

Constitutional Governance and Anti-Trafficking Laws in India: Protecting Children from Exploitation

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Abstract: Human trafficking involving children constitutes one of the gravest violations of constitutional liberty, dignity, equality, bodily integrity and human development. Children subjected to trafficking may be exploited for forced labour, commercial sexual exploitation, begging, domestic servitude, illicit activities, forced marriage, illegal adoption, organ removal and other forms of organised exploitation. The vulnerability of children is intensified by poverty, migration, family disintegration, lack of education, gender discrimination, social exclusion, natural disasters, digital manipulation and organised criminal networks. In India, protection against child trafficking is not merely an objective of criminal law but a constitutional responsibility arising principally from Articles 14, 21, 21A, 23 and 24 and the Directive Principles contained in Articles 39(e) and 39(f). Article 23 expressly prohibits trafficking in human beings and forced labour, while Article 24 prohibits employment of children below fourteen years in factories, mines and hazardous employment. Together with the constitutional guarantees of dignity, education and development, these provisions establish a rights-based foundation for governmental action against the exploitation of children.

India has developed a multi-layered statutory framework consisting of the Bharatiya Nyaya Sanhita, 2023, the Protection of Children from Sexual Offences Act, 2012, the Juvenile Justice (Care and Protection of Children) Act, 2015, the Immoral Traffic (Prevention) Act, 1956, the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986, the Bonded Labour System (Abolition) Act, 1976 and other welfare legislation. Section 143 of the Bharatiya Nyaya Sanhita criminalises trafficking for exploitation and provides enhanced punishment where the victim is a child, while Section 144 specifically penalises exploitation of a trafficked child. Nevertheless, India's anti-trafficking framework remains institutionally dispersed, requiring coordination between police, Child Welfare Committees, Anti-Human Trafficking Units, labour authorities, courts, educational institutions and child-protection agencies.

The seriousness of the problem remains evident in official data. NCRB's Crime in India 2023 recorded 2,183 human-trafficking cases involving 6,288 reported victims, of whom 2,687 were children. Recent Supreme Court jurisprudence has consequently moved beyond punishment toward institutional accountability. In *Pinki v. State of Uttar Pradesh* (2025), the Court issued nationwide directions concerning child-trafficking trials, education, victim protection and monitoring. In *Prajwala v. Union of India* (2026), the Court characterised India's trafficking framework as broad but fragmented and emphasised rehabilitation, victim protection, stronger Anti-Human Trafficking Units, cyber-enabled trafficking and the continuing need to consider comprehensive anti-trafficking legislation.

This article analyses anti-trafficking governance from a constitutional and child-rights perspective. It argues that effective constitutional governance requires a transition from a predominantly rescue-and-prosecution model to an integrated framework of prevention, identification, investigation, prosecution, rehabilitation, reintegration and prevention of re-trafficking. Child protection must be understood as a continuing constitutional obligation rather than an episodic response after exploitation has already occurred.

Keywords: Constitutional Governance; Child Trafficking; Human Trafficking; Child Exploitation; Article 23; Child Rights; Bharatiya Nyaya Sanhita; POCSO Act; Juvenile Justice; Forced Labour; Commercial Sexual Exploitation; Anti-Human Trafficking Units; Rehabilitation; Human Rights; Child Protection.

INTRODUCTION

Human trafficking is a serious assault upon human dignity because it transforms a human being into an instrument of commercial, sexual or economic exploitation. When the victim is a child, the harm acquires an additional constitutional dimension. Childhood is a formative period during which physical security, education, nutrition, emotional development, family support and social stability determine an individual's capacity to participate meaningfully in society. Trafficking disrupts each of these conditions. A trafficked child may be separated from family, deprived of education, forced to work, subjected to violence, sexually exploited, compelled to beg or used for criminal activities. The injury extends beyond immediate physical harm and may produce lifelong psychological, social and economic consequences.

Trafficking is sometimes mistakenly understood as requiring transportation across national or State boundaries. Modern anti-trafficking law adopts a wider approach. Recruitment, harbouring, receipt, transfer or transportation may form components of trafficking when undertaken for exploitation. Physical movement is therefore only one possible element of a trafficking process. This understanding is particularly important in cases involving children who may be recruited, sold or exploited within their own district or city without being transported over long distances.

The Bharatiya Nyaya Sanhita, 2023, which came into force on 1 July 2024, now constitutes the principal general criminal-law framework. Section 143 addresses trafficking of persons for exploitation through specified coercive, deceptive and abusive means. Exploitation includes physical exploitation, sexual exploitation, slavery or practices similar to slavery, servitude, beggary and forced removal of organs. Enhanced punishment is prescribed where children are trafficked, including particularly severe punishment for repeat child trafficking and involvement of public servants or police officers. Section 144 separately punishes a person who knowingly engages a trafficked child for sexual exploitation.

However, criminalisation represents only one part of the State's constitutional responsibility. A trafficked child requires rescue, immediate safety, medical examination, psychological support, legal representation, educational restoration, family assessment, compensation and long-term rehabilitation. Returning a rescued child to precisely the same vulnerability that

enabled trafficking may result in re-trafficking. Constitutional governance therefore requires coordination between criminal justice and social welfare.

The Constitution of India makes this obligation particularly strong. Article 14 protects equality; Article 21 protects life and personal liberty and has been judicially developed to encompass dignity and conditions necessary for meaningful human existence; Article 21A recognises the right of children between six and fourteen years to free and compulsory education. Article 23 expressly prohibits trafficking in human beings, begar and similar forms of forced labour. Article 24 prohibits the employment of children below fourteen years in factories, mines and hazardous employment. Article 39(e) directs the State to ensure that the tender age of children is not abused, while Article 39(f) requires children to be provided opportunities and facilities to develop in freedom and dignity and to be protected against exploitation and moral and material abandonment.

The constitutional framework therefore converts child protection from charitable welfare into governmental obligation. A child rescued from trafficking is not merely the beneficiary of State compassion. The child is a rights-holder entitled to constitutional protection.

The problem remains significant despite extensive legislation. NCRB data for 2023 recorded 2,183 human-trafficking cases and 6,288 reported trafficking victims, including 2,687 children. The same crime statistics recorded substantial numbers of kidnapping and child sexual-offence cases, demonstrating the wider environment of vulnerability within which trafficking networks may operate. Registered cases should also be interpreted cautiously. Trafficking is frequently concealed within informal labour arrangements, migration, domestic work, missing-person cases or fraudulent recruitment, meaning official registrations cannot automatically be treated as a complete measure of prevalence.

The causes of child trafficking are multidimensional. Poverty and unemployment may make fraudulent employment offers attractive. Children who have left school may become vulnerable to labour intermediaries. Migration may weaken community-based monitoring. Girls can face trafficking for sexual exploitation and forced marriage, while boys may be trafficked for labour, begging and other exploitative activities. Children from marginalised communities, children living on streets, children without parental care, children affected by conflict or disaster and children with disabilities may face additional risks.

Technology has added another dimension. Recruitment may occur through social media, gaming platforms, online job advertisements, messaging applications and false romantic relationships. Digital platforms can facilitate sexual exploitation without requiring the conventional physical structures historically associated with trafficking. The Supreme Court in *Prajwala v. Union of India* in 2026 specifically identified cyber-enabled human trafficking as an emerging area requiring legal and institutional attention.

Anti-trafficking governance must consequently operate at several stages. **Prevention** addresses vulnerability before trafficking takes place. **Protection** safeguards identified victims. **Prosecution** imposes accountability upon traffickers and exploiters. **Rehabilitation** restores education, health, identity, family relationships and economic security. **Reintegration** helps the child return safely to community life. Finally, **prevention of re-trafficking** requires continuing monitoring and support.

The present article examines these dimensions from a constitutional perspective. Its central argument is that the effectiveness of anti-trafficking law should not be measured exclusively by the severity of punishment. Constitutional governance requires institutions capable of preventing exploitation and restoring the dignity and development of children after rescue.

Historical Background

The historical development of anti-trafficking law in India reflects a gradual transition from moral regulation and control of prostitution toward a contemporary human-rights and victim-centred understanding of trafficking. During the colonial period, legal responses were fragmented and often motivated by concerns regarding public order, sexual morality and regulation rather than the rights of exploited persons. The Indian Penal Code of 1860 contained provisions concerning kidnapping, abduction, slavery, procurement and sale or purchase of minors for prostitution, but it did not originally provide the comprehensive modern definition of trafficking subsequently developed through international law. Children exposed to forced labour, sexual exploitation and servitude therefore encountered a legal framework divided across numerous offences.

The adoption of the Constitution of India in 1950 fundamentally altered the normative basis of anti-trafficking law. Article 23 was placed within Part III under the Right against Exploitation and expressly prohibited traffic in human beings, begar and similar forms of

forced labour. Article 24 prohibited the employment of children below fourteen years in factories, mines and other hazardous employment. These guarantees established an important constitutional proposition: exploitation is not merely an offence against public order; it violates fundamental rights. The Directive Principles strengthened this approach by requiring State policy to ensure that children's tender age is not abused and that childhood is protected against exploitation and moral and material abandonment.

The Suppression of Immoral Traffic in Women and Girls Act, 1956, subsequently renamed the Immoral Traffic (Prevention) Act, constituted an early specialised legislative response. The legislation was enacted pursuant to India's international commitments relating to traffic in persons and prostitution. It criminalised activities such as keeping brothels, living on earnings of prostitution, procuring persons for prostitution and detaining persons in premises where prostitution was carried on. Although historically significant, the legislation has frequently been criticised for the conceptual difficulty of distinguishing consensual adult sex work from trafficking and for a regulatory approach that sometimes risked treating persons in prostitution as offenders rather than victims.

The development of labour jurisprudence significantly expanded constitutional understanding of exploitation. In *People's Union for Democratic Rights v. Union of India* (1982), the Supreme Court interpreted Article 23 broadly and connected forced labour with economic coercion rather than limiting it to physically compelled labour. The Court recognised that severe poverty may undermine genuine voluntariness where labour is extracted under exploitative circumstances. This interpretation was further strengthened in *Bandhua Mukti Morcha v. Union of India* (1984), where the Supreme Court addressed bonded labour through the framework of dignity and constitutional responsibility.

The Bonded Labour System (Abolition) Act, 1976 had already abolished the bonded labour system and prohibited compelling persons to render bonded or forced labour. For children, the connection between debt bondage, inter-generational poverty and trafficking has remained especially significant. Families facing indebtedness may become vulnerable to labour contractors who recruit children under promises of wages, education or vocational training but ultimately place them in exploitative work.

The Child Labour (Prohibition and Regulation) Act, 1986 represented another important intervention. After its subsequent amendment, it became the Child and Adolescent Labour

(Prohibition and Regulation) Act and prohibits employment of children in occupations and processes while prohibiting adolescents from hazardous occupations and processes, subject to the statutory framework and exceptions. The legislation also provides a Child and Adolescent Labour Rehabilitation Fund and provisions relating to rehabilitation. Child labour and trafficking are conceptually distinct, but they frequently overlap where recruitment for work is accompanied by coercion, deception, bondage or exploitation.

International developments during the late twentieth century had a major influence on Indian child-protection law. The United Nations Convention on the Rights of the Child, adopted in 1989, transformed children from passive objects of welfare into independent holders of rights. Article 34 requires protection against sexual exploitation and sexual abuse; Article 35 requires national, bilateral and multilateral measures to prevent abduction, sale or trafficking of children; and Article 36 requires protection against other forms of exploitation prejudicial to children's welfare. This international framework reinforced the relationship between trafficking, child development and State responsibility.

Indian judicial intervention also became increasingly assertive. In *Vishal Jeet v. Union of India* (1990), the Supreme Court addressed prostitution involving children and directed governmental authorities toward measures concerning eradication, rescue and rehabilitation. The judgment was significant because it recognised that criminal prosecution alone could not address the underlying socio-economic conditions producing child exploitation.

In *Gaurav Jain v. Union of India* (1997), the Supreme Court considered the condition and rehabilitation of children of women engaged in prostitution. The Court emphasised education, development and integration rather than allowing children to become trapped within cycles of social exclusion. Such cases helped establish the principle that constitutional governance requires rehabilitative intervention capable of interrupting inter-generational vulnerability.

At the international level, the ILO Worst Forms of Child Labour Convention, 1999 characterised the sale and trafficking of children, debt bondage, forced labour, exploitation in prostitution and pornography, use in illicit activities and hazardous work as among the worst forms of child labour requiring urgent elimination. India eventually ratified Convention No. 182 together with Minimum Age Convention No. 138 on 13 June 2017.

The Palermo Protocol of 2000 marked perhaps the most important international conceptual development. It defined trafficking through the interconnected elements of action, means and purpose of exploitation. Crucially, in the case of children, recruitment, transportation, transfer, harbouring or receipt for exploitation constitutes trafficking even without proof of the coercive or deceptive “means” required for adult trafficking. This approach reflects the limited legal capacity of children to consent to exploitative arrangements.

The Right of Children to Free and Compulsory Education Act, 2009 subsequently strengthened preventive child protection by guaranteeing free and compulsory elementary education to children between six and fourteen years. Education functions as an anti-trafficking measure because sustained school participation reduces isolation, increases institutional contact and expands future economic alternatives.

The Protection of Children from Sexual Offences Act, 2012 represented a further transformation. POCSO provides a gender-neutral child-protection framework addressing penetrative sexual assault, sexual assault, sexual harassment and use of children for pornographic purposes and provides Special Courts for trial. It is especially relevant where trafficking results in commercial sexual exploitation.

The Criminal Law (Amendment) Act, 2013 introduced the modern trafficking provision in former Section 370 IPC, substantially influenced by the Palermo framework. The Juvenile Justice (Care and Protection of Children) Act, 2015 later consolidated a welfare and rehabilitation framework for children in need of care and protection and created offences involving employment of children for begging, exploitation of child employees, sale and procurement of children and use of children for illicit activities.

The replacement of the IPC by the Bharatiya Nyaya Sanhita from 1 July 2024 marked the latest statutory phase. Sections 143 and 144 now form the core general trafficking offences. Yet the evolution of the law continues. In *Pinki v. State of Uttar Pradesh* (2025), the Supreme Court issued nationwide directions to strengthen child-trafficking trials and victim protection. In 2026, *Prajwala v. Union of India* undertook one of the most detailed contemporary judicial examinations of trafficking, rehabilitation, institutional mechanisms and the continuing fragmentation of India's legal framework.

The history of Indian anti-trafficking law thus demonstrates a movement from punishment toward constitutional protection, and from rescue toward rehabilitation and rights. The remaining challenge is implementation.

Constitutional Governance and Protection against Child Trafficking

Constitutional governance implies that governmental power and institutional responsibility must operate consistently with constitutional rights, values and duties. In the context of trafficking, this requires more than enactment of penal statutes. The legislature must establish adequate legal protection, executive authorities must prevent and investigate trafficking, courts must provide effective remedies, and welfare institutions must ensure rehabilitation.

Article 14: Equality and Equal Protection

Article 14 requires the State to provide equal protection of law. Children vulnerable to trafficking frequently belong to economically and socially marginalised groups. Formal equality is inadequate where individuals face radically unequal access to resources and institutions. Anti-trafficking governance must therefore identify particular vulnerability and adopt targeted protective interventions.

Equality also requires that child victims should not be discriminated against because of gender, caste, disability, migration status, economic position or the form of exploitation they experienced. A child trafficked for forced labour deserves constitutional recognition just as a child trafficked for sexual exploitation does.

Article 21: Life, Dignity and Bodily Integrity

Trafficking directly attacks Article 21 because it removes control over personal liberty and bodily integrity. The constitutional right to life has long been interpreted as extending beyond animal existence to conditions compatible with dignity.

For a trafficked child, dignity demands more than release from physical confinement. Rehabilitation must address trauma, education, health, identity documentation, family support, social stigma and future livelihood. A rescue operation that removes a child from exploitation but leaves the child without meaningful rehabilitation cannot fully satisfy Article 21.

Article 21A and Education

Education is central to trafficking prevention and rehabilitation. School exclusion increases vulnerability, while restored education can prevent re-trafficking. The RTE Act provides the statutory mechanism for free and compulsory education between six and fourteen years.

The Supreme Court in *Pinki* specifically directed that trafficked children be admitted to schools and that educational support continue, illustrating the connection between prosecution and long-term constitutional rehabilitation.

Article 23: Constitutional Prohibition of Trafficking

Article 23 is the Constitution's clearest anti-trafficking provision. It prohibits “traffic in human beings,” beggar and other similar forms of forced labour and makes contravention punishable according to law.

Its placement among Fundamental Rights is of profound significance. Trafficking is constitutionally prohibited independently of ordinary criminal legislation. Penal laws operationalise that prohibition but do not create the underlying constitutional right.

The provision also links trafficking with forced labour, acknowledging that exploitation occurs in economic as well as sexual contexts. Children trafficked into factories, domestic servitude, agriculture, construction, begging or bonded work consequently fall squarely within the constitutional concern.

Article 24 and Protection against Hazardous Child Labour

Article 24 prohibits employment of a child below fourteen in factories, mines or hazardous employment. Read together with Article 23 and child-labour legislation, Article 24 creates an important preventive barrier against economic exploitation.

Directive Principles and Constitutional Childhood

Articles 39(e) and 39(f) strengthen the constitutional architecture. The State is expected to ensure that the tender age of children is not abused and that children develop in conditions of freedom and dignity, protected against exploitation and moral and material abandonment.

These principles encourage courts and administrators to interpret anti-trafficking measures through a developmental rather than merely punitive framework.

The Contemporary Anti-Trafficking Statutory Framework

Bharatiya Nyaya Sanhita, 2023

Section 143 BNS is presently the central general criminal provision against trafficking. It covers recruitment, transportation, harbouring, transfer or receipt for exploitation through threats, force, coercion, abduction, fraud, deception, abuse of power and specified forms of inducement. Exploitation extends to physical and sexual exploitation, slavery-like practices, servitude, beggary and forced removal of organs.

Child trafficking attracts enhanced punishment. Trafficking of more than one child attracts still higher punishment, repeat conviction for child trafficking may result in imprisonment for the remainder of natural life, and involvement by a public servant or police officer attracts similarly severe consequences.

Section 144 criminalises exploitation of trafficked persons and specifically provides rigorous punishment where a person knowingly engages a trafficked child in sexual exploitation.

One important issue nevertheless concerns harmonisation with the Palermo Protocol. The international definition does not require proof of coercive or deceptive “means” where a child is recruited, transported, transferred, harboured or received for exploitation. In its 2026 *Prajwala* judgment, the Supreme Court specifically identified removal of the “means” requirement for children from the BNS trafficking definition as an issue requiring legislative attention.

Protection of Children from Sexual Offences Act, 2012

POCSO addresses sexual assault and sexual exploitation involving persons below eighteen years. It is significant for trafficking because commercially sexually exploited children may simultaneously be victims of trafficking and POCSO offences.

The Act establishes child-sensitive procedures and Special Courts and criminalises penetrative sexual assault, aggravated assault, sexual harassment and use of children for pornographic purposes.

A rights-based approach requires investigators to apply trafficking and POCSO provisions together where facts justify both, rather than treating sexual exploitation as an isolated incident detached from the organised network that facilitated it.

Juvenile Justice (Care and Protection of Children) Act, 2015

The Juvenile Justice Act is central to post-rescue governance. Its purpose extends to care, protection, development, treatment, rehabilitation and social reintegration of children through child-friendly processes.

The legislation provides Child Welfare Committees, Children's Homes, foster care, sponsorship, rehabilitation services and District Child Protection Units. It also criminalises several forms of exploitation, including employment of children for begging, use of children for carrying or supplying intoxicating substances, exploitation of child employees, sale and procurement of children and kidnapping or abduction.

A trafficked child is therefore not merely evidence in a criminal case. The child enters a statutory child-protection system that must determine care, restoration and rehabilitation according to the best interests of the child.

Immoral Traffic (Prevention) Act, 1956

The ITPA remains particularly relevant to trafficking for commercial sexual exploitation. It criminalises brothel-keeping, living on earnings of prostitution, procuring persons and detaining persons in premises where prostitution is conducted, while also containing rescue and protective-home mechanisms.

A persistent challenge is preventing conflation between consensual adult sex work and trafficking. The focus in child cases is clearer because a child cannot lawfully be treated as a voluntary participant in commercial sexual exploitation. Child victims must be protected rather than criminalised.

Child and Adolescent Labour Law

The Child and Adolescent Labour (Prohibition and Regulation) Act prohibits employment of children and restricts hazardous work for adolescents in accordance with its statutory framework. It also creates rehabilitation mechanisms.

Trafficking for labour often occurs through informal supply chains involving workshops, agriculture, domestic service, construction, roadside establishments and home-based industries. Labour inspectors therefore form an important but sometimes under-recognised component of anti-trafficking governance.

Bonded Labour System (Abolition) Act, 1976

The Bonded Labour System (Abolition) Act abolishes bonded labour and frees persons from obligations to render bonded labour. Child trafficking into debt bondage may require coordinated application of trafficking, bonded-labour and child-labour legislation.

Judicial Role in Constitutional Anti-Trafficking Governance

Indian courts have played an important role in transforming trafficking from an isolated criminal-law issue into a question of constitutional administration.

In *People's Union for Democratic Rights*, the Supreme Court broadened understanding of forced labour under Article 23. *Bandhua Mukti Morcha* similarly treated release and rehabilitation of bonded labourers as part of constitutional governance.

In *Vishal Jeet*, the Court focused upon eradication of child prostitution and rehabilitation. *Gaurav Jain* emphasised the welfare and educational development of children vulnerable to inter-generational exploitation.

A particularly important contemporary development is *Pinki v. State of Uttar Pradesh* (2025). The case arose in the context of organised interstate child trafficking. The Supreme Court set aside bail orders and issued broader directions concerning the institutional response. High Courts were directed to obtain information regarding pending child-trafficking trials and to issue administrative directions designed to secure completion of trials within six months where practicable, including day-to-day hearings where necessary.

The Court also addressed victim security, education and compensation and directed States to examine recommendations concerning Anti-Human Trafficking Units and trafficking prevention. The decision is significant because it demonstrates judicial recognition that delayed trials and weak institutional monitoring undermine the effectiveness of substantive law.

The Supreme Court's decision in *Prajwala v. Union of India* delivered on 29 May 2026 marks an even broader development. The Court examined the Palermo Protocol, Article 23, the ITPA, BNS, Juvenile Justice Act, POCSO, Anti-Human Trafficking Units and rehabilitation structures. It described the domestic legal infrastructure as broad but fragmented and developed a detailed victim-protection framework covering pre-rescue, rescue, post-rescue, rehabilitation, repatriation, reintegration, prosecution and prevention.

The judgment also highlighted several reform questions, including strengthening AHTUs, reconsidering closed-shelter models, avoiding criminalisation of trafficking victims, removing the “means” requirement for child trafficking, continuing consideration of comprehensive trafficking legislation and addressing cyber-enabled trafficking.

These developments illustrate constitutional governance in action: courts increasingly require the State to create functioning systems rather than merely maintain statutes on paper.

Institutional Challenges in Protecting Children

India's central problem is no longer absence of legal provisions alone. Implementation frequently involves overlapping agencies with different mandates.

Anti-Human Trafficking Units must coordinate with ordinary police, Special Juvenile Police Units, Child Welfare Committees, District Child Protection Units, labour departments, railway authorities, border agencies, NGOs, hospitals and educational institutions.

Weak coordination may result in fragmented treatment. Police may focus on criminal prosecution while rehabilitation agencies receive incomplete information. Labour authorities may identify illegal child employment without investigating trafficking networks. Missing-child cases may not immediately generate trafficking inquiries. Children rescued in one State but originating in another may face delays in restoration.

Pinki drew attention to concerns that Anti-Human Trafficking Units in some jurisdictions were under-resourced or insufficiently operational and emphasised stronger capacity-building and institutional implementation.

Effective governance therefore requires dedicated personnel, trained investigators, digital case coordination, child psychologists, interpreters, social workers and specialised prosecutors.

Rescue Must Not Become the End of Protection

Anti-trafficking systems sometimes measure success through the number of raids or persons rescued. Rescue is indispensable but incomplete.

Immediately after rescue, a child may be traumatised, frightened of authorities or emotionally dependent on the trafficker. Statements made in such circumstances require child-sensitive handling. Repeated questioning may cause secondary victimisation.

Rehabilitation should include safe accommodation, medical assessment, psychological counselling, legal assistance, education, skill development for older adolescents, compensation and family tracing. Family restoration should occur only after assessment of safety. In some cases, trafficking may have involved relatives or persons within the child's community.

Long-term monitoring is essential because economic vulnerability may remain unchanged after rescue. A family that accepted a deceptive employment proposal because of extreme poverty may remain susceptible to another recruiter unless the underlying conditions are addressed.

Constitutional rehabilitation therefore requires addressing the conditions that produced vulnerability.

Education as an Anti-Trafficking Strategy

Education is among the strongest structural protections against child trafficking. School attendance creates regular contact with teachers and communities, increases awareness and reduces the opportunity for hidden exploitation.

Trafficked children frequently lose educational years. Reintegration cannot therefore rely upon automatic placement into an age-appropriate classroom without educational support. Bridge courses, counselling, flexible admission requirements and remedial learning may be necessary.

The Supreme Court's direction in *Pinki* requiring educational support to trafficked children reflects the recognition that the right to education is part of anti-trafficking rehabilitation rather than an unrelated welfare objective.

Child Labour and Trafficking

It is necessary to distinguish child labour from trafficking. Not every violation of child-labour law automatically constitutes trafficking. Trafficking generally involves recruitment, receipt, harbouring, movement or transfer for exploitative purposes together with statutory elements.

Nevertheless, child labour markets can create environments within which trafficking becomes difficult to detect. Informal recruitment, cash payments, absence of employment records, isolated workplaces and dependence on labour intermediaries can conceal coercion.

India's ratification of ILO Conventions Nos. 138 and 182 in 2017 strengthened the international legal basis for eliminating child labour. Convention No. 182 expressly recognises sale and trafficking of children, debt bondage, forced labour, prostitution, pornography and illicit activities among the worst forms of child labour.

Anti-trafficking policy should therefore integrate labour inspection with criminal investigation.

Sexual Exploitation and Trafficking of Children

Commercial sexual exploitation is one of the most serious forms of child trafficking. Children may be recruited through fraudulent employment, false romantic relationships, coercion, sale by intermediaries or kidnapping.

Digital technology has transformed this environment. Exploitation may involve online grooming, livestreaming, production and circulation of child sexual abuse material, blackmail using intimate imagery and recruitment through online platforms.

POCSO provides a specialised criminal framework for sexual offences against children. Trafficking provisions target the network through which the child is recruited or maintained for exploitation. Investigators must therefore distinguish between the direct sexual offender and the broader trafficking chain involving recruiters, transporters, harbourers, intermediaries and commercial beneficiaries.

Missing Children and Trafficking

Not every missing child is trafficked, but missing children represent an important risk category. Delay in registration, investigation and tracing may provide traffickers valuable time to move or exploit children.

Effective governance requires rapid reporting mechanisms, integration of missing-child databases, transport surveillance, interstate coordination and analysis of recurring recruitment patterns.

The constitutional principle should be preventive urgency. Authorities should not wait for proof of trafficking before taking the disappearance of a vulnerable child seriously.

International Perspectives

International law has played a foundational role in developing the modern anti-trafficking framework.

Convention on the Rights of the Child, 1989

The CRC creates a comprehensive child-rights framework based upon non-discrimination, best interests, survival and development, and participation.

Article 34 obligates States to protect children against sexual exploitation and sexual abuse. Article 35 requires measures to prevent abduction, sale or traffic in children for any purpose or in any form. Article 36 addresses other forms of exploitation prejudicial to child welfare.

The CRC's importance lies in its holistic approach. A trafficked child possesses rights to education, health, family life, development and participation in addition to protection against trafficking.

Palermo Protocol, 2000

The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children created the internationally influential trafficking definition.

For adults, the framework generally involves action, prohibited means and exploitative purpose. In child cases, however, the “means” component is unnecessary: recruitment,

transportation, transfer, harbouring or receipt of a child for exploitation is sufficient regardless of whether coercion or deception is shown.

This reflects an essential child-protection principle. A trafficker should not avoid liability merely by claiming that a child apparently agreed to travel or work.

The Protocol also emphasises prevention, prosecution and protection, commonly understood as the “3P” framework. Modern policy often adds partnership as a fourth dimension.

ILO Convention No. 182

ILO Convention No. 182 identifies trafficking, slavery, forced labour, commercial sexual exploitation, use of children for illicit activities and hazardous work among the worst forms of child labour.

India's ratification in June 2017 imposes an international obligation to maintain measures against these practices.

Sustainable Development Goals

Sustainable Development Goal 8.7 calls for measures against forced labour, modern slavery, human trafficking and the worst forms of child labour. The international development framework recognises that trafficking cannot be eliminated through criminal justice alone; education, poverty reduction, decent employment and social protection are essential.

Challenges to Effective Anti-Trafficking Governance

Despite substantial legislation, several structural problems remain.

First, the legal framework is fragmented across criminal law, child-protection law, labour legislation and prostitution-related legislation. A single trafficking incident may require application of several statutes by different agencies.

Second, identification remains difficult. A child found working may be treated simply as a child-labour victim even where recruitment constituted trafficking.

Third, inter-State trafficking creates jurisdictional and coordination problems. Children may be recruited in one State, transported through another and exploited in a third.

Fourth, digital trafficking challenges geographically organised policing. Online recruitment and exploitation may involve perpetrators, servers and victims located in different jurisdictions.

Fifth, delays in trials can weaken evidence, exhaust victims and reduce confidence in justice. The Supreme Court's 2025 directions requiring High Court monitoring of child-trafficking trials respond directly to this problem.

Sixth, rehabilitation remains uneven. Institutional accommodation without individualised education, counselling and economic support may fail to achieve meaningful reintegration.

Seventh, trafficking data reflects only detected and registered cases. Hidden exploitation, informal labour and fear of retaliation may result in under-identification.

Recommendations for Strengthening Constitutional Governance

India should move toward a unified **child-centred anti-trafficking governance model**.

- The first requirement is harmonisation of statutory definitions. Domestic law should fully reflect the international principle that proof of coercive “means” is unnecessary when the victim is a child. The Supreme Court's 2026 recommendation on this issue deserves legislative attention.
- Second, Anti-Human Trafficking Units should function as dedicated specialised agencies rather than nominal designations imposed upon already overburdened police units.
- Third, every trafficking investigation involving a child should automatically trigger coordination with a Child Welfare Committee and District Child Protection Unit.
- Fourth, missing-child investigations should contain a structured trafficking-risk assessment where circumstances indicate vulnerability.
- Fifth, educational restoration should form part of every individual rehabilitation plan. A child's return to school should be treated as a justice outcome.
- Sixth, compensation schemes should operate quickly. Compensation delayed until years after prosecution cannot effectively assist immediate rehabilitation.

- Seventh, States should establish long-term follow-up mechanisms for children who have been restored to families. Reintegration without monitoring can expose victims to re-trafficking.
- Eighth, labour inspectors require anti-trafficking training so that exploitative recruitment networks are identified rather than individual establishments merely being penalised for employment violations.
- Ninth, cybercrime units and AHTUs should develop integrated protocols for social-media recruitment, online grooming and technology-facilitated commercial sexual exploitation.
- Tenth, trafficked children must never be criminalised for acts they were compelled to commit as a direct consequence of exploitation. Victim identification should precede punitive action.
- Eleventh, child victims should have access to specialised prosecutors, legal-aid lawyers, interpreters, counsellors and support persons throughout proceedings.
- Twelfth, States should establish measurable indicators covering not simply arrests but also victim recovery, prosecution, conviction, compensation, educational restoration and prevention of re-trafficking.
- Thirteenth, community-level prevention must involve schools, Panchayats, urban local bodies, transport operators, healthcare institutions and civil-society organisations.

Finally, India should continue serious legislative consideration of whether its fragmented statutory structure would benefit from a comprehensive anti-trafficking legislation capable of integrating prevention, investigation, prosecution, protection, compensation, rehabilitation and inter-State coordination. The Supreme Court in *Prajwala* expressly identified continued consideration of comprehensive trafficking legislation as an important reform question.

CONCLUSION

Child trafficking represents a fundamental challenge to constitutional governance because it demonstrates what occurs when social vulnerability, organised exploitation and institutional failure intersect. The injury caused by trafficking extends far beyond illegal movement or

recruitment. A trafficked child may lose liberty, bodily autonomy, education, family relationships, physical health, psychological security and the opportunity to develop in dignity.

The Constitution of India provides an unusually strong foundation for combating such exploitation. Article 23 expressly prohibits trafficking in human beings and forced labour; Article 24 protects children against hazardous employment; Articles 14 and 21 guarantee equality, dignity and liberty; Article 21A protects education; and Articles 39(e) and 39(f) require the State to prevent abuse of childhood and protect children against exploitation.

India has simultaneously constructed an extensive statutory framework. The Bharatiya Nyaya Sanhita criminalises trafficking and exploitation of trafficked children. POCSO addresses sexual abuse and exploitation. The Juvenile Justice Act creates a framework for care, protection and rehabilitation. Child-labour and bonded-labour laws address economic exploitation, while the Immoral Traffic (Prevention) Act operates in the field of commercial sexual exploitation.

The difficulty is that an extensive legal framework does not automatically produce effective constitutional protection. The Supreme Court's recent interventions demonstrate the continuing gap between legislation and implementation. *Pinki v. State of Uttar Pradesh* highlighted the urgency of child-trafficking prosecutions and institutional monitoring, while *Prajwala v. Union of India* recognised the fragmentation of the legal structure and developed an extensive victim-protection approach.

The most important conceptual shift required is from **anti-trafficking law** to **anti-trafficking governance**. The former asks whether an offence exists and what punishment applies. The latter asks whether the State prevented foreseeable exploitation, identified the victim promptly, dismantled the trafficking network, conducted a child-sensitive investigation, provided effective prosecution, restored education, provided compensation, ensured psychological recovery and prevented re-trafficking.

This distinction is particularly important because traffickers exploit vulnerability. Poverty, educational exclusion, migration, unemployment, family distress, social discrimination and digital manipulation form part of the environment in which trafficking operates. Sustainable prevention therefore requires social and economic governance as much as criminal law.

Children should never be viewed merely as witnesses required for successful prosecution. They are constitutional rights-holders. Their recovery cannot be measured solely by physical rescue from an exploitative location. Genuine recovery occurs when the child regains security, education, health, identity, family or community support, dignity and realistic opportunities for the future.

India's future anti-trafficking strategy should therefore be guided by the principle that **prevention, protection, prosecution, rehabilitation and reintegration are inseparable constitutional obligations**. Strong punishment remains necessary, particularly against organised traffickers and persons who commercially exploit children, but punishment alone cannot restore a stolen childhood.

Constitutional governance ultimately requires the State to ensure that no child's poverty, migration status, gender, caste, family circumstances or social vulnerability becomes an opportunity for commercial exploitation. Protecting children from trafficking is therefore not merely an objective of criminal policy; it is part of India's constitutional promise of dignity, freedom and equal citizenship.

FUTURE SCOPE

The rapidly changing nature of trafficking creates substantial scope for future legal and empirical research i.e.

- First, detailed studies should examine implementation of Sections 143 and 144 of the Bharatiya Nyaya Sanhita after their commencement on 1 July 2024. Research should analyse registration of cases, investigation quality, charges, conviction rates and the relationship between BNS trafficking provisions and special statutes.
- Second, future scholarship should examine the Supreme Court's *Prajwala* judgment of 2026 and assess implementation of its victim-protection framework by States, AHTUs and child-protection institutions.
- Third, research is urgently required on cyber-enabled child trafficking. Social-media recruitment, deceptive job advertisements, online grooming, live-streamed sexual exploitation, encrypted communication and digitally facilitated financial transactions require new investigative approaches.

- Fourth, empirical studies should investigate the relationship between missing children and identified trafficking cases. Integrated data systems could help determine patterns concerning locations, recruitment methods, transit routes and vulnerable groups.
- Fifth, the role of artificial intelligence in identifying trafficking networks deserves examination. AI-assisted analysis could potentially identify suspicious recruitment advertisements, repeated telephone numbers, transport patterns and online exploitation networks. Such technologies must nevertheless operate consistently with privacy, accuracy and due-process requirements.
- Sixth, future research should study rehabilitation outcomes rather than merely rescue statistics. Longitudinal studies could assess whether rescued children remain in education, receive compensation, obtain psychosocial care and avoid re-trafficking.
- Seventh, comparative research involving the United States, United Kingdom, European Union and South Asian States could identify effective models of victim protection, cross-border investigation and compensation.
- Eighth, future legal research should examine whether India requires a comprehensive trafficking statute consolidating institutional responsibilities currently distributed across several laws.
- Ninth, particular attention should be paid to trafficking of boys for labour, begging and illicit activities, trafficking of girls for sexual exploitation and forced marriage, trafficking of children with disabilities and vulnerabilities of LGBTQ+ and gender-diverse adolescents.
- Tenth, climate change, displacement, disasters and migration should be studied as emerging drivers of child trafficking. Families experiencing sudden livelihood loss may become particularly vulnerable to fraudulent recruitment.

Finally, anti-trafficking scholarship should increasingly analyse constitutional governance from the perspective of the child. The central research question should not simply be whether offenders are punished, but whether the legal system succeeds in restoring the child's right to dignity, education, health, security and development.

Future legal reform must therefore develop an integrated system in which **every rescued child is protected, every trafficking network is investigated, every institutional failure is accountable, and every vulnerable child is given a genuine opportunity to live free from exploitation.**

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