



Preventing Immoral Traffic in India: A Study of Laws, Policies And Human Rights

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Abstract:

Human trafficking for commercial sexual exploitation remains a persistent violation of human dignity and fundamental rights in India. Despite constitutional guarantees, statutory enactments, and policy interventions aimed at preventing immoral traffic, the phenomenon continues due to socio-economic vulnerabilities, gender inequality, migration, and weak enforcement mechanisms. This research paper undertakes a comprehensive analysis of Indian laws and policies addressing immoral traffic, with a particular emphasis on their effectiveness in protecting and promoting the human rights of trafficking victims. The study critically examines the Immoral Traffic (Prevention) Act, 1956, constitutional provisions, judicial pronouncements, and governmental schemes within a rights-based framework. It argues that although India has demonstrated formal compliance with international anti-trafficking obligations, implementation remains enforcement-centric and often results in secondary victimisation of survivors. The paper concludes by advocating a survivor-centric, human rights-based approach that prioritises dignity, rehabilitation, and social reintegration.

Keywords: *Immoral Traffic, Human Trafficking, Human Rights, Indian Law, Rehabilitation, Public Policy.*

1. Introduction:

Human trafficking is globally recognized as a serious organised crime and a grave violation of fundamental human rights. In the Indian context, trafficking for commercial sexual exploitation, commonly referred to as immoral traffic, disproportionately affects women and children from economically and socially marginalised communities. Structural factors such as poverty, caste-based exclusion, gender inequality, migration, illiteracy, and unemployment significantly increase vulnerability to trafficking networks. The persistence of immoral traffic reflects not only criminal activity but also deep-rooted social and economic inequities that continue to shape Indian society.

The Constitution of India expressly prohibits trafficking in human beings under Article 23 and guarantees the right to life with dignity under Article 21. These constitutional provisions impose a positive obligation on the State to prevent trafficking, prosecute offenders, and protect victims. India is also a signatory to several international instruments, including the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, 2000. However, despite these commitments, the lived experiences of trafficking survivors reveal a significant gap between legal norms and ground-level realities. This research paper seeks to examine whether existing laws and policies preventing immoral traffic in India adequately ensure the human rights of trafficking victims.

2. Conceptual Understanding of Immoral Traffic And Human Rights:

The term immoral traffic is rooted in moralistic and colonial-era understandings of sexuality and prostitution. While the objective of preventing exploitation is legitimate, moral framing has often resulted in the conflation of consensual adult sex work with trafficking. Such conflation obscures the defining elements of trafficking, namely force, fraud, coercion, or abuse of vulnerability. From a human rights perspective, trafficking must be understood as an exploitative process rather than a moral failing of the individual.

Human trafficking violates a wide range of human rights, including the rights to liberty, bodily autonomy, health, equality, and freedom from exploitation. A human rights-based approach recognises trafficked persons as rights holders entitled to protection, assistance, participation, and remedies. This approach emphasises principles of non-discrimination, accountability, transparency, and access to justice. Importantly, it also requires that anti-trafficking measures do not result in further harm or deprivation of liberty for victims.

3. Legal Framework Governing Immoral Traffic in India:

The Immoral Traffic (Prevention) Act, 1956 is the principal legislation addressing trafficking for commercial sexual exploitation in India. Enacted to give effect to international obligations, the Act criminalises brothel-keeping, procuring persons for prostitution, living on the earnings of prostitution, and soliciting in public places. It also provides for rescue operations and institutional care for victims.

Despite its objectives, the implementation of the Act has attracted widespread criticism. Law enforcement practices often target women found in brothels or public spaces rather than traffickers and exploiters. Victims are frequently subjected to arrest, detention, or compulsory institutionalisation in protective homes, sometimes for prolonged periods. The absence of a clear statutory distinction between consensual adult sex work and trafficking undermines autonomy and dignity and contributes to secondary victimisation.

4. Constitutional And Judicial Interventions:

Indian courts have played a significant role in interpreting anti-trafficking obligations within a constitutional framework. In *Vishal Jeet v. Union of India*, the Supreme Court emphasised the need for preventive measures, rehabilitation, and social reintegration of victims of trafficking. Similarly, in *Gaurav Jain v. Union of India*, the Court reiterated that victims of prostitution are entitled to dignity and should not be treated as offenders.

While these judicial pronouncements reflect progressive constitutional values, their impact at the implementation level remains limited. Ground-level practices continue to prioritise custodial control over empowerment and rehabilitation. The gap between judicial vision and administrative reality remains a significant challenge in ensuring effective human rights protection.

5. Policy Initiatives And Institutional Mechanisms:

In addition to legislative measures, the Government of India has introduced several policy initiatives to address trafficking and victim rehabilitation. The Ujjawala Scheme focuses on prevention, rescue, rehabilitation, and reintegration of victims of trafficking for commercial sexual exploitation. The Swadhar Greh Scheme provides institutional support to women in difficult circumstances.

Anti-Human Trafficking Units have been established in various states to improve investigation and coordination. However, these initiatives face challenges such as inadequate funding, lack of trained personnel, poor inter-agency coordination, and limited adoption of trauma-informed practices. Rehabilitation remains largely shelter-centric and fails to ensure long-term economic empowerment and social inclusion.

6. Human Rights Challenges And Implementation Gaps:

Despite existing laws and policies, trafficking survivors continue to face significant human rights challenges. Involuntary institutionalisation without informed consent violates the right to personal liberty. Access to compensation, legal aid, and psychosocial support remains limited. Social stigma, family rejection, and lack of livelihood opportunities increase the risk of re-trafficking.

Existing frameworks also insufficiently address intersectional vulnerabilities related to caste, disability, age, migration status, and regional disparities. Child victims face additional risks due to inadequate educational reintegration and long-term psychological support. The lack of survivor participation in policy formulation further weakens rights protection.

7. Towards A Rights-Based And Survivor-Centric Approach:

Preventing immoral traffic requires a fundamental shift from moral regulation and punitive control to rights restoration and survivor empowerment. Comprehensive anti-trafficking legislation should clearly distinguish between trafficking and consensual adult sex work, decriminalise victims, and guarantee non-punishment for acts committed under coercion.

Rehabilitation must move beyond short-term shelter care towards long-term strategies focusing on education, vocational training, mental health services, and community-based reintegration. Capacity building of law enforcement and judicial officers through gender-sensitive and trauma-informed training is essential. Active participation of civil society organisations and survivors in policy design and monitoring should be institutionalised.

8. Discussion:

The foregoing analysis reveals that India's response to immoral traffic is characterised by a persistent tension between moral regulation and the protection of human rights. While statutory provisions and policy frameworks formally acknowledge trafficking as a serious offence and a violation of constitutional guarantees, their operational emphasis continues to privilege control-oriented mechanisms such as rescue, surveillance, and institutional confinement over survivor autonomy and long-term empowerment. This disconnect has significant implications for the effectiveness and legitimacy of anti-trafficking governance.

A central concern emerging from the discussion is the continued conflation of trafficking with prostitution under the Immoral Traffic (Prevention) Act, 1956. Such conflation complicates the process of victim identification and often results in the criminalisation and stigmatisation of individuals who have been subjected to coercion, deception, and exploitation. From a human rights perspective, these practices undermine the principles of dignity, agency, and equality before law, thereby weakening trust in law-enforcement institutions and discouraging victims from seeking assistance.

Judicial interventions have articulated progressive constitutional ideals centred on rehabilitation, dignity, and social reintegration. Decisions such as *Vishal Jeet v. Union of India* and *Gaurav Jain v. Union of India* underscore the State's obligation to treat victims as rights-bearing individuals rather than offenders. However, the limited translation of these judicial principles into administrative practice highlights gaps in accountability, coordination, and institutional capacity. The absence of enforceable standards for rehabilitation homes and monitoring mechanisms further exacerbates these challenges.

Policy initiatives such as the Ujjawala Scheme reflect governmental recognition of survivor welfare and rehabilitation. Nevertheless, their impact remains constrained by uneven implementation across states, inadequate funding, and insufficient integration with education, health care, and livelihood systems. Rescue-centric approaches that fail to address the socio-economic determinants of trafficking risk perpetuating cycles of vulnerability and re-trafficking rather than achieving sustainable prevention.

The discussion also highlights the marginalisation of survivor voices in policy formulation and evaluation. The absence of meaningful survivor participation weakens the relevance and effectiveness of anti-trafficking measures. Incorporating survivor perspectives can enhance policy responsiveness, reduce stigma, and promote reintegration strategies grounded in lived experience. A shift towards participatory, rights-based governance is therefore essential for aligning India's anti-trafficking response with constitutional morality and international human rights standards.

9. Conclusion:

India's legal and policy framework to prevent immoral traffic reflects an evolving recognition of human rights obligations. However, enforcement-centric approaches, inadequate rehabilitation, and persistent stigma continue to undermine victim protection. Effective prevention of immoral traffic requires aligning laws and policies with constitutional morality, international human rights standards, and survivor experiences. A holistic, rights-based approach that restores dignity, autonomy, and social inclusion is indispensable for meaningful and sustainable anti-trafficking governance in India.

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