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Legal Protection of Child Trafficking Victims in West Bengal: A Critical Analysis of the Constitutional, Statutory and Judicial Framework

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Child Trafficking; West Bengal; Article 23; Juvenile Justice; POCSO; Rehabilitation; Victim Protection.

ABSTRACT

Child trafficking is a serious dimension in violation of human dignity, bodily integrity, child rights and basic rights of human beings. In India, the constitution, criminal laws, child protection laws, judicial orders and welfare policies form an important legal framework for trafficking prevention and/or for protection of recovered children. It is important to pay specific attention to the State of West Bengal as it shares its geographical location, borders with other States and is grappling with the issues of trafficking for exploitation, like forced labour, domestic servitude, forced marriage and commercial sex with exploitation. This study delves into the constitutional, statutory and judicial landscape of child trafficking victims protection, exploring its strengths, weaknesses, and areas of improvement in West Bengal. The study is of doctrinal and analytical in nature dealing with constitutional provisions, the Bharatiya Nyaya Sanhita, 2023, the Juvenile Justice (Care and Protection of Children) Act, 2015, the Protection of Children from Sexual Offences Act, 2012, the Immoral Traffic (Prevention) Act, 1956, the victim compensation system, the governmental schemes and selected decisions of the Supreme Court of India and the Calcutta High Court. Special focus is placed on the growing body of jurisprudence on victim-oriented justice and specialised investigations, psychological assistance, compensation, and rescue and rehabilitation. The study shows that there is ample normative protection under Indian law, although there are still challenges to various aspects of the implementation of these safeguards, such as identification, inter-agency coordination, investigation, compensation, rehabilitation, reintegration, and prevention of re-trafficking. Prajwala v. Union of India, a landmark Supreme Court judgement in 2026, marks the recognition of rehabilitative rights of trafficking victims under Articles 21 and 23 of the Constitution. The paper asserts the need for better coordination of investigations and operations at the State level, specialized investigation, and child-friendly process, adequate compensation, long-term rehabilitation, and a robust anti-trafficking law

1. INTRODUCTION

1.1 Background of the Study

One of the most grave cases of child exploitation in today's India is child trafficking. It is the recruitment, transportation, transfer, harbouring or receipt of children with the intention of exploiting them and can take place within a State, across State borders or across international boundaries. They can be forms of commercial, sexual, or forced exploitation, forcing them into domestic servitude, begging, actual forced marriage, forced adoption, coercive exploitation, etc. The issue is complex as trafficking often happens via deception, abuse of vulnerability, economic enticement, coercion and as part of “migrant journeys,” where multiple individuals are involved.

The foundation to combat trafficking in India is given by the constitutional framework along with the Constitution. The Constitution expressly stipulates in Article 23 as well as Article 24 that trafficking for the purpose of human exploitation or trafficking children less than 14 into any factory or mine or into any hazardous work should be prohibited. Articles 14, 15(3), 21, 21A and 39(e) and (f) also form part of a constitutional framework that is centered on equality, dignity, protection from exploitation, education and the healthy development of children. Of relevance to this article is the fact that Article 23 has bifurcated the prohibition on trafficking from the mainstream criminal offence and placed a positive obligation on the State to consider which of the rest of its institutions will protect individuals from practices that are regarded as trafficking,.

There is also a considerable amount of legislation alongside the constitutional protection. The Bharatiya Nyaya Sanhita, 2023 (BNS) has also given the provisions for the principal offence of trafficking in persons (TIP) and exploitation of a trafficked person (ETP) as Sections 143 and 144, respectively. Children are also more vulnerable, and this is taken into account by providing greater punishment in relation to trafficking involving children in Section 143. The statutory framework is also complemented by the Juvenile Justice (Care and Protection of Children) Act, 2015 (JJ Act) outlining process to be followed by children who are in need of care and protection (including children who have been abused, exploited, abandoned, trafficked or otherwise exposed to vulnerability).

Among various laws, the Protection of Children from Sexual Offences Act, 2012 (POCSO) is more relevant in the context of trafficking with children to children's sexual exploitation or sexual offences against the child. The Act brings reporting, investigation and trial processes for children to their consciousness, introduces Special Courts, safeguards the identity of the child, supports them using support persons or provides access to legal assistance, etc. Otherwise, the Immoral Traffic (Prevention) Act, 1956 (ITPA) is also applicable in the context of commercial sexual exploitation.

Rehabilitation has become an important aspect of judicial constitutionalism. The Supreme Court in Vishal Jeet v. Union of India, 1990, in its landmark judgment took note of the responsibility of the government organisations in relation to child prostitution and made provisions for the care, protection and treatment, development and rehabilitation of such children. In Bachpan Bachao Andolan v. Union of India (2011), the Court focussed on the issue of trafficking and exploitation of children in the context of circuses and the emphasis was laid on the rescue and rehabilitation.

There has been significant evolution since then in the jurisprudence. In 2026, the Supreme Court, in Prajwala v. Union of India, 2026 INSC 609, Miscellaneous Application No. 530 of 2026, in W.P. (C) No. 56 of 2004, extensively reviewed the law pertaining to the offence of trafficking for the purpose of commercial sexual exploitation. The Court reviewed the ITPA, BNS, JJ Act, POCSO, Anti-Human Trafficking Units and rehabilitation mechanisms. It determined that there is a constitutional right to rehabilitation for trafficking victims whose exploitation is for the purposes of commercial sexual exploitation under the two articles to rehabilitation. The Court further stressed that just rescuing and identifying victims are not enough when there is a risk of re-trafficking and exploitation.

West Bengal offers considerable setting to study these legal developments. There is an Anti-Human Trafficking Unit (AHTU), a unit of the Criminal Investigation Department of the State and the institutional structure recognises the practice of trafficking as a special investigation. According to the West Bengal CID, it is investigating human trafficking cases and training district police and the nodal agencies on how to investigate trafficking cases and what legal norms to follow.

In this backdrop, the present study attempts to critically explore if the existing legal framework for child trafficking victims in West Bengal is really holistic, coordinated and victim specific, or still there are numerous lacunas between legal protection and real protection.

1.2 Problem Statement

Laws regarding child trafficking are not missing altogether. On the contrary, India has an interaction of a wide variety of clauses in the constitution, laws that are deemed to affect children either directly or indirectly, procedures that safeguard children, compensation provisions, welfare laws, and judicial judicial directions. The challenges are fragmentation and implementation of such protection.

A trafficked child might also be a victim of sexual abuse, child labour, kidnapping, forced begging, forced marriage or other exploitation. This means that this could involve a number of laws and agencies concurring in the same case. Fragmentation can lead to procedures being repeated, delays in investigations, lack of coordination and failure to consider best interests of the child in the long-term.

The second one is the historical focus on rescue and prosecution when rehabilitation ought to be emphasized instead. Rescue is needed, but an unassisted rescued child may still be susceptible if they are not given psychological assistance, education and assessment of the family to give adequate support, re-education or protect from re-trafficking.

The third issue is regarding the role of the victim and protection of the victim. Child victims who are victims can suffer from trauma, fear, intimidation, and reliance on traffickers and questioning or distrust of law enforcement. The efficacy of legal protection thus hinges notonly on the existence of criminal protection mechanisms but also on how police, prosecutors, courts, Child Welfare Committees and District Legal Services Authorities as well as rehabilitation facilities do work in practice.

The issue is significant in West Bengal as trafficking may be intra district, intra State, inter State or cross border issues. This has serious administrative, which then further complicates the investigations, identifications, reintegration, tracing families, gathering evidence and ongoing rehabilitation.

2. REVIEW OF RELEVANT LITERATURE

The legal scholarship dealing with trafficking in India can be categorized broadly into legal articles involving Constitution of India, crime laws, work in the sphere of Child Rights and victim protection and legal studies in courts.

In general, Article 23 is seen as the major constitutional provision against trafficking, particularly in the context of workers' rights.The view on constitutional scholarship is that Article 23 is the heart of the constitutional prohibition on trafficking. The judicial interpretations on Article 21 have led to embracing a wider concept of dignity so as to facilitate a wider

meaning of protection and rehabilitation.

The disjointedness of the trafficking law in India has been noted in the statutory documents. Prior to the establishment of the BNS, the general offence provision regarding trafficking from the Indian Penal Code, 1860 was Section 370. The BNS adopts a substantive method while improving the criminal-law system through Section 143. The statutory framework is supported by the JJ Act, POCSO, ITPA, child-labour act and the Prohibition of Child Marriage Act, among others, depending upon the nature of exploitation victimized upon.

The literature of the JJ Act links to principle of best interest of the child and the institution of Child Welfare Committee. The Act also explicitly protects vulnerable children that have been exploited or abused, and that are vulnerable to trafficking.

POCSO's scholarship is about investigation and adjudication in relation to children. Important parts of its provisions include those on reporting, recording of statements, medical examinations, Special Courts, but also the protection from direct confrontation with the accused, in-camera proceedings and legal assistance for trafficked children who are victims of sexual exploitation.

There are judicial precedents that have brought constitutional courts to the limelight as portents of change. Vishal Jeet has had an impact in putting the responsibility of the State to check child prostitution and rehabilitation. Gaurav Jain v. Union of India, (1990) 1 SCC 709 dealt with the right of children of a sex worker and social rehabilitation of sex workers' children. Bachpan Bachao Andolan brought justice and children trafficked for labour and entertainment to the fore.

These judicial developments in relation to West Bengal are of a special significance. The Calcutta High Court in State of West Bengal v. Sangita Sahu (Smt) directed for specialised investigation, action to be taken on victim's welfare, medical assistance, psychological counseling, compensation/rehabilitation. The requirement for the transfer of trafficking investigations to specialised units (Anti-Human Trafficking Units) for investigations, if applicable, was emphasised in the subsequent cases Achiya Bibi v. State of West Bengal.

Recent Calcutta High Court decisions have highlighted the lack of investigation and assistance to the victims in the case of trafficking of women, particularly minors. The Court in Ved Prakash Arya directed that the cases of trafficking in women and minors for commercial sexual exploitation be transferred to AHTU and appealed to provide special investigation, protection, counselling, support and interim compensation.

The most important recent judicial change is found in Prajwala versus Union of India 2026 INSC 609. After a detailed consideration of the international and domestic legal context, the Supreme Court decided that rehabilitation should not be considered as a welfare measure on top of constitutional rights. The judgment explicitly linked Articles 21 and 23 with the right to rehabilitation of victims of trafficking for the purposes of commercial sexual exploitation. It also focused on effective AHTUs and victim protection plans, rehabilitation, and also repatriation and reintegration.

2.1 Research Gap

Scholarship typically focuses on trafficking either as a criminal issue or a child-rights/social-welfare issue. Constitutional rights, criminal and child-protection legislation are less well integrated in an analysis of their relationship with judicially created rights to protection of children in West Bengal.

The second gap is related to the separation between the protection and rehabilitation oriented rescue and rights. These previous methods used to define effectiveness as rescue, arrest and prosecution. A holistic approach to constitution must take account of dignity, psychological healing, education, rehabilitation, and compensation for crime victims, and donate to family reintegration, as well as the prevention of re-trafficking, in order to view the question of constitution from a more comprehensive perspective.

The third gap is regarding the enforcement of judicial directives in West Bengal. The directions given by the Calcutta High Court have touched on specialised investigation, compensation and psychological welfare several times but a more comprehensive legal system is required to examine such directions.

The present study thus fills the gap by studying the whole protection chain starting from prevention through to identification, rescue, investigation, child-friendly proceedings, compensation, rehabilitation, reintegration and prevention of re-trafficking.

2.2 Rationale of the Study

A study is needed to determine the efficacy or impact of anti-trafficking laws from the perspective of the child victim and not just from the lens of criminal prosecution.

Formal strength of a legal system could be seen as criminalisation of trafficking and strong punishment. According to substantive protection, a rescued child should be guaranteed instant safety, medical assistance, psychological care, legal assistance, education, compensation and rehabilitation in the longer term.

The experience gained in West Bengal is of special value as it shows the availability of specialised mechanisms and challenges that continue to be faced in their implementation. The study thereby enriches constitutional law scholarship and elicits the National Constitution Law by juxtaposing it with State-level institutional practice.

The study is also relevant for the practical work of advocates such as legislators, police authorities, prosecutor's offices, Child Welfare Committees, judicial officers, legal-service authorities, rehabilitation authorities and institutions. It suggests a system in which the interests of the child and his/her dignity are paramount in both the criminal-justice and rehabilitation

processes.

3. OBJECTIVES AND RESEARCH QUESTIONS

3.1 Primary Objective

To critically analyse the constitutional, statutory and judicial framework for the legal protection of child trafficking victims in West Bengal.

Specific Objectives

To analyse the constitutional protection afforded to child trafficking victim(s), especially the provision of Article 14, Article 15(3), Article 21, Article 23, Article 24, Article 39(e) and Article 39(f).
To discuss the legal reform to be implemented with regards to the provisions of the Bharatiya Nyaya Sanhita, 2023, Juvenile Justice (Care and Protection of Children) Act, 2015, Protection of Children from Sexual Offences Act, 2012 and Immoral Traffic (Prevention) Act, 1956.
To explore the functioning of Child Welfare Committees, Anti-Human Trafficking Units, Special Courts, District Legal Services Authorities and rehabilitation institutes.
To study Supreme Court and Calcutta High Court orders/pronouncements relating to the various aspects of child trafficking, rescue, investigation, compensation and rehabilitation.
Recognize the differences between the laws that protects victims and the laws that actually helps victims.
To discuss the developing legal rights of persons trafficked for the purpose of rehabilitation.
To recommend amendments in the law, institution and policies for enhancing protection of child trafficking victim in West Bengal.

3.2 Research Questions

This study aims to answer these questions:
RQ 1: What is the extent of the protective measures of child trafficking victims through the Constitution of India with a rights-based approach?
RQ2: Does the current legislation offers a full protection of the trafficking victims in the whole process of rescue, investigation, trial and rehabilitation?
RQ3: What are the ways in which the law has been interpreted to expand the rights of trafficking victims by the Supreme Court and the Calcutta High Court?
RQ4: What are the institutional and implementation gaps concerning to the victim protection of child trafficking in West Bengal?
RQ5: Whether the constitutional recognition of rehabilitation in Article 21 and 23 in the emerging Constitution demands a redesign of the existing mechanisms of protection of the victims?
RQ6: What changes to the law and institutional frameworks are required to stop re-trafficking and sustainable rehabilitations?
This is a doctrinal study, not a statistical empirical study and hypotheses are not proposed as a result of it. As such, the research questions are analyzed by interpretation of the constitutional provisions, laws, judicial precedent, government structure, legal-policy, etc.

3.3 Hypotheses of the Study

H1: The child rights protection framework laid out in the Constitution, various legislations and precedents in India is comprehensive and has a lot of procedural safeguards at its disposal, but this has become disjointed in West Bengal.
H2: When read together, with child-specific protections in the Constitution, as provided in Articles 15(3), 21A, 24 and 39(e)–(f), the constitutional guarantees under Article 21 and 23 of the Constitution offer an adequate rights-based framework to ensure protection, rehabilitation and reintegration of victims of trafficking in children.
H3: Although at the national level, the Juvenile Justice (Care and Protection of Children) Act, 2015 and Protection of Children from Sexual Offences Act, 2012 and Immoral Traffic (Prevention) Act, 1956 also primarily exist in the state of West Bengal to handle cases of child trafficking, the lack of coordination, investigation, compensation and rehabilitation structures makes the safeguarding of child trafficking victims more challenging.
H4: This scenario has been significantly extended by judicial action by the Supreme Court and Calcutta High Court with the recognition of rights with respect to a focused investigation, protection, compensation, rehabilitation and reintegration of child trafficking victims.
H5: Apart from criminalisation and prosecution of traffickers, the legal framework's effectiveness to tackle the issue of child trafficking in West Bengal is linked to timely rescue, child sensitive investigation, psychological support, payment of compensation, rehabilitation and prevention of re-trafficking.
H6: There must be a change in the approach to child trafficking from a rescue and prosecution-centered approach to an integrated rights, child-centered approach.

4. MATERIALS AND METHODS

4.1 Research Design

The study is a doctrinal, analytical and qualitative type of legal research. The study focuses mainly on primary legal source materials and secondary materials that are relevant to the research.

The doctrinal method is suitable because a more important goal is to address the scope, meaning and effectiveness of the child trafficking provisions in the constitution, statutory provisions and judicial precedents.

The analytical part determines whether various legal instruments are coherent and if there have been changes in the judiciary in response to the shortcomings in legislations and institutions.

4.2 Study Setting

The study is conducted in the geographical area – The state of West Bengal in India. Where relevant, however, national constitutional and judicial has also been considered, due to the frequent inter-State and international movements of trafficking.

The study gives special attention to the institutional interface of the West Bengal Police, Criminal Investigation Department, Anti-Human Trafficking Units, Child Welfare Committees, Special Courts, District Legal Services Authority along with child-care institution.

The Anti-Human Trafficking Unit is an upgraded and special unit formed by the CID of the Indian Police to investigate cases of human trafficking and training the district police and nodal organisations. This gives an important institutional support to assessing implementation at the State level.

4.3 Study Population

In doctrinal research, the term population is not used to describe people that are the objects of study, but it is used with regard to the legal materials that make up the research universe.

The research corpus consists of:

Constitution of India;

Bharatiya Nyaya Sanhita, 2023;

The Bharatiya Nagarik Suraksha Sanhita 2023;

Bharatiya Sakshya Adhiniyam, 2023;

In line with this, the relevant legislation are the following: Juvenile Justice (Care and Protection of Children) Act, 2015;

Children's Protection (Amendment) Act 2019; and

Immoral Traffic (Prevention) Act 1956;

The legislation addressing child and adolescent labour;

Child Labour Protection Policy 2013; and

appropriate regulations, plans and regulations from the government;

Supreme Court decisions;

Every time in court that a Calcutta High court delivers a judgment in favour of equality.

All necessary international instruments and judicial materials.

4.4 Sample Size and Sampling Technique

Since this is not a human research or survey-based study, conventional sample size statistics do not apply.

For case-law analysis a purposive legal sampling technique is taken. Cases selected for representation for themes of the product of the product should directly relate to one or more of the following themes:

child trafficking;

commercial sexual exploitation;

rescue and rehabilitation;

victim compensation;

specialised investigation;

child-sensitive criminal procedure;

constitutional protection under Articles 21 and 23;

West Bengal-specific trafficking investigations

Specific focus is given to those cases of Vishal Jeet v Union of India, Gaurav Jain v Union of India, Bachpan Bachao Andolan v Union of India, Court on its Own Motion v Government of NCT of Delhi, Calcutta High Court cases in the context of West Bengal trafficking case and also to Prajwala v Union of India(2026 INSC 609).

4.5 Inclusion and Exclusion Criteria

Inclusion Criteria

Where legal materials are added, they:

be linked to the facilitation of both human and child trafficking;

feel ashamed about sexual abuse of children;

care about constitutional safeguarding against exploitation;

relate to rescue, compensation, rehabilitation or reintegration;
adhere to laws and regulations concerning the subject of special concern;
Are from the Supreme Court or Calcutta High Court;
refer to the legal framework in relation to trafficking victims.

Exclusion Criteria
Materials are excluded if they:
seriously address international and national trafficking without analyzing its nexus with child protection; and
be concerned about other types of organized crime;
•exclude irrelevant rules or content from the legal research questions;
Generate: reproduce legal propositions that are mostly the same with no added analysis.

4.6 Study Variables
This study is not of a kind of empirical research, so the use of the conventional independent and dependent variables is not used.
Rather, analytical dimensions of importance are:

Analytical Dimension	**Legal Focus**
Constitutional protection	Articles 14, 15(3), 21, 21A, 23, 24 and 39
Criminalisation	BNS Sections 143–144
Child protection	JJ Act, 2015
Sexual exploitation	POCSO Act, 2012
Commercial sexual exploitation	ITPA, 1956
Investigation	AHTUs and police mechanisms
Trial protection	Special Courts and child-sensitive procedures
Compensation	Victim compensation mechanisms
Rehabilitation	Shelter, education, counselling, healthcare and reintegration
Prevention	Awareness, community intervention and institutional coordination

4.7 Data Collection Tools/Instruments
The main tools for research are:
statutory-text analysis;
case-law analysis matrix;
constitutional provision analysis;
judicial principle extraction;
thematic legal-content analysis;
comparative framework analysis.
A matrix of case law is created to summarise facts, issues, legislation, reasoning, directions and its relevance to victim protection.

4.8 Data Collection Procedure
The various sources of obtaining legal materials are the official legislative materials and judicial database from India Code and the Supreme Court of India materials, West Bengal CID materials and judicial databases.
There are four stages of the analysis:
Stage 1: Identify constitutional and statutory provisions.
Stage 2: Selection of key Supreme Court and Calcutta High Court decisions.
Stage 3: They are then classified thematically, guided by actual judicial principles regarding priorities under the headings of prevention, rescue, investigation, trial, compensation, rehabilitation and reintegration.
Stage 4: Critical comparison of the formal legal structure with the standards of protection that were observed from judicial rulings.

4.9 Ethical Considerations

Informed consent is not applicable for this study as it is solely based on publicly available legal materials and no interviews, surveys or direct interaction with child trafficking survivors is involved.

But ethics play a role in representations of trafficking victims. The research does not unnecessarily expose identifying information regarding child victims and does not reproduce factual information that is beyond the scope of that required for legal analysis of the specific issues.

Thematic, victim-centred research approach that does not only use trafficking survivors to present evidence of case but rather as rights bearing individual.

4.10 Statistical/Data Analysis

As it is Doctrinal/Qualitative research, statistical analysis of the data is not applicable.

The materials collected will be analysed through:

textual interpretation;
doctrinal analysis;
precedent analysis;
thematic analysis;
comparative legal analysis;
constitutional analysis.

The key themes are criminalisation, identification, rescue, investigation, child friendly justice, compensation, rehab, reintegration and prevention of re-trafficking.

5. RESULTS

5.1 Participant Characteristics

This was a doctrinal research involving no humans. As such, demographic characteristics of the participants do not apply. The legal corpus is mainly comprised of constitutional provisions, statutes, judicial rulings and governmental policies and institutional structures pertaining to child trafficking.

5.2 Descriptive Findings

The study shows that there is protection on various levels in the Indian legal framework.

As a starting point, Article 23 is a constitutional prohibition on trafficking in human beings. Article 21 gives the overarching human rights- and personal freedom-worthy principles. While Article 15(3) allows for unless there are special provisions, the latter, Article 39, directed the State towards providing protection to children from abuse and exploitation.

Second, Section 143 of the BNS makes the crime of trafficking an offence, and imposes a more severe penalty on trafficking if the victim is a child. There is a small section pertaining to exploitation of trafficked persons in section 144.

Third, the JJ Act promotes a system of child care and protection for children needing care and protection. Trafficked children are included in the protective paradigm of the Act as children who have been subjected to, or at risk of, being subjected to child exploitation that must therefore be provided with care, protection, rehabilitation and social reintegration.

Fourth, POCSO is important when trafficked persons are women.Fourth, when SA's were included in trafficking cases, POCSO becomes particularly important. Offers special procedural protections of the child victim(s).

Fifth, judicial rulings have gradually shifted from a law-enforcement umbrella to a rights umbrella.Fifth, judiciary rulings have shifted from a narrowly drawn law-enforcement function to a broader rights function.

Sixth, the AHTU structure in West Bengal is specialised and yet, decisions of Calcutta High Court demonstrate that the establishment of specialised mechanisms by itself does not ensure their effective functioning.

5.3 Objective-wise Results

Objective 1: Constitutional Protection

Trafficking is well protected as per the constitution. Article 23 is most unambiguous, and Article 21 provides substantive meaning to dignity, bodily integrity, security and rehabilitation.

The constitutional structure thus makes an improved transition from punitive approach to a rights-based approach more possible.

Objective 2: Statutory Protection

Oversized and disjointed statutory framework. Both BNS and JJ Act, POCSO and ITPA criminalize trafficking while protecting and addressing various facets of exploitation of victims.

This plan offers avenues of protection multiple but also has the potential to separate institutions.

Objective 3: Institutional Protection

The AHTU is an important institutional mechanism. The Child Welfare Committee serves as a child-protection mechanism and Special Courts and legal-services institutions have done their part in terms of justice and assistance to children.

But the functioning of these institutions is dependent on having to be coordinated, trained operators, resources, and regular

implementation.

Objective 4: Judicial Protection
Judicial rulings have enhanced the legal framework of victim of trafficking protection. Specialised investigation, compensation, psychological counseling and protection from intimidation/rehabilitation are ordered by courts.
A case in point is the Calcutta High Court's approach to the issue of trafficking which paved the way to intervening where the normal investigative process failed to prove useful.

Objective 5: Gaps in the Law and Implementation
The vast majority of gaps relate to:
fragmented legal regulation;
inconsistent investigation;
insufficient specialised personnel;
inadequate psychological support;
delays in compensation;
inadequate long-term rehabilitation;
risks of re-trafficking;
insufficient inter-State coordination;
Satisfactory monitoring of outcomes for rehabilitation is lacking.

Objective 6: Right to Rehabilitation
The greatest thing that has been found recently is that rehab is now more than a mere administrative privilege; it is also a constitutional duty.
In the recent judgment of Prajwala v Union of India (2026 INSC 609), the Supreme Court expressly tied up Articles 21 and 23 to the right to rehabilitation for the victims of trafficking in commercial sexual exploitation.

Objective 7: Reform Requirements
There is a need for more integrative processes in the legal framework between criminal justice and child protection/social rehabilitation systems.

5.4 Hypothesis Testing
The statistical hypothesis testing is not appropriate for this doctrinal study.
The evaluation of the research questions, on the other hand, follows through doctrinal findings. The analysis supports the proposition that formal legal protection is substantial but its implementation is weak with fragmentation thus resulting in weaker effective protection for child trafficking victims.
It also supports the hypothesis that judicial action has played a key role in enhancing the rights-based aspect of trafficking law, including the aspects of rehabilitation, compensation and specialised investigations.

5.5 Tables and Figures

Table 1. Principal Legal Framework

Legal Instrument	Principal Protection
Constitution, Article 14	Equality before law
Article 15(3)	Special protection for children
Article 21	Life, dignity and personal liberty
Article 21A	Right to education
Article 23	Prohibition of trafficking
Article 24	Protection from hazardous child labour
Article 39(e)	Protection from abuse and exploitation
Article 39(f)	Healthy development and protection of childhood
BNS, 2023	Criminalisation of trafficking
JJ Act, 2015	Care, protection and rehabilitation
POCSO Act, 2012	Protection from sexual offences
ITPA, 1956	Regulation and prevention of commercial sexual exploitation

Table 2. Victim-Protection Chain

Stage	Required Legal Protection
Prevention	Awareness, community intervention and vulnerability reduction
Identification	Child-sensitive identification
Rescue	Safe and coordinated rescue
Immediate protection	Shelter, food, healthcare and security
Investigation	Specialised AHTU investigation
Statement	Child-sensitive recording
Trial	Special Court and protection from intimidation
Compensation	Interim and final compensation
Rehabilitation	Education, counselling, healthcare and vocational support
Reintegration	Family/community reintegration after assessment
Monitoring	Prevention of re-trafficking

Table 3. Principal Judicial Developments

Case	Major Principle
Vishal Jeet v. Union of India	State obligation to combat child prostitution and provide rehabilitation
Gaurav Jain v. Union of India	Dignity and rehabilitation of vulnerable children
Bachpan Bachao Andolan v. Union of India	Rescue and rehabilitation of trafficked children
Court on its Own Motion v. Govt. of NCT of Delhi	Coordinated rescue and rehabilitation mechanisms
State of West Bengal v. Sangita Sahu @ Shaw	Specialised investigation and victim support
Achiya Bibi v. State of West Bengal	Transfer of trafficking investigation to AHTU
Ved Prakash Arya, In Re	Specialised investigation, counselling and interim compensation
Prajwala v. Union of India	Constitutional right to rehabilitation and victim-centred trafficking framework

6. DISCUSSION

6.1 Principal Findings

The study shows that the Indian laws and policies on child trafficking are strong and are but fragments in their institutional form.

The basic rights are given in the Constitution. Both legislation and trafficking-related child protection provisions are in place. Victim's rights have been enlarged over time. Implementing the framework at the State and district level is, however, crucial to its implementation effectiveness.

The need for specialised investigations and the need for support to victims of rape and sexual offences is repeatedly shown by Calcutta High Court decisions in the context of the West Bengal situation.

What is now evident in modern jurisprudence is a paradigm change from rescue to protection, rehabilitation and reintegration, shifting the focus from prosecution to prevention.These are the words that can be seen as revealing the paradigm shift from rescue to protection, rehabilitation and reintegration and from prosecution to prevention in modern jurisprudence.

6.2 Interpretation of Findings

Article 23 is not to be thought of as having been so narrowly drawn as to outlaw only trafficking. When read with Article 21, it posits a more expansive constitutional check on abusive institutions.

The above interpretation is reinforced by the judgement of Prajwala in year 2026. The Supreme Court argued that rescuing victims without rehabilitation may put victims at risk of re-exploitation. So there is more to rehabilitation than meets the eye, it's a part of the State duty.

Such a requirement is even more binding on the child victim, as the child is particularly vulnerable and, therefore, needs specific legal protection.

Investigations and decisions following trafficking should thus be guided by the best interest principle of the JJ Act. The

child is not to be the child hearsayed by traffickers as their own witness.

6.3 Comparison with Previous Studies

Precedent that was more important before often centered on the topics of sexual exploitation and its prevention. Vishal Jeet set in motion the responsibility of the State to prevent child prostitution. Bacchpan Bachao Andolan extended the judicial efforts against the trafficking for labour and entertainment.

There is growing recognition in more recent decisions of the quality of investigation and post-rescue support.

The cases in the West Bengal deserve special emphasis. Insistent on specialised investigations with AHTUs and stressing on counselling and compensation, the Calcutta High Court has issued the necessary directives repeatedly. This would mean the emphasis of the judge's concern should not just be identifying the traffickers, but on also safeguarding rights and interests of victims through the journey of a legal case.

6.4 Theoretical/Conceptual Interpretation

The study is based on a rights'-based victim-centred approach.

Traditional approaches to trafficking as a crime provide a picture in which trafficking is primarily a crime against the State and the focal point of the prosecution is the conviction of the traffickers.

In rights-based perspective trafficking is seen as an assault on dignity, freedom and to respect each child's body, in addition to being an assault on children's rights.

Thus, the victim-centred approach calls for the following change:



This conceptual shift is central to understanding the significance of the 2026 Prajwala judgment.

6.5 Practical Implications

This information has several implications for making the protection of child trafficking victims stronger in West Bengal, both legally and institutionally. In the first place, Anti-Human Trafficking Units (AHTUs) need to be sufficiently resourced, adequately trained, funded, and inter-State coordinated to ensure that traffickers are investigated by staff members with the requisite knowledge and expertise about trafficking and the nature and complexities it poses. Trafficking often takes place between district and State, so effective and efficient investigation and the protection of trafficking victims will require coordination between various authorities under the law both with each other and within each district and State. Second, Child Welfare Committees need to be part of the process of responding to trafficking rather than part of the last phase of a trafficking rescue. Early engagement would help timely assess the child's protection needs, family situations, rehabilitation needs, risk of re-trafficking. Third, each child rescued shall be given a rehabilitative profile based on both the overall profile of the child and the individual child's profile taking into account the age, the educational situation, psychological state, family context and the prospective safety of each and every child. Finally, psychological counselling is a vital part of a trafficking survivor's rehabilitation; a simple rescue and temporary shelter is not enough to address emotional and psychological trauma suffered as a result of trafficking. Fifth, there should be provision for compensation without making the victim excessively reliant on the pending completion of criminal proceedings, particularly lengthy ones, and with the awareness that long criminal proceedings can result in delays to access to resources for recovery and rehabilitation. Sixth,

Family Restoring is to be done in a safe family environment where the potential for renewed exploitation and/or trafficking has been assessed appropriately. Last but not least, there is a need to establish effective information-sharing processes between all actors, including police, child protection authorities, courts and legal service providers, so that information on identification, rescue and investigation, compensation and rehabilitation, including the confidentiality and dignity of child victims, can be coordinated.

7. STRENGTHS AND LIMITATIONS

7.1 Strengths

One of the strong points of the study is the combined analysis of the institutional, legislative and judicial aspects of the protection of victims of child trafficking. The study does not only focus on the criminal law dimension of trafficking and its measure of the identification and punishment of perpetrators, but also addresses the entire trafficking victim protection chain concept, from prevention of trafficking and identification of trafficking victims and their protection, to their rescue, investigation, child-sensitive judicial proceedings, compensation, rehabilitation, and reintegration. This multi-faceted perspective allows for an investigation of the sufficiency of legal protection for the rights and dignity of child victims both during rescue and prosecution and as a long-term victim. A further advantage of the historical analysis has been the deliberate use of a regional perspective – that of West Bengal – for the jurisprudence of the Calcutta High court which has given the research a regional dimension, which can identify issues which are both institutional and implementation based that may not become clear in the overall study undertaken across the country. The study is further strengthened by the incorporation of the Supreme Court's 2026 Prajwala judgment, which is significant for the study given the context of its being an important contemporary development in the jurisprudence of trafficking in India and in the realm of Articles 21 and 23 in the Constitution of India. Due to this, the study aims to relate the existing constitutional principles with the recent judicial trends and the institutional landscape of the state of West Bengal.

7.2 Limitations

The doctrinal character of the study is the single constraint in this study. The research mainly relies on constitutional texts, legislation, judicial rulings, and noramative, publicly available law and policy materials and not on primary data from trafficking survivors, police officers or prosecutors, members of Child Welfare Committees or staff in rehabilitation institutions. As a result, the study cannot assess the influence of victims and justice services on the district or individual level, nor can it assess the level of implementation of the justice services at the district level. At the similarly, the implementation rate of judicial directions, efficiency of rehabilitation programmes, and the degree of return compensation to the trafficking victims in every district of West Bengal is not measured statistically. The study also draws on material that is publically available, but does not seek to exhaustively capture every administrative practice/refer to every constraint or implementation challenge as this is not fully captured in the legal record. The restrictions do not detract from the value of the doctrinal analysis, but do suggest a need for further research into the empirical aspects of the issue. The present research can be strengthened in a future study by conducting interviews with the relevant stakeholders, reviewing the case files, studying and examining district-level institutional practices, and conducting systematic assessment of outcomes of rehabilitation and compensation.

8. CONCLUSION

Child trafficking is a serious violation of the constitutional rights, human dignity, personal freedom and the specific protection of children. India has a comprehensive legal framework that includes the constitution, a range of laws for protection of children, laws criminalizing trafficking, protection mechanisms and guidelines for the judiciary to ensure that trafficking is prevented, offenders are prosecuted, and victims are protected. But having multiple pieces of legislation doesn't automatically mean they're effective in protecting. The analysis shows that the effectiveness of the legal solution can be considered only by looking at the extent of full, long-term protection of the rescued child from the further exploitation and meaningful opportunities for physical recovery, psychological healing, education, dignity and social reintegration.

The case of West Bengal showcases the many strides in law while also highlighting ongoing issues of institutions. The Calcutta High Court has taken a lead in enhancing the counter-trafficking efforts by highlighting special investigation, protection, counselling, compensation and rehabilitation of the victim. That the State's Anti-Human Trafficking Unit was established also underlines the institutional acceptance that there is need for special investigation mechanisms for trafficking. However, their success relies on adequate resources, properly trained personnel, coordination between institutions and on-going monitoring of the post-rescue needs of victims.

This is because the Supreme Court's judgement in Prajwala, issued in 2026, advances Indian trafficking jurisprudence, beyond a rescuer-prosecutor paradigm. The decision affirms the constitutional basis for the inclusion of rehabilitation in the rights protected under Articles 21 and 23 and to look after trafficking victims as rights-bearing persons who need continued protection and rehabilitation. This approach is of utmost importance in situations concerning children as they are vulnerable and the rehabilitation of a child must consider the importance of education, psychological care, family situation and the risk of re-trafficking.

Going forward, a multi-dimensional, rights-based and child-centred approach to child trafficking protection should also

move beyond singular interventions and self-contained strategies to include the following elements: prevention of child trafficking, identification of children at risk, rescue, investigation, compensation, rehabilitation, and reintegration. While India does not have a complete absence of laws to protect child trafficking victims, the key issue is transitioning from the brokered legal response of an extensive but largely disjointed legal framework into a comprehensive, accessible, enforceable and victim-centred system of protection for child trafficking victims that can not only save children from trafficking opportunities but also provide them long-term safety and dignity, rehabilitation and reintegration.

9. RECOMMENDATIONS

9.1. Strengthening Anti-Human Trafficking Units

There must be sufficient staffing, training and resources for specialised capacity for investigations of trafficking across all districts. AHTU staff must be regularly trained in the identification of trafficker tactics and indicators, child-sensitive investigation, trauma-informed approaches, evidence collection and coordination with child protection authorities. Financial and institutional support should also be made available to AHTUs to deal effectively with inter-district, inter-State and cross-border trafficking cases.

9.2. Integrated Child-Trafficking Protocol

One common and coordinated protocol needs to be maintained for West Bengal for child identification, rescue, production before Child Welfare Committee, investigation, medical examination, therapeutic counseling, legal assistance, compensation, rehabilitation etc. Such a protocol would decrease the fragmentation of institutions and have the different agencies using the same approach, from the moment the child is identified until she or he is rehabilitated.

9.3. Individual Rehabilitation Plans (IRP).

All rescued children should be given a rehabilitation plan tailored to the child, taking into account their age, educational requirements, family situation, psychological health, health needs and vulnerability to re-trafficking. Rehabilitation must then be based on the needs of the child rather than institutionalization of children in uniform settings.

9.4. Psychological Support

The provision of psychological counselling as part of post-rescue care and rehabilitation should be integral to the post-rescue process. The effects of trafficking can go beyond physical effects, and may cause fear, trauma, insecurity and problems with social reintegration. Therefore, it is necessary to continue to have the access to the right psychological support for sustainable recovery.

9.5. Fast-Track Compensation

Interim compensation should be paid as early in the appropriate time as possible, not too much relying on the time needed to run lengthy criminal trials. Promptly awarded compensation can help victims meet the immediate needs, and can aid rehabilitation during the pendency of criminal proceedings.

9.6. Community and public education campaigns on maternal and child health and other issues

CWs should be provided specialised training in trafficking cases and have to be part of the trafficking response mechanism from the beginning. When deciding on restoration or reintegration, their assessment needs to take into account the child's safety, family context, rehabilitation needs, and risk of re-trafficking.

9.7. Inter-State Coordination

There should be a greater spirit of formal coordination with neighbouring States in West Bengal as trafficking is often across State borders. Coordination should be strong enough to enable the exchange of information, rescue operations, inquiry and the return and continuity of services to the victims.

9.8. Cross-Border Protection

Child reintegration and child sensitive repatriation follow-on assessments to be considered in cases of international trafficking. Return of a child decision making in terms of safety, best interests and protection from further exploitation should be considered and given priority over the administrative aspects of repatriation.

9.9. Prevention of Re-Trafficking

After discharge from institutional care, rehabilitation should be implemented, encompassing education, family rehabilitation support, community reintegration and independent post-rehabilitation support. Regular monitoring is a critical factor when the socioeconomic or family situation that made children vulnerable is not finalised.

9.10. Training of Judicial & Police Officers

Continue regular specialised training for police officers, prosecutors and judicial officers in the skills of trauma-informed investigation, child psychology, child-sensitivity in evidence collection and child trafficking victims' rights. This type of

training may positively enhance investigation practices, and minimise the likelihood of secondary victimisation of young people during court processes.

9.11. Victim-Centred Criminal Procedure

A child's testimony should not be the primary objective in regards to child trafficking. Their safety, dignity, privacy and welfare should always be at the core of their investigation and trial. Mechanisms of procedures, therefore, should be put in place in a way which ensures the least amount of intimidation, repeated questioning of the accused and unnecessary exposure to the accused.

9.12. Comprehensive Anti-Trafficking Legislation

Ongoing consideration shall be given to the need to have all provisions relating to prevention, prosecution, victim protection and compensation, rehabilitation and inter-State coordination merged in a comprehensive anti-trafficking law. If passed, such legislation should reinforce and not replace the current framework of child protection, and embody a clear rights based approach.

9.13. Cyber-Trafficking Prevention

The trafficking framework must be fit for use in response to trafficking opportunities and facilitations that take place via technological platforms, such as recruitment on the Internet, grooming, false job postings and other cyber-enablement facilitations. Law-enforcement to build the technological and investigative capacity and ensure protection of children's rights and privacy.

9.14. Independent Monitoring

A suitable institutional process should consider what compensation/counselling/rehabilitation services are reached by rescued children and whether rehabilitation services are maintained in the long term, on a recurring basis. Continuation of education, reintegration into the family, access to services and risks suffered by re-trafficking should all be monitored.

9.15. Strengthening Legal Aid

District Legal Services Authorities (DLA) should be responsible for providing a meaningful legal representation of trafficking victims and meaningful access to information about their rights, remedies, compensation schemes, and court process. The provision of legal support must start early and maintain throughout the related proceedings.

REFERENCE

1. Bharatiya Nagarik Suraksha Sanhita, 2023.
2. Bharatiya Nyaya Sanhita, 2023.
3. Bharatiya Sakshya Adhiniyam, 2023.
4. Constitution of India, 1950.
5. Gaurav Jain v. Union of India, (1990) 1 SCC 709.
6. Immoral Traffic (Prevention) Act, 1956.
7. Juvenile Justice (Care and Protection of Children) Act, 2015.
8. Prajwala v. Union of India, Misc. Application No. 530 of 2022 in W.P. (C) No. 56 of 2004, 2026 INSC 609.
9. Protection of Children from Sexual Offences Act, 2012.
10. Prohibition of Child Marriage Act, 2006.
11. State of West Bengal v. Sangita Sahu @ Shaw, (2018) 3 C.Cr.L.R. (Cal).
12. Vishal Jeet v. Union of India, (1990) 3 SCC 318.
13. Bachpan Bachao Andolan v. Union of India, (2011) 5 SCC 1.
14. Court on its Own Motion v. Government of NCT of Delhi, 2009 SCC OnLine Del 1958.
15. Achiya Bibi v. State of West Bengal, W.P. No. 5921(W) of 2019 (Calcutta High Court, 3 April 2019).
16. Aruna Sardar v. State of West Bengal, W.P. No. 5917(W) of 2019 (Calcutta High Court, 3 April 2019).
17. Ved Prakash Arya, In Re, 2022 LiveLaw (Cal) 248.
18. United Nations. (2000). Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.
19. United Nations. (1989). Convention on the Rights of the Child.
20. Ministry of Women and Child Development, Government of India. Ujjawala: Comprehensive Scheme for Prevention of Trafficking and Rescue, Rehabilitation and Re-Integration of Victims of Trafficking for Commercial Sexual Exploitation.
21. Ministry of Women and Child Development, Government of India. Mission Shakti Guidelines.
West Bengal Criminal Investigation Department. Anti-Human Trafficking Unit and Protection of Women and Children Cell