



SC's Concerns Over Inaction on Sex Trafficking

For Prelims: [Supreme Court](#), [Lok Sabha](#), [National Investigation Agency](#), [Bharatiya Nyaya Sanhita, 2023](#), [Organised crime](#), [Rohingya refugees](#), [Scheduled Castes](#), [South Asian Association for Regional Cooperation](#)

For Mains: Issues Related to Women, Human Trafficking, Sex Trafficking and Gendered Exploitation

Source: [HT](#)

Why in News?

Recently, the [Supreme Court \(SC\) of India](#) criticised the Union government for not establishing the promised **new Organised Crime Investigative Agency (OCIA)** or enacting comprehensive [anti-trafficking](#) legislation since its 2015 commitment.

- This failure has raised significant concerns about the effectiveness of the existing frameworks to tackle the growing menace of **sex trafficking**.

Why is the Supreme Court Concerned About Establishing OCIA?

- **Inaction Despite Court Directives:** The SC in the case of *Prajwala v. Union of India, 2015*, directed the Ministry of Home Affairs (MHA) to establish the **OCIA** to address sex trafficking.
 - However, despite the deadline of 30th September 2016, and a planned operational date of 1st December 2016, the **agency remains unformed, delaying effective action against sex trafficking**.
- **Importance of Addressing Trafficking:**
 - **High Volume of Cases:** According to data from the MHA, over 10,659 trafficking cases were recorded between 2018 and 2022, highlighting that trafficking remains a systemic issue.
 - An average of around 2,000 cases annually demonstrates the need for strengthened policies, law enforcement, and community awareness.
 - **Low Conviction Rates Despite High Arrests:** Although thousands of people were arrested over the past few years, convictions remain extremely low.
 - This gap between arrests and convictions indicates issues such as **inadequate investigation and weak case presentation in court**.
 - **Vulnerability of Victims:** Many victims of trafficking come from **economically disadvantaged backgrounds**, often lacking adequate support.
 - The challenges in **disbursing victim compensation funds further aggravate their vulnerabilities**, sometimes leading them to turn hostile in court due to financial hardship and lack of resources.
 - **Victim Support:** Despite upgrades in anti-trafficking units and intelligence, low conviction rates highlight the need for improved **law enforcement training, stronger victim support**, and quicker compensation for more effective case handling.

▪ Government Response to SC Concerns:

- **Pending Legislative Efforts:** The government had previously drafted the [Trafficking of Persons \(Prevention, Protection, and Rehabilitation\) Bill, 2018](#), which passed in the [Lok Sabha](#) but lapsed in 2019 without introduction in the [Rajya Sabha](#).
 - This legislative lapse has contributed to delays in fulfilling the commitment to comprehensive anti-trafficking legislation.
- **NIA Assigned Role in Sex Trafficking Cases:** The Union government, represented by the **Additional Solicitor General (ASG)**, informed the SC that the government had decided to assign the [National Investigation Agency \(NIA\)](#) the additional task of handling **sex trafficking cases instead of establishing OCIA**.
 - The SC bench questioned the efficacy of this approach, emphasizing that NIA may lack resources and mandate to offer adequate protection and **rehabilitation services to trafficking victims**.
- **Reference to Bharatiya Nyaya Sanhita, 2023:** ASG informed SC that recent provisions within the [Bharatiya Nyaya Sanhita, 2023 \(section 111 and 112\)](#), include measures addressing [organised crime](#), suggesting a partial framework for addressing sex trafficking.

How has Sex Trafficking Been Perpetuated in India?

- **Exploitation Through Migration:** Women and girls, particularly from impoverished regions, are lured by traffickers **offering jobs in cities**.
 - Once they migrate, they are **forced into domestic work, spas, and beauty parlours**, where they often face **sexual or labour trafficking**.
 - The exploitation is **rampant in major cities, like Delhi and Mumbai**, where traffickers take advantage of the promise of better economic opportunities.
- **Trafficking in Commercial Sex:** The majority of trafficking victims in India are women and girls from marginalised communities, including [Scheduled Castes and Tribes](#).
 - Traffickers have shifted sex trafficking operations from traditional **red-light areas** to more discreet locations like dance bars and private residences, **making enforcement harder**.
 - Many individuals in commercial sex work, some of them minors, are trapped in **debt bondage**, unable to escape due to accumulated debts imposed by traffickers.
 - Traffickers are increasingly exploiting **digital platforms** to arrange illicit meetings with buyers, leading to the **decentralisation of sex trafficking beyond traditional brothels** into smaller establishments and private residences.
- **Cultural Exploitation:** In some regions, Dalit women and girls are exploited in systems such as [“devadasi”](#) or [“Jogini”](#), where they are ceremonially married to deities but are coerced into **sexual exploitation** by local communities.
 - **Religious and tourist centres** also become breeding grounds for sex trafficking, with traffickers using these settings to exploit vulnerable women and children.
 - However, in some tribal communities like the **Banchhada in Madhya Pradesh**, **prostitution is seen as a survival mechanism**, with the birth of a girl child celebrated as an opportunity to earn through prostitution.
 - This **normalisation of prostitution contributes to sex trafficking**, as young girls are groomed for exploitation and become targets for trafficking networks.
- **Cross-Border Trafficking:** Limited collaboration among states and with neighbouring countries like **Nepal and Bangladesh** hinders effective action against cross-border trafficking.
 - Agreements to combat trafficking and expedite victim repatriation remain incomplete.
 - Traffickers also **target women and girls from Central Asia, Eastern Europe, Africa, and Rohingya refugees**, exploiting them for sex and labour in India, often **under false pretences of employment**.
 - Traffickers exploit **Indian nationals in Gulf countries, Southeast Asia, and Europe**, often through fraudulent recruitment.

What are the Measures Taken by India to Combat Human Trafficking?

▪ Constitutional and Legislative Provisions:

- **Article 23 (1) of the Constitution of India:** Prohibits [human trafficking](#) and [forced labour](#).

- **Immoral Traffic (Prevention) Act, 1956 (ITPA):** Focuses on preventing trafficking for **commercial sexual exploitation**.
- **Criminal Law (Amendment) Act, 2013:** Addresses human trafficking for physical and sexual exploitation, slavery, and organ removal.
- **Protection of Children from Sexual Offences (POCSO) Act, 2012:** Protects children from sexual abuse and exploitation.
- **Initiatives Taken:**
 - **Anti-Trafficking Cell (ATC):** Established by the MHA to coordinate and follow up on anti-trafficking actions.
 - **Anti-Human Trafficking Units (AHTUs):** The MHA has established AHTUs to deal with law enforcement response on Trafficking in human beings, excluding legislative, welfare and promotional aspects, which are subject matters of the Department of Women & Child Development.
 - **Mission Vatsalya Program:** It supports child victims of crime, including trafficking.
 - **Capacity Building and Awareness:** Training of law enforcement agencies and prosecutors through workshops, and judicial colloquiums to sensitise judicial officers on human trafficking.
- **International Conventions on Trafficking:**
 - **UN Convention:** The United Nations Convention on Transnational Organised Crime (UNCTOC) includes a protocol for the prevention, suppression, and punishment of trafficking in persons, especially women and children.
 - India ratified the convention and implemented the Criminal Law Amendment Act, 2013 in line with the protocol on trafficking in persons.
 - However, UNCTOC defines an "**organised criminal group**" but does not provide a definition for "**organized crime**." This lack of a clear definition can hinder efforts to effectively combat organised crimes like sex trafficking.
 - **SAARC Convention:** India has ratified the South Asian Association for Regional Cooperation (SAARC) Convention on Preventing and Combating Trafficking in Women and Children for Prostitution.

How an Agency like OCIA Can Help Combat Sex Trafficking in India?

- **Specialised Investigative Units:** OCIA can create units to target sex trafficking along with other organised crimes in high-risk areas like urban centres and borders, deploying trained operatives for intelligence gathering and rescues.
 - Rapid response teams can be deployed for **quick rescues, and collaborations with NGOs providing rehabilitation services** to help **victims reintegrate into society**.
- **Data Collection and Intelligence Sharing:** A centralised database can track **trafficking cases and offenders**, using **predictive analytics** for proactive interventions and better information sharing.
- **Collaboration with Law Enforcement:** OCIA can train police and border forces on trafficking cases and **coordinate joint operations** for efficient rescues and raids.
- **Cross-Border Operations:** OCIA can work with neighbouring countries for joint operations, intelligence sharing, and legal assistance for cross-border trafficking cases.
- **Public Awareness Campaigns:** OCIA can **run campaigns to educate vulnerable populations** and set up helplines for **safe reporting of trafficking activities**.
- **Policy Advocacy:** OCIA can recommend stronger **anti-trafficking laws and monitor their implementation**, ensuring better victim protection and harsher penalties for traffickers.
- **Judicial Support:** OCIA can provide courts with evidence and legal support for victims, ensuring their participation in the prosecution of traffickers.

Conclusion

India has made a little progress in combating sex trafficking, but **systemic challenges in enforcement, victim protection, and legal frameworks remain**. A comprehensive approach with legislative reforms, and consistent policy implementation is vital to addressing this issue. The government must prioritise these efforts to effectively reduce and eventually eliminate trafficking.

Drishti Mains Question:

Discuss the need for an Organised Crime Investigative Agency to combat sex trafficking and other organised crimes in India, highlighting the role of specialised agencies in addressing such issues.

UPSC Civil Services Examination Previous Year Question (PYQ)

Mains

Q. India's proximity to two of the world's biggest illicit opium-growing states has enhanced her internal security concerns. Explain the linkages between drug trafficking and other illicit activities such as gunrunning, money laundering and human trafficking. What counter-measures should be taken to prevent the same? **(2018)**

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