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Ensuring Justice for Vietnamese Child Victims of Human Trafficking: Lessons from the United Kingdom

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Abstract

Children are a particularly vulnerable group in the global flow of human trafficking and face persistent barriers in accessing justice. This article examines how the United Kingdom (UK) ensures justice for Vietnamese child victims of human trafficking through a three-pillar framework on access to justice: the legal protection framework, the institutional framework, and the capacity to provide and demand effective remedies. Employing a qualitative single-case-study design based on documentary analysis of international human rights instruments, UK legislation, official statistics, policy documents, and peer-reviewed research, the article argues that a progressive legal framework alone does not guarantee substantive access to justice: whether justice is realized depends on the interaction of all three pillars. Framed in rights terms, the failure runs through a sequence of guarantees: the child's right to be recognized as a victim rather than an offender, their right to be heard in the decisions that follow, and their right to an effective remedy once the harm is done. The UK case, in which a highly developed legal and institutional framework coexists with documented protection failures affecting Vietnamese children, reveals where the gap between formal legal guarantees and substantive justice opens up. On this basis, and with explicit attention to the differences in legal tradition, resources, and institutional structure between the two countries, the article draws policy lessons for Vietnam in implementing its 2024 Law on Prevention and Combat of Human Trafficking.

Keywords: access to justice; child trafficking; United Kingdom; Vietnam; rights-based approach; child victims

1. Introduction

Over the past two decades, human trafficking in general, and child trafficking in particular, has emerged as one of the most serious challenges to the global human rights protection system (Sweileh 2018). The UNODC's 2024 Global Report on Trafficking in Persons indicates that children now account for about one-third of detected victims worldwide, whereas fifteen years ago this proportion was only around 10% (UNODC 2024). Alongside this increase, the structure of victimization has diversified: the share of girls and boys trafficked for various forms of exploitation continues to rise and in many low-income countries children constitute the majority of detected victims (UNODC 2024). From a rights-based perspective, children (including child victims of trafficking) are recognized as full rights holders under the Convention on the Rights of the Child (CRC) and related instruments, rather than mere beneficiaries of protection. Accordingly, access to justice for trafficked children is increasingly understood not simply as participation in criminal proceedings against perpetrators but as an essential component of their human rights,



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encompassing timely identification, protection, meaningful participation, and effective remedies including compensation and reintegration support (Gearon 2019; Paré et al. 2022).

Vietnam occupies a distinctive position in this global picture. It is simultaneously a source country for children trafficked abroad (primarily to other Southeast and East Asian countries, and along long-distance routes to Europe), a country experiencing internal trafficking, and a destination for repatriated victims requiring identification, recovery and reintegration support (Q. T. Nguyen 2024; Home Office 2025a, 2025c). Poverty, uneven development between rural and urban areas, limited local employment and education opportunities, debt-financed migration, and social norms that treat successful migration abroad as an achievement combine to render Vietnamese children and adolescents particularly vulnerable to trafficking networks (Tsai and Dichter 2019; Beadle and Davison 2019). In response, Vietnam has progressively developed its legal framework: the 2015 Criminal Code (amended in 2017) brought the definition of trafficking offenses closer to international standards, and the 2011 Law on Prevention and Combat of Human Trafficking established the first specialized statutory framework. Most significantly, on 28 November 2024 the National Assembly adopted a new Law on Prevention and Combat of Human Trafficking, which took effect on 1 July 2025. The new law expands the statutory concept of “victim”, affirms a victim-centered approach, and for the first time allows on a case-by-case basis for victims not to be administratively or criminally sanctioned for violations that are a direct consequence of being trafficked (Vietnam National Assembly 2024; D. D. Nguyen 2025). Yet, as recent scholarship on anti-trafficking law reform in the region cautions, a progressive legal framework alone is insufficient; the decisive question is whether institutional mechanisms and frontline practice actually deliver protection consistent with the best interests of the child (Le 2025; Tran et al. 2020). Vietnam now confronts that question, of how to move from law on paper to justice in practice for trafficked children, in implementing the 2024 Law.

The United Kingdom (UK) is one of the principal destination countries for Vietnamese child victims of trafficking. According to the Home Office’s National Referral Mechanism (NRM) end-of-year statistics, Vietnamese nationals were the third most commonly referred nationality in 2024, with 2153 referrals (11% of the total)—an increase of 118% on 2023 and the highest annual figure recorded for this nationality since the NRM began. Children of all nationalities accounted for nearly one-third (31%) of all referrals (Home Office 2025d). Earlier research similarly found that, of 1599 Vietnamese nationals referred to the NRM between 2009 and 2016, more than half were believed to have been exploited as minors (Silverstone and Brickell 2017). Vietnamese children on these routes are typically exploited in cannabis cultivation, nail salons, restaurants, and other settings characterized by informality, closed environments, and limited regulatory oversight, as well as in sexual exploitation and forced criminality (Beadle and Davison 2019; Setter 2019). Under the Palermo Protocol, where the person concerned is under 18, the recruitment, transportation, transfer, harboring or receipt of that child for the purpose of exploitation constitutes trafficking without any requirement to prove coercive or deceptive means; on this definition, such children are victims of trafficking as a matter of international law, irrespective of whether domestic authorities formally recognize them as such (UN General Assembly 2000). In practice, however, research on their experiences in the UK shows that they frequently encounter suspicion and are processed through approaches that prioritize immigration control and criminalization over protection, impeding their access to support and justice (Harvey et al. 2015; Gearon 2019).

This article takes the UK as its case study, and the choice requires justification beyond the existence of trafficking routes connecting the two countries. Four considerations make the UK a particularly instructive case for Vietnam, and in case-study terms a critical one. First, the UK is the destination country for which the most extensive and publicly available

body of evidence on Vietnamese child victims exists: official NRM statistics disaggregated by nationality and age, government-commissioned research, and independent studies by civil society organizations together permit an empirical assessment that would not be possible for any other destination country at comparable depth (Silverstone and Brickell 2017; Beadle and Davison 2019). Second, the UK has developed one of the most elaborate legal and institutional architectures in the world for combating trafficking and protecting child victims, including the Modern Slavery Act 2015; the NRM; and the Independent Child Trafficking Guardians (ICTG) scheme, the first specialized guardianship model of its kind in Europe (Haynes 2016; Mantouvalou 2018). Third, the UK is the only jurisdiction in respect of which the European Court of Human Rights has delivered a landmark judgment concerning Vietnamese child victims specifically: in *V.C.L. and A.N. v. United Kingdom*, the court found violations of Articles 4 and 6 of the European Convention on Human Rights arising from the prosecution of two Vietnamese adolescents discovered in cannabis cultivation, notwithstanding clear trafficking indicators (*V.C.L. and A.N. v. United Kingdom* 2021). Fourth, and decisive for the logic of this article, what makes the UK analytically valuable is the coexistence of this developed framework with documented protection failures affecting Vietnamese children. If access to justice can remain unrealized for Vietnamese children even within one of the most developed systems, the UK case is a testing ground that reveals where the gap between formal legal guarantees and substantive justice opens up. The lessons it offers Vietnam are therefore twofold: what to emulate in institutional design, and what failure modes to anticipate and avoid. In drawing such lessons, the article does not treat the UK as a template because the two countries differ in legal tradition (common law versus civil law), resources, institutional structures, and their positions within trafficking routes (destination versus source and return) and these differences condition what can meaningfully be transferred.

The central argument of this article is that a progressive legal framework, taken alone, does not guarantee substantive access to justice for trafficked children; whether justice is realized depends on the interaction of three elements: the legal protection framework; the institutional framework; and the capacity of the system to provide, and of victims to demand, effective remedies. The article develops this argument by applying the UNDP's three-pillar framework on access to justice, integrated with a child-rights-based approach to the situation of Vietnamese child victims in the UK. The research question is: to what extent is the right of Vietnamese child victims of trafficking to access justice realized in UK law and practice, when examined through the three pillars of the legal protection framework, institutional framework, and capacity to provide and demand remedies? Pursuing this question, the article has two objectives: (1) to evaluate the adequacy and effectiveness of the UK's legal framework, institutions, and operational practice as they bear on Vietnamese trafficked children; and (2) to draw policy implications for Vietnam, differentiated by pillar and adjusted for contextual differences, to strengthen its own legal framework, institutions and support mechanisms in the course of implementing the 2024 Law on Prevention and Combat of Human Trafficking.

The article proceeds as follows. Section 2 sets out the research methodology. Section 3 develops the theoretical framework, elaborating the three-pillar model of access to justice and the rights-based approach as applied to trafficked children. Section 4 presents the UK case: the context of child trafficking from Vietnam to the UK and the UK's legal and institutional framework. Section 5, the analytical core of the article, assesses access to justice for Vietnamese child victims in the UK through each of the three pillars in turn. Section 6 discusses the conditions under which lessons from the UK can be transferred to Vietnam and formulates reform implications for each pillar. Section 7 concludes and identifies directions for future research.

2. Research Methodology

This article employs a qualitative, single-case-study design based on documentary analysis. The UK is selected as an instrumental and critical case; the purpose of studying it is not to understand the UK for its own sake but to illuminate a broader problem, namely the conditions under which trafficked children can access justice, with a view to informing reform in Vietnam. The UK combines one of the most developed anti-trafficking architectures in the world with extensive documented evidence concerning Vietnamese child victims specifically. Protection failures observed there cannot be attributed simply to the absence of law or institutions. The rationale for this case selection is developed in Sections 1 and 4.1.

The sources fall into four groups. First, core international legal instruments on combating human trafficking and protecting children's rights: the Palermo Protocol, the Convention on the Rights of the Child and its General Comments, and related instruments, together with UNODC global reports and UNICEF guidance on child trafficking. Second, UK primary and secondary sources: legislation (in particular the Modern Slavery Act 2015 and corresponding legislation in the devolved jurisdictions), statutory guidance, official statistics (the Home Office NRM data tables and annexes, including the annual ICTG statistics and the statistics of the devolved child decision-making pilot), government-commissioned evaluations and the jurisprudence of the European Court of Human Rights concerning the UK. Third, peer-reviewed academic studies and reports by specialized civil society organizations (ECPAT UK, Anti-Slavery International, UNICEF UK, the Independent Anti-Slavery Commissioner) on the experiences of trafficked Vietnamese children in the UK. Fourth, Vietnamese legislation: the 2015 Criminal Code (amended 2017), the 2011 and 2024 Law on Prevention and Combat of Human Trafficking, and the 2016 Law on Children, together with recent scholarship assessing Vietnam's anti-trafficking framework.

Analytically, the article proceeds in two steps. In the first step, the documentary material on the UK is organized and assessed by applying the three-pillar framework of access to justice elaborated in Section 3, integrated with a child-rights-based approach: for each pillar, the analysis asks what the framework formally provides, how it operates in practice for Vietnamese children and where the gaps between the two arise. In the second step, the article adopts a policy lesson-drawing approach rather than measuring Vietnamese law against UK law as equivalent objects of comparison; it identifies the functional principles underlying what works and what fails in the UK system. It then asks, taking explicit account of the differences in legal tradition, resources, institutional structure, and the position within trafficking routes discussed in Section 6.1, which of those principles can be meaningfully adapted to Vietnam's context. The article therefore does not claim to conduct a symmetrical comparative-law analysis; its contribution lies in the theoretically structured evaluation of one critical case and the disciplined derivation of lessons from it.

Two limitations of this design should be acknowledged at the outset. First, the analysis rests on secondary sources; it does not draw on original fieldwork with trafficked children, whose direct voices are accessible here only through existing empirical studies. Second, findings from a single destination country cannot be generalized to all contexts in which Vietnamese children are trafficked; the concluding section accordingly identifies comparative extension to other destination countries as a direction for future research.

3. Theoretical Framework on Access to Justice and Rights-Based Approach for Trafficked Children

3.1. Child Trafficking and the Victim Status of Trafficked Children

At the international level, human trafficking is uniformly defined in the 2000 Palermo Protocol supplementing the United Nations Convention against Transnational Organized

Crime through three constitutive elements: acts (recruitment, transportation, transfer, harboring, or receipt of persons), means (threat or use of force, coercion, abduction, fraud, deception, abuse of power or of a position of vulnerability, or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person), and the purpose of exploitation (sexual exploitation, forced labor, slavery or similar practices, servitude, or the removal of organs (UN General Assembly 2000)). This definition has become the common legal standard for most national legal systems, including those of Vietnam and the UK, and it is the basis for criminalization, victim protection, and international cooperation.

Child trafficking is a distinct form of human trafficking in which the person concerned is under 18 years of age under the standards of the 1989 Convention on the Rights of the Child. Crucially, Article 3(c)–(d) of the Palermo Protocol provides that where a child is concerned, the act element combined with the purpose of exploitation alone constitutes trafficking; no coercive or deceptive means need be proved and the child’s apparent “consent” is legally irrelevant (West 2016). This element of the definition carries the central analytical consequence on which this article rests: Vietnamese children who are recruited, transported or harbored for the purpose of exploitation, whether in cannabis cultivation, forced labor, sexual exploitation, or forced criminality, are victims of trafficking as a matter of international law, whatever their migration status and whether or not the authorities of transit or destination states formally identify them as such. The recurring gap between this legal status and its official recognition is precisely what the access-to-justice analysis in Section 5 examines. At the same time, recent research emphasizes the empirical overlap between child trafficking, unsafe migration, smuggling, and labor exploitation in the informal sector, which makes victim identification genuinely complex in practice and heightens the risk that trafficked children are misclassified as irregular migrants or offenders (Dottridge 2021). For this reason, child victims are recognized in international standards as requiring special protection measures at every stage: identification, investigation, prosecution, trial, and remedy. “Access to justice” must accordingly be understood broadly. It encompasses procedural rights (to be heard, to be represented, to receive appropriate support) as well as substantive rights to compensation, recovery, and reintegration, rather than being reduced to the pursuit of criminal liability against perpetrators (UNICEF 2006).

3.2. *The Three-Pillar Framework of Access to Justice*

Access to justice for children has been defined as “children’s ability—regardless of legal status or circumstances—to obtain fair and timely remedies for rights violations, in line with international child rights standards, in all areas of proceedings (criminal, civil, administrative) and even in traditional or religious mechanisms” (UN Human Rights Council 2013). To move from this definition to an operational analytical framework, the article draws on the three-pillar model of access to justice developed in UNDP’s programming on justice and the rule of law (UNDP 2004), specifying each pillar for the situation of trafficked children as follows.

The first pillar, the legal protection framework, concerns the normative foundation: whether the law of the state concerned fully recognizes the rights of trafficked children and the corresponding protection mechanisms. For trafficked children, the evaluative criteria under this pillar include the compatibility of the domestic definition of trafficking with the Palermo standard, including the child definition for children; the legal recognition of victim status independent of migration status; the domestication of the non-punishment principle for offenses committed as a direct consequence of trafficking; and the statutory guarantee of children’s procedural rights, including independent representation or guardianship and legal aid.

The second pillar, the institutional framework, concerns the machinery through which the law is delivered: the organization, resources, professional capacity, procedures, independence, accountability, and inter-agency coordination of the bodies responsible for identifying, protecting, and supporting victims such as police, border and immigration agencies, prosecution services, courts, social services, child protection systems and specialized mechanisms such as national referral mechanisms and guardianship services. For trafficked children, the criteria include whether identification occurs early and through protection-oriented rather than enforcement-oriented channels; whether decision-making about victim status is informed by child protection expertise; whether care arrangements are safe and prevent children from going missing; and whether independent guardianship is available in practice, not only in statute.

The third pillar, the capacity to provide and demand remedies, has two faces. On the supply side, it asks whether the system actually delivers remedies with adequate quality and timeliness: consistent application of the non-punishment principle, timely status decisions, effective compensation and reintegration mechanisms. On the demand side, it focuses on the victims themselves: their legal knowledge, access to information in a language and form they understand, availability of advice and legal aid, trust in the system and legal empowerment enabling them actually to use legal tools to protect their rights.

The three pillars are analytically distinct but in practice they work, or fail, together: a right recognized under the first pillar can be nullified by institutional failure under the second and a well-designed institution can be rendered ineffective if victims lack the capacity or trust to use it under the third. For this reason, the analysis in Section 5 deliberately traces the same key cases and bodies of evidence, namely the *V.C.L. and A.N.* litigation, the data on Vietnamese children going missing from care, and the operation of the NRM, through each pillar in turn. The aim is to show how accomplishments and failures at different points of the system compound one another. Evaluating access to justice for Vietnamese child victims therefore requires simultaneous consideration of: (i) whether the law fully recognizes rights and protection mechanisms; (ii) to what extent institutions implement them in practice; and (iii) whether victims understand, trust, and are actually able to use the system. Table 1 shows the three pillars as rights, obligations and observed barriers.

Table 1. The three pillars as rights, obligations and observed barriers.

Pillar	Right at Stake	Principal Source of Obligation	Barrier Observed for Vietnamese Children	Section of Article
I. Legal protection framework	To be recognized as a victim irrespective of migration status; not to be punished for offenses arising from exploitation	Palermo Protocol Art. 3(c)–(d); Council of Europe Convention Art. 26; CRC General Comment No. 24 (2019)	A statutory defense that coexists in practice with prosecution, and with powers to disqualify a child from the recovery period and its protection against removal	Section 5.1
II. Institutional framework	To prompt identification; to have best interests treated as a primary consideration; to independent representation	Council of Europe Convention Art. 10; CRC Arts. 3, 12 and 20; CRC General Comment No. 6 (2005)	Late and enforcement-led referral; disputed age assessments; children going missing from care; guardianship still unavailable in a third of local authority areas as late as 2021	Section 5.2
III. Capacity to provide and demand remedies	To an effective remedy; to compensation; to be heard and informed	ECHR Arts. 6 and 13; Council of Europe Convention Art. 15; Palermo Protocol Art. 6(6); CRC Arts. 12 and 39	No right of appeal against a victim-status decision; unspent convictions barring compensation; advice on compensation claims outside the scope of civil legal aid; interpretation not guaranteed	Section 5.3

3.3. Rights-Based Approach for Child Victims of Trafficking

The rights-based approach supplies the normative lens that runs through all three pillars. Under this approach, children are rights holders and not merely objects of protection, with substantive rights (to protection from exploitation, violence, and abuse; to education, healthcare, and social security) and procedural rights (to be heard, to participate in decisions affecting them, and to access information and justice) (Lawrence et al. 2019). Four general principles of the CRC structure this approach: non-discrimination (Article 2), the best interests of the child as a primary consideration (Article 3), the right to life, survival and development (Article 6), and the right to be heard (Article 12); Article 39 further obliges states to promote the physical and psychological recovery and social reintegration of child victims. The Committee on the Rights of the Child has specified these obligations for the situations most relevant to this article: General Comment No. 6 addresses the treatment of unaccompanied and separated children outside their country of origin, including the obligations of prompt identification, appointment of a guardian, and non-detention on migration grounds; General Comment No. 14 elaborates the assessment and determination of the child's best interests as both a substantive right and a procedural rule (UN Committee on the Rights of the Child 2005, 2013).

In practice, the rights-based approach generates two sets of requirements. First, at the normative level, national law must fully domesticate international obligations, extend protection to all children under 18 and clearly recognize victim status and children's rights across criminal, civil, administrative, and immigration processes (Teebay and Payne-James 2025). Second, at the implementation level, institutions must be organized so that children can actually exercise those rights: with independent representatives, free legal aid, effective complaint and monitoring mechanisms, and child-friendly support services (Hynes 2010). Studies and policy guidance consistently indicate that without a genuinely independent guardian or representative standing on the child's side, rights recorded on paper easily become formalistic, especially where children must simultaneously navigate multiple complex legal procedures (Alvarez-Alonso 2018). For this reason several countries, the UK foremost among them, have experimented with and institutionalized specialized independent guardianship models for trafficked children, initially Independent Child Trafficking Advocates (ICTA) and subsequently Independent Child Trafficking Guardians (ICTG) (Kohli et al. 2015). Evaluating the effectiveness of this model, including its impact on children's access to justice, forms an integral part of the analysis under the second and third pillars in Section 5.

4. The Case of the United Kingdom: Context and Legal-Institutional Framework

4.1. Context of Child Trafficking from Vietnam to the UK

The trafficking of Vietnamese children to the UK is best understood as a causal chain that begins with vulnerability in Vietnam, runs through high-risk migration journeys, and ends in exploitation compounded by systemic misrecognition. This subsection reconstructs that chain in sequence.

The chain begins with a set of "push" factors in Vietnam that render children and adolescents susceptible to trafficking networks on routes to Europe: poverty, limited local employment and education opportunities, inequality in development between rural and urban areas, expectations of "changing lives" through overseas work, social norms that treat successful migration as a measure of achievement and a lack of accurate information about trafficking risks (Tsai and Dichter 2019). Many families incur large debts from formal or informal sources to cover migration costs, placing children in severe dependency on brokerage networks; the combination of debt repayment pressure, the desire to improve the

family economy, and trust in brokers' promises leads children and families to accept risks even where there are clear signs of illegality in the journey (Alvarez-Alonso 2018; Le and Wyndham 2022). Cultural factors compound this vulnerability; some research indicates that norms of family obligation and distrust of state authorities can deter Vietnamese children from disclosing exploitation or seeking help even when they meet authorities in Europe (Q. T. N. Nguyen 2016).

The journeys themselves expose children to sustained harm. Research based on interviews with victims, at-risk individuals, and frontline organizations in Vietnam and Europe has mapped common routes running from Vietnam to Russia by air, then overland through Belarus, Ukraine, or Poland, onward through the Czech Republic, Germany, the Netherlands, and France before reaching the UK; migrants on these routes typically depend almost entirely on brokers linked to transnational organized crime networks, are controlled by debt, deprived of documents, and threatened with violence if they attempt to leave (Beadle and Davison 2019; Silverstone and Brickell 2017). For children the risks are particularly acute; ECPAT UK's research documents cases of children moved through multiple countries who were at no point officially identified as victims by any authority, resulting in continued exploitation and re-exploitation throughout the journey, and describes these as "precarious journeys" in which children are abused throughout the migration process (Beadle and Davison 2019; Setter 2019).

At destination, Vietnamese children are exploited in settings that are frequently described in the literature as "hidden" but the sense in which they are hidden requires precision. Cannabis cultivation sites are clandestine because the activity itself is illegal and children confined within them are physically isolated from the outside world. Nail salons, restaurants, and garment workshops, by contrast, are publicly visible businesses; what conceals exploitation there is not physical invisibility but the informality of the labor arrangements, the closed character of the working environment, language barriers, the victims' irregular status, and the limited reach of labor inspection into these sectors. Exploitation in these settings is thus better described as hidden in plain sight—detectable in principle but shielded in practice by regulatory and social barriers to scrutiny (Silverstone and Brickell 2017; Kennedy 2024). Documented forms of exploitation of Vietnamese children include forced labor in cannabis cultivation; work in nail salons, restaurants, and garment workshops; sexual exploitation; and forced criminality such as theft and the transport of prohibited goods. The children involved are then frequently treated as offenders or immigration violators rather than as victims (Setter 2019; UNICEF UK 2017).

The final link in the chain is systemic misrecognition. Despite their victim status under international law, Vietnamese children are often "invisible" to the protection systems of the states they pass through and arrive in. ECPAT UK describes a "buck-passing" dynamic among transit and destination countries in which each state tends to treat the children as "another country's problem" so that they are not properly identified as victims, lack access to support, and are readily re-captured by trafficking networks (ECPAT UK 2019). In many transit countries, authorities lack knowledge and specialized training on child trafficking, and children are processed as "illegal migrants" or "smuggled persons" rather than assessed as potential trafficking victims (Verdasco Martínez et al. 2024). Deficient coordination and information sharing between agencies and across borders further increases the risk that children disappear from care systems and are re-trafficked (Mäkipää et al. 2025). In the UK itself, research indicates that a significant proportion of Vietnamese children placed in care after being identified as victims went missing from their assigned accommodation, with many suspected of having been re-exploited or re-trafficked (Alvarez-Alonso 2018; Gearon 2019). This situation raises the central questions of this article: whether these children are

heard, protected from retaliation and re-traumatization, provided with independent legal support and able to influence the decisions that determine their futures.

Within the scope of this article, selecting the UK as the case study is therefore warranted on two mutually reinforcing grounds: the UK is a principal destination on these routes, and it has constructed a comparatively developed legal and institutional apparatus for combating trafficking and protecting victims—which makes it a “laboratory” in which the substance of access to justice for Vietnamese children can be tested against the strongest available institutional background.

4.2. *The UK Legal Framework on Combating Human Trafficking and Protecting Child Victims*

The centerpiece of the UK framework is the Modern Slavery Act 2015 (MSA), applicable in England and Wales, alongside the Human Trafficking and Exploitation (Scotland) Act 2015 and the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 in the devolved jurisdictions. Several provisions of the MSA bear directly on the analysis in this article. Sections 1 and 2 of the MSA criminalize slavery, servitude, forced or compulsory labor, and human trafficking, and Section 8 of the MSA empowers courts to make reparation orders requiring convicted offenders to compensate their victims. Section 45 establishes a statutory defense for victims, with a distinct, less demanding limb for persons under 18, who need only show that they committed the offense as a direct consequence of being, or of circumstances arising from being, a victim of trafficking or relevant exploitation. It thereby gives partial statutory expression to the international non-punishment principle. In MSA, Section 48 provides for Independent Child Trafficking Advocates (ICTAs), requiring the Secretary of State to make arrangements for independent advocates to represent and support children where there are reasonable grounds to believe they may be victims of trafficking; this was the first specialized guardianship provision of its kind in Europe (Haynes 2016; Mantouvalou 2018). The scheme established under this provision was subsequently renamed and reconfigured as the Independent Child Trafficking Guardians (ICTG) service; the current terminology, and the state of the service’s roll-out, are examined in Section 5.2 of article.¹

The MSA operates against the background of the UK’s international and regional obligations. The UK is a party to the Palermo Protocol, the CRC, the European Convention on Human Rights (ECHR), and the Council of Europe Convention on Action against Trafficking in Human Beings. It previously withdrew from the EU-implemented Directive 2011/36/EU, whose provisions on assistance to child victims and the appointment of representatives shaped the design of the domestic framework (Mantouvalou 2018). Alongside the anti-trafficking legislation, the general child safeguarding framework, notably the Children Act 1989 and 2004 and the statutory guidance *Working Together to Safeguard Children*, imposes obligations on local authorities and relevant agencies to protect all children in their area from abuse, exploitation, and neglect, irrespective of nationality or immigration status (Haynes 2016).

Commentators identify the framework’s principal strength in its integration of criminal provisions with victim protection clauses as the Section 45 defense, reparation orders, and the statutory guardianship provision within a single statute (Haynes 2016; Kohli et al. 2015). At the same time, the literature consistently records that implementation has been uneven and the application of guardianship and victim protection standards has at times been constrained by immigration policy priorities and by reductions in social welfare

¹ Section 48 of the MSA and the pilot documentation use the term Independent Child Trafficking Advocates (ICTAs); the service was subsequently renamed Independent Child Trafficking Guardians (ICTGs), the term in current official use. This article uses “ICTG” except when referring to the original statutory text or the early evaluations. See Home Office (2025b).

budgets. Later regulatory changes have been criticized as narrowing victim protection relative to the statute's original ambitions (Haynes 2024; Pham 2022)². How these strengths and constraints play out in practice for Vietnamese child victims is the subject of the next section, which applies the three-pillar framework of access to justice and the rights-based approach to the operation of these legal and institutional mechanisms.

5. Access to Justice for Vietnamese Child Victims in the UK Through the Three Pillars

This section assesses the UK system through the three pillars outlined in Section 3.2. Because the pillars work together rather than separately, the analysis deliberately returns to the same key bodies of evidence, namely the *V.C.L. and A.N.* litigation, the operation of the NRM for Vietnamese children, and the data on children going missing from care, under each pillar in turn. The purpose is cross-checking rather than repetition. This shows how a single protection failure typically has normative, institutional, and capacity dimensions simultaneously. Each subsection closes by identifying the preliminary implications of the analysis for Vietnamese children, which Section 6 then develops into reform proposals.

5.1. Legal Protection Framework

Measured against international and regional standards, the UK's legal protection framework is substantially compliant on paper. The UK is party to the ECHR, the Council of Europe Anti-Trafficking Convention, the Palermo Protocol, and the CRC, and has domesticated core obligations through the MSA 2015 and its devolved counterparts (Mantouvalou 2018). As set out in Section 4.2, the MSA criminalizes the relevant conduct, provides the Section 45 defense with its child-specific limb, empowers reparation orders under Section 8, and through Section 48 recognizes the special position of child victims by mandating independent advocacy, later guardianship (Haynes 2016). The general child safeguarding framework extends statutory protection duties to all children regardless of status (Haynes 2016).

The jurisprudence of the European Court of Human Rights has given this framework its most consequential test in a case concerning Vietnamese children specifically. In *V.C.L. and A.N. v. United Kingdom*, two Vietnamese adolescents were discovered working in cannabis cultivation facilities, prosecuted, and convicted of drug offenses despite clear indicators that they were trafficking victims. The court held that the UK had violated Article 4 of the ECHR (prohibition of forced labor and servitude) and Article 6 (fair trial) because the authorities had failed to conduct an adequate assessment of the trafficking indicators and to ensure that the non-punishment principle was given serious consideration in the decision to prosecute (*V.C.L. and A.N. v. United Kingdom* 2021; Haynes 2024). The judgment affirms that states owe a proactive duty to investigate and identify trafficking victims, especially children, and to ensure that they are not prosecuted or convicted for offenses directly arising from their exploitation.

The *V.C.L. and A.N.* litigation, however, also exposes the limits of the normative pillar taken alone. The legal materials the UK authorities failed to apply in that case, the non-punishment principle and the duty of proactive identification, existed at the relevant

² Immigration legislation has since qualified this framework. Section 63 of the Nationality and Borders Act 2022, in force since 30 January 2023, allows a competent authority to disqualify a person from the recovery period, and from the protection against removal that attaches to it, on public order or bad faith grounds; unlike section 59, which applies expressly only to persons aged 18 or over, section 63 contains no age limitation, and the Act provides no right of appeal against a disqualification; GRETA urged that the power be used only in very exceptional circumstances (GRETA 2026, para. 255). The same Act shortened the recovery period in England and Wales from 45 to 30 days and the move-on period from 90 to 45 days. Section 29 of the Illegal Migration Act 2023, which would widen the public order grounds, remains uncommenced, as do sections 66 and 67 of the 2022 Act, which would extend legal aid to advice on the National Referral Mechanism before a reasonable grounds decision (UK Parliament 2022; commencement positions as of August 2026). On the narrowing of victim protection generally see Haynes (2024).

time; what failed was their interpretation and application at the frontline. Research by UNICEF UK and others documents that children trafficked for forced criminality (cannabis cultivation, theft, drug transport) have frequently been prosecuted first and only assessed as trafficking victims afterwards, sometimes after conviction (UNICEF UK 2017). From the perspective of the first pillar, the core anti-trafficking legislation is largely compatible with international and regional standards on criminalization, child protection, and non-punishment; but the persistence of prosecutions of Vietnamese child victims shows that a compliant legal framework is a necessary and not a sufficient condition of access to justice and directs the analysis to the remaining two pillars.

Preliminary implications for Vietnamese children: For Vietnamese child victims, the decisive normative lessons are that victim status and the non-punishment principle must be defined in law with sufficient clarity, including a child-specific standard that does not require proof of coercion, and that statutory guardianship must be anchored in primary legislation. For Vietnam, this directs attention to the definitional gaps in its own framework (the scope of exploitation purposes and the protection of children aged 16 to 17) and to the specification of the non-punishment principle newly introduced by the 2024 Law; Section 6.2 develops these points.

5.2. Institutional Framework

The center of the UK's institutional framework for identifying and supporting trafficking victims is the National Referral Mechanism (NRM). The NRM is a multi-agency process in which authorized "first responders" including police, border agencies, local authorities, and specified NGOs refer suspected victims to a competent authority, which makes two sequential decisions: a "reasonable grounds" decision, which triggers temporary protection and support, and a "conclusive grounds" decision on victim status (Findlay 2024b). For Vietnamese children the NRM has demonstrably functioned as a counting and gateway mechanism: 1599 Vietnamese nationals were referred between 2009 and 2016, over half believed to have been exploited as minors, with males exploited as children constituting the largest group (Silverstone and Brickell 2017). In 2024 Vietnamese nationals were the third most commonly referred nationality with 2153 referrals, the highest annual figure for this nationality since the NRM began (Home Office 2025d).

Qualitative research and thematic reports nonetheless reveal structural limitations in how the NRM operates for Vietnamese children. First, identification is frequently late and enforcement-led: many Vietnamese children enter the NRM only after being arrested, prosecuted, or detained for conduct related to cannabis cultivation or immigration violations, meaning the system does not identify them as victims at first contact (Gardner 2018; UNICEF UK 2017). Second, "age disputes" arise with frequency for this group. Where a Vietnamese child's claimed age is doubted, which happens often given the absence of reliable documents, the effects of trauma on presentation, and assessors' unfamiliarity with the population, the individual may be treated as an adult pending assessment, with immediate and severe loss of the child-specific limb of the Section 45 defense, loss of child safeguarding entitlements, placement in adult accommodation or detention, and exposure to adult criminal procedures. Age assessment is therefore a gateway decision rather than a technical preliminary, since the whole architecture of child-specific protection depends on it, and its contested character for Vietnamese children reveals an institutional capacity problem: none of those protections can operate until the person in front of the assessor has been recognized as a child (Brittle 2019; Setter 2019).

A third institutional weakness concerns where decisions about children are made. Decisions on victim status have historically been made centrally by Home Office competent authorities, at a distance from the professionals involved in the child's care and with an

institutional center of gravity closer to immigration control than to child protection. In response, the Home Office launched a devolved decision-making pilot for child victims in June 2021, initially in ten local authority sites, and subsequently expanded it. Under the pilot, NRM decisions for children are made by local multi-agency panels that bring together local authority children's services, police, and health professionals, so that the judgment on whether a child is a victim of modern slavery is made by those involved in the child's care and is aligned with local, needs-based safeguarding responses and any law-enforcement response (Home Office 2025a). The pilot statistics and evaluation indicate the significance of this reform for the population studied here: Vietnamese children figure among the most commonly referred non-UK nationalities within the pilot cohort. The underlying rationale of the pilot, which embeds victim-status decisions in child protection expertise rather than immigration adjudication, responds directly to the misrecognition dynamics documented for Vietnamese children in Section 4.1 (Home Office 2025a). The pilot is an institutional acknowledgment that the original NRM design was not child-sensitive at the point of decision; its trajectory should be followed closely by any country designing a referral mechanism for child victims. The Council of Europe's monitoring body has since endorsed this direction, welcoming the devolution of decisions on presumed child victims to local multi-agency panels while pressing the authorities to keep the identification procedure short and not to remove referred persons before it is complete. The same report calls on the authorities to make the Independent Child Trafficking Guardianship scheme operational across the whole territory of England and Wales (GRETA 2026, Executive summary). Its overall assessment of the mechanism is more critical still: GRETA finds that NRM decision-making has become complex and demanding in its standard of proof, functioning in practice like a quasi-judicial procedure that victims struggle to navigate, particularly without free legal advice at the point of referral (GRETA 2026, Executive summary).

Alongside the NRM, local child safeguarding systems are responsible for safe accommodation, alternative care, education, health, and safety monitoring for child victims. Here the most alarming evidence concerns children going missing; a significant proportion of Vietnamese children placed in care after identification left their assigned accommodation and did not return, with many cases suspected to involve re-exploitation or re-trafficking (Alvarez-Alonso 2018; Gearon 2019). This suggests that protection and monitoring measures have not been sufficiently sensitive to the specific circumstances of Vietnamese children—debt pressure on their families, threats of retaliation from networks, and low trust in authorities—all of which make them susceptible to being drawn back to their exploiters even from within the care system.

Against these weaknesses, independent guardianship is the UK's most distinctive child-specific innovation. The service was piloted from 2017 as Independent Child Trafficking Advocates (ICTAs) and subsequently renamed Independent Child Trafficking Guardians (ICTGs), the term now in standard use³. The evaluations of the ICTA trial and the subsequent assessments found that most participating children and professionals viewed the advocate as an independent "anchor" helping children navigate the welfare, immigration and criminal justice systems, and acted as a bridge to state agencies, so that the child's voice was heard and their best interests were not overshadowed by administrative or immigration priorities; a more recent child-centered evaluation confirms that young people value the guardianship relationship as central to their protection and recovery (Kohli et al. 2015; Keeble et al. 2018; Skeels et al. 2024). The evaluations also identified persistent problems including financial fragility of the initial model, imperfect delineation between the guardian's role and existing services, and the need to concentrate

³ See note on terminology above.

direct one-to-one support on children without a figure of effective parental responsibility in the UK, a category consisting largely of foreign children, including Vietnamese children (Home Office 2019).

Critically, however, the ICTG service has never yet operated as the national scheme that Section 48 of the MSA envisaged. Rolled out incrementally from the early adopter sites, by May 2021 it covered only around two-thirds of local authority areas in England and Wales; whether a trafficked child received a guardian therefore depended substantially on geography—a “postcode lottery” (Home Office 2025b). Only in July 2026 did the government announce £25 million to extend the ICTG service to all local authorities in England and Wales, to be delivered over the following years, more than a decade after the statutory provision was enacted (Home Office 2026). For the purposes of this article, the ICTG trajectory carries a double lesson: the model itself is a demonstrably valuable realization of the rights-based approach, and at the same time its decade-long partial implementation illustrates how a statutory guarantee can remain territorially incomplete when funding and political commitment lag legislation.

From the perspective of the second pillar, the UK has built an institutionally rich, multi-agency network: the NRM, the child safeguarding system, the emerging devolved child decision-making panels, the ICTG service, and an active civil society sector including ECPAT UK, Anti-Slavery International, and UNICEF UK. Yet the evidence of late, enforcement-led identification, contested age assessments, children going missing from care, and the incomplete roll-out of guardianship shows that this institutional framework has not yet operated consistently in the spirit of the rights-based approach and the best interests of the child where Vietnamese children are concerned.

Preliminary implications for Vietnamese children: Institutionally, the UK experience indicates that (i) victim identification for children must be embedded in the child protection system rather than in enforcement channels, and the devolved panels are the UK’s own corrective action in this direction; (ii) age assessment must be governed by a benefit-of-the-doubt standard, since it functions as the gateway to all child-specific protection; (iii) care arrangements must be designed against the specific risk profile of Vietnamese children (debt, threats, distrust) to prevent disappearance from care; and (iv) independent guardianship must be established with secured nationwide funding from the outset. Section 6.3 translates these points into design proposals for Vietnam.

5.3. Capacity to Provide and Demand Remedies

The third pillar requires us to examine both the system’s capacity to provide effective remedies and the victims’ capacity to access, demand, and use them. For Vietnamese child victims in the UK, both dimensions are shaped by structural factors (immigration policy, the political and social environment) and by individual factors such as language, culture, migration status, and economic and family pressure.

On the supply side, the UK system formally offers a suite of remedies such as temporary support upon a positive reasonable-grounds decision in the NRM; the Section 45 defense and prosecutorial non-punishment guidance; reparation orders; independent guardianship through the ICTG service; and networks of social, legal, health, and education services. In practice, however, three deficits recur in the evidence. First, the non-punishment principle is applied inconsistently, particularly for children trafficked for forced criminality. Children continue to be prosecuted, detained, and convicted before being considered as trafficking victims. That was the failure at the heart of *V.C.L. and A.N.*, and it both violates their rights directly but erodes the Vietnamese community’s trust in the justice system, making children and families less inclined to cooperate or seek help (UNICEF UK 2017; Haynes 2024). Domestic courts have since built on the Strasbourg judgment: in *R v AAD*,

AAH and AAI the Court of Appeal confirmed that a trafficked defendant may argue abuse of process, and may appeal a conviction, including one entered on a guilty plea, after being recognized as a victim. The same judgment upheld the rule that a conclusive-grounds decision is not admissible before the trial court (*R v AAD, AAH and AAI* 2022). A remedy therefore exists, but it becomes available only after the punishment and only to a child who has a lawyer. Second, NRM processing times are protracted: conclusive-grounds decisions have been subject to substantial backlogs, leaving victims in legal uncertainty for long periods during which they cannot fully access support or plan their futures, whether in the UK or through return (Beadle and Davison 2019). For Vietnamese children experiencing debt pressure, threats and family expectations, prolonged uncertainty significantly increases the risk of leaving the protection system and returning to exploitation networks, which they may perceive as the only way to repay debts or support their families.

Third, compensation is out of reach for most of this group, and the barriers are built into the schemes rather than being incidental to them. A reparation order under Section 8 of the MSA requires both a conviction under Sections 1, 2 or 4 and a confiscation order against the offender, which ties the child's remedy to the outcome of a criminal case they do not control. Since 2015, 206 confiscation orders have been obtained in cases where slavery or trafficking was the primary offense, but only 41 compensation orders and eight reparation orders were made (Independent Anti-Slavery Commissioner 2022). The Criminal Injuries Compensation Scheme, the principal route against the state, compensates injury arising from a crime of violence involving contact or the immediate threat of violence, a threshold trafficked children do not always meet, and it sets a two-year time limit. Its exclusionary rule then refuses an award to any applicant holding an unspent conviction that attracted a listed custodial or community sentence, with no discretion to consider how that conviction arose (Ministry of Justice 2025). That last rule bears most heavily on children trafficked for forced criminality, whose convictions are the product of their exploitation, a connection the Independent Anti-Slavery Commissioner has drawn directly.

Nor is legal help available: the Legal Aid, Sentencing and Punishment of Offenders Act 2012 places advice on such applications outside the scope of civil legal aid, so that survivors must seek exceptional case funding, which was refused in the great majority of applications made on their behalf (Independent Anti-Slavery Commissioner 2022). Between 2012 and early 2020, 54 of 283 applications by trafficking victims in England and Wales resulted in an award (Independent Anti-Slavery Commissioner 2022). The Supreme Court upheld the unspent convictions rule in 2021, and in April 2025 the government declined to alter that rule, the scheme's scope or its time limits (*A and B v Criminal Injuries Compensation Authority and Another* 2021; Ministry of Justice 2025). The right to compensation guaranteed by Article 15 of the Council of Europe Convention therefore remains, for Vietnamese child victims, largely unexercised (Council of Europe 2005). GRETA's findings in 2026 point in the same direction, urging the authorities to make compensation available to all victims for the full damage suffered and within a reasonable time, and noting continuing difficulty in obtaining legal assistance and free legal aid, including during the identification process and before entry into the NRM (GRETA 2026, Executive summary). One further finding illustrates how far the remedy is from the child: although Section 65 of the 2022 Act allows a confirmed victim to be granted leave to remain for the express purpose of seeking compensation, GRETA records that no such permit appears to have ever been granted (GRETA 2026, para. 272). The capacity to provide remedies thus depends not only on the existence of mechanisms on paper but on their efficiency, timeliness and sensitivity to victims' specific circumstances.

On the demand side, Vietnamese children's capacity to claim justice is constrained by a series of compounding barriers. Language and cultural barriers leave many children unable

to understand their rights, the procedures they are subject to, or the opportunities and risks within the NRM, asylum, and other protection mechanisms; without reliable interpreters, lawyers, and guardians they are effectively information-blind in decisions that determine their lives. Irregular migration status, debt bondage, and threats of retaliation lead children and families to prioritize immediate safety, including a return to the trafficking network, over long, complex and unpredictable legal processes (Beadle and Davison 2019). Negative experiences with authorities in transit countries and in the UK, where they are treated as offenders, detained and disbelieved, further erode trust in the system's willingness to protect them (Brittle 2019).

In this setting, intermediary institutions become decisive for whether formal remedies are ever actually demanded. The ICTG evaluations show that guardians help children understand their rights and options, support best-interests decision-making, and represent the child's voice in multi-agency meetings, immigration procedures, and criminal proceedings (Keeble et al. 2018); specialized legal aid lawyers and civil society organizations such as ECPAT UK, Anti-Slavery International, and UNICEF UK perform analogous bridging functions. But access to these intermediaries has itself been unevenly distributed, most obviously through the incomplete territorial coverage of the ICTG service documented in Section 5.2 so that the capacity of a Vietnamese child has depended significantly on where in the UK the child happened to be identified.

In sum, under the third pillar the UK has established meaningful tools for providing remedies, but their delivery is impeded by immigration control pressures, resource constraints, and procedural bottlenecks, while Vietnamese children's capacity to demand justice is limited by language and cultural barriers, migration status, debt pressure, and a lack of trust. This interaction between a constrained supply side meeting a suppressed demand side is the key node to grasp when designing referral, guardianship, and child-friendly legal aid mechanisms for Vietnam.

Preliminary implications for Vietnamese children: The capacity pillar teaches that remedies must be timely (status decisions subject to time limits), and that non-punishment must be operationalized in prosecutorial practice and not only in statute. Demand-side capacity must be actively constructed through guaranteed interpretation, early free legal aid, guardianship, and community-level legal empowerment because trafficked Vietnamese children will not, unaided, convert formal rights into claims. Section 6.4 develops these implications.

6. Policy Reform Implications for Vietnam from the UK Case

The UK case shows a comparatively developed model of combating human trafficking and ensuring justice for children, but one that also reveals persistent tensions between victim protection and immigration control, as well as limitations in long-term support and re-trafficking prevention, especially for Vietnamese children. Before those findings can be translated into reform proposals, however, the conditions under which lessons can travel from the UK to Vietnam must be made explicit.

The findings below rest on documentary evidence from a single destination country. What travels from the UK to Vietnam is therefore not a set of validated outcomes but a set of functional principles whose relevance depends on the transfer conditions set out in Section 6.1. Where the UK evidence is contested or thin, as it is most clearly on compensation outcomes for children, the corresponding proposal for Vietnam is framed as a design requirement to be tested, not as a proven remedy.

6.1. Conditions for Transferring Lessons: Acknowledging the Differences

Four structural differences between the two countries condition what can meaningfully be transferred, and the proposals in the following subsections are framed with these differences in mind.

First, the two legal systems belong to different traditions. The UK is a common law jurisdiction in which appellate and supranational case law, most visibly V.C.L. and A.N., operates as a direct engine of legal development, reshaping prosecutorial practice through judicial decision. Vietnam is a civil law jurisdiction in which legal change is effected primarily through legislation and sub-law guiding documents (decrees, circulars, inter-agency guidelines) and in which courts play a comparatively limited law-making role (Le 2025). A lesson learned in the UK through litigation must therefore typically be implemented in Vietnam through legislative and regulatory specification: for example, the substance of the V.C.L. and A.N. holding, namely proactive identification and non-punishment, enters Vietnamese law not through precedent but through the express provisions of the 2024 Law and the guiding documents that will operationalize them.

Second, the two countries differ substantially in resources and institutional infrastructure. The UK's model presupposes a dense professional ecosystem, specialized competent authorities, funded guardianship contracts, an extensive legal aid profession, and well-resourced civil society organizations that cannot be assumed in Vietnam. Reform proposals must therefore be scaled to fiscal and human-resource realities, favoring phased piloting over immediate national schemes; notably, the UK's own experience shows that even a wealthy state took over a decade to fund the national roll-out of statutory guardianship, which shows that sustainable financing must be planned from the outset rather than assumed (Home Office 2026; Findlay 2024a).

Third, the two countries occupy different positions in the trafficking chain. The UK is a destination country whose central problems are identification among arriving irregular migrants and the tension with immigration control; Vietnam is primarily a source country and a country of return, whose central problems are prevention in high-risk communities, the re-assessment and reintegration of repatriated victims, and cross-border cooperation. UK mechanisms therefore cannot be copied one-to-one: a Vietnamese referral mechanism, for instance, must be designed around repatriation and internal trafficking scenarios rather than around border identification of foreign nationals.

Fourth, the cultural and social context differs. Family obligation, debt relationships, attitudes toward authority, and the social meaning of migration shape how Vietnamese children and families interact with protection systems (Q. T. N. Nguyen 2016) and mechanisms that presuppose an individual child asserting rights against the family or the community require careful cultural adaptation.

For these reasons, the UK experience is treated here not as a template to copy but as a source of functional principles: early protection-oriented identification, decision-making embedded in child protection expertise, independent guardianship, operationalized non-punishment, and constructed demand-side capacity. Vietnam, with its different position, resources, and institutional structure, can select and adapt among them. The following subsections apply this method pillar by pillar.

6.2. Standardizing Victim Concepts and Fully Domesticating Rights-Based Principles (First Pillar)

At the legal level, Vietnam has made important strides: the 2015 Criminal Code (amended 2017), the 2011 Law on Prevention and Combat of Human Trafficking, and now the 2024 Law progressively domesticate obligations under the TOC Convention, the Palermo Protocol, the CRC, and ACTIP (Soegiharto and Madu 2025). Nonetheless, studies into the protection of child victims note remaining gaps in the scope of the victim concept

particularly for persons aged 16 to 17 and in the linkages between criminal, administrative, child protection, and legal aid provisions (Mac 2025). The relatively narrow definitional design in the Criminal Code, which emphasizes certain exploitation purposes and requires proof of the link between transfer/receipt acts and those purposes, has made it difficult for many Vietnamese persons exploited abroad, including in the UK, to be recognized as trafficking victims upon repatriation or when seeking protection (Ngo and Giao Vu 2023; Le and Wyndham 2022).

The UK experience shows that a full, consistent legal definition of trafficking victims, including children, is a precondition for the effective operation of protection and non-punishment mechanisms; definitional shortfalls or narrow interpretation lead directly to victims being treated as offenders, as *V.C.L. and A.N.* demonstrates. Three specific directions follow for Vietnam.

First, continue reviewing consistency between the 2015 Criminal Code (amended 2017) and the 2024 Law regarding the concepts of “human trafficking” and “victim,” ensuring full compatibility with the Palermo definition—in particular the scope of exploitation purposes and the recognition of all persons under 18 as requiring special protection under the means-free child definition, without importing requirements of proof of coercion or reliance on “consent” (Ngo and Giao Vu 2023).

Second, further specify the non-punishment principle. The 2024 Law has advanced by allowing victims, on a case-by-case basis, to not be administratively or criminally sanctioned for acts that are a direct consequence of being trafficked; but the UK experience, where a statutory defense coexisted for years with continued prosecutions of child victims, shows that the principle must also be operationalized in criminal law and, critically, in binding guidance for investigators and prosecutors, including child-specific standards analogous to the less demanding child limb of Section 45 of the MSA (D. D. Nguyen 2025; UNICEF UK 2017).

Third, clarify and strengthen the legal status of child victims across criminal, civil, administrative, and immigration processes; statutory rights to victim recognition; free legal aid; independent representation or guardianship; privacy protection; and appropriate participation in decisions affecting them, drawing on international standards on child-friendly justice and the guidance of the OHCHR, UNICEF, and UNODC (UNICEF 2006; UN Human Rights Council 2013).

6.3. Building and Effectively Operating the Institutional Framework: A National Referral Mechanism and Independent Guardianship (Second Pillar)

The UK’s experience with the NRM, the devolved child decision-making panels, and the ICTG service suggests concrete directions for institutional design in Vietnam, where recent assessments likewise emphasize the need to strengthen inter-agency coordination and the capacity of the child protection system at all levels (Tran et al. 2020).

First, build a national referral mechanism suited to Vietnam’s context. The UK model demonstrates the value of a multi-agency focal point and of a two-step process in which protection begins from the outset rather than awaiting final conclusions; the devolved child panels add the further lesson that decisions about children should be made by those with child protection expertise and proximity to the child’s care, not by a distant enforcement-oriented authority (Findlay 2024b; Home Office 2025a). A Vietnamese mechanism should accordingly include: (1) a central focal agency (with inter-ministerial coordination among public security, foreign affairs, justice, and the social sector) responsible for coordinating victim identification, determination, and support, including for repatriated children and children discovered in Vietnam after being trafficked abroad; (2) a two-step identification process under which, upon reasonable grounds based on indicators in specialized guidance, children receive immediate temporary protection and basic support and are not treated

as administrative violators or “illegal migrants”; and (3) formal coordination mechanisms among police, border guards, labor and social agencies, diplomacy, justice, local authorities, and social organizations, with inter-agency guidance on identification and referral responsibilities. Decision-making for child cases should rest within bodies that include child protection professionals, in the spirit of the UK’s devolved panels.

Second, design an independent guardianship or representation mechanism for child victims. The ICTG evaluations show that independent guardianship can be decisive for protecting the best interests of children without effective parental responsibility (Kohli et al. 2015; Keeble et al. 2018). Vietnam’s current legal framework provides only generally for guardians and legal representatives, without a specialized mechanism for trafficked children, particularly children without accompanying family or whose family cannot ensure their safety (Q. T. Nguyen 2024; Mac 2025). Vietnam should therefore: (1) pilot a specialized guardianship model for child trafficking victims, located within the child protection system but with functional independence from investigative and prosecutorial agencies, with guardians mandated to represent the child’s best interests across all procedures (criminal, civil, administrative, social support, and repatriation); (2) link guardianship with the state legal aid system and experienced social organizations so that children obtain both a guardian and a lawyer from the earliest stage of identification; and (3) define the role, responsibilities, and professional standards of guardians in the sub-law documents implementing the 2024 Law and the 2016 Law on Children, ensuring the guardian’s voice is independent and not merged into the case-management roles of other agencies. The UK’s decade-long delay in funding a national roll-out informs one further design requirement: the pilot must be launched with a costed, time-bound plan for national expansion, so that the guardianship right does not remain a geographic lottery (Home Office 2026).

Third, expand the space for, and coordination with, social organizations and international partners. The UK experience shows that organizations such as ECPAT UK, Anti-Slavery International, and UNICEF UK play essential roles in direct service provision, policy advocacy, and independent monitoring, compensating for state limitations in resources and perspectives (Setter 2019; Findlay 2024a). In Vietnam, social organizations and international partners (UNDP, UNICEF, NGOs) already participate in programming, but their involvement in policy formation and monitoring can be strengthened by: (1) establishing regular, structured consultation mechanisms between state agencies and social organizations (technical working groups, policy forums, legislative consultation) of the kind convened during the drafting of the 2024 Law (D. D. Nguyen 2025) and (2) recognizing in the 2024 Law’s guiding documents the roles of social organizations as referral points, service providers, and independent monitors, with mechanisms ensuring legal certainty and resources for their sustainable participation.

6.4. Strengthening the Capacity to Provide and Demand Remedies Through Legal Aid, Empowerment, and Cross-Border Coordination (Third Pillar)

The UK evidence on the third pillar reveals the characteristic obstacles: protracted procedures, the dominance of immigration enforcement priorities, language and cultural barriers, and a lack of trust. It also shows that demand-side capacity has to be constructed rather than assumed. For Vietnam, as a source country and a place of return and recovery, three implications follow.

First, ensure substantive and child-friendly legal aid. Although the 2024 Law establishes victim-centered principles, in practice legal aid has not yet become a systematically guaranteed right for all victims, especially children (D. D. Nguyen 2025). Child victims, including those still in the determination process, should have access to free legal aid early and throughout criminal proceedings and administrative handling, which requires clear provision in the Law on Legal Aid and the documents guiding the 2024 Law; special-

ized guidance should be developed for lawyers and legal aid providers on working with trafficked children, with the child's best interests rather than case outcomes alone as the governing criterion (Mac 2025; Alvarez-Alonso 2018).

Second, pursue legal empowerment of children and at-risk communities. Access to justice requires more than the supply of services; it requires building the capacity of victims and communities to recognize risks, understand their rights, and use the legal system. Building on the evidence on push factors along routes to Europe (Tsai and Dichter 2019; Beadle and Davison 2019) Vietnam should: (1) strengthen legal education and anti-trafficking programming for children, adolescents, and families in high-risk areas, with concrete information on the risks of unsafe migration routes and on rights and obligations when going abroad for work or study; and (2) develop community-level legal collaborator models or community legal consultation points, linked to the state legal aid system and social organizations, so that people, including children, have early consultation channels before deciding to migrate or upon signs of exploitation.

Third, strengthen cross-border coordination and repatriation support. Access to justice for Vietnamese child victims trafficked to the UK does not end in the UK: it continues upon return to Vietnam, where children need identification, protection, recovery support, and, where appropriate, assistance in accessing compensation. Recent assessments note that Vietnam has enhanced international cooperation but that victim support systems require adjustment to new contexts, including digitally facilitated recruitment and new forms of exploitation (Home Office 2025a; Soegiharto and Madu 2025). Vietnam should therefore: (1) strengthen coordination mechanisms with destination countries, including the UK, on information sharing, victim determination, safe repatriation, and reintegration support, building on existing bilateral and multilateral instruments and considering specific protocols on returned children (Pham 2022); (2) ensure that Vietnamese children repatriated from the UK and other European countries are re-assessed for victim status rather than automatically classified as immigration violators, and connected to domestic child protection, legal aid, health, education, and livelihood support; (3) integrate the UK lessons on re-trafficking risk and disappearance from care into the design of Vietnam's reintegration programs, attending to debt, family expectations, re-migration pressure, and social stigma (Gearon 2019; Beadle and Davison 2019).

Fourth, provide a route to challenge a decision that a person is not a victim, and ensure that a criminal record arising from exploitation does not extinguish the right to support. The UK case shows what follows when neither exists: a child refused victim status has no appeal and must resort to judicial review, which they cannot do without a lawyer; and a child convicted of an offense they were compelled to commit finds that conviction bars them from state compensation (Ministry of Justice 2025). Vietnam is drafting the documents implementing the 2024 Law from a blank page and can avoid both outcomes. Those documents should specify a procedure for review of, and complaint against, decisions on victim status, with a stated time limit and a duty to give reasons. They should also state expressly that administrative or criminal sanctions imposed on a person who was in fact trafficked do not bar that person from identification, support, legal aid or compensation. On this point Vietnam is in a position to legislate better than the country from which the lesson is drawn.

Taken together and read through the transfer conditions set out in Section 6.1, the UK experience is not a template but a structured source of reference for a country with a different position, resources, and institutional configuration. If Vietnam pursues these directions while continuing to refine the 2024 Law and related legislation under a rights-based approach, it can move substantially closer to ensuring, in practice and not only on

paper, the right of child trafficking victims to access justice, even as cross-border trafficking routes and forms of exploitation become more complex.

7. Conclusions

This article set out to answer the question of the extent to which the right of Vietnamese child victims of trafficking to access justice is realized in UK law and practice, examined through the three pillars of the legal protection framework, the institutional framework, and the capacity to provide and demand remedies. The analysis yields a differentiated answer. Under the first pillar, the UK has achieved substantial formal compliance with international and regional standards through the Modern Slavery Act's offenses, the Section 45 defense with its child-specific limb, statutory guardianship under Section 48, and the safeguarding framework. Yet the prosecution of Vietnamese child victims culminating in *V.C.L. and A.N. v. United Kingdom* shows that a compliant legal framework is a necessary but not a sufficient condition of justice. Under the second pillar, the UK has built an institutionally rich multi-agency network, but its operation for Vietnamese children has been marked by late, enforcement-led identification, contested age assessments, children going missing from care, and a guardianship service that remained territorially incomplete for over a decade. The UK itself is now addressing these issues through the devolved child decision-making panels and the funded national roll-out of the ICTG service. Under the third pillar, meaningful remedies exist on paper, but a constrained supply side (inconsistent non-punishment practice, decision backlogs, largely theoretical compensation) meets a suppressed demand side (language and cultural barriers, debt pressure, distrust). Formal rights are converted into actual claims only where intermediary institutions such as guardians, specialized lawyers, and civil society intervene.

The article's central argument is thereby substantiated: substantive access to justice is produced, or fails, at the interaction of the three pillars, and reform that addresses only the normative pillar will reproduce the gap between law on paper and justice in practice. This is also the article's theoretical contribution: it demonstrates that the UNDPs three-pillar framework, when integrated with a child-rights-based approach, can be operationalized as an evaluative instrument for a specific transnational victim population. Its application also highlights the framework's third pillar, which is often neglected in doctrinal anti-trafficking scholarship, and is therefore especially significant for child victims.

For Vietnam, which is implementing the 2024 Law on Prevention and Combat of Human Trafficking, the UK case, read through the transfer conditions of legal tradition, resources, position in the trafficking chain, and culture, suggests reform directions in each pillar: completing the definitional and non-punishment provisions with child-specific standards; building a referral mechanism whose decisions about children are embedded in child protection expertise, together with a specialized independent guardianship model launched with a costed plan for national coverage; and constructing demand-side capacity through early free legal aid, community legal empowerment, and cross-border repatriation and reintegration cooperation that treats returned children as presumptive victims rather than immigration violators.

The research should now proceed in three directions—comparative extension to other destinations and transit countries for Vietnamese children, such as Germany, France, and Poland on the European routes, or destination countries within Asia, to test whether the pillar-interaction dynamics identified here recur under different institutional configurations; empirical research with repatriated Vietnamese children themselves, whose direct experiences of both the UK and the Vietnamese systems remain under-documented; and evaluation research accompanying the implementation of the 2024 Law, so that the reforms Vietnam now undertakes are assessed against the same standard this article has applied to

the UK, namely the justice actually accessible to the child, rather than the elegance of the framework on paper.

For a Vietnamese child recruited at fifteen, moved across a continent and found in a cannabis factory in England, access to justice is not an abstraction. It is whether anyone recognizes them as a child; whether anyone recognizes them as a victim rather than an offender; and whether anyone stands beside them when those two decisions are made. That is the standard against which both systems must be measured.

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