

How should India tackle child trafficking? | Explained

What is the Palermo Protocol? How does the Bhartiya Nyaya Sanhita, 2023 define trafficking? How does the Constitution of India protect children from exploitation? How has the Supreme Court reacted? Why is a strong Centre-State relationship important for countering exploitation?

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The story so far:

Child trafficking remains a deeply disturbing reality in India. The Supreme Court in its recent decision in *K. P. Kiran Kumar versus State* has given strict guidelines to prevent such offences, and held that trafficking grossly violates children's fundamental right to life as guaranteed by the Constitution. According to the National Crime Records Bureau, in 2022, about 3,098 children below 18 years were rescued. Between April 2024 and March

2025, over 53,000 children were rescued from child labour, trafficking and kidnapping across India. However, the conviction rate for such offences between 2018 and 2022 was only 4.8%.

What is child trafficking?

Internationally, the Palermo Protocol (UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children), 2000 defines child trafficking as 'the recruitment, transportation, transfer, harbouring, or receipt of a child for the purpose of exploitation.' Presently, Section 143 of Bhartiya Nyaya Sanhita (BNS) 2023 provides that "whoever, for the purpose of exploitation, recruits, transports, harbours, transfers, or receives, a person or persons by, using threats; or using force, or any other form of coercion; or by abduction; or by practising fraud, or deception; or by abuse of power; or by inducement, including the giving or receiving of payments or benefits, in order to achieve the consent of any person having control over the person recruited, transported, harboured, transferred or received, commits the offence of trafficking." The word 'exploitation' is wide enough in its scope and includes physical and sexual exploitation as well. It also includes any form of slavery, servitude, or forced removal of organs.

What are the rights of children?

The Constitution extensively provides for the protection of children. Articles 23 and 24 give protection from human trafficking, begging, forced labour and employment in hazardous industries. Apart from these provisions, the state is also obliged to ensure that children are not abused, and that they are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity. They are protected against exploitation and moral and material abandonment under Clauses (e) and (f) of Article 39 respectively.

The BNS under Sections 98 and 99 specifically addresses the 'selling and buying' of minors. On the other hand, prevention of trafficking for sexual exploitation is provided in the Immoral Traffic (Prevention) Act, 1956. Furthermore, care, protection and rehabilitation for victims of child trafficking is provided under the Juvenile Justice (Care and Protection of Children) Act, 2015. The Criminal Law Amendment Act, 2013 also intends to check such activities by providing a more comprehensive definition of trafficking by including sexual exploitation, slavery, servitude, forced labour, and organ removal. It will cover trafficking irrespective of consent.

The Protection of Children from Sexual Offences (POCSO) Act, 2012 assumes greater significance in this regard. Apart from defining offences covering sexual assault, harassment and child pornography, the Act includes stringent punishments which *inter alia* include life imprisonment and even death penalty in extreme cases. One of the most important aspects of the Act is that it is gender-neutral. In order to provide rapid trials, about 400 fast track courts set up exclusively for implementing the POCSO Act are in operation across India. These courts have set a target to dispose of around 165 cases per year per court.

What has been the judicial approach?

In *Vishal Jeet versus Union of India, 1990* it was held that trafficking and child prostitution are serious socio-economic problems and hence a preventive and humanistic approach is essential to deal with them. In *M. C. Mehta versus State of Tamil Nadu, 1996*, the Court issued guidelines with a view to prohibiting employment of children in hazardous industries. Moreover, in the *Bachpan Bachao Andolan versus Union of India, 2011* case, the top court issued directions to address widespread exploitation and trafficking of children.

What next?

The guidelines point out that the socio-economic vulnerabilities of the victims must be considered, especially those from marginalised communities. Society is still unable to protect children and adolescents from being criminals or being victims of crimes. Factors such as poverty, unemployment, migration, disasters and breakdown of the family system push children into vulnerability which strengthens the trafficking chain. In recent years, the spread of social media and online platforms has contributed to such offences, especially in terms of recruitment in the name of jobs or opportunities for “modelling”. The government must first ensure that the social, economic and political rights of children are well protected with the help of institutions built for the purpose. Second, it must come down heavily on traffickers and ensure that the conviction rate improves considerably so that a deterrence may be created. Moreover, a strong Union-State relationship is also required because law and order and police are State subjects.

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