

6. Child Trafficking- Governance

Child trafficking and commercial sexual exploitation a ‘deeply disturbing reality’ in India- Supreme Court

The Supreme Court’s 2025 judgment mandates treating trafficked children as “injured witnesses” rather than accomplices, directing courts to overlook minor inconsistencies in their testimonies due to trauma. It recognizes trafficking as an organized crime often “masked” as kidnapping and emphasizes “judicial realism” to protect victims from socio-economic marginalization.

Key Guidelines from the 2025 Judgment

- Status as “Injured Witness”-** The Court directed that trafficked child must never be treated as accomplices in legal proceedings. Their testimonies must be accorded the same evidentiary weight as that of an “injured witness,” recognizing the immense trauma they have survived.
- Sensitivity in Evidence Evaluation-** Courts must adopt a sensitive and realistic approach when assessing survivor testimonies. Minor inconsistencies in a child’s statement should not be grounds for disbelieving them. Judges must account for the trauma and secondary victimization faced by the child during the daunting legal process.
- Recognition of Organized Crime-** The judgment explicitly acknowledges that trafficking networks operate through complex, multi-stage cartels (recruitment, transportation, harboring, exploitation). These stages are often clandestine, making it difficult for a victim to provide a coherent narrative of the entire sequence of events.
- Consideration of Socio-Economic Vulnerability-** Judicial reasoning must factor in the socio-economic and cultural vulnerabilities of the victim. There is a specific focus on children from marginalized or socially backward communities, who are disproportionately targeted by traffickers.

Understanding Child Trafficking

- Global Definition (UN Palermo Protocol)-** Trafficking involves the recruitment or movement of individuals through threat, force, or deception for the purpose of exploitation.
- Crucial Distinction for Children-** For a child, the act of exploitation alone constitutes trafficking, regardless of whether force or deception was used during recruitment.
- National Definition (Indian Law)**
 - IPC Section 370-** Defines trafficking as recruitment, transportation, or harboring for exploitation (including physical/sexual exploitation, slavery, and forced labor).
 - Bharatiya Nyaya Sanhita (BNS)-** The definition has been expanded to include modern threats like online trafficking and trafficking for forced marriages.

Trafficking Stages and Counter-Measures

Trafficking Stage	Vulnerabilities Exploited	Counter-Measures (SC Guidelines/Govt)
Recruitment	Deception, Extreme Poverty	Awareness campaigns, Community Vigilance
Transportation	Gaps in inter-state coordination	Anti-Human Trafficking Units (AHTUs) coordination, Tech tracking
Harbouring	Isolation of the victim	Technology-based tracking, Giving credence to victim testimony
Exploitation	Sexual abuse, Forced Labor	Credence to victim testimony, Comprehensive Rehabilitation

Concerning Statistics (Data Snapshot)

- Global Standing-** India serves as a major source, transit, and destination for human trafficking, primarily for commercial sexual exploitation and forced labor.
- NCRB 2023 Data**
 - Total Crimes-** 177,335 crimes against children were registered.
 - Trend-** A 9.2% rise was observed compared to 2022.
 - Regional Hotspots (By Volume)**
 - Madhya Pradesh- 22,393 cases

2. Maharashtra- 22,390 cases

3. Uttar Pradesh- 18,852 cases

Highest Crime Rates (Per Lakh Children)

1. Assam- 84.2 (Highest among states)

2. Delhi- 140.3 (Highest among Union Territories)

The "Masking" Phenomenon- Official trafficking records (2,183 cases) show massive underreporting compared to victim data (approx. 2,878 child victims).

Kidnapping as Proxy- 45% of crimes against children are registered as "Kidnapping/Abduction." Experts suspect many of these (especially in Bihar/Rajasthan) are actually trafficking cases masked to avoid complex investigations.

Urban Trends- Delhi and Mumbai are witnessing alarming rises in trafficking for domestic servitude and commercial sex. Delhi saw a 68% increase in incidents post-Covid.

US TIP Report 2024- India remains on Tier 2, citing persistent issues like abuse in government shelters leading to re-trafficking.

Root Causes of Child Trafficking

Economic Deprivation- Persistent poverty and lack of livelihood options push rural families to unknowingly entrust children to traffickers.

Systemic Deception- Traffickers use false promises of education or employment to lure victims, only to isolate and exploit them later.

Social Marginalization- Children from socially backward communities lack access to legal protection and social support, making them easy targets.

High Demand- The demand for cheap labor in the informal sector and the lucrative nature of commercial sexual exploitation create powerful economic incentives for cartels.

Constitutional and Legislative Provisions

Constitutional Safeguards

Article 21- The 2025 judgment anchors anti-trafficking efforts here, asserting that Right to Life includes bodily integrity and human dignity. Trafficking subjects' children to "moral and material abandonment."

Article 23- Explicitly prohibits traffic in human beings and forced labor (begar), mandating the State to dismantle commodification of humans.

Legislative Framework

Immoral Traffic (Prevention) Act (ITPA), 1956- The primary law penalizing commercial sexual exploitation, providing for raids, rescue, and prosecution.

Criminal Law (Amendment) Act, 2013 & BNS- Revamped Section 370 to broaden definitions. The Bharatiya Nyaya Sanhita (BNS) introduces stricter penalties for organized crime, online grooming, and forced marriage.

POCSO Act, 2012- Provides a child-friendly legal process to prevent secondary victimization during evidence recording.

Supplementary Laws- Includes the Prohibition of Child Marriage Act, Bonded Labour System (Abolition) Act, and Transplantation of Human Organs Act.

Alignment with Sustainable Development Goals (SDGs)

SDG 5 (Gender Equality)- Eliminating violence against women and girls (Target 5.2) is crucial, as girls are disproportionately targeted for sexual exploitation.

SDG 8.7 (Decent Work)- India is committed to ending modern slavery and the worst forms of child labor by 2030.

SDG 16 (Peace & Justice)- Focuses on ending abuse and exploitation (Target 16.2). The Supreme Court's "judicial realism" strengthens institutional capacity for equitable justice.

Government Measures & Institutional Mechanisms

Anti-Trafficking Nodal Cell- Established by MHA (2006) to coordinate national policy.

Anti-Human Trafficking Units (AHTUs)- Specialized units in 270 districts for strengthened law enforcement.

Mission Vatsalya- Under MWCD, focusing on child protection, non-institutional care, and rehabilitation.

Includes **open shelters** and vulnerability mapping (e.g., Samvardhan program).

Mission Shakti Portal– Upcoming 2025 launch to integrate services.

Ujjawala Scheme– Dedicated to rescue and rehabilitation for victims of commercial sexual exploitation.

Challenges in Tackling Child Trafficking

Legislative & Institutional Gaps

No Comprehensive Law– The *Trafficking of Persons Bill (2018)* passed Lok Sabha but lapsed in Rajya Sabha, leaving a legislative vacuum.

Fragmentation– Laws are split across ITPA, POCSO, and BNS, creating jurisdictional confusion that cartels exploit.

Systemic Failures

Complex Networks– Organized crime uses secretive verticals; police struggle to trace links from rural recruiters to urban exploiters.

AHTU Constraints– Units are often underfunded, understaffed, and lack specialized training, leading to **low conviction rates**.

Federalism Issues– Poor coordination between Central and State agencies hinders cross-border tracking.

Victim-Centric Issues

Hostile Courts– Secondary victimization in insensitive courts leads to reluctant testimonies and collapsed cases.

Corruption– Complicity within law enforcement protects traffickers.

Rehabilitation Crisis– Lack of long-term support leads to material abandonment and re-trafficking. Government shelter homes often report abuse.

Emerging Threats

Digital Trafficking– Use of social media for online grooming is "conveniently veiled" and hard to detect.

Disaster Vulnerability– Trafficking spikes during post-disaster periods or economic crises.

Way Forward

Adopt Judicial Realism– Implement the 2025 SC guidelines to prioritize victim protection and testimony credibility.

Tech-Driven Enforcement– Equip AHTUs with AI and Big Data to track organized crime intersections and monitor online grooming.

Multi-Stakeholder Collaboration– Enhance roles of NGOs (e.g., Bachpan Bachao Andolan) and **Panchayati Raj Institutions** as first responders.

Comprehensive Rehabilitation– Focus on economic empowerment and social reintegration to break the cycle of re-trafficking.

Accountability– Conduct annual audits of AHTUs and enforce MHA advisories.

Strengthen Fast-Track Courts– Expand the network of Fast-Track Special Courts (FTSCs). Currently, ~773 FTSCs (including ~400 exclusive POCSO courts) are operational.

Conclusion

The Supreme Court's 2025 judgment marks a pivotal shift towards "judicial realism", demanding that the legal system see the human cost behind the crime. Addressing child trafficking requires a holistic, rights-based approach that combines robust law enforcement with compassionate rehabilitation, ensuring that the constitutional promise of dignity is a reality for every child.

Source– <https://www.thehindu.com/news/national/child-trafficking-and-commercial-sexual-exploitation-a-deeply-disturbing-reality-in-india-supreme-court/article70416356.ece>