

Research Article

Modern Slavery, Criminal Law, and India: Examining Literature on Legal Responses from the Human Rights Perspectives

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ABSTRACT: The complex issue of modern slavery affects millions. Notwithstanding global and local initiatives to eradicate it, it has manifested in various forms, including human trafficking, forced labour, debt bondage, and other forms of exploitation. This literature study aims to elucidate the pressing issue of contemporary slavery as a significant challenge, alongside an examination of the inadequacies present within the current legal framework in India. The primary inquiry revolves around the escalating threat of modern slavery in contemporary times. Here, the paper tries to examine, what are the current laws, and why are they ineffective in addressing the emerging forms of exploitation in the modern era? The scholarship on this topic originates from three overarching strands of writing. The first strand examines the detection of criminal exploitation and modern slavery within the current legal framework and advocates for the dedicated enforcement of these laws to protect vulnerable individuals from becoming victims of exploitation. The second research strand aims to analyse the economic markets and commercial entities in India to assess their compliance with regulations against modern-day slavery. Additionally, it seeks to enhance corporate responsibility by enforcing labour standards in supply chains. The third strand of literature focuses on the risk factors and root causes of contemporary slavery and criminal exploitation. In this perspective, the paper aims to understand, first, the exact processes through which modern slavery occurs; secondly, the factors that lead people to engage in exploitative situations, such as their already miserable and defenceless situation and their vulnerability to becoming victims of criminal activity; and thirdly, the possible preventive and corrective interventions.

KEYWORDS: Modern Slavery, Criminal Exploitation, Supply Chain, Business Entities, Human Rights.

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I. INTRODUCTION

Modern Slavery encompasses various forms of exploitation, such as criminal exploitation, forced commercial sexual exploitation, human trafficking, forced labour, forced servile marriage, domestic slavery, slavery-like practices, sale and exploitation of children, and organ harvesting. It is an umbrella term that primarily denotes circumstances in which individuals are subjected to exploitation and total subjugation by others.¹ Perpetrators employ tactics such as coercion and deception to maintain dominance over their victims.² Modern slavery manifests in various ways and is recognized under numerous designations. In essence, it pertains to instances of exploitation where an individual is unable to refuse or leave due to the presence of threats, violence, compulsion, or deception. Thus, in all its manifestations, it entails the deprivation of an individual's autonomy, including their ability to accept or decline employment, switch employers, or make choices regarding marriage.³ This exploitation is driven by personal or financial motives. These practices have a profound and alarming impact on individuals of all genders and ages.

Modern slavery is covertly present and intricately connected to existence in all parts of the globe. In 2021, the estimated global population of individuals subjected to modern slavery reached millions, marking a significant rise as compared to 2016.⁴ Women, children, and migrants are the most vulnerable groups, and they continue to be disproportionately affected. Millions of people are currently trapped in modern slavery, with children constituting a significant portion of this population. Women and girls make up more than half of these victims, accounting for 54 per cent. Non-migrant workers had a significantly

¹ Nicole Siller, “‘Modern Slavery’: Does International Law Distinguish between Slavery, Enslavement and Trafficking?” (2016) 14:2 *Journal of International Criminal Justice* at 406.

² Angelo Martins Jr, “Interview with Julia O’Connell Davidson on Modern Slavery” (2016) 33:7–8 *Theory, Culture & Society* at 384 & 387.

³ Stefan Machura et al, “Recognizing Modern Slavery” (2019) 5:3 *Journal of Human Trafficking* at 202.

⁴ Walk Free Foundation, “Understanding the Scale of Modern Slavery” (2023), online: *Global Slavery Index* <<https://www.walkfree.org/global-slavery-index/>>. The Global Slavery Index was created with the specific aim of addressing the fact that modern slavery persists and flourishes in a state of silence. The Index provides information on the prevalence of modern slavery in 160 countries, answering the issue of how many individuals are now living in such conditions. What factors contribute to people's vulnerability? What measures are governments taking to tackle this issue?

lower likelihood of being in forced labour compared to migrant workers; migrant workers are three times as likely to experience forced labour.⁵ According to the Global Slavery Index (GSI), India has the greatest estimated total number of individuals living in modern slavery worldwide.⁶ Although India has enacted laws to prohibit nearly every form of modern slavery, research indicates that modern slavery continues to exist in different forms and at distinct levels within the employment system. India, with its huge population and different ethnic and religious groupings, is influenced by several factors that contribute to its vulnerability to modern slavery.⁷ Providing a coherent overview of the countless factors influencing risk across the various states and union territories in India presents a formidable challenge. The nation is enveloped by a complex web of socioeconomic and infrastructural vulnerabilities,⁸ including disparities in education and workforce participation, access to essential assets and infrastructure, reliance on the agricultural sector and its affiliates, unemployment rates, patterns of migration, the caste system, the ongoing marginalization of minority populations, and other variables.⁹

Regardless of financial status, modern slavery is prevalent in every country. The escalating incidence of modern slavery in the Indian context raises a variety of critical concerns: a) Is the present Indian legislation acknowledging modern

⁵ *Ibid.* The latest GSI reports that the current state of affairs has deteriorated compared to the data obtained in 2016. Subsequently, there has been a significant surge in the population of individuals, including men, women, and children, who are compelled to engage in forced labour or endure forced marriages. The main factors contributing to the scenario are escalating war, environmental deterioration, a sustained decrease in global democracy over the past decade, a worldwide regression in women's rights, and the economic and social consequences of the COVID-19 epidemic. The compounding problems have caused substantial disruption to employment and education, resulting in a rise in extreme poverty and an increase in forced and dangerous migration. These factors collectively enhance the likelihood of all types of modern slavery, especially for individuals who are already vulnerable.

⁶ Walk Free Foundation, "Modern Slavery in India" (2023), online: *Global Slavery Index* <<https://www.walkfree.org/global-slavery-index/country-studies/india/>>.

⁷ Jaffer Latief Najar, "Brahmanical patriarchy and the politics of anti-trafficking and prostitution governance: from colonial to contemporary India" (2023) 44:4 *Third World Quarterly* at 669 & 679.

⁸ Alinda George & Pritee Sharma, "Socioeconomic and Infrastructural Vulnerability of Indian Population: A District Level Study" (2023) 88:2 *GeoJournal* at 1841.

⁹ Robert Heynen & Emily van der Meulen, "Anti-trafficking Saviors: Celebrity, Slavery, and Branded Activism" (2022) 18:2 *Crime, Media, Culture* at 303.

slavery? b) What are the challenges with respect to modern slavery? c) Which sectors in India are most in need of thorough inspection due to their involvement in modern slavery? d) How can the issue of modern slavery in the supply chain be addressed? and e) Is the Indian commercial market free from the different manifestations of modern slavery? However, the core problems related to modern slavery remain inadequately addressed by any of the organs of the government. Although numerous laws have been passed that prohibit any forms of infringement on the rights of citizens and grant individuals the freedom to choose, work, and exercise their fundamental rights without gender inequality, the nation is still ensnared in various forms of exploitation and is a long way from criminalizing and enacting laws that criminalize modern slavery.

II. METHODOLOGY

The study adopts a qualitative methodology that explores the extent of modern slavery, the level of vulnerability, the new forms of exploitation, and the legal responses to modern-day slavery from the human rights perspective. A combination of comparative analysis and doctrinal legal research has been adopted to critically evaluate the international and national legal frameworks, focusing on examining modern slavery models, such as the UK Modern Slavery Act 2015 (MSA) and similar legislation in other countries, and comparing them to India's legal framework. The primary objective is to perform a comprehensive doctrinal analysis of legal instruments that address modern slavery, with an emphasis on their alignment with human rights principles. Thus, the strengths and weaknesses of criminal law provisions, human rights safeguards, enforcement mechanisms, and victim support systems from different jurisdictions are compared to evaluate the effectiveness of various approaches to combat modern slavery.

III. CONTESTATIONS AROUND THE EXISTING STATUTES: WHERE DOES THE PROBLEM LIE?

This literature review aims to evaluate the scholarship on present legislation recognizing modern slavery and the legislative measures necessary for its

identification within statutory frameworks. One of the major pieces of legislation enacted by the UK is the MSA. The MSA established regulations about slavery, servitude, forced and compulsory labour,¹⁰ as well as human trafficking.¹¹ The MSA, in addition to explaining the meaning of exploitation,¹² mandates that specific entities must submit a mandatory modern slavery report at the end of each financial year.¹³ This necessitates the disclosure of information regarding supply chains and compels firms that exceed a specific yearly revenue to release an annual statement detailing the measures they have implemented to guarantee the nonexistence of modern slavery and human trafficking in their supply chains.¹⁴ It also offers a defence to those who commit crimes as a direct consequence of being victims of modern slavery or human trafficking.¹⁵ Two of the fundamental components of the statute are the establishment of an Independent Anti-Slavery Commissioner and the implementation of measures to protect the rights of victims.¹⁶ Similar legislation addressing the issue of modern slavery and human trafficking with a specific focus on supply chains and the operations of corporations and other organisations has been implemented by Australia and Canada.¹⁷ However, regrettably, despite the existing requirements, there is a lack of convictions for the newly prosecuted offences under the MSA. Additionally, there are insufficient slavery and trafficking prevention and risk orders in place to limit the activities of offenders.¹⁸ To successfully execute the

¹⁰ *The Modern Slavery Act*, 2015, s. 1.

¹¹ *Ibid*, s. 2.

¹² *Ibid*, s. 3.

¹³ *Ibid*, s. 54.

¹⁴ *Ibid*, s. 54 (5) and (6).

¹⁵ *Ibid*, s. 45. The section stipulates that individuals who were coerced into committing an offence owing to their victim status are exempt from guilt, provided that a reasonable person facing identical circumstances would have had no plausible option. This defence excludes specific heinous offences, such as acts of violence and sexual misconduct. The objective is to safeguard authentic victims from unwarranted legal action while upholding responsibility for grave offences.

¹⁶ *Ibid*, ss. 40, 45, 46, & 47.

¹⁷ *Ibid*, ss. 11 & 12; The legislation requires organizations with an annual consolidated revenue of at least AUD 100 million to prepare the annual Modern Slavery Statements. The report must include comprehensive information about the risks associated with modern slavery in their operations and supply chains, as well as the measures taken to mitigate these risks and the efficacy of these measures, and the *Fighting Against Forced Labour and Child Labour in Supply Chains Act*, 2024, s. 6.

¹⁸ Presented to Parliament by the Secretary of State for the Home Department and by Command of Her Majesty “*Independent Review of the Modern Slavery Act 2015: Final Report*” (London: UK Home Office, 2019).

MSA, it is crucial to have a heightened understanding of modern slavery and to provide thorough and excellent training to those who are most likely to come into contact with its victims.¹⁹ Without implementing these modifications, the influence of the MSA will be constrained.

India has enacted multiple laws and ordinances to specifically address the issue of slavery and its associated activities, including human trafficking, bonded labour, and child labour, with the aims of preventing exploitation and safeguarding the rights and dignity of individuals. The Constitution of India explicitly forbids the act of trafficking in human beings and the practice of forced labour,²⁰ as well as the utilization of children in dangerous jobs.²¹ Additionally, the Bharatiya Nyaya Sanhita, 2023 (BNS) provides the definitions and punishments for trafficking, imposes sanctions for illegal forced labour,²² and incorporates additional penalties for organized crime,²³ petty organized crime,²⁴ and the hiring, employing or engaging of a juvenile to commit an offence.²⁵ Furthermore, various special laws abolish bonded labour, ensure the rehabilitation of bonded labourers,²⁶ prohibit child labour in hazardous

¹⁹ Julia Muraszkievicz, "Protecting Victims of Human Trafficking from Liability: An Evaluation of Section 45 of the Modern Slavery Act" (2019) 83:5 The Journal of Criminal Law at 399.

²⁰ *The Constitution of India*, art. 23.

²¹ *Ibid*, art. 24.

²² *Bharatiya Nyaya Sanhita*, 2023, ss. 143 & 146.

²³ *Ibid*, s. 111. According to the section organized crime is defined as "any ongoing unlawful activity, such as kidnapping, robbery, vehicle theft, extortion, land grabbing, contract killing, economic offence, cybercrimes, trafficking of persons, drugs, weapons, or illicit goods or services, human trafficking for prostitution or ransom, that is conducted by an individual or a group of individuals acting in concert, singly or jointly, either as a member of an organized crime syndicate or on behalf of such syndicate, through the use of violence, threat of violence, intimidation, coercion, or any other unlawful method to obtain direct or indirect material benefit, including a financial benefit."

²⁴ *Ibid*, s. 112. The section defines petty organised crime as "anyone who, either individually or collectively, engages in any form of theft, snatching, cheating, unauthorised ticket sales, unauthorised betting or gambling, or the sale of public examination question papers, or any other similar criminal activity, is considered to have committed petty organized crime."

²⁵ *Ibid*, s. 95. The section states that anyone who employs, hires, or engages a minor in criminal activity faces a minimum sentence of three years in prison, with the possibility of up to ten years, as well as a fine. Should the minor actually commit an offence, they will also be subject to the appropriate punishment, which will be meted out as though they had committed the offence themselves.

²⁶ *The Bonded Labour System (Abolition) Act*, 1976.

occupations,²⁷ combat commercial sexual exploitation,²⁸ protect Scheduled Castes and Scheduled Tribes (SC/ST) communities from exploitation,²⁹ safeguard children from exploitation and early marriage,³⁰ and ensure the care, protection, and rehabilitation of children in conflict with the law and those in need of care and protection.³¹

India is also a signatory to international conventions such as the UN Convention on the Rights of the Child,³² the ILO Conventions on Forced Labour,³³ enhancing its legal framework against slavery practices. Enforcement mechanisms include national and state human rights commissions,³⁴ anti-human trafficking units,³⁵ and special courts,³⁶ all aimed at eradicating slavery and protecting individuals from exploitation. However, despite implementing these steps, India has been identified as one of the countries with the highest prevalence of modern-day slavery.³⁷ Furthermore, India does not impose any legal requirement that would oblige the different authorities and entities to provide a report proving their non-involvement in any type of modern-day slavery.

The point of view that can be framed by analysing these different legislations is whether these provisions are sufficient enough to combat present-day modern slavery. The issue also highlights the facets of the legal framework that hinder the effective implementation of these provisions.

The first strand of literature frames the identification of criminal exploitation and modern slavery in the existing statutes and their targeted implementation to

²⁷ *The Child Labour (Prohibition and Regulation) Act*, 1986.

²⁸ *The Immoral Traffic (Prevention) Act*, 1956.

²⁹ *The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act*, 1989.

³⁰ *The Prohibition of Child Marriage Act*, 2006.

³¹ *The Juvenile Justice (Care and Protection of Children) Act*, 2015.

³² *The United Nations Convention on the Rights of the Child*, 1990, art. 19, 32, 34 & 35.

³³ *The Forced Labour Convention*, 1930, art. 1, 2, 5 & 25.

³⁴ *The Protection of Human Rights Act*, 1993, ss. 3 & 21.

³⁵ Ministry of Home Affairs, “Anti Trafficking Cell”, online: <https://www.mha.gov.in/en/divisionofmha/Women_Safety_Division/anti-trafficking-cell>.

³⁶ *The Protection of Human Rights Act*, *supra* note 34, s. 30.

³⁷ Saumya Kalia, “G20 countries including India are fuelling modern slavery, says new report”, *The Hindu* (2023), online: <<https://www.thehindu.com/news/national/g20-countries-including-india-are-fuelling-modern-slavery-says-new-report/article66895654.ece>>.

protect vulnerable individuals from falling into the trap of exploitation. This pertains to the aspects of the present legal framework that do not recognize the malevolent act of criminal exploitation - an emerging form of exploitation under the umbrella term of modern slavery that impacts society as a whole. It is crucial to study the potential for any form of exploitation to bleed into criminal exploitation. This study explores how victims of criminal exploitation are associated with the identity of the perpetrator, who is on the brink of facing punishment.³⁸ These individuals in these sectors encounter a challenge in establishing their identity as victims of modern slavery due to the inadequacy of legislation in defining the burden of proof required for their statutory defence.³⁹ It is exceedingly challenging to ascertain the precise nature of the obstacles they are encountering. The ambiguity surrounding the status of current statutes renders individuals vulnerable to being designated as offenders and subjected to harsh penalties, underscoring the need for reform.⁴⁰

The second strand of literature comprises the studies of economic markets and business entities in India to determine whether they are free from the use of products linked to forms of modern-day slavery and to secure greater corporate accountability for labour standards in supply chains. The most vulnerable sector of our society is targeted by the evil of modern slavery, which is incorporated into the entities, business expansions, and supply chains that seek to exploit them as commodities for profit.⁴¹

Victims are coerced into involuntary labour across various industries and settings, including farms, construction sites, restaurants, bars, factories, brothels, massage parlours, and private residences.⁴² Firstly, like other G20 countries, India utilizes

³⁸ David Gadd & Rose Broad, "When Victims of Modern Slavery Became Offenders: The Unravelling of the UK's Modern Slavery Agenda" (2024) 10:2 Journal of Human Trafficking at 308.

³⁹ Muraszkievicz, *supra* note 19.

⁴⁰ Matthew C Clarke, "Perpetrator-Centric Strategies for Addressing Modern Slavery" (2021) 13:2 J Hum Rights Pract at 419-420.

⁴¹ Martijn Boersma & Justine Nolan, "Modern Slavery and the Employment Relationship: Exploring the Continuum of Exploitation" (2022) 64:2 Journal of Industrial Relations at 172-173.

⁴² The Passage to Ending Homelessness, *Modern Slavery Handbook*, by Office of the Independent Anti-Slavery Commissioner at 3.

products that are not free from modern slavery.⁴³ Secondly, the practice of modern slavery is quite widespread in Indian business entities. Workers are exploited both in industrial and commercial sectors and at every stage of the supply chain. This occurs primarily in the extraction of raw materials or production stages, which are the lowest segments.⁴⁴

The third strand of literature encompasses the risk factors and causes of modern slavery and criminal exploitation. It explores the circumstances in which individuals may be subjected to working conditions that progressively worsen over time, potentially leading to modern slavery.⁴⁵ The study seeks to understand the specific mechanisms through which this process occurs. What are the risk factors that can lead to the deterioration of working conditions? What are the factors that lead someone to become ensnared in exploitative circumstances? What measures may be used to prevent and address exploitation?⁴⁶ Subsequently, the need for survivor support and rehabilitation strategies to evaluate the effectiveness of rehabilitation programs already existing in the respective countries and to investigate the psychological, social, and economic needs of survivors.⁴⁷ Finally, a comprehensive examination of the risk factors and causes of modern slavery reveals the necessity for the enhancement of both national and international laws to effectively address this issue, including legal frameworks and enforcement mechanisms.⁴⁸

⁴³ Robert Caruana et al, “Modern Slavery in Business: The Sad and Sorry State of a Non-Field” (2021) 60:2 Business & Society at 274.

⁴⁴ *Global Estimates of Modern Slavery: Forced Labour and Forced Marriage*, by International Labour Organization, Walk Free Foundation, & International Organization for Migration (2022) at 93.

⁴⁵ Donella Caspersz et al, “Modern slavery in global value chains: A global factory and governance perspective” (2022) 64:2 Journal of Industrial Relations at 182.

⁴⁶ Boersma & Nolan, *supra* note 41.

⁴⁷ Martins Jr, *supra* note 2.

⁴⁸ *Ibid.*

IV. THE IMPLICATIONS OF MODERN SLAVERY ACT, 2015: UNDERSTANDING OF THE DEFENCE

The MSA is one of the first legislative initiatives to address the issue of modern slavery. Although the Act is intended to encompass all aspects of modern slavery, including exploitation at different stages of the supply chain, it is plagued by a few ambiguities. While explaining criminal exploitation, the 2024 report published by the Centre for Social Justice (CSJ) stated that this is an emerging form of exploitation in the UK, which is characterised by the use of threat, coercion, or any form of manipulation for the financial benefit of someone else, and the reaction to criminal exploitation across the country is inconsistent.⁴⁹ This is mostly because legislation and policy contain definitions that are both incomplete and ambiguous. Even though the National Redress Mechanism (NRM) documents acknowledge criminal exploitation as a type of modern slavery,⁵⁰ the MSA does not make any direct mention of it.⁵¹

The report further describes how the phenomenon of criminal exploitation is causing immense harm to individuals and communities.⁵² Acts of violence, including threats and physical injury, such as the insertion of drugs into their bodies for transportation, can cause victims to sustain injuries and long-term psychological distress.⁵³ Invading the homes of the victims of cuckooing can have detrimental effects, forcing them or their families to move elsewhere and severing their ties with support networks and extended family.⁵⁴ Young people might not be able to continue their studies, resulting in a lack of necessary

⁴⁹ Criminal exploitation is defined as the act of compelling, coercing, or grooming an individual to engage in criminal activities for the financial gain of another person.

⁵⁰ The National Referral Mechanism (NRM) is a system established by the Home Office in the UK to effectively identify and provide assistance to individuals who have been subjected to modern slavery. The individuals who are referred into the system are considered "potential victims" until the results of a two-tier decision-making process, which is conducted by a "competent authority," determine whether they satisfy the criteria to be formally recognised as victims.

⁵¹ *Criminal Exploitation: Modern Slavery by Another Name*, by Justice and Care (Centre for Social Justice, 2024) at 5 & 14.

⁵² *Ibid.*

⁵³ *Criminal Exploitation of Children, Young People and Vulnerable Adults: County Lines*, by Home Office (2023) at 13-14.

⁵⁴ Cuckooing refers to the act of criminals seizing control of an individual's residence for the aim of carrying out their illicit activities, typically involving the storage or cultivation of drugs as part of county lines networks.

credentials for securing job opportunities. However, the most detrimental consequence is that numerous victims are legally pursued as perpetrators, resulting in them acquiring a criminal record and becoming further entangled in exploitation and illegal behaviour.⁵⁵

Despite the legislation enforcement of legislation combating exploitation in the UK, the statistical data presented by the NRM is worrisome. The results indicate an increase in criminal exploitation along with other forms of exploitation as detailed in Table 1 below.⁵⁶ The official statistics indicate that from January to March 2024, the Home Office received 4,524 referrals of potential victims of modern slavery. This represents a 9% increase compared to the period from October to December 2023, during which there were 4,134 referrals. Among these potential victims, 73% (3,291) are male and 27% (1,226) are female. It is worth noting that this is the highest number of quarterly referrals for females since the NRM was established.⁵⁷

Table 1. Victims of Modern Slavery in the UK (2015-2023)

Year	Growth in Numbers
2015	3266 ⁵⁸
2016	3805 ⁵⁹
2017	5145 ⁶⁰
2018	6993 ⁶¹

⁵⁵ Virginia Mantouvalou, “The UK Modern Slavery Act 2015 Three Years On” (2018) 81:6 The Modern Law Review at 1026-1027.

⁵⁶ Justice and Care, *supra* note 51 at 12 & 15. The statistical data demonstrates a correlation between criminal exploitation and other exploitation forms, including only criminal exploitation, then domestic and criminal exploitation, labour and criminal exploitation, sexual and criminal exploitation, and sexual, labour and criminal exploitation. This indicates that the prevalence of criminal exploitation, in conjunction with these other forms, is gradually approaching its maximum point.

⁵⁷ Home Office, “National Referral Mechanism and Duty to Notify statistics UK, quarter 1 2024 – January to March” (2024), online: *Crime, Justice and Law* <<https://www.gov.uk/government/statistics/modern-slavery-nrm-and-dtn-statistics-january-to-march-2024/modern-slavery-national-referral-mechanism-and-duty-to-notify-statistics-uk-quarter-1-2024-january-to-march>>.

⁵⁸ *National Referral Mechanism Statistics- End of Year Summary 2015*, by National Crime Agency (2016).

⁵⁹ *National Referral Mechanism Statistics- End of Year Summary 2016*, by National Crime Agency (2017).

⁶⁰ *National Referral Mechanism Statistics – End of Year Summary 2017*, by National Crime Agency (2018).

⁶¹ *National Referral Mechanism Statistics- End of Year Summary 2018*, by National Crime Agency (2019).

2019	10627 ⁶²
2020	10613 ⁶³
2021	12727 ⁶⁴
2022	16938 ⁶⁵
2023	17004 ⁶⁶

Source: Alicia Heys, “The UK’s Statutory Defence for Victims of Modern Slavery and its Narrow Understanding of Victimhood”, (2023) 87:4 *The Journal of Criminal Law*.

The significant objective of the MSA was to enhance the support system for victims, consolidate the existing offences, and guarantee that perpetrators receive appropriate punishment, for which the statutory defence provided by section 45 of the MSA was incorporated.⁶⁷ It was created to adhere to the non-punishment concept outlined in the Council of Europe Convention on Action Against Trafficking in Human Beings.⁶⁸ However, the legislation's precise objective has not been achieved through the implementation of the aforementioned provisions.⁶⁹ States neglect to acknowledge the ordeal endured by victims of trafficking, wherein they are penalized for offences they were coerced into

⁶² *National Referral Mechanism Statistics UK, End of Year Summary, 2019*, by Home Office (2020).

⁶³ *Modern Slavery: National Referral Mechanism and Duty to Notify statistics UK, end of year summary, 2020*, by Home Office (2021).

⁶⁴ *Modern Slavery: National Referral Mechanism and Duty to Notify statistics UK, end of year summary, 2021*, by Home Office (2022).

⁶⁵ *Modern Slavery: National Referral Mechanism and Duty to Notify statistics UK, end of year summary 2022*, by Home Office (2023).

⁶⁶ *Modern Slavery: National Referral Mechanism and Duty to Notify statistics UK, end of year summary 2023*, by Home Office (2024).

⁶⁷ *The Modern Slavery Act*, *supra* note 10, According to the MSA, individuals who are 18 years old or older can use the defence under the above-stated section if the following conditions are met: they were forced to commit the criminal act due to their exploitative circumstances, and a reasonable person in the same situation with similar characteristics would have had no other practical choice but to commit the act;

ibid, s. 45 (4). Suppose the defendant is below the age of 18 at the time of committing the conduct. In that case, they may raise the defence under the above-mentioned section, if it can be proven that the illegal act was a direct result of their exploitation and an individual possessing similar relevant features and placed in the same circumstances would have acted similarly.

⁶⁸ *Convention on Action against Trafficking in Human Beings*, 2005, art. 26, which states that “Each Party shall, in accordance with the basic principles of its legal system, provide for the possibility of not imposing penalties on victims for their involvement in unlawful activities, to the extent that they have been compelled to do so”.

⁶⁹ Alicia Heys, “The UK’s Statutory Defence for Victims of Modern Slavery and its Narrow Understanding of Victimhood” (2023) 87:4 *The Journal of Criminal Law* at 239.

committing. Imprisonment for crimes committed as a result of involvement in trafficking or modern slavery worsens the psychological distress, susceptibility to harm, and risk of being exploited again upon release. This contributes to the erosion of faith in authorities and diminishes the probability of future engagement between these victims and authorities.⁷⁰

The implementation of the statutory defence consists of three stages. The initial step involves determining if the defendant is currently or previously a victim of modern slavery or human trafficking. In the second step, after establishing their victim status, the objective is to determine whether the defendant engaged in the criminal act due to being compelled as a result of being a victim of modern slavery or human trafficking, especially when the defendant is a child. The third step is to determine if a person with appropriate characteristics, which would include his reasonable thinking, would have behaved similarly in comparable circumstances.⁷¹ To overcome the defence, the Crown Prosecution Service (CPS) must refute at least one of these steps.⁷²

However, the MSA fails to explicitly state who has the responsibility of providing evidence concerning the statutory defence or where the burden of proof lies in the statutory defence.⁷³ Upon raising the defence, the defendant is simultaneously positioned as both a victim of modern slavery and a perpetrator of the crime for which the defence is being raised. This does not align with the reductive, linear logic of the standard processes in the criminal justice system, which contends that an individual is either a victim or a perpetrator.⁷⁴ Therefore, it contradicts the conventional concept of the burden of proof, which would be borne by the prosecution in the case of any other criminal offence, rather than the defendant.

⁷⁰ Rose Broad & Nick Turnbull, “From Human Trafficking to Modern Slavery: The Development of Anti-Trafficking Policy in the UK” (2019) 25:2 Eur J Crim Policy Res at 124.

⁷¹ Neil Parpworth, “Prosecuting Victims of Modern Slavery and Trafficking: Does s 45 of the Modern Slavery Act 2015 Have Retrospective Effect?: R v CS [2021] EWCA Crim 134” (2021) 85:3 The Journal of Criminal Law at 237.

⁷² National Crime Agency, *supra* note 58. The CPS is the primary governmental organization responsible for carrying out criminal prosecutions in England and Wales. The CPS serves a pivotal role in upholding justice by striking a balance between prosecuting wrongdoers and safeguarding the rights of the accused, while also providing support to victims and witnesses throughout the legal proceedings.

⁷³ Heys, *supra* note 69.

⁷⁴ J P McBaine, “Burden of Proof: Degrees of Belief” (1944) 32:3 California Law Review.

Thus, the Court of Appeal in England and Wales stated that the burden on the defendant should be evidential only, meaning that the defendant must provide evidence of their victimhood.⁷⁵ They must prove that the crime was committed through compulsion attributable to their experience of modern slavery, criminal exploitation, or human trafficking, and that a reasonable person in the same situation with relevant characteristics would have had no reasonable alternative.⁷⁶ It is not required by the defendant to bear the burden of proof in establishing the relation between the crime committed and being the victim of modern slavery or exploitation, as well as their lack of any other reasonable options. This revised burden of proof aims to enhance the acknowledgement and support for victims of modern slavery and human trafficking by alleviating the onus on them to substantiate their experiences and justify their actions in response to the exploitation and manipulation they endured.⁷⁷

Initially, the emphasis was primarily on sexual exploitation as a significant form of modern slavery, leading to legislative gaps in addressing the diverse other forms of exploitation that arose in response to societal changes and the needs of individuals. The current practice of criminal exploitation, as well as exploitation in the global value chains and factories led by various multinational enterprises, which are frequently identified as forms of modern slavery, suggests that the legislation intended to protect such victims is not always appropriately implemented and that victims continue to be criminalized for crimes they were compelled to commit.⁷⁸ It is imperative for those who apply the statutory defence to have a more comprehensive understanding of criminal exploitation, which emphasizes the defendant's dual role as both a victim and a perpetrator. This requires legislative interpretations that would treat victims of criminal exploitation and modern slavery differently from those of any other crime.⁷⁹

⁷⁵ *MK v R*, [2018] EWCA Crim 667 at para 12 & 39.

⁷⁶ Louis Kaplow, "Burden of Proof" (2011) 121:4 Yale Law Journal at 796.

⁷⁷ Sean Mennim & Nicola Wake, "Court of Appeal: Burden of Proof in Trafficking and Modern Slavery Cases: *R v MK*; *R v Gega* [2018] Crim 667" (2018) 82:4 The Journal of Criminal Law at 283-284.

⁷⁸ Bethany Simpson, "The Reasonable Victim of Modern Slavery: *R v N* [2019] EWCA Crim 984" (2019) 83:6 The Journal of Criminal Law at 510.

⁷⁹ Heys, *supra* note 69.

Therefore, the CSJ report emphasizes the necessity of enhancing the understanding of criminal exploitation and consistently identifies it as a form of modern slavery, commencing with its definition in the MSA. It is imperative to provide the police and other agencies with the necessary powers and training to eradicate this abuse, which includes the establishment of a specific offence of cuckooing and broadening of the parameters for Slavery and Trafficking Prevention Orders (STOP) and Slavery and Trafficking Risk orders (STRO) to inhibit individuals previously involved in modern slavery or human trafficking from participating in further exploitative conduct.⁸⁰ The objective of STPOs and STROs is to improve the supervision and regulation of offenders to avert additional victimization and to guarantee the safety and welfare of vulnerable people. These orders impose various restrictions on their behaviour and activities to mitigate the risk of recidivism and safeguard potential victims. The orders may encompass stipulations such as informing authorities of their name and residence, limiting their movements, and forbidding communication with specific individuals under the MSA 2015.⁸¹

V. THE INDIAN PERSPECTIVE AND THE THREAT OF MODERN SLAVERY

The 2023 GSI reveals that approximately 50 million individuals are living in conditions of modern slavery. Regardless of the fact that enslavement is officially prohibited worldwide, it is estimated that 28 million people are subjected to forced labour, while 22 million are trapped in forced marriages. Additionally, an estimated 12 million children are among those affected. This marks a significant increase of 10 million individuals since the 2018 GSI.⁸² The 2023 GSI report on India also reveals that India has the highest number of people living in modern slavery, with a staggering 11 million victims. In India, the frequency of modern slavery is eight individuals per thousand people, which ranks 6th among 27

⁸⁰ *The Modern Slavery Act*, *supra* note 10.

⁸¹ *A Pathway to Freedom and Justice: a new vision for supporting victims of modern slavery*, by Justice and Care (2022) at 10.

⁸² *More People are Living in Modern Slavery but Governments are Still not Taking Enough Action*, by Walk Free Foundation (The Global Slavery Index, 2023) at 2 & 4.

nations in Asia and the Pacific, and 34th among 160 countries worldwide.⁸³ In addition to the presence of modern forms of slavery within its territory, India, being one of the largest economies globally, is also vulnerable to exploitation through the goods it imports.⁸⁴ Roughly two-thirds of cases of forced labour are linked to global supply chains, affecting a diverse array of industries and various phases within the supply chain. India imports products that are potentially produced using forced labour, with a value of US\$23.6 billion, as shown in Table 2 below.⁸⁵

Table 2. Imports of Goods Susceptible to Modern Slavery in India

Product at Risk of Modern Slavery	Import Value (in billions of US\$)	Source Countries
Electronics	7.8	China, Malaysia
Palm Oil	7.6	Malaysia, Indonesia
Solar Panels	3.8	China
Gold	3.1	Peru, Burkina Faso
Garments	1.3	China, Bangladesh, Vietnam, Malaysia, Brazil

Source: Walk Free Foundation, “Modern Slavery in India”, *Global Slavery Index 2023*, available at: <https://www.walkfree.org/global-slavery-index/countrystudies/india/#:~:text=The%202023%20GSI%20estimates%20that,highest%20number%20of%20any%20country>

Over the past three decades, there has been a significant increase in the global population, resulting in a surplus of impoverished and desperate individuals in

⁸³ *G20 Modern Slavery Scorecard*, by Walk Free Foundation (Global Slavery Index, 2023) Walk Free's G20 Scorecard assesses and ranks the countries of the G20 according to their assessed levels of modern slavery. Prevalence is determined by comparing the estimated number of individuals living in modern slavery to the total population. Countries are rated based on the prevalence of modern slavery, with the highest prevalence being assigned to the top-ranked country and the lowest prevalence to the bottom-ranked country. The G20 Scorecard additionally provides prompt measures that nations can use to tackle the issue of modern slavery..

⁸⁴ Rimjhim Singh, “Global Slavery Index 2023: G20 Nations Fuelling Modern Slavery” (2023), online: *Business Standard* <https://www.business-standard.com/india-news/global-slavery-index-2023-g20-nations-fuelling-modern-slavery-123061300720_1.html>.

⁸⁵ Parpworth, *supra* note 71; *Global Slavery Index 2023*, by Walk Free Foundation (2023) at 202 online: <<https://policycommons.net/artifacts/11765996/global-slavery-index-2023/12657393/>>.

labour markets worldwide. The dynamic economic transformations in developing nations have led to the emergence of corruption and violence while eroding the social norms that formerly safeguarded the most marginalised segments of society.⁸⁶ The region of Asia and the Pacific has the largest prevalence of individuals living in conditions of modern slavery. This region accounts for nearly 46% of all reported occurrences of people smuggling, 83% of those smuggled are male, and around 17% are female.⁸⁷ Although slavery has been criminalised worldwide, there are still millions of individuals who remain ensnared in one of the most ancient social establishments. Kevin Bales' study highlights the distressing growth of the issue known as "new slavery", which is intrinsically linked to the global economy. According to Bales, new slaves are not considered long-term assets, unlike those in previous forms of slavery. Rather, they are inexpensive, low-maintenance, and considered 'disposable'.⁸⁸

By shifting focus from the various forms of sexual exploitation to newer forms of enslavement, we could direct our attention to the supply chains. Given the current state of globally interconnected and extensively outsourced supply chains, the majority of enslaved individuals used by the firms are engaged in labour-intensive, non-technological occupations such as agriculture, brick-building, mining and quarrying, textile production, leatherworking, gem-cutting and jewellery-making, cloth and carpet manufacturing, domestic service, forest clearance, and charcoal production, as shown in Table 3. Firms seek to obtain necessary resources and take advantage of less expensive labour, which would enhance their efficiency and profitability.⁸⁹ Although many supply networks naturally aim to minimize expenses, in the context of slave labour, the majority of earnings are kept by slave-holders, preventing them from reaching actors lower in the supply chain due to the concealment of the origin of slave-made items.

⁸⁶ Hannah Harris & Justine Nolan, "Outsourcing the enforcement of modern slavery: Overcoming the limitations of a market-based disclosure model" (2022) 64:2 *Journal of Industrial Relations* at 224.

⁸⁷ Violetta S Molchanova, "Modern Slavery in India: the Essence, Forms, Distribution" (2019) 4:1 *Slavery: Theory and Practice* at 21.

⁸⁸ Kevin Bales, *Disposable People: New Slavery in the Global Economy, Updated with a New Preface* (California: University of California Press, 1999) at 14.

⁸⁹ Stefan Gold, Alexander Trautrimis & Zoe Trodd, "Modern slavery challenges to supply chain management" (2015) 20:5 *Supply Chain Management* at 487.

Commodities produced by slaves are indistinguishably combined with commodities from other sources at the subsequent level of the supply chain, such as exporters or wholesalers, before reaching the customer. Consequently, it appears that slave labour is largely concealed from the main companies that are primarily located in the large consumption markets of the industrialized world.⁹⁰

Table 3. Commodities vulnerable to forced exploitation in India

Industry	Exploitation
Cotton	Child Labor, Forced Labor and Debt Bondage ⁹¹
Brick-building	Child Labor and Forced Labor ⁹²
Garment and Textile	Forced Labor ⁹³
Agriculture	Forced Labour and Debt Bondage ⁹⁴
Gem-cutting and Jewellery-making	Child Labour ⁹⁵
Cloth and Carpet manufacturing	Forced Labour and Child Labour ⁹⁶
Bidis	Child and Women Labour ⁹⁷
Fireworks and Matches	Child Labour

⁹⁰ Harry J Van Buren III, Judith Schrempf-Stirling & Michelle Westermann-Behaylo, “Business and Human Trafficking: A Social Connection and Political Responsibility Model” (2021) 60:2 Business & Society at 344-346.

⁹¹ Leticia García, “Modern cotton slaves in 18 countries work for large textile companies and many are children” (2025), online: *EL PAÍS English* <<https://english.elpais.com/international/2025-01-28/modern-cotton-slaves-in-18-countries-work-for-large-textile-companies-and-many-of-them-are-children.html>>.

⁹² *Slavery in India's Brick Kilns & the Payment System: Way forward in the fight for fair wages, decent work and eradication of slavery*, by Anti-Slavery International & Volunteers for Social Justice (2017) at 5.

⁹³ Global Fund to End Modern Slavery, “Forced Labor Conditions in Home-Based Production” (2020), online: <<https://gfems.org/resources/forced-labor-conditions-in-home-based-production/>>.

⁹⁴ Walk Free Foundation, *supra* note 6.

⁹⁵ RR Tiwari & A Saha, “Morbidity Profile of Child Labor at Gem Polishing Units of Jaipur, India” (2014) 5:3 The International Journal of Occupational and Environmental Medicine at 125-126.

⁹⁶ *Tainted Carpets: Slavery and Child Labour in India's Hand-Made Carpet Sector*, by Siddharth Kara (Cambridge, MA: FXB Centre for Health and Human Rights, Harvard School of Public Health, 2014) at 16.

⁹⁷ Monika Arora et al, “The Indian Bidi Industry: Trends in Employment and Wage Differentials” (2020) 8 Front Public Health at 2.

Source: Bureau of International Labour Affairs, United States Department of Labour, 2020 “List of Goods Produced by Child Labour or Forced Labour”, 2020.

As supply chains are currently highly outsourced and interconnected on a global scale, almost all industries are at risk of utilizing slave labour in some capacity. However, slavery has the potential to significantly impact the global supply chain and jeopardize the reputation of prominent companies.⁹⁸ This was evident in the case of European and US supermarkets such as Carrefour, Tesco, and Walmart, which were found to be selling prawns produced using slave labour. As a result of public pressure, these supermarkets were compelled to remove the prawn products supplied by these unethical sources from their shelves.⁹⁹

In the recent past, countries worldwide have implemented legislative measures to eradicate all forms of exploitation in the global supply chain in response to this critical issue. In 2005, the Brazilian Government introduced the National Pact for the Eradication of Slave Labour, a voluntary multi-stakeholder initiative in partnership with the ILO. It encourages signatory companies to make an effort to eliminate slave labour from their supply chains. This requires that corporations sever connections with organisations that engage in slavery, adopt contractual provisions related to slavery-related practices, and establish systems to monitor product supply chains.¹⁰⁰ Subsequently, in 2015, the United Kingdom implemented the MSA, which mandates that organisations generate and distribute an annual statement that delineates the measures implemented to prevent slavery from occurring within their supply chains.¹⁰¹ In 2018, the Australian government mandated that entities operating in Australia, including the Commonwealth government, must produce annual statements regarding the

⁹⁸ Justine Nolan, “Business and Human Rights: The Challenge of Putting Principles into Practice and Regulating Global Supply Chains” (2017) 42:1 *Alternative Law Journal* at 42-43.

⁹⁹ Melissa Marschke & Peter Vandergeest, “Slavery scandals: Unpacking labour challenges and policy responses within the off-shore fisheries sector” (2016) 68 *Marine Policy* at 41.

¹⁰⁰ *National Pact for the Eradication of Slave Labour in Brazil*, by International Labour Organization (2005).

¹⁰¹ *The Modern Slavery Act*, *supra* note 10, s. 54, The section mandates that specific commercial enterprises must annually prepare a statement on slavery and human trafficking, as part of their commitment to transparency in Supply Chains. This statement should clearly describe the measures the organization has implemented to prevent slavery and human trafficking in its supply chains and all aspects of its operations.

potential risks of modern slavery in their operations and supply chains.¹⁰² These statements should also outline the measures taken to mitigate those risks.¹⁰³ In addition, the Canadian government has also implemented comparable measures to address reports of modern slavery.¹⁰⁴

When it comes to India, the government has implemented several measures to eliminate slavery in the form of bonded labour or forced labour. These measures include the enactment of laws such as the Bonded Labour System (Abolition) Act, 1976, the Mines Act, 1952,¹⁰⁵ the Factories Act, 1948,¹⁰⁶ the Child Labour (Prohibition and Regulation) Act, 1986,¹⁰⁷ the Child Labour (Prohibition and

¹⁰² *Ibid*, ss. 5 & 11. The sections state that any entity that is either an Australian entity or operates in Australia, and has a combined revenue of at least \$100 million, or is the Commonwealth or a corporate Commonwealth entity, or a Commonwealth company as defined by the Public Governance, Performance and Accountability Act 2013, with a combined revenue of at least \$100 million, or an entity that has voluntarily agreed to comply with the requirements of this Act under section 6 for that specific period, must submit annual modern slavery statements. These statements should describe the risks of modern slavery in their operations and supply chains and the actions taken to address those risks.

¹⁰³ *Ibid*, ss. 16 & 16A. The sections state that the modern slavery statement should contain information about the reporting entity's identity, as well as details about its structure, operations, and supply chains. It should also outline the risks associated with modern slavery practices in these areas, including any entities owned or controlled by the reporting entity. Additionally, the statement should describe the actions taken by the reporting entity, such as conducting due diligence and implementing remediation processes. If the entities fail to comply with the statements or fail to take prescribed remedial measures, they must offer an explanation within a period of 28 days or as needed.

¹⁰⁴ *Fighting Against Forced Labour and Child Labour in Supply Chains Act*, *supra* note 17, s. 5, 6, 9, & 11. According to the sections, all government institutions and entities involved in producing, selling, distributing, or importing goods in Canada must submit a report to the Minister by May 31 each year. This report should detail the measures taken by the government institution and the entities in the previous financial year to prevent and minimize the use of forced labour or child labour at any stage of the production process for goods produced, purchased, or distributed by them.

¹⁰⁵ The legislation primarily focuses on the employment of those under the age of eighteen, stating that no person below this age shall be permitted to work in any mine or its sections. Adults engaged in a mine above ground shall not be obligated or permitted to work for more than forty-eight hours in a week or more than nine hours in a day.

¹⁰⁶ The legislation incorporates measures to ensure the well-being, safety, and working conditions of individuals, while also prohibiting the employment of young individuals on hazardous machinery and the employment of women and children close to cotton openers.

¹⁰⁷ The Act principally focuses on the prohibition of child labour in specific vocations and processes, as well as regulating working hours, weekly rest days, and the creation of a child labour technical advisory group.

Regulation) Amendment Act, 2016, and the Companies Act, 2013.¹⁰⁸ India has also ratified multiple international agreements and enacted laws to criminalize various types of modern slavery, such as human trafficking,¹⁰⁹ forced labour,¹¹⁰ and bonded labour,¹¹¹ in accordance with international legal standards.

India's efforts to address different types of slavery are insufficient in identifying emerging forms of modern slavery in both society and business. Therefore, it fails to effectively combat the increasing prevalence of modern slavery. Additionally, there is no mandatory or punitive requirement for businesses to provide financial reports, ensuring their non-involvement in modern-day slavery at every stage of production, and to ensure compliance with labour regulations. Consequently, similar to other countries in the region, there were restricted endeavours to tackle modern slavery in both governmental and private supply chains. In 2018, India's government implemented voluntary National Guidelines on Responsible Business Conduct.¹¹² Additionally, the top one thousand listed companies are required to make sustainability disclosures, including disclosures regarding forced and child labour, as part of the Business Responsibility Sustainability Reporting Framework.¹¹³ Nevertheless, companies are not obligated to carry out compulsory human rights due diligence, which can result in the exploitation and infringement of the basic rights of individuals.¹¹⁴

¹⁰⁸ The provisions of the act mandate that companies with a net worth of INR 500 crore or more, a turnover of INR 1,000 crore or more, or a net profit of INR 5 crore or more in the previous financial year actively contribute to the social and economic development of society. This is aimed at promoting a growth model that is more inclusive and sustainable.

¹⁰⁹ *Bharatiya Nyaya Sanhita*, *supra* note 22, s. 143.

¹¹⁰ *Ibid*, s. 146.

¹¹¹ *The Bonded Labour System (Abolition) Act*, *supra* note 26; *The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act*, *supra* note 29.

¹¹² *National Guidelines on Responsible Business Conduct*, *Government of India 2019*, by Ministry of Corporate Affairs (2019) at 11.

¹¹³ Ministry of Corporate Affairs, "IICA and UNICEF jointly organize workshop on Business Responsibility and Sustainability Reporting (BRSR)" (2023), online: <<https://www.pib.gov.in/PressReleaseIframePage.aspx?PRID=1956690>>.

¹¹⁴ Jolyon Ford & Justine Nolan, "Regulating transparency on human rights and modern slavery in corporate supply chains: the discrepancy between human rights due diligence and the social audit" (2020) 26:1 *Australian Journal of Human Rights* at 29-30.

VI. REFORM SUGGESTIONS AND THE PROTECTION OF MODERN SLAVERY VICTIMS: CURING THE ILLS

As global supply channels are operating under a variety of legal and cultural value systems, slavery can manifest in different ways, making it more difficult to identify. Detecting slavery in supply chains, therefore, necessitates a comprehension of local contexts.¹¹⁵ The study of the phenomena of modern slavery raises the question of what needs to be changed. It is crucial first to understand the underlying cause of the exploitation and the increasing prevalence of modern-day slavery. The primary risk factor that renders individuals susceptible to criminal exploitation is their preexisting dire circumstances, such as poverty, unemployment, addiction, starvation, and other precarious situations, which exacerbate their already unfavourable circumstances.¹¹⁶ Modern slavery has the ability to utilize technology and other modern methods, including the Internet, various software, websites, mobile phones, tablets, and various other digital gadgets, which makes it easier for the exploiter or the perpetrator to reach potential victims or vulnerable victims to manipulate and exploit. The grooming process has a detrimental impact on their cognitive capacities, including worsening mental health disorders and learning difficulties, which ultimately make them vulnerable to exploitation. Substance misuse is another significant factor that exposes individuals to the danger of criminal exploitation.¹¹⁷

Countries worldwide are subjected to the scourge of modern-day slavery, which is widespread across all domains and industries. India has a diverse range of ethnic and religious groups and a large population affected by Caste-based discrimination which still remains a deeply entrenched social issue leading them

¹¹⁵ James Moore, "Darwin's progress and the problem of slavery" (2010) 34:5 Progress in Human Geography at 574.

¹¹⁶ Justice and Care, *supra* note 81, at 23.

¹¹⁷ Substance misuse refers to the act of exposing individuals to the possibility of criminal exploitation, namely through a phenomenon known as "cuckooing," in which criminals take control of someone's residence. Occasionally, this situation arises when an individual is required to make a payment to settle an unpaid obligation related to drugs, or when they agree to receive drugs at no cost in exchange for engaging in drug dealing or for others to use their residence. Regrettably, the intrusion of criminals into one's house can potentially induce a relapse or instigate a new addiction for certain individuals. Stephen Knight, "The Trafficking Defence in Criminal Law: Nexus and Compulsion" (2023) 87:3 The Journal of Criminal Law at 203-205.

more vulnerable to the various forms of modern slavery mostly at the lower strata of the supply chain like the material extraction stage or the production stage,¹¹⁸ gender inequality where often women's limited access to education, employment and decision-making power and lack of gender-sensitive policies and gender-based violence has only increased their exploitation, entrenched patriarchal attitudes which are deeply ingrained in Indian society influencing behaviours, social norms and expectations and the informal nature of work where millions of workers are employed in unregulated and precarious conditions like lack of social security,¹¹⁹ formal contracts and labour protections which makes both national and international migrant workers at risk compelling them to accept exploitative conditions due to their economic desperation,¹²⁰ which all together form a wide range of factors shaping vulnerability to modern slavery both in the criminal sector and in the economic market.¹²¹ The aforementioned elements do not function alone; instead, they interact and exacerbate one another, forming a complex network of vulnerabilities. A lower-caste woman employed in the informal sector may encounter several forms of prejudice and exploitation stemming from her caste, gender, and employment status. The interconnecting vulnerabilities underscore the necessity for a comprehensive and multifaceted strategy to combat modern slavery in India. Due to a lack of comprehension regarding the modern forms of exploitation, India neglects to recognize the initial position of the victims, who are often labelled as perpetrators and hence penalized. Despite the legislative progress, the threat of modern slavery is still pervasive at significant levels of production in supply chains.

India must prioritize identifying emerging types of modern slavery and their prospective victims in order to effectively combat this issue. The primary measure that must be taken is to safeguard the individuals who have fallen victim to modern slavery, as they often find themselves compelled to engage in criminal activities. The rehabilitation process necessitates increased efficiency in

¹¹⁸ Sofia Stefanelli, "Unveiling Injustice: The Ongoing Struggle for Dalit Human Rights And Equality In Modern Day India" (2023) at 1-2.

¹¹⁹ Navnath B Tupe, "Triangular Attitude of Patriarchy: A Major Issue of Lifelong Learning among Women in India" (2014) 3:4 Business and Management Research at 12-14.

¹²⁰ *Slavery in India's Brick Kilns & the Payment System*, by Anti-Slavery International at 9-10.

¹²¹ *Joint submission for the Universal Periodic Review of India – 3rd cycle*, by Anti-Slavery International et al (2016) at 3 & 6.

addressing victims of criminal exploitation and implementing a psychotherapeutic strategy to achieve effective rehabilitative outcomes through appropriate interventions.¹²² Ensuring the accurate articulation of legal provisions and providing core training for professionals who are likely to encounter victims should include comprehensive education on the illegal exploitation of vulnerable individuals.¹²³

When it comes to modern forms of slavery in global supply chains, India should adopt measures similar to those implemented by the UK, Australia, and Canada. This would involve enacting provisions that combat modern slavery in supply chains and require businesses to publish statements and reports affirming their non-participation in any form of exploitation throughout the entire process. Furthermore, supply chain managers, auditing teams, and certification bodies should handle the matter with utmost diligence if any of the following conditions exist, such as inadequate laws and insufficient enforcement, coupled with a lack of government accountability, which result in minimal worker protection. Therefore, any situation that contributes to a poor working condition, restricts alternative job opportunities, or largely controls a labour market by a few employers should be addressed. It is imperative that we put an end to the practice of agents recruiting workers, as well as the widespread discrimination against specific worker groups and the general public's toleration of worker exploitation.¹²⁴ Additionally, the presence of a high percentage of migrants or minorities within the workforce, the occurrence of production activities in conflict zones, and many industries, particularly raw material extraction and processing, relying heavily on low-skilled labour, call for attention.¹²⁵

¹²² *Modern Slavery Prevention and Responses in South Asia: An Evidence Map*, by Pauline oosterhoff et al (Department for International Development (DFID), 2018) at 28.

¹²³ Claudia Müller-Hoff, "Taking the G20 at its word: suggestions for immediate & effective measures to eliminate modern slavery & human trafficking" (2017), online: *Business and Human Rights Resource Centre* <<https://www.business-humanrights.org/en/blog/taking-the-g20-at-its-word-suggestions-for-immediate-effective-measures-to-eliminate-modern-slavery-human-trafficking/>>.

¹²⁴ *Ending child labour, forced labour and human trafficking in global supply chains*, by International Labour Organization et al (2019) at 10-12.

¹²⁵ Christian Geisler Asmussen et al, "Corporate social responsibility in the global value chain: A bargaining perspective" (2023) 54:7 J Int Bus Stud at 1176-1177.

Thus, to address the question of what needs to be modified, it is crucial to guarantee the availability of support services for all victims of modern slavery, irrespective of their gender, age, nationality, or sexuality. Legislation should be passed to acknowledge that victims should not be treated as criminals for actions they were forced to commit while under the control of their exploiters. It is essential to enforce these laws and also enact laws that make corruption in the public sector a criminal offence.

VI. CONCLUSION

Slavery in its current form is pervasive in every nation, more so with the economic standing of the people. The issue brings multifaceted and intricate challenges, where countless individuals, especially vulnerable and marginalised groups, endure various manifestations of exploitation. The available literature on modern slavery reveals that despite the substantial progress that has been made, there is still a pressing need for the ongoing refinement and enforcement of both existing and new laws, with a strong emphasis on human rights. It is clear that the problems cannot easily be pinned down to one specific aspect, and there are no easy solutions to the conflicts that arise in this area. Despite the presence of legal frameworks in developing countries, the laws have demonstrated a lack of effectiveness in tackling the complex dimensions of contemporary slavery. In response to the failure of previous laws and regulations, some countries in the Global North have developed and implemented new legislation that seeks to better address this issue. The MSA adopts a comprehensive strategy addressing both traditional and contemporary manifestations of slavery. This was subsequently followed by Australia in 2018 and Canada in 2024, with additional nations like Germany, France, and the European Union poised to implement analogous legislative measures.

Further, the literature argues that the perception of modern slavery must go beyond sexual exploitation and should include the practices and policies that inadequately address the diverse manifestations of contemporary slavery. The legislation is to be amended to include the current practices of criminal exploitation and exploitation within global value chains and factories operated by a variety of multinational enterprises, which are frequently identified as forms of

modern slavery. The challenge of balancing the need to ensure the safety of communities with the identification of victims among those who are perpetrating crimes must be confronted head-on, even if it necessitates more intricate investigations rather than a swift resolution of the case. Ensuring the protection of vulnerable individuals from criminal exploitation and exploitation in the supply chain, as well as assisting them in establishing a secure and stable new life, requires the involvement of various organizations, like the government bodies, international organizations, non-governmental organizations and the private sector or business entities, with a focus on overall development of the community.

It has to be marked that the current legislation designed to protect victims is not consistently implemented, resulting in the continued criminalization of individuals for offences they were coerced into committing. A comprehensive understanding of criminal exploitation is essential for those applying the defence, especially the judiciary, defence attorneys, prosecutorial bodies, and law enforcement organizations, highlighting the defendant's dual role as both victim and perpetrator. This necessitates legislative interpretations that distinguish victims of criminal exploitation and modern slavery from victims of other crimes. The prospect of India ranking among developing nations, coupled with a heightened incidence of contemporary slavery, necessitates the adoption of a regulatory framework with an emphasis on its ability to address deficiencies in the existing legal framework and enhance protections for victims of modern slavery. The prevalence of modern slavery has a profound and destructive effect on our communities. If we fail to root it out and tackle the fundamental factors that make individuals susceptible to exploitation, the number of lives adversely affected will persistently rise.

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COMPETING INTEREST

The authors declare that they do not have any competing or conflicting interests.

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