
LEGAL RESPONSES TO CHILD PROSTITUTION IN INDIA: BETWEEN PROTECTION AND PUNISHMENT

Ms. Manpreet Kaur, Legal Practitioner, District and Sessions Court, Hoshiarpur.

Mr. Rahul Mdharma, Assistant Professor, University School of Law, Rayat Bahra
Professional University, Hoshiarpur

ABSTRACT

Child prostitution — the sexual exploitation of individuals under the age of 18 for commercial gain — remains a persistent and intricate issue that lies at the crossroads of criminal law, child protection systems, poverty, gender inequality, and organized crime. This paper investigates the existing Indian legal framework concerning child prostitution (including key statutes and recent legislative amendments), identifies both substantive and procedural protection deficiencies, analyses enforcement challenges in practice, and suggests targeted legal and policy reforms aimed at enhancing prevention, protection, prosecution, and rehabilitation. This paper critically evaluates the legal responses to child prostitution in India by examining the interplay of the Immoral Traffic (Prevention) Act, 1956 (ITPA), the Protection of Children from Sexual Offences Act, 2012 (POCSO), and the Juvenile Justice (Care and Protection of Children) Act, 2015, alongside the recent Criminal Law Reforms, 2023. It investigates how, despite statutory law increasingly focusing on child protection and acknowledging children as victims of trafficking and sexual exploitation, enforcement agencies and lower courts frequently adopt punitive measures that inadvertently criminalize rescued minors. The paper underscores significant judicial interventions—such as *Prerana v. State of Maharashtra* and directives from the Allahabad and Bombay High Courts—that have instructed state authorities to prioritize rehabilitation, education, and reintegration. Additionally, it considers India's international obligations under the UN Convention on the Rights of the Child and the Optional Protocol on the Sale of Children, Child Prostitution, and Child Pornography, highlighting the necessity for a victim-centric framework. The paper contends that India's legal responses must shift decisively from punitive inclinations towards a rights-based, protection-focused approach. The conclusion suggests reforms that encompass enhanced protection mechanisms for victim-witnesses, efficient rehabilitation programs, and the alignment of anti-trafficking and child protection laws. This is to guarantee that children involved in prostitution are regarded not as offenders, but as survivors deserving of dignity, care, and justice.

Keywords: Exploitation, Rehabilitation, Victim-Centric, Prostitution.

I Introduction

The exploitation of children in prostitution has often been referred to as 'child prostitution' in various international legal frameworks (for instance, the Optional Protocol to the Convention on the Rights of the Child concerning the sale of children, child prostitution, and child pornography, as well as the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, known as 'the Lanzarote Convention'), along with national legislation, policies, programs, and in the mass media. Over time, it has become evident that the use of this outdated terminology can result in misunderstandings, as it suggests that this type of sexual exploitation of children is simply a subset of prostitution. This perspective neglects to acknowledge that the child or adolescent is a victim of sexual exploitation by implying that they might be capable of giving consent.¹

Child sexual exploitation is not a recent phenomenon; nevertheless, it is an issue that States have only begun to tackle at the policy level starting in the twentieth century. Child abuse emphasizes the victim's treatment, whereas exploitation highlights the advantages gained by the perpetrator. Exploitation is characterized as "a situation or context in which an individual takes unfair advantage of someone else for his own purposes." A person who sexually exploits children is one who utilizes the child for their own sexual gain, and this can occur indirectly, without any physical contact with the child.²

Child prostitution refers to the exchange of children's sexual services for money, goods, or other forms of compensation. This practice causes enduring harm—physically, psychologically, socially, and economically—and frequently overlaps with trafficking, forced labour, and child marriage. India has implemented various legal measures designed to criminalize sexual offenses against children, combat commercial sexual exploitation, and offer welfare solutions. The commercial exploitation of children encompasses -

- Child sex tourism;

¹ ECPAT International, *Summary Paper on Sexual Exploitation of Children in Prostitution* (Bangkok: ECPAT International, November 2020).

² Audrey Cunningham, *The United States and Its Obligations Under the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography to Combat Child Exploitation in the Digital World*, 50 Ga. J. Int'l & Compar. L. 670 (2022) available at: <https://digitalcommons.law.uga.edu/cgi/viewcontent.cgi?article=2549&context=gjicl> (last visited on August 25, 2025)

- Trafficking of children for the sex trade;
- The involvement of children in public or private sex shows;
- The creation, promotion, and distribution of child pornography;
- The engagement of children in sexual activities that are compensated with cash or in-kind, occurring in brothels, bars, hotels, massage parlours, restaurants, clubs, on the streets, or indoors.³

Non-commercial practices encompass, among other things, early marriage and the forced marriage of young girls. Furthermore, the global trafficking of children frequently entails young girls being compelled to marry traffickers or pimps. Additionally, when girls and boys engage in prostitution voluntarily in exchange for items such as food, shelter, or gifts, it also represents a form of commercial exploitation.⁴ However, evidence from both governmental and civil-society reports indicates that exploitation continues to exist in concealed and evolving forms, including brothels, informal establishments, street-based or itinerant contexts, and increasingly, online platforms.

Another intricate term frequently encountered in discussions regarding the sexual exploitation of children in prostitution is 'transactional sex'. Moreover, 'transactional sex' may actually refer to 'survival sex', wherein sexual services are traded for essential needs such as food, clothing, or shelter. In cases of survival sex, one individual is taking advantage of another's necessity for basic provisions, leveraging their ability to supply these essentials in exchange for sexual acts. This situation arises when adults seek sexual encounters with children.⁵

II Statutory and Policy Landscape in India

The demand from men for women and children is fundamentally responsible for the existence of prostitution and trafficking. Factors such as gender inequality, globalization, poverty, racism, migration, and the deterioration of women's economic stability are global issues that foster an

³ Stockholm Declaration and Agenda for Action against Commercial Sexual Exploitation of Children, World Congress against Commercial Sexual Exploitation of Children, Stockholm, 27–31 August 1996

⁴ Siegrid Tautz, Angela Bähr and Sonja Wölte, *et.al. (eds.), Commercial sexual exploitation of children and young people in Oliver Razum, Hajo Zeeb and Ulrich Laaser Globalisierung – Gerechtigkeit – Gesundheit. Einführung in International Public Health 245* (Verlag Hans Huber, Bern, 2006)

⁵ ECPAT International, *Summary Paper on Sexual Exploitation of Children in Prostitution* (Bangkok: ECPAT International, November 2020).

environment where women are compelled to enter the sex industry. A significant proportion of those trafficked are women and girls, particularly from developing nations and countries undergoing economic transitions. Various forms of discrimination and adverse conditions heighten the vulnerability of women and girls who are forced into prostitution. Research consistently shows that women and children exploited in the local sex industry (i.e., those not trafficked) have often faced similar economic hardships, coupled with a background of sexual abuse. Additional factors such as homelessness, institutionalization, and drug addiction further increase their susceptibility to entering prostitution.⁶

As the world becomes more interconnected through digital technologies, criminal organizations have enhanced access to platforms that can be utilized to exploit children. For instance, social media has gained significant popularity among criminal gangs as a means of recruitment, to publicly gather information on children, for grooming purposes, and to enable untraceable financial transactions. Criminal gangs and individuals frequently carry out these illegal activities under the pretence of fictitious profiles.⁷

The sex industry has the capacity to include all forms of adult and child sexual exploitation in what it offers to the buyer; it does not discriminate against anyone including children of either gender, the young woman, the adult woman, the prostituted woman or child, the trafficked woman or child. The industry rejects no act of exploitation demanded by customers. It ensures that the needs of the consumers are always met. The sex industry is not concerned about acts of violence perpetrated against the victims, or the health of the victims⁸.

India has established a multi-layered framework of laws and policies aimed at tackling prostitution, trafficking, and safeguarding vulnerable populations, including children. The cornerstone of this framework is the Immoral Traffic (Prevention) Act, 1956 (ITPA), which criminalizes activities such as brothel-keeping, trafficking, and the procurement of minors for commercial sexual exploitation. In addition, the Protection of Children from Sexual Offences Act, 2012 (POCSO) offers a thorough mechanism for prosecuting sexual offenses against individuals under the age of eighteen, ensuring that procedures are child-friendly and that

⁶ Monica O'Connor and Grainne Healy, (eds) Coalition Against Trafficking in Women & European Women's Lobby, *The Links between Prostitution and Sex Trafficking: A Briefing Handbook* (November 2006).

⁷ ECPAT International, *Summary Paper on Sexual Exploitation of Children in Prostitution* (Bangkok: ECPAT International, November 2020).

⁸ Monica O'Connor and Grainne Healy, (eds) Coalition Against Trafficking in Women & European Women's Lobby, *The Links between Prostitution and Sex Trafficking: A Briefing Handbook* (November 2006).

penalties are more stringent. Furthermore, the Indian Penal Code of 1860 (now re-enacted under the Bharatiya Nyaya Sanhita, 2023) includes provisions addressing trafficking, kidnapping, wrongful confinement, and sexual assault.

Protection of Children from Sexual Offences Act, 2012 (POCSO) - This Act is designed to safeguard children from sexual assault, sexual harassment, and pornography, and it provides for the establishment of Special Courts to adjudicate such offenses, along with related matters or incidental issues.⁹ The Protection of Children from Sexual Offences Act, abbreviated as POCSO, was enacted in 2012 to thoroughly address the problem of sexual crimes against minors. POCSO delineates the penalties for such offenses while also establishing a framework for victim support and enhancing strategies for apprehending perpetrators.¹⁰ Haryana State is the pioneering State in the nation to initiate a comprehensive public awareness campaign regarding the Protection of Children from Sexual Offences Act (POCSO), 2012 across all levels.¹¹

The Constitution of India- *Traffic in human beings and begar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law*¹².

Article 23 is directly and clearly linked to Child Prostitution, addressing the prohibition of engaging with individuals, forced labor, and all forms of trafficking. The fundamental essence of both Article 15 and Article 23 is to prevent all forms of exploitation of individuals, including prostitution and begging. Additionally, Part IV of the Indian Constitution, known as the Directive Principles of State Policy, includes specific provisions regarding prostitution and exploitation.¹³

The Constitution provides *that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength*¹⁴;

⁹ The Protection of Children from Sexual Offences Act, 2012

¹⁰ National Human Rights Commission (NHRC, India), *Protection of Children – Sexual Offences*

¹¹ Women and Child Development Department, Haryana, *Integrated Child Protection Scheme (ICPS)* available at: <https://wcdhry.gov.in/schemes-for-children/icps/> (last visited on august 25, 2025)

¹² The Constitution of India, art. 23(1).

¹³ Rashmi Dubey, "Provisions for Protection against Child Prostitution: A Study," 2, *Journal of Legal subjects*, 3 (2022)

¹⁴ The Constitution of India, art. 39(e)

The Constitution provides *that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment*¹⁵.

The Immoral Traffic (Prevention) Act, 1956 -If any individual derives benefit from the sexual exploitation of a child or any person, it constitutes sexual exploitation for commercial purposes, which is a criminal offense. This illegal act of sexual exploitation involves a person being appointed, contracted, purchased, or hired.

Under the ITPA Act, it is not a requirement for commercial sexual activity to occur solely within a brothel; rather, it may also take place in residential locations, vehicles, and other settings. This Act empowers police officers to take action or initiate an investigation in circumstances where illegal commercial sexual exploitation or activities are occurring or are likely to occur, such as in massage parlours, bars, tourist areas, escort services, and social clubs.¹⁶

The Juvenile Justice (Care and Protection of Children) Act, 2015- According to Section 2 (14) (ii) and (ix) of the Juvenile Justice (Care and Protection of Children) Act, 2015 (JJ Act), a child who is discovered to be working in violation of current labour laws, or who is found to be begging, or living on the streets, and is deemed vulnerable and at risk of being drawn into drug abuse or trafficking, is classified as a "child in need of care and protection," among other categories.

The JJ Act, 2015 establishes a framework of service delivery systems designed to offer both institutional and non-institutional care to these children. The primary responsibility for the implementation of the Act rests with the State and Union Territories (UTs). The Ministry of Women and Child Development is executing the "Child Protection Services" (CPS), previously known as the Integrated Child Protection Scheme, aimed at the care, protection, rehabilitation, and reintegration of children facing challenging circumstances. Under the CPS, financial support is extended to State Governments and UT Administrations for, among other things, conducting a situational analysis of children in difficult situations, as well as for the establishment and maintenance of various types of Child Care Institutions (CCIs) that provide a range of rehabilitative services through both

¹⁵ The Constitution of India, art. 39 (f)

¹⁶ The Immoral Traffic (Prevention) Act, 1956 – Summary, available at:[https://satyarthi.org.in/wp-content/uploads/HumanTrafficking/English/Summary%20of%20The%20Immoral%20Traffic%20\(Prevention\)%20Act,%201956__English.pdf](https://satyarthi.org.in/wp-content/uploads/HumanTrafficking/English/Summary%20of%20The%20Immoral%20Traffic%20(Prevention)%20Act,%201956__English.pdf) (last visited on August 25, 2025)

institutional and non-institutional care.¹⁷

Bharatiya Nyaya Sanhita (BNS), 2023: The Government of India places a significant emphasis on the prevention and combatting of human trafficking, particularly concerning women and children. Section 143 of the Bharatiya Nyaya Sanhita (BNS), 2023 establishes penal provisions that mandate stringent punishment for any human trafficking offences. Furthermore, Section 144(1) of the BNS stipulates severe penalties for the sexual exploitation of trafficked children. The range of punishment for such crimes extends from five years to life imprisonment. Additionally, the Bharatiya Nyaya Sanhita, 2023 includes special provisions, among others, for addressing crimes against women and children. Specifically, Sections 95 to 99 of the BNS address offences against children and impose strict penalties on the perpetrators. These sections encompass provisions for the hiring, employing, or engaging of a child to commit an offence; procurement of a child; and the selling or buying of a child for prostitution purposes, among others. The penalties for these offences range from three years to fourteen years.

Furthermore, Section 139 of the BNS stipulates penalties for the kidnapping or maiming of a child for the purpose of soliciting alms. Additionally, Section 141 of the BNS outlines penalties for the importation of a girl or boy from a foreign country for the purpose of illicit sexual exploitation, among other offenses. The penalties for these crimes vary from ten years to life imprisonment.¹⁸

In terms of policy, India has implemented initiatives such as the *Ujjawala Scheme* - A Comprehensive Scheme for the Prevention of Trafficking and the Rescue, Rehabilitation, and Re-Integration of Victims of Trafficking for Commercial Sexual Exploitation. The objectives of the scheme are as follows:

1. To avert the trafficking of women and children for commercial sexual exploitation through social mobilization and the engagement of local communities, awareness-raising programs, public discourse through workshops/seminars and similar events, as well as any other innovative activities.

¹⁷ Press Information Bureau, Ministry of Women & Child Development, "Child Trafficking and Labour Issues", available at: <https://www.pib.gov.in/Pressreleaseshare.aspx?PRID=1577129> (last visited on August 25, 2025)

¹⁸ Government of India, "Government Attaches High Degree of Importance to Prevention and Countering of The Crime Of Human Trafficking" (Ministry of Home Affairs, 2024)

2. To assist in the rescue of victims from their places of exploitation and to ensure their placement in safe custody.
3. To offer both immediate and long-term rehabilitation services to victims by providing essential amenities such as shelter, food, clothing, medical treatment including counselling, legal aid, guidance, and vocational training.
4. To support the reintegration of victims into their families and society at large.
5. To facilitate the repatriation of cross-border victims to their countries of origin.

Beneficiaries include women and children who are at risk of trafficking for commercial sexual exploitation. The Scheme encompasses key components: Prevention, Rescue, Rehabilitation, Re-Integration, and Repatriation.¹⁹

The ***Integrated Child Protection Scheme (ICPS)*** is a centrally sponsored umbrella initiative that encompasses various programs aimed at children requiring care and protection, as well as those in conflict with the law. ICPS consolidates multiple existing child protection initiatives from the Ministry into a single comprehensive framework, while also incorporating additional measures to safeguard children and prevent harm.

The Integrated Child Protection Scheme (ICPS) primarily serves as a mechanism for executing the provisions of the Juvenile Justice (J.J.) Act of 2000, which has been revised and is now known as the Juvenile Justice Act of 2015, effective from January 15, 2016. The State has established a Juvenile Justice Fund to provide necessary facilities for juveniles. Child Welfare Committees (CWC) and Juvenile Justice Boards (JJB) have been instituted in every district to ensure the effective implementation of the Juvenile Justice (Care & Protection of Children) Act of 2015. Consequently, ICPS aims to institutionalize vital services, fortify structures, enhance capacities at all levels, develop a database and knowledge base for child protection services, reinforce child protection at both family and community levels, and guarantee an appropriate inter-sectoral response across all tiers.²⁰

¹⁹ Social Justice Department, Government of Kerala, *Ujjawala – A Comprehensive Scheme for Prevention of Trafficking and Rescue, Rehabilitation and Re-Integration of Victims of Trafficking for Commercial Sexual Exploitation*

²⁰ Women and Child Development Department, Haryana, *Integrated Child Protection Scheme (ICPS)* available at: <https://wcdhry.gov.in/schemes-for-children/icps/> (last visited on August 25, 2025)

The **National Human Rights Commission** is fully dedicated to combating human trafficking. Numerous initiatives have been undertaken in this regard. In 1998, the National Human Rights Commission (NHRC) initiated a public awareness campaign addressing child prostitution and the sexual exploitation of minors, with the assistance of the United Nations International Children's Emergency Fund (UNICEF) and various other organizations. Subsequently, in partnership with Prasar Bharati and UNICEF, the Commission organized four workshops focused on Sexual Violence Against Children and the Media's Role. As a result of these workshops, the NHRC developed guidelines for the media on how to address the issues of child prostitution and child sexual abuse. Additionally, it aims to inform the public and law enforcement agencies about the serious dangers posed by human trafficking and the critical need for its prevention.

National Commission for Women In order to prevent children from engaging in prostitution, the National Commission for Women (NCW) has sought the assistance of sex workers. These women have expressed their willingness to help in stopping this issue, asserting that they can address the entry of children into this profession. Furthermore, they are ready to report new cases to the NCW regarding the State Commissions instead of involving the police. The primary objective of the NCW is to eradicate all forms of child prostitution. To accomplish this, the commission has formulated a ten-year National Plan of Action covering the period from 1997 to 2006 A.D. The NCW has been deeply concerned about matters related to the trafficking of women and girls.

The Ministry of Women and Child Development, which serves as the Nodal Ministry in the Government of India for issues related to women and children, has developed a National Action Plan. This plan is based on the findings of the Central Advisory Committee on Child Prostitution, the suggestions from the National Commission for Women, and the directives issued by the Supreme Court of India (orders dated May 2, 1990, and July 9, 1997), along with the insights gained from various non-governmental organizations operating in this field.²¹

There are various **International legal Instruments** that recognize and respond to child prostitution. In particular:

²¹ National Human Rights Commission (NHRC, India), *Trafficking of Women and Children Challenges and Remedies*.

1. United Nations Convention on the Rights of the Child
2. United Nations Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (OPSC)
3. General Comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (Article 3, para 1)
4. General Comment No. 13 (2011) on the rights of the child to freedom from all forms of violence (Article 19)
5. General Comment No. 12 (2009) on the rights of the child to be heard
6. General Comment No. 15 (2013) on the rights of the child to the enjoyment of the highest attainable standard of health (Article 24)
7. Guidelines regarding the implementation of the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (2019)
8. Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention)
9. African Charter on the Rights and Welfare of the Child
10. Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially women and children, supplementing the United Nations Convention Against Transnational Organized Crime (Palermo Protocol)
11. ILO Convention No. 182 (concerning the prohibition and immediate action for the elimination of the worst forms of child labour) (1999)
12. ILO Convention No. 138 (on minimum age for admission to employment) (1973)
Recommendation No. 146
13. Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others

14. South Asian Association for Regional Cooperation Convention on Prevention and Combating Trafficking in Women and Children for Prostitution²²

Data on Child Prostitution of Eastern Europe

Country/City	Data
Romania	129 convictions for under 18 prostitution offences (1995)
Poland	estimates of several hundred children in prostitution (1999)
Russia	children make up 25% of Moscow prostitutes (1999)
Russia	of 750 girls in a reception centre, 85% had been sexually abused and compelled into prostitution
Lithuania	200 child prostitutes in Vilnius
Latvia	40-50% of prostitutes are minors
Estonia	20-30% of prostitutes are minors
Poland / Germany	minors involved in roadside prostitution has flourished along the border where under 18s live like prisoners in barracks at the border crossings
Russia	Moscow boasts a “nympho” club where minors do strip tease and are tattooed with their owners mark and when they reach their virginity is sold to the highest bidder ²³ .

Source- *Crossing Borders Project, 1998, in Kelly and Regan, 2000*²⁴

III Judicial Pronouncements

Recently, a committee was appointed by the Mumbai High Court in relation to the case of

²² Child Prostitution, available at: <https://www.humanium.org/en/child-prostitution/> (last visited on August 25, 2025)

²³ Monica O'Connor and Grainne Healy, (eds) Coalition Against Trafficking in Women & European Women's Lobby, *The Links between Prostitution and Sex Trafficking: A Briefing Handbook* (November 2006).

²⁴ Liz Kelly and Linda Regan, *Stopping Traffic: Exploring the Extent of, and Responses to, Trafficking in Women for Sexual Exploitation in the UK* (Home Office, London, 2000)

Jayesh Thakker and Another v. State of Maharashtra²⁵ The petitioners submitted a suo moto writ petition to the Chief Justice of the Bombay High Court, expressing their concerns regarding pornographic websites on the internet. In response to this petition, the Division Bench of the Bombay High Court issued an order to establish a committee tasked with proposing and recommending preventive measures to safeguard against pornographic and obscene content online.²⁶ The committee has provided suggestions to establish a child-friendly or child-safe 'cyber zone' where minors can securely access and utilize the internet for purposes such as information, education, communication, and entertainment.

Lakshmi Kant Pandey v. Union of India²⁷, While highlighting the significance of children, he articulated his perspective as follows: "It is evident that in a civilized society, the significance of child welfare cannot be overstated, as the welfare of the entire community, along with its growth and development, relies on the health and well-being of its children. Children represent a 'supremely important national asset,' and the future prosperity of the nation hinges on the manner in which its children grow and develop." Therefore, we provide the following directives:

1. All State Governments and Union Territory Governments must instruct their relevant law enforcement agencies to take prompt and appropriate action under current laws to eliminate child prostitution, ensuring that there is no opportunity for complaints of negligence or wilful indifference.

2. State Governments and Union Territory Governments should establish a distinct Advisory Committee within their respective jurisdictions, comprising the Secretary of the Social Welfare Department or Board, the Secretary of the Law Department, sociologists, criminologists, representatives from women's organizations, members of the Indian Council of Child Welfare, the Indian Council of Social Welfare, and various voluntary social organizations and associations. The primary objectives of this Advisory Committee should include making recommendations regarding:

- a. the strategies to be implemented for the eradication of child prostitution, and

²⁵ 2001 Bom CR (Cri) 1611.

²⁶ Here's What No One Tells You About Cyber Crime! available at: <https://lexassisto.com/heres-what-no-one-tells-you-about-cyber-crime/> (last visited on August 25, 2025)

²⁷ [1984] 2 SCC 244

b. the social welfare initiatives to be executed for the care, protection, treatment, development, and rehabilitation of the young victims, specifically children and girls rescued from brothels or the perils of prostitution.

3. All State Governments and Union Territory Governments should take measures to provide sufficient rehabilitative homes staffed by well-qualified and trained social workers, psychiatrists, and medical professionals.

4. The Union Government should establish its own committee in accordance with the recommendations made in directive No. (2), with the primary aim of developing welfare programs to be implemented at the national level for the care, protection, rehabilitation, etc., of young victims, specifically children and girls, and to propose amendments to existing laws or the creation of new legislation, if necessary, to prevent the sexual exploitation of children.

5. The Central Government, along with the Governments of States and Union Territories, should establish its own mechanism to ensure the effective implementation of the recommendations made by the respective committees.

6. The Advisory Committee may also thoroughly investigate the devadasi system and the Jogin tradition, providing valuable advice and suggestions on how the Government can best address these issues.

7. Copies of the affidavits and a list containing the names of nine girls are to be sent to the Commissioner of Police in Delhi for appropriate action. It should be noted that this is not an exhaustive list of members for the formation of the committee.

Consequently, the relevant Government has the discretion to include any member or members in the committee as it sees fit.

Vishal Jeet v. Union of India²⁸ This was a significant ruling in which the Supreme Court assumed the responsibility of providing guidance for the safeguarding and rehabilitation of individuals who had been designated as devadasis by their families or communities for cultural purposes and who were presently engaged in prostitution. The issue of child prostitution was extensively examined by the Supreme Court in this matter through a Public Interest Litigation.

²⁸ AIR 1990 SC 1412

The Supreme Court noted: *“It is highly deplorable and heart rendering to note that many poverty-stricken children and girls in the prime youth are taken to “flesh market” and forcible pushed into flesh trade which is been carried on utter violation of all canons of morality, decency and dignity of human mankind. There can be two opinions -- indeed there is none-that this obnoxious and abominable crime committed with all kinds of unthinkable vulgarity should be eradicated at all levels by drastic steps.”* The Supreme Court of India passed an order stating the Central and State Government should set up Advisory Committees to make suggestions for:

- The actions required to eliminate child prostitution include:
- Implementing social welfare programs aimed at the care, protection, treatment, development, and rehabilitation of young victims, particularly children and girls, who have been rescued from brothels or the perils of prostitution;
- Proposing amendments to existing laws or the creation of new legislation, if necessary, to prevent the sexual exploitation of children;
- Analysing the Devadasi and Yogins traditions and providing recommendations for their welfare and rehabilitation;
- Establishing effective mechanisms to carry out the recommendations made by the committees.

In accordance with court directives, the Government of India has established a Central Advisory Committee on Child Prostitution. The recommendations from this committee have been forwarded to the relevant Central Ministries/Departments and to the State Government, urging them to appoint special police officers, form Advisory Boards comprising social workers and NGOs in red-light districts, conduct regular raids, and implement measures for the protection and rehabilitation of rescued individuals.²⁹

Prerana v. State of Maharashtra and others³⁰ This case involved a petition submitted in the public interest by the NGO Prerana, aimed at safeguarding children and minor girls who have

²⁹ National Human Rights Commission (NHRC, India), *Trafficking of Women and Children Challenges and Remedies*.

³⁰ 2003 Bom CR (Cri) 481.

been rescued from the flesh trade, protecting them from the pimps and brothel keepers eager to regain control over the girls.

During a raid executed by the Mumbai Police (Social Service Branch) at a brothel, four individuals, identified as brothel keepers or pimps, were apprehended, and twenty-four females were rescued. The four individuals accused were charged under Sections 3, 4, and 7(2)(a) of the Immoral Traffic (Prevention) Act, 1956, commonly referred to as the "ITPA," and were subsequently remanded to police custody. The twenty-four females who were rescued were not charged; instead, they were taken into custody under Sections 15 and 17 of the ITPA to determine their age and family background, and were then sent to the Government Special Rehabilitation Centre for Girls.

The court outlined the legal provisions of the Juvenile Justice (Care and Protection of Children) Act, 2000, abbreviated as the Juvenile Justice Act, along with the applicable sections of the ITPA relevant to this case. The court issued the following directives, among others -

- No Magistrate is permitted to exercise jurisdiction over any individual under the age of 18, whether that individual is classified as a 'juvenile in conflict with law' or a 'child in need of care and protection,' as defined by Sections 2(1) and 2(d) of the Juvenile Justice Act. At the earliest opportunity, the Magistrate is required to take measures to verify the age of any individual who appears to be under 18 years of age. If it is determined that such an individual is indeed under 18, the Magistrate must transfer the case to the Juvenile Justice Board if the individual is a 'juvenile in conflict with law,' or to the Child Welfare Committee if the individual is a 'child in need of care and protection.'
- A Magistrate who receives individuals rescued under the ITPA or discovered soliciting in a public area must, in accordance with Section 17(2) of the aforementioned Act, determine their ages at the very first instance they are presented before him. If it is established that such an individual is under 18 years of age, the Magistrate is required to refer the case to the Juvenile Justice Board if the individual is classified as a 'juvenile in conflict with law', or to the Child Welfare Committee if the individual is deemed a 'child in need of care and protection'.
- No legal representative is permitted to appear on behalf of a juvenile brought before the

Child Welfare Committee after being rescued under the ITPA or found soliciting in a public space.

- An attorney representing a pimp or brothel owner is prohibited from representing the same case involving victims rescued under the ITPA³¹.

IV Conclusion

Child prostitution constitutes one of the gravest forms of human rights violations, affecting both the dignity and developmental rights of children. The Indian legal framework, through laws such as the ITPA, POCSO Act, and the Juvenile Justice Act, has sought to establish a comprehensive response; however, the simultaneous application of punitive and protective measures has often compromised the fundamental goal of protecting children. On one hand, children are legally acknowledged as victims of exploitation who warrant care and rehabilitation; on the other hand, enforcement practices often criminalize them during rescue operations, thereby perpetuating stigma and trauma.

Judicial rulings, particularly from the Bombay and Allahabad High Courts, have underscored the importance of rehabilitation, education, and reintegration, signalling a gradual movement towards a victim-centred approach. Nevertheless, systemic deficiencies persist regarding victim-witness protection, access to compensation, and collaboration among enforcement agencies. International commitments under the UNCRC and its Optional Protocols further obligate India to align its domestic legislation with global child rights standards.

A significant shift is thus required—from an enforcement paradigm that equates prostitution with criminality to a rights-based framework that recognizes every prostituted child as a survivor entitled to protection, dignity, and justice. Enhancing rehabilitation programs, offering specialized training to law enforcement, and ensuring accountability of state institutions are essential measures. Ultimately, effective legal responses to child prostitution must strike a balance between deterring traffickers and extending compassion and protection to children, ensuring that the law serves not as a source of secondary victimization but as a means to recovery and empowerment.

³¹ Prerana vs. State of Maharashtra and others *available at*: https://sherloc.unodc.org/cld/case-law-doc/traffickingpersonscrimetype/ind/2002/prerana_versus_state_of_maharashtra_and_ors.html (last visited on August 25, 2025)

References

1. ECPAT International, *Summary Paper on Sexual Exploitation of Children in Prostitution* (Bangkok: ECPAT International, November 2020).
2. Audrey Cunningham, *The United States and Its Obligations Under the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography to Combat Child Exploitation in the Digital World*, 50 Ga. J. Int'l & Compar. L. 670 (2022) available at: <https://digitalcommons.law.uga.edu/cgi/viewcontent.cgi?article=2549&context=gjicl> (last visited on August 25, 2025)
3. Stockholm Declaration and Agenda for Action against Commercial Sexual Exploitation of Children, World Congress against Commercial Sexual Exploitation of Children, Stockholm, 27–31 August 1996
4. Siegrid Tautz, Angela Bähr and Sonja Wölte, *et.al. (eds.), Commercial sexual exploitation of children and young people in Oliver Razum, Hajo Zeeb and Ulrich Laaser Globalisierung – Gerechtigkeit – Gesundheit. Einführung in International Public Health* 245 (Verlag Hans Huber, Bern, 2006)
5. Monica O'Connor and Grainne Healy, (eds) Coalition Against Trafficking in Women & European Women's Lobby, *The Links between Prostitution and Sex Trafficking: A Briefing Handbook* (November 2006).
6. The Protection of Children from Sexual Offences Act, 2012
7. National Human Rights Commission (NHRC, India), *Protection of Children – Sexual Offences*
8. Women and Child Development Department, Haryana, *Integrated Child Protection Scheme (ICPS)* available at: <https://wcdhry.gov.in/schemes-for-children/icps/> (last visited on august 25, 2025)
9. The Constitution of India, art. 23(1).

10. Rashmi Dubey, “Provisions for Protection against Child Prostitution: A Study,” 2, *Journal of Legal subjects*, 3 (2022)
11. The Constitution of India, art. 39(e)
12. The Constitution of India, art. 39 (f)
13. The Immoral Traffic (Prevention) Act, 1956 – Summary, available at: [https://satyarthi.org.in/wp-content/uploads/HumanTrafficking/English/Summary%20of%20The%20Immoral%20Traffic%20\(Prevention\)%20Act,%201956__English.pdf](https://satyarthi.org.in/wp-content/uploads/HumanTrafficking/English/Summary%20of%20The%20Immoral%20Traffic%20(Prevention)%20Act,%201956__English.pdf) (last visited on August 25, 2025)
14. Press Information Bureau, Ministry of Women & Child Development, “Child Trafficking and Labour Issues”, available at: <https://www.pib.gov.in/Pressreleaseshare.aspx?PRID=1577129> (last visited on August 25, 2025)
15. Government of India, “Government Attaches High Degree of Importance to Prevention and Countering of The Crime Of Human Trafficking” (Ministry of Home Affairs, 2024)
16. Social Justice Department, Government of Kerala, *Ujjawala – A Comprehensive Scheme for Prevention of Trafficking and Rescue, Rehabilitation and Re-Integration of Victims of Trafficking for Commercial Sexual Exploitation*
17. Women and Child Development Department, Haryana, *Integrated Child Protection Scheme (ICPS)* available at: <https://wcdhry.gov.in/schemes-for-children/icps/> (last visited on August 25, 2025)
18. National Human Rights Commission (NHRC, India), *Trafficking of Women and Children Challenges and Remedies*.
19. Child Prostitution, available at: <https://www.humanium.org/en/child-prostitution/> (last visited on August 25, 2025)
20. Liz Kelly and Linda Regan, *Stopping Traffic: Exploring the Extent of, and Responses to, Trafficking in Women for Sexual Exploitation in the UK* (Home Office, London,

2000)

21. 2001 Bom CR (Cri) 1611.

22. Here's What No One Tells You About Cyber Crime! *available at:*
<https://lexassisto.com/heres-what-no-one-tells-you-about-cyber-crime/> (last visited on
August 25, 2025)

23. [1984] 2 SCC 244

24. AIR 1990 SC 1412

25. National Human Rights Commission (NHRC, India), *Trafficking of Women and
Children Challenges and Remedies*.

26. 2003 Bom CR (Cri) 481.

27. Prerana vs. State of Maharashtra and others *available at:*
[https://sherloc.unodc.org/cld/case-law-
doc/traffickingpersonscrimetype/ind/2002/prerana_versus_state_of_maharashtra_and
_ors.html](https://sherloc.unodc.org/cld/case-law-doc/traffickingpersonscrimetype/ind/2002/prerana_versus_state_of_maharashtra_and_ors.html) (last visited on August 25, 2025)”