



AN ANALYSIS OF NEW CRIMINAL LAWS FOR THE PREVENTION AND PROTECTION AGAINST HUMAN TRAFFICKING IN INDIA (WITH SPECIAL REFERENCE TO WOMEN AND CHILDREN)

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Abstract: Human trafficking remains one of the most pervasive forms of organized crime and a grave violation of human rights, disproportionately affecting women and children across the globe. India, being both a source and destination country for trafficking, has witnessed evolving forms of exploitation including commercial sexual exploitation, forced labour, child marriage, domestic servitude, organ trafficking, and cyber-enabled trafficking. Recognizing the changing nature of such offences, Parliament introduced a new criminal justice framework through the Bharatiya Nyaya Sanhita, 2023 (BNS), Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), and Bharatiya Sakshya Adhiniyam, 2023 (BSA). These legislations seek to modernize criminal law by strengthening investigation, prosecution, evidentiary standards, and victim-centric justice. This paper critically examines the effectiveness of the new criminal laws in preventing human trafficking and protecting women and children. It analyses the statutory provisions relating to trafficking offences, procedural safeguards, victim rehabilitation, evidentiary mechanisms, and institutional responsibilities while comparing them with the repealed criminal laws. The study also evaluates India's compliance with international legal instruments including the Palermo Protocol and CEDAW. Using doctrinal and analytical research methodologies, the paper identifies significant implementation challenges such as underreporting, inter-state coordination, low conviction rates, and inadequate rehabilitation mechanisms. The study concludes that while the new criminal laws provide a stronger legislative framework, their success depends upon effective implementation, specialized law enforcement, victim rehabilitation, and coordinated institutional responses.

Keywords: Human Trafficking, Bharatiya Nyaya Sanhita, Women and Children, Victim Protection, Criminal Justice Reform, Human Rights.

I. INTRODUCTION

Human trafficking has emerged as one of the fastest-growing forms of organized crime globally and constitutes a grave violation of fundamental human rights by depriving individuals of their dignity, liberty, and security through coercion, deception, abuse of vulnerability, or force. Women and children remain the most vulnerable victims, frequently subjected to commercial sexual exploitation, forced labour, domestic servitude, forced marriage, illegal adoption, organ trafficking, and other exploitative practices. The transnational and increasingly technology-driven nature of trafficking, coupled with the involvement of sophisticated organized criminal networks, has made prevention, investigation, and prosecution significantly more challenging. India occupies a unique position in the global trafficking landscape owing to its vast geographical boundaries, socio-economic disparities, migration patterns, and

demographic diversity, with both internal and cross-border trafficking from neighbouring countries such as Nepal and Bangladesh posing serious concerns. Factors including poverty, illiteracy, unemployment, gender discrimination, natural disasters, armed conflicts, and lack of awareness further heighten the vulnerability of women and children to trafficking. The Constitution of India expressly prohibits trafficking under Article 23, while various legislations such as the Immoral Traffic (Prevention) Act, 1956, the Protection of Children from Sexual Offences Act, 2012, the Juvenile Justice (Care and Protection of Children) Act, 2015, and the erstwhile Indian Penal Code, 1860 have historically formed the legal framework for combating trafficking. Nevertheless, evolving trafficking methods and persistent shortcomings in investigation, prosecution, victim identification, rehabilitation, and inter-agency coordination have exposed limitations within the existing legal regime. In response to these challenges, Parliament enacted the Bharatiya Nyaya Sanhita, 2023 (BNS), the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), and the Bharatiya Sakshya Adhiniyam, 2023 (BSA), replacing the Indian Penal Code, 1860, the Code of Criminal Procedure, 1973, and the Indian Evidence Act, 1872, respectively. These landmark reforms seek to modernize India's criminal justice system by strengthening substantive criminal law, enhancing procedural efficiency, integrating digital and forensic technologies, improving evidentiary standards, expediting criminal trials, and adopting a more victim-centric approach to justice. Against this backdrop, the present study critically examines the effectiveness of the new criminal laws in preventing and combating human trafficking with particular emphasis on the protection of women and children. It evaluates the substantive and procedural reforms introduced under the new legislative framework, compares them with the repealed criminal laws, analyses implementation challenges, and assesses the extent to which these reforms align with constitutional guarantees and India's international obligations under global human rights and anti-trafficking instruments. Ultimately, the study seeks to identify legal, institutional, and policy measures capable of strengthening prevention, prosecution, victim protection, and rehabilitation within India's evolving anti-trafficking framework.

II. LITERATURE REVIEW

Human trafficking has attracted considerable scholarly attention because of its multidimensional implications for human rights, criminal justice administration, gender equality, and socio-economic development. Existing literature consistently recognizes trafficking not merely as a criminal offence but also as a complex humanitarian, developmental, and governance challenge requiring coordinated legal, institutional, and international responses. Researchers have extensively examined the causes, patterns, legal frameworks, and rehabilitation mechanisms associated with trafficking, particularly with respect to women and children, who remain the most vulnerable victims of exploitation. The United Nations Office on Drugs and Crime (UNODC), through its Global Report on Trafficking in Persons, identifies women and girls as the largest group of victims trafficked for sexual exploitation, while children are increasingly trafficked for forced labour, child marriage, illegal adoption, online exploitation, and other forms of abuse. The report further observes that organized criminal syndicates increasingly exploit digital technologies, social media platforms, and online recruitment networks, thereby making trafficking more sophisticated and difficult to detect. Indian scholars including K. Chockalingam, Upendra Baxi, and P. M. Nair have examined trafficking from criminological, sociological, and human rights perspectives, emphasizing that poverty, migration, unemployment, gender inequality, illiteracy, social exclusion, and weak institutional responses remain major factors contributing to trafficking in India. Their studies collectively argue that trafficking cannot be effectively addressed solely through criminal prosecution but requires comprehensive preventive policies, economic empowerment, community participation, and survivor rehabilitation. Empirical studies conducted by the National Human Rights Commission (NHRC), National Crime Records Bureau (NCRB), and the National Commission for Women (NCW) further reveal that despite an extensive legislative framework, conviction rates in trafficking cases remain relatively low because of inadequate investigation, delayed trials, poor evidence collection, witness intimidation, corruption, lack of coordination among enforcement agencies, and insufficient training of investigators and prosecutors. These studies also highlight that victims frequently hesitate to cooperate with law enforcement authorities because of fear of retaliation, social stigma, and inadequate rehabilitation support. Legal scholars analysing the erstwhile Indian Penal Code have observed that Section 370, inserted through the Criminal Law (Amendment) Act, 2013, significantly expanded the definition of trafficking in conformity with the Palermo Protocol; however, procedural limitations under the Code of Criminal Procedure, 1973 and evidentiary constraints under the Indian Evidence Act, 1872 often weakened effective prosecution. Consequently,

the enactment of the Bharatiya Nyaya Sanhita, 2023, Bharatiya Nagarik Suraksha Sanhita, 2023, and Bharatiya Sakshya Adhiniyam, 2023 has generated considerable academic interest regarding their potential to strengthen victim protection, modernize criminal investigations through technological integration, improve evidentiary standards, and ensure expeditious criminal trials. International scholarship, particularly the work of Anne T. Gallagher, further advocates a victim-centred approach that prioritizes victim identification, rescue, compensation, psychological counselling, rehabilitation, witness protection, and long-term reintegration rather than focusing exclusively on offender punishment. These principles are reflected in international instruments such as the Palermo Protocol, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), and the United Nations Convention on the Rights of the Child (UNCRC), which collectively emphasize prevention, protection, prosecution, and international cooperation. Recent legal commentaries on the Bharatiya criminal laws suggest that innovations such as electronic evidence, forensic investigation, digital documentation, and time-bound procedural mechanisms may significantly improve criminal justice delivery in trafficking cases. Nevertheless, scholars caution that legislative reforms alone cannot eradicate trafficking unless accompanied by institutional capacity building, specialized anti-trafficking units, effective inter-state coordination, victim-sensitive policing, technological preparedness, and robust implementation at the grassroots level. Although the existing literature comprehensively establishes the gravity of human trafficking and the necessity for legal reforms, scholarly analysis specifically evaluating the impact of India's new criminal laws on trafficking prevention and victim protection remains limited. The present study seeks to bridge this research gap by critically examining the effectiveness of the Bharatiya criminal laws in protecting women and children against trafficking while assessing their conformity with constitutional guarantees and international human rights standards.

III. METHODOLOGY

The present study adopts a doctrinal and analytical research methodology to critically evaluate the effectiveness of India's new criminal laws in preventing and combating human trafficking, particularly concerning women and children. Since the research primarily examines statutory provisions, judicial interpretations, constitutional principles, and international legal standards, doctrinal research provides the most appropriate framework for analysing the evolving legal regime governing trafficking offences.

The study is primarily based on secondary sources of data. These include the Bharatiya Nyaya Sanhita, 2023, Bharatiya Nagarik Suraksha Sanhita, 2023, Bharatiya Sakshya Adhiniyam, 2023, the Constitution of India, the Immoral Traffic (Prevention) Act, 1956, the Protection of Children from Sexual Offences Act, 2012, the Juvenile Justice (Care and Protection of Children) Act, 2015, and other relevant statutory instruments. Judicial precedents delivered by the Supreme Court of India and various High Courts have also been examined to understand the evolving judicial approach towards trafficking offences and victim protection.

Although the study is doctrinal in nature and does not involve field surveys or empirical interviews, it integrates recent governmental reports and statistical data to support legal analysis and policy evaluation. Consequently, the research provides a balanced assessment of both the theoretical framework and the practical implications of the new criminal laws in addressing human trafficking in India.

IV. RESULTS AND DISCUSSION

The Bharatiya Nyaya Sanhita, 2023 (BNS), Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), and Bharatiya Sakshya Adhiniyam, 2023 (BSA) represent significant reforms in India's criminal justice system aimed at strengthening the legal framework against human trafficking. The BNS retains and reinforces the offence of trafficking by recognizing exploitation through coercion, fraud, deception, abuse of authority, and other unlawful means while prescribing stringent punishment, particularly for offences involving women and children. The BNSS introduces procedural reforms such as digital investigation, electronic filing of complaints, videography during investigations, forensic support, and time-bound investigations, thereby improving the efficiency and transparency of criminal proceedings. Likewise, the BSA modernizes the law of evidence by recognizing electronic and digital evidence, including mobile records, CCTV footage, GPS data, financial transactions, and online communications, which are increasingly crucial in prosecuting organized trafficking networks. These reforms are further supported by Article 23 of the Constitution of India and special legislations such as the Immoral Traffic (Prevention) Act, 1956, the Protection of Children from Sexual Offences Act, 2012, and the Juvenile Justice (Care and Protection of Children) Act, 2015, while remaining consistent with international

instruments such as the Palermo Protocol, CEDAW, and the United Nations Convention on the Rights of the Child. Judicial decisions, including *Vishal Jeet v. Union of India* and *Bachpan Bachao Andolan v. Union of India*, have further emphasized victim protection and rehabilitation as essential components of anti-trafficking efforts. However, practical challenges such as underreporting, inadequate inter-state coordination, inconsistent rehabilitation facilities, cyber-enabled trafficking, shortage of trained investigators, and low conviction rates continue to affect effective implementation. Therefore, although the new criminal laws significantly strengthen India's anti-trafficking framework, their success ultimately depends upon effective enforcement, technological preparedness, institutional coordination, specialized anti-trafficking units, and comprehensive rehabilitation measures to ensure meaningful protection for women and children.

V. CONCLUSION AND FUTURE SCOPE

Human trafficking remains one of the most serious violations of human rights, disproportionately affecting women and children through various forms of exploitation. The enactment of the *Bharatiya Nyaya Sanhita, 2023*, *Bharatiya Nagarik Suraksha Sanhita, 2023*, and *Bharatiya Sakshya Adhiniyam, 2023* has significantly strengthened India's legal framework by introducing victim-centric provisions, procedural reforms, and recognition of digital evidence to improve the investigation and prosecution of trafficking offences. The study finds that these reforms are broadly consistent with Article 23 of the Constitution of India and India's international obligations under the Palermo Protocol, CEDAW, and the United Nations Convention on the Rights of the Child. However, challenges such as underreporting, inadequate victim rehabilitation, weak inter-state coordination, cyber-enabled trafficking, and low conviction rates continue to hinder effective implementation. Therefore, legislative reforms must be supported by effective enforcement, institutional coordination, technological capacity, public awareness, and comprehensive rehabilitation programmes to ensure meaningful protection of trafficking victims. A multidisciplinary approach integrating criminal justice with social welfare and international cooperation is essential for achieving sustainable prevention and victim protection.

Future Scope

Future research should evaluate the practical implementation of the new criminal laws across different States and assess their effectiveness in reducing trafficking offences. Comparative studies with other South Asian jurisdictions, along with research on cyber-enabled trafficking, artificial intelligence in criminal investigations, victim compensation, and rehabilitation mechanisms, would further strengthen India's anti-trafficking legal and policy framework.

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