

Human Trafficking for Forced Marriage in India Violating Human Rights: A Constitutional and Judicial Approach

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Abstract: Human trafficking for the purpose of forced marriage is an under-recognized but significant human rights violation in India. Women and girls from economically weaker regions are trafficked and coerced into marriages, often under exploitative conditions, stripping them of their autonomy, dignity, and fundamental freedoms. This paper investigates the constitutional and judicial mechanisms addressing this issue in India. It discusses relevant legal provisions, landmark judgments, and the roles of law enforcement and policy frameworks. Human trafficking is one of the gravest forms of organized crime globally, and in India, it manifests in various forms—labor, sexual exploitation, and increasingly, forced marriages. Bride trafficking, particularly in states with skewed sex ratios like Haryana, Punjab, and Rajasthan, involves the abduction, deception, and coercion of women and girls from impoverished regions like West Bengal, Assam, and Jharkhand. This phenomenon poses significant socio-legal challenges, especially concerning women's rights, personal liberty, and dignity. Bride trafficking in India is an insidious form of human trafficking wherein women and girls, often from economically disadvantaged backgrounds, are coerced, deceived, or sold into forced marriages, primarily in regions facing a severe gender imbalance. This paper investigates the causes, patterns, and human rights implications of bride trafficking in India through a rights-based lens. It explores how deep-rooted patriarchal norms, skewed sex ratios, poverty, and regional disparities perpetuate the exploitation of vulnerable women. The paper also critiques the state's response, highlights gaps in law enforcement, and examines the role of civil society in combating this violation. Recommendations are provided to ensure justice, protection, and rehabilitation for victims while upholding their human rights. The study reveals critical enforcement gaps and recommends a comprehensive, rights-based approach to effectively combat the problem.

Keywords: Human trafficking, forced marriage, human rights, Indian Constitution, judiciary, gender justice, bride trafficking, legal framework

Introduction: India continues to grapple with the persistent problem of human trafficking, especially in the form of forced marriages. Driven by poverty, skewed sex ratios, and entrenched patriarchy, young women and girls from poor regions are often trafficked to states like Haryana, Punjab, and Rajasthan where the female-to-male ratio is low. These forced marriages are not only exploitative and abusive but also infringe upon several constitutional and human rights of the victims. Human trafficking, particularly for forced marriage or bride trafficking, represents one

of the most underreported and understudied forms of exploitation in India. Bride trafficking refers to the practice of buying or coercing women into marriage, often treating them as commodities rather than human beings. This phenomenon is especially prevalent in Northern states such as Haryana, Punjab, and Rajasthan, which have historically reported low female-to-male sex ratios. While the Constitution of India guarantees equality and liberty, and the judiciary has consistently upheld these principles, the socio-legal system struggles to implement them effectively in cases of forced marriages arising from trafficking. This research paper critically analyzes bride trafficking from a human rights perspective, highlighting the complex interplay between gender discrimination, economic vulnerabilities, regional disparities, and weak enforcement of legal protections. It aims to expose the structural factors perpetuating the practice and advocate for a more holistic, rights-based response.

Understanding Bride Trafficking in India

Definition and Characteristics

Bride trafficking involves the transportation and sale of women across states or regions to serve as brides, often without their consent or knowledge of their fate. Victims are commonly lured under false pretenses of employment or legitimate marriage proposals. Upon arrival, they are forced into marriage, denied autonomy, and often subjected to physical, emotional, and sexual abuse.

Geographical Trends

Bride trafficking is most prevalent in:

Source States: Assam, West Bengal, Odisha, Jharkhand, Chhattisgarh, and Bihar — typically poorer, tribal-dominated, and economically backward.

Destination States: Haryana, Punjab, Rajasthan, Western Uttar Pradesh — areas with highly skewed sex ratios due to decades of female foeticide and neglect of girl children.

Victim Profile

The majority of trafficked brides are: Aged between 13–25 years. Belonging to Scheduled Castes or Tribes. From rural areas with low literacy. Victims of poverty and gender-based discrimination.

1. Human Trafficking and Forced Marriage: Conceptual Framework Trafficking for forced marriage involves the illegal movement and sale of individuals, especially women, with the intent of coercing them into marriage without their free and informed consent. This form of trafficking is a hidden crime, often intertwined with other abuses such as domestic servitude, sexual exploitation, and denial of basic rights. In the Indian context, victims are often sourced from tribal and underdeveloped regions and trafficked to areas with marriage market deficits.

2. Socio-Economic and Cultural Factors Contributing to the Practice

Skewed Sex Ratios: Resulting from gender-biased sex selection, states like Haryana (879 females/1000 males) experience a bride shortage, increasing demand for trafficked brides.

Poverty and Illiteracy: Vulnerable communities are lured by false promises of wealth, employment, or a better life.

Patriarchal Norms: Cultural devaluation of women and preference for sons reinforce the objectification of women as commodities.

Dowry System: Trafficked brides are often a more affordable alternative to dowry-based marriages. Ironically, in source regions where dowry is prevalent, marrying off daughters involves high costs. In contrast, trafficked brides are sold cheaply in destination states, often between ₹10,000 and ₹50,000, thus reversing traditional marriage costs and making the practice appealing for buyers.

Poverty and Migration: Economic desperation in source regions makes families vulnerable to traffickers who promise better prospects. Lack of livelihood options also pushes young women to migrate, increasing their susceptibility to exploitation.

3. Human Rights Violations in Trafficked Marriages

Right to Life and Dignity (Article 21): Victims are deprived of personal liberty and subjected to physical and emotional abuse.

Right Against Exploitation (Article 23): Forced marriage constitutes trafficking and a form of bonded labor.

Equality and Non-Discrimination (Articles 14 and 15): The practice inherently discriminates on the basis of gender.

Violation of International Treaties: India is bound by international human rights frameworks like the UDHR, CEDAW, and the Palermo Protocol, all of which condemn forced marriage and trafficking.

4. Constitutional Safeguards

The Constitution of India provides a strong foundation for the protection of individuals against human trafficking:

Article 14: Guarantees equality before the law.

Article 15(1) & 15(3): Prohibits discrimination and allows for special provisions for women and children. Bride trafficking perpetuates gender-based discrimination, violating Article 14 (Right to Equality) and Article 15 (Prohibition of Discrimination) of the Constitution.

Article 21: Guarantees the right to life and personal liberty. The Indian Constitution under Article 21 guarantees the right to life and personal liberty, which is flagrantly violated when women are forcibly married and denied bodily autonomy.

Article 23: Specifically prohibits human trafficking and forced labor. Article 23 of the Constitution prohibits human trafficking and forced labor. Trafficked brides are often treated as bonded laborers, forced to perform domestic, agricultural, and sexual duties without consent.

Child Rights Violation: Many trafficked brides are minors, making their marriages not only void under Indian law but also a violation of the Prohibition of Child Marriage Act, 2006, and the Protection of Children from Sexual Offences Act (POCSO), 2012.

5. Legal and Statutory Frameworks

Indian Penal Code (IPC): Section 366 (kidnapping, inducing a woman to compel marriage), Section 370 (trafficking), and Section 373 (buying minor for purposes of prostitution).

The Immoral Traffic (Prevention) Act, 1956: Focused on trafficking for prostitution but often invoked in related cases.

The Protection of Women from Domestic Violence Act, 2005: Provides remedies for women in abusive marriages.

The Prohibition of Child Marriage Act, 2006: Criminalizes marriage of minors.

The Criminal Law (Amendment) Act, 2013: Broadened definitions of trafficking to include exploitation and abuse.

6. Violation of International Conventions: India is a signatory to several international conventions that bride trafficking contravenes:

Universal Declaration of Human Rights (UDHR)

Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)

United Nations Convention against Transnational Organized Crime (UNTOC) and its Protocol on Trafficking in Persons

7. Judicial Interpretation and Activism Judiciary in India has consistently acted as a custodian of human rights, playing a crucial role in interpreting laws in favor of trafficking victims:

Gaurav Jain v. Union of India (1997): Supreme Court stressed the need for rehabilitative services for victims of trafficking.

Bachpan Bachao Andolan v. Union of India (2011): Directed the government to implement child protection mechanisms.

Court on its Own Motion v. State (Delhi HC, 2014): Recognized the plight of trafficked brides and called for policy reforms and enhanced enforcement.

Laxmi v. Union of India (2014): Though concerning acid attacks, emphasized the broader need for victim-centric support systems.

8. Policy and Administrative Measures

Ujjawala Scheme: Launched by the Ministry of Women and Child Development for the prevention of trafficking and rehabilitation of victims.

Anti-Human Trafficking Units (AHTUs): Established across states for improved policing and coordination.

Integrated Child Protection Scheme (ICPS): Supports child victims of trafficking.

Public Interest Litigations (PILs): Used effectively to highlight state inaction and demand accountability.

9. Challenges and Limitations

Underreporting: Stigma and fear deter victims from approaching authorities.

Lack of Training: Law enforcement and judicial officers often lack gender-sensitive training.

Poor Inter-State Coordination: Trafficking often spans state borders, requiring improved cooperation.

Inadequate Victim Rehabilitation: Shelters and support services are insufficient and under-resourced.

Absence of Specific Legislation: India lacks a dedicated law specifically addressing trafficking for marriage.

Lack of Identification: Many trafficked brides are hidden in private homes, making rescue difficult.

Poor Implementation of Laws: Despite robust legislation, enforcement remains weak due to corruption, apathy, and lack of training.

Patriarchal Norms: Women in India continue to face discrimination in matters of inheritance, education, autonomy, and marital rights. This structural inequality creates an enabling environment for bride trafficking.

10. Role of NGOs and Civil Society

Organizations like Shakti Vahini, Bachpan Bachao Andolan, and HAQ Centre for Child Rights have played vital roles in:

Rescuing trafficked girls

Providing legal aid

Conducting awareness campaigns

Lobbying for stronger policy interventions

However, the scale of the problem outpaces their reach, necessitating state-led, well-funded, and coordinated interventions.

11. Recommendations

Dedicated Legislation: Enact a comprehensive anti-trafficking law that includes forced marriage.

Strengthen Enforcement: Equip AHTUs with resources, training, and cross-state powers.

Public Awareness: Launch campaigns in vulnerable communities about the dangers and legal consequences of trafficking.

Empower Victims: Provide legal aid, compensation, shelter, and long-term rehabilitation.

Strengthening Legal Enforcement: Train police and judiciary on trafficking and forced marriage.

Establish anti-trafficking units in source and destination states. Ensure stricter implementation of child marriage and anti-trafficking laws.

Inter-State Coordination: Create joint task forces for intelligence sharing. Develop repatriation protocols for victims. Harmonize procedures between state jurisdictions.

Rehabilitation of Victims: Provide trauma counseling, shelter, and legal support. Offer vocational training and economic opportunities. Protect identity and dignity during legal proceedings.

Awareness and Education: Conduct community-level awareness drives. Include trafficking education in school curricula. Empower women through literacy and economic programs.

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Data and Research: Establish centralized databases and commission studies to understand the scale of bride trafficking.

Conclusion: Bride trafficking is a grave violation of human rights that reflects deeper societal failures — economic, legal, and cultural. Despite legal prohibitions, thousands of women continue to be trafficked and commodified in the name of marriage. A human rights approach must guide all responses, ensuring that victims are not further traumatized by the system meant to protect them. To eradicate bride trafficking, India must move beyond tokenism and build a

robust, survivor-centered ecosystem. This includes stricter law enforcement, coordinated inter-state action, community sensitization, and most importantly, a commitment to uphold the dignity and autonomy of every woman. Human trafficking for forced marriage is a deeply entrenched violation of human rights, affecting the most vulnerable women and girls in India. While the constitutional and judicial mechanisms offer strong theoretical protection, practical enforcement remains inconsistent and weak. Addressing this issue requires a multipronged strategy involving legal reforms, stronger implementation, public awareness, and above all, a commitment to upholding the dignity and freedom of every individual. Human trafficking for marriage in India represents a grave violation of constitutional rights and human dignity. Despite existing legal provisions and judicial activism, the phenomenon continues due to socio-cultural, economic, and enforcement-related challenges. A holistic approach—legal, administrative, and societal—is essential to eradicate this practice. Strengthening the constitutional promise of equality, dignity, and liberty for all women must remain the cornerstone of any anti-trafficking strategy. Only through a constitutional and human rights-based approach can India hope to eliminate this modern form of slavery.

References:

1. Constitution of India, 1950
2. Indian Penal Code, 1860
3. The Immoral Traffic (Prevention) Act, 1956
4. The Protection of Women from Domestic Violence Act, 2005
5. The Prohibition of Child Marriage Act, 2006
6. Criminal Law (Amendment) Act, 2013
7. Gaurav Jain v. Union of India, (1997) 8 SCC 114
8. Bachpan Bachao Andolan v. Union of India, (2011) 5 SCC 1
9. Court on its Own Motion v. State (Delhi HC, 2014)
10. Ministry of Women and Child Development – Ujjawala Scheme
11. National Human Rights Commission (NHRC) Reports
12. National Crime Records Bureau (NCRB) Reports
13. UNODC Global Report on Trafficking in Persons
14. Human Rights Watch Reports on Bride Trafficking in India
15. Shakti Vahini. (2013). Trafficking of Women and Children in India: A Report.
16. Sarkar, S. (2016). "Brides for Sale: Cross-Region Marriages in India." *Economic and Political Weekly*, 51(32).
17. CEDAW General Recommendation No. 31 (2014)
18. Choudhury, S. (2015). Women and Forced Marriages in India. *Journal of Human Rights and Social Work*.