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THE LEGAL LANDSCAPE OF HUMAN TRAFFICKING AND LANDMARK JUDGMENTS

23rd August, 2026

Prepared by :
Judicial Academy, Jharkhand

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Judicial Academy Jharkhand

The Legal Landscape of Human Trafficking and Landmark Judgments

Reading Material

23rd August, 2026

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Justice M.S. Sonak
The Chief Justice,
High Court of Jharkhand
-cum-Patron-in-Chief
Judicial Academy, Jharkhand

MESSAGE

It gives me immense pleasure to present this publication, "***The Legal Landscape of Human Trafficking and Landmark Judgments***", a work that addresses a subject striking at the very core of human dignity, liberty, and constitutional governance. Human trafficking remains one of the gravest violations of human rights, affecting women, children, and other vulnerable sections of society through various forms of exploitation.

The Constitution of India, particularly Articles 21, 23 and 24, embodies our commitment to protecting individuals from trafficking, forced labour, and exploitation. The judiciary has consistently recognised that the response to trafficking must extend beyond punishment and include rescue, protection, rehabilitation, reintegration, and restoration of dignity to survivors. The recent decision of the Hon'ble Supreme Court in *Prajwala v. Union of India, 2026 SCC OnLine SC 1053* has further reinforced this victim-centric approach.

As Dr. B. R. Ambedkar wisely observed, *"Law and order are the medicine of the body politic and when the body politic gets sick, medicine must be administered."* Addressing trafficking requires coordinated efforts by courts, law-enforcement agencies, legal services institutions, civil society organisations, and the community. Effective implementation of laws, sensitive investigation, and survivor-centric rehabilitation are essential to ensuring meaningful justice.

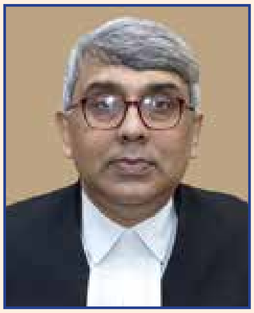
This publication provides a comprehensive understanding of the legal, constitutional, institutional, investigative, and rehabilitative dimensions of human trafficking. It brings together the relevant legal framework, judicial pronouncements, investigative mechanisms, victim protection measures, and contemporary challenges, making it a valuable resource for judicial officers, prosecutors, investigators, legal practitioners, academicians, and other stakeholders in the justice system.

I appreciate the efforts of the Hon'ble Judge In-Charge, the Director, Faculty members, and Research Scholars of the Judicial Academy, Jharkhand in preparing this important work.

As Nelson Mandela aptly stated, *"Education is the most powerful weapon which you can use to change the world."* I am confident that this publication will promote awareness, strengthen institutional responses, and contribute meaningfully to the collective endeavour of eliminating human trafficking in all its forms.

Warm Regards,

Hon'ble Mr. Justice M.S. Sonak



Judicial Academy, Jharkhand

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Justice
Rongon Mukhopadhyay
Judge,
High Court of Jharkhand
cum- Judge- In- Charge
Judicial Academy, Jharkhand

MESSAGE

Human trafficking presents a challenge to the justice system that extends beyond the application of penal laws. It requires an appreciation of the circumstances that enable exploitation, the vulnerabilities of those who are trafficked, and the institutional responsibilities that arise at every stage of the process. Judicial officers, therefore, must approach such cases with both legal rigour and an awareness of the human realities underlying the offence.

The judicial response must maintain a careful balance between firmness towards the offender and sensitivity towards the victim. Fear, trauma and stigma may significantly affect a victim's interaction with the justice process. Ensuring a fair trial does not require the dignity and vulnerability of the victim to be overlooked; rather, fairness demands that the proceedings be conducted with due process, sensitivity and impartiality.

At the same time, justice in trafficking cases cannot be viewed only through the lens of prosecution and conviction. Rescue must lead to protection, and protection must create the conditions for rehabilitation and reintegration. The constitutional commitment to dignity requires the justice system to remain conscious of the survivor's right to rebuild a life free from exploitation.

It gives me immense pleasure to present the present material, "***The Legal Landscape of Human Trafficking and Landmark Judgments***". I hope that it will assist Judicial Officers and other stakeholders in deepening their understanding of the legal and practical dimensions of human trafficking and, ultimately, in strengthening a justice system that is firm in law, fair in process and humane in its response.

I appreciate the efforts of all those associated with the preparation of this material. I particularly acknowledge the contribution of Dr. P. M. Nair, IPS (Retd.), whose extensive work in the field of human trafficking has provided valuable practical insight to the compilation. I also place on record my appreciation for the Officers, Faculty Members and Research Scholars of the Judicial Academy, Jharkhand whose sustained efforts have brought this work together. It is hoped that this material will contribute, in however modest a measure, to a justice system that is firm in its response to exploitation, careful in its appreciation of evidence, sensitive in its treatment of victims, and unwavering in its commitment to human dignity.

Warm Regards,

Hon'ble Mr. Justice Rongon Mukhopadhyay

ACKNOWLEDGMENT

Human trafficking is a profound violation of human dignity. It is a valuable right guaranteed to all the citizens, including the vulnerable section of the society. Article 23 of the Constitution prohibits such exploitation and, significantly, its prohibition is addressed not merely to the State but to every person. Yet, despite this constitutional mandate, trafficking remains among the offences that continue to pose serious challenges to effective prosecution.

The present material- "***The Legal Landscape of Human Trafficking and Landmark Judgments***", seeks to bring the dispersed legal framework into a single place and, more importantly, into a practical and usable order. It traces the international and constitutional foundations of the law, from the Palermo Protocol and *Vishal Jeet* to the contemporary jurisprudence of *Prajwala*; provides a section-wise treatment of the eleven statutes that may be attracted in a trafficking prosecution, setting out the relevant offence, punishment and court of trial; illustrates, through factual situations, how these statutes operate and intersect in practice; and, from the administrative perspective, brings together the framework relating to reporting, investigation, rescue and rehabilitation, the relevant schemes, and a digest of significant case law. In this manner, the volume seeks not merely to collect the law, but to make its application more coherent, accessible and useful to those entrusted with responding to human trafficking. The concluding chapter deserves particular attention. Judicial directions bind, but lie scattered across four decades of law reports. That chapter arranges them by the authority addressed, so that an officer finds under one head the whole of what is required of that office.

The Judicial Academy, Jharkhand places on record its profound gratitude to Hon'ble Mr. Justice Mahesh Sharadchandra Sonak, the Chief Justice, Jharkhand High Court cum Patron-in-Chief Judicial Academy Jharkhand for his unwavering guidance encouragement and support throughout the preparation of this reading material. The Judicial Academy, Jharkhand further extends its sincere gratitude to Hon'ble Mr. Justice Rongon Mukhopadhyay, Judge, High Court of Jharkhand cum Judge-In-charge, Judicial Academy Jharkhand, whose valuable guidance and support have been instrumental in shaping and refining this compilation.

The Academy records its particular debt for the invaluable contribution of Dr. P. M. Nair, IPS (Retd.). The chapters on reporting, rescue, post-rescue care and investigation draw substantially upon his *Handbook for Law Enforcement Agencies in India*, published by the Bureau of Police Research and Development, Government of India, and upon his *Action Research on Human Trafficking in India* for the National Human Rights Commission.

This compilation is a result of the persistent efforts put in by Sri Satyakam Priyadarshi, Additional Director-I cum Senior Faculty Member; Sri Laxmi Kant, Additional Director-II cum Senior Faculty Member; Sri Amikar Parwar, Administrative Officer; and the Research Scholars: Isha, Sarita Akhuli, Uday Narayan and Uttam Kumar Gupta. It is hoped that this reading material will be of assistance to Judicial Officers, prosecutors, members of the Bar, officers of the Anti-Human Trafficking Units, and all other stakeholders.

Sri Rajesh Sharan Singh

Director

Judicial Academy, Jharkhand

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- This book is intended for Private Circulation Only.
- The information contained in this book is intended for information purposes only and should not be construed as legal advice on any subject matter.
- The cases and content provided are for educational purposes and illustrative understanding. For a comprehensive understanding, readers are encouraged to refer to the complete case laws and official sources.
- The government schemes, sections, and rules mentioned in this book are intended solely for professional understanding. For complete and authoritative information, readers are advised to refer to the relevant Bare Acts and official legal documents.

CONTENTS

LIST OF ABBREVIATIONS

Abbreviation	Expansion
ADGP	Additional Director General of Police
AHTU	Anti-Human Trafficking Unit
BNS	Bharatiya Nyaya Sanhita, 2023
BNSS	Bharatiya Nagarik Suraksha Sanhita, 2023
BPR&D	Bureau of Police Research and Development
BSA	Bharatiya Sakshya Adhiniyam, 2023
CBR	Community-Based Rehabilitation
CCI	Child Care Institution
CDR	Call Detail Record
CMPO	Child Marriage Prohibition Officer
CSE	Commercial Sexual Exploitation
CSEAM	Child Sexual Exploitative and Abuse Material
CWC	Child Welfare Committee
CWPO	Child Welfare Police Officer
DLSA	District Legal Service Authority
ERSS	Emergency Response Support System (helpline 112)
IRP	Individual Rehabilitation Plan
IT Act	Information Technology Act, 2000
ITPA	Immoral Traffic (Prevention) Act, 1956
JHALSA	Jharkhand State Legal Services Authority
JJ Act	Juvenile Justice (Care and Protection of Children) Act, 2015
JMFC	Judicial Magistrate of the First Class
JVCS	Jharkhand Victim Compensation Scheme
LI	Life Imprisonment
NATB	National Anti-Trafficki Bureau
NCPCR	National Commission for Protection of Child Rights
NCRB	National Crime Records Bureau
NCRP	National Cyber Crime Reporting Portal
NGO	Non-Governmental Organisation
NHRC	National Human Rights Commission
NIA	National Investigation Agency
NIMHANS	National Institute of Mental Health and Neuro-Sciences, Bengaluru
NRLM / NULM	National Rural Livelihoods Mission / National Urban Livelihoods Mission
OCIA	Organised Crime Investigation Agency (proposed)

Abbreviation	Expansion
OSC	One Stop Centre
PCMA	Prohibition of Child Marriage Act, 2006
PLV	Para Legal Volunteer
PMAY	Pradhan Mantri Awas Yojana
PM-KVY	Pradhan Mantri Kaushal Vikas Yojana
PMLA	Prevention of Money Laundering Act, 2002
PNO	Police Nodal Officer
POCSO	Protection of Children from Sexual Offences Act, 2012
PS	Police Station
RI	Rigorous imprisonment
RPC	Remote Point Coordinator
RTE Act	Right of Children to Free and Compulsory Education Act, 2009
SAARC	South Asian Association for Regional Cooperation
SC / ST Act	Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989
SDLSC	Sub-Divisional Legal Services Committee
SHG	Self-Help Group
SHO	Station House Officer
SIR	Social Investigation Report
SIT	Special Investigation Team
SJPU	Special Juvenile Police Unit
SLSA	State Legal Services Authority
SOC	Scene of Crime
SOP	Standard Operating Procedure
SP	Superintendent of Police
SPO	Special Police Officer
SSB	Sashastra Seema Bal
THOTA	Transplantation of Human Organs and Tissues Act, 1994
TIP	Test Identification Parade.
TPP	Twenty Point Programme, 1975
UNIFEM	United Nations Development Fund for Women
UNODC	United Nations Office on Drugs and Crime
UNTOC	United Nations Convention against Transnational Organized Crime, 2000
VPP	Victim Protection Plan

I. Understanding Human Trafficking as a Concept

> ***"The end of law is not to abolish or restrain, but to preserve and enlarge freedom."***
>
> -John Locke

Human trafficking is one of the gravest violations of human rights and human dignity in the contemporary world. It is often described as a modern form of slavery involving the recruitment, transportation, transfer, harbouring or receipt of persons through force, coercion, deception, abuse of vulnerability or other unlawful means for the purpose of exploitation.

Unlike conventional crimes against property or person, trafficking is a continuing offence in which the victim remains under exploitation even after recruitment or transportation. The offence is frequently committed by organized criminal networks and disproportionately affects women, children, migrants, economically vulnerable populations and socially marginalized communities.

The concept of trafficking has evolved considerably over time. Earlier legal frameworks primarily focused on trafficking for prostitution. Contemporary international and domestic laws recognize trafficking as a broader phenomenon encompassing various forms of exploitation.

1. The Palermo Protocol Definition

The internationally accepted definition of trafficking is contained in Article 3 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, 2000 held in Palermo, Italy.

Article 3, Paragraph (a) of the Protocol states that trafficking in persons *"shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs."*

Article 3, Paragraph (b) states that: *"The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used."*

Article 3, Paragraph (c) states that: *"The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered trafficking in persons even if this does not involve any of the means set forth in subparagraph (a)."*

The definition contains three essential components:

A. The Prohibited Act:	B. The Means:	C. The Purpose:
• Recruitment • Transportation • Transfer • Harbouring • Receipt of persons	• Threat • Force • Coercion • Abduction • Fraud • Deception • Abuse of authority • Abuse of vulnerability • Payments or benefits to obtain control over a person	• Exploitation of Prostitutes or other form of Sexual exploitation • Forced labour • Slavery • Practices similar to slavery • Servitude • Removal of organs

For children, proof of coercion or force is unnecessary. Recruitment, transportation or harbouring of a child for exploitation constitutes trafficking irrespective of consent.

2. Causes And Contributing Factors

Economic Factors	Social Factors	Migration-related Factors	Technological Factors
▪ Poverty ▪ Unemployment ▪ Debt bondage ▪ Economic inequality	▪ Gender discrimination ▪ Illiteracy ▪ Social exclusion ▪ Child marriage ▪ Religious and Cultural practices- Devdasi, Devki ▪ Adoption	▪ Unsafe migration ▪ Displacement ▪ Natural disasters ▪ Armed conflicts ▪ Restrictive Migration Policy	▪ Social media recruitment- Hunting, Fishing ▪ Online grooming ▪ Encrypted communication platforms ▪ Dark web exploitation networks

3. Forms of Human Trafficking

Trafficking for Sexual Exploitation
▪ Brothel-based prostitution ▪ Escort services ▪ Commercial sexual exploitation ▪ Pornography ▪ Online sexual exploitation ▪ Historically, anti-trafficking efforts in India were largely directed against this form of trafficking.

Forced Labour
▪ Construction ▪ Agriculture ▪ Mining ▪ Brick kilns ▪ Manufacturing ▪ Domestic work

Child Trafficking
▪ Labour ▪ Sexual exploitation ▪ Begging ▪ Forced marriage ▪ Illegal adoption ▪ Criminal activities

Organ Trafficking
▪ Victims are coerced, deceived or induced into surrendering organs for commercial purposes.

Forced Marriage
▪ Women and girls may be trafficked across regions for marriage and subsequently subjected to exploitation and servitude.

Trafficking for Begging
▪ Organized criminal groups often exploit children and vulnerable adults by forcing them into begging.

Cyber-enabled Trafficking
▪ Digital platforms and social media have become important tools for recruitment, grooming, transportation and exploitation of victims.

4. India's Implementation of International and Regional Commitments on Human Trafficking

i. United Nations Convention and the Palermo Protocol

India remains a State Party to **the United Nations Convention against Transnational Organized Crime (UNTOC)** and **the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children**, supplementing the Convention, commonly referred to as **the Palermo Protocol**. India signed the Convention on 12th December 2002 and deposited its instrument of ratification on 5th May 2011; the Convention entered into force for India on 4th June 2011.

India's legislative response included the **Criminal Law (Amendment) Act, 2013**, through which Section 370 of the Indian Penal Code was substantially amended and provisions relating to trafficking and exploitation were comprehensively incorporated into the criminal law framework. The amended provision expanded the understanding of trafficking beyond trafficking for prostitution and recognised forms of exploitation including physical and sexual exploitation, slavery, servitude and forced removal of organs. The present statutory framework is contained principally in Sections 143 and 144 of the Bharatiya Nyaya Sanhita, 2023, which correspond broadly to the earlier Sections 370 and 370A IPC.

The implementation of the Palermo Protocol is subject to the **Mechanism for the Review of the Implementation of UNTOC and its Protocols**, which provides for the assessment of States Parties' implementation of their obligations and identification of areas requiring technical assistance. The implementation of the Protocol is further reviewed through the **Working Group on Trafficking in Persons** under UNTOC, which provides a forum for States Parties to consider emerging challenges and exchange experiences and practices.

The 16th Meeting of the Working Group was held in Vienna on 24th–25th June 2026, with discussions focusing, inter alia, on trafficking in persons in relation to scam centres and the use of artificial intelligence in trafficking in persons. However, India did not participate in this meeting.

India has, however, continued to participate in the proceedings of the Working Group. At its 15th Meeting, held in Vienna on 6th–7th October 2025, India had participated as Co-Chair of the Working Group. The meeting addressed evidential issues in trafficking cases, particularly those involving online scams, and matters relating to the review of implementation of the Trafficking in Persons Protocol.

ii. Regional Cooperation: SAARC Convention

At the regional level, India is a party to the **SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution**. The Convention recognises the need for coordinated regional measures to prevent trafficking, protect victims and facilitate cooperation among member States.

In furtherance of the Convention, a **Regional Task Force** was constituted to facilitate its implementation and undertake periodic review. The Regional Task Force has provided a platform for SAARC Member States to exchange experiences and strengthen institutional responses to trafficking. The fifth meeting of the Regional Task Force was held at Paro, Bhutan, on 11th–12th April 2013.

An important initiative in this regard was the study visit undertaken from 18th to 22nd November 2013, during which representatives of SAARC Member States from Sri Lanka, Bhutan and Afghanistan, visited India to gain practical exposure to the functioning of Anti-Human Trafficking Units (AHTUs) established in different districts.

Further, an Expert Group Meeting was held at Kathmandu on 16th–17th October 2014 to discuss proposed changes to the Convention. Subsequently, the SAARC process focused on strengthening implementation of the existing Convention rather than broadening its scope.

iii. Bilateral Cooperation: India–Bangladesh

India has also adopted bilateral mechanisms for addressing cross-border trafficking, particularly with neighbouring countries sharing vulnerable land borders.

In the context of trafficking between India and Bangladesh, a **Joint Task Force** was constituted to address issues relating to the prevention of trafficking, identification of victims, rescue, repatriation and reintegration, with the objective of making the process more expeditious and victim-sensitive. The India–Bangladesh Task Force held its fifth meeting on 17th–18th August 2015 at Dhaka.

A significant step in institutionalising bilateral cooperation was the signing, in June 2015, of the **Memorandum of Understanding between India and Bangladesh on Bilateral Cooperation for Prevention of Human Trafficking, especially Trafficking in Women and Children, Rescue, Recovery, Repatriation and Reintegration of Victims of Trafficking**. The MoU recognises trafficking as a serious violation of the rights and dignity of women and children and seeks to strengthen cooperation in prevention, rescue, recovery, repatriation and reintegration, as well as cooperation in law enforcement and criminal procedures across international borders.

iv. Institutional and Law-Enforcement Measures

India's implementation of its international and regional commitments has also involved the strengthening of domestic institutional mechanisms. The **Anti-Trafficking Cell of the Ministry of Home Affairs** is responsible, *inter alia*, for coordinating matters relating to human trafficking, facilitating the establishment and strengthening of **Anti-Human Trafficking Units**, providing guidance to States and Union Territories, and participating in national and international mechanisms concerning trafficking. The Central Government has also provided financial assistance for the establishment and strengthening of AHTUs.

The Ministry of Home Affairs further recognises bilateral and multilateral cooperation, including agreements and memoranda of understanding with other countries, as an important component of India's response to trafficking.

II. Constitutional Framework against Human Trafficking

Trafficking violates several internationally recognized human rights, including the right to life, liberty, dignity, and freedom from slavery and forced labour, as well as the rights of women and children. The constitutional framework against human trafficking in India is founded upon human dignity, equality, liberty and social justice, which lie at the core of the values embodied in the Preamble, Fundamental Rights and Directive Principles of State Policy. The Hon'ble Supreme Court of India has repeatedly emphasized that human dignity constitutes the foundation of constitutional governance.

1. Article 23: A Constitutional Protection against Trafficking

The constitutional framework against trafficking is principally founded upon **Articles 23**, read with the constitutional commitment to dignity, equality and protection of vulnerable persons under Article 21. While Article 21 guarantees the right to life and personal liberty, the right to life has been judicially interpreted to include the right to live with dignity. **Article 23(1)**, more specifically, prohibits "*traffic in human beings*" and begar and other similar forms of forced labour, thereby providing a direct constitutional prohibition against trafficking. Unlike many fundamental rights, Article 23 operates both against the State and private individuals. Thus, even private exploitation may constitute a violation of Article 23.

2. Judicial Recognition of Constitutional Protection against Trafficking

The constitutional prohibition against trafficking was more directly examined by the Hon'ble Supreme Court in ***Vishal Jeet v. Union of India*****,** (1990) 3 SCC 318**,** where the petitioner approached the Supreme Court under Article 32 seeking directions for effective action against the trafficking and sexual exploitation of children and girls, particularly through the *Devadasi* and *Jogin* traditions and the organised "flesh trade". The petition alleged that poverty-stricken minor girls and young women were procured, sold or forced into prostitution and, upon being brought to brothels, subjected to confinement, ill-treatment and sexual exploitation. The petition sought action against persons facilitating such trafficking, along with the rescue and rehabilitation of victims.

The Supreme Court held that such trafficking and exploitation of children constituted a grave violation of constitutional values and specifically examined Article 23(1), observing that it prohibits "traffic in human beings", a term wide enough to include trafficking of women for immoral or other purposes. Referring also to Article 39(e) and (f), the Court stressed the State's obligation to protect children from abuse and exploitation. It held that eradication of this social evil required not merely punitive measures but preventive, protective and rehabilitative measures, directing State Governments and Union Territories to take speedy legal action against pimps, brokers and brothel keepers, establish advisory committees, provide rehabilitative homes and implement welfare programmes for rescued children and girls.

3. Trafficking and Exploitation of Children

The constitutional protection against trafficking assumes particular significance in the case of children, who are especially vulnerable to exploitation. Besides Article 23, **Article 24** further provides protection to children against exploitation. Article 24 complements Article 23 by addressing a specific form of exploitation of children by prohibiting the employment of children below fourteen years of age in factories, mines, or other hazardous employment.

The constitutional protection of children in the context of trafficking was further considered in ***Bachpan Bachao Andolan v. Union of India***, (2011) 5 SCC 1, where the Supreme Court considered the trafficking and exploitation of children in circuses, including children brought from Nepal and different parts of India who were confined, subjected to abuse, and forced to work under exploitative conditions. In some cases, children were sold or lured into circuses, where they were confined, deprived of family contact, subjected to physical and sexual abuse, and forced to work for long hours under conditions that restricted their freedom to leave. The petition sought measures for preventing trafficking, rescuing the children, and securing their rehabilitation.

The Supreme Court recognised that child trafficking may take various forms, including bonded labour, domestic and agricultural labour, begging, organ trade, sexual exploitation, and exploitation in circuses and other entertainment industries. The Court also noted that Article 23 prohibits trafficking in human beings and protects children from exploitation, including trafficking for purposes of recruitment, transportation or transfer. The Court emphasised the State's obligation to protect children from such exploitation and directed measures for their rescue, care, protection and rehabilitation, including prohibition of employment of children in circuses, rescue operations, placement in appropriate care facilities, verification before restoration to families, and formulation of rehabilitation schemes. The Court thus affirmed that trafficked children must be treated as children in need of care and protection, with their dignity, welfare and rehabilitation remaining paramount.

4. Protection of Children against Trafficking through Inter-Country Adoption

The Supreme Court's decision in ***Laxmi Kant Pandey v. Union of India***, (1984) 2 SCC 244, is an important judicial intervention against the trafficking and exploitation of children through inter-country adoption. The case arose from allegations of malpractices in the placement of Indian children with foreign parents through social organisations and voluntary agencies, raising concerns that the adoption process could be misused for neglect, abandonment, sexual abuse, forced labour or other forms of exploitation. The Court therefore examined the procedure for inter-country adoption with the primary object of ensuring the welfare and protection of the child.

The Supreme Court laid down detailed safeguards for inter-country adoption to ensure that children did not become victims of trafficking or exploitation under the guise of adoption, including scrutiny of the circumstances in which a child came into the custody of an agency, involvement of recognised agencies, verification of prospective adoptive parents and judicial supervision. Emphasising that the welfare of the child must be the paramount consideration, the Court directed that every precaution be taken to ensure that inter-country adoption does not expose a child to trafficking or exploitation or place the child in a situation worse than that in India.

5. From Rescue to Rehabilitation and Social Reintegration

The Hon'ble Supreme Court has repeatedly emphasized that anti-trafficking efforts must extend beyond criminal prosecution and has recognized rehabilitation as a constitutional obligation. This principle was further considered in ***Gaurav Jain v. Union of India***, (1997) 8 SCC 114, arising from a public interest petition concerning women and children trapped in prostitution and the flesh trade. The Court examined the circumstances of women and girls, particularly from vulnerable socio-economic backgrounds, and the consequent impact on their children. The Court was concerned with rescuing such victims from exploitative conditions and ensuring that their children did not themselves become victims of the same environment.

The Supreme Court held that persons trapped in the flesh trade should be treated as victims of circumstances rather than offenders. Referring to Article 23, the Court emphasised that the State's duty extends beyond preventing trafficking to rescue, rehabilitation and social reintegration of victims. It directed measures including education, vocational training, employment, financial assistance, counselling and other support so that rescued victims could live with dignity and self-respect and would not be driven back into prostitution.

The Court's approach in ***Gaurav Jain*** thus reinforced the principle, already reflected in ***Vishal Jeet***, that the constitutional response to trafficking must extend beyond prosecution and rescue, with rehabilitation and social reintegration being essential to enabling victims to permanently disengage from exploitation.

Further, in ***Budhadev Karmaskar v. State of West Bengal***, (2011) 10 SCC 283, where the case concerned the rehabilitation of sex workers, including women and girls who had been rescued from trafficking and commercial sexual exploitation, the Supreme Court noted that effective rescue is often hindered by the nexus between traffickers, pimps, brothel owners and, in some cases, even the victim's family, making identification and rescue difficult. The Court therefore emphasised that effective rescue must be accompanied by measures addressing the circumstances that compel or trap victims in the sex trade. The Court stressed that rehabilitation must be directed towards enabling victims to live with dignity and economic independence. It directed the authorities to provide vocational training and alternative livelihood opportunities and observed that merely placing rescued women in short-stay or corrective homes was inadequate. The Court also directed the State Legal Services Authorities to provide legal assistance and helplines to sex workers and trafficking victims to facilitate rescue and access to remedies. It further emphasised that rehabilitation must be sensitive to the victims' circumstances and aimed at their reintegration into the mainstream of society.

6. Contemporary Constitutional Position

The jurisprudence relating to the constitutional rights of victims of trafficking has recently been further strengthened by the decision of the Hon'ble Supreme Court in ***Prajwala v. Union of India***, 2026 SCC OnLine SC 1053. Recognising human trafficking as a grave assault on human dignity, bodily autonomy and personal liberty, the Court held that rehabilitation of survivors is not merely a matter of governmental policy but an integral component of the right to life and dignity guaranteed under Article 21 of the Constitution. Emphasising that rescue alone is insufficient, the Court adopted a victim-centric approach and directed the implementation of a comprehensive **"Victim Protection Plan"** governing every stage of the anti-trafficking process, including pre-rescue planning, rescue operations, post-rescue care, rehabilitation, reintegration and prosecution. The judgment reinforces the constitutional obligation of the State to ensure that survivors are restored to a life of dignity through effective rehabilitation and long-term support.

III. Statutes Related to Trafficking and Allied Offences

1. Bhartiya Nyaya Sanhita (BNS), 2023

♦ **Definition of trafficking of persons:**

Section 143 of the BNS, 2023 (corresponding to Section 370 IPC) defines and criminalizes trafficking of persons. The provision recognizes trafficking as a process involving recruitment, transportation, transfer, harbouring or receipt of a person through unlawful means for the purpose of exploitation.

The offence comprises three essential elements:

A. The Act:	B. The Means:	C. The Purpose:
▪ The accused must engage in one or more of the following acts: • Recruitment; • Transportation; • Transfer; • Harbouring; or • Receipt of a person.	▪ The act must be carried out by employing any of the following means: • Threat; • Use of force; • Coercion; • Abduction; • Fraud; • Deception; • Abuse of power; or • Inducement through payments or benefits.	▪ The act must be undertaken for the purpose of exploitation. The expression "exploitation" includes: • Physical exploitation; • Sexual exploitation; • Slavery; • Practices similar to slavery; • Servitude; • Beggary; or • Forced removal of organs.

♦ **Consent of the Victim:**

Explanation 2 of Section 143 BNS states that the consent of the victim becomes immaterial in determination of the offence of trafficking.

♦ **Aggravated Forms of Trafficking:**

Section 143(3) BNS: Trafficking of more than one person

Section 143(4) BNS: Trafficking of a child

Section 143(5) BNS: Trafficking of more than one child

Section 143(6) BNS: Convicted for Trafficking of a child more than once

Section 143(7) BNS: Trafficking by Public Servants or Police Officers

♦ **Offences of Trafficking and Punishment thereof :**

Provision under BNS, 2023	Corresponding Provision under IPC, 1860	Offence	Punishment	Cognizable/ Non-Cognizable Bailable/ Non-Bailable	Triable by
Section 143(2) BNS	Section 370(2) IPC	Trafficking of person	RI minimum 7 years extendable up to 10 years + fine	Cognizable & Non-bailable	Court of Session
Section 143(3) BNS	Section 370(3) IPC	Trafficking of more than one person	RI minimum 10 years extendable up life + fine	Cognizable & Non-bailable	Court of Session
Section 143(4) BNS	Section 370(4) IPC	Trafficking of child	RI minimum 10 years extendable up life + fine	Cognizable & Non-bailable	Court of Session
Section 143(5) BNS	Section 370(5) IPC	Trafficking of more than one child	RI minimum 14 years extendable up life + fine	Cognizable & Non-bailable	Court of Session
Section 143(6) BNS	Section 370(6) IPC	Repeat conviction for child trafficking	LI for remainder of natural life + fine	Cognizable & Non-bailable	Court of Session
Section 143(7) BNS	Section 370(7) IPC	Trafficking by public servant or police officer	LI for remainder of natural life + fine	Cognizable & Non-bailable	Court of Session
Section 144 BNS (Corresponding to Section 370A IPC): Exploitation of a Trafficked Person					
Section 144(1) BNS	Section 370A(1) IPC	Engaging a trafficked child for sexual exploitation in any manner	RI minimum 5 years extendable up to 10 years + fine	Cognizable & Non-bailable	Court of Session
Section 144(2) BNS	Section 370A(2) IPC	Engaging a trafficked person (other than a child) for sexual exploitation	RI minimum 3 years extendable up to 7 years + fine	Cognizable & Non-bailable	Court of Session
Other Relevant Provisions of the Bharatiya Nyaya Sanhita, 2023					
Section 87 BNS	Section 366 IPC	Punishment for kidnapping, abducting or inducing women to compel her marriage etc.	Imprisonment of either description extendable up to 10 years + fine	Cognizable & Non-bailable	Court of Session

Section 95 BNS	-	Hiring employing or engaging a child to commit an offence.	Imprisonment of either description minimum 3 years extendable up to 10 years + fine & If the offence be committed, shall also be punished with the punishment provided for that offence as if the offence has been committed by such person himself.	Cognizable & Non-bailable	JMFC
Section 96 BNS	Section 366A IPC	Punishment for procuration of child.	Imprisonment extendable up to 10 years + fine	Cognizable & Non-bailable	Court of Session
Section 98 BNS	Section 372 IPC	Punishment for selling child for purpose of prostitution etc.	Imprisonment of either description extendable up to 10 years + fine	Cognizable & Non-bailable	Court of Session
Section 99 BNS	Section 373 IPC	Punishment for buying child for purpose of prostitution.	Imprisonment of either description minimum 7 years extendable up to 14 years + fine.	Cognizable & Non-bailable	Court of Session
Section 137(2) BNS	Section 363 IPC	Conveying any person beyond the territorial limits of India without his or her consent or without the consent of the person legally authorized to consent.	Imprisonment of either description extendable up to 7 years + fine	Cognizable & Bailable	JMFC
Section 139 (1) & (2) BNS	Section 363A (1) & (2) IPC	Kidnapping or maiming a child for purposes of begging	**Kidnapping-** RI minimum 10 years extendable up to life + fine **Maiming-** Imprisonment of minimum 20 years extendable up to LI for remainder of natural life + fine	Cognizable & Non-bailable	Section 139 (1) – JMFC Section 139 (2) – Court of Session

Section 140 (4) BNS	Section 367 IPC	Punishment for kidnapping or abducting in order to subject the person to grievous hurt, slavery or unnatural lust of any person	Imprisonment of either description extendable up to 10 years + fine	Cognizable & Non-bailable	Court of Session
Section 141 BNS	Section 366B IPC	Punishment for importation of girl under 21 years or boy under 18 years from foreign country.	Imprisonment extendable up to 10 years + fine	Cognizable & Non-bailable	Court of Session
Section 145 BNS	Section 371 IPC	Punishment habitual dealing in slaves.	LI or Imprisonment of either description not exceeding 10 years + fine	Cognizable & Non-bailable	Court of Session
Section 146 BNS	Section 374 IPC	Punishment for unlawful compulsory labour.	Imprisonment of either description extendable up to 1 year or with fine or with both.	Cognizable & Bailable	Any Magistrate
Section 126 (2) BNS	Section 341 IPC	Wrongful Restraint	Simple Imprisonment extendable up to 1 month/ Fine extendable up to Rs. 5000/ Both	Cognizable & Bailable	Any Magistrate
Section 127 (2) BNS	Section 342 IPC	Wrongful Confinement	Imprisonment of either description extendable up to 1 year/ Fine extendable up to Rs. 5,000/ Both	Cognizable & Bailable	Any Magistrate
Section 127 (3) BNS	Section 343 IPC	Wrongful Confinement for 3 days or more	Imprisonment of either description extendable up to 3 year/ Fine extendable up to Rs. 10,000/ Both	Cognizable & Bailable	Any Magistrate
Section 127 (4) BNS	Section 344 IPC	Wrongful Confinement for 10 days or more	Imprisonment of either description extendable up to 5 year/ Fine not less than Rs. 10,000/ Both	Cognizable & Non-bailable	JMFC
Section 135 BNS	Section 357 IPC	Assault or criminal force in attempt to wrongfully confine a person	Imprisonment of either description extendable up to 1 year/ Fine extendable up to Rs. 5,000/ Both	Cognizable & Bailable	Any Magistrate

2. The Immoral Traffic (Prevention) Act, 1956

♦ **Relevant Definitions:**

Section 2(aa) defines **"child"** as a person who has not completed the age of sixteen years.

Section 2(ca) defines **"major"** as a person who has completed the age of eighteen years.

Section 2(cb) defines **"minor"** as a person who has completed the age of sixteen years but has not completed the age of eighteen years.

Section 2 (f) defines **"prostitution"** as the sexual exploitation or abuse of persons for commercial purposes, and the expression "prostitute" shall be construed accordingly.

Section 2(a) defines **"brothel"** to include any house, room, conveyance or place or any portion of any house, room, conveyance or place, which is used for purposes of sexual exploitation or abuse for the gain of another person or for the mutual gain of two or more prostitutes.

Section 2(h) defines **"public place"** as any place intended for use by, or accessible to, the public and includes any public conveyance.

Section 2(b) defines **"corrective institution"** as an institution, by whatever name called (being an institution established or licensed as such under section 21), in which persons, who are in need of correction, may be detained under this Act, and includes a shelter home where undertrials may be kept in pursuance of this Act.

Section 2(g) defines **"protective home"** as an institution by whatever name called (being an institution established or licensed as such under section 21) in which persons, who are in need of care and protection, may be kept under this Act and where appropriate technically qualified persons, equipment and other facilities have been provided but does not include -

i. a shelter where undertrials may be kept in pursuance of this Act, or

ii. a corrective institution.

Section 2(i) defines **"special police officer"** as a police officer appointed by or on behalf of the State Government to be in charge of police duties within a specified area for the purpose of this Act. (Not below the rank of Inspector of Police, Section 13 of the Act)

Section 2(j) defines **"trafficking police officer"** as a police officer appointed by Central Government in exercise of Section 13(4) of the Act.

♦ **Offence of Trafficking and Punishment thereof:**

Section	Offence	Punishment
Section 3(1)	**The Offender:** Any person **The Offence:** Keeping/ Managing/ Acting or Assisting in Keeping/ Managing Brothel	**First conviction** – RI minimum 1 year extendable up to 3 years + Fine up to Rs. 2000
		Subsequent conviction – RI minimum 2 years extendable up to 5 years + Fine extendable up to Rs. 2000
Section 3(2) (a) & (b)	**(a) The Offender:** Tenant, Lesse, Occupier or person in charge of any premises **The Offence:** Knowingly allowing premises to be used as Brothel	**First conviction** – Imprisonment extendable up to 2 years + Fine extendable up to Rs. 2000
	(b) The Offender: Owner, Lessor or Landlord of any premises or the agent of such person **The Offence:** Knowingly allowing premises or part thereof to be used as Brothel or is wilfully a party to such use	**Subsequent conviction** – RI extendable up to 5 years + Fine
Section 4	**The Offender:** Person above 18 years **The Offence:** Knowingly living on earning of Prostitution of another person	Imprisonment extendable up to 2 years / Fine extendable up to Rs. 1000 / Both
	The Offender: Person above 18 years **The Offence:** Knowingly living on earning of Prostitution of a child or minor	Imprisonment minimum 7 years extendable up to 10 years
Section 5(1)	**(a) The Offender:** Any person **The Offence:** Procuring/ attempting to procure a person, *with or without consent* **The Purpose:** Prostitution	RI minimum 3 years extendable up to 7 years + Fine up to Rs 2000
	(b) The Offender: Any person **The Offence:** Induces a person, to go from any place *for the purpose of Prostitution* to become inmate of or frequent, a brothel	
	(c) The Offender: Any person **The Offence:** Taking/ attempting to take/ causes a person to be taken from one place to another to carry on/ being brought up to carry on prostitution	
	(d) The Offender: Any person **The Offence:** Causes/ induces a person to carry on prostitution	
	If the above offence is committed against the will of such person	Imprisonment minimum 7 years extendable up to 14 years

Section 5(1) Proviso (i)	If the above offence is committed against a child	RI minimum 7 years extendable up to Life
Section 5(1) Proviso (ii)	If the above offence is committed against a Minor	RI minimum 7 years extendable up to 14 Years
Section 6	**The Offender:** Any person **The Offence:** Detaining a person *with or without consent* (a) in any brothel, or (b) in or upon any premises with intent of having sexual intercourse with a person not being the spouse.	Imprisonment of either description- minimum 7 years but which may be for Life / extendable up to 10 Years + Fine *Proviso:* The court may, for adequate and special reasons, impose imprisonment of less than 7 years
Section 7 (1)	**The Offender:** Any person carrying on prostitution and the person with whom such prostitution is carried on **The Offence:** Carrying on prostitution in public places or in the vicinity: area notified by State Government under S. 7(3), or within 200 m of place of public religious worship, educational institution, hostel, hospital, nursing home or such other public place as notified by the Commissioner of Police or magistrate	Imprisonment extendable up to 3 months
Section 7(1-A)	Offence of Section 7(1) in respect of Child / Minor	Imprisonment of either description- minimum 7 years but which may be for Life / extendable up to 10 Years + Fine *Proviso:* The court may, for adequate and special reasons, impose imprisonment of less than 7 years

Section 7(2)	**(a) The Offender:** Keeper of any public place **The Offence:** Knowingly permits prostitutes **The Purpose:** Their trade to resort to or remain in such place	**First conviction** – Imprisonment extendable up to 3 months/ Fine extendable up to Rs. 200/ Both
	(b) The Offender: Tenant, lessee, occupier or person in charge of any premises referred to in subsection (1) **The Offence:** Knowingly permits the same or any part thereof to be used for prostitution	**Subsequent conviction** - Imprisonment extendable up to 6 Months + Fine extendable up to Rs. 200. If *Hotel* –Licence Suspension for minimum 3 months extendable up to 1 year *Proviso:* Licence Cancelled when involves *Child /Minor*
	(c) The Offender: Owner, lessor or landlord, of any premises referred to in sub-section (1), or the agent of such owner, lessor or landlord **The Offence:** Lets the same or any part thereof with the knowledge that the same or any part thereof may be used for prostitution, or is wilfully a party to such use.	
Section 8	**The Offender:** Any person **The Offence:** In any public place or within sight of, and in such manner as to be seen or heard from any public place, whether from within any building or house or not: (a) by words, gestures, wilful exposure of her person (whether by sitting by a window or on the balcony of a building or house or in any other way), or otherwise tempts or endeavours to tempt, or attracts or endeavours to attract the attention of, any person or (b) solicits or molests any person, or loiters or acts in such manner as to cause obstruction or annoyance to persons residing nearby or passing by such public place or to offend against public decency **The Purpose:** Prostitution	**First conviction** – Imprisonment extendable up to 6 Months/ Fine extendable up to Rs. 500/ Both **Subsequent conviction** - Imprisonment extendable up to 1 year + Fine extendable up to Rs. 500 *Proviso:* Where the offence is committed by a man -Imprisonment 7 days to 3 months.
Section 9	**The Offender:** Any person having the custody, charge or care of, or a position of authority over any person **The Offence:** Causes or aids or abets the seduction for prostitution of that person	Imprisonment of either description- minimum 7 years but which may be for Life / extendable up to 10 Years + Fine *Proviso:* The court may, for adequate and special reasons, impose imprisonment of less than 7 years

Section 10A	**Lawful for the court to pass order for detention:** Where- (a) a female offender is found guilty of an offence under section 7 or section 8; and (b) the character, state of health and mental condition of the offender and the other circumstances of the case are such that it is expedient that she should be subject to detention for such term and such instruction and discipline as are conducive to her correction *Proviso:* The Court before passing such order- (i) given opportunity to the offender to be heard (ii) satisfied that the character, state of health and mental condition of the offender and the other circumstances of the case are such that the offender is likely to benefit by such instruction and discipline	In lieu of a sentence of imprisonment: detention in a corrective institution for such term, not being less than 2 years and not being more than 5 years S. 10A (3) *Subject to State Government rules*: After the expiration of 6 months from the date of an order for detention, with reasonable probability of useful life, may discharge her with or without condition
Section 20 (4)	Failure by Prostitute to comply order of removal / Harbouring	Fine extendable up to Rs. 200/- *Continuing offence* - Additional Fine up to Rs 20/ Per day

Section 14 provides that every offence under this Act shall be **cognizable**.

Section 22 provides that no court inferior to the court of **Judicial Magistrate of the first class** shall try any offence under Section 3, Section 4, Section 5, Section 6, Section 7 or Section 8.

3. Bonded Labour System (Abolition) Act, 1976

In 1975, the Twenty Point Programme (TPP) was introduced during the Prime Ministership of Mrs. Indira Gandhi. Out of 20 points, Point '5' declared bonded labour as illegal. This programme gave national priority to the issue of bonded labour, eventually leading to the Bonded Labour System (Abolition) ordinance on 25th October, 1975. The ordinance was later replaced by the Bonded Labour System (Abolition) Act, 1976.

Bonded Labour System (Abolition) Amendment Act, 1985, under Section 2 of this Act brought contract and migrant labourers within the purview of this Act.

♦ Relevant Definition

Section 2(e) defines "**bonded labour**" as any labour or service rendered under the bonded labour system.

Section 2(f) defines "**bonded labourer**" as a labourer who incurs, or has, or is presumed to have, incurred, a bonded debt.

Section 2 (a) defines "**advance**" as an advance, whether in cash or in kind, or partly in cash or partly in kind, made by one person (the creditor) to another person (the debtor).

Section 2(d) defines "**bonded debt**" as an advance obtained, or presumed to have been obtained, by a bonded labourer under, or in pursuance of, the bonded labour system.

Section 2 (g) defines "**bonded labour system**" as the system of forced, or partly forced, labour under which a debtor enters, or has, or is presumed to have, entered, into an agreement with the creditor to the effect that,-

(i) in consideration of an advance obtained by him or by any of his lineal ascendants or descendants (whether or not such advance is evidenced by any document) and in consideration of the interest, if any, due on such advance, or

(ii) in pursuance of any customary or social obligation, or

(iii) in pursuance of an obligation devolving on him by succession, or

(iv) for any economic consideration received by him or by any of his lineal ascendants or descendants, or

(v) by reason of his birth in any particular caste or community, he would-

- **1)** render, by himself or through any member of his family, or any person dependent on him, labour or service to the creditor, or for the benefit of the creditor, for a specified period or for an unspecified period, either without wages or for nominal wages, or
- **2)** forfeit the freedom of employment or other means of livelihood for a specified period or for an unspecified period, or
- **3)** forfeit the right to move freely throughout the territory of India, or

4) forfeit the right to appropriate or sell at market value any of his property or product of his labour or the labour of a member of his family or any person dependent on him,

and includes the system of forced, or partly forced, labour under which a surety for a debtor enters, or has, or is presumed to have, entered, into an agreement with the creditor to the effect that in the event of the failure of the debtor to repay the debt, he would render the bonded labour on behalf of the debtor.

Section 2 (i) defines "**nominal wages**", in relation to any labour, as a wage which is less than,-

(a) the minimum wages fixed by the Government, in relation to the same or similar labour, under any law for the time being in force, and

(b) where no such minimum wage has been fixed in relation to any form of labour, the wages that are normally paid, for the same or similar labour, to the labourers working in the same locality.

Section 2 (h) defines "**family**", in relation to a person, to include the ascendant and descendant of such person.

Section 2 (c) defines "**ascendant**" or "**descendant**", in relation to a person belonging to a matriarchal society, as the person who corresponds to such expression in accordance with the law of succession in force in such society.

♦ **Punishment of Offence under the Act:**

Section	Offence	Punishment
Section 16	**The Offender:** Any person **The Offence:** Compels any person to render any bonded labour	Imprisonment extendable up to 3 years + fine extendable up to Rs. 2000.
Section 17	**The Offender:** Any person **The Offence:** Advances bonded debt.	Imprisonment extendable up to 3 years + fine extendable up to Rs. 2000.
Section 18	**The Offender:** Any person **The Offence:** Enforces any custom, tradition, contract, agreement or other instrument, by virtue of which any person or any member of the family of such person or any dependant of such person is required to render any service under the bonded labour system	Imprisonment extendable up to 3 years + fine of extendable up to Rs. 2000. *Out of the fine, if recovered, payment shall be made to the bonded labourer at the rate of rupees five for each day for which the bonded labour was extracted from him.
Section 19	**The Offender:** Any person being required by this Act to restore any property to the possession of any bonded labour **The Offence:** Omits or fails to do so, within a period of thirty days from the commencement of this Act	Imprisonment extendable up to 1 year / fine of extendable up to Rs. 1000 / both. * Out of the fine, if recovered, payment shall be made to the bonded labourer at the rate of rupees five for each day during which possession of the property was not restored to him.
Section 20	**The Offender:** Any person **The Offence:** Abetment of any offence, whether or not the offence abetted is committed	Same punishment provided for the offence

4. Protection of Children from Sexual Offences (POCSO) Act, 2012

♦ Relevant Definitions:

Section 2 (d) defines "**child**" as any person below the age of eighteen years.

Section 2 (da) defines "**child pornography**" as any visual depiction of sexually explicit conduct involving a child which include photograph, video, digital or computer-generated image indistinguishable from an actual child and image created, adapted, or modified, but appear to depict a child.

Section (e) states that "**domestic relationship**" shall have the same meaning as assigned to it in clause (f) of section 2 of the Protection of Women from Domestic Violence Act, 2005 (*Section 2(f) of Protection of Women from Domestic Violence Act, 2005 "domestic relationship" means a relationship between two persons who live or have, at any point of time, lived together in a shared household, when they are related by consanguinity, marriage, or through a relationship in the nature of marriage, adoption or are family members living together as a joint family*).

Section 2 (k) defines "**shared household**" as a household where the person charged with the offence lives or has lived at any time in a domestic relationship with the child.

♦ Offences under POCSO Act:

• Penetrative Sexual Assault (Section 3):

- **Offender:** Any Person
- **Offence:**
  - he penetrates his penis, to any extent, into the vagina, mouth, urethra or anus of a child or makes the child to do so with him or any other person; or
  - he inserts, to any extent, any object or a part of the body, not being the penis, into the vagina, the urethra or anus of the child or makes the child to do so with him or any other person; or
  - he manipulates any part of the body of the child so as to cause penetration into the vagina, urethra, anus or any part of body of the child or makes the child to do so with him or any other person; or
  - he applies his mouth to the penis, vagina, anus, urethra of the child or makes the child to do so to such person or any other person.

- **Aggravated Penetrative Sexual Assault (Section 5):**

- **Section 5(a)**
- **Offender:** Police Officer
- **Offence:**
  - commits penetrative sexual assault on a child-
    - (i) within the limits of the police station or premises at which he is appointed; or
    - (ii) in the premises of any station house, whether or not situated in the police station, to which he is appointed; or
    - (iii) in the course of his duties or otherwise; or
    - (iv) where he is known as, or identified as, a police officer.

- **Aggravated Penetrative Sexual Assault (Section 5):**

- **Section 5(b)**
- **Offender:** Member of the Armed Forces or Security Forces
- **Offence:**
  - commits penetrative sexual assault on a child-
    - (i) within the limits of the area to which the person is deployed; or
    - (ii) in any areas under the command of the forces or armed forces; or
    - (iii) in the course of his duties or otherwise; or
    - (iv) where the said person is known or identified as a member of the security or armed forces

- **Aggravated Penetrative Sexual Assault (Section 5):**

- **Section 5(c)**
- **Offender:** Public Servant
- **Offence:** commits penetrative sexual assault on a child-

- **Aggravated Penetrative Sexual Assault (Section 5):**

- **Section 5(d)**
- **Offender:** Any Person being on the management or on the staff of a jail, remand home, protection home, observation home, or other place of custody or care and protection established by or under any law
- **Offence:** Commits penetrative sexual assault on a child, being inmate of such jail, remand home, protection home, observation home, or other place of custody or care and protection.

- **Aggravated Penetrative Sexual Assault (Section 5):**

- **Section 5(e)**
- **Offender:** Any person being on the management or staff of a hospital, whether Government or private
- **Offence:** commits penetrative sexual assault on a child-

- **Aggravated Penetrative Sexual Assault (Section 5):**

- **Section 5(f)**
- **Offender:** Any person being on the management or staff of an educational institution or religious institution
- **Offence:** commits penetrative sexual assault on a child-

- **Aggravated Penetrative Sexual Assault (Section 5):**

- **Section 5(g)**
- **Offender:** Any Person
- **Offence:** Commits gang penetrative sexual assault on a child.
- *Explanation.*—When a child is subjected to sexual assault by one or more persons of a group in furtherance of their common intention, each of such persons shall be deemed to have committed gang penetrative sexual assault and each of such person shall be liable for that act in the same manner as if it were done by him alone

- **Aggravated Penetrative Sexual Assault (Section 5):**

- **Section 5(h)**
- **Offender:** Any person
- **Offence:** Commits penetrative sexual assault on a child using deadly weapons, fire, heated substance or corrosive substance.

- **Aggravated Penetrative Sexual Assault (Section 5):**

- **Section 5(i)**
- **Offender:** Any Person
- **Offence:** Commits penetrative sexual assault on a child, which-
  - (i) physically incapacitates the child or causes the child to become mentally ill as defined under section 2(l) of the Mental Health Act, 1987 or causes impairment of any kind so as to render the child unable to perform regular tasks, temporarily or permanently;
  - (ii) in the case of female child, makes the child pregnant as a consequence of sexual assault;
  - (iii) inflicts the child with Human Immunodeficiency Virus or any other life threatening disease or Infection which may either temporarily or permanently impair the child by rendering him physically incapacitated, or mentally ill to perform regular tasks;
  - (iv) causes death of the child.

- **Aggravated Penetrative Sexual Assault (Section 5):**

- **Section 5(k)**
- **Offender:** Any person
- **Offence:** Taking advantage of a child's mental or physical disability, commits penetrative sexual assault on the child.

- **Aggravated Penetrative Sexual Assault (Section 5):**

- **Section 5(l)**
- **Offender:** Any person
- **Offence:** Commits penetrative sexual assault on a child more than once or repeatedly

- **Aggravated Penetrative Sexual Assault (Section 5):**

- **Section 5(m)**
- **Offender:** Any person
- **Offence:** Commits penetrative sexual assault on a child below twelve years

- **Aggravated Penetrative Sexual Assault (Section 5):**

- **Section 5(n)**
- **Offender:** Any person being a relative of the child through blood or adoption or marriage or guardianship or in foster care or having a domestic relationship with a parent of the child or who is living in the same or shared household with the child
- **Offence:** Commits penetrative sexual assault on a child

- **Aggravated Penetrative Sexual Assault (Section 5):**

- **Section 5(o)**
- **Offender:** Any person being, in the ownership, or management, or staff, of any institution providing services to the child
- **Offence:** Commits penetrative sexual assault on a child

- **Aggravated Penetrative Sexual Assault (Section 5):**

- **Section 5(p)**
- **Offender:** Any person being in a position of trust or authority of a child
- **Offence:** Commits penetrative sexual assault on the child in an institution or home of the child or anywhere else.

- **Aggravated Penetrative Sexual Assault (Section 5):**

- **Section 5(q)**
- **Offender:** Any person
- **Offence:** Commits penetrative sexual assault on the child knowing the child is pregnant.

- **Aggravated Penetrative Sexual Assault (Section 5):**

- **Section 5(r)**
- **Offender:** Any person
- **Offence:** Commits penetrative sexual assault on the child and attempts to murder the child

- **Aggravated Penetrative Sexual Assault (Section 5):**

- **Section 5(s)**
- **Offender:** Any person
- **Offence:** Commits penetrative sexual assault on a child in the course of communal or sectarian violence or during any natural calamity or in similar situations.

- **Aggravated Penetrative Sexual Assault (Section 5):**

- **Section 5(t)**
- **Offender:** Any person who has been previously convicted of having committed any offence under this Act or any sexual offence punishable under any other law
- **Offence:** Commits penetrative sexual assault on a child

- **Aggravated Penetrative Sexual Assault (Section 5):**

- **Section 5(u)**
- **Offender:** Any person
- **Offence:** Commits penetrative sexual assault on a child and makes the child to strip or parade naked in public.

Sexual Assault (Section 7):

- **Section 5(n)**
- **Offender:** Any person
- **Offence:** With sexual intent touches the vagina, penis, anus or breast of the child or makes the child touch the vagina, penis, anus or breast of such person or any other person, or does any other act with sexual intent which involves physical contact without penetration.

- **Aggravated Sexual Assault (Section 9):**

- **Section 9(a)**
- **Offender:** Any person being a police officer
- **Offence:** Commits sexual assault on the child-
  (i) within the limits of the police station or premises where he is appointed; or
  (ii) in the premises of any station house whether or not situated in the police station to which he is appointed; or
  (iii) in the course of his duties or otherwise; or.
  (iv) where he is known as, or identified as a police officer

- **Aggravated Sexual Assault (Section 9):**

- **Section 9(b)**
- **Offender:** Any person being a member of the armed forces or security forces
- **Offence:** Commits sexual assault on the child-
  - (i) within the limits of the area to which the person is deployed; or
  - (ii) in any areas under the command of the security or armed forces; or
  - (iii) in the course of his duties or otherwise; or
  - (iv) where he is known or identified as a member of the security or armed forces

- **Aggravated Sexual Assault (Section 9):**

- **Section 9(c)**
- **Offender:** Any person being a public servant
- **Offence:** Commits sexual assault on the child.

- **Aggravated Sexual Assault (Section 9):**

- **Section 9(d)**
- **Offender:** Any person being on the management or on the staff of a jail, or remand home or protection home or observation home, or other place of custody or care and protection established by or under any law
- **Offence:** Commits sexual assault on the child being inmate of such jail or remand home or protection home or observation home or other place of custody or care and protection.

- **Aggravated Sexual Assault (Section 9):**

- **Section 9(e)**
- **Offender:** Any person being on the management or staff of a hospital, whether Government or private
- **Offence:** Commits sexual assault on the childin that hospital.

- **Aggravated Sexual Assault (Section 9):**

- **Section 9(f)**
- **Offender:** Any person being on the management or staff of an educational institution or religious institution
- **Offence:** Commits sexual assault on the childin that institution.

- **Aggravated Sexual Assault (Section 9):**

- **Section 9(g)**
- **Offender:** Any person
- **Offence:** Commits gang sexual assault on a child.

  Explanation.—when a child is subjected to sexual assault by one or more persons of a group in furtherance of their common intention, each of such persons shall be deemed to have committed gang sexual assault and each of such person shall be liable for that act in the same manner as if it were done by him alone

- **Aggravated Sexual Assault (Section 9):**

- **Section 9(h)**
- **Offender:** Any person
- **Offence:** Commits sexual assault on the child using deadly weapons, fire, heated substance or corrosive substance.

- **Aggravated Sexual Assault (Section 9):**

- **Section 9(i)**
- **Offender:** Any person
- **Offence:** Commits sexual assault causing grievous hurt or causing bodily harm and injury or injury to the sexual organs of the child.

- **Aggravated Sexual Assault (Section 9):**

- **Section 9(j)**
- **Offender:** Any person
- **Offence:** Commits sexual assault on the child which—

  (i) physically incapacitates the child or causes the child to become mentally ill as defined section 2(l) of the Mental Health Act, 1987 (14 of 1987) or causes impairment of any kind so as to render the child unable to perform regular tasks, temporarily or permanently; or

  (ii) inflicts the child with Human Immunodeficiency Virus or any other life threatening disease or infection which may either temporarily or permanently impair the child by rendering him physically incapacitated, or mentally ill to perform regular tasks.

- **Aggravated Sexual Assault (Section 9):**

- **Section 9(k)**
- **Offender:** Any person
- **Offence:** Taking advantage of a child's mental or physical disability, commits sexual assault on the child.

- **Aggravated Sexual Assault (Section 9):**

- **Section 9(l)**
- **Offender:** Any person being
- **Offence:** Commits sexual assault on the child more than once or repeatedly.

- **Aggravated Sexual Assault (Section 9):**

- **Section 9(m)**
- **Offender:** Any person
- **Offence:** Commits sexual assault on a child below twelve years.

- **Aggravated Sexual Assault (Section 9):**

- **Section 9(n)**
- **Offender:** Any person being a relative of the child through blood or adoption or marriage or guardianship or in foster care, or having domestic relationship with a parent of the child, or who is living in the same or shared household with the child
- **Offence:** Commits sexual assault on the child.

- **Aggravated Sexual Assault (Section 9):**

- **Section 9(o)**
- **Offender:** Any person being in the ownership or management or staff, of any institution providing services to the child
- **Offence:** Commits sexual assault on the child in such institution.

- **Aggravated Sexual Assault (Section 9):**

- **Section 9(p)**
- **Offender:** Any person being in a position of trust or authority of a child
- **Offence:** Commits sexual assault on the child in an institution or home of the child or anywhere else.

- **Aggravated Sexual Assault (Section 9):**

- **Section 9(q)**
- **Offender:** Any person
- **Offence:** Commits sexual assault on a child knowing the child is pregnant.

- **Aggravated Sexual Assault (Section 9):**

- **Section 9(r)**
- **Offender:** Any person being
- **Offence:** Commits sexual assault on a child and attempts to murder the child.

- **Aggravated Sexual Assault (Section 9):**

- **Section 9(s)**
- **Offender:** Any person
- **Offence:** Commits sexual assault on a child in the course of communal or sectarian violence or during any natural calamity or in any similar situations.

- **Aggravated Sexual Assault (Section 9):**

- **Section 9(t)**
- **Offender:** Any person who has been previously convicted of having committed any offence under this Act or any sexual offence punishable under any other law
- **Offence:** Commits sexual assault on the child.

- **Aggravated Sexual Assault (Section 9):**

- **Section 9(u)**
- **Offender:** Any person
- **Offence:** Commits sexual assault on on a child and makes the child to strip or parade naked in public.

- **Aggravated Sexual Assault (Section 9):**

- **Section 9(n)**
- **Offender:** Any person
- **Offence:** Persuades, induces, entices or coerces a child to get administered or administers or direct anyone to administer, help in getting administered any drug or hormone or any chemical substance, to a child with the intent that such child attains early sexual maturity.

- **Sexual Harassment (Section 11):**

- **Offender:** Any person
- **Offence:** Commits sexual harassment upon a child when such person with sexual intent,—

  (i) utters any word or makes any sound, or makes any gesture or exhibits any object or part of body with the intention that such word or sound shall be heard, or such gesture or object or part of body shall be seen by the child; or

  (ii) makes a child exhibit his body or any part of his body so as it is seen by such person or any other person; or

  (iii) shows any object to a child in any form or media for pornographic purposes; or

  (iv) repeatedly or constantly follows or watches or contacts a child either directly or through electronic, digital or any other means; or

  (v) threatens to use, in any form of media, a real or fabricated depiction through electronic, film or digital or any other mode, of any part of the body of the child or the involvement of the child in a sexual act; or

  (vi) entices a child for pornographic purposes or gives gratification therefor

- **Use of Child for Pornographic Purpose (Section 13):**

- **Offender:** Any person
- **Offence:** Uses a child in any form of media (including programme or advertisement telecast by television channels or internet or any other electronic form or printed form, whether or not such programme or advertisement is intended for personal use or for distribution), for the purposes of sexual gratification, which includes—

  (a) representation of the sexual organs of a child;

  (b) usage of a child engaged in real or simulated sexual acts (with or without penetration);

  (c) the indecent or obscene representation of a child.

  Explanation.—For the purposes of this section, the expression "use a child" shall include involving a child through any medium like print, electronic, computer or any other technology for preparation, production, offering, transmitting, publishing, facilitation and distribution of the pornographic material.

- **Abetment of an Offence (Section 16):**

- **Offender:** Any person
- **Offence:**
- *First.*—Instigates any person to do that offence; or
- *Secondly.*— Engages with one or more other person or persons in any conspiracy for the doing of that offence, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that offence; or
- *Thirdly.*—Intentionally aids, by any act or illegal omission, the doing of that offence.

  Explanation I.—A person who, by wilful misrepresentation, or by wilful concealment of a material fact, which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure a thing to be done, is said to instigate the doing of that offence.

  Explanation II.—Whoever, either prior to or at the time of commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitates the commission thereof, is said to aid the doing of that act.

  Explanation III.—Whoever employ, harbours, receives or transports a child, by means of threat or use of force or other forms of coercion, abduction, fraud, deception, abuse of power or of a position, vulnerability or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of any offence under this Act, is said to aid the doing of that act.

♦ **Punishment of the Offences under POCSO Act:**

Section	Offence	Punishment
Section 4 (1)	**Offence:** Penetrative sexual assault	Imprisonment of either description- minimum 10 years extendable up to Life + Fine
Section 4 (2)	**Offence:** Penetrative sexual assault on a child below 16 years of age	Imprisonment of either description- minimum 20 years extendable up to Life i.e., remainder of natural life + Fine *Section 4(3): *The fine imposed under subsection (1) shall be paid to the victim to meet the medical expenses and rehabilitation.*
Section 6	**Offence:** Aggravated penetrative sexual assault	RI- minimum 20 years extendable up to Life i.e., remainder of natural life + Fine / Death. *Section 6(2): *The fine imposed under subsection (1) shall be paid to the victim to meet the medical expenses and rehabilitation.*
Section 8	**Offence:** Sexual assault	Imprisonment of either description- minimum 3 years extendable up to 5 years + Fine
Section 10	**Offence:** Aggravated sexual assault	Imprisonment of either description- minimum 5 years extendable up to 7 years + Fine
Section 12	**Offence:** Sexual harassment	Imprisonment of with either description extendable up to 3 years + Fine.
Section 14 (1)	**Offence:** Using a child or children for pornographic purpose	**First conviction -** Imprisonment- minimum 5 years + Fine. **Subsequent conviction -** Imprisonment- minimum 7 years + Fine.
Section 14 (2)	**Offence:** For the purpose of above offence committing an offence under Sections 3, 5, 7 or 9 by directly participating in such pornographic acts	Punishment under Section 14(1) + Punishment under Sections 4, 6, 8 or 10 respectively
Section 15 (1)	**Offence:** Storage or possession of pornographic material involving child, but fails to delete or destroy or report the same to the designated authority, with an intention to share or transmit child pornography.	**First conviction –** Fine- minimum Rs. 5,000. **Subsequent conviction -** Fine- minimum Rs. 10,000.

Section 15 (2)	**Offence:** Storage or possession of pornographic material involving child for transmitting or propagating or displaying or distributing in any manner at any time *except for the purpose of reporting, or for use as evidence in court.*	Imprisonment of either description- extendable up to 3 years/ Fine/ Both
Section 15 (3)	**Offence:** Storage or possession of pornographic material involving child for commercial purpose	**First conviction -** Imprisonment of either description - minimum 3 years extendable up to 5 years/ Fine/ Both. **Subsequent conviction -** Imprisonment of either description- minimum 5 years extendable up to 7 years/ Fine/ Both.
Section 17	**Offence:** Abetment of any offence under this Act.	If act committed in consequence of the abetment - shall be punished with punishment provided for that offence.
Section 18	**Offence:** Attempt to commit an offence punishable under this Act or to cause such an offence to be committed, and in such attempt, does any act towards the commission of the offence.	Imprisonment of any description provided for the offence, for a term which may extend to one-half of the imprisonment for life, or as the case may be, one half of the longest term of imprisonment provided for that offence / Fine / Both.

* ***Section 28*** provides that a Court of Session shall be designated as a **Special Court** in each district by the State Government with the consultation with the Chief Justice of the High Court.

* ***Section 29*** provides that the Special Court while trying a person for committing or abetting or attempting to commit any offence under Section 3, 5, 7, & 9, such person shall be presumed to have committed or abetted or attempted to commit the offence, unless contrary is proved.

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

♦ **Relevant Definitions:**

Section 2 (12) defines "**child**" as a person who has not completed eighteen years of age.

Section 2 (35) defines "**juvenile**" as a child below the age of eighteen years;

Section 2 (13) defines "**child in conflict with law**" as a child who is alleged or found to have committed an offence and who has not completed eighteen years of age on the date of commission of such offence.

Section 2 (14) defines "**child in need of care and protection**" as a child:

(i) who is found without any home or settled place of abode and without any ostensible means of subsistence; or

(ii) who is found working in contravention of the provisions of this Act or labour laws for the time being in force or is found begging, or living on the street; or

(iii) who resides with a person (whether a guardian of the child or not) and such person-

- **a)** has injured, exploited, abused or neglected the child or has violated any other law for the time being in force meant for the protection of child; or
- **b)** has threatened to kill, injure, exploit or abuse the child and there is a reasonable likelihood of the threat being carried out; or
- **c)** has killed, abused, neglected or exploited some other child or children and there is a reasonable likelihood of the child in question being killed, abused, exploited or neglected by that person; or

(iv) who does not have parents and no one is willing to take care of and protect or who is abandoned or surrendered;

(v) who has a parent or guardian and such parent or guardian is found to be unfit or incapacitated, by the Committee or the Board, to care for and protect the safety and well-being of the child; or

(vi) who does not have parents and no one is willing to take care of, or whose parents have abandoned or surrendered him; or

(vii) who is missing or run away child, or whose parents cannot be found after making reasonable inquiry in such manner as may be prescribed; or

(viii) who has been or is being or is likely to be abused, tortured or exploited for the purpose of sexual abuse or illegal acts; or

(ix) who is found vulnerable and has been or is being or is likely to be inducted into drug abuse or trafficking; or

(x) who is being or is likely to be abused for unconscionable gains; or

(xi) who is victim of or affected by any armed conflict, civil unrest or natural calamity; or

(xii) who is at imminent risk of marriage before attaining the age of marriage and whose parents, family members, guardian and any other persons are likely to be responsible for solemnisation of such marriage

Section 2 (1) defines "**abandoned child**" as a child deserted by his biological or adoptive parents or guardians, who has been declared as abandoned by the Committee after due inquiry.

Section 2 (2) defines "**adoption**" as the process through which the adopted child is permanently separated from his biological parents and becomes the lawful child of his adoptive parents with all the rights, privileges and responsibilities that are attached to a biological child.

Section 2 (3) defines "**adoption regulations**" as the regulations framed by the Authority and notified by the Central Government in respect of adoption.

Section 2 (60) defines "**surrendered child**" as a child, who is relinquished by the parent or guardian to the Committee, on account of physical, emotional and social factors beyond their control, and declared as such by the Committee.

Section 2 (50) states "**public place**" shall have the same meaning assigned to it in the Immoral Traffic (Prevention) Act, 1956.

Section 2 (8) defines "**begging**" as:

(i) soliciting or receiving alms in a public place or entering into any private premises for the purpose of soliciting or receiving alms, under any pretence;

(ii) exposing or exhibiting with the object of obtaining or extorting alms, any sore, wound, injury, deformity or disease, whether of himself or of any other person or of an animal

Section 2 (45) defines "**petty offences**" to include the offences for which the maximum punishment under the Indian Penal Code (45 of 1860) or any other law for the time being in force is imprisonment up to three years.

Section 2 (54) defines "**serious offences**" to include the offences for which the punishment under the Indian Penal Code (*now BNS*) or any other law for the time being in force, is,-

(a) minimum imprisonment for a term more than three years and not exceeding seven years; or

(b) maximum imprisonment for a term more than seven years but no minimum imprisonment or minimum imprisonment of less than seven years is provided.

Section 2 (20) provides that "**Children's Court**" means a court established under the Commissions for Protection of Child Rights Act, 2005 or a Special Court under the Protection of Children from Sexual Offences Act, 2012, wherever existing and where such courts have not been designated, the Court of Sessions having jurisdiction to try offences under the Act.

♦ **Offences and Punishment under JJ Act:**

Section	Offence	Punishment	Cognizable/ Non-cognizable Bailable/ Non-bailable (Section 86*)
Section 74	**The Offender:** Any person **The Offence:** Disclosing the name, address or school or any other particular, or publishing picture, or report in any newspaper, magazine, news-sheet or audio-visual media or other forms of communication regarding any inquiry or investigation or judicial procedure, which may lead to the identification of a child in conflict with law or a child in need of care and protection or a child victim or witness of a crime. ***Proviso:*** Exception for reasons recorded by the Board or Committee for the best interest of child.	Imprisonment extendable up to 6 months/ Fine extendable up to Rs. 2 lakhs/ Both.	Non-cognizable & Bailable
Section 75	**The Offender:** Any person having the actual charge of, or control over a child **The Offence:** Assaults, abandons, abuses, exposes or wilfully neglects the child or causes or procures the child to be assaulted, abandoned, abused, exposed or neglected in a manner likely to cause such child unnecessary mental or physical suffering.	Imprisonment extendable up to 3 years/ Fine of Rs. 1 lakh/ Both.	Non-cognizable & Bailable
Section 75, Second Proviso	**The Offender:** If committed by any person employed by or managing an organization, responsible for care and protection of child	RI extendable up to 5 years + Fine extendable up to Rs 5 lakh	Non-cognizable & Non-bailable
Section 75, Third Proviso	If because of cruelty, the child is physically incapacitated or develops a mental illness or is rendered mentally unfit to perform regular tasks or has risk to life or limb	RI- minimum 3 years extendable up to 10 years + Fine of Rs 5 lakh	Non-cognizable & Bailable
Section 76	**The Offender:** Any person **The Offence:** Employment of child for the purpose of begging or causes any child to beg.	Imprisonment extendable up to 5 years + Fine of Rs. 1 lakh	Non-cognizable & Non-bailable
Section 76 Proviso	If for the purpose of begging, amputates or maims a child	RI- minimum 7 years extendable up to 10 years + Fine of Rs. 5 lakhs.	Cognizable & Non-bailable

Section 77	**The Offender:** Any person **The Offence:** Gives, or causes to be given, to any child any intoxicating liquor or any narcotic drug or tobacco products or psychotropic substance, except on the order of a duly qualified medical practitioner	RI extendable up to 7 years + Fine extendable up to Rs. 1 lakh.	Non-cognizable & Non-bailable
Section 78	**The Offender:** Any person **The Offence:** Using a child for vending peddling, carrying, supplying or smuggling any intoxicating liquor, narcotic drug or psychotropic substances.	RI extendable up to 7 years + Fine extendable up to Rs. 1 lakh.	Non-cognizable & Non-bailable
Section 79	**The Offender:** Any person **The Offence:** Ostensibly engaging a child and keeping him in bondage for the purpose of employment or withholds his earnings or uses such earning for his own purposes.	RI extendable up to 5 years + Fine extendable up to Rs. 1 lakh.	Non-cognizable & Non-bailable
Section 80	**The Offender:** Any person or organisation **The Offence:** Offers or gives or receives, any orphan, abandoned or surrendered child, for the purpose of adoption without following the provisions or procedures as provided in this Act.	Imprisonment of either description extendable up to 3 years/ Fine of Rs. 1 lakh/ both.	Non-cognizable & Bailable
Section 81	**The Offender:** Any person **The Offence:** Sells or buys a child for any purpose.	RI extendable up to 5 years + Fine extendable up to Rs. 1 lakh.	Non-cognizable & Non-bailable
	If this offence committed by a person having actual charge of the child, including employees of a hospital or nursing home or maternity home.	RI- minimum 3 years extendable up to 7 years.	Non-cognizable & Non-bailable
Section 82 (1)	**The Offender:** Any person in-charge of or employed in a child care institution **The Offence:** Subjects a child to corporal punishment with the aim of disciplining the child	**First conviction -** Fine of Rs. 10,000. **Subsequent conviction -** Imprisonment extendable up to 3 months/ Fine/ Both	Non-cognizable & Bailable
Section 82 (2)	If committed by an employee of the institution referred to in sub-section (1)	In addition to above, debarred from working directly with children	

Section 82 (3)	**The Offender:** The person in-charge of the management of the institution **The Offence:** If the management of the institution does not cooperate with the inquiry or comply with the orders of the Committee or the Board or court or State Government	Imprisonment minimum 3 years + Fine extendable up to Rs. 1 lakh.	Non-cognizable & Non-bailable
Section 83	**The Offender:** Any non-State, self-styled militant group or outfit declared as such by the Central Government **The Offence:** Recruits or uses any child for any purpose	RI extendable up to 7 years + Fine of Rs. 5 lakhs.	Non-cognizable & Non-bailable
Section 84	**The Offence:** Kidnapping and abduction of child.	As per Sections 137(1), 137(1)(a), 137(1)(b), 137(2), 138, 139, 140(1), 140(3), 140(2), 140(3), 140(4), 141, 142, 87, 97 of BNS (IPC Sections 359-369).	As per Section 86 of this Act
Section 85	**The Offence:** Offences committed on disabled children	Liable to twice the penalty provided for such offence in Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation Act, 1995)	
Section 87	**The Offence:** Abetment of offence under this Act, if the act abetted is committed in consequence of the abetment	Same punishment as provided for that offence	

* ***Section 86*** provides for classification of offences and designated court as under:

"(1) Where an offence under this Act is punishable with imprisonment for a term of more than seven years, then, such offence shall be cognizable and non-bailable.

(2) Where an offence under this Act is punishable with imprisonment for a term of three years and above, but not more than seven years, then, such offence shall be non-cognizable and non-bailable.

(3) Where an offence, under this Act is punishable with imprisonment for less than three years or with fine only, then, such offence shall be non-cognizable and bailable.

(4) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (now BNSS) or the Commission for Protection of Child Rights Act, 2005 or the Protection of Children from Sexual Offences Act, 2012, offences under this Act shall be triable by the Children's Court."

Therefore, as per **Section 86(4)** r/w **Section 2(20) of JJ Act** and **Section 28 of POCSO Act**, the **Court of Sessions** have the jurisdiction to try the offences under this Act.

* ***Section 88*** provides for alternative punishment, where an act or omission constitutes an offence punishable under this Act and also under any other law for the time being in force. It further provides that the offender if found guilty of such offence shall be liable for punishment under such law which provides for punishment which is greater in degree.

* ***Section 89*** provides that any child who commits any offence under Chapter IX of this Act, concerning other offences against children, shall be considered as a child in conflict with law under this Act.

6. Child and Adolescent Labour (Prohibition and Regulation) Act, 1986:

♦ **Relevant Definitions:**

Section 2 (i) defines "**adolescent**" as a person who has completed his fourteenth year of age but has not completed his eighteenth year.

Section 2 (ii) defines "**child**" as a person who has not completed his fourteenth year of age or such age as may be specified in the Right of Children to Free and Compulsory Education Act, 2009 (35 of 2009), whichever is more.

Section 2 (v) defines "**family**", in relation to an occupier, as the individual, the wife or husband, as the case may be, of such individual, and their children, brother or sister of such individual.

Explanation to Section 3 further states that for the purpose of the Section, the expressions:

(c) "**family**" in relation to a child, means his mother, father, brother, sister and father's sister and brother and mother's sister and brother;

(d) "**family enterprises**" means any work, profession, manufacture or business which is performed by the members of the family with the engagement of other persons;

(e) "**artist**" means a child who performs or practices any work as a hobby or profession directly involving him as an actor, singer, sports person or in such other activity as may be prescribed relating to the entertainment or sports activities falling under clause (b) of sub-section (2).

Section 2 (vi) defines "**occupier**", in relation to an establishment or a workshop, as the person who has the ultimate control over the affairs of the establishment or workshop.

Section 2 (iv) defines "**establishment**" to include a shop, commercial establishment, workshop, farm, residential hotel, restaurant, eating house, theatre or other place of public amusement or entertainment.

Section 2 (x) defines "**workshop**" as any premises (including the precincts thereof) wherein any industrial process is carried on, but does not include any premises to which the provisions of section 67 of the Factories Act, 1948 (63 of 1948), for the time being, apply.

Section 2 (iii) defines "**day**" as a period of twenty-four hours beginning at mid-night.

Section 2 (ix) defines "**week**" as a period of seven days beginning at midnight on Saturday night or such other night as may be approved in writing for a particular area by the Inspector.

♦ **Contravention of Provisions which amounts to Offence Punishable under the Act:**

This act came into existence mainly to strengthen India's legal framework against child labour. Trafficking brings children in exploitation and this Act criminalizes the use of those trafficked children in work.

Section 3: Prohibition of employment of children in any occupations and processes.

- ***Section 3(1):*** Employing or permitting a child to work in any occupation or process is prohibited.
- ***Section 3(2):*** Section 3(1) does not apply where the child:

  (a) helps his family or family enterprise, other than any hazardous occupations or processes set forth in the Schedule, after his school hours or during vacations.

  (b) works as an artist in an audio-visual entertainment industry, including advertisement, films, television serials or any such other entertainment or sports activities except the circus, subject to prescribed conditions and safely measures.

  Proviso: No such work shall effect the school education of the Child.

Section 3A: Prohibition of employment of adolescents in certain hazardous occupations and process.

Employing or permitting an adolescent to work in any of the hazardous occupations or processes set forth in the Schedule: (1) Mines (2) Inflammable substances or explosives (3) Hazardous process as under the Factories Act, 1948.

Section 7: Hours and period of work.

- ***Section 7(1), (2) & (3)***: Requiring or permitting an adolescent to work in any establishment in excess of prescribed number of hours. The period of work on each day shall not exceed 3 hours with an interval for rest for at least one hour. And it shall not be spread over more than six hours, including the time spent in waiting for work on any day.
- ***Section 7(4)***: Requiring or permitting an adolescent to work between 7 P.M. and 8 A.M.
- ***Section 7(5)***: Requiring or permitting an adolescent to work overtime.
- ***Section 7(6)***: Requiring or permitting an adolescent to work in any establishment on any day on which he has already been working in another establishment.:

Section 8: Weekly holidays.

Every adolescent employed in an establishment shall be allowed in each week, a holiday of one whole day.

♦ **Punishment of Offence under the Act:**

Section	Offence	Punishment
Section 14(1)	**The Offender:** Any person **The Offence:** Employment of child in any occupation or process, in contravention of Section 3 of the Act and corresponding rules. ***Proviso***: The parents or guardians shall not be punished unless they permit such child for commercial purposes.	Imprisonment- minimum 6 months extendable up to 2 years / Fine minimum Rs. 20,000 extendable up to Rs. 50,000/ Both ***Section 14A:*** *Cognizable offence.*
Section 14(1A)	**The Offender:** Any person **The Offence:** Employment of adolescent in any hazardous occupation or process listed in the Schedule, in contravention of the provisions of Section 3A. ***Proviso***: The parents or guardians shall not be punished unless they permit such adolescent to work in contravention of the provisions of Section 3A.	Imprisonment - minimum 6 months extendable up to 2 years / Fine minimum Rs. 20,000 extendable up to Rs. 50,000/ Both. ***Section 14A:*** *Cognizable offence.*
Section 14(2)	A repeat offence of the above stated offences.	Imprisonment - minimum 1 year extendable up to 3 years
Section 14(2A)	**The Offender:** Parents who commit a repeat offence. (***Section 14(1B):*** The parents or guardians of any child or adolescent referred to in section 3 or section 3A, shall not be liable for punishment, in case of the first offence.)	Fine which extendable up to Rs. 10,000.
Section 14(3)	Violation of any other section of the Act including conditions for adolescents to work.	Simple Imprisonment extendable up to 1 month / Fine extendable up to Rs. 10,000 / Both.

* ***Section 14A*** provides that any offence committed by an employer and punishable under Section 3 or Section 3A shall be **cognizable.**

* ***Section 16(3)*** provides that no court inferior to **Judicial Magistrate of first class** shall try any offence under this Act.

7. Prohibition of Child Marriage Act, 2006

♦ Relevant Definitions:

Section 2(a) defines "**child**" as a person who, if a male, has not completed twenty-one years of age, and if a female, has not completed eighteen years of age.

Section 2(f) defines "**minor**" as a person who, under the provisions of the Majority Act, 1875 (9 of 1875), is to be deemed not to have attained his majority.

Section 2(b) defines "**child marriage**" as a marriage to which either of the contracting parties is a child.

Section 2(c) defines "**contracting party**", in relation to a marriage, as either of the parties whose marriage is or is about to be thereby solemnised.

♦ Punishment of Offence under the Act:

Section	Offences	Punishment
Section 9	**The Offender:** Male adult above eighteen years of age **The Offence:** Marrying a child.	RI- Extendable up to 2 years / Fine extendable up to Rs. 1 lakh / Both.
Section 10	**The Offender:** Any person **The Offence:** Performs, conducts, directs or abets any child marriage.	RI- Extendable up to 2 years + Fine extendable up to Rs. 1 lakh *Unless he proves that he had reasons to believe that the marriage was not a child marriage.*
Section 11	**The Offender:** Any person having charge of the child, whether as parent or guardian or any other person or in any other capacity, lawful or unlawful, including any member of an organisation or association of persons. **The Offence:** Does any act to promote the child marriage or permits it to be solemnised, or negligently fails to prevent it from being solemnised, including attending or participating in a child marriage.	RI- Extendable up to 2 years + Fine extendable up to Rs. 1 lakh ***Proviso:*** No woman shall be punishable with imprisonment.
Section 12	If a child is enticed out of the keeping of a lawful guardian, is made to go from one place to another by force or deceitful means, or if a minor is sold for marriage, or after marriage is sold trafficked for marriage or immoral purposes.	Such marriage shall be null and void.

***Section 15** provides that the offences punishable under this Act shall be **cognizable and non-bailable**.

* ***Section 13*** provides that a **Judicial Magistrate of First Class** may on an application, complaint or reliable information, including *suo moto* cognizance, issue an injunction prohibiting a child marriage that has been arranged or is about to be solemnised, and may issue an interim injunction without prior notice in cases of urgency.

8. The Transplantation of Human Organs and Tissues Act, 1994

♦ **Punishment of Offence under the Act:**

Section	Offences	Punishment
Section 18(1)	**The Offender:** Any person who renders his services to or at any hospital and who conducts, associates with, or helps in any manner **The Purpose:** Transplantation **The Offence:** Removal of any human organ without authority	Imprisonment- Extendable up to 10 years + Fine extendable up to Rs. 20 lakhs
Section 18(2)	**The Offender:** Any person convicted under sub-section (1) is a registered medical practitioner	**First Conviction-** His name shall be reported by the Appropriate Authority to the respective State Medical Council for taking necessary action including the removal of his name from the register of the Council for a period of 3 years **Subsequent Conviction-** Removal of his name from the register permanently.

Section 19	**The Offender:** Any person **The Offence:** **a)** makes or receives any payment for the supply of, or for an offer to supply, any human organ; **b)** seeks to find a person willing to supply for payment any human organ; **c)** offers to supply any human organ for payment; or **d)** initiates or negotiates any arrangement involving the making of any payment for the supply of, or for an offer to supply, any human organ; **e)** takes part in the management or control of a body of persons, whether a society, firm or company, whose activities consist of or include the initiation or negotiation of any arrangement referred to in clause (d); or **f)** publishes or distributes or causes to be published or distributed any advertisement,- **a)** inviting persons to supply for payment of any human organ; **b)** offering to supply any human organ for payment; or **c)** indicating that the advertiser is willing to initiate or negotiate any arrangement referred to in clause (d); **g)** abets in the preparation or submission of false documents including giving false affidavits to establish that the donor is making the donation of the human organs, as a near relative or by reason of affection or attachment towards the recipient.	Imprisonment- minimum 5 years extendable up to 10 years + Fine minimum Rs. 20 lakhs extendable up to Rs. 1 Crore.

* ***Section 22(2)*** provides that no court other than **Judicial Magistrate of first class** shall try any offence under this Act.

9. The Information Technology Act, 2000

♦ **Punishment of Offence under the Act:**

Section	Offences	Punishment
Section 66D	**The Offender:** Any person **The Offence:** By means of any communication device or computer resource cheats by personation.	Imprisonment of either description- extendable up to 3 years + Fine extendable up to Rs. 1 lakh
Section 66E	**The Offender:** Any person **The Offence:** Intentionally or knowingly captures, publishes or transmits the image of a private area of any person without his or her consent, under circumstances violating the privacy of that person.	Imprisonment- extendable up to 3 years / Fine extendable up to Rs. 2 lakhs / Both
Section 67	**The Offender:** Any person **The Offence:** Publishes or transmits or causes to be published or transmitted in the electronic form, any material which is lascivious or appeals to the prurient interest or if its effect is such as to tend to deprave and corrupt persons who are likely, having regard to all relevant circumstances, to read, see or hear the matter contained or embodied in it.	**First Conviction-** Imprisonment of either description extendable up to 3 years + Fine extendable up to Rs. 5 lakhs **Subsequent Conviction-** Imprisonment of either description extendable up to 5 years + Fine extendable up to Rs. 10 lakhs
Section 67A	**The Offender:** Any person **The Offence:** Publishes or transmits or causes to be published or transmitted in the electronic form any material which contains sexually explicit act or conduct.	**First Conviction-** Imprisonment of either description extendable up to 5 years + Fine extendable up to Rs. 10 lakhs **Subsequent Conviction-** Imprisonment of either description extendable up to 7 years + Fine extendable up to Rs. 10 lakhs

Section 67B	**The Offender:** Any person **The Offence:** Concerning children: **(a)** publishes or transmits or causes to be published or transmitted material in any electronic form which depicts children engaged in sexually explicit act or conduct; or **(b)** creates text or digital images, collects, seeks, browses, downloads, advertises, promotes, exchanges or distributes material in any electronic form depicting children in obscene or indecent or sexually explicit manner; or **(c)** cultivates, entices or induces children to online relationship with one or more children for and on sexually explicit act or in a manner that may offend a reasonable adult on the computer resource; or **(d)** facilitates abusing children online, or **(e)** records in any electronic form own abuse or that of others pertaining to sexually explicit act with children	**First Conviction-** Imprisonment of either description extendable up to 5 years + Fine extendable up to Rs. 10 lakhs **Subsequent Conviction-** Imprisonment of either description extendable up to 7 years + Fine extendable up to Rs. 10 lakhs

* ***Section 77B*** provides that the offences punishable with imprisonment of 3 years and above shall be cognizable and the offences punishable with imprisonment of 3 years shall be bailable.

10. The Schedule Caste and Schedule Tribes (Prevention of Atrocities) Act, 1989

♦ Punishment of Offence under the Act:

Section 2(1)(a) defines "**atrocity**" as an offence punishable under Section 3.

Section	Offences	Punishment
Section 3(1)(h)	**The Offender:** Any person not being a member of a SC or a ST **The Offence:** Makes a member of a SC or a ST to do "begar" or other forms of forced or bonded labour other than any compulsory service for public purposes imposed by the Government	Imprisonment minimum 6 months extendable up to 5 years + fine
Section 3(1)(k)	**The Offender:** Any person not being a member of a SC or a ST **The Offence:** Performs, or promotes dedicating a SC or ST woman to a deity, idol, object of worship, temple, or other religious institution as a *devadasi* or any other similar practice or permits aforementioned acts	
Section 3(1)(w)	**The Offender:** Any person not being a member of a SC or a ST **The Offence:** (i) intentionally touches a woman belonging to SC or ST, knowing that she belongs to a SC or ST, when such act of touching is of a sexual nature and is without the recipient's consent; (ii) uses words, acts or gestures of a sexual nature towards a woman belonging to a SC or ST, knowing that she belongs to a SC or ST.	
Section 3(2)(v)	**The Offender:** Any person not being a member of a SC or a ST **The Offence:** Commits any offence under the Indian Penal Code (45 of 1860) punishable with imprisonment for a term of 10 years or more against a person or property knowing that such person is a member of a SC or ST or such property belongs to such member.	Imprisonment for Life + Fine.
Section 3(2)(va)	**The Offender:** Any person not being a member of a SC or a ST **The Offence:** Commits any offence specified in the Schedule, against a person or property, knowing that such person is a member of a Scheduled Caste or a Scheduled Tribe or such property belongs to such member **Offences of BNS under the Schedule:** Section 126- Wrongful restraint, Section 75- Sexual harassment, Section 137- Kidnapping, Section 140(3)- Kidnapping or abducting in order to murder or for ransom, Section 68- Sexual intercourse by a person in authority.	Punishment as specified under the Indian Penal Code for such offences + Fine

Section 5	**The Offender:** Any person having already been convicted of an offence under Chapter II of the Act **The Offence:** Convicted for the second offence or any offence subsequent to the second offence	Imprisonment minimum 1 year extendable up to the punishment provided for that offence.

Preamble of the Act provides that the offences under this Act shall be tried by **the Special Court and the Exclusive Special Court** as established under Section 14.

11. The Prevention of Money Laundering Act, 2002

♦ Relevant Definition:

Section 2(s) defines "**person**" to include-

i. an individual,

ii. a Hindu undivided family,

iii. a company,

iv. a firm,

v. an association of persons or a body of individuals, whether incorporated or not,

vi. every artificial juridical person not falling within any of the preceding subclauses, and

vii. any agency, office or branch owned or controlled by any of the above persons mentioned in the preceding sub-clauses.

Section 2(u) defines "**proceeds of crime**" as any property derived or obtained, directly or indirectly, by any person as a result of criminal activity relating to a scheduled offence or the value of any such property.

Section 2(v) defines "**property**" as any property or assets of every description, whether corporeal or incorporeal, movable or immovable, tangible or intangible and includes deeds and instruments evidencing title to, or interest in, such property or assets, wherever located.

Explanation- The term "property" includes property of any kind used in the commission of an offence under this Act or any of the scheduled offences.

Section 2(sb) defines "**precious metal**" as gold, silver, platinum, palladium or rhodium or such other metal as may be notified by the Central Government.

Section 2(sc) defines "**precious stone**" means diamond, emerald, ruby, sapphire or any such other stone as may be notified by the Central Government.

Section 2(x) defines "**Schedule**" as the Schedule to this Act.

Section 2(y) defines "**scheduled offence**" as-

i. the offences specified under Part A of the Schedule; or

ii. the offences specified under Part B of the Schedule if the total value involved in such offences is one crore rupees or more, or

iii. the offences specified under Part C of the Schedule.

Section 2(zb) defines "**value**" as the fair market value of any property on the date of its acquisition by any person, or if such date cannot be determined, the date on which such property is possessed by such person.

Section 2(za) defines "**transfer**" to include sale, purchase, mortgage, pledge, gift, loan or any other form of transfer of right, title, possession or lien.

♦ Punishment of Offence under the Act:

Section 2(p) states that "money-laundering" has the meaning assigned to it in Section 3.

Section	Offences	Punishment
Sections 3 & 4	**Section 3-** Offence of money laundering **The Offender:** Any person **The Offence:** Directly or indirectly attempts to indulge or knowingly assists or knowingly is a party or is actually involved in any process or activity connected with the proceeds of crime including its concealment, possession, acquisition or use and projecting or claiming it as untainted property. ***Explanation:*** **i.** a person shall be guilty of offence of money-laundering if such person is found to have directly or indirectly attempted to indulge or knowingly assisted or knowingly is a party or is actually involved in one or more of the following processes or activities connected with proceeds of crime, namely:- **a)** concealment; or **b)** possession; or **c)** acquisition; or **d)** use; or **e)** projecting as untainted property; or **f)** claiming as untainted property, in any manner whatsoever; **ii.** the process or activity connected with proceeds of crime is a continuing activity and continues till such time a person is directly or indirectly enjoying the proceeds of crime by its concealment or possession or acquisition or use or projecting it as untainted property or claiming it as untainted property in any manner whatsoever.	**Section 4-** RI minimum 3 years extendable up to 7 years + Fine ***Proviso:*** Where the proceeds of crime relates to any offence specified under paragraph 2 of Part A of the Schedule, then RI extendable up to 7 years shall be read as 10 years.

♦ Relevant Offences under The Schedule, Part A:

Paragraph 7: The Immoral Traffic (Prevention) Act, 1956:

Section 5- Procuring, inducing or taking person for the sake of prostitution.

Section 6- Detaining a person in premises where prostitution is carried on.

Section 8- Seducing or soliciting for purpose of prostitution.

Section 9- Seduction of a person in custody.

Paragraph 13: The Bonded Labour System (Abolition) Act, 1976

Section 16- Punishment for enforcement of bonded labour.

Section 18- Punishment for extracting bonded labour under the bonded labour system**.**

Section 20- Abetment to be an offence.

Paragraph 14: The Child Labour (Prohibition and Regulation) Act, 1986

Section 14- Punishment for employment of any child to work in contravention of the provisions of Section 3**.**

Paragraph 15: The Transplantation of Human Organs Act, 1994

Section 18- Punishment for removal of human organ without authority.

Section 19- Punishment for commercial dealings in human organs.

Section 20- Punishment for contravention of any other provision of this Act.

*****Section 45*** stipulates that the offences under this Act shall be **cognizable and non-bailable**.

First Proviso to Section 45(1): Except when a person is under the age of sixteen years, or is a woman or is sick or infirm, or is accused either on his own or along with other co-accused of money-laundering a sum of less than one crore rupees, then such person may be released on bail.

Second Proviso to Section 45(1): Further, the Special Court shall not take cognizance of any offence punishable under section 4 except upon a complaint in writing made by-(i) the Director; or (ii) any officer of the Central Government or a State Government authorised in writing in this behalf by the Central Government by a general or special order made in this behalf by that Government.

****Section 43(1) r/w Section 44*** provides that the Central Government, in consultation with the Chief Justice of the High Court, may designate one or more Courts of Session as Special Courts for trial of offences punishable under Section 4.

****Section 43(1)*** further provides that the Special Court may also try other offences with which the accused may be charged at the same trial under the applicable criminal procedure law.

IV. Offence of Human Trafficking and Intersecting Other Statutory Offences

Human trafficking is rarely confined to a single criminal act. The process of recruitment, transportation, transfer, harbouring or receipt of a person for exploitation may be accompanied by other acts which independently constitute offences under special statutes. The applicability of such statutes depends upon the specific facts of each case and the satisfaction of the statutory ingredients of the respective offences. Thus, the same factual transaction may, where the ingredients are independently established, attract liability under the Bharatiya Nyaya Sanhita, 2023 as well as one or more special laws.

The following illustrations demonstrate how different forms of exploitation may bring the provisions of different statutes into operation alongside the principal offence of trafficking. These illustrations are intended to demonstrate the intersection of statutory offences in trafficking cases, and not to suggest that every trafficking case will necessarily attract all the provisions indicated.

Illustration 1: Trafficking for Commercial Sexual Exploitation: BNS and Immoral Traffic (Prevention) Act, 1956

Facts: A recruiter approaches a 21-year-old woman from an economically vulnerable family with an offer of employment in another city. After obtaining her consent through deception, he transports her to the city and hands her over to a brothel keeper for monetary consideration. The brothel keeper confines her in the premises and compels her to provide sexual services to customers for commercial gain.

Offences attracted:

- **Section 143(2), BNS** - trafficking of a person for the purpose of exploitation.
- **Section 3, ITPA** - keeping or managing, or knowingly acting or assisting in the keeping or management of, a brothel, where the statutory ingredients are established.
- **Section 5, ITPA** - procuring, inducing or taking a person for the purpose of prostitution.
- **Section 6, ITPA** - detaining a person in premises where prostitution is carried on, where the ingredients of detention are established.

Illustration 2: Trafficking for Forced Labour: BNS and Bonded Labour System (Abolition) Act, 1976

Facts: A labour contractor recruits a poor migrant worker by advancing money to his family and promises him employment at a brick kiln. The worker is transported to the kiln and thereafter prevented from leaving until the alleged debt is repaid. He is made to work for nominal wages, his movement is restricted and his wages are appropriated towards the alleged debt.

Offences attracted:

- **Section 143(2), BNS** - trafficking for exploitation in the form of forced labour, slavery, practices similar to slavery or servitude, as applicable to the established facts.
- **Sections 16 and/or 18, Bonded Labour System (Abolition) Act, 1976** - where the facts establish compelling a person to render bonded labour or enforcing a custom, contract or arrangement requiring such labour.
- **Section 20** of the Bonded Labour System (Abolition) Act may additionally apply where there is abetment.

Illustration 3: Trafficking of a Child for Sexual Exploitation: BNS, POCSO Act and ITPA

Facts: A 15-year-old girl is recruited from her village on the false promise of employment and transported to another State. She is handed over to a brothel keeper and subjected to repeated sexual acts with customers. The brothel keeper also detains her in the premises and prevents her from leaving.

Offences attracted:

- **Section 143(4), BNS** - trafficking of a child.
- **Relevant provisions of the POCSO Act, 2012** - for the sexual offences committed against the child.
- **Section 5, ITPA** - procuring, inducing or taking a person for prostitution, where the statutory ingredients are established.
- **Section 6, ITPA** - detention in premises where prostitution is carried on.

Illustration 4: Trafficking of a Child for Begging: BNS and Juvenile Justice (Care and Protection of Children) Act, 2015

Facts: An organised group identifies vulnerable children from a railway station and transports them to a metropolitan city. The children are kept under the control of the members of the group and are compelled to beg at traffic intersections. A portion of the money collected by the children is taken by the members of the group.

Offences attracted:

- **Section 143(4), BNS** - trafficking of a child.
- **Section 76, JJ Act** - employing or using a child for begging, where its ingredients are satisfied.
- Depending upon the facts, **Section 76(1) proviso** may apply where the child is amputated or maimed for the purpose of begging.

Illustration 5: Trafficking of a Child through Unlawful Adoption: BNS and Juvenile Justice (Care and Protection of Children) Act, 2015

Facts: A person obtains a new-born child from a vulnerable family by offering monetary consideration and subsequently transfers the child to prospective purchasers while representing that the child has been lawfully placed for adoption. The intermediary has not followed the statutory procedure for adoption and receives money for the transfer.

Offences attracted:

- **Section 143(4), BNS** - trafficking of a child, where the statutory ingredients of trafficking are established.
- **Section 81, JJ Act** - selling or buying a child for any purpose.
- **Section 80, JJ Act** - offering, giving or receiving an orphan, abandoned or surrendered child for adoption without following the prescribed statutory procedure, where its ingredients are satisfied.

Illustration 6: Trafficking of a Child for Labour: BNS and Child and Adolescent Labour (Prohibition and Regulation) Act, 1986

Facts: A trafficker recruits a 13-year-old child from a poor family by promising educational opportunities in a city. The child is transported to a factory and employed in prohibited work. The employer knows that the child is below the prescribed age and nevertheless makes him work for long hours.

Offences attracted:

- **Section 143(4), BNS** - trafficking of a child for exploitation.
- **Section 3 of the Child and Adolescent Labour Act** - prohibition of employment of children in occupations and processes, subject to the statutory exceptions.
- **Section 14** of the Act - punishment for contravention of the prohibition, where applicable.

Illustration 7: Trafficking for Marriage: BNS and Prohibition of Child Marriage Act, 2006

Facts: A 16 years old girl is taken from her village through deceit and transported to another district where she is married to an adult man for monetary consideration. The persons arranging the marriage are aware of her age. After the marriage, she is subjected to exploitation and is subsequently sold to another person.

Offences attracted:

- **Section 143(4), BNS** - trafficking of a child, if the statutory ingredients of trafficking are established.

- **Sections 10 and 11, PCMA** - where the statutory ingredients concerning performance, conduct, promotion or permitting of child marriage are established.
- **Section 12, PCMA** is particularly relevant where, after marriage, the child is sold or trafficked for immoral purposes.

Illustration 8: Trafficking for Removal of Organs: BNS and Transplantation of Human Organs and Tissues Act, 1994

Facts: An organised group identifies economically vulnerable persons and offers them money in exchange for a kidney. One victim is transported to a hospital, where false documents are prepared to show that the donor is a near relative of the recipient. The organ is removed pursuant to a commercial arrangement.

Offences attracted:

- **Section 143, BNS** - trafficking for exploitation involving removal of organs, where the statutory ingredients are satisfied.
- **Section 19, Transplantation of Human Organs and Tissues Act** - commercial dealings in human organs.
- **Section 18**, where the facts additionally establish removal of a human organ without the authority required under the Act.

Other applicable provisions may arise in relation to false documents or fraudulent claims concerning the donor-recipient relationship.

Illustration 9: Cyber-Enabled Trafficking and Online Recruitment Scam: BNS and Information Technology Act, 2000

Facts: A group operates a fake online recruitment agency through a website and social media accounts, falsely representing that it provides well paid employment in a foreign country. The accused impersonate a genuine recruitment company and use the identities and credentials of its representatives to gain the confidence of job seekers. Several economically vulnerable persons are induced to pay registration, visa and travel charges and are thereafter transported to another country on the false promise of employment. Upon arrival, their passports and mobile phones are taken away, and they are compelled to work in conditions of forced labour for the benefit of the trafficking network

Offences attracted:

- **Section 143, BNS** - trafficking of persons for the purpose of exploitation through deception and inducement.
- **Section 318, BNS** - cheating, where the ingredients of dishonest inducement and wrongful loss are established.
- **Section 319, BNS** - cheating by personation, where the accused impersonate the genuine recruitment company or its representatives.

- **Section 66D, IT Act** - cheating by personation using a computer resource or communication device. Section 66D specifically criminalises cheating by personation through a computer resource or communication device.

Illustration 10: Trafficking of a Scheduled Caste Woman for Forced Labour: BNS, Bonded Labour Act and SC/ST (Prevention of Atrocities) Act, 1989

Facts: A woman belonging to a Scheduled Caste is recruited through deception and transported to a brick kiln. The trafficker knows her caste identity. She is thereafter compelled to work without wages and is prevented from leaving the premises. The accused also subjects her to conduct specifically criminalised under the SC/ST (Prevention of Atrocities) Act.

Offences attracted:

- **Section 143, BNS** - trafficking for exploitation through forced labour, slavery, practices similar to slavery or servitude, as applicable.
- **Sections 16 and/or 18 of the Bonded Labour System (Abolition) Act, 1976** - where the ingredients of bonded labour are established.
- **Section 3(1)(h), SC/ST (Prevention of Atrocities) Act, 1989** - where the accused, not being a member of SC/ST, makes a member of SC/ST perform begar or other forms of forced or bonded labour.

Any other applicable provision of the SC/ST Act where its independent statutory ingredients are fulfilled.

Illustration 11: Trafficking Proceeds and Money Laundering: BNS and Prevention of Money Laundering Act, 2002

Facts: An organised trafficking group recruits women for commercial sexual exploitation and operates several establishments through which it generates substantial illegal income. The principal accused deposits the proceeds in different bank accounts, acquires immovable property through shell entities and subsequently projects the money as income from legitimate businesses.

Offences attracted:

- **Section 143, BNS** - trafficking, where the ingredients of the offence are established.
- **Section 3, PMLA** - where the acts constitute involvement in a process or activity connected with proceeds of crime, including concealment, possession, acquisition, use or projection of such proceeds as untainted property, subject to the statutory requirements of the PMLA.

V. Simultaneous Framing of Charges under BNS and Special Statutes:

Whether, in a case of human trafficking, charges may be simultaneously framed under the Bharatiya Nyaya Sanhita, 2023 and one or more special statutes, or even under two or more special enactments? Where the acts constituting the trafficking transaction also disclose distinct offences under such laws?

Section 241 BNSS lays down the general rule that there should ordinarily be a separate charge for every distinct offence. The subsequent provisions, however, provide circumstances in which more than one offence may be charged and tried together. Section 243 BNSS specifically deals with "Trial for more than one offence."

Section 243(3) BNSS, provides:

"If the acts alleged constitute an offence falling within two or more separate definitions of any law in force for the time being by which offences are defined or punished, the person accused of them may be charged with, and tried at one trial for, each of such offences."

The provision assumes significance in trafficking cases because the criminality involved in trafficking may extend beyond the act of recruitment, transportation, transfer, harbouring or receipt of a person. The same transaction may involve subsequent sexual exploitation, forced labour, sexual offences against a child, commercial sexual exploitation, confinement or other forms of conduct independently punishable under the BNS or under special enactments.

Hence, it is not confined to offences under the BNS alone. The expression "any law in force" permits the same alleged acts, where they satisfy the ingredients of separate offences, to be the subject matter of multiple charges even when the applicable offences arise under different enactments.

Accordingly, where the same factual transaction gives rise to:

- an offence under the BNS and an offence under a special law; or
- offences under two different special laws,

the framing and joint trial of such charges is permissible where the statutory requirements are satisfied.

The provision, however, does not mean that every penal provision which can somehow be connected with the facts should be mechanically added as a charge. Each offence must have its own statutory ingredients, and those ingredients must be prima facie disclosed by the material before the Court.

i. Trafficking under the BNS and an offence under a Special Law

Section 143 BNS criminalises trafficking of persons where the prescribed acts are undertaken through the specified means for the purpose of exploitation. The provision encompasses, inter alia, physical or sexual exploitation, slavery, practices similar to slavery, servitude, beggary and forced removal of organs.

The commission of an offence under Section 143 BNS may, therefore, be accompanied by conduct constituting an independent offence under a special enactment.

For instance, where a child is recruited and transported for the purpose of sexual exploitation and is thereafter subjected to a sexual offence, the facts may attract Section 143(4) BNS, relating to trafficking of a child, as well as the applicable provisions of the POCSO Act.

The two offences are conceptually distinct. The offence of trafficking is concerned with the act of trafficking undertaken for the prescribed purpose, whereas the offence under the POCSO Act is concerned with the specific sexual act committed against the child. The existence of a common factual foundation does not, therefore, render the two offences identical.

The principle finds illustration in ***Sartaj Khan v. State of Uttarakhand***, 2022 SCC OnLine SC 360, wherein convictions under Sections 363, 366-B, 370(4) and 506 IPC read with Section 8 of the POCSO Act were affirmed in a case concerning the trafficking of a minor girl.

ii. Trafficking under the BNS and more than one Special Law

The possibility of simultaneous application is not confined to a combination of the BNS and one special enactment. The same transaction may, in an appropriate case, attract the provisions of two or more special enactments, where each enactment creates an independent offence and its statutory ingredients are satisfied.

For example, a minor girl belonging to a Scheduled Caste is trafficked for the purpose of sexual exploitation. She is taken to a premises used for prostitution and is thereafter subjected to sexual assault. The accused is aware of her caste identity.

Depending upon the facts established, the transaction may potentially attract:

- Section 143(4) BNS, for trafficking of a child;
- relevant provisions of the POCSO Act, for sexual offence against a child;
- relevant provisions of the Immoral Trafficking Prevention Act, where the ingredients relating to prostitution, procuring, brothel or detention are satisfied; and
- relevant provisions of the SC ST Act, where its statutory requirements are independently fulfilled.
- Thus, the fact that the prosecution invokes one special enactment does not necessarily prevent the application of another special enactment arising from the same transaction.

iii. Two Special Laws without the BNS being the only basis of liability

The principle becomes even more significant where the same transaction attracts two special enactments, independently of the trafficking provision. For example, a child below eighteen years is trafficked for commercial sexual exploitation. The child is taken to a premises being used as a brothel and is thereafter subjected to a sexual offence.

The facts may potentially attract:

- the relevant provision of the ITPA, where the ingredients of procuring, inducing, detaining, or other prohibited conduct under that Act are established; and
- the relevant provisions of the POCSO Act, where the conduct constitutes a sexual offence against a child.

Here, the two special statutes operate upon different legal offences. The POCSO Act is concerned with the protection of children from sexual offences, whereas the ITPA addresses specified activities associated with commercial sexual exploitation and prostitution.

Again, in another example, a person belonging to a Scheduled Caste is trafficked through coercion and is thereafter compelled to perform bonded labour. The accused, knowing the victim's caste identity, also subjects the victim to conduct specifically criminalised under the SC/ST (Prevention of Atrocities) Act.

Depending upon the precise facts, the conduct may attract:

- relevant provisions of the Bonded Labour System (Abolition) Act, 1976, for compelling or otherwise subjecting the person to bonded labour; and
- relevant provision of the SC/ST (Prevention of Atrocities) Act, 1989, where the additional statutory ingredients of the particular atrocity are established.

The two statutes protect against different forms of legal offence. The Bonded Labour Act addresses the exploitation inherent in the bonded-labour relationship, whereas the SC/ST Act addresses offences committed against members of the protected communities in the circumstances specified by that Act.

VI. A Thematic Digest of Case Law

1. Child Labour, Child Marriage and Missing Child

i. Every child marriage is, in essence, a forced marriage that deprives the child of the exercise of free and informed consent and violates the rights to health, education, development and autonomy guaranteed under Articles 14, 15, 19(1)(a), 21 and 21-A of the Constitution. A child marriage brought about by the taking or enticing away of the minor, or by force, deceit or sale, is *void*; and where, following such a marriage, the minor is sold or trafficked or used for immoral purposes, the marriage is *void ab initio* under Section 12(c) of the Prohibition of Child Marriage Act, 2006. The statutory scheme must therefore be enforced not merely as regulating the age of marriage, but as a protective instrument against the exploitation and trafficking of children.

***Society for Enlightenment and Voluntary Action v. Union of India*, 2024 SCC OnLine SC 2922**

ii. Section 188 of the Code of Criminal Procedure [*Section 208 of BNSS*], which requires the previous sanction of the Central Government, is attracted only where the entirety of the offence is committed outside India. Where a constituent part of the offence namely the transportation of the trafficked victim into India and her receipt here for the purpose of exploitation takes place on Indian soil, the ordinary principles of territorial jurisdiction apply and no previous sanction is necessary. On the merits, where the age of the victim is established through radiological and dental examination to be below eighteen years, the aggravated form of the offence is made out and the enhanced minimum sentence of ten years' rigorous imprisonment prescribed by Section 370(4) of the Indian Penal Code [*Section 143(4) of BNS*] is attracted.

***Sartaj Khan v. State of Uttarakhand*, (2022) 13 SCC 136**

iii. Exploitation is an indispensable and defining ingredient of the offence of trafficking. Section 370 of the Indian Penal Code is not attracted by the Act of recruitment, transportation, harbouring or receipt of a person alone, but only where that Act is carried out for the purpose of exploitation as understood by the Section and its Explanation. The mere transportation of minors from one place to another for the purpose of employment, unaccompanied by any physical or sexual exploitation, slavery or practices similar to slavery, servitude or the forced removal of organs, does not by itself constitute trafficking. In the absence of proof of the requisite exploitative purpose, the engagement of minors in labour, however reprehensible on other grounds, cannot be elevated into an offence under Section 370.

***Purnima Paun v. State of Jharkhand*, Criminal Appeal (DB) No. 1022 of 2018 with Criminal Appeal (DB) No. 481 of 2016**

2. Sexual Exploitation

i. A single-sentence order granting bail merely on the ground that there is 'no specific allegation' against the accused is wholly unreasoned and unsustainable, the more so where the accused was clothed with authority as the protector of destitute inmates of a protection home and instead turned rogue. Though bail, once granted, is not automatically cancelled, an unreasoned or perverse order is always open to interference. The order was independently vitiated by breach of Section 15A(3) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, the victim having neither been impleaded nor heard; and the accused's reinstatement as Superintendent of another protection home, evidencing his continuing clout and the risk to material witnesses, furnished further ground for cancellation.

X v. State of Bihar, 2**025 SCC OnLine SC 1490**, applying ***Shabeen Ahmad v. State of Uttar Pradesh***, **(2025) 4 SCC 172** and ***Ajwar v. Waseem***, **(2024) 10 SCC 768**

ii. Sex workers are as much human beings as any other, and no one has the right to assault, brutalise or murder them; a woman is ordinarily driven to prostitution not out of any enjoyment of it but on account of grinding poverty and the want of alternatives. Society must therefore extend sympathy towards sex workers rather than look down upon them with contempt, and must recognise that they too are entitled to a life of dignity under Article 21, which secures to every person the right not merely to a bare animal existence but to live with basic human dignity. Their protection and measures directed towards their rehabilitation and the opportunity to earn a livelihood through dignified means are matters of genuine constitutional concern.

Budhadev Karmaskar v. State of West Bengal, **(2011) 11 SCC 538**

3. Bonded Labour

i. Members of an organisation engaged in combating human trafficking, who assisted in a raid to rescue bonded labourers and minor children from a brick kiln, were prosecuted under Sections 186 and 353 of the Indian Penal Code [*Section 221 and 132 of BNS*].

Umashankar Yadav v. State of Uttar Pradesh, **2025 SCC OnLine SC 1066**

ii. Judicial interference becomes both necessary and legitimate when the State fails to discharge the statutory obligations cast upon it by the Bonded Labour System (Abolition) Act, 1976, for the constitutional promise held out by Articles 21 and 23 cannot be left to administrative indifference. Meaningful economic and social rehabilitation is thus the true measure of compliance with the Act.

P. Sivaswamy v. State of Andhra Pradesh, **(1988) 4 SCC 466**

iii. It is the plainest requirement of Articles 21 and 23 that every identified bonded labourer must not merely be released but must, upon release, be suitably rehabilitated, for release without rehabilitation is an empty formality that leaves the freed labourer to drift back into the very bondage from which he was extricated. The Bonded Labour System (Abolition) Act, 1976, casts an affirmative and continuing obligation upon the State, and any failure to implement its provisions is not merely an administrative lapse but the clearest violation of Article 21, apart from Article 23. Rehabilitation is therefore the most crucial and abiding step, without which the guarantee of freedom from bondage is of no real consequence.

***Neerja Chaudhary v. State of Madhya Pradesh*, (1984) 3 SCC 243**

iv. Once it is shown that a workman is made to render forced labour for no wage or only a nominal wage, a rebuttable presumption arises that he is a bonded labourer, and the burden shifts to the employer or the State to displace it. The State cannot make its constitutional and statutory obligation to identify, release and rehabilitate bonded labourers conditional upon strict adversarial proof by the labourer himself, for such persons belong to the weakest and most exploited sections of society and are in no position to establish their plight through formal litigation. Violations of protective labour legislation cannot be met with token or perfunctory punishment, but must be enforced with a seriousness commensurate with the constitutional values at stake.

***Bandhua Mukti Morcha v. Union of India*, (1984) 3 SCC 161**

v. The sweep of Article 23 is wide and unlimited: it strikes at 'traffic in human beings', 'begar' and 'other similar forms of forced labour' wherever found, and is not confined to action by the State but prohibits forced labour exacted by any person whatsoever. The 'force' which renders labour 'forced' may arise not only from physical or legal compulsion but from the compulsion of hunger, poverty and destitution, so that any factor depriving a person of a real choice of alternatives amounts to force. Even where a person has voluntarily contracted to serve in consideration of an advance or debt, he cannot be compelled to continue, for in a society scarred by poverty, a contract that appears voluntary may in truth be involuntary.

***People's Union for Democratic Rights v. Union of India*, (1982) 3 SCC 235**

vi. Acquiring a minor girl as domestic help by paying money to the person having control over her squarely answers the description of 'recruitment' and 'harbouring' effected by 'inducement' within the meaning of the offence of trafficking under Section 370 of the Indian Penal Code [*Section 143 of BNS*], and the subsequent torture and abuse of such a minor amounts to exploitation akin to slavery, or to practices similar to slavery or servitude. Where the accused procured the consent of the person having control over her by payment of money, such consent is of no avail and does not detract from the criminality of the Act. Prima facie material disclosing the offence of trafficking exists; the proceedings cannot be quashed at the threshold.

***Dharmendra Kumar Beuria v. State of Orissa*, 2015 SCC OnLine Ori 472**, (SLP (Crl.) No. 1166 of 2016 dismissed by order dated 19.02.2016)

VII. Reporting, Investigation & Rescue in Case of Human Trafficking

Human trafficking is an organized crime in which criminal networks frequently operate across districts, States, and even international borders, for the recruitment, transportation, transfer, harbouring or receipt of people through force, fraud or deception, with the aim of exploiting them for profit. Men, women and children of all ages and from all backgrounds can become victims of this crime, which occurs in every region of the world.

Human trafficking involves criminal, social, economic, labour, immigration, cyber, and child protection issues. Effective investigation, rescue, rehabilitation, repatriation, and prosecution therefore require coordinated action among multiple departments and agencies. No single agency can independently address all aspects of trafficking. Inter-departmental coordination ensures timely exchange of information, avoidance of duplication of efforts, efficient utilization of resources, and a comprehensive response to trafficking offences.

The Investigating Officer should establish close coordination with all authorities having statutory, regulatory, or operational responsibilities relating to the victim, offender, or offence. Such coordination should continue throughout the stages of rescue, investigation, victim care, rehabilitation, prosecution, and post-rescue follow-up.

The Anti-Trafficking Cell of the Ministry of Home Affairs[1] is responsible, inter alia, for coordinating matters relating to human trafficking, facilitating the establishment and strengthening of Anti-Human Trafficking Units, providing guidance to States and Union Territories, and participating in national and international mechanisms concerning trafficking. The Central Government has also provided financial assistance for the establishment and strengthening of AHTUs.

The Ministry of Home Affairs further recognises bilateral and multilateral cooperation, including agreements and memoranda of understanding with other countries, as an important component of India's response to trafficking.

1. Existing Framework

At the **district level**, the primary agency is the **Anti-Human Trafficking Unit (AHTU)**, which functions as an integrated task force consisting of trained police officers along with officials from the Women and Child Welfare, Labour, Social Welfare, and other relevant departments. The AHTUs are responsible for prevention of trafficking, investigation of trafficking offences, rescue operations, coordination of anti-trafficking measures, post-rescue care, and maintenance of databases relating to traffickers. These units' function under the supervision of an officer of the rank of Superintendent of Police or Deputy Superintendent of Police. In addition, **Women Help Desks** established at police stations assist in rescue, prevention, victim protection, investigation of cases involving women, and other duties assigned by the District AHTU.

1 https://www.mha.gov.in/en/divisionofmha/Women_Safety_Division/anti-trafficking

The rehabilitation component is carried out under the **Mission Shakti Scheme** through **One Stop Centres (OSCs)** and **Shakti Sadans**, which work in coordination with AHTUs for the care and rehabilitation of victims. Oversight at the district level is provided by a committee headed by the District Magistrate or District Collector, which supervises the implementation of Mission Shakti and meets at least once every quarter.

At the **State level**, trafficking-related measures are supervised by the **State Anti-Trafficking Bureau**, headed by an officer of the rank of Additional Director General of Police (ADGP). The Bureau oversees anti-trafficking activities across the State, coordinates with other States and Union Territories, and supervises District AHTUs while receiving reports from them. Further, a **State-Level Mission Shakti Committee**, headed by the Chief Secretary, monitors the implementation of the scheme and meets at least twice every year.

At the **national level**, the **Anti-Human Trafficking Cell** issues guidelines to States and Union Territories, strengthens law-enforcement responses, supports capacity-building initiatives, enters into bilateral agreements with foreign countries, and coordinates with State Anti-Trafficking Bureaus. It convenes meetings with State and UT Anti-Trafficking Bureaus twice every year.

In addition to other departments, the **National Investigation Agency (NIA)** is empowered to investigate and prosecute trafficking offences under Section 370 and Section 370A of the IPC (now Sections 143 and 144 of the BNS). Similarly, the **CBI Anti-Human Trafficking Unit** investigates cases involving prostitution, begging, pornography, forced labour, and other forms of exploitation. It also collects, collates, and analyses trafficking-related data, gathers information relating to kidnapping and abduction across India, develops actionable intelligence, and conducts operations against trafficking networks and organised gangs.

Further, under **Section 13(4) of the Immoral Traffic (Prevention) Act, 1956**, all police officers of the rank of Inspector and above have been designated as **Trafficking Police Officers** for investigation of offences under the Act.

There is also the **Apex Committee under Mission Shakti**, headed by the Secretary, Ministry of Women and Child Development, which reviews the implementation of the scheme, monitors quality standards throughout the country, and meets at least once every year.

2. Reporting Of Trafficking Crimes

Timely reporting of suspected trafficking is essential to protect victims and enable swift action against offenders.

(a) Contact Emergency Services

Suspected trafficking incidents may be reported through **Emergency Response Support System (ERSS) – 112**, which serves as India's primary emergency helpline.

(b) File a Police Complaint

A complaint or FIR may be lodged at any police station. While reporting, provide relevant details such as:

- Location of the suspected activity;

- Date and time of the incident;
- Description of victims and suspected offenders;
- Vehicle details, contact numbers, or other identifying information; and
- Any photographs, videos, or supporting material available.

The complainant is entitled to receive a copy of the FIR and may approach senior police authorities if registration is refused. Anti-Human Trafficking Units (AHTUs) are also available in many districts to handle such cases.

(c) Report Online

Cyber-enabled trafficking offences, including online recruitment fraud, social media exploitation, and child sexual abuse material, may be reported through the **National Cyber Crime Reporting Portal**, which allows online submission of complaints and supporting evidence.

(d) Approach the NHRC

Where there is inaction by authorities or violation of victims' rights, complaints may be made to the **National Human Rights Commission (NHRC)**.

(e) Seek NGO Support

Organisations such as **Bachpan Bachao Andolan, Prajwala, Apne Aap Women Worldwide,** and **Shakti Vahini** assist in victim rescue, rehabilitation, legal support, and reintegration.

(f) Inform Labour Authorities

Cases involving forced labour or bonded labour may be reported to the **District Labour Officer** or **District Magistrate**, who can initiate rescue, protection, and rehabilitation measures under applicable laws.

3. Suggestion for Formation of the Organised Crime Investigation Agency (OCIA)

The Supreme Court in *Prajwala v. Union of India* (2026 SCC OnLine SC 1053) examined the long-standing proposal for establishing an **Organised Crime Investigation Agency (OCIA)** as a specialised national body to combat human trafficking. The proposal emerged from concerns expressed by various stakeholders[2] regarding deficiencies in the existing anti-trafficking framework, particularly the absence of effective institutional linkages between source, transit and destination areas, inadequate mechanisms for inter-State rescue and investigation, lack of coordinated monitoring of victim aftercare in inter-State cases, and the absence of a structured network connecting NGOs, service providers and law-enforcement agencies. It was therefore suggested that a dedicated national agency under the Ministry of

2 **Stakeholders:** Ministry of Women and Child Development, Ministry of External Affairs, Ministry of Labour and Employment, Ministry of Railways, State Police, Anti-Human Trafficking Units (AHTUs), Border Security Force (BSF), Sashastra Seema Bal (SSB), Judiciary, Judicial Academies, Non-Governmental Organisations (NGOs), and Civil Society Organisations (CSOs), etc.

Home Affairs be established to address human trafficking as a borderless form of organised crime with both national and international dimensions.

The proposed OCIA was envisaged as a comprehensive multidisciplinary institution and not merely an investigating agency. Its functions were intended to include intelligence collection and analysis relating to trafficking, information-sharing among stakeholders, investigation of trafficking offences having national and international ramifications, capacity building and training, coordination of rescue operations, rehabilitation and reintegration of victims, coordination with Central and State Governments, and maintenance of a national database relating to missing persons, found persons, trafficked persons and traffickers. Thus, the OCIA was conceived as an integrated body combining intelligence, investigation, prevention, coordination, rescue, rehabilitation and capacity-building functions.

While considering the necessity of such an institution, the Court compared the proposed OCIA with the **National Investigation Agency (NIA)**. It observed that the NIA is primarily concerned with the investigation, prosecution and intelligence gathering relating to scheduled offences, whereas the OCIA was intended to perform a much broader range of functions, including preventive interventions, stakeholder coordination, capacity building, training, rescue coordination, post-rescue care, victim protection, rehabilitation coordination and maintenance of comprehensive anti-trafficking databases. Accordingly, the Court acknowledged that the scope of the NIA is narrower than the role originally envisaged for the OCIA or NATB.

However, after examining the existing institutional framework, the Court found that many of the functions proposed for the OCIA are already being performed by various agencies operating at the district, State and national levels, including Anti-Human Trafficking Units (AHTUs), State Anti-Trafficking Bureaus, the Anti-Human Trafficking Cell, the CBI Anti-Human Trafficking Unit, Mission Shakti institutions and other coordinating bodies. The Court further noted that Parliament has already empowered the NIA to investigate and prosecute trafficking offences under Sections 370 and 370A of the IPC (now Sections 143 and 144 of the BNS), thereby substantially incorporating the investigative role originally envisaged for the OCIA within the existing statutory framework.

Consequently, the Supreme Court held that Parliament had consciously chosen to strengthen and utilise existing institutions, particularly the NIA, rather than create a parallel national investigative agency. Such a legislative policy decision falls within the domain of Parliament and is not ordinarily open to judicial review.

Note: For a comprehensive understanding of the investigation of trafficking offences, readers may also refer to the existing statutory and procedural framework governing investigation, including the provisions of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), the Bharatiya Nyaya Sanhita, 2023 (BNS), the Immoral Traffic (Prevention) Act, 1956, the Bonded Labour System (Abolition) Act, 1976, the Juvenile Justice (Care and Protection of Children) Act, 2015, the Protection of Children from Sexual Offences Act, 2012, and other allied legislations. Valuable guidance may further be drawn from the Standard Operating Procedures and advisories issued by the Ministry of Home Affairs (MHA), the National Human Rights Commission (NHRC), the Ministry of Women and Child Development (MWCD), and other competent governmental authorities. Readers may also benefit from consulting authoritative publications and training manuals, including the works of Dr. P. M. Nair, particularly those prepared for law-enforcement agencies, prosecutors and other stakeholders engaged in combating human trafficking, as these materials provide practical guidance on investigation, rescue, victim protection, rehabilitation and inter-agency coordination.

4. Intelligence Gathering And Dissemination

Intelligence generated during trafficking investigations should be systematically collected, analysed, and utilized to identify connected offences, additional offenders, trafficking patterns, vulnerable areas, and emerging methods of operation. An intelligence-led approach is essential for effective prevention, detection, investigation, prosecution, and disruption of trafficking activities.

Intelligence gathered during trafficking investigations may broadly be classified into **strategic intelligence** and **tactical intelligence**. Strategic intelligence supports policy formulation, resource allocation, capacity building, prevention strategies, and identification of trafficking trends, vulnerable communities, routes, organized criminal networks, and demand patterns. Tactical intelligence supports rescue, victim protection, rehabilitation, prosecution, and surveillance by identifying recruitment methods, digital platforms, communication channels, forged documents, transportation routes, financial transactions, locations of exploitation, and criminal associations.

Intelligence collection should combine traditional investigative methods with modern technology. Investigating agencies should verify and analyse information received from lawful sources, preserve confidentiality, protect informants and victims, integrate intelligence with financial and cyber investigations, convert information into actionable intelligence, and continuously review emerging trends.

Valuable intelligence may be obtained from victims, survivors, witnesses, digital communications, surveillance inputs, travel documents, financial records, bank transactions, electronic devices, CCTV footage, social media accounts, internet-based data, and other electronic evidence. Such evidence should be collected, preserved, examined, and presented in accordance with the Bharatiya Sakshya Adhiniyam, 2023, the Bharatiya Nagarik Suraksha Sanhita, 2023, and applicable forensic protocols, ensuring the integrity of the chain of custody. Where legally permissible, technical surveillance and lawful interception may also provide useful intelligence.

The National Human Rights Commission (NHRC), the Ministry of Home Affairs, Government of India, the Bureau of Police Research and Development (BPR&D), and the United Nations Office on Drugs and Crime (UNODC) have emphasized intelligence-led investigation and inter-agency coordination in trafficking cases. Accordingly, State Nodal Officers, Anti Human Trafficking Units, and district-level coordination committees should establish mechanisms for real-time intelligence sharing and joint operational responses.

Investigating agencies should maintain updated databases containing details of traffickers, trafficking routes, modus operandi, communication patterns, financial transactions, digital identities, and linked criminal activities. Such databases should be periodically analysed to facilitate preventive action and effective prosecution of offenders.

5. Police Response To Trafficking

(a) Registering the Crime (FIR) at the Police Station (PS)[3]

- Register the FIR promptly without unnecessary delay.
- Record the FIR based on the complainant's version and do not alter or modify the statement.
- Where the victim is unable to narrate all facts due to trauma, omissions may subsequently be supplemented through statements recorded under the applicable provisions of the BNSS.
- Accept complaints from any person; where no complainant is available, the police officer should initiate the complaint and ensure registration of the FIR.
- Do not allow territorial jurisdiction issues to obstruct registration of the FIR.
- Coordinate with other police stations where multiple FIRs relating to the same occurrence have been registered.
- Provide a free copy of the FIR to the complainant.
- Record statements of female victims and witnesses at a place of their choice.
- Do not require female witnesses to attend the police station after sunset for examination.
- Keep the victim or complainant informed about the progress of the investigation.
- Maintain regular communication with the victim and her support system, including family members and assisting NGOs.
- Ensure that the trafficked person is correctly identified and treated as a victim and not as an accused.
- Register offences under all applicable provisions of the ITPA and other relevant laws.
- Treat every trafficking case as a grave or special-report crime and ensure appropriate supervision by trained senior police officers.
- Conduct the investigation with a victim-centred approach and due regard to the dynamics of abuse and exploitation involved in trafficking.

(b) Scene of Crime (SOC) Investigation[4]

- The investigation should be thorough and not conducted in a casual or superficial manner.

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3 Nair, P. M. (2007). *Trafficking women and children for sexual exploitation: Handbook for law enforcement agencies in India* (Rev. ed.). UNIFEM & UNODC.

4 Nair, P. M. (2007). *Trafficking women and children for sexual exploitation: Handbook for law enforcement agencies in India* (Rev. ed.). UNIFEM & UNODC.

- In trafficking cases, the Scene of Crime (SOC) extends beyond the place of exploitation and includes the entire chain of trafficking.
- The SOC should, as far as applicable, include:
  - ✓ The place of origin where the victim was recruited or procured;
  - ✓ The trafficking route and means of transportation used;
  - ✓ All transit locations through which the victim was moved;
  - ✓ The destination to which the victim was taken;
  - ✓ Every place where exploitation occurred; and
  - ✓ Locations connected with the storage, transportation, distribution, sale, or circulation of the products of exploitation.
- A comprehensive trafficking map should be prepared and maintained in the case diary, depicting the movement of the victim from the source area through transit points to the destination or demand area.
- All documents, registers, records, accounts, and other materials found at the scene of crime should be examined and seized wherever necessary.
- The role of every person identified from such records should be investigated and supported by appropriate evidence.
- Photographs and videography of the scene of crime should be undertaken wherever appropriate.
- Electronic documentation should be used to record the nature, extent, and conditions of exploitation.
- The privacy, dignity, and identity of victims must be protected while undertaking photographic or videographic documentation.

(c) Investigation of Trafficking Crimes[5]

- Clearly distinguish victims from suspects and accused persons; trafficked persons shall not be treated as offenders.
- Protect and uphold the rights, dignity, privacy, and anonymity of victims at all stages.
- Keep victims separate from accused and suspected offenders and prevent any contact between them.
- Treat victims with sensitivity, respect, empathy, and reassurance; avoid intimidation, abuse, or degrading treatment.
- Inform victims of their legal rights, entitlements, and available support services.
- Restore personal belongings, valuables, lawful earnings, dues, and other legitimate claims at the earliest opportunity.

5 Nair, P. M. (2007). *Trafficking women and children for sexual exploitation: Handbook for law enforcement agencies in India* (Rev. ed.). UNIFEM & UNODC.

- Ensure appropriate care and protection for children accompanying victims and avoid separation unless required by law or in the child's best interests.
- Ensure the physical safety and security of victims during rescue, transfer, rehabilitation, and court proceedings.
- Arrange prompt medical examination, treatment, age determination (where required), and psychological support.
- Avoid stigmatizing or labelling trafficked persons; they should be treated as victims of crime.
- Use appropriate checklists and documentation to ensure that no aspect of the investigation is overlooked.
- Police personnel dealing with trafficking cases must be well-versed with the provisions of the Act and Sections 370, 370-A of the Penal Code(now Section 143 & 144 BNS) to book the trafficker in connection with the offence of trafficking, exploitation of the trafficked person by imparting training so as to enable the police officer to effectively deal with the problem of trafficking.[6]

5. SOPs for Investigation into Human Trafficking Offences[7]

1. Investigation should be undertaken only by the competent and duly authorized Investigating Officer (IO) in accordance with the applicable law. Technical irregularities relating to investigation may adversely affect the prosecution and should therefore be avoided.
2. The IO should collect, preserve, and seize all relevant material evidence from the scene of rescue or the scene of crime immediately after the rescue operation by preparing appropriate seizure memos (*panchanama*) in accordance with law. Delay in seizure may result in destruction, concealment, or tampering of evidence.
3. The IO should search the accused and recover all relevant articles, including mobile phones, computers, electronic devices, travel documents, diaries, identity documents, financial records, SIM cards, digital storage devices, and any other incriminating material.
4. Investigation should extend to all scenes of crime, including the source, transit, destination, and places of exploitation. Documentary, physical, biological, electronic, and digital evidence available at each location should be collected and preserved.
5. All vehicles used for recruitment, transportation, harbouring, or movement of victims should be thoroughly searched and examined for physical and electronic evidence.
6. The IO should conduct searches at hotels, lodges, dhabas, guest houses, rented premises, hideouts, residences, workplaces, transit locations, and every other place where offenders or victims are suspected to have stayed during the trafficking process.

6 Apne Aap Women Worldwide Trust v. State of Bihar, 2014 SCC OnLine Pat 5013

7 National Human Rights Commission. (2017). *Standard operating procedure (SOP) for combating trafficking of persons in India*. National Human Rights Commission, India.

7. Financial investigation should form an integral part of every trafficking investigation. The IO should identify and investigate bank accounts, lockers, digital payment platforms, UPI transactions, investments, movable and immovable properties, shell entities, cryptocurrency transactions (where applicable), and other assets connected with the proceeds of crime.

8. Investigation should also identify customers, exploiters, financiers, recruiters, transporters, harbourers, facilitators, document forgers, online intermediaries, and every other person forming part of the trafficking network.

9. The IO should identify, preserve, and examine all repositories of information, including computers, mobile phones, cloud storage, CCTV recordings, emails, social media accounts, messaging applications, websites, online advertisements, digital payment records, photographs, videos, electronic documents, and any other digital evidence connected with trafficking or exploitation.

10. All seized materials should be carefully scrutinized. Detailed scrutiny reports should be prepared, recorded in the Case Diary, and examined for investigative leads, corroborative evidence, financial linkages, and organized criminal networks.

11. All seized property and exhibits should be deposited in accordance with the applicable State Rules and standing orders.

12. The IO should ensure an unbroken chain of custody for every physical, electronic, biological, and digital exhibit throughout seizure, storage, transportation, forensic examination, and production before the court.

13. The investigation should establish the complete link between the offence, the offender, the victim, the proceeds of crime, and every participant involved in the trafficking network, irrespective of whether the source, transit, destination, or place of exploitation falls within different jurisdictions.

14. Intelligence generated during investigation should be documented and shared with Anti Human Trafficking Units (AHTUs), supervisory police officers, and other competent agencies to facilitate investigation of related offences and disruption of organized trafficking networks.

15. The accused should be interrogated promptly after arrest in accordance with the provisions of the **Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS)**. Since every arrested person must be produced before the Magistrate within twenty-four hours of arrest, excluding the time necessary for the journey, the initial period following arrest should be effectively utilized for lawful investigation.

16. Interrogation of suspects should comprehensively address all aspects of trafficking with the objective of:

    - identifying the complete organized trafficking network across source, transit, destination, and exploitation areas;
    - understanding the methods of recruitment, transportation, harbouring, exploitation, and financial gain;

- identifying recruiters, transporters, financiers, harbourers, exploiters, facilitators, customers, and other offenders;
- tracing routes, vehicles, communication channels, digital platforms, and financial transactions;
- identifying witnesses, accomplices, and documentary evidence;
- establishing the modus operandi adopted by traffickers, including fraudulent employment offers, false marriages, romantic deception, placement agencies, entertainment industry recruitment, customary practices, online recruitment, and other deceptive methods; and
- investigating previous criminal activities, organized crime linkages, and victims trafficked earlier by the same offenders.

17. The IO should collect information from lawful local sources, including hotel and lodge operators, transport providers, placement agencies, labour contractors, market associations, local residents, community leaders, NGOs, and other persons likely to possess relevant information.
18. Every significant investigative step should be promptly entered in the General Diary and the Case Diary in accordance with the BNSS.
19. The IO should take all lawful measures to prevent intimidation, inducement, coercion, or undue influence upon victims, witnesses, or other participants in the investigation.
20. The IO should remain conscious of the physical, psychological, social, and legal challenges faced by victims and ensure that the investigation does not result in secondary victimization.
21. Where additional offences are disclosed during investigation, the IO should invoke all applicable statutory provisions and promptly inform the competent court wherever modification of charges, warrants, or other judicial orders becomes necessary.
22. Whenever fresh facts emerge during investigation, supplementary statements of victims, witnesses, or other relevant persons should be recorded in accordance with law.
23. Victims should not be unnecessarily brought face-to-face with traffickers or their associates unless such confrontation is legally required and appropriate safeguards are in place.
24. Before commencing formal interrogation, the IO should interview the accused to understand their background, identify inconsistencies, and develop appropriate themes for scientific interrogation.
25. Flow charts, trafficking maps, timelines, financial charts, communication diagrams, and digital link analysis charts should be prepared to depict movement of victims, offender networks, financial transactions, communication patterns, and organized crime linkages. These may be utilized during investigation and appended to the Case Diary wherever appropriate.

26. The IO may issue written notices requiring the attendance of persons acquainted with the facts and circumstances of the case in accordance with the provisions of the BNSS.

27. Every material witness should be examined and their statements recorded comprehensively. Wherever appropriate, statements may also be recorded before the Magistrate under the BNSS.

28. Where multiple victims are rescued, each victim should be considered an independent witness. Their statements may corroborate one another regarding identity of offenders, sequence of events, methods of trafficking, and circumstances of exploitation.

29. The IO should examine earlier FIRs, missing person reports, previous convictions, pending investigations, police records, immigration records, labour records, cybercrime records, and any other relevant databases to identify organized criminal patterns.

30. While arresting a woman accused, the IO shall strictly comply with the provisions of the BNSS governing the arrest of women, including restrictions on arrest after sunset and before sunrise except in exceptional circumstances and in accordance with the prescribed legal procedure.

31. Where inter-State or transnational trafficking is disclosed, immediate coordination should be established with the concerned police authorities, AHTUs, State Nodal Officers, CID, immigration authorities, and other competent agencies.

32. Where different FIRs relating to connected trafficking offences are registered in different jurisdictions, each case should be investigated by the police station having territorial jurisdiction while maintaining close coordination and exchange of evidence with the other investigating agencies.

33. Wherever legally appropriate, Test Identification Parade (TIP) should be conducted at the earliest opportunity before the witness is exposed to the accused through media or other means.

34. Biological, physical, electronic, digital, financial, and documentary exhibits should promptly be forwarded to the appropriate forensic laboratories or scientific experts for examination and expert opinion.

35. Throughout the investigation, the IO should adopt a victim-centric and trauma-informed approach. Counsellors, support persons, social workers, child welfare professionals, interpreters, psychologists, and NGOs should be associated wherever necessary to ensure the comfort, dignity, and best interests of the victim.

36. Upon completion of the investigation, the IO shall objectively assess whether sufficient evidence exists to prosecute the accused. Where adequate evidence is available, the police report (charge-sheet) shall be submitted before the competent court in accordance with the provisions of the Bharatiya Nagarik Suraksha Sanhita, 2023, together with the list of witnesses, documents, material objects, electronic evidence, forensic reports, and other supporting material. Where the evidence is insufficient or no offence is made out, an appropriate final report shall be submitted in accordance with the BNSS and applicable State police procedures.

6. Collection of Evidence

The success of a trafficking investigation depends upon the timely, lawful, and comprehensive collection of evidence. Since human trafficking is generally carried out through organized criminal networks, evidence should not be limited to proving a single incident of exploitation but should establish the entire chain of trafficking, including recruitment, transportation, harbouring, transfer, receipt, exploitation, financial gain, and the involvement of all offenders. The Investigating Officer (IO) should therefore adopt a proactive and evidence-driven approach from the earliest stage of investigation.

The collection of evidence is one of the most critical aspects of trafficking investigations, as trafficking offences are often committed through organized and concealed networks operating across multiple locations and jurisdictions. The Investigating Officer should adopt a comprehensive approach aimed at establishing every stage of the trafficking process, including recruitment, transportation, transfer, harbouring, exploitation, financial gain, and the involvement of all participants in the trafficking network.

Evidence collection should commence with a prompt examination of all relevant crime scenes, including source, transit, destination and exploitation locations. Physical, documentary, biological, electronic and digital evidence available at these locations should be identified, preserved, seized and documented in accordance with law. Particular attention should be given to materials recovered during rescue operations, searches of premises, vehicles and other places connected with the offence. Proper seizure procedures, maintenance of chain of custody and timely forwarding of exhibits for forensic examination are essential to ensure admissibility and evidentiary value.

Documentary evidence may include identity records, travel documents, employment records, wage registers, age-related documents, property records, immigration records and any forged or fabricated documents used in the commission of the offence. Such evidence may assist in establishing the identity, age, movement, control and exploitation of victims as well as the role of offenders.

Statements of victims, witnesses and other relevant persons should be recorded at the earliest opportunity. Wherever appropriate, statements may also be recorded before the Magistrate under the BNSS. The investigation should extend beyond the immediate offenders to identify recruiters, transporters, harbourers, financiers, facilitators, customers, document forgers, online intermediaries and other members of the trafficking network. Information obtained during the investigation should be analysed and converted into legally admissible evidence through appropriate investigative procedures.

Digital and electronic evidence has acquired particular significance in trafficking cases. Mobile phones, computers, storage devices, social media accounts, messaging applications, emails, CCTV footage, GPS records, online advertisements, Call Detail Records and digital payment records may provide crucial evidence regarding communication patterns, recruitment methods, movement of victims, financial transactions and organized criminal linkages. Such evidence must be collected, preserved and examined in accordance with the Bharatiya Sakshya Adhiniyam, 2023, the Bharatiya Nagarik Suraksha Sanhita, 2023 and applicable forensic protocols.

Financial investigation should form an integral part of evidence collection. The Investigating Officer should identify and trace bank accounts, digital transactions, investments, properties, shell entities and other assets connected with the proceeds of trafficking. Financial evidence not only establishes the economic motive underlying trafficking activities but may also support attachment, confiscation or forfeiture proceedings under applicable laws.

Medical and forensic evidence should also be collected wherever relevant. Medical examination may assist in establishing age, injuries, sexual exploitation, abuse, pregnancy, intoxication or other circumstances connected with the offence. Intelligence gathered from victims, witnesses, NGOs, labour authorities, Child Welfare Committees, District Child Protection Units and other stakeholders should be analysed to identify trafficking routes, methods of operation, additional offenders and organized criminal networks. Ultimately, evidence collection should be directed towards establishing the complete nexus between the victim, offender, offence, proceeds of crime and the wider trafficking network.

7. Challenges in Evidence Collection

(a) Structural and Investigative Challenges

- Trafficking is a clandestine and organised crime, making direct evidence difficult to obtain.
- Victims are often moved across districts, States and international borders, resulting in loss of witnesses and evidence.
- Lack of effective inter-State coordination delays investigation and evidence collection.
- Delay in rescue operations often leads to destruction or concealment of documentary and physical evidence.
- Failure to identify trafficking as a distinct offence often results in incomplete investigation of trafficking networks.
- Shortage of specialised investigators and resources adversely affects investigation quality.
- Corruption, police apathy and non-cooperation may impede evidence collection and rescue efforts.
- Poor coordination among investigators, prosecutors and rehabilitation agencies weakens the prosecution case.
- Accused persons often abscond after obtaining bail, making further investigation difficult.

(b) Victim and Witness Related Challenges

- Victims may be traumatised, intimidated or fearful of traffickers.
- Trauma and fear adversely affect the quality of victim statements.

- Threats, coercion, social stigma and economic dependence may cause victims to retract or alter testimony.
- Absence of effective witness protection mechanisms discourages cooperation.
- Hostile witnesses weaken the prosecution case.
- Social discrimination, caste-based prejudices and marginalisation of victims may adversely affect investigation and evidence collection.

(c) Documentary and Digital Evidence Challenges

- Digital evidence is often not collected properly.
- Digital evidence is often not preserved properly.
- Mobile phone records may be lost or overlooked.
- Social media communications may not be secured in time.
- Financial transaction records may not be collected adequately.
- Labour trafficking investigations frequently suffer from absence of:
- Written contracts;
- Wage records; and
- Identity documents.
- Inadequate documentation of crime scenes creates evidentiary gaps.
- Failure to seize relevant materials promptly weakens the evidentiary foundation of the case.

(d) Forensic and Technical Challenges

- Lack of forensic support weakens investigations.
- Lack of technological expertise adversely affects evidence collection.
- Delays in forensic examination may reduce evidentiary value.

8. Arrest of the Accused: Legal Framework under the Immoral Traffic (Prevention) Act (ITPA)

- Invoke the appropriate provisions of the ITPA along with other applicable laws during the investigation.
- Wherever justified by the facts, include offences carrying higher punishment and invoke relevant special legislations.
- A duly notified Special Police Officer (SPO) may arrest an accused without a warrant under the provisions of the ITPA.
- The SPO may authorize a police officer in writing to effect the arrest of an accused.
- In urgent situations, a police officer may be authorized to make an arrest without written authorization where:

    - there is a reasonable apprehension that the accused may abscond; or
    - the identity of the accused is doubtful or uncertain.
- The reasons for such emergency authorization should be properly recorded in the General Diary, Case Diary, and other relevant records.
- Authorization to arrest should be issued to a specifically identified police officer and should not be general or blanket in nature.
- Investigating Officers should distinguish between authorization to arrest and authorization to investigate, and ensure compliance with the statutory requirements governing investigation under the ITPA.
- Arrests should otherwise be carried out in accordance with the applicable provisions of the BNSS and other relevant laws.

Note: The subjects relating to rescue operations, post-rescue care and rehabilitation, interim custody, and the role of courts in trafficking cases, etc. as discussed by the Supreme Court in ***Prajwala v. Union of India*** (2026 SCC OnLine SC 1053), are dealt with separately in the subsequent chapters/ sections of this book.

VIII. Redefining Rehabilitation Beyond Immediate Rescue

In anti-trafficking discourse, rescue is often mistakenly conflated with rehabilitation. While rescue means the physical extrication of a victim from an exploitative situation. It is a single, time-sensitive law enforcement act; rehabilitation is an ongoing, multi-dimensional restorative process. The rehabilitation and social reintegration of survivors of human trafficking require a comprehensive and multi-dimensional framework responsive to the nature and severity of the exploitation endured. The Indian judiciary has repeatedly affirmed that post-rescue rehabilitation is not a discretionary state welfare measure, but a valuable right.

Historically, institutional responses have often placed greater emphasis on rescue and immediate restoration of victims to their families, while insufficient attention has been accorded to sustained post-rescue rehabilitation and long-term socio-economic support. Effective rehabilitation must therefore extend beyond rescue and restoration and encompass continued care, protection, psychological and social support, economic empowerment and reintegration, as the absence of adequate and sustained rehabilitative measures leaves survivors vulnerable to re-trafficking and may perpetuate the cycle of organised exploitation. While the prosecutor may not necessarily have a direct role at the stage of rescue, post-rescue and during trial, the prosecution, in coordination with other stakeholders, has an important responsibility to ensure that the rights, dignity and interests of trafficking survivors are effectively protected.

"*The human rights approach, by contrast, places the trafficked person at the centre, insisting that the primary task is victim protection, access to legal remedies, and the restoration of dignity.*". - ***Prajwala v. Union of India***, 2026 SCC Online SC 1053

1. Guidelines on Rehabilitation as Laid Down in *Prajwala v. Union of India*, 2026 SCC Online SC 1053

Stage	Guideline
Pre-Rescue	providing proper training to the officials forming part of the rescue team, particularly with respect to educating them on victim-appropriate behaviour, non-coercive rescue methodologies, HIV sensitivity etc.;
	ending the practice of unplanned and publicised 'mass raids' as the default method of rescue;

Rescue	the inclusion of female police officer(s) and female member(s) of NGOs in the rescue efforts;
	assigning criminal liability on erring police officials who treat the victims akin to criminals or who commit any misdemeanours or offences in the course of the rescue and during the post-rescue period;
	rescue of all women/girls from the brothel along with their children (if any);
	ensuring that the rescue team helps the victim in recovering her belongings, identity documents, etc., during the time of rescue;
	ensuring that the children of the trafficked victim(s) are also located and placed in safe custody along with their mothers;
	ensuring that the victims and perpetrators are separated from each other at the place of rescue itself and are thereafter not placed together for any reason, including at the police station;
Post-rescue	ensuring that police stations meet the minimum standards required for the reception of victims, like provision of drinking water and toilet facilities, safe space to sit, access to translators, etc.;
	providing adequate training to police officers about the relevant provisions of the multiple laws which would cover the offences committed by the perpetrators, media training to ensure confidentiality, etc.;
	transferring the victims from the police station to the protective homes at the earliest;
	deferring the recording of the victim's statement until after her safety is ensured and her initial trauma is overcome;
	providing psychological and counselling support to the victim at all times to ensure that no statement is taken and no examination is done without her consent;
	ensuring that victims are not isolated for any reason, even for recording their statements and that they are always accompanied by a female police officer or NGO worker;
	ensuring that age verification is done through scientifically approved procedures;
	producing a rescued child before the CWC immediately in accordance with the JJ Act without retaining her at the police station for production before a court of law;
	securing the privacy of the victim and ensuring that her identity is kept confidential at all stages;

Rehabilitation	extending protection to victims themselves and their family members (wherever necessary) throughout the period of their stay at the protective homes and/or trial due to the persistent risk of attack or interference from the traffickers;
	creating sufficient capacity at rehabilitation homes to accommodate all victims needing care and protection;
	making the protective home victim-friendly in terms of both its social and physical environment including adequately trained and sensitive staff, necessary infrastructure etc.;
	providing immediate psychiatric counselling and medical care including emergent trauma care, deaddiction and de-toxification support etc., along with mandating visiting physicians and gynaecologists to check on the victims at the protective homes at regular intervals;
	providing access, with the informed consent of the victim, to HIV/AIDS management including the management of opportunistic infections, prevention of mother-to-child transmission in case of a pregnant positive victim, free access to anti-retroviral drugs etc.;
	providing adequate material items like clothing, toiletries etc., to victims at the protective homes and ensuring adequate budgetary allocation for the same;
	ensuring transparency in the functioning of the protective homes and putting in place a system for social audit;
	installing safeguarding measures in the protective homes to prevent intrusion by the traffickers and ensuring supervised visitation of the victims by outsiders;
	providing basic education and life skills to the victims through both formal and non-formal systems;
	ensuring access to learning livelihood skills that are suitable in the contemporary job market, keeping in mind the aptitude and ability of the individual victims;
	safeguarding the right to information of all victims by obligating the counselor in all protective homes to provide all information including those regarding legal recourse, entitlement to welfare measures etc.;
Prosecution/ Trial	provision of free and professional legal aid to the victims;
	sensitising all judicial officers and prosecutors on victim-appropriate behaviour and court procedures;
	involving a trained NGO worker or a PLV at all stages of judicial proceedings to counsel and support the victim;

2. Legal Framework

i. The Immoral Traffic (Prevention) Act,

- **Section 17 (Intermediate Custody, Inquiry, and Placement):** When a magistrate receives a rescued victim under Section 15 or 16, they must order intermediate custody in an established protective home or corrective institution (or safe custody with an approved social worker/NGO) who are specialized individual recognized by the court while an inquiry is conducted regarding the victim's age, antecedents, and family background.
- **Section 17(5):** On completion of the inquiry, if the Magistrate is satisfied that the person needs care and protection, an order can be passed to detain them in a protective home or corrective institution for a period of **not less than 1 year and not more than 3 years**.
- **Section 17A (Restoration & Discharge):** Allows the Magistrate, after suitable verification of the victim's safety and home conditions, to release or restore the rescued victim to their parents, legal guardian, or husband upon execution of a bond.
- **Section 19 (Voluntary Application for Protection/Rehabilitation):** Enables any person who is engaged in, or being forced into, commercial sexual exploitation to voluntarily apply to a Magistrate to be kept in a protective home or corrective institution for their own safety and rehabilitation.
- **Section 21 (Establishment and Maintenance of Protective Homes):** Mandates and empowers the State Government to establish and license **Protective Homes** and **Corrective Institutions** with adequate facilities, vocational training, and social staff for the rehabilitation of victims.

ii. Penal Laws (BNS 2023 / IPC 1860)

- **Bonded Labour System (Abolition) Act, 1976:** Provides immediate financial assistance, debt cancellation, and land/livelihood restoration for victims of labor trafficking and debt bondage.
- **Section 396 of Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023** *(formerly Section 357A, CrPC)*: Mandates that every State Government construct a **Victim Compensation Scheme**.
- Empowers the Legal Services Authority (DLSA/SLSA) or Trial Court to award interim or final compensation to victims of trafficking, irrespective of whether the trial ends in conviction or acquittal.

3. Initiatives by Central & Jharkhand State Government on Rehabilitation and Reintegration

i. NALSA Schemes:

- **NALSA (Victims of Trafficking and Commercial Sexual Exploitation) Scheme, 2015:** The scheme focuses on prevention, rescue, and rehabilitation, ensuring victims access legal assistance, compensation, and other welfare programs. It also emphasizes protection of victims' dignity and social inclusion.
- **NALSA's Compensation Scheme for Women Victims/Survivors of Sexual Assault/ Other Crimes (2018):** Establishes standardized minimum compensation amounts for female trafficking survivors.

ii. Shakti Sadan Scheme

Under the Ministry of Women and Child Development (MWCD), the erstwhile schemes of Swadhar Greh and Ujjawala have been merged into the Shakti Sadan Scheme under the Samarthya sub-scheme of Mission Shakti. It functions as an integrated relief and rehabilitation home providing safe shelter, counseling, and vocational training for women in distress, including trafficked women, and thereby gives them the strength to overcome their difficult circumstances and make a fresh start.

Institutional Care under Shakti Sadan

Institutional Care serves as the immediate-to-medium-term protective and corrective intervention. It provides a properly structured, safe residential environment for rescued trafficked survivors and women in severe distress.

- **Core Objectives:** This scheme primarily focuses on immediate security, crisis intervention, medical stabilization, and basic needs (food, clothing, shelter, legal guidance, and psycho-social counseling).
- **Capacities & Operations:** Standard home capacity is designed for 30 residents per unit (scalable to 50 or 100 in high-demand or metro districts).
- **Time-Bound Framework:**
    1. Designed as a temporary refuge rather than permanent custodial living.
    2. Trafficked survivors and women in distress can typically stay up to **3 years**.
    3. Older women (above 55) may be housed for up to **5 years** before transitioning to specialized elder-care institutions.
    4. Accompanying children are allowed (girls up to 18 years, boys up to 12 years).
- **Services Provided Inside the Institution:**
    1. *Medical Care & Counseling:* Psychiatric care, STI/HIV testing, and trauma-informed mental health support.

2. *Legal Aid & Documentation:* Free legal representation for court trials via District Legal Services Authorities (DLSA), aiding statement recording under Section 164 CrPC/BNSS.

3. *In-House Skill Development:* Vocational training (e.g., tailoring, handicrafts, digital literacy, computer operation) run in convergence with local skill training institutes.

iii. Ujjawala Scheme:

In the year 2021, **the Ministry of Women and Child Development** implemented the 'Ujjawala' scheme, which is a comprehensive scheme for prevention of trafficking and rescue, rehabilitation, reintegration and repatriation of victims of trafficking for commercial sexual exploitation.

The objectives of the scheme include:

(i) providing rehabilitation services, both immediate and long-term, to the victims by providing basic amenities/needs such as shelter, food, clothing, medical treatment including counseling, legal aid and guidance and vocational training, and

(ii) facilitating reintegration of the victims into the family and society at large. Under the 'Rehabilitation' component of the scheme, a grant is provided for setting up Ujjawala Homes on rent, staff, food, medical care, legal aid, education and vocational training. Under the 'Reintegration' component, a grant is provided for setting up half-way homes, seed money and follow-up visits.

A half-way home is a home within the community, where a group of victims, ready for reintegration, live and work out of. This is to facilitate a smooth transition from life in a shelter home to independent living in the community. A half-way home is for a group of victims who are gainfully employed and can live semi-independently with minimum supervision. This is a phased approach to reintegration into the community.

(iii) Under the Scheme, the implementing organization makes arrangements to provide vocational training to women through the Vocational Training Institutes recognized by the Directorate General of Employment and Training under the Ministry of Labour and Employment. Training and examination fees are reimbursed on submission of the certificate issued by the vocational training institute on successful completion of training.

iv. Jharkhand Victim Compensation Scheme (JVCS) & JHALSA Directives

Framed under Section 357A CrPC (now Section 396 BNSS), the Jharkhand Victim Compensation Scheme sets specific financial compensation slabs for trafficked survivors:

- Compensation Slabs: Provides a dedicated schedule for the *Rehabilitation of Victims of Human Trafficking*.
- Implementation Node: Administered by the Jharkhand State Legal Services Authority (JHALSA) through District Legal Services Authorities (DLSAs).

- Interim & Final Aid: DLSAs in Jharkhand are mandated to process interim financial relief directly into survivor accounts to cover immediate medical, psychological, and survival needs without waiting for trial completion.

v. Project SAHYOG (JHALSA Intervention for Women & Child Victims)

Initiated by the High Court of Jharkhand and JHALSA, **Project SAHYOG** is a state-level legal-welfare intervention aimed specifically at women and girl survivors of crimes, including human trafficking:

- **Free Legal Aid & Counseling:** Connects survivors directly with panel lawyers, clinical psychologists, and psychiatrists across all 24 districts.
- **Single-Window Welfare Convergence:** DLSAs act as nodal agencies to ensure trafficked survivors are enrolled in state welfare schemes, receive identity documentation (Aadhaar, Ration Card), and get assistance applying for the Jharkhand Victim Compensation Scheme.
- **Reintegration Tracking:** Sub-Divisional Legal Services Committees track survivors after rescue to ensure they are not re-trafficked or ostracized.

vi. Minimum Standards of Care in Shelter Homes (NHRC & MWCD Standards)

Frameworks like the Ministry of Women and Child Development (MWCD) and National Human Rights Commission (NHRC) protocols (closely aligned with schemes like Ujjawala), focus on restoring physical, mental, and social well-being. This process moves survivors from safe housing to complete, independent inclusion in society. Some of its key features include:

- **Infrastructure & Security:** It lays down standards for physical safety, hygiene, sanitation, and freedom of movement (avoiding shelter homes operating like quasi-prisons).
- **Psychosocial & Medical Support:** it gives importance to mental health, Mandatory trauma-informed counseling, mental health evaluations, legal aid access, and regular medical screening (including testing and treatment for STIs/HIV without stigma or coercive disclosure), to address acute distress.
- **Customized Care Plans:** Individual Rehabilitation Plans (IRP) formulated in consultation with the victim, social workers, and child welfare committees (for minors).
- Guidance, representation, and protection through legal proceedings without making support conditional on testimony.
- **Skill Development:** Market-linked vocational training and educational support to ensure financial independence.

✶ Dr. P.M. Nair's landmark NHRC *Action Research on Human Trafficking in India* explains Rescue (Victim-Centric Action): Rescue is an act of extrication and protection. It treats the trafficked person purely as a victim of a crime who has been deprived of liberty, exploited, and subjected to severe human rights violations. The sole objective of a rescue operation is to remove the person from a situation of harm, secure their safety, and restore their fundamental rights.

Reintegration Steps:

- Family Tracing & Assessment: Safe verification of family/community environments before attempting restoration.
- Social Restoration: Preparing the survivor and community through sensitization to prevent social stigma and secondary victimization.
- Follow-up Monitoring: Post-release tracking by social workers to ensure safety, economic stability, and prevent re-trafficking.

Long-Term Reintegration Protocols:

Reintegration under the MHA SOP focuses on safe home transition, social inclusion, and sustainable livelihoods:

Mandatory Home Verification (Preventing Re-Trafficking):

- Rescued individuals cannot simply be handed over to claiming family members without verification.
- The SOP aligns with Section 17A of ITPA, requiring a mandatory Pre-Release Social Investigation Report (SIR) conducted by Probation Officers, Social Workers, or local Police to ensure the home environment is safe and that family members were not complicit in the trafficking.

Inter-State Coordination & Cross-Border Repatriation:

- **Inter-State Victims:** MHA SOP specifies protocols for cross-border or inter-state victims involving Anti-Human Trafficking Units (AHTUs) in both the source and destination states. The destination state AHTU must coordinate with the home state AHTU for escort, safe transportation, and local hand-off.
- **Foreign Nationals (e.g., Bangladesh, Nepal):** MHA directives mandate that foreign victims are not to be treated or prosecuted as illegal immigrants under the Foreigners Act. They must be afforded victim status, given diplomatic/consular access via MHA and MEA, and safely repatriated using established bilateral MoUs and standard repatriation protocols.

Multi-Agency Convergence for Socio-Economic Support:

The SOP mandates that AHTUs act as convergence hubs, linking survivors with:

- **Vocational Skill Development Programs** (Skill India Mission, NRLM/NULM).
- **Social Security Schemes** (ration cards, Aadhaar registration, housing schemes, educational enrollment for children).
- **Legal Aid**: It ensures free legal representation through DLSA for trial testimony.

vii. Community-Based Rehabilitation (CBR) & Reintegration

While Institutional Care provides safety, Community-Based Rehabilitation (CBR) forms the exit strategy. Mission Shakti explicitly cautions against “institutional dependence,” framing Shakti Sadan as a bridge back to independent community living.

Core Objectives: De-institutionalization, social reintegration, economic self-reliance, and prevention of re-trafficking.

Key Components of CBR under Mission Shakti:

1. **Pre-Release Verification & Family Reunification:** Conducting Social Investigation Reports (SIR) and background checks to ensure the survivor's home environment is safe and that family members were not involved in the trafficking ring (aligning with Section 17A of ITPA).
2. **Inter-Departmental Convergence:** CBR relies on linking the survivor directly with state welfare schemes outside the shelter home:
    - *Financial Inclusivity:* Opening independent bank accounts, obtaining Aadhaar/ration cards, and accessing micro-credit.
    - *Economic Empowerment:* Linking survivors to PM-KVY (Pradhan Mantri Kaushal Vikas Yojana), NRLM/NULM (National Livelihoods Mission), and local Self-Help Groups (SHGs) to sustain employment or micro-entrepreneurship.
    - *Housing & Social Security:* Assistance through government housing schemes (e.g., PMAY) or subsidized group housing for survivors transitioning out of Shakti Sadan.

viii. Project Vatsalya

It is a centrally sponsored scheme by the Government of India's Ministry of Women and Child Development aimed at ensuring child protection, welfare, and rehabilitation. For the overall development of Street Children and saving them from the menace of Drug abuse. These children are most vulnerable to all kinds of misfortunes such as human trafficking, organ trafficking, drug abuse, crime, etc., or abuses that include bonded labour, sexual abuse, torture, etc. It shall be effective in the State of Jharkhand and shall guide the District Legal Services Authorities of Jharkhand in their action on the Project. Some of its key **objectives** include:

- Street Children Mapping
- Linkage with Sponsorship/Foster Care Schemes
- Counselling and treatment at Central Institute of Psychiatry (CIP)/Ranchi Institute of Neuro Psychiatry and Allied Science (RINPAS)/ National Institute of Mental Health and Neuro-Sciences (NIMHANS) for de-addiction.
- Admission of such children in Government Schools (preferably Government Residential Schools)
- Individual Child Care Plan
- Proper monitoring till rehabilitation of such children is complete.

ix. MHA SOP on Combating Human Trafficking

While the Ministry of Women and Child Development (MWCD) handles welfare schemes (such as *Mission Shakti / Shakti Sadan*), the MHA SOP governs the legal, procedural, and inter-agency execution of Rehabilitation and Reintegration.

1. Immediate (Post-Rescue) Rehabilitation Directives

The MHA SOP mandates that rehabilitation begins in the **"Golden Hours"** immediately following a rescue operation:

- **Non-Custodial Shelter & Safe Accommodation:**
  - ✓ Rescued survivors must never be kept overnight in police lockups or police stations.
  - ✓ Police are directed to immediately transfer survivors to designated Government Shelter Homes (or NGO-run protective homes licensed under Section 21 ITPA). If none are available, temporary custody must be provided in a "Place of Safety" with female security.
- **Separation from Perpetrators:**
  - ✓ The SOP explicitly mandates separation by *"Sight and Sound,"* ensuring victims are transported and housed completely isolated from accused traffickers, brothel owners, or agents to prevent witness intimidation and secondary trauma.
- **Medical First Aid & Trauma-Informed Counseling:**
  - ✓ Mandatory immediate medical evaluations conducted by qualified medical professionals (by female doctors for female survivors).
  - ✓ Police and AHTUs are required to involve trained psychological counselors and local Child Welfare Committees (CWCs for minors) or District Legal Services Authorities (DLSAs for adults) prior to or during initial statement recording.

2. Financial Rehabilitation & Interim Compensation Protocols

The MHA SOP links police investigation directly with financial remedies to protect survivors from economic desperation and re-trafficking:

- **Interim Victim Compensation (7-Day Requirement):**
  - ✓ The SOP directs law enforcement and AHTUs to file compensation applications through the District Legal Services Authority (DLSA) under the State Victim Compensation Scheme / NALSA scheme.
  - ✓ It mandates that interim compensation should be processed rapidly (ideally within 7 days of rescue) to address urgent survival, medical, and legal needs.
- **Recovery of Back-Wages & Property:**

- ✓ In cases involving forced labour or bonded labour, the SOP instructs Investigating Officers (IOs) to work alongside District Collectors/ Magistrates to calculate unpaid back wages under labour laws (e.g., Minimum Wages Act, Bonded Labour System Abolition Act) as part of the victim's financial recovery.

- **Financial Asset Seizure of Traffickers:**
  - ✓ IOs are encouraged to conduct parallel financial investigations under criminal law to seize the illegal proceeds of crime and assets of trafficking syndicates, which can ultimately be channelled into victim restitution funds.

3. **Peer Support Networks & Survivor Leadership:**

Encouraging community watch groups and survivor-led collectives (such as *Nari Adalats* under Mission Shakti's *Sambal* sub-scheme) to reduce social stigma, monitor reintegration, and act as community vigilance against traffickers.

4. Gaps & Practical Challenges

- **Over-Institutionalisation:** Those Protective homes (*Shakti Sadan* / ITPA Protective Homes) frequently function as *"custodial" facilities* rather than transitional sanctuaries. Survivors often face restricted liberty, prolonged detention without consent, inadequate mental health services, and a lack of clear exit strategies. This creates institutional dependency and hampers genuine social reintegration.
- **Delay in Compensation Allocation:** Despite legal mandates under CrPC / BNSS and NALSA schemes, survivors face severe administrative blockages. Delays stem from state budget shortfalls in State Legal Services Authorities (SLSAs), burdensome documentation requirements (e.g., compulsory FIR/chargesheet copies), and a lack of inter-state coordination when a victim is trafficked across state borders.
- **Cross-Border Hurdles:** Trafficking across permeable borders (e.g., Nepal, Bangladesh) or overseas involves complex diplomatic, legal, and bureaucratic friction. Foreign victims are often misidentified or charged as illegal immigrants under the Foreigners Act rather than treated as victims. Inconsistent consular access, language barriers, and protracted repatriation procedures further delay recovery and justice.

5. Recommendations & Policy Roadmap: Survivor-Centric

- **Shift from Retributive to Restorative Justice:** Transition the legal framework from merely focusing on prosecuting the offender to restoring the victim's autonomy, dignity, and socio-economic status.
- **De-Institutionalisation & Community-Based Rehabilitation (CBR):** Limit shelter stays to short-term crisis stabilization and shift focus toward Group Independent

Living (GIL), family reunification, and community integration supported by social security networks.

- **Time-Bound, Single-Window Compensation:** Empower DLSAs as direct single-window nodes to disburse interim compensation rapidly, uncoupling compensation from trial length or conviction outcomes.
- **Standardized Cross-Border Protocols:** Enforce strict adherence to MHA/MEA Standard Operating Procedures to ensure that foreign victims receive non-penal treatment, immediate consular aid, and safe, dignified repatriation.

IX. Judicial Directions on Human Trafficking

Human trafficking reaches the courts in many forms: a child in a brick kiln, a girl traced to a placement agency, a bride sold across districts, a newborn missing from a hospital, a labourer held against an unrepayable advance. Each is a manifestation of a single wrong: the reduction of a person to a thing that may be moved, held and used for another's gain.

The constitutional courts have largely shaped the response. Non-governmental organisations, victims and their families, public-spirited citizens, and, at times, the States themselves have brought these matters before the Supreme Court of India and the various High Courts. Confronted with executive machinery that was absent or inert, the courts have gone beyond the dispute before them and issued directions of general application.

Those directions bind, but lie scattered across four decades of law reports and buried within long judgments. This chapter collects them, arranged not by case or by date but by the authority to whom each direction is addressed, so that an officer may find under one head the whole of what is required of that office.

The cases are indexed below.

Child Labour, Child Marriage and Missing Child

Case	Citation
Bachpan Bachao Andolan v. Union of India	(2011) 5 SCC 1
Bachpan Bachao Andolan v. Union of India	(2014) 16 SCC 616
Exploitation of Children in Orphanages, In re	(2017) 7 SCC 578
G. Ganesh v. State of Tamil Nadu	SLP (Crl.) No. 11263 of 2025, order dated 05.08.2026
Hori Lal v. Commissioner of Police, Delhi	2002 SCC OnLine SC 37
In Re Children in Street Situations	2022 SCC OnLine SC 189
Pinki v. State of Uttar Pradesh	(2025) 7 SCC 314
Society for Enlightenment and Voluntary Action v. Union of India	2024 SCC OnLine SC 2922
Babli Gupta v. State (NCT of Delhi)	2026 SCC OnLine Del 3432
Chandramuni Urain v. Director General of Police	2026 SCC OnLine Jhar 238

Sexual Exploitation

Case	Citation
Budhadev Karmaskar v. State of West Bengal	(2011) 11 SCC 538
Budhadev Karmaskar v. State of West Bengal	(2011) 10 SCC 283
Guria Swayam Sevi Sansthan v. Satyabhama	(2018) 13 SCC 387

Prajwala v. Union of India	2026 SCC OnLine SC 1053
State of Maharashtra v. Praful B. Desai	(2003) 4 SCC 601
Vishal Jeet v. Union of India	(1990) 3 SCC 318

Bonded Labour

Case	Citation
Bandhua Mukti Morcha v. Union of India	(1984) 3 SCC 161
Neerja Chaudhary v. State of Madhya Pradesh	(1984) 3 SCC 243
P. Sivaswamy v. State of Andhra Pradesh	(1988) 4 SCC 466
People's Union for Civil Liberties v. State of Tamil Nadu	(2013) 1 SCC 585
Santhal Pargana Antyodaya Ashram v. State of Bihar	1986 SCC OnLine SC 565
Selvakumar v. Manjula	(2022) 17 SCC 354
Umashankar Yadav v. State of Uttar Pradesh	2025 SCC OnLine SC 1066

1. Child Marriage, Child Labour and Missing Children

A child is ordinarily missing before she is trafficked, and trafficked before she is exploited. The directions in this Part proceed from that sequence. They require registration of a First Information Report upon information of any missing person, an initial presumption of abduction or trafficking in every case of a missing child, and immediate follow-up investigation. From there, they move outward to the prevention of child marriage and the accountability of those who solemnise it, the registration and inspection of child care institutions, the education and rehabilitation of rescued children, the disclosure of Aadhaar particulars to trace a victim, the protection of the child witness, and the caution to be exercised in granting bail.

A. Directions to the Union and State Governments

Addressees: *Ministries of Home Affairs, Women and Child Development, Education, and Health and Family Welfare, Government of India; Chief Secretaries and Principal Secretaries of the States and Union Territories; Directors General of Police.*

Prosecution and protection of victims

Pinki v. State of Uttar Pradesh, (2025) 7 SCC 314

1. The State Government shall appoint three special public prosecutors well versed in criminal trials, at the earliest, for the purpose of conducting the trafficking trials. ***para 84(5)***

2. The State Government shall provide police protection to the victims and their families pending trial, at the earliest, so as to prevent tampering of evidence. ***para 84(6)***

Prevention of child marriage

Society for Enlightenment and Voluntary Action v. Union of India, 2024 SCC OnLine SC 2922

3. The Union Government, in coordination with the State Governments, is directed to assess the feasibility of establishing special fast-track courts exclusively to handle cases under the Prohibition of Child Marriage Act, 2006 (*law prohibiting the solemnisation of child marriages, providing for injunctions, penalties and the appointment of Child Marriage Prohibition Officers*), so as to expedite proceedings and prevent prolonged delays that cause additional harm to affected children. ***Direction B.2.1***

4. State Governments and Union Territories must appoint officers solely responsible for discharging the functions of the Child Marriage Prohibition Officer at the district level, and such officers shall not be burdened with additional duties that could impede their focus on preventing child marriage. ***Direction A.1.1***

5. Each State and Union Territory is directed to upload quarterly reports from Child Marriage Prohibition Officers on their official websites, detailing the steps taken to prevent child marriages and the outcomes of investigations, so as to enable personal accountability and immediate preventive measures. ***Direction A.1.3***

6. The State Ministries of Home Affairs shall consider the viability of integrating the Special Juvenile Police Unit into the child marriage prevention framework, and the Special Juvenile Police Unit, already trained in handling juvenile and sensitive cases, shall be deployed to manage cases of child marriage. ***Direction A.3.1***

7. The State Governments and Union Territories shall constitute a State Special Child Marriage Prohibition Unit and, where there is more than one Child Marriage Prohibition Officer in any district, a District-level Special Child Marriage Prohibition Unit. ***Direction A.4.1***

Registration, inspection and care of children in child care institutions

Exploitation of Children in Orphanages, In re, (2017) 7 SCC 578

8. The Union Government and the Governments of the States and Union Territories shall ensure that the registration of all child care institutions is completed and the entire data confirmed and validated, and shall maintain a database of all children in need of care and protection, updated every month, keeping in mind the requirements of confidentiality and privacy. ***Direction 108.2***

9. The Governments of the States and Union Territories shall set up Inspection Committees, as required by the Juvenile Justice Act (*framework for the care, protection and rehabilitation of children in need of care and protection and children in conflict with law*) and the Model Rules, to conduct regular inspections of child care institutions and to prepare reports of such inspections, so that the living conditions of children in these institutions undergo positive change. ***Direction 108.6***

10. State authorities must develop and implement Individual Care Plans for at-risk girl children, ensuring compliance with Section 10 of the Juvenile Justice Act (*governs apprehension of a child alleged to be in conflict with law and requires placement in the charge of the Special Juvenile Police Unit or the Child Welfare Police Officer, and production before the Juvenile Justice Board within twenty-four hours*), and shall ensure that an individual care plan is prepared for every child in each child care institution, the preparation of such plans being a continuing process that must be initiated immediately. ***Direction 108.7***, restated in ***Society for Enlightenment and Voluntary Action (supra), Direction G.3.1***

11. The Governments of the States and Union Territories shall ensure the training of personnel required by the Juvenile Justice Act and the Model Rules, availing of the police academies, judicial academies and national-level bodies such as the Bureau of Police Research and Development and the National Judicial Academy, and preparing training modules at the earliest. ***Direction 108.9***

Education, rehabilitation and social reintegration of children

Pinki (supra), para 84(8); ***Exploitation of Children in Orphanages (supra),*** Directions 108.5 and 108.10

12. The State Governments and Union Territories shall ensure that trafficked children are admitted in schools in accordance with the Right of Children to Free and Compulsory Education Act, 2009 (*mandates free and compulsory elementary education for every child between six and fourteen years, including admission of a child not admitted or unable to complete elementary education to an age-appropriate class*), and shall continue to support their education; and

shall concentrate on their rehabilitation and social reintegration, availing of Government schemes for skill development and vocational training. Since not every child in need of care and protection needs to be placed in a child care institution, the Governments shall seriously consider deinstitutionalisation as a viable alternative, including adoption and foster care.

Implementation of the BIRD report

Pinki (supra), paras 84(10) and 84(11)

13. All State Governments and Union Territories are directed to study the report of the Bharatiya Institute of Research and Development dated 12.04.2023 and to start implementing each of its recommendations by working out appropriate modalities in that regard.

> ***What the BIRD report contains.*** The National Human Rights Commission entrusted a study on human trafficking to the Bharatiya Institute of Research and Development, New Delhi, and the report submitted on 12.04.2023 is extracted in the judgment. Its findings record that a large proportion of missing persons, most of them women and girls, are never traced and are drawn into sexual exploitation; that most victims belong to the poorest households and are recruited by persons known to them, including friends, relatives, brokers and placement agents; that re-trafficking is common; that victims are frequently denied State services for want of proof of identity; and that compensation rarely reaches them, fewer than one hundred trafficking victims having been awarded compensation across the country between 2012 and 2019. On enforcement, the report records that most Anti-Human Trafficking Units exist only on paper and are under-resourced and untrained, that most cases of trafficking go unregistered, and that the conviction rate fell from 42.4 per cent in 2017 to 20 per cent in 2019, the principal reasons being hostile witnesses, poor evidence, defective charge sheets and easy bail to traffickers. Its recommendations include treating every missing child as a case of abduction or trafficking until proved otherwise; establishing an Anti-Human Trafficking Bureau in every State capital and a dedicated, non-designated Anti-Human Trafficking Unit in every district; capacity building and gender sensitisation of police officers, prosecutors and labour officials; registration of a First Information Report in every case of child labour; investigation resting on material, medical, digital and forensic evidence rather than on statements alone; child-friendly courts and recording of victim testimony through video conferencing; strict compliance with rescue protocols; constitution of Child Welfare Committees in every district; maintenance of a district-level database of language interpreters; and freezing and forfeiture of the assets of traffickers.

Disclosure of Aadhaar particulars and treatment of inter-State migrants

Chandramuni Urain v. Director General of Police, 2026 SCC OnLine Jhar 238

14. The Home Secretary, Government of Jharkhand, and the Director General of Police are called upon to prepare a Standard Operating Procedure on how to deal with outsiders coming into the State of Jharkhand to earn their livelihood. ***Para 17***

15. The Ministry of Home Affairs, Union of India, is called upon to furnish its suggestions on the manner of dealing with the disclosure of Aadhaar particulars in trafficking cases, the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 (*central*

legislation governing the Aadhaar architecture, Section 33 of which permits disclosure of identity information only pursuant to an order of a court not inferior to that of a High Court Judge or on a direction in the interest of national security) being a central legislation. ***Para 18***

B. Directions to the District Administration including the Police Department

Addressees: *District Collectors and District Magistrates; Superintendents of Police; Station House Officers; Investigating Officers; Special Investigation Teams; Anti-Human Trafficking Units; Special Juvenile Police Units.*

Prevention of child marriage in the district

Society for Enlightenment and Voluntary Action (supra), Directions A.2.1 and A.2.3

1. In addition to the mandate of the Child Marriage Prohibition Officer under Section 16(3)(a) of the Prohibition of Child Marriage Act, 2006 (*casts on the Officer the duty to prevent solemnisation of child marriages, including by taking action to prevent such marriages*), the Collector and the Superintendent of Police in each district across India shall be responsible for actively preventing child marriages within their districts, and shall have the authority and responsibility to prosecute all individuals who facilitate or solemnise child marriages, including those who knowingly assist, promote or bless such marriages, even if reported in public events or media. Specific emphasis must be placed on preventing mass marriages, often conducted in public, where the participation of government or law enforcement officials could inadvertently lend legitimacy to child marriage ceremonies.

Missing children: registration of FIR and presumption of trafficking

Bachpan Bachao Andolan v. Union of India, (2014) 16 SCC 616, restated in ***Pinki (supra),*** para 30, and in ***G. Ganesh v. State of Tamil Nadu,*** SLP (Crl.) No. 11263 of 2025, order dated 05.08.2026

2. Every complaint or information regarding a missing person, of whatever age or gender and not confined to children, shall be reduced into a First Information Report under Section 154 of the Code of Criminal Procedure [Section 173 of the Bharatiya Nagarik Suraksha Sanhita, 2023] (*makes registration of a First Information Report obligatory on information disclosing a cognisable offence*), and follow-up investigation shall be taken up immediately thereafter. In every case of a missing child, there shall be an initial presumption of either abduction or trafficking, unless in the investigation the same is proved otherwise.

   Even in respect of complaints made otherwise with regard to a child which may come within the scope of Section 155 of the Code of Criminal Procedure [Section 174 of the Bharatiya Nagarik Suraksha Sanhita, 2023] (*procedure in non-cognisable cases, requiring an entry in the prescribed book, reference of the informant to the Magistrate, and investigation only on the order of the Magistrate*), the police shall make an entry in the book maintained for the purposes of that section, refer the information to the Magistrate concerned, and continue with the inquiry into the complaint.

Tracing and rescue of missing children

Hori Lal v. Commissioner of Police, Delhi, 2002 SCC OnLine SC 37

3. Upon receipt of a complaint regarding a missing or kidnapped minor, the Investigating Officer in every State shall give the photograph of the missing person wide publicity in the newspapers, on television, and at prominent outlets such as railway stations, inter-State bus stands, airports, the regional passport office and border check-posts, promptly, and in any case not later than one week of the receipt of the complaint, save that in the case of a minor or major girl such photograph shall not be published without the written consent of the parents or guardians. The Investigating Officer shall also make immediate inquiries in the neighbourhood, at the place of work or study, and among the friends, colleagues, acquaintances, relatives, teachers and recent employer of the missing person, examining all clues from her papers and belongings, including any past incidents or reports of violence in the family. ***para 11***

4. The Investigating Officer shall thereafter diligently follow up and examine the records requested from the parents; search hospitals and mortuaries immediately on receipt of the complaint; announce any reward for clues within one month of the disappearance; issue hue-and-cry notices within one month; and conduct the investigation through women police officers as far as possible. The Commissioner of Police or the Deputy Inspector General or Inspector General concerned shall examine the feasibility of establishing a multi-task force for locating missing girl children and women. In the metropolitan cities, the Investigating Officer shall immediately verify the red-light areas to trace missing minor girls, and on finding any minor girl, shall, ***with her permission***, place her in a children's home under the Juvenile Justice (Care and Protection of Children) Act and ensure that all medical and other facilities are provided to her. ***para 12***

> ***Note.*** The stipulation requiring the minor's "permission" must be treated as legally obsolete and omitted in practice. Under the Juvenile Justice (Care and Protection of Children) Act, 2015, a minor's consent is immaterial; the police are statutorily bound to rescue the child and to produce her before the Child Welfare Committee within twenty-four hours under Section 31 (*production of a child in need of care and protection before the Committee*) for protective placement. The requirement of consent survives only in relation to an adult, and is dealt with in Part II *(which deals with Sexual Exploitation)* of this compilation.

Suo motu prevention of child marriage

Society for Enlightenment and Voluntary Action (supra), Directions B.1.1 and B.1.2

5. All Magistrates vested with authority under Section 13 of the Prohibition of Child Marriage Act, 2006 (*empowers a Judicial Magistrate of the first class to issue an injunction, including ex parte and suo motu on the basis of information received, prohibiting a child marriage, breach of which renders the marriage void ab initio*) are directed to take proactive measures, including issuing suo motu injunctions to prevent the solemnisation of child marriages, and are encouraged to focus particularly on 'auspicious days' known for mass weddings, when the occurrence of child marriages is notably high. Upon receiving credible information or even upon suspicion, Magistrates should use their judicial powers to halt such marriages and ensure child protection.

Rescue from circuses and restoration to parents

Bachpan Bachao Andolan v. Union of India, (2011) 5 SCC 1, paras 64(ii) and 64(iii)

6. The police and investigating agencies are directed to conduct simultaneous raids in all the circuses to liberate the children and to check the violation of the fundamental rights of children, the rescued children being kept in Care and Protective Homes till they attain the age of 18 years; and to talk to the parents of the children, and in case they are willing to take their children back to their homes, they may be directed to do so after proper verification.

Protection of the child witness during the recording of evidence

In Re Children in Street Situations, 2022 SCC OnLine SC 189, SOP clause 7

7. A police officer shall be present at the remote point during the recording of the testimony of a child witness through video conferencing, to ensure that the child witness does not come in contact with the accused, if out on bail, or any relative of the accused.

C. Directions to Trial Courts and Magistrates

Addressees: *Sessions Judges; Chief Judicial Magistrates; Additional Chief Judicial Magistrates; Judicial Magistrates of the first class trying trafficking, POCSO or child marriage cases.*

Recording of child testimony through video conferencing

In Re Children in Street Situations, 2022 SCC OnLine SC 189

1. The testimony of children who are victims of inter-State or inter-district child trafficking is to be recorded through video conferencing, either at the video conferencing room of the court complex in the district, or the vulnerable witness room in the court complex of the district, or the office of the District Legal Services Authority in the district where the child is residing. Where both the Court Point and the Remote Point have video conferencing facilities, the trial court should ordinarily give preference to examination of the child witness through video conferencing. ***SOP clauses 1 and 4***

2. If video conferencing is feasible, the trial court shall fix a date and time for examination of the witness, and the authorised Officer at the Court Point may get in touch with the Remote Point Coordinator and work out all modalities for recording the statement. Summons may be issued to the child witness and served through the local process server at the remote point, mentioning the name and contact details of the Remote Point Coordinator and the availability of legal aid or other assistance through the Secretary, District Legal Services Authority. ***SOP clauses 5 and 6***

3. The child witness shall be entitled to the presence of a support person as defined in the Protection of Children from Sexual Offences Rules, 2020 (*Rule 2(1)(f) read with Rule 5(6)*

defines a support person as a person or organisation working in the field of child rights or child protection, an official of a children's home or shelter home having custody of the child, or a person employed by the District Child Protection Unit, assigned by the Child Welfare Committee to render assistance to the child through the process of investigation and trial), or any other applicable law; best practices for recording the evidence of child witnesses, including provision of diet money on the basis of the distance travelled to reach the remote point, shall continue to be followed during recording through video conferencing. ***SOP clause 7***

4. Copies of documents required to be marked or shown to the witness may be transmitted by the Court electronically to the Remote Point Coordinator. ***SOP clause 8***

5. Questions posed by the Public Prosecutor or Defence Counsel may be put to the learned Trial Judge, who in turn will put them to the witness, and the trial court would record the testimony of the witness. ***SOP clause 9***

6. On completion of recording of evidence, the deposition will be sent by the trial court on email to the Remote Point Coordinator, who shall take a print-out, read it out to the witness, certify it after the affixation of the child's thumb impression or signature, and send it back in a secure manner to the trial court by Speed Post and by electronic means as permitted by law, retaining an original. ***SOP clause 10***

7. Whenever a trial court proposes to record the testimony of a child witness residing in another State, intimation shall also be given to the Registrar of the High Court of the Court Point. ***SOP clause 11***

Compensation to victims

Pinki (supra), para 84(9)

8. At the end of the trial, the concerned trial court shall pass appropriate orders as regards compensation to the victims under the provisions of the Bharatiya Nagarik Suraksha Sanhita, 2023 (*Section 396 requires every State Government, in coordination with the Central Government, to prepare a scheme for a fund for compensation to victims or their dependents who have suffered loss or injury and who require rehabilitation, and empowers the Court to make a recommendation for compensation*), including the respective schemes of governments.

D. Directions to High Courts and their Registries

Addressees: *Chief Justices and Registrars of the High Courts; District Judges administering video-conferencing infrastructure in the districts.*

Monitoring of pending trafficking trials

Pinki (supra), para 84(12)

1. All High Courts across the country are directed to call for the necessary information as regards the status of pending trials relating to child trafficking; thereafter, a circular shall be issued on

the administrative side to all concerned trial courts to complete the trials within a period of six months from the date of the circular and, if need be, by conducting the trials on a day-to-day basis. Each High Court shall thereafter forward a report to the Supreme Court as regards compliance.

Video-conferencing infrastructure in the districts

In Re Children in Street Situations (supra)

2. The learned District Judges of all districts shall ascertain the availability of video conferencing facilities in the district or Taluk court complex or District Legal Services Authority office and communicate the same to the jurisdictional High Court, which is requested to place the said information on its website; efforts should be made to ensure that such video conferencing infrastructure is created in every district, especially in States where the incidence of child trafficking cases is high. ***SOP clause 2***

3. The High Courts may place on their websites the names and contact details of the Remote Point Coordinator of each district, along with the information regarding video conferencing facilities. ***SOP clause 3***

4. The Registrar of the High Court of the Court Point may intimate the Registrar of the High Court of the Remote Point with a request to render all assistance possible for recording the testimony of the child. ***SOP clause 11***

Aadhaar disclosure and the Juvenile Justice Committee

Chandramuni Urain (supra)

5. The power conferred upon the High Court under Section 33(1) of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 (*permits disclosure of identity information, including core biometric information, made pursuant to an order of a court not inferior to that of a Judge of a High Court*) is required to be exercised to enable disclosure of Aadhaar particulars to the investigating agency and for the purpose of doing substantive justice where the victim has remained traceless over a long period, the Aadhaar Card being one of the main sources of a clue to trace out a trafficked victim; in a case of trafficking, time is of the essence.

6. Each Juvenile Justice Committee of a High Court should consider establishing a small Secretariat for its assistance; and each State Government and Union Territory shall render assistance to the Juvenile Justice Committee of the High Court and cooperate and collaborate with it in this regard. ***Exploitation of Children in Orphanages (supra), Direction 108.12***

E. Directions to the National and State Commissions for protection of child rights

Addressees: *National Commission for Protection of Child Rights; State Commissions for Protection of Child Rights.*

Accountability for non-reporting of child marriages

Society for Enlightenment and Voluntary Action (supra), Directions G.1.4 and G.2.1.2

1. The National Commission for Protection of Child Rights is directed to expedite the process of drafting a Standard Operating Procedure to establish accountability for the non-reporting of child marriages, to provide rehabilitation for minor survivors, and to initiate prosecution procedures; suspected child marriages shall be reported within 48 hours of awareness to the relevant authorities.

Constitution, functioning and social audit

Exploitation of Children in Orphanages (supra)

2. Wherever a State Commission for Protection of Child Rights has not been established, or though established is not fully functional in the absence of a Chairperson or one or more Members, the Governments of the States and Union Territories shall fill up all vacancies with dedicated persons; and every State Commission so constituted shall publish an annual report of its activities. ***Direction 108.8***

3. A social audit of the management and functioning of child care institutions and other bodies under the Juvenile Justice Act shall be taken up in right earnest by the National Commission for Protection of Child Rights and by every State Commission for Protection of Child Rights, this being the best method of monitoring transparency and accountability. ***Direction 108.11***

F. Directions to Legal Services Authorities

Addressees: *National Legal Services Authority; State Legal Services Authorities; District Legal Services Authorities and their Secretaries.*

Standard Operating Procedure for Child Marriage Victims

Society for Enlightenment and Voluntary Action (supra), Direction G.1.1

1. The National Legal Services Authority is directed to formulate a Standard Operating Procedure providing comprehensive guidelines for legal-support services and long-term rehabilitation plans related to the prevention, protection and rehabilitation of victims of child marriage, for lawyers and law-enforcement officers, and is further directed to dispatch this Standard Operating Procedure to all State and District Legal Services Authorities where it may be used in assisting aggrieved victims.

> **Note:** The National Legal Services Authority has issued the NALSA (ASHA: Awareness, Support, Help and Action) Standard Operating Procedure Towards Eliminating Child Marriage, 2025, which provides for district-level ASHA Units convened by the Secretary of the District Legal Services Authority, free legal representation, counselling, shelter, rehabilitation through education and vocational training, and awareness camps.

The Remote Point Coordinator in trafficking trials

In Re Children in Street Situations (supra)

2. The Secretary, District Legal Services Authority of the district may be requested to be the Remote Point Coordinator for recording the testimony of child witnesses; however, if the Chairman of the District Legal Services Authority considers it necessary or desirable, they may appoint a retired judicial officer as Remote Point Coordinator. ***SOP clause 3***

3. The Remote Point Coordinator shall assist in the examination of the witness and ensure that no tutoring takes place and that no unauthorised person or recording device is present in the room, and shall take all measures possible, seeking the assistance of the support person, to ensure that the child witness is comfortable, including help with translation or the assistance of a translator or special educator if required. ***SOP clauses 8 and 9***

G. Directions to Hospitals and Hospital Administration

Addressees: *Public and private hospital managements; Chief Medical Officers; State health authorities responsible for hospital licensing.*

Pinki (supra), para 94

1. When any lady comes to deliver her baby in any hospital, it is the responsibility of the administration of the hospital to protect the newborn infant in all respects; and if any newborn infant is trafficked from any hospital, the immediate action against the hospital should be suspension of the licence to run the hospital, over and above other actions in accordance with law.

H. Consequences of Non-Compliance: Contempt and Disciplinary Action

Addressees: *All authorities receiving the directions collected above; constitutional courts monitoring compliance.*

Pinki (supra), para 84(13), reiterated in ***G. Ganesh v. State of Tamil Nadu,*** SLP (Crl.) No. 11263 of 2025, order dated 05.08.2026

1. If any State or Union Territory fails to comply with the order requiring registration of a First Information Report on receipt of information regarding any missing person, in its true letter and spirit, notice of contempt shall be issued to the concerned Chief Secretary and Director General of Police, who shall remain personally present before the Court and file their respective show-cause affidavits explaining why they should not be proceeded against and punished for their deliberate defiance and non-compliance.

Disciplinary action in child marriage cases

Society for Enlightenment and Voluntary Action (supra), Directions A.2.3 and B.3.1

2. Any failure by district authorities to act in accordance with the mandate on the prevention of child marriages, including mass marriages, will warrant immediate administrative action and disciplinary proceedings against the responsible officials; and strict disciplinary and legal action shall be taken against any public servant found to be in deliberate neglect of duty

concerning child marriage cases within their jurisdiction, public officials who fail to act in such cases, particularly those with knowledge of imminent marriages, being liable to stringent punishment under Section 199 of the Bharatiya Nyaya Sanhita, 2023 (*punishes a public servant who knowingly disobeys any direction of law as to the way he is to conduct himself as such public servant, intending thereby to cause injury to any person, with imprisonment which may extend to one year or with fine or with both*).

I. Suggestions addressed to the Legislature

Addressees: *Parliament of India; Law Commission of India; law-reform bodies.*

Society for Enlightenment and Voluntary Action (supra)

1. Parliament may consider outlawing child betrothals, which may be used to evade penalty under the Prohibition of Child Marriage Act, 2006; while a betrothed child may be protected as a child in need of care and protection under the Juvenile Justice Act, the practice also requires targeted remedies for its elimination.

J. Guidance to Courts Considering Bail in Child Trafficking Cases

Addressees: *Sessions Judges; High Court benches hearing applications for regular or anticipatory bail in trafficking cases.*

Conditions on the grant of bail

Pinki (supra), para 60

1. Courts shall not grant bail mechanically in organised child trafficking cases. When granting bail, the concerned Court shall impose a mandatory condition requiring each accused to mark their presence once a week at the concerned police station, thereby ensuring the police maintain strict surveillance over their movements and preventing the accused from absconding.

Factors supporting the refusal of anticipatory bail

Babli Gupta v. State (NCT of Delhi), 2026 SCC OnLine Del 3432, paras 12 to 14

2. Courts shall decline applications for anticipatory bail where the recovery of minor children has been effected pursuant to the disclosure statements of co-accused persons. Further, courts must refuse anticipatory bail and permit custodial interrogation where the financial trail is yet to be unearthed, investigations into layered financial transactions and proceeds of crime are ongoing, or where the biological parents of trafficked children remain untraced and detailed interrogation is necessary to identify and rescue further victims.

2. Sexual Exploitation

For over three decades, the Supreme Court has returned to this subject, and its emphasis has shifted decisively from eradicating a social evil to protecting a person. *Vishal Jeet* required the State to act; *Budhadev Karmaskar* required it to rehabilitate; *Prajwala* has now held rehabilitation to be an incident of the right guaranteed by Article 21 of the Constitution, read with Article 23, and has framed a binding Victim Protection Plan governing every stage from pre-rescue planning through rescue, post-rescue custody, inquiry, rehabilitation and repatriation to trial. This Part sets out the nine fundamental principles of that Plan and the directions flowing from it, together with the earlier directions that continue to operate alongside them.

> ***Note on the principal authority. Prajwala v. Union of India,*** 2026 SCC OnLine SC 1053, decided on 29.05.2026 by a Bench of J.B. Pardiwala and R. Mahadevan, JJ., is the source of the great majority of the directions in this Part. To avoid repeating the citation, it is cited in full at its first appearance in each head and thereafter as ***Prajwala (supra)***.

A. Fundamental Principles of the victim protection plan

Addressees: *All authorities and actors engaged in the rescue, care, protection and rehabilitation of victims of trafficking for commercial sexual exploitation, including the Central and State Governments, the police, magistrates, welfare institutions and civil society organisations.*

Prajwala v. Union of India, 2026 SCC OnLine SC 1053

1. ***Primacy of human rights and dignity:*** all measures shall be implemented in a manner that places the victim's human rights at the centre; no action taken in the name of care, protection or rehabilitation shall compromise the dignity of the victims or adversely affect any of their human rights.

2. ***Non-criminalisation:*** victims shall not, at any stage, be treated as criminals or subjected to measures associated with criminal liability, and all actors shall at all times accord them the status of a crime victim.

3. ***Informed consent:*** no measure of care, protection, or rehabilitation shall be imposed upon victims without their free and informed consent, except in exceptional circumstances concerning their safety and protection, and only upon a specific and reasoned finding to that effect; consent once given may be withdrawn in accordance with lawful procedure.

4. ***Non-stigmatisation and non-discrimination:*** all actors shall remain conscious that victims belong to sections of society that are deeply stigmatised and marginalised, and shall not conduct themselves in a manner that reinforces or perpetuates such stigma; the victim's involvement in prostitution shall not be the basis for any discrimination, adverse judgment or diminished respect.

5. ***Safety and protection:*** every victim shall be protected from further exploitation and harm, and shall be provided with adequate basic care at every stage of the Plan; protection shall not be made conditional upon the victim's willingness or capacity to cooperate with law enforcement or to participate in any legal proceedings.

6. ***Privacy and confidentiality:*** the privacy of every victim shall be respected and protected at all stages, to the maximum extent possible; there shall be no public disclosure of the victim's identity or of any information relating to the victim.

7. ***Right to information:*** all victims shall be informed, promptly and in a language and manner they understand, of all rights and entitlements that accrue to them under law.

8. ***Individualised care and protection:*** all care, protection and rehabilitation measures shall be tailored to the individual victim's situation following a proper assessment of circumstances, needs and desires, and all decisions relating to care and protection must be made with the active participation of the victim.

9. ***Best interest of the victim:*** all decisions taken with regard to care, protection and rehabilitation shall be based on the primary consideration that they are in the best interest of the victim.

B. Directions to the Union and State Governments

Addressees: *Ministries of Home Affairs, Women and Child Development, and Social Justice and Empowerment, Government of India; Central Social Welfare Board; Union Secretaries; Chief Secretaries; Principal Secretaries of Home, Women and Child Development, and Social Justice; Directors General of Police; State Anti-Trafficking Bureaux; State Social Welfare Boards.*

Rehabilitation and vocational training schemes

Budhadev Karmaskar v. State of West Bengal, (2011) 11 SCC 538

1. The Central and the State Governments, through the Social Welfare Boards, should prepare schemes for the rehabilitation of physically and sexually abused women commonly known as prostitutes, all over the country; prostitutes have a right to live with dignity under Article 21 of the Constitution (*guarantees that no person shall be deprived of his life or personal liberty except according to procedure established by law, and has been read to include the right to live with human dignity*) and their problems need to be addressed. ***para 14***

2. The Central and the State Governments shall prepare schemes for giving technical or vocational training to sex workers and sexually abused women in all cities in India; the schemes shall specify in detail who will impart the training and the manner in which the women can be rehabilitated and settled by offering them employment; and where the training is for a craft such as sewing garments, arrangements shall also be made for providing a market for such garments. ***para 16***

3. The Central Government shall prepare a proper and effective scheme for the rehabilitation of sex workers who voluntarily wish to leave the sex trade, and shall not impose the condition that a rescued sex worker must stay in a corrective home in order to receive technical or vocational training, many being reluctant to stay in such homes. ***para 25***

National Committee, State machinery and implementation

Vishal Jeet v. Union of India, (1990) 3 SCC 318

4. The Union Government should set up a committee of its own on the lines suggested for the State Advisory Committees, the main object of which is to evolve welfare programmes to be implemented on the national level for the care, protection and rehabilitation of the young fallen victims, namely children and girls, and to make suggestions for amendments to the existing laws or for enactment of any new law, if so warranted, for the prevention of sexual exploitation of children. ***para 16(4)***

> **Note.** A Central Advisory Committee to Combat Trafficking of Women and Children was constituted by the Ministry of Women and Child Development, with a mandate covering all aspects of trafficking of women and children for commercial sexual exploitation.

5. The Central Government and the Governments of States and Union Territories should devise a machinery of their own for ensuring the proper implementation of the suggestions that would be made by the respective Advisory Committees. ***para 16(5)***

Notification of welfare institutions and nodal officers

Prajwala (supra)

6. All States and Union Territories shall notify 'recognised welfare institutions or organisations' in accordance with the Explanation to Section 15(6A) of the Immoral Traffic (Prevention) Act, 1956 (*requires that a person removed from a brothel during a search be entrusted to the safe custody of a recognised welfare institution or organisation, the Explanation defining such institution as one recognised in this behalf by the State Government*). ***para 456(a)***

7. All States and Union Territories shall prepare a State-wide list of social welfare workers, with sufficient representation from all districts, who may be eligible to form a part of the non-official advisory body under Section 13(3)(b) of the Immoral Traffic (Prevention) Act, 1956 (*provides for a non-official advisory body of not more than five leading social welfare workers of the area, including women social welfare workers wherever practicable, to advise the special police officer on questions of general importance*). ***para 456(b)***

8. All States and Union Territories shall designate the Officer of the rank of Additional Director General of Police heading the Anti-Trafficking Bureau in their respective States or Union Territories as the Police Nodal Officer for the purpose of performing the functions delineated in the Victim Protection Plan. ***para 456(c)***

9. All States and Union Territories shall designate the Secretary, Department of Women and Child Development in their respective States or Union Territories as the Government Nodal Officer for the purpose of performing the functions delineated in the Victim Protection Plan. ***para 456(d)***

Anti-Trafficking Bureau, police-station status and the State database

Prajwala (supra)

10. The Anti-Human Trafficking Unit at the district level shall be notified by the State Government as a Police Station for the entire district for registration and investigation of all cases relating to the crime of human trafficking, in addition to the other police stations in the district. ***para 362(b)(iii)***

11. The State-level Anti-Trafficking Bureau, headed by an officer of the rank of Additional Director General of Police, shall compile the data received monthly from Deputy Superintendents of Police heading district Anti-Human Trafficking Units into a State-level database and disseminate the same to all police stations within the State so that it can serve as critical intelligence for commencing prompt investigative and rescue efforts. ***para 362(b)(vi)***

12. The Anti-Trafficking Bureau at the State level shall send the said database to the District and State Crime Records Bureau for further transmission to the National Crime Records Bureau. ***para 362(b)(vii)***

Special courts, witness protection and training

Prajwala (supra)

13. All State Governments shall, in consultation with the High Court, re-evaluate the need for establishing special courts under Section 22A of the Immoral Traffic (Prevention) Act, 1956 (*empowers the State Government, in consultation with the High Court, to establish courts of Judicial Magistrates of the first class for the speedy trial of offences under the Act, by notification and for such area or cases or class of cases as may be specified*), in any district or metropolitan area for the speedy trial of offences under the said Act, having particular regard to the number of cases reported and pending under the Act before different forums of the concerned State. ***para 362(g)(i)***

14. The State Government shall ensure that protection from existing witness protection schemes, which have been prepared and notified in accordance with Section 398 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (*requires every State Government to prepare and notify a Witness Protection Scheme for the protection of witnesses*), is extended to the victims of human trafficking for commercial sexual exploitation and their families. ***para 362(g)(ii)***

15. The Anti-Human Trafficking Cell under the Ministry of Home Affairs at the national level, and the Anti-Trafficking Bureau at the State level, shall be responsible for coordinating and initiating training activities on human trafficking and victim-friendly procedures for all relevant stakeholders, in collaboration with the Bureau of Police Research and Development, the State Police Academies and the State Judicial Academies. ***para 362(h)(iii)***

16. The Anti-Human Trafficking Cell shall develop comprehensive and standardised training resource materials, including manuals and Standard Operating Procedures, drawing from the best practices of several State governments, which shall form the foundational base upon which all training is to be imparted to different stakeholders. ***para 362(h)(iv)***

Protective homes and the Mission Shakti Programme

Prajwala (supra)

17. Where the need arises for more protective homes on account of a specified capacity being reached, it shall be the responsibility of the Department of Women and Child Welfare of the concerned State to ensure the establishment of more homes in the area. ***para 362(e)(ii)***

18. The Committee headed by the Chief Secretary of each State or Union Territory shall oversee the implementation of the Mission Shakti Programme, and in coordination with the district-level Committee, shall conduct a quarterly inspection and social audit of the protective homes for evaluation and assessment of their functioning. ***para 362(e)(xxvii)***

Eradication of child prostitution and for constitution of State Advisory Committees

Vishal Jeet (supra)

19. All State Governments and Governments of Union Territories should set up a separate Advisory Committee within their respective zones, consisting of the Secretary of the Social Welfare Department or Board, the Secretary of the Law Department, sociologists, criminologists, members of women's organisations, members of the Indian Council of Child Welfare and the Indian Council of Social Welfare, and members of various voluntary social organisations, the main objects of the Advisory Committee being to make suggestions on the measures to be taken in eradicating child prostitution, and on the social welfare programmes to be implemented for the care, protection, treatment, development and rehabilitation of the young fallen victims, namely the children and girls rescued from brothel houses or from the vices of prostitution. ***para 16(2)***

20. All State Governments and Governments of Union Territories should take steps to provide adequate and rehabilitative homes manned by well-qualified, trained social workers, psychiatrists and doctors. ***para 16(3)***

21. The Advisory Committee constituted at the State or Union Territory level may also go deep into the devadasi system and the jogin tradition and give its valuable advice and suggestions on what best the Government could do in that regard. ***para 16(6)***

C. Directions to the District Administration including the Police Department

Addressees: *District Magistrates and District Collectors; District-level Committees on the Mission Shakti Programme; Directors General of Police; Additional Directors General of Police heading State Anti-Trafficking Bureaux (Police Nodal Officers); Deputy Superintendents of Police heading district Anti-Human Trafficking Units; Special Police Officers under the Immoral Traffic (Prevention) Act, 1956.*

All directions in this head are from ***Prajwala v. Union of India,*** 2026 SCC OnLine SC 1053, para 362, the sub-clause being noted at the end of each direction.

Mandatory inspections, social audits and licence compliance

1. The District-level Committee headed by the District Magistrate or District Collector shall, in coordination with the State-level Committee headed by the Chief Secretary, conduct a quarterly inspection and social audit of the protective homes for evaluation and assessment of their functioning; to ensure transparency, a member of the District Legal Services Authority shall also be present during such inspection. ***para 362(e)(xxvii)***

2. The district-level Committee shall carry out random inspections in the presence of a member of the District Legal Services Authority, as and when deemed necessary; based on the social audit, it shall make recommendations for the improvement and development of the conditions of the home and require reasons for any deficiency, and in the event of failure to comply shall, in conjunction with the State-level Committee, take a call on whether the same shall be considered a violation of the terms and conditions of the licence, leading to its cancellation. ***para 362(e)(xxvii)***

Constitution, training, notification and database of Anti-Human Trafficking Units

3. The Anti-Human Trafficking Unit shall be headed by a Deputy Superintendent of Police and shall mandatorily include at least two special police officers under Section 13(1) of the Immoral Traffic (Prevention) Act, 1956 (*requires the State Government to appoint for each area a special police officer, not below the rank prescribed, responsible for dealing with offences under the Act in that area*), at least two women police officers, one or more Child Welfare Police Officers under Section 107 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (*requires designation of at least one Officer not below the rank of Assistant Sub-Inspector in every police station as Child Welfare Police Officer to deal exclusively with children*), and wherever possible a cybercrime officer, together with the necessary inspectors, sub-inspectors and constables; it shall further include area social workers of the non-official advisory body under Section 13(3)(b) of the Act of 1956 and non-governmental organisations recognised under Section 15(6A) or running homes under Section 21 of that Act (*empowers the State Government to establish and maintain protective homes and corrective institutions, and to license others to do so*) or under the Mission Shakti Programme, and officials of the Women and Child Welfare, Labour, Social Welfare, Health, Prosecution and other district line departments. ***para 362(b)(i)***

4. All members, including police, officials and non-governmental organisations, shall be given regular training on every aspect of trafficking law, procedure, human-rights principles and the technical, scientific and psychosocial skills of attending to victims and witnesses. ***para 362(b)(ii)***

5. The Anti-Human Trafficking Unit shall ensure focused attention, a multidisciplinary joint response, an organised-crime perspective and inter-departmental collaboration, conduct rescues with the assistance of non-governmental organisations, and maintain a victim-centric approach that is gender-sensitive and child-sensitive and prevents secondary and re-victimisation. ***para 362(b)(iv)***

6. The Anti-Human Trafficking Unit shall develop and share a database on traffickers, that is, recruiters, buyers, sellers, harbourers, transporters and financiers, and on victims and vulnerable

persons or communities, besides prevention, investigation, rescue and post-rescue work; the head of the district Unit shall update the database monthly and forward it to the Additional Director General of Police heading the State Anti-Trafficking Bureau. ***paras 362(b)(v) and (vi)***

7. The Anti-Human Trafficking Unit shall also transmit the database through the District and State Crime Records Bureaux to the National Crime Records Bureau. ***para 362(b)(vii)***

Initiation of rescue

8. On receiving information that an offence under the Immoral Traffic (Prevention) Act, 1956 or under the Bharatiya Nyaya Sanhita, 2023 relating to trafficking for commercial sexual exploitation is being committed within its jurisdiction, the police station shall forthwith relay it to the Special Police Officer under Section 13(1) of the Act of 1956 of that jurisdiction, who, where an Anti-Human Trafficking Unit exists, is already its member. ***para 362, Initiation of Rescue (i)***

9. The Special Police Officer shall, without any delay, relay the information to the District Superintendent or Deputy Commissioner of Police, being the head of the Anti-Human Trafficking Unit where one exists, to the Police Nodal Officer and to the Government Nodal Officer. ***Initiation (ii)***

10. Where a Magistrate directs a rescue under Section 16(1) of the Act of 1956 (*empowers a Magistrate, on receiving information that a person is living or being carried on prostitution in a brothel, to direct a police officer not below the rank of a sub-inspector to enter the premises and remove that person and produce her before him*), the Officer concerned shall forthwith inform the District Superintendent of Police, the Deputy Commissioner of Police, the Police Nodal Officer and the Government Nodal Officer. ***Initiation (iii)***

11. The Special Police Officer or authorised Officer shall, coordinating with the Anti-Human Trafficking Unit where one exists, convene a rescue team of the required strength; existing Unit manpower shall form that team. ***Initiation (iv)***

12. Where no Anti-Human Trafficking Unit exists, the team shall mandatorily comprise the Special Police Officer or authorised Officer as leader, a Child Welfare Police Officer under Section 107 of the Act of 2015, subordinate officers under Section 13(3)(a) of the Act of 1956 (*provides for subordinate police officers to assist the special police officer*), two women officers, and a female social worker or representative of a non-governmental organisation. ***Initiation (v)***

13. The leader or head of the Anti-Human Trafficking Unit shall verify adequate capacity at the intended protective home, exploring nearby homes if needed, and the Child Welfare Police Officer shall verify Child Care Institution capacity for child victims. ***Initiation (vi)***

14. The team shall arrange transport and logistics so that victims travel segregated from offenders and under police escort from the rescue site. ***Initiation (vii)***

15. A prior incognito reconnaissance shall be conducted through an officer conversant with the local language, along with local workers of non-governmental organisations; the leader shall then brief the team, assign duties of cordoning entry and exit points, locating hideouts and crowd management, and may, in his discretion, use decoys, informants or pre-rescue confidential interviews. ***Initiation (viii)***

16. All team members shall be briefed on their roles, responsibilities and the dos and don'ts of the operation. ***Initiation (ix)***

17. Two respectable local persons, one of them a woman who need not be from the locality in terms of the proviso, shall be arranged to witness the search under Section 15(2) of the Act of 1956 (*requires the special police officer, before entering a place without warrant, to call upon two or more respectable inhabitants, at least one of whom shall be a woman, to attend and witness the search*). ***Initiation (x)***

18. Once the operation takes shape, the leader shall again inform the District Superintendent, the Deputy Commissioner, the Police Nodal Officer and the Government Nodal Officer of the places, timing and manpower, and inform the protective homes and Child Care Institutions of the expected number and arrival time of victims. ***Initiation (xi)***

19. All persons involved, including team members and home authorities, shall maintain confidentiality and prevent any leakage of information to outsiders, including the media. ***Initiation (xii)***

Conduct of the rescue operation

20. On reaching the site, every member shall take the pre-assigned position, and the area shall be cordoned off and all entry and exit points sealed before the premises are entered. ***para 362(c)(i)***

21. Officials shall commit no verbal or physical abuse, use no unnecessary force or manhandling, and commit no offence under the Bharatiya Nyaya Sanhita during the rescue, failing which they are liable to prosecution at the instance of the victim or a social worker. ***para 362(c)(ii)***

22. The team shall endeavour to identify whether the persons rescued are voluntary sex workers, in accordance with ***Budhadev Karmaskar (supra)***. ***para 362(c)(iii)***

23. The team shall diligently search hidden locations, including cubicles, false ceilings, basements, boxes, attics, wardrobes, toilets and surrounding areas. ***para 362(c)(iv)***

24. Special care shall be given to children, transgender persons, and persons with disabilities or mental illness. ***para 362(c)(v)***

25. Victims shall be allowed to take their belongings, namely clothes, valuables and identity documents, at the time of rescue. ***para 362(c)(vi)***

26. Any photography or videography of the site shall exclude the victims. ***para 362(c)(vii)***

27. Rescued persons shall be treated as victims at all times, and none shall be arrested. ***para 362(c)(viii)***

28. Victims shall be kept separated from offenders at all times to avoid threat, pressure or intimidation. ***para 362(c)(ix)***

29. Victims shall be transported to the police station under adequate escort, or taken first to a nearby government hospital where emergency medical or trauma care is required. ***para 362(c)(x)***

Handling of victims prior to production

30. At the station or Anti-Human Trafficking Unit, victims shall be kept in a place suitable for victims, not in lock-ups or among offenders, with drinking water, sanitation and food, funded, if necessary, from the contingency head. ***Prior to production (i)***

31. Legal assistance shall be made available through members of the District Legal Services Authority or lawyers, a list of whom shall be maintained at every police station at all times. ***Prior to production (ii)***

32. Where victims do not speak the local language, the leader shall arrange translators, with the assistance of non-governmental organisations if needed. ***Prior to production (iii)***

33. Individualised interviews shall be conducted after rescue in the presence of a member of the District Legal Services Authority or a lawyer who informs the victim of her rights; the statement of a woman victim shall be taken by a woman police officer, or by any officer in the mandatory presence of a female social worker under Section 15(6A) of the Act of 1956, and shall elicit her age, native place, health and family history to identify her best interest. ***Prior to production (iv)***

34. A statement shall be recorded only once the victim’s safety is ensured and her initial trauma overcome; if she is unfit, the Officer, on consulting the social worker or counsellor, may defer the interview. ***Prior to production (v)***

35. The team shall identify persons below eighteen years for referral to the Child Welfare Committee as children in need of care and protection under the Juvenile Justice (Care and Protection of Children) Act, 2015, based on preliminary interview and appearance in consultation with the social worker; any doubt as to age shall be resolved in favour of childhood, the final determination resting with the Child Welfare Committee. ***Prior to production (vi)***

36. Every victim shall be produced without delay, adults before the Magistrate under Sections 15(5), 16(2) and 17(1) of the Act of 1956 (*require a person removed under a search or rescue to be produced before the appropriate Magistrate without delay, and where that is not possible, to be placed in the interim custody of a protective home or recognised welfare institution*) and children before the Child Welfare Committee, on the same day where documentation permits. ***Prior to production (vii)***

37. Where same-day production is not possible, victims shall at once be transferred to protective homes or Child Care Institutions by the Special Police Officer and the Child Welfare Police Officer, respectively, and shall on no account be detained overnight at the station or Anti-Human Trafficking Unit. ***Prior to production (viii)***

Repatriation, reintegration and follow-up

38. Sixty days before the victim's scheduled release, the home superintendent, case worker and Anti-Human Trafficking Unit shall prepare an individualised post-release plan for her reintegration or repatriation, mandatorily consulting her and giving utmost priority to her consent; if she declines to return home, reintegration shall be planned at the destination State. ***para 362(f)(i)***

39. A destination-State reintegration plan shall include job placement suited to her skills or vocational training, transfer to Shakti Sadan half-way homes with the period of stay, Working Women Hostel accommodation, micro-credit through the Small Industries Development Bank of India or the Mudra and like schemes, documents to access her bank account, a compensation application under the Victim Compensation Scheme framed under Section 396 of the Bharatiya Nagarik Suraksha Sanhita, 2023, and information on other social-security and housing entitlements. ***para 362(f)(ii)***

40. Where she wishes to return home, the Anti-Human Trafficking Unit shall conduct a due diligence home investigation against abuse or re-trafficking, commencing before forty-five days and concluding within fifteen days of the intended release; if danger is revealed, it shall be disclosed to her and reintegration pursued at the destination State with her consent. ***para 362(f)(iii)***

41. Where no danger is found, repatriation shall proceed with two police escorts, one compulsorily a woman and preferably members of the Anti-Human Trafficking Unit, who shall not disclose her rescue circumstances or history of prostitution; the Unit or the protective home shall bear travel expenses. ***para 362(f)(iv)***

42. A list of all reintegrated or repatriated victims, with present housing or place of repatriation and the names of escorting officers, shall be forwarded to the Police and Government Nodal Officers of the destination State. ***para 362(f)(v)***

43. Members of non-governmental organisations attached to the Anti-Human Trafficking Units at both the rescue and destination areas shall jointly follow up on the victim's well-being monthly for the first six months and quarterly thereafter up to three years, without any stigmatising disclosure. ***para 362(f)(vi)***

44. Police officers and prosecutors shall thereafter make every effort not to re-traumatise the victim by needless demands for further statements or physical attendance in Court. ***para 362(f)(vii)***

Prevention, transit vigil and training

45. Police officers and Anti-Human Trafficking Units shall keep vigil at transit areas such as railway stations and bus stops to spot trafficked victims and intervene in time. ***para 362(h)(i)***

46. Anti-Human Trafficking Units shall identify vulnerable source areas and initiate targeted awareness and empowerment programmes to prevent trafficking. ***para 362(h)(ii)***

47. Regular and adequate training on handling trafficking victims and victim-friendly procedures shall be imparted, at regular and not merely sporadic intervals, to all stakeholders, including

Special Police Officers and assisting officers, workers of non-governmental organisations and social workers, district and State officials, members of the District Legal Services Authority, lawyers, para-legal volunteers, medical officers, counsellors, judicial officers and prosecutors, ensuring it trickles down to the district level and is not confined to the national or State levels. ***para 362(h)(iii)***

> **Note:** The coordinating responsibility for this training rests on the Anti-Human Trafficking Cell of the Ministry of Home Affairs and the State Anti-Trafficking Bureau; *see Head B, directions 15 and 16.*

D. Directions to Trial Courts and Magistrates

Addressees: *Magistrates before whom rescued persons are produced under the Immoral Traffic (Prevention) Act, 1956; Sessions Judges and Magistrates trying offences of trafficking for commercial sexual exploitation.*

Expeditious trial in minor-trafficking cases

Guria Swayam Sevi Sansthan v. Satyabhama, (2018) 13 SCC 387

1. In cases involving trafficking of minors for prostitution, the prosecution and the trial court shall examine the material witnesses first, and the Court shall record evidence for at least ten days in a month, so that the trial is concluded as expeditiously as possible. ***para 3***

2. In case of undue delay for no fault of the accused, it shall be open to the accused to approach the Supreme Court; the accused and their counsel are expected to cooperate with the trial. ***para 4***

The directions in the following heads are all from ***Prajwala v. Union of India,*** 2026 SCC OnLine SC 1053, para 362, the sub-clause being noted at the end of each direction.

Legal representation, right to be heard and age assessment

3. At the first production of the adult victim and at every subsequent hearing, the Magistrate shall ensure that a lawyer effectively representing the victim, distinct from the offenders' lawyer, is present throughout, appointing one at discretion or from the panel of the District Legal Services Authority if none appears; no substantive step shall be taken until such representation is provided, and where practicable an experienced social worker shall also assist her. ***para 362(d)(ix)***

4. The Magistrate shall inform the victim of her right to be heard at every stage, afford her a genuine and meaningful opportunity to express her views, and ensure she is informed of the nature and purpose of the proceedings, the steps to follow and the choices available at each stage. ***para 362(d)(x)***

5. The Magistrate shall make a prima facie assessment, at the earliest, of whether the victim is an adult or a child; any doubt shall be resolved by treating her as a child and referring the matter to the Child Welfare Committee under the Act of 2015, which shall return it to the Magistrate if it concludes she is an adult. ***para 362(d)(xi)***

First hearing and preliminary inquiry into voluntariness

6. At the first hearing the Magistrate shall hear the victim on whether she engages in prostitution of her own volition, free of coercion, fraud or force, and whether she wishes long-term safe custody under Section 17(4) of the Act of 1956 (*empowers the Magistrate, after inquiry, to make an order for the person's detention for reception and care in a protective home or for her custody in a place of safety for such period as may be specified*). ***para 362(d)(xii)***

7. Where she clearly states her engagement is voluntary and declines long-term safe custody, the Magistrate shall order a preliminary inquiry into voluntariness by one or more experienced social workers from the panel under Section 17(5) of the Act of 1956 (*requires the Magistrate to have the assistance of a panel of five respectable persons, three of whom shall wherever practicable be women, in making an inquiry under the section*), reporting within seven days; where she makes no such statement or cannot clearly express her position, the matter shall proceed directly to the deeper inquiry. ***para 362(d)(xiii)***

8. The preliminary inquiry shall be conducted in the victim's preferred language, with an interpreter if needed, in a private setting free of the police or any person able to influence her. ***para 362(d)(xiv)***

9. The report shall record the victim's own statement on voluntariness, the social worker's assessment of the conditions of her engagement, that is, manner of entry, control over earnings, freedom of movement and other indicators of coercion or of a manufactured statement, and the overall assessment, recording specific and concrete reasons wherever it differs from the victim's own account. ***para 362(d)(xv)***

Order on the preliminary inquiry and primacy of consent

10. On receiving the report, the Magistrate shall give the victim and her lawyer an opportunity to respond, particularly where the assessment differs from her statement, and shall pass a reasoned order either releasing her, where she affirms voluntariness and the report neither contradicts it nor discloses safety concerns, or directing a deeper inquiry, where she acknowledges coercion, or maintains her position but the report shows real and immediate risk on release or a manufactured statement. ***para 362(d)(xvi)***

11. The victim's own statement shall be accorded primacy and shall form the basis of the decision; that primacy may be displaced only where the Magistrate finds, for reasons recorded in writing, cogent grounds that her safety would be at risk on release or that her professed voluntariness is manufactured through coercion, force or undue influence. ***para 362(d)(xvii)***

Deeper inquiry under Section 17(2) of the Immoral Traffic (Prevention) Act, 1956

> **Note**: Section 17(2) (*requires the Magistrate, before passing a final order in respect of a person produced before him, to cause an inquiry to be made into the correctness of the information, the age, character and antecedents of the person and the suitability of her parents, guardian or husband to take charge of her*).

12. Where a deeper inquiry is ordered, directly or after the preliminary inquiry, it shall cover the circumstances of removal or rescue and the veracity of the information, the victim's character

and antecedents, the suitability, capacity and genuineness of her parents, guardian or husband to take charge, and the likely influence of her home environment on her well-being if returned. ***para 362(d)(xviii)***

13. The Magistrate shall necessarily seek the assistance of a probation officer under the Probation of Offenders Act, 1958 (*provides for the appointment of probation officers to inquire into the circumstances and antecedents of a person and to report to the Court*), and of a panel of experienced social workers under Section 17(5) of the Act of 1956 or a recognised welfare organisation under Section 17A (*requires the Magistrate, before handing over a rescued person to her parents, guardian or husband, to satisfy himself about their capacity and genuineness through an investigation by a recognised welfare institution or organisation*). ***para 362(d)(xix)***

14. A joint report shall be submitted within twenty-one days where no preliminary inquiry preceded it, or within fourteen days where one has already been completed; the earlier report may be referred to, and the social worker who conducted it may join the deeper inquiry. ***para 362(d)(xx)***

15. During the deeper inquiry, the victim's views shall be sought and recorded on whether she wishes to return to her family and whether she wishes long-term safe custody under Section 17(4), and shall be placed before the Magistrate with the findings of the probation officer, the panel of social workers and the organisation under Section 17A. ***para 362(d)(xxi)***

Orders after the joint inquiry report

16. On receiving the joint report, the Magistrate shall peruse it and hear the victim, and shall pass no order placing her with family without her consent, nor any order placing her in a protective home without her consent, save where he finds cogent grounds that release would seriously prejudice her safety or that her consent to custody was withheld under threat, coercion or undue influence. ***para 362(d)(xxii)***

17. Where she consents to family placement, and the Magistrate is satisfied, on the joint report including the investigation under Section 17A, that the family is genuine, capable and safe, he shall order accordingly; where the family cannot be traced despite sufficient effort, he shall ask whether she wishes long-term safe custody and proceed accordingly. ***para 362(d)(xxiii)***

18. Where she consents to long-term safe custody, or where such recorded grounds exist, the Magistrate shall order placement in a protective home or other suitable custody under Section 17(4); whether ordered with or without consent, she may apply for release at any time after ninety days, to be decided on merits, without prejudice to her right of appeal under Section 17(6) (*confers a right of appeal against an order under sub-section (4) to the Court of Session, to be preferred within thirty days*). ***para 362(d)(xxiv)***

19. Where she wishes neither family placement nor safe custody but release, the Magistrate shall record her choice and order release, and may assign a social worker to help her avail benefits under government schemes. ***para 362(d)(xxv)***

20. A victim's choice against long-term safe custody shall never be treated as an adverse inference against her, nor preclude a later application under Section 19 of the Act of 1956 (*enables*

a person who is carrying on, or is being made to carry on, prostitution to apply to the Magistrate to be kept in a protective home or under care and protection) for care, protection or rehabilitation. ***para 362(d)(xxvi)***

Interim safe custody, time-limits and support

21. From first production and throughout both inquiries, the Magistrate shall order the victim's interim safe custody in a protective home under Section 21 of the Act of 1956, with adequate basic care, namely medical attention, psychological support and counselling, food and shelter, which shall not be contingent on any inquiry's outcome nor withheld or deferred at any stage. ***para 362(d)(xxvii)***

22. Every endeavour shall be made to complete the inquiries and pass an order under Section 17(4) within the maximum period for interim safe custody under Section 17(3) (*limits interim custody pending inquiry to a period not exceeding three weeks*); on unreasonable delay beyond that period, the victim may apply to the Magistrate, who shall take cognisance of the delay, record his reasons and take all steps to conclude the matter without further delay. ***para 362(d)(xxviii)***

23. Necessary legal and social support shall be made available to every victim, free of cost, to assist her in filing any application or appeal under the Plan or the Act of 1956. ***para 362(d)(xxix)***

Medical Examination, Confidentiality and Tracking

24. Every victim produced before the Magistrate shall be directed to be examined by a registered medical practitioner under Section 15(5A) of the Act of 1956, without delay and with her informed consent. (*The manner in which that examination is to be conducted is prescribed at Head E below and is not repeated here);* the Magistrate's obligation is to ensure that the examination is directed, that consent is informed, and that the safeguards at Head E are complied with. ***para 362(d)(xxx)***

25. The State Government shall ensure that protection under witness protection schemes notified under Section 398 of the Bharatiya Nagarik Suraksha Sanhita, 2023, is extended to victims of trafficking for commercial sexual exploitation and their families; the trial court, when seized of such a case, shall ensure that the scheme is invoked. ***para 362(g)(ii)***, *set out at Head B, direction 14*

26. All proceedings and orders shall, to the extent possible, be conducted and maintained with strict regard to the victim's confidentiality and privacy, no identifying information being disclosed to any person not directly involved. ***para 362(d)(xxxi)***

27. The Anti-Human Trafficking Unit or police rescue team shall keep track of all victims directed to long-term safe custody and those placed with family, guardian or husband, and forward a list thereof to the Police and Government Nodal Officers of the State. ***para 362(d)(xxxii)***

Recording of evidence and applications under Section 19

28. During trial, the prosecution shall bear in mind the decisions of the Supreme Court on recording the evidence of victims of sexual abuse, including recording by video conferencing as held in ***State of Maharashtra v. Praful B. Desai,*** (2003) 4 SCC 601. ***para 362(g)(iii)***

29. Where a person carrying on, or made to carry on, prostitution applies under Section 19 of the Act of 1956 to be kept in a protective home or given care and protection, the Victim Protection Plan guidelines shall apply with full force, namely legal representation and a fair hearing, interim safe custody with care and rehabilitation, the remedy for delay in a final custody order, liberty to seek release after ninety days under Section 19(3), free legal and social support, confidentiality, and the applicable rehabilitation guidelines. ***para 362(i)***

E. Directions to Hospitals and Medical Examiners

Addressees: *Registered medical practitioners; District hospitals, Community Health Centres and Primary Health Centres in the vicinity of protective homes; hospital-based gynaecologists; Management Committees of protective homes.*

Prajwala v. Union of India, 2026 SCC OnLine SC 1053, para 362. These directions govern the conduct of medical examinations of rescued victims and the provision of continuing health services to residents of protective homes. They are the operative form of the direction referred to at Head D, direction 24.

1. Any victim produced before a Magistrate must be examined by a registered medical practitioner for the detection of any injuries as a result of sexual abuse or the presence of any sexually transmitted disease, as required by Section 15(5A) of the Immoral Traffic (Prevention) Act, 1956 (*requires that a person removed under sub-section (4) be subjected to medical examination for determination of age and for detection of injuries as a result of sexual abuse or the presence of any sexually transmitted disease*); such examination shall be done with the informed consent of the victim and without any delay.

2. It must be ensured, as far as possible, that a female medical practitioner does the medical examination; and if no female medical practitioner is available, it shall be done in the presence of a woman social worker or counsellor. Arrangements for specialists such as gynaecologists may be made if required, and male police officers and attendants must not be present in the examination room.

3. In all protective homes, a general physician and a gynaecologist shall be made available on call for the regular medical check-up and treatment of the residents, and may be chosen from the common pool of referral staff maintained by the One-Stop Centres; a nurse or paramedic shall also be available round the clock.

4. The Management Committee of the protective home shall maintain a medical record of each resident and update it on the basis of their regular medical check-up, and the protective home must have a standing liaison with the nearby district hospital, Community Health Centre or Primary Health Centre in case of any medical emergencies.

3. Bonded Labour

From *Bandhua Mukti Morcha* and *Neeraja Chaudhary* onwards, the Supreme Court has held that proof of forced labour for no wage or a nominal wage raises a rebuttable presumption of bondage; that identification and release without rehabilitation is an empty formality; and that the State's obligation is not conditional upon the labourer establishing his status through adversarial proceedings. The directions collected here govern periodic surveys and the computerised database, the vigilance committees, the rehabilitation package, and the district machinery.

A. Directions to State Governments and Union Territory Administrations

Addressees: *Chief Secretaries; Principal Secretaries of Labour, Home, and Social Welfare; State Labour Departments; State and Union Territory Administrations.*

The presumption of bondage

Neeraja Chaudhary v. State of Madhya Pradesh, (1984) 3 SCC 243, para 3, following ***Bandhua Mukti Morcha v. Union of India,*** (1984) 3 SCC 161, para 34

1. The State Government cannot repudiate its obligation to identify and release bonded labourers by demanding that the labourers first prove their status through formal, adversarial legal proceedings. Instead, the State must universally apply a legal presumption: whenever a workman is forced to provide labour for no remuneration or nominal remuneration, he is presumed to be a bonded labourer. The burden of proof strictly shifts to the employer or the State to rebut this presumption.

Vigilance committees and immediate action

Neeraja Chaudhary (supra), para 4

2. The State Government shall actively include representatives of social action groups working among the poor in vigilance committees and provide them with full support.

Rehabilitation as an incident of release

Neeraja Chaudhary (supra), paras 1, 3 and 6, restated in ***P. Sivaswamy v. State of Andhra Pradesh,*** (1988) 4 SCC 466

3. Mere identification and release of bonded labourers are insufficient, as poverty and despair may drive them back into serfdom. Therefore, the vigilance committee must determine appropriate, tailor-made rehabilitative assistance for each freed family. The State Government is mandated to deliver this rehabilitative assistance within one month of release. To ensure that the rehabilitation provisions actually reach the hands of such labourers, the delivery of this assistance must be executed strictly in the presence of a representative of a social action group or voluntary agency.

Note: The Central Sector Scheme for Rehabilitation of Bonded Labourer, 2016, revamped with effect from 27.01.2022 as the Central Sector Scheme for Rehabilitation of Bonded Labourer, 2021, provides for immediate financial assistance of up to Rs 30,000 for each case of rehabilitation irrespective of the status of conviction proceedings, and for full rehabilitation assistance of Rs 1 lakh, Rs 2 lakh or Rs 3 lakh according to the category of beneficiary.

Interim relief and permanent rehabilitation

Santhal Pargana Antyodaya Ashram v. State of Bihar, 1986 SCC OnLine SC 565

4. Each of the freed bonded labourers shall be paid a certain sum as compensation by way of interim relief and shall be rehabilitated by the State Government on a permanent basis; the implementation of the rehabilitation programme shall not await the pendency of the proceedings, and the State Government shall submit its permanent rehabilitation programme for the scrutiny and approval of the Court.

Reporting to the National Human Rights Commission

Public Union for Civil Liberties v. State of Tamil Nadu, (2013) 1 SCC 585, para 16(11)

5. The States and Union Territories shall continue to submit comprehensive biannual, that is, six-monthly, status reports to the National Human Rights Commission. These reports must clearly detail their ongoing efforts, statistical data, and compliance regarding the identification, release, and rehabilitation of bonded labourers within their respective jurisdictions.

B. Directions to District Magistrates and the District Administration

Addressees: *District Magistrates and District Collectors; Deputy Collectors; the district-level machinery charged with the release and rehabilitation of bonded labourers under the Bonded Labour System (Abolition) Act, 1976.*

Statutory implementation and allied legislation

Public Union for Civil Liberties (supra), paras 16(7) and 16(8)

1. The District Magistrates, State Governments and Union Territories are directed to effectively implement Sections 10, 11 and 12 of the Bonded Labour System (Abolition) Act, 1976 (*Section 10 confers on the District Magistrate the duty to ensure that the provisions of the Act are properly carried out; Section 11 requires him to inquire whether any bonded labour system is being enforced and to take action to eradicate it; Section 12 requires him to promote the welfare of freed labourers and to secure their rehabilitation*), discharging their functions with due diligence, empathy and sensitivity, taking note that the Act is a welfare legislation. Further, they must ensure the proper and effective implementation of allied legislation, including the Minimum Wages Act, 1948 (*empowers the appropriate Government to fix and revise minimum rates of wages for scheduled employments and makes payment below that rate an offence*), the Workmen's Compensation Act, 1923, now the Employee's Compensation Act (*fastens on the employer liability to compensate for personal injury or death caused by accident arising out of and in the course of employment*), the Inter-State Migrant Workmen (Regulation of

Employment and Conditions of Service) Act, 1979 (*regulates the employment of inter-State migrant workmen through registration of establishments and licensing of contractors, and prescribes displacement and journey allowances, wages and other conditions of service*), and the Child Labour (Prohibition and Regulation) Act, 1986, now the Child and Adolescent Labour (Prohibition and Regulation) Act (*prohibits the employment of a child below fourteen years in any occupation and of an adolescent in hazardous occupations, and regulates conditions of work where employment is permitted*).

Immediate follow-up action on a report of bonded labour

Neeraja Chaudhary (supra), para 4, expanded and restated in ***Public Union for Civil Liberties (supra),*** para 16(9)

2. Upon a Gram Panchayat, local body, or any representative of a social action group, whether on the vigilance committee or not, reporting or pointing out to the Collector, District Magistrate or Deputy Collector that there is existence of bonded labour at a particular place, immediate and appropriate follow-up action shall be taken under the Bonded Labour System (Abolition) Act, 1976 for the identification and release of the bonded labourers.

Release certification

Santhal Pargana Antyodaya Ashram (supra)

3. The Collector shall issue a release certificate to each bonded labourer who is released.

> **Note**: The release certificate is not a formality. Under the Central Sector Scheme, the document is the basis for the claim for rehabilitation assistance, and the practice of withholding certificates from some members of a rescued group, including minors, has been recorded as a cause of denial of rehabilitation assistance. Failure to issue a certificate to every released labourer, therefore, defeats the direction at Head A, direction 2.

C. Directions on Periodic Surveys, Databases and Vigilance Committees

Addressees: *State Governments and Union Territory Administrations; District Level and Sub-Divisional Vigilance Committees constituted under the Bonded Labour System (Abolition) Act, 1976; all concerned departments maintaining official websites.*

Public Union for Civil Liberties v. State of Tamil Nadu, (2013) 1 SCC 585

1. Fresh surveys shall be conducted periodically, once in three years, in all the States and Union Territories in accordance with the provisions of the Bonded Labour System (Abolition) Act, 1976 (*abolishes the bonded labour system, extinguishes the liability to repay bonded debt, and provides for vigilance committees, for the duties of District Magistrates and for penalties*). The primary responsibility for conducting these fresh surveys lies with the District-Level Vigilance Committees and Sub-Divisional Vigilance Committees, which must be reconstituted every three years. These committees shall submit their reports to the National Human Rights Commission, and the findings of the surveys must be integrated into a computerised database accessible on the official websites of all concerned departments. ***paras 16(1) and 16(2)***

2. Bonded labour being rampant in brick kilns, stone quarries, crushing mines, beedi manufacturing, carpet weaving, construction industries, agriculture, the rural and urban unorganised and informal sector, power looms, cotton handlooms, and fish processing, the Vigilance Committees are directed to give more attention to these areas and take prompt action in case a violation is noticed. ***para 16(3)***

3. The guidelines on the methodology of identification of bonded labourers formulated by the Chairman of the Expert Group constituted by the National Human Rights Commission shall be followed and implemented by all the States and Union Territories, with suitable modifications to suit local conditions, and shall in particular be followed by those States and Union Territories reporting NIL status with respect to the existence of bonded labourers, such reporting being liable to be attributable to faulty survey methodology. ***paras 16(5) and 16(4)***

4. The vigilance committee shall decide what kind of rehabilitative assistance should be provided and what would be appropriate for the family of a particular freed bonded labourer, and such rehabilitative assistance shall be provided by the State Government in the presence of a representative of one of the social action groups. ***Neeraja Chaudhary (supra),*** para 6, *set out at Head A, direction 2*

D. Guidance to Courts on Proof and Sentencing

Addressees: *All courts trying or hearing appeals in matters under the Bonded Labour System (Abolition) Act, 1976, and adjudicating claims of forced labour under Article 23 of the Constitution.*

Ingredients of the offence and compensation

Selvakumar v. Manjula, (2022) 17 SCC 354

1. For attracting Section 16 of the Bonded Labour System (Abolition) Act, 1976 (*punishes whoever compels any person to render any bonded labour with imprisonment which may extend to three years and with fine which may extend to two thousand rupees*), the prosecution must establish beyond reasonable doubt that the accused himself forced and compelled the victim to render bonded labour, such force and compulsion being at the instance of the accused; and under Section 17 of the Act (*punishes whoever advances any bonded debt after the commencement of the Act with the like sentence*), there is an obligation on the prosecution to establish that the accused advanced a bonded debt to the victim. ***para 12***

2. The enactment being a social welfare legislation, the direction to pay compensation to the workmen may be sustained as a liability attaching to the estate to which the accused has succeeded, even though the concept of vicarious liability does not arise in criminal prosecution and even if it be dehors the requirement of Section 357 of the Code of Criminal Procedure [Section 395 of the Bharatiya Nagarik Suraksha Sanhita, 2023] (*empowers the Court, when imposing a sentence of fine, to order the whole or Part of the fine to be applied in payment of compensation to a person for loss or injury caused by the offence, and empowers the Court to order compensation even where no fine forms Part of the sentence*); such compensation remains payable notwithstanding the acquittal of the accused. ***paras 20 and 21***

*"Rehabilitation is not simply eating and staying somewhere. It is learning skills, receiving healthcare, education and support to live independently... Because I received proper rehabilitation, I am able to stand before you today and speak with dignity."**

— Sujata Pradhan (Trafficking Survivor), speaking alongside Padma Shri awardee and anti-trafficking crusader Sunitha Krishnan

* FW Features. (2026, June 5). "Don't reduce 22 years of struggle to a debate on sex work": Sunitha Krishnan on Supreme Court's historic protection framework for trafficking survivors. Fridaywall. https://www.fridaywall.com/sunitha-krishnan-supreme-court-trafficking-survivor-protection-plan-verdict/

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