

Male Victimization in Human Trafficking: Legal Frameworks, Challenges and Policy Recommendations

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ABSTRACT

Human trafficking is one of the most pervasive forms of transnational organised crime in the world. It constitutes grave violation of fundamental human rights. If we analyse historically, the trafficking conversation has centered on women and children, while male victims have received very less consideration. This paper discusses some of the recent trends emerging around the trafficking of men, which is a marked but underrepresented development in victim profiles, especially within the realm of labour and sexual exploitation. Following a doctrinal and analytical research methodology, the study looked at international as well as domestic legal frameworks such as the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children) and various provisions under BNS. This paper examines that despite the formal gender neutrality, these frameworks respond inadequately to men. It fails to adequately identify and address the specific vulnerabilities of male victims. It studies the various socio-cultural barriers such as the traditional complex concept of masculinity and underreporting reports of male victims. These factors contributes to the invisibility of male survivors in the criminal justice system. The institutional barriers, lack of gender inclusive policies and inadequate rehabilitation mechanism further exacerbate the marginalization of trafficked males. This study recommends targeted reforms in male victim identification, to promote support services and strict legal enforcement of legal framework so that equitable justice can be provided to all the victims without any prejudice of their gender.

Keywords: Human Rights, Human Trafficking, Male Victims, Labour Exploitation, Sexual Exploitation, Criminal Justice

INTRODUCTION

Trafficking in human beings is one of the most serious offences in the world. It can be described as one of the crucial forms of organized crime that violates the basic fundamentals of humanity. The inter- national community even defines the phenomenon as a modern form of slavery. The European Court of Human Rights (ECtHR) has also confirmed that trafficking in human beings cannot be considered consistent with inter- national human rights law or with a democratic society. The International Labour Organization (ILO) estimates the overall number of people in forced labour to be 21 million. Yet, worldwide there are only a

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few thousand convictions of traffickers every year³. While analysing historically, female turned to be the most identified victims of trafficking. Regardless of gender identity, anyone can be impacted by human trafficking for the purpose of sexual exploitation, yet this reality is frequently overlooked in the narrative around this crime. Furthermore, when men and boys are involved, the discussion typically focuses on keeping them from committing acts of violence and human trafficking. More recently organizations that provide direct assistance have become better at identifying male victims of human trafficking. A large proportion of victims identified are women, as human trafficking has generally been seen as a crime which affects mostly women. Over time, a higher percentage of men have been identified and it is acknowledged that men are also vulnerable to human trafficking. For every age group, the ratio of children of both genders to the adults is roughly the same. Therefore this study contends that despite the provisions of gender-neutral laws, the male victims often remain excluded because of the institutional biases. This demands the significant need of drastic action to prevent this evil and to protect the morality and dignity of humankind.

INTERNATIONAL DEFINITIONS OF TRAFFICKING

According to the Trafficking Protocol 2000⁴,

“Trafficking is the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, abduction, fraud or deception. It means the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs”.

According to Venkatarmiya’s Law Lexicon⁵,

“Trafficking means to carry on a trade in, to buy and sell often with sinister implication, used in disappearing, sense of mind of dealing considered improper. One may also refer to the use of phrases like slave traffic, opinion traffic, traffic in men lives and so on. The term will cover a case where there are repeated sales conducted as a business that is a profit motive, in a commodity whose sale would be improper or would carry a stigma”.

According to United Nations Office on Drugs and Crime (UNODC)⁶,

“Human Trafficking is the recruitment, transportation, transfer, harbouring or receipt of people through force, fraud or deception. It aims of exploiting them for profit. Men, women and children of all ages and from all backgrounds can become victims of this crime, which occurs in every region of the world. The traffickers often use violence or fraudulent employment agencies and fake promises of education and job opportunities to trick and coerce their victims”.

TRAFFICKING OF MEN: RECENT TRENDS

Women are more prevalent in younger age groups, whilst men are more prevalent in older age groups. The 18–20 age group has the highest percentage of female victims, whereas the lowest age groupings and those

³ Dominika Borg Jansson. *Modern Slavery – A Comparative Study of the Definition to Trafficking in Person* (Leiden: Brill, 2014) 1.

⁴ United Nations Human Rights Office of the High Commissioner, *Report on Human Rights and Human Trafficking* (2016) 9.

⁵ *The Venkatarmiya’s Law Lexicon* (INZ Vol. 5, Allahabad 1975) 1734.

⁶ United Nations Office on Drugs and Crime, retrieved from < <https://www.unodc.org/unodc/en/human-trafficking/human-trafficking.html> > visited on 02.09.2023 at 4:00 p.m.

over 39 have the highest percentage of male victims. Compared to a fifth of women, more than one-third of men have some kind of technical training. Women who are trafficked are more likely than men to have completed middle and high school. Up until 2012, over 90% of male victims had been trafficked for labour exploitation; however, since then, this number has steadily declined as a result of an increase in male sexual exploitation instances. Over time, the percentage of female victims of sexual exploitation has consistently declined, primarily as a result of an increase in the percentage of female victims of labour exploitation. This percentage increased to 75% in 2016 after rising once again over the previous two years.⁷ Even though the category of female trafficking still represents the majority of victims, the ratio of male victims has proliferated from 16% to 29% since 2004 to 2014. The proportion of forced labour trafficked victims has also increased recently. Around four out of ten victims were captured for bonded labour out of which 63% were men from 2012 to 2014. 82% of the trafficking for organ removal purpose also consists of the male category.⁸

This paper provides various insights into the psychological challenges faced by the male victim survivors. Male victims of sexual exploitation frequently wait longer than female victims to report their experiences and seek assistance from others, while experiencing severe trauma as a result of the abuse. The different obstacles that men face when trying to report their exploitation or simply to be recognised as victims of human trafficking may be the source of this inequitable integration. Some of the factors are as follows:

- a. **Lack of awareness about male victimization of this crime:** Human trafficking training curricula frequently claim that only women are susceptible to being trafficked. When interacting with a male survivor, community members, caregivers and helping professionals are therefore less likely to spot the warning indications of human trafficking and exploitation. Additionally, they are less inclined to enquire about the sexual violence.
- b. **Perceptions of Masculinity:** Young men are frequently exposed to conventional idea of a males who doesn't require assistance from others. There is little to no space for disclosure of sexual exploitation or help-seeking behaviours because it is primarily focused on establishing and preserving power. Furthermore, homophobic and stereotyped messages on same-sex partnerships may be included in the narratives of masculinity. A man may feel more ashamed, afraid and confused if he has been taken advantage of by other male, as is frequently the case, which keeps him from speaking up.
- c. **Availability of limited options:** Same as to the females, males may also make a typical option to remain in an exploitative situation or participation in sex work to meet their basic needs and sometimes they have to do it unwantedly. In that kind of situation they become totally helpless and miserable.
- d. **Lack of services equipment to meet needs of male victim survivors:** When a man has the guts to come out and report sexual exploitation, he is frequently faced with inadequate services. Currently, there are only a few service providers who specialise in helping men who have been sexually exploited. The Men's Resource Centre in Manitoba, the Men's Trauma Centre in British Columbia, SHASE in Sherbrooke, Quebec and the Support Services for Male Survivors of Sexual Abuse program in Ontario are a few examples of similar services. Unfortunately, these programs are restricted to a particular community or area and can have long waitlists. Furthermore, some services are only funded for a set

⁷ CTDC, "Human Trafficking and Gender: Differences, Similarities and Trends", retrieved from <https://www.ctdatacollaborative.org/story/human-trafficking-and-gender-differences-similarities-and-trends> visited on 16.09.2023 at 11:00 p.m.

⁸ ICAT, "The Gender Dimensions of Human Trafficking" retrieved from <https://icat.un.org/sites/g/files/tmzbd1461/files/publications/icat-ib-04-v.1.pdf> visited on 12.06.2026 at 10:00 p.m.

number of counselling sessions, which is incompatible with the realities of long-term trauma treatment.⁹

LEGAL FRAMEWORK OF HUMAN TRAFFICKING

1. CONSTITUTIONAL PROVISIONS

Article 23 of the Constitution of India 1949, prohibits the trafficking of human beings and other such similar forms of forced labour. Any person who contravenes these provisions of the Indian Constitution shall be punishable in accordance with the law. Article 23 further complements to the Article 19. This frees the poor and the dumb people of the society from the curse of beggar. However a voluntary agreement to do extra work for payment is not beggar or forced labour¹⁰.

2. BNS PROVISIONS

Section 143 of the BNS¹¹ (corresponding to IPC 370), criminalizes the trafficking of persons for purposes of exploitation. It includes various acts such as recruitment, transportation, transfer, harboring or receipt of individuals through threats, force, coercion, fraud or inducement under the category of human trafficking. This exploitation includes sexual exploitation, slavery, servitude, forced labor, forced removal of organs and other different forms of abuse. The consent of the victim is irrelevant to the offence. Punishments of this crime varies according to the number of victims and their age.

Section 144 of BNS¹² (corresponding to IPC 370A), addresses the exploitation of trafficked persons. It penalizes those persons who use trafficked individuals for sexual exploitation, forced labor, servitude or other kind of abusive practices. This provision focuses on the use and abuse of victims after trafficking, ensuring legal accountability for exploiters.

Section 98 of BNS¹³ (corresponding to IPC 372), criminalizes the sale of a child for sexual exploitation, including prostitution or illicit intercourse. It applies to anyone engaged in transferring children for commercial or exploitative purposes.

Section 146 of BNS¹⁴ (corresponding to IPC 374), prohibits forcing individuals to perform labor against their will without lawful justification. It targets bonded labor, forced labor, and similar forms of exploitation often associated with trafficking.

Section 99 of BNS¹⁵ (corresponding to IPC 373), penalizes the purchase of a child for sexual exploitation, including prostitution or illicit intercourse. It also complements Section 98 by addressing the demand side of child trafficking.

3. OTHER LEGISLATIONS

The Immoral Traffic (Prevention) Act, 1956: ITPA, 1956 is India's most important legislative framework for stopping and punishing Human Trafficking for commercial sexual exploitation. It was enacted to prevent and combat trafficking of women and children. This legislation was enacted in pursuance of the 1950 United Nations Convention on trafficking and prostitution. It applies all over India and defines key terms like brothel and prostitution to criminalize various activities which facilitate sexual

⁹ THECENTRE, "Sex Trafficking of Males," retrieved from <https://www.canadiancentretoendhumantrafficking.ca/sex-trafficking-of-males/> visited on 16.09.2023 at 7:00 p.m.

¹⁰ V.D. Mahajan. *Constitutional Law of India* (Lucknow: Eastern Book Company, 1991) 269.

¹¹ Bharatiya Nyaya Sanhita 2023, s. 143.

¹² Bharatiya Nyaya Sanhita 2023, s. 144.

¹³ Bharatiya Nyaya Sanhita 2023, s. 98.

¹⁴ Bharatiya Nyaya Sanhita 2023, s. 146.

¹⁵ Bharatiya Nyaya Sanhita 2023, s. 99.

exploitation. These include running or allowing brothels and living on the earnings of prostitution. It also covers the acts such as procuring or inducing persons into prostitution and detaining individuals for sexual purposes. The Act provides for protective homes and rehabilitation. It provides various judicial measures to curb exploitation and protect vulnerable individuals. It is a central legal framework used by the law enforcement agencies and courts to address trafficking related offences.¹⁶

UN Conventions: United Nations Convention on Transnational Organised Crime (UNTOC), 2000: It defined “child trafficking” as the recruitment, transportation, transfer, harboring or receipt of persons by means of threat, coercion, abduction, fraud and by deception. It includes the abuse of power, giving or receiving of payments or benefits to achieve the consent of a person having control over another person for the purpose of exploitation and prostitution etc. It includes slavery, forced labour or services and the removal of organs for exploitation. Prevention, Suppression and Punishment of Trafficking in Persons, especially Women and Children, is one of the Protocols of this Convention, which India has ratified. A number of steps have been taken to put the convention into practice, including the enactment of the Criminal Law Amendment Act, 2013, which defines human trafficking in accordance with the Protocol.¹⁷

SAARC Convention: India has ratified the SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution. A Regional Task Force was also constituted to implement the SAARC Convention. It defines the term ‘trafficking’ means the moving, buying or selling of women and children for prostitution within and outside a country for considerations with or without the consent of the victim.¹⁸

A Memorandum of Understanding (MoU): This was signed between India and Bangladesh in June, 2015. It was a Bi-lateral Cooperation for Prevention of Human Trafficking in Women and Children. It provides for the Rescue, Recovery, Repatriation and Re-integration of victims of trafficking. It strengthens joint action to stop trafficking, to supports the investigation and prosecution of traffickers. It also sets out measures to protect victims’ rights and return them safely to their home country for rehabilitation. A joint task force between both nations coordinates these efforts to make the process efficient and victim-focused.¹⁹

CRITICAL ANALYSIS OF GENDER GAPS IN HUMAN TRAFFICKING LAWS

The legislative framework in India covers Sections 143, 144, 98, 146, and 99 of the Bharatiya Nyaya Sanhita (BNS).²⁰ It provides comprehensive criminalization of human trafficking, exploitation and related offenses. These provisions are further strengthened with the various constitutional safeguards. Article 23 of the Indian Constitution and international instruments like the UN Palermo Protocol and the Convention on the Rights of the Child (CRC) collectively, aims to prevent trafficking, protect victims and penalize the perpetrators of these grave offences. However, a critical examination reveals a gendered orientation in both law and policy. Majority of the provisions uses gender-neutral language such as “any person” or “individual,” but these are historically interpreted and implemented with a primary focus on women and children. Sections 98 and 99 of the BNS, explicitly target child trafficking for sexual exploitation that

¹⁶ Government of India, The Immoral Traffic (Prevention) Act, 1956, Act No. 104 of 1956.

¹⁷ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, the United Nations Convention against Transnational Organized Crime, UN, 2000.

¹⁸ South Asian Association for Regional Cooperation (SAARC), 2002.

¹⁹ Ministry of External Affairs, “Human trafficking”, retrieved from <<https://www.mea.gov.in/human-trafficking.htm>> visited on 16.09.2023 at 12:10 a.m.

²⁰ Bharatiya Nyaya Sanhita 2023.

reflects the long-standing concern for vulnerable female populations. Similarly different policy measures, rescue operations, rehabilitation programs and public awareness campaigns overwhelmingly cater to women and children by leaving male victims relatively of less consideration.

In International Organization for Migration (IOM's) latest Migration Research Series (MRS) report which seeks to shed new light on this growing global phenomenon on the trafficking of males from Belarus and Ukraine, reveals that in both countries, male victims accounted respectively for 28.3%. The research, conducted by Rebecca Surtees of the NEXUS Institute, is based on interviews with 685 trafficked males. It shows that adult men were overwhelmingly trafficked for forced labour, mostly in the construction sector in Russia. A minority, especially boys, were trafficked for begging, petty theft or sexual exploitation in Russia. A combination of abuse or threat of abuse, non-payments, debts and restricted freedom of movement kept many men in situations of exploitation. Therefore more attention must be paid to the trafficking of men and boys now so that they can be prevented from physical, mental and even sexual exploitation.²¹ The CTDC in its article mainly concerned about that important progress has been made in recent years in the identification of men as victims of trafficking. Historically, most identified victims of human trafficking were women. More recently organizations that provide direct assistance have become better at identifying male victims of human trafficking. A large proportion of victims identified are women, as human trafficking has generally been seen as a crime which affects mostly women. Over time, a higher percentage of men have been identified and it is acknowledged that men are also are vulnerable to human trafficking. The proportion of children relative to adults for each age group is about the same. False promises and labor-related tactics like wage withholding and long hours are often used to coerce male victims of human trafficking.²²

In the case of *Budhadev Karmaskar v. State of West Bengal*, Supreme Court recognised that individuals involved in sex work are entitled to fundamental rights to live with dignity. The persons those trafficked into exploitation are also to be protected under Article 21 of the Constitution. The Court suo moto converted the criminal appeal into a Public Interest Litigation to highlight systemic issues faced by sex workers. It directed the constitution of a panel to make recommendations for their rehabilitation and welfare. This judgment emphasised that criminal law must be applied with sensitivity to the lived realities and dignity of victims of sexual exploitation²³. The contemporary trends reflect the increasing ratio of male trafficking in the world. It is shifting in the context of labour exploitation, forced criminal activity and the sexual exploitation of men. Various studies reporting that male victim rates are approaching even on equal footing to the female rates. The legislative instruments and enforcement agencies still provide a very limited guidance for the identification, protection and rehabilitation of male victims. The shelters and support services for the men are scarce. The social stigma often leads to less reporting of their exploitation instances. These factors marginalised male victims within the legal and administrative systems. This gray area demonstrates that the neutral statutory language alone can't to sufficient to deal with this issue. The implementation practices and support mechanism needs to be improved. The invisibility of male victims not just affects the law enforcement efficacy but it also perpetuate the cycles of exploitation and socio-economic marginalization. The BNS provisions modernize and consolidated anti-trafficking laws but the

²¹ "Trafficking of Men: A Trend Less Considered," retrieved from < <https://www.iom.int/news/trafficking-men-trend-less-considered> > visited on 21.09.2023 at 5:35 p.m.

²² "Human Trafficking and Gender: Differences, Similarities and Trends," retrieved from <https://www.ctdatacollaborative.org/story/human-trafficking-and-gender-differences-similarities-and-trends> visited on 21.09.2023 at 9:00 p.m.

²³ *Budhadev Karmaskar v. State of West Bengal*, Criminal Appeal No. 135 of 2010, (2011) 11 SCC 538 (India).

explicit recognition of male vulnerability still needs more focus because of the contemporary trafficking dynamics. Addressing of the male trafficking needs policy recalibration. It requires awareness campaigns and statutory reforms for ensuring protection mechanism. These measures are necessary for gender-inclusive and capable responding to all the victims of exploitation regardless of their gender identity.

SUGGESTED MEASURES FOR ADDRESSING MALE VICTIMIZATION

- a. **Gender-Inclusive Legal Recognition:** Legal framework and guidelines needs to be amended to explicitly recognize male victims. It should cover all forms of trafficking such as labor, sexual exploitation and forced criminal activity etc. The biased assumptions that trafficking primarily affects women and children must be changed for adequately addressing the male victimization.
- b. **Data Collection and Research:** There is a need of systematic data collection and research on male trafficking for quantifying male victimization and identify patterns. International frameworks, including the Palermo Protocol²⁴ and Convention on the Rights of the Child²⁵, should guide these reforms for emphasizing equality of protection regardless of gender.
- c. **Targeted Rescue and Rehabilitation Services:** Establishment of male-specific shelters and rehabilitation centers are necessary to handle the psychological, medical and social needs of male survivors. Training of staff in gender-sensitive counseling and trauma-informed care for men is necessary in addressing stigma and mental health issues.
- d. **Awareness and Capacity Building:** Awareness campaigns can also be conducted that highlights the stereotypes of non-vulnerability of men. Training of law enforcement agencies and NGOs can help in identifying and combating labour trafficking and male sexual exploitation.
- e. **International Cooperation and Standards:** Alignment of domestic policies with international guidelines can significantly emphasize equal protection of trafficked victims irrespective of the genders. Cross-border initiatives that rescue and rehabilitate trafficked men should also be emphasized especially in labor-intensive and exploitative sectors.

CONCLUSION

Human trafficking in India continues to pose significant socio-legal and policy challenges. The recent trends particularly shows the increasing male victimization alongside women and children. Even though the current legal system criminalized the human trafficking and also laid down several penalties but the practical implementation remains skewed towards the traditional perception of vulnerability. The male victims often remain under recognised in the rescue operations and rehabilitation programs. This highlights the persistent gap between the statutory intent and lived realities of humankind. Judicial interpretation have strengthened the victim protection but they also primarily focused on women and children. Therefore closing these gaps requires a multifaceted response of law enforcement and adoption of gender-inclusive strategies jointly. Anti trafficking efforts can be effective through the comprehensive inclusive approach of judicial sensitivity and policy innovation to meet the evolving realities of exploitation in contemporary society.

²⁴ United Nations, Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, 2000.

²⁵ United Nations, Convention on the Rights of the Child, 1989.