



UNITED NATIONS
Office on Drugs and Crime

Government of India



Standard Operating Procedures (sop)

On Investigating Crimes of Trafficking for Commercial Sexual Exploitation

ACKNOWLEDGMENTS

Mr. Gary Lewis, Representative, UNODC, Regional Office for South Asia

The Working Group of Project IND/ S16:

Dr. P M Nair, Project Coordinator

Dr. Geeta Sekhon, Project Officer

Ms. Swasti Rana, Consultant

Mr. Varghese John, Admin/ Finance Assistant

UNODC gratefully acknowledges contributions by:

Mr. Umapathi Sattaru, IPS

Mr. M. Ratan, IPS

Dr. Sunitha Krishnan, Prajwala

Dr. Kiran Bedi, Director General, Bureau of Police Research and Development

Mr. Mahesh Bhagwat, IPS

Ms. B. Bhamathi, IAS

Dr. Indrani Sinha, Sanlaap

Mr. Ashley Varghese

Mr. Gopi Natha Reddy, IPS

Mr. Yashwant Malhotra, IPS

Mr. Vishram Borkar, IPS

Mr. Sanjoy Mukherjee, IPS

Ms. Vithika Yadav

Ms. Anuja Tiwari



UNITED NATIONS
Office on Drugs and Crime

Government of India



Standard Operating Procedures (sop)

on Investigating Crimes of Trafficking for Commercial Sexual Exploitation

© UNODC, 2007

Year of Publication: 2007

A publication of
United Nations Office on Drugs and Crime
Regional Office for South Asia

EP 16/17, Chandragupta Marg
Chanakyapuri
New Delhi - 110 021

Disclaimer

This document has been compiled by Project IND/S16 of United Nations Office on Drugs and Crime, Regional Office for South Asia. The opinions expressed in this document do not necessarily represent the official policy of the United Nations Office on Drugs and Crime. The designations used do not imply the expression of any opinion whatsoever on the part of the United Nations concerning the legal status of any country, territory or area or of its authorities, frontiers or boundaries.

Poster developed by: Prajwala
Language Editor: Ms. Bindu Badshah
Illustrations by: Sujeet Kumar and Sunil Kumar

Designed and printed by:
ISHTIHAAR
Tel: 91-11-23733100

CONTENTS

PREFACE.....	5
1. INTRODUCTION	6
Human Rights Approach	6
Victim Friendly Procedures	6
Multi-Disciplinary Approach	6
Gender Issues	6
Child Rights Issues.....	7
Organized Crime Approach	7
2. OBJECTIVE AND STRUCTURE OF SOP	8
2.1 Objective	8
2.2 Who is SOP for	8
2.3 Structure of SOP	8
3. CONCEPTS OF TRAFFICKING	9
3.1 Demystifying Myths	9
3.2 What is Trafficking	9
A) The UN Protocol	9
B) Constitution of India	10
C) The Immoral Traffic (Prevention) Act, 1956	10
D) The Goa Children's Act, 2003	10
3.3 Who is a 'Victim' of Trafficking for CSE	10
3.4 How to Identify Victims of Trafficking	12
3.5 Who is a Trafficker/ Offender in Crimes of Trafficking	12
3.6 What is a brothel/ place of CSE	13
3.7 Where is the 'Scene of Crime' in Trafficking for CSE	13
4. ACTIVITIES BEFORE REGISTRATION OF FIR	14
4.1 Intelligence Collection and Sharing	14
4.2 Source Information	15
4.3 Decoy Operations	16
5. PRE-RESCUE PLANNING	16
6. RESCUE BEFORE REGISTRATION OF FIR	17
Step by Step Rescue Procedure	18
6.1 Crime Scene Photography/ Videography	20
6.2 Working with Victims (Pre FIR Stage)	20
6.3 Working with Witnesses	21
7. REGISTERING FIR ON HT CRIMES	22
7.1 Where to Register the FIR.....	22
7.2 Who can be a Complainant in Registering FIR of a Crime of HT	22
7.3 Drafting the FIR	22

8. INVESTIGATION	25
8.1 Collection of 'Material Objects' from the Scene of Crime	25
A) What to Collect	25
B) When to Collect MOs	26
C) Where to Collect MOs from	26
8.2 Interrogation of the suspects/ accused	26
8.3 Interrogation Strategies for the Suspects and Accused	27
8.4 Arrest of Accused Persons	27
8.5 Collating Evidence from Other Places	28
8.6 Eviction of Offender and Closure of Brothels/ Places of Exploitation	28
A) Eviction Before Conviction	28
B) Eviction After Conviction	29
C) Suspension/ Cancellation of Hotel License	29
8.7 Organized Crime Approach for Investigation	29
9. RESCUE AFTER REGISTRATION OF FIR	30
10. POST RESCUE ACTIVITIES	31
10.1 Recording Statement u/s. 161 Cr. PC	31
10.2 Recording Statement u/s. 164 Cr. PC	32
10.3 Age Assessment	33
10.4 Production of the Rescued Person Before the Magistrate/ CWC	33
10.5 Medical Care of Victim and Follow Up	34
10.6 Shelter Homes/ CWC	36
10.7 Home Verification	36
10.8 Restoration of Victim	36
10.9 Interim Relief to the Victim	37
11. CHARGE SHEET	37
11.1 Additional Case Diary for CWC/ JJB	38
11.2 Further Investigation After the Charge Sheet	38
12. PROSECUTING CRIMES	39
13. REFERRAL MECHANISMS	40
14. POST CONVICTION STEPS IN AHT	41
15. PREVENTION	43
16. ROLE OF SUPERVISORY OFFICERS	44
APPENDIX 1	45
APPENDIX 2	47
APPENDIX 3	49
APPENDIX 4	50
ACRONYMS	51

PREFACE

Trafficking of women and children is one of the grave organized crimes, extending beyond boundaries and jurisdictions. Combating and preventing human trafficking requires holistic approach by all stakeholders and integrated actions on prosecution, prevention and protection. Keeping this philosophy in mind, Project IND/S16 of the United Nations Office on Drugs and Crime, which is a joint initiative of UNODC and the Government of India, was launched in April 2006 in India. This project is focused on “Strengthening the law enforcement response in India against trafficking in persons, through training and capacity building”. The major activities in the project are training of police officials and prosecutors, setting up Integrated Anti Human Trafficking Units, establishing networks among law enforcement agencies and civil society partners as well as developing appropriate tools including Protocols, Manuals, Standard Operating Procedures (SOP) and other training aids.

Successful conviction of offenders, redressal of grievances of victims and consequent prevention of crimes of human trafficking is possible when the first responders, i.e., the police agencies, perform their tasks diligently. In this process, investigation of crimes assumes an important role. The task includes collection of intelligence about crimes, registering crimes in the police station, prompt action in investigation and prosecution and also ensuring all legal and administrative follow-up measures.

Appropriate tools, no doubt, are essential to empower the officials to carry out these tasks in the best professional manner. In this context this SOP is a tool for the law enforcement agencies to address the crimes of commercial sexual exploitation (UNODC has developed another SOP exclusively for addressing issues of investigation of crimes of trafficking for forced labour). This SOP has been developed based on the regular feedback from the police officers and prosecutors who have undergone training facilitated by UNODC, the prosecutors and judicial officers who have conducted the trial of these crimes as well as the feedback from the civil society partners and the victims of trafficking. The available literature on trafficking has also been taken into consideration in the various segments. The SOP has been prepared in a user-friendly and simple style with Do's and Don'ts and checklists.

1. INTRODUCTION

Irrefutable is the fact that trafficking in human beings is one of the largest organized crimes across the world, along with trafficking in drugs and arms. And, undoubtedly, it is as much a commercial activity as an organized crime.

The Constitution of India vide Article 23, prohibits both trafficking in human beings and forced labour. Substantive laws like the Indian Penal Code 1860, special legislations like the Immoral Traffic (Prevention) Act 1956, the Bonded Labour System (Abolition) Act 1976, etc. and local laws like the Goa Children's Act 2003, provide the legal regime to combat and prevent Human Trafficking (HT). In addition, judgments by the Supreme Court and various High Courts have provided further legal strength to the law enforcement agencies. However, research¹ shows that the existing response to human trafficking is uneven and requires immediate attention especially in areas of Knowledge, Skills, Attitude and Resources (KSAR). In this context, the *Standard Operating Procedures (SOP) on Investigation* is a powerful tool for investigators, support and supervisory officials who handle trafficking crimes of various dimensions in India.

Based on a human rights paradigm, the SOP underscores the following principles in the response to HT:

- **Human rights approach**

Trafficking in human beings is a grave violation of human rights, one that deprives and demolishes the dignity of the trafficked person. Therefore, it is critical that response systems are rights-based and human rights oriented. The officials who deal with the victims should be empathetic and understand the concerns from the victim's perspective. Decision making about the victim should emanate from and be based on the 'best interest of the victim'. Victims have a right to be protected, consulted and informed of all actions being taken on their behalf.

- **Victim friendly procedures**

Any action initiated by the law enforcement agencies should ensure that the victim is the pivotal/focal point. This requires that the victim of trafficking is:

- Not treated as an offender
- Not 're-victimised'
- Not branded 'as a soliciting person'
- Not arrested
- Not stigmatized
- Extended all help and assistance as a matter of right.

A victim-friendly procedure ensures that harm to the victim is validated.

- **Multi-disciplinary approach**

A comprehensive knowledge of trafficking requires it to be understood from a process-centric perspective. HT entails several acts of commission and/ or omission involving multiple offenders. Accordingly, the response to trafficking requires simultaneous attention by various agencies mandated to carry out different tasks, viz. police agencies, other government departments (like welfare, women and child development, etc.) prosecutors, counselors, NGOs, etc. all of whom perform several functions in the process of Anti Human Trafficking (AHT). Therefore, the law enforcement agencies need to coordinate with these stakeholders to develop a synergy and partnership with them.

- **Gender issues**

Though the victim could be any person, research² shows that the majority of victims of commercial sexual exploitation (CSE) are females. An inadequate response to the trafficked victim by various

¹ *Trafficking in Women and Children in India*, National Human Rights Commission, Orient Longman, 2005

² NHRC, 2005. op. cit 1

agencies, further exacerbates gender discriminations and gender violations that already exist in society. Hence, gender sensitivity is an essential requirement in addressing HT. The procedures and steps undertaken by the responders should conform to gender rights.

- **Child rights issues**

Research³ has shown that there exists a high demand for children for purposes of CSE. Being more vulnerable, children are subjected to extreme violations during and after trafficking and an improper response aggravates the harm already inflicted on them. Therefore, the law enforcement response has to be specifically oriented to their specific rights.

- **Organized crime approach**

Trafficking is an organized crime extending beyond national and state boundaries. It is multi-dimensional because:

- It involves the elements of several crimes, like selling, buying, sexual abuse and exploitation, criminal confinement, abduction, etc.
- The scenes of crime extend from the Source area through the Transit area to the Destination area.
- It entails multiple abuses and abusers, who are networked and organized.
- It is a 'continuing offence', starting with recruitment/ procurement and continues till the victim is rescued.
- By 'trading' in human beings, offenders make 'profits' at various levels of their activity.



2. OBJECTIVE AND STRUCTURE OF SOP

2.1 Objective

The SOP is designed to help the investigator conduct a professional investigation that strives towards:

- Expeditious and effective law enforcement
- Conviction of the offenders
- Initiating post-conviction steps against the offenders
- Non-victimization of victims
- Ensuring that appropriate protection/ care/ attention is provided to victims/ witnesses
- Taking appropriate steps for prevention of trafficking and re-trafficking.

2.2 Who is SOP for?

The SOP aims to empower investigators in responding to and preventing crimes of human trafficking for commercial sexual exploitation. It helps to ensure that supervisory officials take appropriate and prompt action when dealing with trafficking crimes. As a comprehensive resource book for all stakeholders including government agencies, NGOs, media and members of civil society, it helps to clarify and list out the legal procedures and practices that support and strengthen the process of AHT. In addition, it is a useful tool to inform and empower victims about their specific rights.

2.3 Structure of SOP

SOP provides a step-by-step approach in investigating crimes of human trafficking. References have been made to legal provisions and court rulings wherever appropriate⁴.

This important resource document has been developed on the bench mark that investigating officials have a basic knowledge and experience in the application of the provisions of substantive and procedural laws, like IPC, Cr. PC, the Evidence Act, etc., and are also aware of the procedures used in the investigation of crimes. Therefore, the SOP does not go into a detailed discussion of these laws and procedures but is confined to specific areas of professional work. It has been divided under the following segments for complete clarity and ease of communication:

- **Concepts of Trafficking**
- **Activities before Registration of First Information Report (FIR)**
- **Pre Rescue Planning**
- **Rescue before Registration of FIR**
- **Registering FIR on HT Crimes**
- **Investigation**
- **Rescue after Registration of FIR**
- **Post Rescue Activities**
- **Charge Sheet**
- **Prosecuting Crimes**
- **Referral Mechanisms**
- **Post Conviction Steps in AHT**
- **Prevention**
- **Role of Supervisory officers**

⁴ For detailed discussions on the law, the reader is advised to refer to the document on Legal Framework by UNODC. Procedures relating to Inter-State Rescue and Post-Rescue Activities have been addressed in another Protocol exclusively on this subject.

3. CONCEPTS OF TRAFFICKING

3.1 Demystifying myths

Several myths shroud the understanding of human trafficking; for instance, terms like 'human smuggling' or 'voluntary illegal migration' are, often, wrongly perceived to being similar to 'human trafficking'. Another common myth that human trafficking takes place only for prostitution, is completely false, as trafficking is perpetrated for several purposes beyond prostitution, such as forced labour, marriage, etc. The following pages clarify the concepts from a human rights perspective, so that the law enforcement official is rightly informed about the general, legal and procedural issues related to trafficking crimes. For a detailed chart on myths versus realities see Appendix 1⁵.

3.2 What is trafficking?

The Constitution of India vide Article 23 prohibits trafficking in human beings for any type of exploitation. The UN Protocol, 2000⁶ and the Goa Children's Act, 2003 define trafficking, clearly. The Immoral Traffic (Prevention) Act (ITPA), 1956 mentions the activities which constitute a working definition of trafficking for the purpose of prostitution. All these are detailed below.

A) **The UN Protocol, 2000**⁷ defines trafficking on the basis of the following constituents:

TABLE 1		
ACTIVITIES (any of these)	MEANS/METHODS (any of these)	PURPOSE/INTENTION (any of these)
Recruitment	Threat	For the purpose of exploitation ⁸ -
Transportation	Force	Prostitution of others
Transfer	Other forms of coercion	Other forms of sexual exploitation
Harbouring	Abduction	Forced labour or services
Receipt ... of persons	Fraud	Slavery or practices similar to slavery
	Deception	Servitude
	Abuse of: Power Position of vulnerability	Removal of organs
	Giving or receiving of payments or benefits	
The 'consent' of a victim of trafficking shall be irrelevant where any of the means set forth above have been used. 'Consent' is irrelevant in case of children even if this does not involve any of the means set forth above.		

Note, that in cases of adult victims all three elements have to be present to establish an offence of trafficking. If one of the elements is missing, it is not trafficking, although it may be another offence.

In cases of child trafficking, only the elements of act and purpose have to be present to establish an offence of trafficking. In other words, the 'means' are irrelevant if the victim is a person under the age of 18 years.

⁵ Page 45

⁶ United Nations Protocol to Prevent, Suppress, and Punish Trafficking in Persons, especially Women and Children, supplementing the UN Convention Against Transnational Organized Crime, 2000

⁷ For definition see Appendix 2 at Page 47

⁸ The Annotated Guide (2002) to the Complete UN Trafficking Protocol consisting of The UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children provides a definition of "exploitation". See Appendix 2 at Page 47

B) The Constitution of India - The Constitution under Article 23⁹ -

- Guarantees rights against exploitation, and
- Prohibits traffic in human beings,
- For any purpose whatsoever (which includes trafficking for CSE, exploitative labour or any other form of exploitation)

C) The Immoral Traffic (Prevention) Act, 1956 defines 'prostitution' u/s. 2 (f) and provides a working definition of trafficking for CSE u/s. 5¹⁰.

- As per S. 5, ITPA trafficking for CSE is –
- Procuring a person for prostitution, or
 - Inducing a person to go from any place to become an inmate of a brothel for prostitution, or
 - Inducing a person to go from any place to frequent a brothel, or
 - Taking a person from one place to another for prostitution, or
 - Causing a person to be taken for prostitution, or
 - Causing or inducing a person to carry on prostitution, or
 - Attempting to procure or induce or take a person for prostitution

D) The Goa Children's Act, 2003, vide S. 2 (z) defines "child trafficking"¹¹.

TABLE 2

ACTIVITIES (any of these)	MEANS/METHODS (any of these)	PURPOSE/INTENTION (any of these)
Procurement	Threat	To achieve the consent of a person having control over another person
Recruitment	Force	
Transportation	Other forms of coercion	
Transfer	Abduction	
Harbouring	Fraud	For monetary gain or otherwise
Receipt ...of persons	Deception	
	Abuse of: Power Position of vulnerability	
	Giving or receiving of payments or benefits	

3.3 Who is a 'victim' of trafficking for CSE?

- Any trafficked person.
- Persons above the age of 18 who through force or threat of force, coercion, abuse of power, etc. were/ are required to perform sexual acts without their consent, by any person(s).
- "Children" who have not completed the age of 16 years and "minors" who have completed the age of 16 years but have not completed the age of 18 years, who are found in places of CSE [u/s. 2 (aa) and (cb) ITPA] .

Any trafficked person, irrespective of nationality, age, sex is a victim.

⁹ See full text of Article 23 in Appendix 2 at Page 47

¹⁰ See Appendix 2 at Page 47

¹¹ See Appendix 2 at Page 47



Victims of CSE

- Any child likely to be trafficked is a “child in need of care and protection” under S. 2 (d) of the JJ Act and is therefore, a victim who should be rescued.
- Anybody who has been recruited, harboured, transported, detained, obtained, or procured for CSE.
- Any person who has been detained in a brothel, with or without consent [S. 6 (1) (a) ITPA].
- Any person who has been detained in any premises with the intent of CSE [S. 6 (1) (b) ITPA].
- Any person found in a brothel, or any place of CSE, whose jewellery, wearing apparel, money, property, etc. has been withheld [S. 6 (3) (a) ITPA].
- Any person who has been seduced for prostitution by any person having custody/ charge/ care of/ or a position of authority over that person [S. 9 ITPA].
- A person whose trafficking has been attempted by someone [S. 5 ITPA].

NOTE: The list above is illustrative and not exhaustive. There may be other similar situations wherein a person becomes a victim of trafficking. For example, the child of a victim of CSE living with the mother in a brothel, could be lured/ deceived/ coerced by the brothel owner for CSE. In such a situation, trafficking, though not apparent, has been committed¹².

REMEMBER

- All children and minors are victims.
- All trafficked persons are victims, irrespective of proclaimed/ apparent voluntariness.
- Any person who is made to have sex with another person for profit/ gain of a third person is a victim.

NOTE

- In borderline cases, where there is doubt regarding age, presume that the person is a child or a minor.
- When persons are rescued from any place of CSE, there is a high probability that such persons may have been trafficked.

¹² For detailed discussion see Nair, P.M. (Dr.), *Trafficking Women and Children for Sexual Exploitation, Handbook for Law Enforcement Agencies in India*, Second Edition, UNODC, 2007. P. 2

3.4 How to identify victims of trafficking

Since trafficking in persons is usually an “underground” crime, law enforcement personnel may find it difficult to readily identify a trafficked victim and/or a trafficking scenario. Trafficking crimes may come to notice when:

- Victims manage to escape and report their situation directly to the police or NGO. This happens very rarely.
- When, during a routine police activity not directly related to trafficking, people are stopped and vehicles checked for documents at border crossings, etc.
- Proactive action is taken by the police on receiving intelligence and source information, or by surveillance or conducting targeted raids on suspected places, etc.
- Proactive action is taken by NGOs or any other agency/ person leading to identification of victims.

The police can also identify victims of trafficking for purposes of CSE using the following indicators:

- Age – the young age of the person increases vulnerability to trafficking for CSE
- Gender – women and young girls are more susceptible than men to trafficking for CSE
- Source – persons from vulnerable places are more prone to trafficking due to a combination of factors such as, economic deprivation, discrimination, lack of opportunity to pursue viable economic options, etc.
- Prevalence of extreme security precautions at the place of exploitation (especially brothels), such as barred windows, locked doors, etc.
- Indication of abuse – signs of rape/ sexual abuse, presence of sexually transmitted diseases, marks of physical injury, etc.
- Psychological trauma – demotivation of the individual, acceptance of destiny, demotivation, distressed look, lack of trust for others, etc.
- Suspicious activities in establishments operating under the guise of massage parlours, escort services, friendship clubs, placement agencies, etc.
- Poor living conditions, lack of hygiene, health care, etc.
- Retention of earnings by someone else.

3.5 Who is a trafficker/ offender in crimes of trafficking?

This includes all persons:

- Involved in any act in the process of trafficking
- Who gain/ make profit/ exploit:
 - as the trafficked person passes through a chain,
 - from the point of source area through the transit area to the point of final destination, and
 - from any act involved in the process of exploitation of the trafficked persons.

According to Article 1 (4) of the SAARC Convention¹³ “Trafficker” means persons, agencies or institutions engaged in any form of trafficking.

The persons, who constitute the “offenders list” in a crime of HT, are mentioned below. This list is illustrative and not exhaustive; the Investigating Officer (IO) has to scrutinize the process of trafficking to understand who else may have been involved, such as:

- Recruiter
- Agents of recruiter
- Seller of trafficked person
- Buyer of trafficked person
- Transporter
- Conspirator
- Abettor
- ‘Customer’/ clientele

13 SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution, 2002

- Pimp
- Brothel madam
- Brothel managers
- Financier
- Parent (s)/ Guardian (s) who knowingly sell/ cause to sell/ traffic their children/ ward
- Any other person who is knowingly involved in any act of commission and/ or willful omission in the process of human trafficking

3.6 What is a brothel/ place of CSE?

“Brothel” u/s. 2 (a) ITPA includes:

- House,
- Room,
- Conveyance (vehicle)/ place/ portion of any house or room, which is used for sexual exploitation or abuse, and for the gain of another person.

Even if it is a private property, it is sufficient that the place is accessible to the public¹⁴.

U/s. 2 (h) ITPA, “Public place” means any place intended for use by, accessible to, the public and includes any public conveyance.

3.7 Where is the ‘Scene of Crime’ in trafficking for CSE?

Scenes of crime are not restricted to the brothel or places of exploitation, but also include:

- The source point
- The transit point, including places of halt, transfer, etc.
- The destination point
- The vehicles used for transfer at any place (Source – Transit – Destination, or thereafter)
- Place where the trafficked person is sexually exploited under the façade of other business/ vocations (such as massage parlours, friendship clubs, placement agencies, escort services, etc.)
- Place where the victim has been sent by the offender for making or recording pornography, etc. and the place where pornographic material has been transported, stored, sold, purchased, used, etc¹⁵.

¹⁴ Gaurav Jain v/s Union of India & Ors - AIR 1997 SC 3021

¹⁵ Nair, 2007. op.cit. 12 p. 30

4. ACTIVITIES BEFORE REGISTRATION OF FIR

4.1 Intelligence collection and sharing

Being an organized crime, intelligence on victims and offenders is the sumum bonum of professional investigation and an essential attribute for combating and preventing human trafficking.

TABLE 3

STEPS TO BE TAKEN	POINTS TO NOTE
1. Collect intelligence on traffickers and other offenders. Interrogation of suspects needs to be thorough.	Trafficking in persons is an organized crime with multiple abusers and offenders. Hence, intelligence on one can lead to intelligence on another.
2. Collect intelligence on the process of HT. Thorough interrogation of suspects and interview of victims/ sources can provide this intelligence.	HT is an organized crime involving several acts. Follow up on one can lead to information on another.
3. Collect intelligence about the victims. Interview of the rescued persons, follow up of missing persons, interrogation of suspects, watch on transit places, decoy operations, follow up of phone calls of suspects, analysis of advertisements on sexual services, etc. are some important steps.	Police and NGOs often use decoy operations. NGOs can be a good source of intelligence.
4. Collect intelligence about the likely victim: interviewing a rescued victim and interrogating suspects can lead to victims who are likely to fall into the trap. Keeping watch on vulnerable places and communities can provide intelligence on likely victims.	Preventing vulnerable victims from being trafficked is as important as rescuing trafficked persons.
5. Intelligence collection from source areas: Interview of victims/ survivors/ source persons, interrogation of suspects, monitoring telephone calls of suspects, identifying vulnerable areas where HT crimes have been reported and missing persons are reported etc. are some of the steps.	Intelligence at the source area is the best tool to prevent crimes. Once the sources are identified, steps can be taken to address vulnerability by involving other government agencies (eg. departments of women and child development, health etc., NGOs working on empowerment programmes.)
6. Intelligence collection from transit areas: depute spotter/ watcher/ spy/ source, etc. at these places to look for both victims and offenders in transit.	Intervention at transit points also facilitates rescue before the victim is exploited, though it is possible that the victim could have already been sexually assaulted.
7. Intelligence collection from destination areas: study demand patterns, trends, keep watch on those who demand (clientele, etc.), those who perpetuate demand (sex tourism operators/ hoteliers/ transporters etc.), and places where CSE is committed under the garb of massage parlours, etc.	Demand control is a major activity in combating and preventing HT.
8. Develop database on traffickers (including recruiters, financiers, 'customers', etc.), and vulnerable communities and share it with all stakeholders.	This database should be updated and disseminated without delay so that concerned agencies can use it at the right time. Though it may be data for one person, it could be critical intelligence for another.

4.2 Source information

Source information is a major area of intelligence collection in India, in discovering crimes of trafficking and rescuing victims. Hence, efforts in this direction need to be streamlined for best results.

Remember:

- To *involve* NGOs, crime stoppers, help lines, police control rooms, etc, as the source could be **anybody**. Take the informed consent of survivors before using them as sources.
- To *develop* partnerships with NGOs as they are important sources of information.
- To *obtain* full details of the information, names, phone numbers, place, etc. before operations.
- To *cross check / verify* information before any rescue operation takes place.
- To *take steps* to prevent leakage of information. Share it with only those who need to know.
- To *maintain* confidentiality of the source at all costs.

CASE STUDY

INFORMATION FROM AN ANONYMOUS SOURCE

Based on information from an anonymous letter, a 30 minute late-night operation, followed by a raid, helped the sleuths of Integrated Anti Human Trafficking Unit (IAHTU), Hyderabad, to bust a sex racket at Krishna Nagar, in Banjara Hills, in March 2007. A 24-year-old 'mistress' was arrested and six victims were rescued. Six mobile phones and two motorcycles were seized from the premises. Five persons found negotiating with the 'mistress' were also taken into custody.

This is an example of the involvement of civil society in the fight against human trafficking. An important source of information could, thus, be anybody from the public at large.

CASE STUDY

WEBSITE AS SOURCE OF INFORMATION*

During early 2007, while conducting an enquiry about trafficking and soliciting via the internet, IAHTU Hyderabad came across this web site: www.hyderabadnight.com. The site displayed semi nude photographs of young women and mobile phone numbers of the contact person, i.e., the organizer (a lady, which later turned out to be a fake name). On a tip off given by IAHTU Hyderabad to the Task Force of the Hyderabad city police, a Delhi based girl, who was trapped and was being exploited, was rescued and two exploiters (middle men) were arrested. The investigation revealed that the organizers were sending young women to premium hotels under the guise of "escorts". They were highly organized and were running the business in several places, in all the metros, and were also linked to international web sites, quoting minimum charges of \$100 per hour. Most of the "escort service" web sites had their servers in foreign countries. The investigation showed that such advertisements could be a good source of intelligence collection on trafficking.

*Source: Mr. Mahesh Bhagwat

Sources from where/ whom information can be obtained and intelligence collected, are listed below. (This list is illustrative, not exhaustive.)

- Travel agents, authorized and unauthorized
- Tour operators
- Immigration agents
- Marriage bureaus
- Hotels
- Beauty parlours
- Massage parlours
- Escort services
- Emails, SMS, MMS, etc.
- Illegal drug dealers
- Dealers in legal/ illegal liquor trade
- Destination/ transit points like:
 - * Bus stops
 - * Railway stations
 - * Airports
 - * Tourist spots
 - * Pilgrimage surroundings
 - * Immigration offices at borders
 - * Custom offices at borders

- Friendship clubs
- Social networking advertisements
- Websites
- Illegal abortion clinics
- Help lines/ help desks run by government/ NGOs
- Media reports:
 - * Print and electronic
 - * Advertisement
- Internet sites

4.3 Decoy Operations

STEPS TO BE TAKEN

- Conduct decoy operations, wherever possible, to collect intelligence.
- Take precautions for the personal safety of the decoy.
- Decoy can operate as a 'customer', 'trafficker', 'pimp', etc.
- Brief the decoy, especially about the vulnerability of the trafficked person so that the victim is not traumatized further.
- Decoy operations for intelligence collection may end as rescue operations. Hence, all personnel/ organisations concerned should be fully prepared and geared up for rescue.

POINTS TO NOTE

- Maintain confidentiality of the source and information.
- Exercise care and caution in selecting the decoy.
- Avoid involving people with malafide intention. Decoy could be:
 - Police official
 - NGO representative
 - Any person willing to be a decoy
- The decoy should be sensitized regarding the helplessness of the victim and the risks involved for the victim in conducting such operations.

5. PRE-RESCUE PLANNING

The steps¹⁶ involved at this stage have to be carefully planned as they have a bearing on all the activities that follow.

Do's and Dont's:

- Take prompt action on the information.
- Do discuss with the informant in detail, to verify the genuineness of the information. Cross check with other sources, wherever possible. Beware of malafide, vested and motivated sources.
- Understand all dimensions of operations to be conducted: when, where and how, the persons to be associated including from the police department, other departments, civil society, etc; how many are likely to be rescued, what would be the configuration of gender and age, and how many are likely to be arrested, etc.
- Ensure appropriate legal and administrative sanction wherever required.
- Think about logistics including transport, food, clothes, medicines, money, etc. that may be required.
- Be aware of the challenges and threats, including physical threats, legal and administrative issues and the possible responses.
- Think about a contingency plan in case of unforeseen challenges. For instance, if the rescue gets delayed till late at night and there are no Shelter Homes available, check if there are any appropriate hotels, in the vicinity, where the victims can be lodged.
- Consider how the confidentiality of the operations and persons involved can be maintained.

¹⁶ See Check List for Pre Rescue Planning at Appendix 3

6. RESCUE BEFORE REGISTRATION OF FIR

(Note: Rescue is possible anytime and anywhere. It can also be conducted without registration of the FIR. This segment discusses steps in a rescue before the FIR is lodged and Segment 9 discusses the steps, in a rescue, undertaken after a crime is registered in a police station.)

Rescue should NEVER wait or be delayed on any count - even for filing of the FIR.

As an FIR is *not* a pre-requisite for rescue, whenever the police receives information regarding victims/ activities relating to CSE and/ or trafficking, the rescue should be carried out **IMMEDIATELY**.

Rescue and preventive action is possible even before FIR is registered:

- u/s. 15 ITPA
- u/s. 16 ITPA
- u/s. 149 & 150 Cr. PC

Two sections of ITPA, s. 15 and s. 16 authorize rescue of victims/ search of premises where CSE is perpetrated.

(A) Under s. 15 ITPA

If a Special Police Officer (SPO) who is notified by the State government, or Central (Anti) Trafficking Police Officer (CTPO) who is notified by the Central government...

- has reasonable grounds for believing that an offence u/ITPA has or is being committed,
- in respect of any person living in any premises, and
- search of the premises with a warrant cannot be made without undue delay,
- the officer *can* enter and search such premises **without a warrant**,
- and remove from there all persons found therein (this includes rescue of victims and arrest of suspects).

(B) Under s. 16 ITPA

When a **Magistrate¹⁷ (Metropolitan Magistrate, Judicial Magistrate of the First Class, District Magistrate or Sub-Divisional Magistrate)**...

- receives information from the police/ any other person (could be anyone authorized by State government or an NGO or any private person),
- about any person being exploited for CSE in a brothel,
- he may direct a police officer of, or above, the rank of SI to rescue the person and any other similar persons,
- the police officer can/ shall rescue all victims and also take into custody all suspects and produce them before the Magistrate who issued the order.

WHO IS AN AUTHORIZED POLICE OFFICER?

A. Police officers authorized to investigate crimes under ITPA, 1956 are:

- **Notified police officers u/s. 13 (1), (2) ITPA, or**
- **Subordinate police officers, authorized by the State Government u/s. 13 (3) (a)¹⁸, or**
- **Central (Anti) Trafficking Police Officers u/s. 13 (4)**

B. Police officers authorized to arrest offenders:

- **u/s. 14 (i) arrest without warrant can be done by a special police officer or anybody acting under his direction or guidance, or**
- **u/s. 14 (ii) arrest without warrant can be done by subordinate officer when authorized in writing by a special police officer**
- **u/s. 14 (iii) arrest even without a written order by the SPO can be done by any police official, provided he/ she:**
 - a) **is of the rank of SI or above**
 - b) **believes delay will lead to destruction/ concealment of evidence, or**

¹⁷ According to S. 2(c) read with Schedule appended to ITPA, 1956.

¹⁸ In AP under GOrt. No. 475 of 1991 issued by the Home Department, Andhra Pradesh, all Sub-Inspectors, ASI, Head Constables have been notified under S. 13 (3) (a) of ITPA

- c) the offender is likely to escape, or
- d) suspects that the person is stating a false name/ address, etc.

C. Police officers who can undertake rescue are:

- Any notified police officer as stated at (A) above.
- Any police officer authorized to arrest an offender as stated in (B) above, can rescue any victim while undertaking arrest of suspect.
- Any police officer of the rank of SI, and above, specially authorized by any competent Magistrate (MM, JM Ist class, DM or SDM) u/s. 16 ITPA.

Step-by-step Rescue Procedure:

- 1: Enter source information in the General Diary (GD) of the Police Station (PS) in such a way that anonymity of the source/ victim/ location is not compromised.
- 2: Carry out a recce of the place to be searched. An official conversant with the local language should be sent incognito, to the place. Take the help of local officers/ NGOs and empowered survivors who are willing to co-operate.
- 3: Draw a sketch map of the area which can be used for briefing and assigning specific duties to both officials and witnesses involved in the rescue. This includes duties like cordoning, guarding entry and exit points, locating hide-outs, identifying a safe place to keep rescued persons till the rescue operation is completed, etc.
- 4: Wherever possible, obtain a search warrant from the jurisdictional Magistrate u/s. 166 Cr. PC and/ or u/s. 15/ 16 ITPA.
- 5: Ensure adequate composition of the rescue team:
 - The team should have two women officials of any rank (S. 15 (6 A) ITPA).
 - If rescued persons are to be interviewed, it **shall** be done by a woman police officer, if no woman police officer is available the interview should be done only in the presence of a lady member of a recognized welfare institution/ organization (NGO) (S. 15 (6 A) ITPA). Hence, do co-opt a lady police official or a female representative of an NGO.
 - Secure the help of NGOs to act as *panchas*/ mediators/ witnesses. Rescue activities require two witnesses; one of them shall be a woman (S. 15 (2) ITPA).
 - The team should have at least one police officer who is legally empowered to conduct a rescue [(ie. a SPO notified u/S. 13 (1) ITPA, or CTPO notified u/s. 13 (4) ITPA or any police officer above the rank of SI duly authorized by the Magistrate u/S. 16 (1) ITPA].
- 6: Arrange an adequate number of vehicles and escort for rescued persons so that victims are always kept segregated from the offenders.
- 7: Arrange materials and equipment required for documentation and evidence collection such as a writing pad, white paper, pen, pencil, box for transporting the exhibits, box for safe-keep of the

Did you know that a male police official, alone, *cannot* interview a rescued female victim. Interviewing has to be done by a female police official or conducted in the presence of a female representative of an NGO

Maintain a list of NGOs working on AHT in the area.

The woman witness does not necessarily have to be from the locality where the rescue is to be conducted [Proviso to S. 15 (2)].



belongings of the rescued persons, camera, video and audio recording equipment, first aid kit, torch, hammers, cutters, rope for cordoning etc.

- 8:** Inform appropriate authorities (including the Police Nodal Officer¹⁹) regarding the proposed activities including the places to be visited and time of operation, keeping in mind the need for confidentiality.
- 9:** Alert the authorities of the government or recognized Homes run by NGOs in the vicinity, regarding the approximate number of persons likely to be rescued and the time when they are likely to be brought there.
- 10:** Conduct the rescue promptly. If the situation demands that more places need to be searched without delay, go ahead and do it. The grounds for taking this step should be clearly recorded in the report.
- 11:** Inform rescued persons about the authority and purpose of the search and rescue. Assure them of the care and attention they will get.
- 12:** Identify children (those below 18) among the rescued, as they have to be produced before Child Welfare Committee (CWC).
- 13.** Ensure safety of all rescued persons.
- 14.** Do arrest the offenders if they are present. Keep them segregated from the victims.
- 15:** Collect documents and exhibits from the place of rescue. Do not postpone this task.
- 16:** Allow rescued persons to take their belongings with them.

¹⁹ For role of Police Nodal Officer, see Protocol on Inter State Rescue and Post Rescue Activities, UNODC, 2007

- 17: If the rescued persons have children with them, ensure they are also rescued.
- 18: If the rescued persons belong to another state(s), inform the Police Nodal Officer of the concerned states.
- 19: If the rescued person belongs to a foreign country, inform the Police Nodal Officer of the state and network with appropriate NGOs for necessary follow up.

REMEMBER

Identifying the victims of trafficking of CSE is a difficult task during rescue and at the 'Scene of Crime' of HT. The guidelines for identification of the victims have been listed out in segment 3 (para 3.3 and 3.4).

6.1 Crime scene photography/ videography²⁰

After thoroughly looking at the scene of crime, the IO should:

- Brief the photographer/ videographer to record the minutest details.
- Ensure photography/ videography both inside and outside the premises.
- Get some pictures of the witnesses while recording the scene.
- Ensure that long distance, intermediate distance and close-up photographs of the scene of crime, are taken.
- Document the photographs/ videos with the date, place, etc. for the record and for use as evidence.

6.2 Working with victims (Pre FIR stage)

A) First response to victims²¹

The first response to the victim of a crime of trafficking is a psycho-social response that helps the victim cope with the traumatic impact of the crime. It treats the victim-survivor as a person, and with dignity. It ensures they are safe and not harmed further. It informs them about what is going to happen next. It provides for their immediate needs of food, shelter, clothing and any medical complaints. It is the duty of all those who come in contact with victims of trafficking, during the time of rescue, to coordinate and integrate all their activities so that none of their needs and concerns remain unaddressed. This kind of a well-coordinated first response ensures that the 'best interest' of the victim-survivor is protected.

INTERVIEWING VICTIMS²²

The challenges that law enforcement officials confront:

- Victims come from different social, cultural and ethnic backgrounds, which may be different from those of the investigating officers.
- There may be a language barrier between the victim and the investigating officers.
- Victims may be completely unaware of their rights or may have been intentionally misinformed about them.
- The victims may fear not only for their own safety but also for that of their families.
- Since the victims are under trauma, they may not state the correct facts, which could even be misleading (eg. child victim stating her age to be above 18 years).
- Victims may not trust the police and may be unwilling to talk to them.
- Victim may be under the influence of drugs/ drinks (inflicted on them by the exploiters) and may display violent behaviour.

[The possible responses to such challenges have been discussed in subsequent paragraphs].

20 *Human Trafficking – Handbook for Investigators*, Bureau of Police Research & Development (Directorate of Training) Ministry of Home Affairs, Government of India, March 2007. p. 20

21 See Manual on Psychosocial Intervention, UNODC, 2007

22 *Toolkit to Combat Trafficking in Persons*, Global Programme Against Trafficking in Human Beings, United Nations Office on Drugs and Crime, 2006

B) The statement of the victim is recorded u/s. 161, Cr. PC, by the IO, after the FIR is registered. Therefore, in a pre-FIR rescue situation, the police officer could make his own notes about all relevant aspects, including:

- List of victims with details of names, address, age, identification particulars, etc.
- Details of the scene of crime, which have to be recorded in the Case Diary.
- List of witnesses whose statements are to be recorded.
- Any other relevant observations which can be of use, later.
- Since victims under threat/ trauma often give incorrect information at this stage, any statements they make, including those u/s. 161 Cr. PC, should be recorded only when they are willing, comfortable and fit to make their statement correctly.

6.3 Working with witnesses

- Statement of witness is recorded by the IO u/s. 161 Cr. PC after the FIR is registered. Therefore, in situations where pre-FIR rescue is undertaken, the police officer (PO) should take notes in his note book on the relevant aspects (as discussed in the para before) which will be useful for recording witnesses' statement. Further, the statements of the witnesses, in brief, should be incorporated in the 'mediators' report/ *panchnama* [S. 100 (4) (5) Cr. PC].
- The witnesses to be protected from unwanted exposure, threat, intimidation or harassment by the exploiter.
- The witnesses to be provided transportation, residential facilities, where ever possible and required.
- Since the detailed statements of the witnesses will be required u/s. 161 Cr. PC after the FIR is registered, ensure that the witnesses are informed about the time, place and requirement of their presence.
- Ensure the rights of witnesses are protected. Do not detain them if not required. Do thank them once the work is over.

Do's and Don'ts in the rescue process

DO'S	DON'TS
<ul style="list-style-type: none"> • Assurance Policing - inform the victims that they are not accused. • Treat victims with dignity. • Use the services of translator for victims speaking different languages. • Take complete precaution to ensure that the identity of the victim is not revealed and that anonymity is maintained. • Keep victims away from accused. Ensure compliance of provisions of S. 21 JJ Act and S. 228 A of IPC. • Do keep the victims informed of the various stages of the investigation. • Do remember that the victim's children/ wards are also rescued along with the victim. • Do remember that the victim's belongings are also taken along with the victim. 	<ul style="list-style-type: none"> • NEVER treat any victim as an accused (calls for control on the abuse/ misuse of S. 8, ITPA). • Do not get offended if the victims, who are in trauma, use abusive language or do not cooperate. • Avoid insulting and humiliating language/ demeanour/ gestures, etc. • Do not allow media publicity of victims such that it reveals their identity. Do not allow media to take pictures of the rescued persons. • Do not keep the victims and offenders together after rescue. • Do not let the accused/ offender intimidate, threaten/ harm the victims. • Exploiters may try to hide the children of victims as a bait to ensure that the victim returns to the brothel – Do not allow this. • Exploiters may hide and/ or hold back victim's belongings – Do not allow this.

7. REGISTERING FIR ON HT CRIMES

7.1 Where to register the FIR

Trafficking is an organized crime and a continuing offence. The provisions of IPC with reference to offences of abduction/ kidnapping provide for registration of FIR **at any place from the source to the destination area**. Similarly, as provided u/s. 5 (3) ITPA, the FIR could be registered at the place of demand/ destination area (mostly the place of rescue), or the place of transit, or at the place where the person was trafficked from (source area). However, in case of an emergency, vide S. 149 & 150 Cr. PC, the FIR can also be lodged after the rescue is carried out. (Pre FIR rescue u/s. 15 & 16 has been discussed earlier).

CASE STUDY

BHIWANDI OPERATION*

On 05 Jan 2007, AP police officials visited Bhiwandi, in Maharashtra, to carry out a rescue operation and apprehend traffickers, in pursuance of the investigations in two crimes registered in AP, viz. Cr. No. 208/2006 U/s 366 – 'A' 372, 373, 376 (A) r/w 34 IPC and Sec 3, 4, 5 & 6 of I.T.P.A of Kadiri town P.S. of Anantpur District and in Cr. No. 34/2006 U/s 363,373 of IPC Sec. 3, 4, 5 & 6 of I.T.P.A. of Patnam P.S. of Anantpur District.

With the active involvement of the Bhiwandi police, ably assisted by the NGO Rescue Foundation of Mumbai, this interstate rescue operation was carried out by three teams at six places in Bhiwandi. Each of the teams included police officials of Maharashtra and AP as well as representatives of the local NGO.

These teams rescued 28 young women including five children and arrested four traffickers from Karnataka and Nepal. The Bhiwandi police also registered the crime in the city police station against the traffickers and arrested them u/s 372, 373 of I.P.C. & 3, 4, 5, 6 & 7 of I.T.P.A.

This case study shows that the AP police registered the FIR for the criminal acts of the offenders committed at the source area and the Bhiwandi police registered the FIR against the traffickers and other exploiters for the criminal acts committed in their jurisdiction.

*Source: Mr. Mahesh Bhagwat

7.2 Who can be a complainant in registering FIR of a crime of HT

Anybody can be a complainant including:

- A police officer
- NGO
- CWC
- Parents/ relatives of victim/ primary care givers
- Any other person who has knowledge of the crime
- Victim

Of the total number of crimes registered by AP police during the first two quarters of 2007, 75% crimes were registered on the statements of the police officers.

7.3 Drafting the FIR

- Appropriate sections of ITPA to be used in the FIR. Note that most often S. 8 has been misused against the victim. **Hence, care be taken to avoid misuse of S. 8 ITPA to prevent victimization of victims.**
- In addition to the provisions of ITPA, wherever possible, IPC provisions (such as, S. 366 A, 366 B, 372, 373, 375, 376, 377, 120 A, 120 B, 416, 417, 339, 340, 341, 342, etc.) to be invoked.
- Other special legislations like JJ Act 2000, IT Act 2000 (S. 67), PMLA 2002, etc. to be invoked wherever appropriate.
- Local legislations like Goa Children's Act, 2003, the Maharashtra Control of Organized Crime Act, 1999 (MCOCA) be applied where ever applicable.

While investigating, it is important to keep in mind that the primary care givers may possibly be the accused, themselves.

Who can be a complainant in registering FIR of a crime of HT



- The FIR should be self contained, brief and should substantiate the offence of trafficking and the provisions of law under which it is registered. It is appropriate to include details of place of origin, transit and destination and the trafficking process involved in the crime.
- If additional offences are revealed during investigation, the IO can add the appropriate provisions and file additional Memos in court, thereby enhancing the scope of the case to include all possible laws and sections.

Trafficking is an organized crime. Maharashtra Control of Organized Crime Act, 1999 (MCOCA) may be invoked wherever it is applicable. Sections 3, 4, 18, 20, and 24 of MCOCA can be considered in dealing with crimes of HT for CSE.

Checklist of information that an FIR on HT crime can/ may contain:

- Essential ingredients of sections of the law referred to (ITPA, IPC, JJA, etc.) based on the facts of the case to support the offences.
- Details of source, transit, and destination.
- Telephone numbers, cell numbers, internet sites, 'cover addresses', etc. of the suspects.
- Brief description of 'Scene of Crime' and the 'Material Objects' seized.
- Authority of the police officer who conducts the operations or activities of rescue, and/ or investigation.
- Names of officers, NGOs, witnesses who accompanied the police party for the rescue (avoid abbreviations, use full names).
- Details of the physical injuries and trauma noticed on the victims.

NOTE:

- Do take care while mentioning the apparent age of the victim, as age is a crucial factor in deciding the course of action to be followed.
- If the rescued person is an adult, and she says that she was trafficked when she was a child, use the sections of law which would apply to child trafficking, such as S. 366A, 372, 373, and 376 of IPC (because trafficking is a continuing offence and had commenced when the person was a child).
- Designation and the name of the IO/ Registering Officer should be clearly written (they will be called in as a witness and illegible entries will create problems in deciphering the persons).
- Name of the Magistrate, designation and the date of the order, be recorded in the FIR.

Victim complaint:

If the IO records the FIR based on the statement of the victim, the following points must be kept in mind:

- 'Best interest of victim' is paramount in cases of trafficking. Don't force/ compel the victim to disclose painful details of the offences, in the first instance.
- Interview should be non-traumatic and non-threatening.
- Respect the dignity of the victim. Avoid unwarranted and lewd comments, an insulting demeanour, etc.
- Interview should be in the victim's own language. Use translator if required.
- Record statement in the language that the victim speaks. Translation, if required, can be done later. A police officer who knows the victim's language may record the FIR. If this is not possible, seek assistance from an NGO to help draft FIR in the victim's language.
- The IO and assisting persons should NOT be judgmental, biased or prejudiced against the victim.
- Any point that has been missed out by the victim can be recorded later u/s. 161 Cr. PC. Do not force the victim to narrate the complete story at the stage of the FIR, itself. Record statements whenever the victim is willing and prepared to speak.
- At this stage, do not put pressure on the victim to give details of the sexual trauma/ violence that she may have faced. Focus more on the process of trafficking and the role of the traffickers/ exploiters.

8. INVESTIGATION

8.1 Collection of 'Material Objects' (MO) from the scene of crime

A) What to Collect

Since trafficking is an organized and a continuing offence, collecting all MOs from the scene of crime and linking them through investigation to the offence of trafficking, should be prioritized. Some examples of MOs and their relevance for investigation are given below. These are only illustrative²³.

TABLE 4	
What to Collect	Relevance for Investigation
Diaries, notebooks, account books, registers, etc. in the brothel.	To prove existence of brothel, name of victims (already trafficked, likely to be trafficked), number of victims, details of payments, earnings, names of 'customers', accomplices, conspirators, abettors, traffickers and others.
Travel documents ²⁴ like bus/ train/ air tickets, papers of travel agents, visiting cards of travel agents, etc.	To prove movement of persons during trafficking, to link source-transit-destination areas and to link the offenders in the process of the crime.
Rent agreements, rent receipts, house tax receipts, ration cards, passports, electricity/ telephone/ water/ mobile phone bills, voter IDs, driving licenses, registration papers of vehicles, insurance policies, investment details, bank pass books, money order receipts, etc.	To prove the existence and address of the brothel, the people who are managing it and their income and earnings.
Receipts and registers reflecting expenditure on medicines (including contraceptives, doctor's prescriptions, hospital records indicating termination of pregnancy of victims), cosmetics, pornography, etc.	To prove sexual exploitation of victims.
Photographs, albums, video cassettes, DVDs, CDs, letters, pornographic material, computers, hard discs, brochures, advertisements in media.	To prove the sexual exploitation of victims and the existence of an organized network of criminals.
Vehicles used for transporting victims.	To prove the transportation of victims from one place to another, linking up places of exploitation and thereby the exploiter's networks.
Visitor's list, 'tokens' issued to visitors/ clients, documents regarding clients, their classifications (as 'regulars', 'newcomers', etc.)	To investigate the 'demand' aspect and level of exploitation.
Documents relating to the income/ expenditure/ assets of inmates of the place, including the personal belongings, etc. of the victims concealed by the exploiters/ abusers.	To establish aspects of illegal detention, level of exploitation of the victims, the debt bondage of the victims and also to assess the illegal assets acquired by the exploiters.

²³ Nair, 2007. op. cit. 12. p. 65 - 69

²⁴ Bureau of Police Research and Development. op.cit. 20. p. 20

B) When to collect MOs?

MOs should be collected at the scene of crime, during rescue/ or immediately thereafter, under the *panchnama*. No time should be lost in collection and seizure, as the exploiter will try to destroy/ conceal them.

C) Where to collect MOs from?

- Search the accused person for documents and material exhibits (such as cell phones, travel documents, notebooks, etc. relevant to the crime).
- Look for documents/ materials/ exhibits at the scene of crime in the source– transit–destination areas.
- Search the vehicles of transportation.
- Search the places/ hotels/ *dhabas* etc. where the offenders/ victims may have halted, anytime, during the process of trafficking.
- Search the hideouts/ residence/ place of stay of the offenders and suspects.
- Search the bank lockers, bank accounts and other places/ agencies where the offenders may have made investments.
- Search the customers/ clientele whose names figure as exploiters and any other person whose name figures in the trafficking nexus.
- Search places where the data/ information is stored/ collated/ maintained regarding any activity relevant to HT. This would include “virtual storage areas”, like electronic gadgets, e-mails, SMS, etc. and also other places where physical evidence may be available (for eg. a video library with pornographic material developed from the exploitation of the trafficked person).
- Any other relevant place.

DOCUMENT HANDLING AND ANALYSIS: POINTS TO REMEMBER

- Deposit the MOs with the Magistrate as per the State Rules.²⁵
- A detailed scrutiny of MOs is required. Do prepare scrutiny reports and keep them in the Case Diary.
- Study the scrutiny report. Utilize the clues for further investigation/ and evidence.
- Ensure proper chain of custody (this may involve different police agencies, both inter and intra country).
- Connect crime to criminal (source and the destination may be in different places).
- Share intelligence derived from the document analysis with other police agencies, as it can help in preventing and combating trafficking.

8.2 Interrogation of the suspects/ accused

This is an essential requirement in prosecuting any crime. In HT crimes, the interrogator needs to focus on all aspects of the trafficking process and all activities of the offenders for the following purposes:

1. To uncover the entire organized linkage of trafficking (source-transit-destination).
2. To understand the entire process of HT: the dimensions, demand–supply patterns, ‘push and pull factors’, etc. which will not only help in locating evidence against the offenders but also provide intelligence in prevention of crimes of HT.
3. To explore contacts, sources and witnesses in the source-transit-destination areas.
4. To locate the means, routes and methods used for transportation of victims.
5. To discover the communication channels (cell phones, internet, etc.) used by traffickers.
6. To investigate the modus operandi of traffickers (all operational ways and means, strategies and tactics, such as, false marriage; promise of jobs; work in cinemas; industry, etc.; customary practices such as *devadasi*, *jogin*, *bhogini*; etc).
7. To ascertain the criminal antecedents of the offenders which can be used to investigate the various dimensions of organized crime, the nexus etc., for enhanced punishment after conviction and to locate and rescue victims trafficked earlier by the same offenders.

²⁵ For e.g. - Form 66 of AP Police Manual – gives details of the procedure to be followed for depositing MOs before Magistrate

8. To get details of victims who have been trafficked earlier including their present destination, where they were sent/ sold (so they can be rescued).
9. To locate details of persons likely to be trafficked (vulnerable people) so it can be prevented.
10. To understand the motives/ intentions/ incentives of the traffickers.
11. To ascertain the financial transactions between the offenders.
12. To locate illegal assets and take steps accordingly.

Note: The offenders may include children. If so, they should be treated as “juvenile in conflict with law” under the JJ Act and referred to the Juvenile Justice Board (JJB). Care should be taken to provide all care and attention as required under the JJ Act.

NOTE: If during interrogation of an arrested person it transpires that the person is a victim, do accord this person the status of a victim and not that of an accused. Consider utilizing their services as witnesses. NEVER VICTIMIZE ANY VICTIM.

8.3 Interrogation strategies for suspects and accused

Considering the organized crime linkages in HT, it is advisable that simultaneous investigation is carried out on all the linkages of offenders. Therefore, the IO should consider:

1. Associating other agencies for interrogation:
 - Income tax department and other financial institutions where huge assets are disclosed/ likely to be disclosed.
 - Immigration department, when any of the accused are foreigners.
 - Different police agencies if the crime involves people/ places in different jurisdictions.
 - Labour department, if any issue of exploitative labour is noticed.
2. Use of scientific techniques/ methods which are useful in the process of interrogation (eg. polygraph).
3. Carrying out scientific interrogations.
4. Interviewing the accused before interrogation, to elicit themes/ ideas for interrogation. This is an essential requirement for scientific interrogation.
5. Using flow charts to show the movement of trafficked persons, mode of transportation and financial transactions. Use them as tools for interrogation as well as to present them in the Case Diaries.
6. Team interviews which have been found successful in the interrogation of organized criminals.
7. Using translators, if required, as interpreters not as interrogators.

Remember the art of interrogation: 1st degree = interrogation & 2nd degree = confrontation

8.4 Arrest of accused persons

1. Being an organized crime, the arrest of the accused should take place at an appropriate time without delay.
2. Follow up on communications, especially the cell phones used by the accused before and after arrest, as it can lead to intelligence of trafficking links and maybe more arrests.
3. If a woman offender is to be arrested do not fail to utilize:
 - the provisions of s. 46 (4) Cr. PC (no woman should be arrested after sunset and before sunrise, but in exceptional circumstances, the woman police officer shall obtain prior permission from the jurisdictional Judicial Magistrate First Class), and

NOTE– The arrested female offender should be searched only by a female police official u/S. 51 (2) and 100 (3) Cr. PC



Arrest of Offenders

- provision of s. 50 - A, Cr. PC (obligation of person making arrest to inform a nominated person about the arrest etc.).
4. Medical examination of an accused should be done as required under s. 53, 53 A and 54 of Cr. PC.

8.5 Collating evidence from other places:

- If it is an intra district trafficking crime, do collect evidence from the PS by visiting the concerned places.
- Inter district linkages can also be followed up by the same IO after getting administrative approval from the controlling official.
- When inter state crime linkages are discovered during investigation, follow up immediately with the concerned SHO as well as the SP/ DCP in the other states, so that simultaneous investigations can be carried out. This will also help in sharing further intelligence and data on crime and criminals. It would be better if the IO, after taking administrative clearance, visits the other concerned states and conducts investigation along with the local police agency²⁶. Do keep the PNO informed during all interstate operations. Prompt action will help investigation into the entire trafficking linkages, at all sites, and build up a database of the offenders.

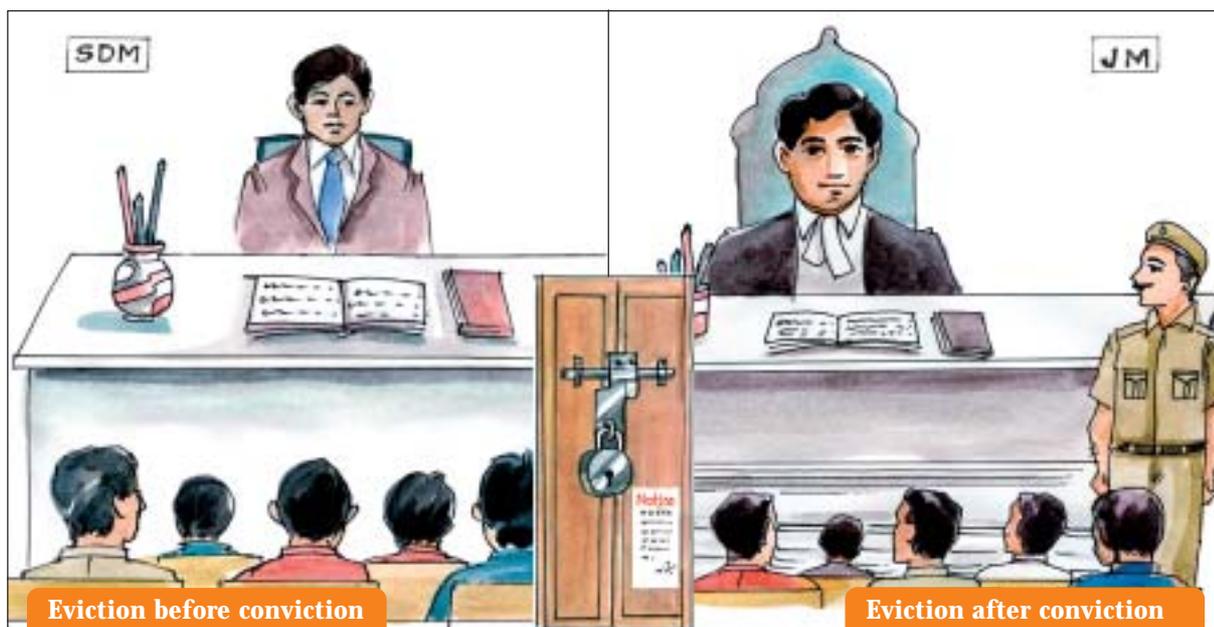
CASE STUDY

During the arrest of an accused in Guntur dist. of Andhra Pradesh in May 2007, a phone call was received on the cell phone of the accused. The investigator attended to the call pretending to be the offender. The information given by the caller led to the trafficker's linkages in another state. Prompt action by the investigator led to more arrests and rescue.

8.6 Eviction of offenders and closure of brothels/ place of exploitation:

A. Eviction before conviction

- U/s. 18 (1) ITPA power lies with a Magistrate (District Magistrate or Sub-Divisional Magistrate) to order eviction of places of CSE. This process can be initiated by the DM or SDM on receipt of information from the police, any other persons or otherwise. This eviction u/s. 18 (1) ITPA is possible even before conviction in the case and even without an FIR. Therefore, police officers must initiate reports and send them to the DM/ SDM even if case investigation is pending.



²⁶ For further details see the Inter State Protocol on Rescue and Post-Rescue Activities Relating to Trafficked Persons by UNODC, 2007

Who can move the Magistrate for eviction of offenders vide s. 18 (1) ITPA?

- Anybody
- Could be a police official of any rank. Even a constable can take such action.
- Could be an NGO

Note 1: Even before the offender is convicted, eviction u/s. 18 (1) is possible. Note 2: Even before FIR is registered eviction can be done.

Which Magistrate has powers to evict even before the FIR is registered by the police?

- The District Magistrate
- The Sub Divisional Magistrate
- Any official entrusted with the powers of SDM/ DM, eg. a notified DCP

Note: This is a quasi-judicial order which cannot be stayed, set aside or appealed

- **No appeal – a stringent provision in law:** Orders passed by the Magistrate/ court u/s. 18 (1) ITPA, for eviction of places of CSE shall not be subject to appeal and shall not be stayed or set aside by the order of any civil or criminal court (vide s. 18 (3) ITPA).
- **Preventive action:** U/s. 133 (1) (b) Cr. PC the District Magistrate/ SDM/ or any other Executive Magistrate has the power to pass a conditional order on any person who conducts any occupation which is injurious to the health or physical comfort of the community, to desist from carrying on such trade.

B. Eviction after conviction

U/s. 18 (2) ITPA, a court which convicts a person of an offence u/s. 3 (keeping a brothel or allowing premises to be used as a brothel) or u/s. 7 (prostitution in or in the vicinity of public places) of ITPA may pass orders to close the brothel and/ or evict offenders **without any notice** to any convicted person. Therefore, upon conviction of a person u/s. 3 or 7 ITPA, the IO should immediately move the court for an order of closure/ eviction u/s. 18 ITPA.

Note: The order passed by a judicial authority u/s. 18 (2) ITPA cannot be stayed or set aside or appealed against, vide s. 18 (3) ITPA.

C. Suspension/ cancellation of hotel license

U/s. 7 (2) ITPA licence for carrying on business of a hotel (where CSE is being conducted) may be **suspended** for a period of 3 months to 1 year. If offences under this provision are committed against a 'child' or 'minor', licence of such hotel may also be **cancelled**.

8.7 Organized crime approach for investigation

Human trafficking is a "basket of crimes"²⁷. Multiple abuses are committed by multiple abusers/ offenders located at different points of time and place. All these together constitute the organized crime of trafficking. Whilst investigating a crime of trafficking the following points need to be considered at all stages:

- Linkage of source-transit-destination must be made during investigation.
- Conspiracy angle to be investigated, since there are multiple offenders. Deciphering the communication linkages can prove meeting of minds.
- Sharing criminal intelligence with other police agencies (different police stations, districts, states, etc.) on traffickers and all other accomplices.
- Sharing crime data with other police agencies regarding vulnerable places and vulnerable people.
- Mapping the exploiters profit and follow up:
 - Confiscation of assets is possible under Criminal Law Amendment Ordinance 1944 when IPC Sections are invoked. Therefore, in such cases IO may invoke relevant IPC provisions along with ITPA.
 - Confiscation is possible under s. 105 A – L Cr. PC with respect to assets acquired by virtue of all crimes including ITPA.

²⁷ Nair, 2007. op. cit. 12. p. 3.

In a case of trafficking registered by the Social Services Branch of Mumbai police in December 2003, the investigation unearthed several cars used by the trafficker, in addition to 2 flats in Mumbai city where the trafficked women were kept confined. Utilizing the provisions of s. 105 C – 105 L of Cr. PC the investigating agency moved the court and ensured seizure, attachment and forfeiture of the movable and immovable properties arising out of the proceeds of the crime. Though the defence had contested the prosecution, they were unable to explain any other source of income for purchasing these assets.

- Collect intelligence on income, expenditure and assets (movable, immovable properties) from source-transit-destination and other areas.
- Link the assets with the crime (by assessment of brothel income, number of customers per day, expenditure, savings, etc.).
- Evaluation of the assets by Public Works Department (PWD)/ other competent agencies (eg. land survey department).
- Invoke provisions of all relevant laws which can be used to establish the organized crime perspective [eg. ITPA along with IPC, ITPA with MCOCA (wherever in force), ITPA with Goa Children's Act, 2003 (applicable in Goa) etc.]
- Action be initiated under the provisions of the Prevention of Money Laundering Act, 2002 for offences committed u/s. 5, 6, 8 and 9 of ITPA provided the total value involved in such offences is thirty lakh rupees or more²⁸.

9. RESCUE AFTER REGISTRATION OF FIR

All principles discussed in segment 6, rescue before registration of FIR, will also be applicable here. Further, the following steps also need to be carried out:

- The IO needs to record the events in the Case Diary.
- Statements are to be recorded u/s. 161 Cr. PC.
- All Memos should bear the FIR number and date.
- Copies of the Memos have to be given to the court. In many states copies are also to be sent to supervisory officials. Hence, adequate copies must be made depending on the procedures in practice.
- If copies are to be given to CWC, adequate number of copies to be made accordingly.

²⁸ S. 2 (y) (ii) of Prevention of Money Laundering Act, 2002

10. POST RESCUE ACTIVITIES²⁹

Post rescue care and attention of victims has been discussed in segment 6 dealing with rescue before FIR. All those principles also apply here. Besides these, the following aspects also need to be considered.

10.1 Recording statement u/s. 161 Cr. PC

While recording the statement of the victim in the Case Diary u/s. 161 Cr. PC the IO should consider:

- **Who will record:** Whenever a rescued girl/ woman needs to be interviewed, it shall be done by a woman police official, and if no woman police official is available the interview shall be done **only in** the presence of a female member of an NGO. This is a mandatory requirement u/s. 15(6A) ITPA.



Interview in the presence of a female member of an NGO

- **When to record:** Record statements when the victim is fit (ready and able) to make a statement. If the victim is not ready, make an entry to this effect in the Case Diary and do not compel the victim to give her statement.
- **Where to record:** Record the statement of the victim wherever she is comfortable. There is no need to take the victim to a PS for this purpose or to record subsequent statements. This can be accomplished at the Shelter/ Protective Home where she is lodged or any other place of safety where she is comfortable (u/s. 160 (1) of Cr. PC)
- **Counseling:** Remember that the victim usually becomes capable of giving a cogent statement after counseling by a mental health professional or a trained counselor. Utilize the services of appropriate counselors with government agencies or NGOs³⁰.

²⁹ See Check List for Post Rescue Planning at Appendix 4

³⁰ See Manual on Psycho Social Intervention by UNODC

- **Additional statements:** Remember, that there can be more than one statement by the victim, as and when she is fit to speak. Any contradiction from the previous statement may be explained in the subsequent statement. (**Note:** Contradictions are possible because the victim is traumatized and may not be able to recall events properly).
- Record the statement in the **language** of the victim (use a trained/ appropriate translator to translate the statement into the court language, as and when required).

- **Counselor:** When recording the statement of a highly traumatized adult or child victim, it is advisable to use the continued services of a trained counselor to communicate with the person.

- If the victim is **unable to speak** (hearing and speech impaired or due to a traumatic and depressed state of mind) use alternative materials/ methods for communication (eg. a traumatized child may draw a picture suggestive of the violation on her).



Services of a counselor to communicate with victim

- **Repeated interviews** with rescued persons should be avoided as far as possible. If senior/ supervisory officials, who may be from different investigating agencies, want to interview the victim, they should consult the main IO and work as a team, so that multiple interviews can be avoided.

Ensure that the victim is not called upon to relive the trauma, again and again. Avoid multiple interviews.

- **Mapping the harm done to the victim:** The IO records his observations in Part 1 of the CD (u/s. 172 Cr. PC). Though Part 1 is not shared with the accused, the court peruses this during trial. Therefore, the IO should record his observations of the physical, emotional and psychosocial harm to the victim in Part 1. The 'harm factor' can be aptly recorded u/s. 161 Cr. PC statement also, to the extent required. Further, in order to make it admissible as evidence (u/s. 14 of IEA) during trial, the victim has to be examined by an appropriate health professional, whose report will be attached to the CD and a copy made available to the defence, if cited as evidence.
- **Exclusion of parts of statement from public disclosure:** Many IOs do not record the 'harm factor' in the statement u/s. 161 Cr. PC, in case it is called in for perusal by the defence. Often, such a perusal by the defence, and subsequent questioning of the victim, can further traumatize the victim. In this context, the provisions of s. 173 (6) Cr. PC can be utilized. According to this provision, certain parts of the victim's statement can be excluded while furnishing copies to the accused. Therefore, statements recorded u/s. 161 Cr. PC can also incorporate the 'harm factor'.

10.2 Recording statement u/s. 164 Cr. PC

This is a preferred option because of several reasons:

- a) Victims are likely to be restored/ repatriated to their place of origin and may not be available as and when required.
- b) Victims may be reluctant to come during recording of evidence because they may not want to relive the trauma.
- c) Some victims may be suffering from serious ailments, like AIDS, and health conditions may not permit them to come to courts located in distant places, for evidence.

The decision to record the statement u/s. 164 Cr. PC is to be taken as early as possible depending on the

victim's knowledge of the crime and readiness to speak. In this context the following aspects should be kept in mind:

- Provide counseling to the victim by a trained counselor, so that the victim is ready and willing to speak.
- The reflection period depends on the intensity of the trauma to the victim. Therefore, the IO should not be in a hurry to record her statement u/s.164 Cr. PC. Ensure that the victim gets adequate time before she is called to record her statement.
- If the victim's statement is required in more than one FIR, registered elsewhere for different offences which may be part of the same continuing transaction, it would be appropriate that her statement is recorded once and a certified copy is utilized for the other court.
- If the victim speaks a different language, do get her statement u/s. 164, Cr. PC recorded by a Magistrate who speaks her language. If it is not possible, the services of an appropriate translator (not in collusion with the accused) may be utilized. The IO should ensure and take the initiative in identifying the translator.
- Care may be taken to record the statement *in camera* and in a non-intimidating environment. The IO may make a prayer u/s. 327 (2) Cr. PC (read along with Supreme Court judgment in *Sakshi v/s UOI*³¹) to this effect.

10.3 Age assessment

Rescued victims mostly include women and children. It is important for the IO to do an on-the-spot preliminary age assessment of the persons to segregate child victims from adult victims. There may be persons looking like children and yet professing to be above 18 years of age. Such children may be under duress/ coercion/ compulsion by vested interests to declare themselves adults so that the offenders can get them released easily, citing their willingness for the same, and subsequently traffic them back to brothels/ other places of exploitation. The IO needs to exercise caution against such deceptions. Moreover, u/s. 15 (5A) ITPA, the IO may also move the Magistrate to have the victim examined by a registered medical practitioner to determine the age.

TABLE 5

S. 2 (aa) ITPA, "child" means a person who has not completed the age of sixteen years.

S. 2 (ca) ITPA, "major" means a person who has completed the age of eighteen years.

S. 2 (cb) ITPA, "minor" means a person who has completed the age of sixteen years but has not completed the age of eighteen years.

S. 2 (k) JJ Act, "child " means a person who has not completed eighteenth year of age.

The process of investigation with regard to the victim's age, should consider that:

- The IO must try and obtain the date of birth certificate, school certificate, ration card, or any other relevant document which would be useful to determine the victim's age.
- The IO must send the victim for an age determination test, preferably to a forensic medicine department.
- The IO must also collect all possible circumstantial evidence regarding the age of the victim from the neighbours, locality, other rescued persons, etc.
- In case of doubt or dispute with respect to the age of the victim, the IO must refer the case to a Medical Board.

10.4 Production of the rescued person before the Magistrate/ CWC

- (a) A person rescued u/s.15 is to be produced before the appropriate Magistrate, vide s. 15 (5) ITPA. This means that adult victims be produced before a Judicial Magistrate and child victims before CWC (under JJ Act).

How to decide whether the person is an adult or a child?

The police officer is called upon to take a decision on the spot whether to produce the rescued person before the Magistrate (under ITPA) or the CWC (under JJ Act) and therefore, this decision is crucial. The decision may be taken based on the following principles:

- Apparent look of the person.
- Consulting the rescued person, making him/ her understand the implications.
- Consulting the NGO partner participating in the rescue operation.
- Consulting a counselor if available.
- Checking available documents, if any.

When in doubt, treat the rescued person as a minor.

- (b) A person rescued u/s. 16 be produced before the Magistrate issuing the order (vide s. 16 (2) ITPA).
 (c) If the police officer is unable to produce the victim in front of the authority mentioned in (a) and (b) above, for whatever reasons, such persons be produced before the nearest Judicial Magistrate of any class (vide s. 17 ITPA).

In this context the following points be considered:

- Produce adult victims before magistrate u/s. 15 (5) or 16 (2) ITPA.
- Produce child victims before CWC u/s. 32 of JJ Act.
- If the rescue is held at night, the night duty Magistrate may be approached.
- If nobody is available (Magistrate/ CWC), send the rescued persons to a Government run or NGO run Home (notified under u/s. 21 ITPA or u/s. 37 of JJ Act).
- If a notified Home is not available in the vicinity, send the rescued persons to any reputed NGO Home.
- If none of the above are available, the police officer should take the initiative to arrange a place of safety such as a bona fide hotel, guest house, circuit house, etc. for the victims. In such situations, a female representative of the NGO and a lady police official should accompany the victims.
- **The rescued victims should never be:**
 - SENT BACK TO THE BROTHEL
 - DETAINED IN THE POLICE STATION
 - EXPOSED TO SITUATIONS OF FURTHER RISK

CASE STUDY

In 2007, a raid and rescue operation was conducted by the Delhi police along with the AP police in a certain brothel in Delhi. The rescued women and children were brought to the police station by late evening. The Delhi police official, citing non-availability of a safe place to stay sent the rescued persons back to the brothel. The rescued persons could not be traced the following morning, as the exploiters had got them removed and concealed.

10.5 Medical care of victim and follow up

- IO should ensure that appropriate medical care be extended to the victim immediately after rescue and without delay. Informed consent of the victim is mandatory before a medical examination.
- A lady police official should escort victim.
- The presence of a known NGO during the medical examination and medical care will provide relief and comfort to the victim.
- The IO should move the Magistrate through the Prosecutor, to have the victim examined by a registered medical practitioner to detect injuries resulting from sexual abuse or the presence of sexually transmitted diseases vide provisions of s. 15(5A) ITPA.
- According to s. 164A Cr. PC the IO may get the victim examined by a registered medical practitioner within 24 hours from the time he receives information of the commission of offence of rape or attempt to rape. Note that the victims of CSE can be safely presumed to be victims of rape as well,

The rescued victim should never be

Detained in the police station



Sent back to the brothel

Exposed to situations of further risk

as this presumption will be in the 'best interest' of the rescued person. If any rescued person is under 16 years of age, vide s. 375 Clause Sixthly, IPC, the offence of rape should be included in the FIR.

- Since the victims may be addicted to drugs, drinks, smoking, etc. the IO should take steps to refer them to appropriate de-addiction counseling services.

Respecting the dignity of the victim during the medical examination:

- **If possible, the medical examination should be conducted by a female doctor u/s. 53 (2) Cr. PC.**
- **If no female doctor is available, the medical examination should be conducted in the presence of a female medical attendant, or a female representative of an NGO.**
- **The IO should inform the doctor to take all steps to respect the dignity of the victim.**
- **Any HIV test/ other medical test should be organized by the IO only after the informed consent of the victim³².**

10.6 Shelter Homes/ CWC

IO should make interim arrangements to send the victim to a **place of safety** such as a Shelter Home (government/ NGO run)/ CWC/ drop-in-centre, etc. Avoid detaining the victim in the PS or other police outfits. PS should keep a list of agencies running such Homes, including their contact numbers and other details and network with them.

10.7 Home verification

- The police should make a report to the Magistrate requesting for Home Verification as provided u/s. 17 (2) ITPA. The IO may submit to the court that u/s. 17 (5) ITPA, the Magistrate has the power to summon a panel of five respectable persons, three of whom shall be women (wherever practicable) to assist him. A list of NGOs working on AHT be kept ready in the PS and provided to the Magistrate, if called for.
- U/s. 33 JJ Act, when a 'child in need of care and protection' is produced before the CWC, it may pass an order to send the child to the Children's Home for speedy inquiry by a social worker/child welfare officer. Such inquiry is to be completed within 4 months of the receipt of the order.
- The IO should move the Prosecutor to oppose any release of the rescued person (adult or child) to anybody before the Home Verification Report is received, to prevent re-trafficking of the victim.
- In the meantime, the IO should request the Magistrate/ CWC to send the victim (adult or child) to the appropriate Home for interim care u/s. 17 (4) ITPA and u/s. 33 (4) of JJ Act, respectively.
- Before the Magistrate/ CWC hands over the rescued person to the care of parents or guardians, the Magistrate/ CWC needs to be convinced of the capability and genuineness of the person u/s. 17 A ITPA. The IO should move the Magistrate through the Prosecutor to address this issue.

In case of children who are born in brothels, the report required to facilitate Home Verification should be prepared with care so that it does not violate their dignity. The IO should remember not to insist on writing the father's name in the report.

10.8 Restoration of victim

Considering the 'best interest' of the victim, police can play a proactive role in the victim's restoration by taking the initiative on several counts:

- Ensuring that victims are released to the appropriate person after receipt of the Home Verification report, by moving the Magistrate with a request to this effect u/s. 17 (2) & (4) ITPA.
- Moving the court not to release the victim to fake, 'self styled' or abusive parents/ guardians.

³² http://www.nacoonline.org/guidelines/guideline_10.pdf

- Liaising, supporting and facilitating the NGOs who are carrying out the Home Verification u/s. 17 (5) ITPA.
- Providing security to the victim/ accompanying person/ NGO during the transfer of the victim.
- Facilitating genuine and supportive parents/ guardians to take custody of the rescued victim by networking with the concerned authorities u/s. 17 A ITPA.

10.9 Interim relief to the victim

Some states have issued government orders/ circulars providing interim relief to the rescued person. According to WCD GO. MS. 13 dated 21-04-06 of Andhra Pradesh, the victim is entitled to an interim relief of Rs. 10,000/- immediately after rescue. The rescued victim, irrespective of her native place, can be extended this relief. Similarly, the Government of Tamil Nadu has made provisions for victim support from the Social Defence Fund. The IO should send proposals to the concerned authority immediately after rescue, requesting that such benefits are extended to the rescued person, wherever applicable.

11. CHARGE SHEET

A correct and proper charge sheet is a sine-qua-non, an essential prerequisite, in securing conviction in any crime. IOs should be fully aware of this while preparing charge sheets for HT crimes.

- Present the CD with a Crime Map of the entire scene of the crime from source through transit to destination areas including other places of exploitation.
- As HT is an organized crime, there will be multiple crimes and multiple offenders. All these have to be included in the documents. Prepare a matrix of **crime–offender–evidence** and present it in the CD.
- **Legal opinion** of prosecutor to be utilized for drafting the charge sheet.
- Use provisions of s. 173 (6) Cr. PC wherever necessary, for ensuring **confidentiality** of the victim's statement.
- Collect all **expert opinions and reports** that are admissible u/s. 45 IEA. In a trafficking crime these reports and opinions include:
 1. Medical report of physical injury to the victim.
 2. Medical report of sexual abuse perpetrated on the victim.
 3. Medical report of sexually transmitted diseases.
 4. Relevant medical history of victim (eg. medical termination of pregnancies, miscarriages, etc) to prove earlier violations on her.
 5. Report of age verification/ determination.
 6. Expert opinion on psychosocial trauma ('the harm factor').
 7. Medical report of the accused in case of rape/ sexual assault.
 8. Report of DNA finger printing if there is any issue of establishing identity of the persons.
 9. Any other relevant forensic reports to prove/ substantiate the crime or the role of the offenders (eg. viscera report in a case where the victim was drugged before she was abused).
 10. Copies of statements recorded u/s. 164, Cr. PC in the same case, or in any other case, which are relevant to this case.

11. Copies of statements of accused recorded u/s. 25 IEA (extra judicial confessional statements of the accused), if any.
12. Test Identification Parade report, if any, u/s. 54 (A) of Cr. PC.
13. Reports and prosecution sanctions, if any, under NDPS Act, Excise Act, Immigration Act, Prevention of Corruption Act, etc.

11.1 Additional Case Diary for CWC/ JJB

When the rescued persons include adults and children, the simultaneous role of the competent court and the CWC come into operation. Normally, the CD prepared by the IO is meant for the court and extra diaries are prepared only for supervisory officials, depending on the Police Manuals/ regulations. Sometimes CWC also calls for the CD. Therefore, it would be appropriate that whenever the rescued persons include children, the IO prepares an additional copy of the CD and sends it to CWC.

Similarly, when the list of offenders includes any children, JJB plays an important part. JJB would also require a copy of the CD. Therefore, in such situations additional CD be prepared.

11.2 Further investigation after the charge sheet

Being a borderless crime with ramifications in different places, it is possible that new linkages of the crime emerge long after the charge sheet is filed.

In such situations, after filing the charge sheet, it would be appropriate to carry out further investigation to expose the entire linkages of the crime. The IO, on receipt of any further information and fresh material, can initiate further investigation u/s. 173 (8) Cr. PC and file a supplementary charge sheet.

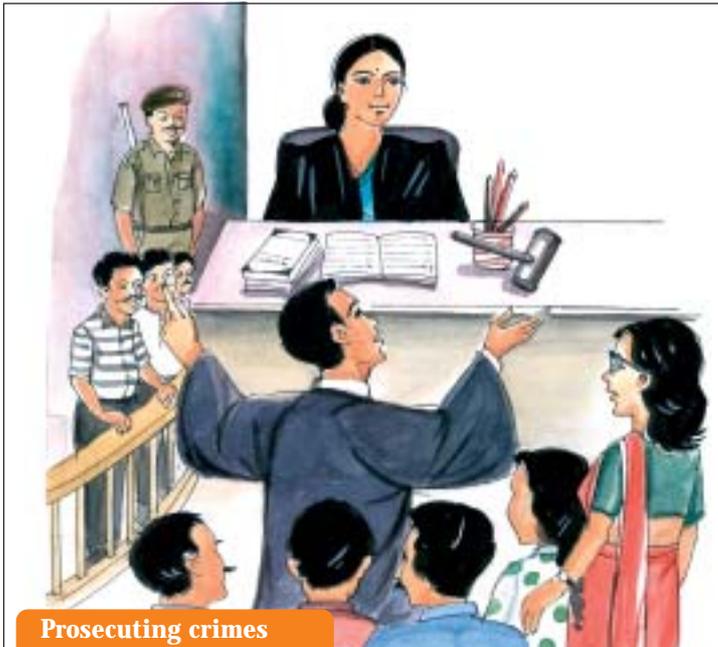
For example, rescue in one case led to intelligence on another crime which had already been disposed off from the police records. This intelligence showed the involvement of some traffickers who had not been charged or investigated earlier.

12. PROSECUTING CRIMES

Police can play an important role even at the stage of prosecution. Therefore, the IO should:

- Brief the Prosecutor not only on the facts of the case, but also on its special features, viz. the victim's trauma, organized crime linkages, the need to provide care and attention to the victims, how decisions can be taken in the 'best interest of the victim', etc.
- Prepare the victim for testimony in court, with the assistance of counselors or NGOs.
- Prepare the witnesses (getting witnesses on time, briefing and debriefing them, thanking them promptly, etc.).

Ensure that victims are NEVER convicted u/ s. 8 of ITPA.



Prosecuting crimes

CASE STUDY

In a case of rescue in Mumbai, in 2002, the rescued children were released from the court by the same lawyer who had earlier appeared for the accused and had got them bailed out. Later, it transpired that the rescued children were re-trafficked by the same person. The matter came to the notice of the High Court and the court referred it to the Bar Council of Maharashtra. (Prerana v/s State of Maharashtra)

- Ensure victim/ witness protection³³ during the trial and in post-trial situations³⁴.
- Keep watch on the bailers and sureties. Since the bailers could also be offenders it is critical to ensure that they are not allowed to re-traffic the victims under the garb of taking care of them after release.

Ensure that the provisions of s. 437 (3) Cr. PC are invoked against the accused who violates the provisions of the bail. The IO should move this application to the court through the Prosecutor.

- Through the Prosecutor, the IO should ensure that the surety who stands for the accused furnishes a declaration, to the court, regarding the number of persons for whom he has earlier stood surety, including traffickers (s. 441 A Cr. PC).
- In case the IO comes to know that the accused trafficker or other exploiters have threatened a victim/ witness, he should file an FIR u/s. 195 A IPC and take up investigation. This will have a detrimental effect on traffickers.

- Fast track mechanisms for expeditious trial of HT crimes to be invoked u/s. 22A and 22AA ITPA. This will facilitate justice delivery with celerity.
- If the case is discharged/ acquitted and it is observed that there is merit in appeal, the IO, after observing the existing administrative and procedural requirements, should move the prosecutor to file an appeal in the appropriate court.

³³ See Standard Operating Procedure on Prosecution of Crimes of Trafficking

³⁴ For further guidelines, see Nair, 2007. op. cit. 12. p. 43

13. REFERRAL MECHANISMS

The 'referral mechanism approach' recognizes that all stakeholders, including law enforcement agencies must co-operate and work in synergy to develop a truly effective and comprehensive protection structure for trafficked persons. The objective is to rehabilitate trafficked persons and implement sustainable structures that will provide them with support. The police can play an active role as facilitators in several ways:



- **Referral to a counselor:** Rescued trafficked persons to be referred to an appropriate NGO for holistic counseling, especially for relief and rehabilitation.
- **Referral for health care:** When the victim needs immediate medical attention it should be attended to on priority. Suggest a lady medical officer/ medical attendant if the victim is a female. If the service providers are males, ensure that female representatives of an NGO are present. The District Medical Officer/ Civil Surgeon to be contacted.
- **Referral for psychosocial intervention:** The rescued person is often extremely traumatized and needs to be handled sensitively and in a humane manner. The police must make all efforts to facilitate psychosocial help and intervention through the services of a skilled counselor to reduce the person's trauma and distress. Assistance should be taken from the staff of the government/ NGO run Shelter/ Children's Home.
- **Referral for legal representation:** Though the state is duty bound to take up the legal representation of the victim, private lawyers are often required to intervene, particularly when the victim knows and has trust in the lawyer. Police officials should promote such legal representation. The District Legal Services Authority should be consulted for any assistance required.
- **Referral for compensation:** Children/ women who are rescued from CSE require immediate sustenance for their survival. The IO should contact the concerned district administration officials for incidental expenses such as travel, clothing, medicine and other immediate necessities. The District Collector and the District Social Welfare Officer to be consulted.
- **Referral for rehabilitation:** Though this appears to be a *non-police* job, it is clear that a victim who is not properly rehabilitated can, and more often is, re-trafficked. Preventing re-trafficking is a police mandate; therefore, the police officer should deem it essential to take all steps for proper rehabilitation of the victim. Refer the victim to the government/ NGO run Homes; link up with appropriate rehabilitative agencies, including corporates and other bodies who could provide support.

14. POST CONVICTION STEPS IN AHT

Even after the conviction of the accused, the police have a significant function to perform. There are many provisions in the ITPA dealing with post conviction. The IO should liaise with the prosecutor to pray to the court for:

- **Enhanced punishment** in cases of subsequent conviction and offences committed against children. Refer to the table below for details.

TABLE 6

Sections of ITPA, 1956	Offence	Punishment upon First Conviction	Punishment upon Subsequent Conviction	Punishment when the offences are committed in respect of a child/ minor
Sec. 3	Punishment for keeping a brothel or allowing premises to be used as a brothel	RI for not less than 1 year and not more than 3 years AND fine which may extend to two thousand rupees	Rigorous imprisonment (RI) for not less than two years and not more than five years AND with a fine which may extend to two thousand rupees	
Sec. 4	Punishment for living on the earnings of prostitution	Imprisonment for a term which may extend to two years OR with a fine which may extend to one thousand rupees or both		Imprisonment for not less than seven years and not more than 10 years
Sec. 5	Procuring, inducing or taking a person for the sake of prostitution	RI for not less than three years and not more than seven years AND with a fine which may extend to two thousand rupees		Child - RI for not less than seven years but may extend to life. Minor – RI for not less than seven years and not more than 14 years
Sec. 6	Detaining a person in premises where prostitution is carried on	Imprisonment for not less than seven years but which may be for life OR imprisonment up to 10 years AND fine		
Sec. 7	Prostitution in or in the vicinity of public places	Imprisonment which may extend to three months		Imprisonment for not less than seven years but which may be for life OR imprisonment up to 10 years AND fine
Sec. 9	Seduction of a person in custody	Imprisonment for not less than seven years but which may be for life OR imprisonment up to 10 years AND fine		

- **Mandatory fine:** ITPA demands **mandatory** fine for various offences, eg. u/s. 3 (1) ITPA for keeping a brothel or allowing premises to be used as a brothel. Other provisions where mandatory fine is awarded, are listed in Table 5.
- **Eviction from the place of exploitation after conviction** u/s. 18 (2), ITPA (see details in para 8.6).
- **Suspension/ Cancellation of licence of hotels** u/s. 7 ITPA – refer to para 8.6.
- **Notifying the residence/ absence of offenders:** According to s. 11 ITPA, any person who has been convicted earlier, under ITPA, or relevant sections of IPC (s. 363, 365, 366, 366 A, 366 B, 367, 368, 370, 371, 372, or 373), and who is again convicted under ITPA for a period of two years or more, may be subjected by the court to notify - according to the rules made by the State Government in this regard - any change of his residence or any absence from such residence after release, for a period up to five years. This is a potent weapon for law enforcement agencies to keep surveillance on the movement/ activity of the convicted person, so they can prevent the commission of any such crime in the future.
- **Externment:** To prevent convicted traffickers from indulging in further crime, externment proceedings, under the relevant State laws, may be utilized; eg. MCOCA, 1999 in Maharashtra and Delhi, AP Goonda Act, Crime Control Act in Bihar etc.
- **History sheets/ suspect sheets:** Police should prepare dossiers and keep watch on the activities of convicted persons/ suspects, as per the rules and procedures in the state.
- **Naming and shaming:** It would be advisable to give wide publicity to convicted traffickers, so that:
 - a) It creates adequate impact on the convicted person and on other offenders
 - b) The public gets alerted to the activities of such offenders
 - c) Vulnerable persons are forewarned against such persons and, thereby, trafficking is curtailed.

15. PREVENTION³⁵

Prevention is the sine-qua-non of any anti crime activity and police officers have an important role in the prevention of trafficking crimes. IOs can actively involve themselves in:

- Prevention through aggressive law enforcement. If the convicted offender is behind bars, the trafficking crimes, which he would have otherwise committed, are curtailed.
- Prevention through proper rehabilitation prevents re-trafficking.

Prevention of 2nd Generation Prostitution: In Yadgirigutta district of Andhra Pradesh, culturally sanctioned practices were pushing new children into prostitution. A Bridge School supported by the Indian Red Cross society and the local government was established, where 21 children of CSE victims, who had never attended school, were enrolled alongwith 43 children from other families. The local panchayat also helped to facilitate the enrollment. After spending a year in this residential school, the children of CSE victims were successfully integrated into regular schools for further education. This police initiative resulted in breaking the outdated culturally sanctioned practices.

Source: Mr. Mahesh Bhagwat

- Prevention at the source area by identifying vulnerable victims, empowering them through public awareness campaigns, involving concerned agencies to undertake empowerment programs, etc.
- Prevention at the transit area, such as railway junctions, bus stops, etc. by appropriate intervention.
- Empowering survivors by facilitating them to be watchdogs and whistle blowers against crimes and criminals, and facilitating survivor networks to work with crime stoppers, etc.

Manav Seva Sansthan, Gorakhpur, started an innovative experiment in 2002, by opening a 'Human Rights Awareness Centre' at Sanauli nearing the Indo Nepal border. The NGO counseled the migrants coming from Nepal to India with awareness of trafficking issues, safe migration, human rights, women and child rights with the help of brochures etc. The counseling done during a period of 9 months witnessed some revealing facts. Out of 3535 persons counseled, 65 turned out to be victims of trafficking and 35 were suspected to be traffickers. The former were rehabilitated through an NGO Maiti Nepal and the suspected offenders were handed over to the police. This initiative showed that intervention at the transit places can prevent HT.

- Prevention in the demand area by understanding/ addressing new forms of demand (eg. sex tourism, CSE under the facade of massage parlours, cyber pornography, etc.)
- Keeping vigil at locations prone to trafficking and monitoring the movements of strangers in these places.
- Ensuring effective patrolling, especially at highways, *dhabas*, railway stations and bus stations where a special 'vigil' needs to be maintained to check movement of traffickers accompanied with victims.

A study of truck drivers on the highway showed that in certain places trafficking of women and children for CSE, was well organized. Victims were picked up at selected places, violated inside the truck while the truck was moving and then dropped at another spot to be picked up by another truck. It was clear that exploitation in moving vehicles was well organized. Intervention at select places successfully curtailed exploitation and trafficking.

- Ensuring close checks on transporters to prevent physical transportation of trafficked persons.
- Informing adolescents and "vulnerable" persons, who can be lured/ misled/ or go astray to become "customers and clientele", on principles of human rights, gender rights, child rights, HIV etc.

³⁵ For details see the Standard Operating Procedures on Prevention of Human Trafficking by UNODC

16. ROLE OF SUPERVISORY OFFICERS

Existing response systems, in India, provide a prominent role for supervisory officials in addressing HT through Prevention, Protection and Prosecution. Some tasks for police managers are listed here:

- Networking with officials in other districts and other states: The Director General of Police (DGP) has nominated Police Nodal Officers (PNOs) in all states, for this purpose. Since trafficking is a borderless crime it requires borderless policing that can be facilitated through *police manager networks*.
- Developing and sharing a comprehensive database of traffickers/ exploiters. This has to originate from the police station, move to the district and then to the state database, and eventually be amalgamated into a master database just like the national database of the National Crime Record Bureau. Data has to be updated on a monthly basis, at all levels, and disseminated to all concerned without delay.
- Developing and sharing intelligence regularly, on traffickers/ exploiters/ victims.
- According adequate priority to law enforcement on AHT. There are several activities that can be undertaken, eg. the crime data board displayed in all PS does not show HT data separately. This should be added as a separate head and updated regularly.
- Regular review of AHT activities in the monthly crime meetings with the SP/ DCP and other officers, to ensure that HT crimes are investigated thoroughly and professionally and progress of work is reviewed constantly.
- Taking law enforcement activity beyond the realm of rescue and looking at it from an organized crime perspective.
- Providing NGO networks to police officers by developing partnerships with NGOs.
- Developing synergy of police with other government departments, thereby ensuring and facilitating appropriate responses by these departments.
- Liaising with the District Level Monitoring Committee or any such body/ lobby to ensure expeditious disposal of HT crimes. Providing adequate support to ensure speedy trial.
- Taking all steps for prevention of HT (details in the segment 15).
- Ensuring a victim-centric approach and perspective in law enforcement.
- Shortlisting and mapping target/ vulnerable/ geographic areas and situations to ensure concerted action.
- Empowering police officers of all ranks with proper training focussed on Knowledge, Skills, Attitude, and Resources.
- Providing stability of tenure to trained and functional officers handling AHT activities.
- Ensuring accountability of officers with respect to the 3 Ps - Prevention, Protection and Prosecution - in their jurisdiction.
- Rewarding and commending officers doing good work on AHT.
- Documenting and disseminating good practices and providing a forum for wider discussion and emulation.

APPENDIX 1

MYTHS VERSUS REALITY OF TRAFFICKING

SR. NO.	MYTHS	REALITY/ TRUTHS
1.	Trafficking in human beings is only done for prostitution.	Prostitution is only one of the reasons for trafficking. Trafficking is done for various purposes, such as begging, forced labour, debt bondage, illicit adoption, marriage, organ transplant, camel jockeying, for performance in circus, for child sex – tourism, and for use of adults and children in pornography.
2.	'Human smuggling' or 'voluntary illegal migration' is the same as trafficking in human beings.	Human smuggling - is the facilitation, transportation, attempted transportation or illegal entry of a person(s) across an international border, in violation of one or more countries' laws, either clandestinely or through deception, such as the use of fraudulent documents. Human trafficking - unlike smuggling, which is often a criminal commercial transaction between two willing parties who go their separate ways once their business is complete, trafficking specifically targets the trafficked person as an object of criminal exploitation. The purpose from the beginning of the trafficking enterprise is to profit from the exploitation of the victim. It follows that fraud, force or coercion all play a major role in trafficking.
3.	In trafficking for prostitution, the brothel manager / madam is the main accused in a trafficking crime.	Brothel manager / madam is only the visible face of the exploiter and trafficker is the main culprit.
4.	Brothel is the only scene of crime in trafficking.	The scene of crime in trafficking involves all places in Source, Transit and Destination. It includes places where exploitation takes place under the facade of other enterprises, such as beauty and massage parlours, friendship clubs, small hotels, exclusive clubs, under the guise of call centres, friendship clubs, and along national highways, etc.
5.	The law to address trafficking is only ITPA.	Trafficking for CSE has to be addressed by invoking not only ITPA but relevant provisions of IPC (ex. 366 A, 366 B, 372, 373, 375, 376, etc.).
6.	All women seen to be soliciting are accused persons under ITPA.	Case studies and research shows that most of these women are made to solicit by the exploiters; there is no <i>mens rea</i> and these women are victims.
7.	Customer is not an accused under ITPA.	Customer is culpable under S. 5 (1) (d) and 7 (1) ITPA and related IPC offences.

SR. NO.	MYTHS	REALITY/ TRUTHS
8.	Only a Special Police Officer can arrest a trafficking accused.	Any officer of the rank of SI and above can be authorized under ITPA by a Special Police officer, in writing (S. 14 (ii)) or otherwise (S. 14 (iii)). However, any person committing or likely to commit a cognizable offence can be arrested by any police officer, including a constable. (S. 41 Cr. PC)
9.	Without FIR no arrest or rescue is possible.	Trafficking being a cognizable offence, any police officer can cause arrest or rescue even without FIR to prevent crime (S. 41 Cr. PC). Moreover a Magistrate can authorize any police officer of the rank of SI and above for carrying out rescue (S. 16 (1) of ITPA)
10.	A PO can register a case of trafficking only after rescue.	Rescue normally takes place at the point of final destination, whereas trafficking offences commence at the source itself and continues through transit to the destination point and even thereafter. If PO gets information about any person having been transferred from source point or being trafficked through transit place, the PO of those areas should register FIR for the offence of trafficking u/S. 5 (3) of ITPA.

Definitions on Trafficking

1. Article 3 of the UN Protocol to Prevent, Suppress, and Punish Trafficking in Persons, especially Women and Children, supplementing the UN Convention Against Transnational Organized Crime, 2000, states:

For the purposes of this Protocol:

- (a) **“Trafficking in persons”** shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.
Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;
 - (b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;
 - (c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered “trafficking in persons” even if this does not involve any of the means set forth in subparagraph (a) of this article;
 - (d) “Child” shall mean any person under eighteen years of age.
2. The Annotated Guide (2002) to the Complete UN Trafficking Protocol consisting of The UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children –

“Trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by any means, for forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

“Sexual exploitation” means the participation by a person in prostitution, sexual servitude, or the production of pornographic materials as a result of being subjected to a threat, coercion, abduction, force, abuse of authority, debt bondage or fraud.

“Exploitation of the prostitution of others” means the obtaining by a person of any financial or other benefit from the sexual exploitation of another person.

3. Constitution of India - Article 23(1). 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.
4. Article 1 (3), SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution, 2002, states:

“Trafficking means the moving, selling or buying of women and children for prostitution within and outside a country for monetary or other considerations with or without the consent of the person subjected to trafficking.”

5. Section 2 (f) ITPA – “prostitution” – means the sexual exploitation or abuse of persons for commercial purposes, and the expression “prostitute” shall be construed accordingly.

Section 5, ITPA – Procuring, inducing or taking person for the sake of prostitution –

(1) Any person who –

- (a) procures or attempts to procure a person, whether with or without his consent, for the purpose of prostitution; or
- (b) induces a person to go from any place, with the intent that he may for the purpose of prostitution become the inmate of , or frequent, a brothel; or
- (c) takes or attempts to take a person, or causes a person to be taken, from one place to another with a view to his carrying on, or being brought up to carry on prostitution;
- (d) causes or induces a person to carry on prostitution;

shall be punishable on conviction with rigorous imprisonment for a term of not less than three years and not more than seven years and also with fine which may extend to two thousand rupees, and if any offence under this sub-section is committed against the will of any person, the punishment of imprisonment for a term of seven years shall extend to imprisonment for a term of fourteen years:

Provided that if the person in respect of whom an offence committed under this sub-section, -

(i) is a child, the punishment provided under this sub-section shall extend to rigorous imprisonment for a term of not less than seven years but may extend to life; and

(ii) is a minor; the punishment provided under this sub-section shall extend to rigorous imprisonment for a term of not less than seven years and not more than fourteen years.

(2) ***** deleted

(3) An offence under, this section shall be triable, -

(a) in the place from which a person is procured, induced to go, taken or caused to be taken or from which an attempt to procure or taken such persons made; or

(b) in the place to which he may have gone as a result of the inducement or to which he is taken or caused to be taken or an attempt to take him is made.

6. Section 2 (z) Goa Children’s Act, 2003 -

‘Child trafficking’ means the procurement, recruitment, transportation, transfer, harbouring or receipt of persons, legally or illegally, within or across borders, by means of threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of giving or receiving payments or benefits to achieve the consent of a person having control over another person, for monetary gain or otherwise.

7. Article 1 (4) of the SAARC Convention defines “Traffickers” as:

“Traffickers” means persons, agencies or institutions engaged in any form of trafficking.

APPENDIX 3

CHECK LIST FOR PRE-RESCUE PLANNING

Sr. No.	Check Points	Done
1.	Are you legally empowered to conduct rescue under the ITPA? <ul style="list-style-type: none"> • Notified under Section 13 ITPA • Authorized under Section 16 ITPA • Obtained warrant under Cr. PC 	
2.	If not, do you have at least a police officer legally empowered under ITPA to conduct rescue?	
3.	Have you obtained a search warrant from the jurisdictional Magistrate?	
4.	Have you verified source information?	
5.	Have you entered source information and the steps taken therein, in the GD?	
6.	Have you carried out reccee of the place to be searched for rescue?	
7.	Have you informed the Police Nodal Officer?	
8.	Do you have at least two women police officers in the rescue team?	
9.	Have you got at least two witnesses to be present during rescue?	
10.	Have you got at least one woman witness to be present during rescue?	
11.	Have you involved the local NGO in the rescue operation?	
12.	If a decoy has been involved in the rescue, has he been briefed properly about his expected role and the safety of the victim?	
13.	Have you taken a photographer/ videographer in the team?	
14.	Have you briefed every team member of their respective functions during the rescue operations?	
15.	Have you made adequate logistical arrangements such as vehicles, food, clothes, medicine kit, etc for the rescued persons?	
16.	Have you taken things required for documentation and evidence collection?	
17.	Have you notified the government or NGO run Shelter Homes of the expected number of rescued persons and the expected time of arrival?	
18.	Have you taken steps to ensure confidentiality of the rescue operation?	
19.	Have you taken steps to ensure confidentiality of the rescued persons?	

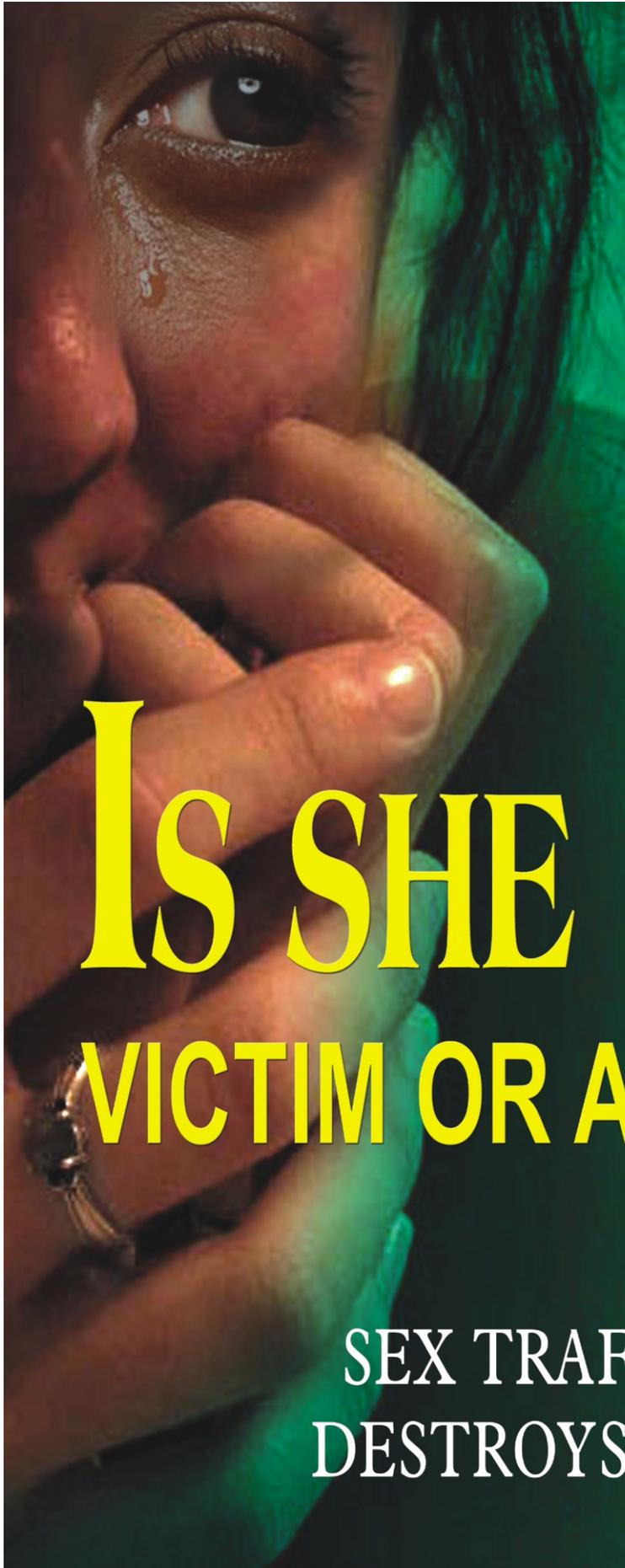
APPENDIX 4

CHECK LIST FOR POST-RESCUE PLANNING

Sr. No.	Check Points	Done
1	Have you segregated the rescued persons from the suspects/ accused?	
2	Have you ensured that the rescued person is immediately provided food, clothing, medical care, etc.?	
3	Have you ensured that the rescued person is counseled by a mental health professional/ trained counselor?	
4	Have you conducted an age assessment of the rescued persons so as to separate the children from the adults?	
5	Have you ensured that the interview of the rescued woman/ girl is done only by a woman police official/ only in the presence of a female member of an NGO?	
6	Have you ensured that the statement of the rescued person is recorded only when she is ready and able to make a statement?	
7	Have you ensured that the statement of the victim is recorded in her own language, with the help of a translator, if required?	
8	Have you recorded the harm (physical, emotional, mental, etc.) done to the victim?	
9	Have you ensured proper collection of all Material Objects from the scene of crime?	
10	Have you ensured proper recording of the statement of the witnesses?	
11	Have you produced the adult rescued persons before the appropriate jurisdictional Magistrate?	
12	Have you sent the rescued children/ minors to the Child Welfare Committee?	
13	If the Magistrate/ CWC are not available, have you ensured that the rescued persons are sent to a place of safety, such as government/ NGO run Shelter Homes?	
14	If Shelter Homes are not available in the vicinity have you arranged for sending rescued persons to some other places of safety, such as a hotel, guest house, circuit house, etc.?	
15	Have you ensured that the rescued persons avail of the interim compensation provided by your state orders?	

ACRONYMS

AHT	Anti Human Trafficking
AP	Andhra Pradesh
CD	Case Diary
Cr. PC	Criminal Procedure Code/ Code of Criminal Procedure, 1973
CSE	Commercial Sexual Exploitation
CWC	Child Welfare Committee
DCP	Deputy Commissioner of Police
DGP	Director General of Police
DM	District Magistrate
DWCD	Department of Women and Child Development
FIR	First Information Report
GD	General Diary
HT	Human Trafficking
IAHTU	Integrated Anti Human Trafficking Unit
IEA	Indian Evidence Act, 1872
IO	Investigating Officer
IPC	Indian Penal Code, 1860
ITPA	Immoral Traffic (Prevention) Act, 1956
JJ Act	Juvenile Justice (Care and Protection of Children) Act, 2000
JJB	Juvenile Justice Board
JM	Judicial Magistrate
MCOCA	Maharashtra Control of Organized Crime Act, 1999
MM	Metropolitan Magistrate
MWCD	Ministry of Women and Child Development
NCRB	National Crime Records Bureau
NDPS Act	Narcotic Drugs and Psychotropic Substances Act, 1985
PMLA	Prevention of Money Laundering Act, 2002
PNO	Police Nodal Officer
PO	Police Officer
PS	Police Station
PWD	Public Works Department
RI	Rigorous Imprisonment
S	Section
SDM	Sub Divisional Magistrate
SI	Sub Inspector
SOP	Standard Operating Procedure
SP	Superintendent of Police
SPO	Special Police Officer
u/s	Under section
UNODC	United Nations Office on Drugs and Crime



IS SHE VICTIM OR ACCUSED

POWERLESS...
HELPLESS...
CHOICELESS...
DEBT BONDED...
INTIMIDATED...
THREATENED...
ENSLAVED...
RAPED...
ABUSED...
EXPLOITED...

SEX TRAFFICKING
DESTROYS A PERSON



सत्यमेव जयते



UNODC