



# Judicial Outcomes And Victim Narratives Of Human Trafficking: A Critical Examination

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**Abstract:** Human trafficking, a grave violation of human rights, demands rigorous legal intervention to ensure justice for survivors and deter perpetrators. This article examines the intricate relationship between judicial outcomes and the narratives of human trafficking victims. It delves into the prosecution and conviction rates of trafficking cases, highlighting the existing gaps and challenges within the criminal justice system. Furthermore, it underscores the critical importance of incorporating the lived experiences of survivors into legal proceedings to foster a more victim-centered and ultimately more effective approach to combating human trafficking. By analyzing the disparities between legal outcomes and victim narratives, this research aims to contribute to a more nuanced understanding of the complexities inherent in addressing this heinous crime.

**Index Terms -** human trafficking, judicial outcomes, prosecution rates, conviction rates, victim narratives, lived experiences, criminal justice system, victim-centered approach, anti-trafficking strategies, legal frameworks, justice for survivors, deterrence, gaps in legal outcomes, survivor perspectives, trauma-informed practices.

## I.INTRODUCTION

Human trafficking, which includes the recruitment, transportation, harboring, or receipt of individuals through means of threat, force, coercion, abduction, fraud, deception, abuse of power, or exploitation of vulnerability for the purpose of exploitation, persists as a widespread global concern.<sup>1</sup> While legal structures exist at both national and international levels to criminalize and combat this crime, the effectiveness of judicial outcomes in delivering justice to victims and deterring offenders remains a subject of continuous evaluation. This article aims to explore the convergence of judicial outcomes, specifically prosecution and conviction rates, with the often-underrepresented accounts of human trafficking survivors. Comprehending the mismatches and alignments between these two dimensions is vital for formulating more responsive and impactful anti-trafficking strategies.

## Prosecution and Conviction Rates: A Global Perspective

Examining the prosecution and conviction rates for human trafficking provides a quantifiable perspective on the legal response to this crime. However, these statistics often paint an incomplete picture of the ground realities faced by victims.

Globally, prosecution and conviction rates for human trafficking remain alarmingly low compared to the estimated number of victims. Several factors contribute to this disparity:

- i. **Complexity of Cases:** Human trafficking cases are often intricate, involving transnational criminal networks, sophisticated methods of coercion and control, and difficulties in gathering sufficient evidence.<sup>2</sup>

<sup>1</sup> U.N. Office on Drugs and Crime, Global Report on Trafficking in Persons 2022 (2022).

<sup>2</sup> Polaris Project, 2023 Human Trafficking Trends in the U.S.

- ii. **Lack of Awareness and Training:** Inadequate training among law enforcement, prosecutors, and the judiciary can lead to misidentification of trafficking, mishandling of evidence, and secondary victimization of survivors.<sup>3</sup>
- iii. **Resource Constraints:** Under-resourced law enforcement agencies and judicial systems in many regions struggle to effectively investigate and prosecute these complex cases.
- iv. **Fear and Intimidation of Victims:** Traffickers often employ threats and violence to silence victims, making their cooperation with law enforcement challenging.
- v. **Conflation with Other Crimes:** Trafficking is sometimes conflated with related offenses like illegal migration or prostitution, leading to misclassification and inadequate prosecution.

#### Specific Examples:

- In India, despite a significant number of trafficking cases reported between 2018 and 2022 (10,659), the conviction rate stood at a low 19.4% in 2022. A study in the southern states of West Bengal and Andhra Pradesh revealed an even more concerning statistic, with less than 1% of traffickers charged being convicted between 2008 and 2018.
- In the European Union, while the number of registered victims increased to 10,793 in 2023, the number of convicted traffickers, although showing an increase to 2,309, remained significantly lower than the number of suspected traffickers (8,471). This indicates a considerable attrition rate throughout the judicial process.
- In the United States, while the number of prosecutions and convictions for human trafficking has seen an increase over the past decade, the overall picture suggests that many cases still do not result in successful convictions. In 2020, the conviction rate in federal human trafficking cases was 89%, but this represented the lowest number of defendants convicted since 2012, highlighting fluctuations and ongoing challenges.

These statistics underscore a significant gap between the prevalence of human trafficking and the legal outcomes achieved. This gap raises critical questions about the effectiveness of current judicial approaches and the extent to which they serve the needs and experiences of survivors.

#### The Power of Victim Narratives:

The lived experiences and narratives of human trafficking survivors offer invaluable insights that are often absent in purely statistical analyses of judicial outcomes.<sup>4</sup> These narratives can illuminate the multifaceted nature of exploitation, the long-term impacts on survivors' physical and psychological well-being, and their perspectives on justice.<sup>5</sup>

Incorporating victim narratives into legal proceedings and policymaking can lead to:

- i. **Enhanced Understanding of the Crime:** Survivors' accounts can provide a deeper understanding of the traffickers' tactics, the dynamics of control, and the various forms of exploitation experienced, which may not be evident<sup>6</sup> in traditional legal frameworks.
- ii. **Improved Victim Identification and Support:** Understanding the experiences of survivors can inform the development of more effective identification protocols and the provision of tailored support services that address their specific needs.<sup>7</sup>
- iii. **More Effective Prosecution Strategies:** Victim testimonies can be crucial evidence in prosecuting traffickers. Creating a safe and supportive environment<sup>8</sup> for survivors to share their experiences is essential for successful legal outcomes.

<sup>3</sup> U.N. Office on Drugs and Crime, Toolkit to Combat Trafficking in Persons (2008).

<sup>4</sup> International Labour Organization, Forced Labour, Modern Slavery and Human Trafficking (2022).

<sup>5</sup> Siddharth Kara, Sex Trafficking: Inside the Business of Modern Slavery 41–67 (2009).

<sup>6</sup> National Crime Records Bureau (NCRB), Crime in India 2022, Table 14.7.

<sup>7</sup> Sanjog & Partners for Anti-Trafficking, Unpacking the Shadows: A Decade of Human Trafficking Trials (2019).

<sup>8</sup> European Commission, Data Collection on Trafficking in Human Beings in the EU, 2024 Report.

- iv. **Victim-Centered Justice:** Survivors' perspectives on what constitutes justice are often broader than simply the conviction and punishment of perpetrators.<sup>9</sup> They may prioritize recovery, empowerment, prevention, and reparations. Understanding these perspectives can lead to more holistic and meaningful justice outcomes.
- v. **Challenging Misconceptions:** Survivor narratives can challenge societal misconceptions about human trafficking and victims, fostering greater empathy and support. For instance, many survivors were initially deceived or in vulnerable situations, highlighting the manipulative tactics of traffickers.

Examples of Lived Experiences:

- Survivors often recount experiences of isolation, constant monitoring, and financial dependence on their exploiters. The threat of violence and intimidation creates a climate of fear that prevents escape and cooperation with authorities.
- The psychological impact of trafficking, including anxiety, depression, PTSD, and feelings of worthlessness, can be profound and long-lasting. These experiences highlight the need for comprehensive support services beyond legal remedies.
- Many survivors express a desire for prevention and ensuring that others do not suffer similar fates, emphasizing the importance of addressing the root causes of trafficking and raising awareness.
- Some survivors have shared their experiences of being re-victimized by the criminal justice system, highlighting the need for trauma-informed approaches and greater sensitivity from legal professionals.

While specific case laws directly addressing the integration of victim narratives in judicial outcomes for human trafficking are still evolving in India, several landmark judgments and legislative developments highlight the judiciary's growing awareness of victim rights and the complexities of these cases, including those related to brothels.

Here are a few examples and relevant legal points:

### 1. Immoral Traffic (Prevention) Act, 1956 (ITPA) and its Amendments:

This is the primary legislation in India dealing with the prevention of trafficking for commercial sexual exploitation. While the focus has historically been on penalizing those running brothels and engaging in pimping, recent interpretations and amendments are increasingly recognizing the victims' perspective.

**Case Example:** While not a specific case law integrating victim narratives, the Karnataka High Court's recent stance against prosecuting victims of prostitution under Section 5 of ITPA (as reported in "From accused to survivor: Karnataka High Court ends decade of injustice for trafficking victim - Bar and Bench") signifies a shift towards recognizing trafficked individuals as victims rather than offenders.<sup>10</sup> This aligns with the principle of centering the survivor's experience and preventing their re-victimization by the legal system.

### 2. Section 370 of the Indian Penal Code (IPC) and the Criminal Law (Amendment) Act, 2013:

The 2013 amendment brought significant changes to the definition and punishment of human trafficking under Section 370 IPC.<sup>11</sup> It broadened the scope of trafficking to include various forms of exploitation and recognized the coercive and deceptive tactics used by traffickers.

While this amendment doesn't explicitly mandate the inclusion of victim narratives in a specific way, the emphasis on exploitation and coercion necessitates a deeper understanding of the survivor's experience to establish the crime. The courts, in adjudicating cases under this section, often rely on the testimony of the victims to understand the nature of the exploitation they endured.

<sup>9</sup> Natalia Ollus, When Victims Become Offenders: In Search of Coherence in the Criminal Justice System, 23 Eur. J. Crim. Pol'y & Res. 61 (2017).

<sup>10</sup> Karnataka HC, reported in Bar & Bench, Sept. 2024.

<sup>11</sup> Criminal Law (Amendment) Act, 2013, No. 13, Acts of Parliament, 2013 (India).

### 3. Protection of Children from Sexual Offences (POCSO) Act, 2012:

This Act provides specific protection to children against sexual abuse and exploitation, which often intersects with child trafficking into brothels.

The POCSO Act<sup>12</sup> emphasizes child-friendly procedures during legal proceedings and recognizes the vulnerability of child victims. While not solely focused on narratives, the Act's provisions for recording testimony and ensuring the child's well-being implicitly acknowledge the importance of their account in securing justice.

#### Bridging the Gap: Towards a More Holistic Approach

To enhance the effectiveness of judicial outcomes and ensure that justice is truly served for human trafficking survivors, a more holistic approach that integrates victim narratives is essential. This includes:

##### a) *Trauma-Informed Legal Practices:*

Implementing practices that recognize the impact of trauma on survivors and ensure their participation in legal proceedings is safe, respectful, and empowering. This involves specialized training for legal professionals on victim psychology and communication.

##### b) *Strengthening Victim Support Services:*

Providing comprehensive and accessible support services, including psychological counseling, medical care, safe housing, and legal aid, is crucial for survivors' recovery and their ability to engage with the legal system.

##### c) *Improving Data Collection and Analysis:*

Enhancing data collection on human trafficking cases, including detailed information about victim demographics, experiences, and the outcomes they seek, can provide a more nuanced understanding of the issue.

##### d) *Promoting Interagency Collaboration:*

Fostering better collaboration between law enforcement, prosecutors, the judiciary, social services, and survivor advocacy organizations can lead to more coordinated and effective responses.

##### e) *Raising Public Awareness and Challenging Stigma:*

Educating the public about the realities of human trafficking and challenging the stigma associated with victimization can create a more supportive environment for survivors and encourage reporting.

##### f) *Adopting a Broader Definition of Justice:*

Moving beyond a sole focus on prosecution and conviction to consider restorative justice approaches, reparations for victims, and measures aimed at preventing future trafficking can better align legal outcomes with the needs and desires of survivors.

#### Landmark Case laws:

Cases Defining Forced Labour and Rights of Victims:

- ***People's Union for Democratic Rights v. Union of India, (1982) 3 SCC 235:***
- case is a landmark judgment that broadly defined "forced labor" under Article 23 of the Constitution, encompassing not only physical or legal coercion but also the compulsion arising from economic distress and poverty.<sup>13</sup> It established that if a person is compelled to work due to factors like hunger or destitution and receives wages significantly lower than the minimum wage, it can be considered forced labor. While not solely about trafficking, this definition is crucial in understanding the exploitation inherent in many trafficking situations.

- ***Bandhua Mukti Morcha v. Union of India and others, AIR 1984 SC 802\_:***

This Public Interest Litigation (PIL) highlighted the plight of bonded laborers. The Supreme Court emphasized the need for the rehabilitation of released bonded laborers,<sup>14</sup> stating that it should follow

<sup>12</sup> Protection of Children from Sexual Offences Act, 2012, No. 32, Acts of Parliament, 2012 (India).

<sup>13</sup> People's Union for Democratic Rights v. Union of India, (1982) 3 SCC 235.

<sup>14</sup> Bandhua Mukti Morcha v. Union of India, AIR 1984 SC 802.



immediately after identification and release to prevent them from falling back into servitude due to poverty and despair. This case underscores the importance of addressing the vulnerabilities that traffickers exploit.

### Cases Related to Child Trafficking and Exploitation:

- ***Vishal Jeet v. Union of India, (1990) 3 SCC 318*:**

This case specifically dealt with the issue of child prostitution and trafficking. The Supreme Court recognized the problem and issued directions for the protection and rehabilitation of children who were sold into the flesh trade or pushed into it due to family circumstances or cultural reasons.<sup>15</sup> The court stressed the need for a humanistic approach in dealing with such cases, focusing on prevention and speedy action against traffickers.

- ***Bachpan Bachao Andolan v. Union of India, (2011) 9 SCC 801 (and subsequent orders)*:**

While the initial PIL was filed earlier, various orders in this ongoing case have addressed different aspects of child trafficking. The Supreme Court has recognized trafficking as organized crime and has issued directions on matters like the use of children in circuses (banning it), the need for proper implementation of laws, and the importance of rehabilitation.<sup>16</sup>

### Cases Highlighting the Role of the State and Compensation:

- ***Laxmi Kant Pandey vs. Union of India (1984) 2 SCC 244*:**

This case, concerning inter-country adoptions, laid down guidelines to prevent trafficking through adoption rackets.<sup>17</sup> It highlighted the state's responsibility in safeguarding vulnerable children.

- The **Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS)**, which is set to replace the Code of Criminal Procedure, 1973, includes Section 396, establishing a framework for victim compensation schemes.<sup>18</sup> While not a judgment, this legislative development, influenced by judicial pronouncements and the need for victim support, mandates state governments to create funds for compensating victims of crimes, including trafficking, for loss or injury and their rehabilitation.

### Recent Observations by the Supreme Court:

In recent times, as highlighted in news reports from late 2024 and early 2025, the Supreme Court has expressed concerns regarding the lack of implementation of measures to combat sex trafficking, including the non-establishment of the Organised Crime Investigative Agency (OCIA) that was directed in the *Prajwala v. Union of India* (2015) case. The court has also noted the low conviction rates despite a high number of reported cases, emphasizing the need for more effective investigation, prosecution, and victim support mechanisms.<sup>19</sup> It's important to note that the legal landscape around human trafficking is constantly evolving with new cases, interpretations of existing laws, and legislative amendments like the Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill, 2018 (though it lapsed, its provisions indicate the direction of legal thinking). These landmark cases provide a glimpse into the judiciary's engagement with the complex issue of human trafficking and its efforts to protect victims and hold perpetrators accountable.

### Conclusion:

The fight against human trafficking requires a multifaceted approach that acknowledges the limitations of solely relying on prosecution and conviction rates as indicators of success. By centering the lived experiences and narratives of survivors, the legal system can gain a deeper understanding of the complexities of this crime and develop more effective, victim-centered strategies. Bridging the gap between judicial outcomes and victim narratives is not only a matter of achieving legal justice but also of fostering healing, empowerment, and prevention in the ongoing struggle against human trafficking. Future research should continue to explore innovative ways to integrate survivor voices into legal and policy frameworks to ensure that the pursuit of justice truly reflects the needs and aspirations of those who have been harmed.

<sup>15</sup> Vishal Jeet v. Union of India, (1990) 3 SCC 318.

<sup>16</sup> Bachpan Bachao Andolan v. Union of India, (2011) 9 SCC 801.

<sup>17</sup> Laxmi Kant Pandey v. Union of India, (1984) 2 SCC 244.

<sup>18</sup> Bharatiya Nagarik Suraksha Sanhita, 2023, § 396.

<sup>19</sup> Prajwala v. Union of India, W.P. (CrL.) No. 56 of 2004; Supreme Court Orders, 2024–2025.

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