

ONLINE VICTIMISATION OF MINORS: SEARCH FOR AN INTEGRATED PROTECTION MODEL

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Abstract

For a child, the internet is at once a classroom and a hazard. On one hand, it provides opportunities for self-directed learning and independence; on the other hand, it exposes children to the perils of the virtual world. Due to a lack of parental control, curiosity, whether conscious or unconscious, leads children to engage in negative internet use. Social media platforms let strangers reach minors across borders, and traffickers have adapted quickly; recruitment, grooming, and exploitation frequently begin online. The paper studies how child trafficking has migrated to cyberspaces and analyses whether the present statutory framework in India is well equipped to respond. It further analyses the legislative/statutory framework against the prevailing international mechanisms. Furthermore, it studies online predators' modus operandi and concludes with legislative and regulatory suggestions, including criminalisation of online grooming.

Keywords: Online grooming, trafficking of minors, online victimisation of minors, child rights, technology.

Introduction: Trafficking of Minors on Social Media

On an average, children begin to access the internet even before they turn six,¹ and many times children are exposed to content that may be disturbing and may require censorship. Social media platforms have changed the manner in which people - particularly minors- communicate, engage and participate with the world around them. Behind the appeal of virtual connectedness, however, lies a harder truth: children are increasingly exposed to unsuitable content, cyberbullying, online sexual abuse,

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1 Minors at Risk Of Cyber Trafficking. MARRI RESOURCE CENTRE, <https://toolboxes.marrirc.org.mk/tips/minors-at-risk-of-cyber-trafficking/>

harassment, and the patient, calculated strategies of online predators.² Social media platforms and their accessibility have unintentionally created channels for manipulation and abuse, which further endanger the safety and well-being of children everywhere. A very large proportion of users on these platforms are below eighteen – an age at which children do not yet possess the maturity or judgement to decide whom they should trust or confide in online. And because social media now penetrates nearly every corner of a young person's life, its risks touch every corner too: friendships, self-image, schooling, and mental health. Exploitation in these spaces can permanently damage a child's sense of security and leave psychological scars that outlast the abuse itself.

Lately, while one can say that the internet platforms have become an integral part of the lives of the minors, and further provides them with opportunities for communication with people across borders, a platform to express themselves, and engagement with peer groups. The difficulty is that the very features which make these platforms attractive to children – reach, anonymity, immediacy, and negligible cost make them equally attractive to offenders. Social media today intersects with every stage of the trafficking process and has become a fresh recruiting ground for offences such as cyber grooming³ and trafficking of minors, etc. Hence, preventing child trafficking should be the topmost priority in a developing nation such as India, and therefore, to achieve this goal, utilizing various media forms and to raise awareness among the public is very necessary. Technology cuts both ways here: it has expanded the trafficker's toolkit, but it has also placed new instruments of awareness, detection, and enforcement in the hands of the State and civil society. This paper examines both dimensions of this issue.

Why Children are Trafficked: The Root Causes

Traffickers do not choose victims at random; they look for individuals who display visible signs of vulnerability. One recurring source of such vulnerabilities is political instability. This instability hampers the government's ability to effectively combat such criminal activities. In regions experiencing conflict, a considerable number of children are frequently trafficked, either coerced into becoming victims or forced into the harrowing life of sex work. Economic deprivation is the second and perhaps the most powerful driver. The UNODC has observed in regions

2 Nicholas B. Maitland, & Jennifer Lynch, Social Media, in *SECURITY AND PRIVACY FROM A LEGAL, ETHICAL, AND TECHNICAL PERSPECTIVE* (IntechOpen, 2020).

3 *Cyber Grooming*. CHILDSAFENET, <https://www.childsafenet.org/new-page-15> (last visited February 10, 2024).

from which trafficked persons are recruited, “50 to 60 per cent of the population survives on US\$1 a day”.⁴ It has been increasingly noticed that vulnerabilities indicators like poverty, unemployment, food insecurity, illness and disease, and illiteracy remain widespread, while access to employment, education, vocational training, and economic opportunities continues to be limited; unemployed youth and school dropouts become easy prey. Children and adolescents who migrate from villages to cities in search of work – because opportunities at home are scarce or non-existent – are especially vulnerable during the journey and upon arrival. A third strand of causation lies in entrenched gender inequality. In societies where women and girls face systematic disadvantage in education, employment, and social standing, they are disproportionately represented among trafficking victim's, caste and class discrimination compound this exposure in several countries.⁵ Violent conflict, humanitarian disasters, and the displacement that follows them add yet another layer of risk.⁶ Finally, globalisation and technology have altered the economics of the crime itself. The movement of people, goods, and services across international borders has increased, providing traffickers with opportunities to exploit migration flows to conceal their operations.⁷

The digital revolution has made it remarkably easy to harvest personal information about potential victims, to advertise and recruit online, and to coordinate demand and supply across jurisdictions in real time.⁸

Definition and Meaning of the term “Trafficking in Persons (Tip)”

At the outset, addressing the term trafficking as a complex and constantly evolving form of crime presents significant challenges, particularly because there is no universally accepted definition exists.⁹ This uncertainty about

4 Human Trafficking FAQs, U.N. Office on Drugs and Crime, <https://www.unodc.org/unodc/en/human-trafficking/faqs.html> (last visited Mar 02, 2024)

5 The Sexual Trafficking of Women: Representations of Illegality and Victimisation, RCCS ANNUAL REVIEW, <https://journals.openedition.org/rccsar/247> (last visited Mar 3, 2024)

6 Human Trafficking FAQs, Supra note 4.

7 Academy of Science of South Africa (ASSAf), Climate Change and Extreme Heat: Strengthening Resilience and Adaptive Capacity in the Southern African Development Community (SADC) (2026), <https://doi.org/10.17159/assaf.2026/125>

8 The role of technology in Human Trafficking U.N. OFFICE ON DRUGS AND CRIME, (2021), <https://www.unodc.org/unodc/en/human-trafficking/Webstories2021/the-role-of-technology-in-human-trafficking.html> (last visited Feb 11, 2024)

9 Kevin J. Kerr, Anthony R. Beech & David Murphy, Sexual Homicide: Definition, Motivation and Comparison with Other Forms of Sexual Offending, 18 *Aggression & Violent Behav.* 1, 1–10 (2013).

the concept can hinder the formulation of uniform policies, guidelines, and preventive measures to combat trafficking. Broadly, trafficking can be viewed as the illegal movement, recruitment or exploitation of individuals, whether within a country or across international borders. Although considerable international efforts have been undertaken to combat trafficking, the meaning and scope of “TIP” continue to vary across different legal systems. Various international and regional instruments have therefore adopted multiple approaches to defining and understanding the concept. The preamble to the **“Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others** (“Whereas prostitution and the accompanying evil of the traffic in persons for the purpose of prostitution are incompatible with the dignity and worth of the human person and endanger the welfare of the individual, the family and the community, ...”)¹⁰ assimilates trafficking with prostitution. The Convention, in its very first article, makes trafficking punishable, defining it in terms of procurement, enticement, or leading away of a person for prostitution or sexual gratification of another person.¹¹

The **“United Nations General Assembly, 1994 (Resolution 49/166)”** defined trafficking as- “The illicit and clandestine movements of persons across national borders, largely from developing countries with economics in transition, with the end goal of forcing women and girls into sexually or economically oppressive and exploitative situations for profit of recruiters, traffickers and syndicates, as well as other illegal activities related to trafficking, such a forced domestic labour, false marriages, clandestine employment and false adoption.”¹²

The **“World Congress Against Commercial Sexual Exploitation of Children”**¹³ defines Trafficking” as an - ‘unlawful movement and sale of people across national borders in return for cash or other benefits.’ While the **Global Alliance Against the Trafficking of Women**,¹⁴ defined “trafficking” as “the recruitment and transportation of (a) person(s) within and across national borders, by means of violence or threat of violence, abuse of actual

10 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others art. 1, Mar. 21, 1950, 96 U.N.T.S. 271.

11 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, Dec. 2, 1949, 96 U.N.T.S. 271

12 G.A. Res. 49/166, Traffic in Women and Girls (Dec. 23, 1994).

13 Maureen Jaffe & Sonia Rosen eds., Forced Labor: The Prostitution of Children (U.S. Dep’t of Lab., Bureau of Int’l Lab. Affs. 1996).

14 HAQ: CENTRE FOR CHILD RIGHTS, CHILD TRAFFICKING IN INDIA: A SITUATIONAL ANALYSIS (2016), <https://haqcrc.org/wp-content/uploads/2016/07/child-trafficking-in-india-A-situational-analysis.pdf>.

or perceived authority arising from a relationship, or deception, in order to subject them to the actual and unlawful power of (an) other person(s)". The debate lost much of its force in 2000, when the Palermo Protocol was adopted alongside the UN Convention against Transnational Organised Crime and gave the world a working definition. Under Article 3, the offence is built from three ingredients: a prohibited act (recruiting, transportation, transfer, harbouring, or receiving a person), a wrongful means (coercion, abduction, fraud, abuse of power or of a position of vulnerability, and a purpose of exploitation. Where the victim is a child, however, the "means" ingredient falls away entirely – harbouring or recruiting a child in order to exploit that child is trafficking even where no force or deception is shown, and the child's apparent consent does not negate the offence.¹⁵ Indian law similarly adopts the same architecture as discussed in Part VI below.

Child Trafficking and its Forms

Children are among the easiest candidates for traffickers everywhere, regardless of their gender or age. They are bought, sold, and exchanged, frequently drawn in by promises of better work and a brighter future, and thereafter subjected to emotional abuse, sexual violence, and other dangers. UNICEF's working definition captures the breadth of the crime: "A child (below 18 years old) has been trafficked if he or she has been moved within a country, or across borders, whether by force or not, with the purpose of exploiting the child."¹⁶ Increasingly, the seduction of minors through attractive futures and false promises begins on social media platforms.

- (a) **Forced labour:** children lured by dreams of a better life and income are routinely reduced to bonded labour. The **International Labour Organization (ILO)** describes forced labour as work extracted "through the use of violence or intimidation, or by more subtle means such as accumulated debt, retention of identity papers, or threats of denunciation to immigration authorities" (International Labour Organization, 1996).¹⁷ Trafficked children are put to domestic work, agricultural labourers in rural belts, and construction work in urban areas, and are absorbed into carpet-weaving and apparel industries, fish and shrimp processing, and a range of other formal and informal workplaces.

15 Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime, art. 3, Nov. 15, 2000, 2237 U.N.T.S. 319.

16 HAQ: CENTRE FOR CHILD RIGHTS, *supra* note 14.

17 HAQ: CENTRE FOR CHILD RIGHTS, *Supra* note 14 (citing INT'L LABOUR ORG.(1996)).

- (b) **Sexual Exploitation:** Minors are trafficked for the purpose of being sexually exploited in multiple ways, which includes forced prostitution and forms of exploitation that shelter behind social or religious sanction. Sexual exploitation has been defined as “the act of coercing, luring or engaging a child, under the age of 18, into a sexual act, and involvement in the sex trade or pornography, with or without the child's consent, in exchange for money, drugs, shelter, food, protection or other necessities”¹⁸ Children are also particularly exposed to sex tourism, and the growth of the internet has fuelled a market for child abuse material, drawing ever-younger victims into its production.
- (c) **Exploitation in illegal activities:** A third category involves the use of children in criminal enterprises. Trafficked children are forced into organised begging; some become victims of organ trafficking, in which organs are removed from them without genuine consent and sold for profit. Children are also employed at various points of the narcotics trade- a setting in which they face heightened maltreatment and frequently develop early substance dependence, with lasting damage to their physical and mental development, education, and social functioning.

From Street to Screen: Online Grooming and the Modus Operandi of Digital Traffickers

Globalisation and technological progress have made knowledge more accessible, collapsed distances, and connected people across cultures – achievements that need no elaboration. But the same connective tissue serves the offender as efficiently as it serves everyone else. Social media's ease of use and friendly interface allow a trafficker or abuser to reach a far larger pool of potential victims, in far less time, than street-level recruitment ever permitted, while observing and monitoring those victims behind a screen.¹⁹ Digital platforms now sit at the centre of daily life for adults and children alike. Sites such as YouTube, X (formerly Twitter), and Facebook host vast interactive communities,²⁰ and a message that once took days to deliver now travels in a click. The same qualities that make these spaces valuable global reach, informality, constant availability also make them fertile ground for crime, because an offender can locate, observe, and cultivate a vulnerable child without ever stepping away from the screen.²¹

18 HAQ: CENTRE FOR CHILD RIGHTS, Supra note 10 (citing Tonkin (2004)).

19 Cyber Grooming, supra note 3

20 Cyber Grooming, supra note 3

21 Cyber Grooming, supra note 3

One danger demanding immediate attention is the online grooming of minors- conduct in which an adult uses electronic communication to win a child's trust with the intention of sexually abusing or exploiting the child. The ***“Terminology Guidelines for the Protection of Children from Sexual Exploitation released by the Interagency Working Group on Sexual Exploitation of Children (“Terminology Guidelines”)*** in Luxembourg in 2016, defines the act of grooming as process of establishing/building a relationship with a child, either in person or through the use of the Internet or other digital technologies, to facilitate either online or offline sexual contact with that person”.²² “The National Commission for Protection of Child Rights (NCPCR) has similarly described the term online grooming of children as the process of building of an emotional connect with a minor to gain their trust for the purposes of sexual abuse or exploitation”.²³ Although each case has its own texture, a study of reported incidents reveals a recognizable modus operandi that typically proceeds in stages:

- First, victim selection. The perpetrators scan profiles available in the public domain, as well as comment sections, gaming lobbies, and follower lists, for signs of vulnerability—loneliness, family conflict, economic distress, or signs of hunger for validation.
- Secondly, the offenders approach the target under a false identity. The groomer/perpetrator poses as a peer of similar age or as a talent scout, employer, or benefactor and initiates what appears to be an innocent conversation.²⁴
- Third, trust-building. The offender/perpetrator uses flattery, sustained undivided attention, small gifts, mobile recharges, or in-game currency to create a sense of a special relationship/bond and, often, of obligation.
- Fourth, isolation and secrecy. The conversation is moved to private or encrypted channels, and the child is persuaded that the relationship must be concealed from parents and friends, severing precisely the supervision that could interrupt the abuse.

22 INTERAGENCY WORKING GROUP ON SEXUAL EXPLOITATION OF CHILDREN, TERMINOLOGY GUIDELINES FOR THE PROTECTION OF CHILDREN FROM SEXUAL EXPLOITATION AND SEXUAL ABUSE (Luxembourg, 2016).

23 Cyber Grooming, supra note 3.

24 UNICEF INNOCENTI RESEARCH CENTRE, CHILD SAFETY ONLINE: GLOBAL CHALLENGES AND STRATEGIES (2011), https://www.unicef-irc.org/publications/pdf/ict_techreport3_eng.pdf.

- Fifth, desensitisation and acquisition of material. Sexual topics and imagery are introduced gradually until they seem normal, and the child is induced to share compromising photographs or videos, whether taken by webcam, phone camera, or otherwise.
- Sixth, leverage and exploitation. The material so obtained becomes an instrument of blackmail – commonly described as sextortion – used to extract further material, money, or compliance. Where the grooming culminates in a physical meeting, the child faces sexual assault; in other cases, the same leverage is used to recruit the child into trafficking networks, forced criminality, or continued online exploitation.²⁵

Any child, regardless of gender, can be groomed. The documented consequences include anxiety, depression, post-traumatic stress, difficulties with trust and relationships, and other serious harms to health – injuries that permeate the child's family life, schooling, and later adulthood. Given the gravity of the threat, the adequacy of the existing legislative framework demands close attention.

The Legal Framework

The legal framework concerning trafficking is deliberated in the following part:

- A. **Constitutional Provisions:** The constitutional framework provides an important foundation for addressing trafficking and the exploitation of children in India. Article 23 expressly prohibits trafficking in human beings, begging, and other similar forms of forced labour and makes their contravention punishable.²⁶ Article 24 bars children below the age of fourteen years from employment in factories, mines, or other hazardous occupations.²⁷ These guarantees draw further strength from Article 21's promise of life and personal dignity, and from Articles 39 (e) and 39(f) of the Directive Principles of State Policy, which direct the State to shield children from abuse and exploitation and to ensure that childhood is protected against conditions that may adversely affect their development.
- B. **The Bharatiya Nyaya Sanhita, 2023:** The BNS came in force since 1 July 2024, has taken the place of the Indian Penal Code, 1860 as India's general penal statute and now houses the principal trafficking offences.²⁸ Section 143, which substantially succeeds Section 370 of the

25 UNICEF INNOCENTI RESEARCH CENTRE, *supra* note 24.

26 INDIA CONST. art.23.

27 INDIA CONST. art.24.

28 Bharatiya Nyaya Sanhita, 2023, No.45, Acts of Parliament, 2023 (India).

IPC, retains the Palermo architecture of act, means, and exploitative purpose and, importantly, makes the consent of the victim irrelevant where the statutory elements of trafficking are established. The punishment is enhanced where the victim is a child, and trafficking involving more than one child may attract life imprisonment. Section 144 separately addresses the exploitation of a trafficked person, including a trafficked child. The BNS also contains several other provisions that may become relevant in cases involving the trafficking and sexual exploitation of children. Section 96, for instance, deals with the procurement of a child and is now gender-neutral. It thereby departs from the old Section 366A of the Indian Penal Code, which had protected only the minor girl. Sections 98 and 99 criminalise the selling and buying of a child for the purpose of prostitution. Section 141 penalises importing a girl under twenty-one or a boy for compulsory labour. Section 95 deserves separate mention: it punishes whoever hires, employs, or engages a child to commit an offence. The wording was drafted with no particular technology in mind – which is precisely why it may stretch to cover children recruited through gaming lobbies, chat groups, or social media pages into unlawful work.

- C. **The POCSO Act, 2012:** The Protection of Children from Sexual Offences Act, 2012 (POCSO Act) is the principal legislation governing sexual offences against minor children in India²⁹ irrespective of their gender. The Act covers penetrative and non-penetrative forms of sexual assault, sexual harassment, and the use of children for pornographic purposes. The POCSO Act also recognises increased vulnerability of children where the accused occupies a position of trust, authority, or responsibility. It also emphasises child-sensitive procedures governing reporting, recording of statements and evidence, investigation, and trial before Special Courts.

Several provisions under the Act are relevant particularly to online abuse and grooming. Section 11(iv) of the Act, discusses - repeatedly or constantly following, watching, or contacting a child, either directly or through electronic, digital, or other means, within the definition of sexual harassment. The Section also covers enticing a child for pornographic purposes. These provisions can therefore address certain forms of conduct that commonly occur during online grooming, although the Act does not presently recognise grooming as an independent offence. The 2019 amendment, sharpened Sections 13 to 15 which addresses the use of children for pornographic purposes

29 The Protection of Children from Sexual Offences Act, 2012, No 32, Acts of Parliament, 2012 (India).

and the storage, possession, transmission, or related handling of such material. The same was clarified by the Supreme Court of India in the case titled ***“Just Rights for Children Alliance v. S. Harish”***, wherein clarification was laid down concerning the legal consequences associated with viewing, possessing, or storing child sexual abuse material, including circumstances where the material has not been transmitted.³⁰ The Court also emphasised the importance of using terminology that accurately reflects the exploitative nature of such material and endorsed the expression “child sexual exploitative and abuse material” (CSEAM) in place of the misleading expression “child pornography”.

The framework under the POCSO Act is therefore capable of addressing several forms of online sexual exploitation. However, its application to grooming largely depends on whether the conduct falls within an existing offence. This creates a gap in which online interactions are deliberately designed to establish trust and manipulate a child, but have not yet culminated in conduct that clearly satisfies an existing offence.

- D. The Information Technology Act, 2000 and the 2021 Rules:** The Information Technology Act, 2000 provides the cyber specific arm of the legal response. another.³¹ Section 67B specifically deals with electronic material depicting children in sexually explicit acts or conduct and prescribes imprisonment and fines for such offences. The provision is relevant to online grooming because clause (c) addresses conduct involving the cultivation, enticement, or inducement of children into online relationships for sexually explicit conduct or in manner that may offend a reasonable adult. The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 reinforce the statutory framework by imposing due diligence obligations on intermediaries.³² These obligations include - removal of material pertaining to child sexual abuse and, for significant social media intermediaries, the implementation of appropriate technological measures to identify such content. This framework is critical because online trafficking and exploitation typically involve multiple interactions throughout social media accounts, messaging applications, image-sharing services, and other electronic platforms.

30 Just Rights for Children Alliance v. S. Harish, 2024 INSC 716 (India).

31 The Information Technology Act, 2000, No. 21, Acts of Parliament, 2000 (India), Sec.67B.

32 The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 (India).

Therefore, the effectiveness of the law relies not only on criminal prosecution but also on platforms' capacity to identify, report, and prevent harmful activity at an early stage.

- E. **Allied Statutes: ITPA, 1956 and the JJ Act, 2015:** The Immoral Traffic (Prevention) Act, 1956 takes into consideration commercial side of sexual exploitation. The Act penalises conduct such as procuring or inducing persons for prostitution, detaining persons in premises where prostitution is carried on, maintaining or allowing premises to be used as brothels, living on the earnings of prostitution, and soliciting. Although enacted in a very different technological and social context, the statute may still become relevant where trafficking ultimately results in commercial sexual exploitation. The Juvenile Justice (Care and Protection of Children) Act, 2015 adopts a broader child-protection and rehabilitation perspective. Trafficked and exploited children may fall within the category of children in need of care and protection and are entitled for appropriate care, protection, rehabilitation, and social reintegration. The Juvenile Justice (Care and Protection of Children) Act creates specific offences relating to cruelty towards children, the sale or procurement of children, and other forms of exploitation. Its importance lies in recognising that the legal response to trafficking cannot end with prosecution; the protection and long-term rehabilitation and well-being of the child must remain central to the process.
- F. **The Digital Personal Data Protection Act, 2023:** The DPDP Act, 2023 introduces a new dimension to child protection by regulating the processing of minor's personal data. Section 9 obliges every data fiduciary to secure verifiable parental consent from a parent or lawful guardian before processing or handling a child's personal data and places restrictions on tracking, behavioural monitoring, and targeted advertising directed at children.³³ The Act prohibits processing of any data which is likely to have a detrimental effect on a child's well-being. These safeguards as laid down under the Act have a particular relevance in the digital cyberspace. Online platforms captures substantial information about children's interests, behaviour, interactions, and online activities. If such data is inadequately protected, it may contribute to identification and targeting of vulnerable children, as well as to tracking. Effective implementation of Section 9 can therefore form part of a preventive approach to online exploitation. At the

33 The Digital Personal Data Protection Act, 2023, No. 22, Acts of Parliament, 2023 (India), sec. 9.

same time, age verification and parental consent mechanisms must be carefully designed so that protecting children does not lead to excessive collection or disclosure of their personal data.

- G. **The International Framework:** India's legal framework for addressing trafficking and the exploitation of children is informed by a broader international framework. Key relevant instruments runs from the 1949 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child (CRC), the ILO Worst Forms of Child Labour Convention, 1999, and the Palermo Protocol. The CRC provides a significant framework for the protection of children. Articles 34 and 35 oblige States Parties to safeguard children against sexual exploitation and abuse and to adopt appropriate national, bilateral, and multilateral measures to prevent the abduction, sale, and trafficking of children irrespective of the purpose or form in which such acts occur.³⁴ Their importance has grown in the digital age because recruitment and exploitation can take place without involving physical movement, which has been traditionally associated with trafficking. This scale of the offence of trafficking is constantly changing and the speed at which its methods are evolving, explains what have led to the creation of this thorough legal framework. It is generally acknowledged that trafficking constitutes a major type of organised criminal activity and one which produces large amounts of illegal profit. Earlier estimates placed the number of women and children trafficked across international borders each year in the range of six to eight lakh, although such figures did not account for trafficking occurring entirely within national boundaries.³⁵ Children and adults may be exploited for a range of purposes, including begging, forced labour, domestic work, agriculture, construction, sexual exploitation, pornography, drug-related activities, and other forms of organised exploitation.³⁶ The Global Report on Trafficking in

34 Convention on the Rights of the Child, Nov. 20, 1989, 1577 U.N.T.S. 3.

35 Human Trafficking in India, LOK SABHA SECRETARIAT, MEMBERS' REFERENCE SERVICE, https://loksabhadocs.nic.in/Refinput/New_Reference_Notes/English/Human%20trafficking%20in%20india.pdf (last visited Feb. 19, 2024).

36 P.M. NAIR, A REPORT ON TRAFFICKING IN WOMEN AND CHILDREN IN INDIA 2002-2003 (NHRC-UNIFEM-ISS, 2004), <https://nhrc.nic.in/sites/default/files/ReportonTrafficking.pdf>.

Persons 2022³⁷ published by the United Nations Office on Drugs and Crime also demonstrates that the consequences of trafficking are not experienced equally. Female victims face a substantially greater risk of physical or extreme violence than male victims, while children are more vulnerable to such violence than adults. Minor and Adolescent Girls, in particular, face increased risks of sexual and other forms of exploitation.³⁸ Age and gender, in short, shape both the likelihood and the severity of victimisation – a strong argument against treating trafficking as one undifferentiated offence. Trafficking is also expressly addressed within the 2030 Agenda for Sustainable Development. Sustainable Development Goal Target 5.2 seeks to eliminate violence against women and girls, including trafficking and sexual exploitation; Target 8.7 calls for effective measures against forced labour, modern slavery, and human trafficking; and Target 16.2 focuses specifically on ending abuse, exploitation, trafficking, and all forms of violence against children.³⁹

At the regional level, India has ratified the United Nations Convention against Transnational Organized Crime and its Trafficking Protocol. It is also a party to the SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution, under which regional cooperation mechanisms have been established.⁴⁰ Further, India entered into a Memorandum of Understanding with Bangladesh in June 2015 concerning cooperation in the prevention of trafficking and the rescue, recovery, repatriation, and reintegration of victims.⁴¹ Taken together, these constitutional, statutory, and international instruments demonstrate that India does not lack legal provisions addressing trafficking and child exploitation. The more difficult question is whether these provisions, many of which were framed before the rapid expansion of social media and digitally mediated communication, are sufficiently responsive to the ways in which trafficking now occurs. Online recruitment, grooming,

37 U.N. OFFICE ON DRUGS AND CRIME, GLOBAL REPORT ON TRAFFICKING IN PERSONS 2022 (2023), https://www.unodc.org/documents/data-and-analysis/glotip/2022/GLOTiP_2022_web.pdf.

38 U.N. OFFICE ON DRUGS AND CRIME, GLOBAL REPORT ON TRAFFICKING IN PERSONS 2022 (2023), https://www.unodc.org/documents/data-and-analysis/glotip/2022/GLOTiP_2022_web.pdf.

39 G.A. Res. 70/1, Transforming Our World: The 2030 Agenda for Sustainable Development (Sept. 25, 2015).

40 SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution, Jan. 5, 2002.

41 Human Trafficking in India, *supra* note 35.

manipulation, and exploitation can develop long before a child is physically moved or conventional forms of abuse become apparent. The effectiveness of the existing framework must therefore be assessed not merely by the number of offences it criminalises, but by its ability to identify and interrupt the digital pathways through which exploitation increasingly begins.

Legal Gaps- A Need for Strict Regulations

Measured against the *modus operandi* described in Part V, the framework set out above is impressive on paper but reveals real gaps.

- First, and most importantly, no Indian statute expressly defines or criminalises online grooming. A groomer can, depending on the facts, be prosecuted u/s 11 of the POCSO Act, Section 67B(c) of the IT Act, or for trafficking and procurement provisions under BNS; but each of these captures only a fragment of the conduct. Section 11 (iv) requires repeated or constant contact with sexual intent, leaving the early, deliberately innocuous stages of grooming untouched. Section 67B(c) punishes inducement into an online relationship “ for a sexually explicit act”, but the statute nowhere addresses the facilitation of abuse or identifies the ingredients of grooming as a course of conduct, producing uncertainty about which preparatory acts fall within it. As the offence is not named, prosecutors must assemble it from provisions designed for other conduct – and cases can fail in the gaps between them.
- Secondly, the gender deficit that long disfigured this field has been only partly cured. The replacement of Section 366A of the IPC by the gender- neutral Section 96 of the BNS is a welcome correction, but the Immoral Traffic (Prevention) Act remains structured around prostitution and does not address exploitation that never touches commercial sex, while Section 141 of the BNS still draws distinctions by age and sex in cross- border importation.
- Thirdly, the legislative effort to consolidate the law has stalled. The Bill of 2021, namely, the Trafficking in Persons (Prevention, Care and Rehabilitation) Bill, 2021, which was proposed as a comprehensive statute spanning prevention, investigation, rehabilitation, and cross-border cooperation, was never enacted.⁴²

42 The Trafficking in Persons (Prevention, Care and Rehabilitation) Bill, 2021 (India) (draft published for public comments; not enacted).

- Fourthly, the enforcement capacity to curb this offence lags behind. The AHTUs remain unevenly staffed, unequipped and trained; digital forensics capability thins out quickly beyond the metropolitan centres; and evidence held by platforms abroad must be obtained through slow mutual legal assistance processes, during which accounts vanish and material migrates. Beneath all this runs under-reporting: shame, threats, and the child's own manipulated loyalty to the groomer keeps most cases from ever reaching a police station.

Suggestions

Six practical measures follow from the analysis above:

- (a) Recognise grooming as a separate offence.** Parliament should consider introducing a specific offence of grooming under the POCSO Act, 2012. The definition should reach sexually motivated communication with a child, arranging meetings, and obtaining intimate material – and it should be framed as a course of conduct, so that police can step in before the abuse turns physical. Section 15 of the UK Sexual Offences Act 2003⁴³ offers a workable template.
- (b) Pass comprehensive anti-trafficking legislation.** The Parliament may revisit the 2021 Bill or may consider for development a separate comprehensive law that provides clear and consistent definitions, which complements Section 143 of the BNS, strengthens victim-centred rehabilitation, and establishes mechanisms specifically equipped to address online recruitment and exploitation.
- (c) Make child safety a platform responsibility.** Platforms should carry a clear responsibility/duty for preventing harm to children on their services. This should include stronger safety-by-design measures, such as stronger default privacy settings for children, effective age-assurance systems, safeguards against unsolicited contact between adults and children, and prompt action on complaints involving grooming. Platforms should also be transparent about how they identify, report, and remove child sexual abuse material.
- (d) Ensure effective implementation of Section 9 of the DPDP Act.** The provision will shield children from tracking, profiling, and targeted advertising only if it is actually enforced – and only if age verification and consent mechanics it requires do not themselves force children to hand over more personal information just to get online.

43 Sexual Offences Act 2003, c.42,sec.15(U.K.)

- (e) **Equip the enforcers - Strengthen enforcement capacity.** District Cyber cells and AHTU's need specialised personnel, appropriate digital-forensic capabilities, and clearly defined procedures for responding to cases involving online grooming, sextortion, and trafficking. Building of institutional capacity is required to secure digital evidence located outside India, including more effective cross-border cooperation mechanisms.
- (f) **Teach before harm occurs.** Enforcement alone cannot carry online safety: Digital literacy and age-appropriate online safety measures should be incorporated into school curricula, while parents and caregivers should be given practical guidance on recognising the warning signs and stages of online grooming. Early awareness can help children and families identify risky interactions before they progress into coercion, exploitation, or trafficking.

Conclusion

This paper examines the changing nature of the offence of trafficking of minors from its more conventional forms to the new age forms of exploitation emerging via social media. The underlying vulnerabilities, however, largely remains the same. Poverty, conflict, gender-based disadvantage, and the absence of stable family and school environments continue to place children at risk. What has changed is the point at which exploitation of a minor begins. It is now largely seen that the first contact between the perpetrator and the victim no longer takes place on a street, railway platform, or workplace, but occurs through phone screen. With increase in the easy accessibility to social media, coupled with limited guidance and supervision, can expose children to unrealistic aspirations, deceptive relationships, and the desire to escape difficult circumstances. The Indian statutory framework has undergone significant development in the recent years. The erstwhile Penal law which is the Indian Penal Code, 1860 has been revised, modernised and partially de-gendered the penal provisions under the new Code i.e. Bharatiya Nyaya Sanhita, 2024; the Supreme Court has clarified that even possession of child sexual abuse material can attract criminal liability; and the DPDP Act has introduced an additional layer of protection concerning children's personal data. Yet important gaps remain to be addressed. There is still no comprehensive statutory framework that specifically addresses grooming as a method through which children are targeted, manipulated, and drawn into exploitation. Enforcement mechanisms also need to become more responsive to crimes that can develop through a series of messages within hours or even minutes.

Hence, the responsibility, cannot rest with any one institution. Parents and legal guardians must remain attentive to children's online interactions and provide appropriate guidance. Social media platforms must take greater responsibility for designing safer digital environments rather than relying primarily on complaints after harm has occurred. The State, in turn, must ensure that the legal and enforcement framework keeps pace with the changing methodology's used by the perpetrators. Protecting minor children in the digital era necessitates the continuous development of legal and regulatory frameworks to cater to the realities of how exploitation now occurs, while ensuring that prevention, accountability, and the best interests of the child remain the centre of that response.