lose speech, and it becomes difficult for them to settle into normal society and live like their own age group. Some victims tend to become aggressive and harmful in a normal setting. It's not just the victims, but society itself makes it difficult for them to settle, as it has members who are not so welcoming and also plan to exploit them. The question arises: can a society truly claim to uphold human rights while such exploitation continues in its shadows? And what role do the Law and government play for these victims?

As a part of society who are wronged, they deserve justice, and the law plays an important role in providing it; the victims are heard, and the criminals involved are punished, whereas the government frames various safety units, security and reduces the number of such cases, as well as safeguards the rights of the victims by providing them with treatment and a home stay.

LEGAL FRAMEWORK

Human trafficking in India has been addressed by the courts not only as a criminal offence but also as a grave violation of human dignity, liberty, and constitutional rights.

Article 23: The foundation of this protection lies in Article 23 of the Constitution, which prohibits trafficking in human beings, beggary, and other forms of forced labour; as it falls

under the fundamental right, it becomes the duty of the law to protect the citizens by preventing the occurrence of such crimes.³

ITPA 1956: The Immoral Traffic (Prevention) Act 1956⁴ is the main law for preventing human trafficking and the commercial exploitation of sex workers in India. It provides for punishment for activities such as running a brothel, receiving profits from a brothel, procuring or inducing a person into prostitution, keeping a person for prostitution, or using premises for prostitution against their will. The Act allows police officers and the courts to conduct rescues of trafficked victims, close brothels, evict people who are breaking the law from premises, and provide rehabilitation services and other types of protection to people affected by prostitution. The main intention of this law is to prevent the exploitation of trafficked and exploited people rather than to punish people who have been forced into prostitution by others.

Sections 143 and 144 of BNS 2023: Whereas Bharatiya Nyaya Sanhita (2023),⁵ Section 143 deals with the offence of human trafficking and has implications for child and multiple victim abusers. This law has very severe penalties for abusers, and the penalty for serious offences could result in life imprisonment and monetary penalties. This law indicates that the governing body disapproves of any exploitation of persons, including modern offenders of human trafficking.

Section 144 is part of the same anti-trafficking scheme in punishing aggravated conduct that is related to trafficking. Together, these laws demonstrate a shift in the BNS towards providing better protection to persons in vulnerable situations, especially women and children. Apart from providing justice, the Supreme Court has also highlighted the importance of rehabilitation and aftercare of the rescued victims, which can be seen in *Gaurav Jain v Union of India & Ors*,⁶ where the bench has described the issue through the lens of fundamental rights, specially right to live with dignity; it emphasised the importance of providing education to the prostitution victims and their children. There is a need for not just providing justice but also helping the victims recover and heal from all the damage they have gone through. In today's time, where human rights are valued and prioritised, these

³ Constitution of India 1950, art 23

⁴ Immoral Traffic (Prevention) Act 1956

⁵ Bharatiya Nyaya Sanhita 2023, ss 143-144

⁶ *Gaurav Jain v Union of India and Ors* (1997) 8 SCC 114

victims need to be brought into the spotlight and should be considered as more than just citizens.

BARRIERS BETWEEN THE VICTIMS AND JUSTICE

The laws framed promise to provide justice to the victims, but certain obstacles make it difficult for them. The biggest obstacle is the illegal transfer of the victims to another country, which makes them illegal migrants. It becomes difficult for the victims to approach the police or any other person, as this would also lead to their arrest. The victims also feel frightened to try to escape as they have no proper information about their location, and getting caught in the process of escaping can lead to their death. The victims are threatened not to even think about reporting to the police, and their original documents are snatched from them. In many cases, there are chances of the victim not knowing any details about the trafficker, which leads to insufficient evidence; there are also insufficient witnesses, which makes the case weak.

The psychological damage done to the victims makes them feel that escape is the greatest victory; many of the victims don't want to get involved in legal matters. Many victims also face memory loss due to the heavy trauma, which helps the trafficker to escape easily without fear and guilt. Laurent, a trafficking survivor, has stated while sharing his story that he had no memories of the first 15 years of his life.⁷ He also says that society needs to be considerate and lend an ear to the victims, encourage them to share their story and support them in getting justice. Due to the abuse and drugging faced by victims, they also feel uncomfortable sharing their story. The survivors are secluded and many times not accepted by the families in the villages; due to this, the survivor becomes alone and has no support to take proper legal action.

THE SUPREME COURT'S ENDEAVOR TO CREATE A SURVIVOR-CENTRED APPROACH

Recognising these persistent shortcomings, the Supreme Court recently took a significant step towards strengthening victim protection. Legal systems have been developed for more

⁷ Laurent, 'Finding healing in art: The journey of a human trafficking survivor' (*United Nations Office on Drugs and Crime*) <https://www.unodc.org/unodc/frontpage/2025/June/finding-healing-in-art_-the-journey-of-a-human-trafficking-survivor.html> accessed 01 June 2026

than two decades (until 2020) to address human trafficking globally; however, their emphasis has changed due to new decisions made by courts, including one made by the Supreme Court of India in the case of *Prajwala v Union of India* (2015) 17 SCC 29.⁸ This change establishes that states not only have a duty to rescue human trafficking victims but also must assist these people in being rehabilitated and reintegrated into society. The Supreme Court's ruling defined rehabilitation as an integral aspect of an individual's right to live and to be treated with dignity, without limitations, as guaranteed under Article 21 of the Constitution of India. In addition, the Supreme Court created a 'Victim Protection Plan,' which elaborates on the various needs of human trafficking victims before and after rescue, including an outline of supportive services needed after rescue and supporting the judicial process to convict the offenders responsible for their victimisation.

THE VICTIM PROTECTION PLAN

The Court used its authority under Articles 32 and 142⁹ to create specific rules until official laws have been made. The Victim Protection Plan is based on the importance of protecting human rights and dignity; on finding out who the adult voluntary sex workers are; providing personal rehabilitation to each sex worker; not putting any sex worker in an institution against their will; having sex workers know about the rights they have before giving consent; treating all sex workers the same and not judging them; ensuring that all sex workers are safe from harm and make sure they are safe; making sure each sex worker's private information stays private and confidential. The 'Victim Protection Plan' has the following guidance:¹⁰

Fundamental Principle –

Primacy of Human Rights and Dignity: Every action under the Plan must place the victim's human rights and dignity at the centre.

Non-Criminalisation: Victims must never be treated as offenders and must always be accorded the status of crime victims.

⁸ *Prajwala v Union of India & Ors* 2026 INSC 609

⁹ Constitution of India 1950, arts 21, 32 and 142

¹⁰ Ritu, 'Rescued Is Not Enough; State Must Rehabilitate Every Human Trafficking Survivor: Supreme Court Comprehensive "Victim Protection Plan" Tells Exactly How' (SCC Online, 01 June 2026)

<<https://www.sconline.com/blog/post/2026/06/01/sc-ruling-on-protection-of-human-trafficking-survivors/>> accessed 01 June 2026

Informed Consent: Care, protection, and rehabilitation measures should ordinarily be based on the victim's free and informed consent.

Non-Stigmatisation and Non-Discrimination: Victims must not face discrimination, adverse judgment or diminished respect because of their involvement in prostitution.

Safety and Protection: Protection from further exploitation and harm must be ensured at every stage.

Privacy and Confidentiality: Identity and personal information of victims must remain confidential.

Victim-Centric Approach: Victims must be treated as persons with agency and not merely as passive recipients of assistance

Pre-Rescue Measures: The Court ordered that the Anti-Human Trafficking Units be made stronger by giving such units special training for members carrying out rescues. Rescues should be conducted with the overall consideration of the victim, including protecting their dignity and their safety. The Court also stated that in the case of rescues, the State is the first interaction a victim will experience with the State, so therefore, when a rescue occurs, the manner of the operation must not cause additional trauma to a victim.

Post-Rescue Measures: After the Court rescued the individuals involved, it provided many safeguards. Victims are entitled to representation through the judicial system, a fair and adequate hearing, safe custody arrangements, medical assistance, counselling, and other forms of support. The Court created a mechanism to provide for the removal and delay of granting safe custody orders, provide judicial oversight, maintain the confidentiality of the proceedings, and provide access to legal and social resources. The purpose of these safeguards was to ensure that the victims were assisted during this vulnerable period after being rescued.

Rehabilitation: The underage victims should be placed in protective homes, whereas an adult woman needs to consent to whether she wants to shift to a protective home. For those placed in protective homes, the court said such institutions should not resemble prisons. Each survivor is to be assigned a case worker and provided an individual care plan covering healthcare, counselling, education, skill development, livelihood support, and access to

government schemes. The plan also requires the creation of bank accounts for long-term residents, periodic review of rehabilitation plans, legal assistance, and mechanisms to report abuse within homes.

Reintegration: The Supreme Court reaffirmed that while anti-trafficking measures are aimed at protecting the victim's safety, wishes, and best interests, they cannot be considered simply a repetitive process. Victims who have been trafficked should not be returned to their families or communities where they may continue to be victims of exploitation, abuse or coercion. The victim's consent is also to be a primary consideration regarding the victim's reintegration into society.

Support: The Court has ordered that to help prosecute and try these cases, victims will receive ongoing legal and social support, e.g., counselling, to assist them in participating in the criminal justice process and avoid re-traumatisation.

Strict Surveillance: The Court focused on prevention and capacity-building initiatives. The Court has ordered police and AHTUs to monitor transit areas for at-risk populations and vulnerable areas, and to create anti-human trafficking awareness campaigns. Finally, the Court has ordered that judges, prosecutors, legal aid providers, counsellors, social workers, law enforcement and NGOs receive regular training to employ victim-centred approaches when dealing with victims of trafficking.

CONCLUSION

The Supreme Court of India has recognised that rescue and providing justice to victims are separate events, and that providing justice to a victim is a multi-faceted issue that requires an ongoing process to provide for the immediate needs of a victim and their long-term needs. For true legislative evolution to occur, Parliament must enact the Supreme Court's Comprehensive Victim Protection Plan as a binding and enforceable law in the form of a Socio-Legal Restorative Act. Until the aftercare of victims of trafficking (to be provided non-institutionally upon the victim's consent), the psychological healing and restoration of the victim, and the economic empowerment of the victim are given the same statutory authority as the State's power to arrest individuals, victim survivors of trafficking may be rescued, i.e. have the expertise of the law removed from them but will not effectively thrive after their removal from the hands of the trafficker.