

**DRAFT NATIONAL INTEGRATED  
PLAN  
OF ACTION**

**TO PREVENT AND COMBAT  
HUMAN TRAFFICKING**

**WITH**

**SPECIAL FOCUS ON  
CHILDREN AND WOMEN**

**MINISTRY OF WOMEN AND CHILD DEVELOPMENT**

*Supported by*

**NATIONAL HUMAN RIGHTS COMMISSION**

**MINISTRY OF HOME AFFAIRS**

**NATIONAL COMMISSION FOR WOMEN**

**And**

**UNICEF**

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# **I. INTRODUCTION**

Trafficking of human beings, especially of women and children, is one of the fastest growing trade, generating unaccountable profits annually. The reasons for the increase in this global phenomenon are multiple and complex, affecting rich and poor countries alike. India is no exception to this. The source areas or points of origin are often the more deprived places, regions or countries, and the points of destination are often — although not always — urban conglomerates within or across borders. For all those who view trafficking in economic terms, it is the real or perceived differential between the economic status of source and destination areas that is important. In practice, however, human beings may be and are trafficked from one poor area to another poor area as well for reasons best known to the traffickers, a fact that has been corroborated by research studies and documentation across the world. The fact is that the process of trafficking is designed and manipulated by traffickers for their own ends for which they employ all kinds of means. Therefore the assumption that human beings are always trafficked from undeveloped to more developed places is untenable.

## **1.1. Definition of Trafficking**

The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime (Trafficking Protocol) that was adopted in the year 2000 and came into force in December 2003, has perhaps brought the much-needed and widespread consensus on a working definition of trafficking at the global level. Article 3 of the Protocol defines trafficking as follows :

- (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.

The above definition clearly spells out that trafficking covers not only the transportation of a persons from one place to another, but also their recruitment and receipt so that anyone involved in the movement of another person for their exploitation is part of the trafficking process. It further articulates that trafficking is not limited to sexual exploitation only for it could occur also for forced labour and other slavery like practices. This means that people who migrate for work in agriculture, construction or domestic work, but are deceived or coerced into working in conditions they do not agree to, be also defined as trafficked people. The Government of India signed the **Trafficking Protocol on 12 December 2002**. This is a huge step forward in advancing the human rights of trafficked people as it not only prevents and protects the victims of trafficking but also punishes the traffickers. Further , the **1949 Convention for the Suppression of the Traffic of Persons and of the Exploitation of the Prostitution of Others, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Convention on the Rights of the Child (CRC)**, have been ratified by the Government of India.

It would be pertinent to mention here that the Government of India has ratified the **two Optional Protocols to the Convention on the Rights of the Child – (i) on the Involvement of Children in Armed Conflicts and**

## ii) On the Sale of Children, Child Prostitution and Child Pornography.

The **Convention on Preventing and Combating Trafficking in Women and Children for Prostitution** devised by the **South Asian Association for Regional Cooperation (SAARC)** in 2002, has also defined the term 'trafficking' as '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'. The Government of India has ratified this Convention along with other members of SAARC

### 1.2. Existent Framework

The Constitution of India, the fundamental law of the land, forbids trafficking in persons. **Article 23** of the Constitution specifically prohibits "traffic in human beings and begar and other similar forms of forced labour". **Article 24** further prohibits employment of children below 14 years of age in factories, mines or other hazardous employment. Other fundamental rights enshrined in the Constitution relevant to trafficking are **Article 14** relating to equality before law, **Article 15** that deals with prohibition of discrimination on grounds of religion, race, caste, sex or place of birth, **Article 21** pertaining to protection of life and personal liberty and **Article 22** concerning protection from arrest and detention except under certain conditions.

The Directive Principles of State Policy articulated in the Constitution are also significant, particularly **Article 39** which categorically states that men and women should have the right to an adequate means of livelihood and equal pay for equal work; that men, women and children should not be forced by economic necessity to enter unsuitable vocations; and that children and youth should be protected against exploitation. Further, **Article 39A** directs that the legal system should ensure that opportunities for securing justice are not denied to any citizen because of economic or other disabilities. In addition to this, **Article 43** states that all workers should have a living wage and there should be appropriate conditions of work so as to ensure a decent standard of life.

The commitment to address the problem of trafficking in human beings is also reflected in various laws/legislations and policy documents of the Government of India. The **Indian Penal Code, 1860** contains more than 20 provisions that are

relevant to trafficking and impose criminal penalties for offences like kidnapping, abduction, buying or selling a person for slavery/labour, buying or selling a minor for prostitution, importing/procuring a minor girl, rape, etc.

The **Immoral Traffic (Prevention) Act, 1956 (ITPA)**, initially enacted as the 'Suppression of Immoral Traffic in Women and Girls Act, 1956, is the main legislative tool for preventing and combating trafficking in human beings in India. However, till date, its prime objective has been to inhibit/abolish traffic in women and girls for the purpose of prostitution as an organized means of living. The Act criminalizes the procurers, traffickers and profiteers of the trade but in no way does it define 'trafficking' *per se* in human beings. The other relevant Acts which address the issue of trafficking in India are the Karnataka *Devdasi* (Prohibition of Dedication) Act, 1982; Child Labour (Prohibition and Regulation) Act, 1986; Andhra Pradesh *Devdasi* (Prohibiting Dedication) Act, 1989; Information Technology Act, 2000; the Goa Children's Act, 2003; and the Juvenile Justice (Care and Protection of Children) Amendment Act, 2006. Beside these, there are also certain other collateral laws having relevance to trafficking. These are the Indian Evidence Act, 1872; Child Marriage Restraint Act, 1929; Young Persons (Harmful Publications) Act, 1956; Probation of Offenders Act, 1958; Criminal Procedure Code, 1973; Bonded Labour System (Abolition) Act, 1976; Indecent Representation of Women (Prohibition) Act, 1986; and the Transplantation of Human Organs Act, 1994.

The judiciary too has played an active role in preventing and combating trafficking by pronouncing some landmark judgments in "Public Interest Litigations". Prominent among them are the 1990 case of *Vishal Jeet v. Union of India* and the 1997 case of *Gaurav Jain v. Union of India*. In the former case, on the directions given by the Supreme Court, the Government constituted a Central Advisory Committee on Child Prostitution in 1994. Subsequently, State Advisory Committees were also setup by State Governments. The outcome of the latter case was constitution of a Committee on Prostitution, Child Prostitutes and Children of Prostitutes to look into the problems of commercial sexual exploitation and trafficking of women and children and of children of trafficked victims so as to evolve suitable schemes in consonance with the directions given by the Apex Court. These and subsequent case laws thereafter have influenced Government policies, programmes and schemes, as well as law enforcement.

## **1.3 Role of different Stakeholders**

### **1.3. A Role of Ministry of Women and Child Development**

Based on the Report of the Central Advisory Committee on Child Prostitution, the recommendations of the National Commission for Women and the directions of the Supreme Court of India as well as the experiences of various non-governmental organizations working in this area, the Ministry of Women and Child Development, the Nodal Ministry in the Government of India dealing with issues concerning women and children including trafficking drew up a National Plan of Action to Combat Trafficking and Commercial Sexual Exploitation of Women and Children in the year 1998. A Central Advisory Committee under the chairpersonship of Secretary, Ministry of Women and Child Development has also been constituted with members from Central Ministries like the Ministry of Home Affairs, Ministry of External Affairs, Ministry of Tourism, Ministry of Health, Ministry of Social Justice and Empowerment, Ministry of Information Technology and Ministry of Law and Justice to combat trafficking in women and children and commercial sexual exploitation as well as to rehabilitate victims of trafficking and Commercial Sexual Exploitation and improve legal and law enforcement systems. This Committee meets once in every three months wherein senior representatives of State Governments where the problem of trafficking is found to be rampant are also invited. Other invitees to the meetings of the Central Advisory Committee are representatives of prominent NGOs and international organizations working in the area of trafficking, National Commission for Women, National Human Rights Commission, Central Social Welfare Board, National Crime Records Bureau, Border Security Force, Intelligence Bureau, Central Bureau of Investigation, and the Sashastra Suraksha Bal. The Ministry of Women and Child Development has requested all Secretaries of the Department of Women and Child Development in the States and Union Territories to hold regular meetings of the State Advisory Committee constituted under the 1998 National Plan of Action to Combat Trafficking and Commercial Sexual Exploitation of Women and Children and monitor initiatives being undertaken by them with regard to prevention, rescue, rehabilitation, reintegration and repatriation of victims of trafficking.

The Ministry of Women and Child Development has also undertaken a study in collaboration with UNICEF on Rescue and Rehabilitation of Child Victims Trafficked for Commercial Sexual Exploitation. The Report of this study was released to the public in 2005. The Ministry of Women and Child Development, in 2005, also formulated a Protocol for Pre-Rescue, Rescue and Post-Rescue Operations of Child Victims of Trafficking for Commercial Sexual Exploitation. This Protocol contains guidelines for State Governments and a strategy for Rescue Team Members for pre-rescue, rescue and post-rescue operations concerning children who are victims of trafficking and were sexually being exploited for commercial reasons. The Ministry of Women and Child Development in collaboration with UNICEF and various other organizations has developed three training manuals – the “**Manual for Judicial Workers on Combating Trafficking of Women and Children for Commercial Sexual Exploitation**”, “**Manual for Medical Officers for Dealing with Child Victims of Trafficking and Commercial Sexual Exploitation**”, and “**Manual for Social Workers Dealing with Child Victims of Trafficking and Commercial Sexual Exploitation**”. While the **Manual for Medical Officers** was developed by the Ministry of Women and Child Development in collaboration with the Indian Medical Association, the one for the Judiciary was developed in collaboration with the National Human Rights Commission.

The Ministry also developed, in collaboration with Unicef, several communication creatives in the form of posters, games, newspaper advertisements, films for video parlours, Television spots in several regional languages for prevention of trafficking of girls. The creatives were developed on the basis of an Action Research conducted in selected states.

### **1.3. B. Role of National Human Rights Commission**

In view of the existing trafficking scenario and at the request of the UN High Commissioner for Human Rights as well as on the recommendations of the Asia Pacific Forum of National Human Rights Institutions, the National Human Rights Commission nominated one of its Members to serve as a Focal Point on Human Rights of Women, including Trafficking in 2001. Among the activities initiated by the Focal Point was an Action Research on Trafficking in Women and Children in India in the year 2002 in collaboration with UNIFEM and the Institute of Social Sciences, a Research Institute in New Delhi. The main focus of the Action Research was to find out the trends, dimensions, factors and responses related to trafficking in women and children in India. Besides, it looked into various other facets of trafficking, viz., the routes of trafficking, transit points, the role of law enforcement agencies, NGOs and other stakeholders in detecting and curbing trafficking. It also reviewed the existent laws at the national, regional and international level. The Action Research was completed in July 2004 and its Report was released to the public in August 2004. The recommendations and suggestions that emerged out of the Action Research were forwarded to all concerned in the Central Government, States/Union Territories for effective implementation. They were also requested to send an action taken report on the steps taken by them. In order that the recommendations and suggestions of the Action Research were implemented in true spirit, the Commission subsequently devised a comprehensive Plan of Action to Prevent and End Trafficking in Women and Children in India and disseminated the same to all concerned.

Before commencing the Action Research, an Information Kit on Preventing and Combating Trafficking in Women and Children was also published by the Focal Point. The main aim of the Information Kit was to inform the society about the various aspects of Trafficking – its forms, the estimates, the causes, the consequences, the modus operandi and the role of the Commission in preventing and combating trafficking. Prior to the establishment of the Focal Point, the Commission with the help of UNICEF and other organizations had carried out a campaign of Public Awareness on the problem of Child Prostitution and Sexual Abuse of Children in 1998.

Pained with the plight of children who were victims of trafficking, the Commission and the Prasar Bharati, with support from UNICEF, collectively prepared a Guidebook for the Media on addressing cases of children who have been sexually abused . The main objective of the guidebook is to encourage media professionals to address the issue of sexual violence against children in a consistent, sensitive and effective manner, consonant with the rights and best interests of children. Further, to prevent cross-border trafficking, the National Human Rights Commission requested the Directors General of Police of Uttar Pradesh, Bihar and West Bengal to be vigilant about the issue. The National Human Rights Commissions of India and Nepal have prepared a Memorandum of Understanding (MoU) to prevent and check cross-border trafficking. However, the draft MoU is still pending with the Ministry of External Affairs, Government of India.

To spread awareness on prevention of sex tourism and trafficking, the Commission in collaboration with the UNIFEM and an NGO organized a one-day Sensitization Programme on Prevention of Sex Tourism and Trafficking in the year 2003. The main objective of the programme was to sensitize senior representatives of the hotel and tourism industry on various issues relating to sex tourism and trafficking. A National Workshop to Review the Implementation of Laws and Policies Related to Trafficking was also organized in 2004 in collaboration with PRAYAS, A Field Action Project of the Tata Institute of Social Sciences, Mumbai to work towards an effective rescue and post-rescue strategy.

### **1.3. C Role of Ministry of Home Affairs**

The Ministry of Home Affairs is also concerned with the problem of trafficking in human beings. It organized a two-day National Seminar on the subject in collaboration with the National Human Rights Commission and the United Nations Office on Drugs and Crime (UNODC) at the India Habitat Centre, New Delhi on 27 and 28 October 2005. The recommendations that emanated out of this Seminar have been sent to all concerned Ministries. In August/September 2006, the Ministry of Home Affairs set up a Nodal Cell for Prevention of Trafficking. The main function of this Cell is to coordinate, network and provide feedback to the State Governments and other concerned agencies on a sustained and continuous

basis so as to prevent and combat trafficking in human beings. This Cell has also been made responsible to document 'best practices' in preventing and combating trafficking in human beings as well as share data inputs with other stakeholders. In order to review the overall status of trafficking in the country, the Cell proposes to convene regular meetings every quarter with all stakeholders.

Two major initiatives by MHA include:

Partnering with the UNODC in the largest Anti Human Trafficking project of the UN and addressing the empowerment of the law enforcement agencies in 5 states in India the Project started in May 2006 has made several achievements and definite impact on the Anti trafficking front.

The MHA has organized the Nodal Officers Conference, involving the officials from all states on Anti human trafficking. 2 meetings have been held where the state Nodal officers and representatives of UNODC, NCRB, as well as several Ministries of the GOI have participated.

### **1.3. D. Role of National Commission for Women**

The National Commission for Women is also dealing with the problem of trafficking in women and children. In late 90s, it undertook two studies entitled 'The Lost Childhood' and 'Velvet Blouse – Sexual Exploitation of Children'. In 2001, it undertook another study entitled 'Trafficking – A Socio-Legal Study'. Later in 2004, a study on 'Coastal Sex Tourism' was carried out by it. Along with these research studies, it has organized various seminars, training programmes and conferences on the subject of trafficking. Based on the above, it suggested amendments to ITPA in order to have a comprehensive law on trafficking. The Commission also organizes legal awareness campaigns to sensitize the women on various legal issues

The Ministry of Women and Child Development, the Ministry of Home Affairs and the National Human Rights Commission have requested all Chief Secretaries and Directors General of Police to sensitize the subordinate functionaries at the cutting edge on trafficking as well as other issues related to trafficking so that perpetrators of trafficking and its allied activities are severely

dealt under the relevant provisions of law. The Ministry of Women and Child Development, the Ministry of Home Affairs, the National Human Rights Commission and the National Commission for Women on their own and in collaboration with the civil society are sensitizing the judicial officers, police officers, government officers and various other stakeholders on issues related to trafficking in human beings for various purposes.

## **2. INTEGRATED PLAN OF ACTION TO PREVENT AND COMBAT HUMAN TRAFFICKING WITH SPECIAL FOCUS ON CHILDREN AND WOMEN**

### **2.1. Background**

In order that these recommendations that have emerged from several consultations and workshops organized by concerned Ministries, National Commissions and other stakeholders are acted upon, the Ministry of Women and Child Development, Ministry of Home Affairs, National Human Rights Commission and National Commission for Women have decided to work in unison and drawn up an **Integrated Plan of Action to Prevent and Combat Human Trafficking with Special Focus on Children and Women**, which has encompassed on all such recommendations. It was felt that such a Plan of Action would guide and facilitate uniform action on the part of all concerned so that trafficking is prevented and trafficked victims are rescued, rehabilitated and reintegrated with their families and communities. The Integrated Plan of Action outlined below consists of action points grouped under:

- Ensuring Human Rights Perspective of the Victims of Trafficking
- Identification of Traffickers and Trafficked Victims
- Preventing Trafficking
- Emerging Areas of Concern in Trafficking – Their Patterns and Trends
- Special Measures for Identification and Protection of Trafficked Child Victims
- Rescue of Trafficked Victims Especially in Brothel-Based and Street-Based Prostitution with Special Focus on Child Victims
- Rehabilitation, Reintegration and Repatriation of Trafficked Victims with Special Focus on Child Victims
- Cross-Border Trafficking: National and Regional Cooperation and Coordination

- Legal Framework and Law Enforcement
- Witness Protection and Support to Victims
- Training, Sensitization, Education and Awareness
- Methodology for Translating the Action Points into Action

The ultimate objective of the Integrated Plan of Action is to mainstream and reintegrate all victims of trafficking in society.

## **2.2. Ensuring Human Rights Perspective for the Victims of Trafficking**

Violations of human rights are both a cause and a consequence of human trafficking. Accordingly, it is essential to place the protection of human rights at the center of any measures taken to prevent and end trafficking. Anti-trafficking measures should not adversely affect the human rights and dignity of persons, in particular, the rights of those who have been trafficked. The overall machinery deployed by the Central Government/State Governments/Union Territories should consider:

- Taking steps to ensure that measures adopted for the purpose of preventing and combating human trafficking do not have an adverse impact on the rights and dignity of trafficked persons.
- Developing standard minimum guidelines for all officials and service providers with regard to pre-rescue, rescue and post-rescue operations including rehabilitation, reintegration and repatriation of trafficked victims. These guidelines should be gender-responsive and should also provide further referral to other service providers in order to prevent revictimization. These could be prepared in the form of information kits/booklets/handbooks/do's and don'ts or be made part of the rules issued under the concerned law and should specify the accountability of the agencies concerned in providing services. This would enable all officials and service providers -- judicial officers, prosecutors, lawyers, law enforcement officials, medical and psycho-social professionals, functionaries manning homes/agencies of different kinds and others, to discharge their functions and duties effectively.

- Taking particular care to ensure that the issue of gender-based discrimination is addressed systematically when anti-trafficking measures are proposed with a view to ensure that such measures are not applied in a discriminatory manner.
- Ensuring that trafficked children, including girl children, are dealt with separately from adult trafficked persons in terms of laws, policies, programmes and interventions. The best interest of the child should be of prime consideration in all actions concerning trafficked children. Steps to be initiated to ensure that children who are victim of trafficking are not subjected to criminal procedures or sanctions for offences related to their situation as trafficked persons.
- Ensuring that trafficked victims are provided with the opportunity to access the mechanisms of justice for prompt redressal for the harm they have suffered, as provided by the law.
- Ensuring that ethical guidelines are followed while interviewing victims and while reporting on trafficking cases. The identity of the victim to be protected at every stage.

### **2.3. Identification of Traffickers and Trafficked Victims**

Trafficking means much more than the organized movement of persons for profit. The critical additional factor that distinguishes trafficking from other kinds of clandestine movement of persons is the presence of force, coercion and/or deception throughout or at some stage in the process – such deception, force or coercion being used for the purpose of exploitation. It is therefore very essential to keep a watch on all kinds of movements. Besides, the Central Governments, State Governments and Union Territory Administrations should not only identify and target the traffickers only but also those who are involved in controlling and exploiting trafficked victims. For example, those who are recruiters, transporters, those who transfer and/or maintain trafficked persons in exploitative situations, those involved in related crimes and those who profit either directly or indirectly from trafficking, its component acts and related offences.

1. Developing guidelines and procedures for relevant State authorities and officials such as police, border security personnel, immigration officials and others involved in the detection, detention, reception and processing of irregular migrants, to permit the rapid and accurate identification of traffickers and trafficked victims, including children.
2. Providing appropriate training to relevant State authorities and officials in the identification of traffickers and trafficked victims, including children and correct application of the guidelines and procedures referred to above.
3. Ensuring cooperation between relevant authorities, officials and non-governmental organizations to facilitate the identification of traffickers and trafficked victims and provision of assistance and support to trafficked victims. The organization and implementation of such cooperation should be formalized in order to maximize its effectiveness.
4. Identifying appropriate points of intervention to ensure that migrants and potential migrants are warned about possible dangers and consequences of trafficking and receive information that enables them to seek assistance if required.

5. Ensuring that all traffickers are arrested, prosecuted and punished with stringent penalties for their deeds. One way could be of confiscating their assets and proceeds of trafficking which could be used for the benefit of victims of trafficking. In no way, the trafficked victims should be prosecuted for the activities they are involved in as a result of their situation. It should be ensured that protection of trafficked victims as well as the confiscation of assets and proceeds of the trafficker for the benefit of trafficked victims is built into the anti-trafficking legislation itself. In fact, consideration should be given to the establishment of a Compensation Fund for victims of trafficking and the use of confiscated assets should finance such a fund. The protection offered to the victims in no way should be made conditional upon the willingness of the trafficked victim to cooperate in the legal proceedings.

#### **2.4. Prevention of Trafficking in Human Beings**

Any intervention for prevention of trafficking should take into account the aspects of both demand and supply as a root cause. Central Government/State Governments/Union Territories should also take into account the factors that increase vulnerability of people to trafficking, including inequality, poverty and all forms of discrimination and prejudice. Effective prevention strategies should be based on existing experience and accurate information. For ensuring effective interventions for prevention of trafficking, there is a need for:

- Analysing the factors that generate demand and supply for exploitative commercial sexual services and exploitative labour and taking strong legislative, policy and other measures to address these issues.
- Empowering the vulnerable sections living in remote corners of country by extending to them various welfare, development and anti-poverty schemes of the Government of India, such as, Swadhar, Swayamsidha, Swa-Shakti, Swawlamban, Balika Samridhi Yojana, Support to Training and Employment Programme for Women (STEP), Kishori Shakti Yojana, etc. This would provide scope for ample economic opportunities for the women and other traditionally

disadvantaged groups in their native place itself so as to reduce their vulnerability to trafficking.

- Improving children's access to schools and increasing the level of school attendance, especially of those affected or dependants, including the girl children, especially in remote and backward parts of the country. Efforts should also be made to incorporate sex-education and gender sensitive concerns in the school curriculum, both at the primary and secondary levels.
- Generating awareness through appropriate communication strategies and spreading literacy on economic rights, particularly for women and adolescent girls should be taken up. Presently, there seems to be insufficient knowledge and information among the people to make informed decisions that affect their lives. This would not only enable them to know about their rights but also inform them about the risks of illegal migration (e.g. exploitation, debt bondage and health and security issues, including exposure to HIV/AIDS) as well as avenues available for legal, non-exploitative migration.
- Launching information campaigns for the general public aimed at promoting awareness about the dangers associated with trafficking. Such campaigns should be informed by an understanding of the complexities surrounding trafficking and of the reasons that make people make potentially dangerous decisions about migrating to other places
- Reviewing and modifying policies that may compel people to resort to irregular and vulnerable labour migration. This process should include examining the effect especially with regard to unskilled labour and woman.
- Examining ways of increasing opportunities for legal, gainful and non-exploitative labour migration. The promotion of labour migration on the whole should be dependent on the existence of regulatory and supervisory mechanisms to protect the rights of migrant workers.
- Focusing attention on children and on adolescents, who are both potential victims and clients. It would be useful if appropriate information and value clarification is given to them on issues related

to 'sexuality' and 'reproductive health'. This exercise would be beneficial in view of the growing evidence of increased pre-marital sexual activity among adolescents and the looming threat of HIV/AIDS within this group.

- Strengthening the capacity of law enforcement agencies to arrest and prosecute those involved in trafficking. This would include ensuring that law enforcement agencies comply with their legal obligations.
- Devising an NGO network /consortium and developing mechanisms for concerted coordination between the judiciary, police, government institutions and non-governmental organizations/civil society groups with regard to prevention and combating strategies. The Government-public network would make the non-governmental organizations/community responsible and act as watchdogs and informants on traffickers and exploiters.
- Adopting measures to reduce vulnerability by ensuring that appropriate legal documentation for birth, citizenship and marriage are provided and made available to all persons.
- Setting up of a national database/web portal under the aegis of National Crime Records Bureau. The main purpose of this kind of a mechanism is to create a help desk in providing information on missing persons including women and children, alert notice on suspected traffickers, anti-trafficking networks and disseminate do's and don'ts to be followed while dealing with victims of trafficking, etc. In cases of cross border trafficking, share databases/tracking systems with organizations across borders on missing and kidnapped children and trafficked victims as also of traffickers while ensuring that that the information remains classified.
- Addressing culturally sanctioned practices like the system of *devadasis*, *jogins*, *bhavins*, etc. which provide a pretext for trafficking of women and children for sexual exploitation. Use of print, electronic and folk media to get the messages across

- Giving adequate publicity, through print and electronic media including 'childlines' and women 'helplines' across the country about the problem of trafficking and its ramifications.

#### **2.4.1. Recommendations on Preventing of Trafficking in human beings**

##### **A) Creation of a Data base**

- **Database** on source areas, routes, destinations, factors responsible for trafficking should be created and updated from time to time. this may be done through Focus group discussions, discourses, public hearings studies
- A website of missing children and women should be created with periodic up gradation at National and State levels. There should also be a victim tracking software for checking re-trafficking and its prevention. This tracking system should be adopted by all the states The main purpose of the website is to create a help desk which provides information on missing persons including women and children, send alert notices on suspected traffickers and help create anti-trafficking networks.

##### **B) Sensitization /Capacity Building**

- Sensitization and capacity building of different stakeholders including PRI functionaries ,Judiciary and Public Prosecutors , Police Officers, Medical Officers and Forensic experts should be undertaken with the objective of ensuring better care and protection of trafficked victims and increasing the conviction rate of traffickers.
- Sensitization programmes for media personnel should be organized to enable them to report on victims of trafficking with sensitivity and create awareness on the issue .

## **C) Education**

- Free and compulsory education should be provided to all children attending Government schools upto XIIth standard. Programmes should be evolved to ensure 100% literacy among girl children.
- Programmes which provide education about reproductive health and life skills in schools should be initiated to reduce the risk of young girls falling prey to traffickers who exploit them sexually.
- Market based vocational training should be given to the school dropout girls, which is the most vulnerable group along with regular health check-ups and health , nutrition and hygiene education
- The Government should lay special emphasis for establishing schools in conflict prone areas like the north east.

## **D) Livelihood opportunities**

- People's knowledge about poverty-alleviation and economic empowerment programmes should be enhanced through sustained information sharing and such programmes should be implemented in source areas with special focus on communities vulnerable to trafficking (especially in source areas).
- Adequate relief and welfare measures should be provided for victims of natural and man-made calamities to address their vulnerability.
- All schemes need to be integrated holistically with the human trafficking issue. State level departments including experienced NGOs should come together at State, District and Block levels for implementation of different schemes with special focus on vulnerable population in identified source and destination points.

## **E. Advocacy and Communication**

- Advocacy tools should be developed and used to ensure that the subject of 'Trafficking' remains on the top of the national agenda..
- Communication and Media dissemination strategies to be developed and extensively used for generating awareness among the common people on modus operandi of traffickers, their profiles, dangers of trafficking and methods to combat trafficking as also for bringing about attitudinal changes with regard to status and position of women , especially girls in the society.
- PRI functionaries, grass-root level government Officials including Anganwadi Workers and other opinion should be involved in the awareness campaign
- Appropriate slides should be displayed in all cinema/ video halls
- Awareness campaigns should be organized in schools and colleges
- Immigration counters, Hotel rooms, Lok Kala Kendra's/ Tamaasha theatres, Liquor bars, tourism spots, Railway stations, should carry anti-trafficking messages for potential victims mentioning the dangers of getting trafficked, the care to be taken to protect oneself against it and the help available .Helpline Tel Numbers etc may be flashed at railway terminals, railway junctions, & railway stations, S T depots etc will go a long way in preventing trafficking . these campaigns shall also focus on issues related to child sex tourism
- State owned television channels, radio, and hotels should prominently display anti-trafficking messages, slogans with free helpline numbers. Currently these spaces are sold out to commercial entities against royalty and thus non profit making social messaging becomes unaffordable. A certain percentage of these spaces and time slots must be reserved for anti trafficking messaging.

## **F Approaches to prevent and combat trafficking**

- There is a need for proper interlinking of NGO's, UN agencies, human rights commission and other government bodies so that trafficking can be addressed collectively and this would also prevent duplication of efforts and resources.
- Nodal focal point MWCD at Center and Directors Social Welfare in States
- Setting up a Cell on trafficking in Ministry of Home Affairs and ensure that its is functional.
- Unified Monitoring Committee (UMC) to oversee and coordinate the issue of human trafficking at state level . Under the UMC, there should be one Anti Traffic Unit, (ATU) at State level under which these should be representatives at district level under the DC / SP/NGO'S as the case may be. Anti trafficking cell at State and District level should be set up which could ensure coordination.
- Establishing Child protection committee/Citizens Committees with the Panchayat also represented in it at village level which could monitor particularly the movement of children from village and the presence of strangers and the child protection Committee should be statutorily empowered for preventive interventions. Such committees will facilitate early detection and reporting of trafficking crime.
- Vigilance citizens committees should be formed on the lines of the vigilance committees provided under Bonded Labour Act and Minimum Wages Act. In one case the Bhartiya Mahila Federation Thane was empowered by the Bombay High Court in [Suja Abraham Vs State of Maharashtra](#) where the committee could visit any of the industrial premises in the Wagle Estate Thane to ascertain if there was any forced labour, sexual and other harassment and debt bondage. The details of the case are at ([Annexure A](#))

- Code of conduct for protection of children from sexual exploitation in **travel and tourism should:**
  - i. establish ethical policy
  - ii. sensitize the employees / tourists
  - iii. provide information to travelers
  - iv. provides stringent penalties
  - v. maintenance of records
  - vi. report any suspicious activities
  - vii. collect /register the details like passport /visa address
  - viii. Regular sensitization of staff and other functionaries in the hotel and tourism sector, -journalist, tour operators, airline operators and other personnel associated with hotel and tourism industry
  
- The Meghalaya Model developed by Impulse NGO Network under the UNODC supported initiative may also be examined and introduced at National Level. ([Annexure B](#))
  
- ICDS to be the focal point for documentation of births. Registration of the birth is the most important aspect which would help in maintaining of vigilance on children. the Act needs to be implemented in earnest to make registration of Births compulsory, because of the fact that in several cases the verification of the age of the victims is still being done
  
- Panchayat Members could also be empowered for registration of births and marriages which should be made compulsory. The Government shall ensure that no birth of a child goes unregistered. Drive to achieve this goal and public awareness shall also be created to stress the importance of registration of births. Similarly, it should be ensured that all deaths are registered. This is to avoid non-registration of the deaths of girl children which results in the disappearance of women. Both N.G.Os. And Social Welfare officers may be utilized to achieve this objective.

## **2.5. Emerging Areas of Concern in Trafficking – Their Patterns and Trends**

India is a country of vast dimensions. The formidable challenge is the enormity of the problem, both in number of trafficked persons and increasing number of locations. Of late, there is an expanding market for commercial sexual exploitation through non-brothel based modalities where the trafficked persons are made to pose as attendants, masseurs and as bartenders. Child pornography, and cyber sex are other areas that requires concerted attention. Sex tourism, especially child sex tourism, is also a growing phenomenon and India is emerging as a major tourist destination. Central/State Governments, where appropriate, non-governmental organizations and the civil society at large should consider:

1. Evolving a comprehensive integrated approach for prevention and protection of trafficked victims, especially children of both sexes who are pushed into non-brothel based prostitution. Simultaneously, there is also need to evolve a strategy to prosecute all those who indulge in exploitation of these kinds.
2. Strengthening/Amending existing laws on trafficking related to non-brothel based prostitution.
3. Spreading awareness about non-brothel based prostitution by organizing campaigns, training/sensitization programmes for staff and other functionaries in the hotel and tourism sector as well as children in schools, adolescents and youth groups.
4. Giving special attention to vulnerable areas like massage parlours, escort services, party hostesses, attendants, companions, etc. so as to prevent linkage between trafficking and non-brothel based prostitution.
5. Developing and distributing brochures and flyers in international/domestic flights for addressing the international/domestic tourists on the legal repercussions of non-brothel based prostitution. Besides, in-flight videos/films could also be prepared for showing on national and international flights.

6. Developing and distributing different kinds of awareness material like posters, hoardings, etc. on trafficking linked to non-brothel based prostitution.
7. Reviewing and amending laws related to cyber crime including the Information Technology Act 2000 along with its proposed Amendments

## **2.6. Special Measures for Identification and Protection of Trafficked Child Victims**

The physical, psychological and psychosocial harm suffered by trafficked children and their increased vulnerability to exploitation require that they be dealt with separately from adult trafficked persons in terms of laws, policies, programmes and interventions. The best interests of the child must be a primary consideration in all actions concerning trafficked children, whether undertaken by courts of law, government authorities, legislative bodies or non-governmental organizations. Children who are victims of trafficking should be provided with appropriate assistance and protection and full account should be taken of their special rights and needs. The Central Government/State Governments/Union Territory Administrations/inter-governmental and non-governmental organizations, should consider, in addition to the measures outlined under serial no. IV:

1. Ensuring that definitions of trafficking in children, in both law and policy, reflect their need for special safeguards and care, including appropriate legal protection. In particular, and in accordance with the 2000 Palermo Protocol, evidence of deception, force, coercion, etc. should not form part of the definition of trafficking where the person involved is a child. The mere presence of a child with a trafficker of any kind should connote that the child is trafficked or is being trafficked.
2. Ensuring that procedures are in place for the rapid identification of child victims of trafficking.

3. Ensuring that children who are victims of trafficking are not subjected to criminal procedures or sanctions for offences related to their situation as trafficked persons.
4. In cases where children are not accompanied by relatives or guardians, steps should be taken to identify and locate family members. Measures should also be taken in consultation with the child to facilitate the reunion of trafficked children with their families where this is deemed to be in their best interest.
5. In situations where the safe return of the child to his or her family is not possible, or where such return would not be in the child's best interests, establishing adequate care arrangements that respect the rights and dignity of the trafficked child.
6. In both the situations referred to at serial no. 4 and 5 above, ensuring that a child who is capable of forming his or her own views enjoys the right to express those views freely in all matters affective him or her, in particular, concerning decisions about his or her possible return to the family, the views of the child be given due weightage in accordance with his or her age and maturity.
7. Adopting specialized policies and programmes to protect and support children who have been victims of trafficking. Children should be provided with appropriate physical, psychosocial, legal, educational, housing and healthcare assistance.
8. Adopting measures necessary to protect the rights and interests of trafficked children at all stages of criminal proceedings against alleged offenders and during procedures for obtaining compensation.
9. Protecting, as appropriate, the privacy and identity of child victims and taking measures to avoid the dissemination of information that could lead to their identification.

10. Taking measures to ensure adequate and appropriate training, in particular, legal and psychological training, for persons working with child victims of trafficking.

11. Children who have committed an offence, in no circumstances should be kept in custody with adult criminals. They should not be imprisoned but dealt with under the JJ Act

### **2.6.1. Recommendations on Special Measures for identification and Protection of Trafficked Child Victims**

#### ***Some minimum guarantees***

- Develop **Guidelines** for interviewing trafficked child victims while keeping in mind the fact that they have a:
  - Right to be treated with compassion and respect for their dignity
  - Right to access to mechanisms of justice and prompt redress for the harm that they have suffered, as provided for by law.
  - Right to protection of identity
  - Right to be produced before the legally competent authority within 24 hours. After being taken into custody . All victims, apparently or suspected to be minors, should be kept at a special home for juveniles in need of care and protection and must be produced before the competent authority within 24 hours.
  - Ensure that the victim, after rescue, is immediately taken to a certified place of safety after the raid. The victim should never be kept overnight in the police station
  - Ensure as far as possible that a social worker or a support person, preferably a female, is present when the girls are being interviewed by police officers after the rescue.

- Counseling for therapeutic intervention and right to professional, medical (physical and mental) assistance and professional counselling
- The age and other tests of the rescued victims should also be done as far as possible in the presence of child-supporting individuals and preferably within 48 hours from the rescue.
- Questioning should be done mostly by women police officers. The mental health aspects of the children have to be kept in mind. There should not be too much pressure on the child to speak all the details of the traumatic incident.
- Investigation should necessarily be conducted into the trafficking angle in all cases of missing persons, procurement of minor girls, buying and selling, child marriages, and all cases of kidnapping and abduction.
- Rescue operations to be more humanely and sensitively carried out along with a rehabilitation plan, protecting the human rights of the victims
- Examination of the victim/witnesses should be in the presence of social workers/women police/parents or others who have the trust or confidence of the child. Examinations should also be done in a victim-friendly atmosphere and not in police stations.
- The Magistrate/Juvenile Justice Board should handle all cases involving sexual abuse of children within a stipulated time frame preferably within a period of six months.
- On production of the rescued traffic victims, the concerned Magistrate/Board shall ensure that medical examination is conducted in order to check sexual abuse and/or rape.

- Issue appropriate directions to conduct enquiry to find out who is the parent or guardian and whether they are responsible for the trafficking of the child and if need be, to appoint a guardian ad litem to protect the interests of the child. The custody of the rescued child should not be handed over to parent/guardian without involving the Probation Officer/Social Worker and if necessary the Magistrate/Board may make an order for the child's intermediate custody in a safe place.
  
- In camera trials - Ensure that the evidence of the child is taken in-Camera, as per Section 327 of the Cr.P.C. and arrange for translators, if the child is from another State and does not speak the local language.
  
- The State Legal Services Authority shall form a Legal Aid Clinic in every vigilance home/shelter home, so that, if the victims need recourse to law, either under the criminal jurisprudence or under the civil jurisprudence, steps can be taken without delay.
  
- Anonymity of the victim of the crime should be maintained throughout.
  
- while holding the trial of a child sex abuse or rape cases, the courts should ensure that -
  - i. A screen or some such arrangements are made where the victim or witnesses (who may be equally vulnerable like the victim) do not see the body or face of the accused.
  - ii. The victims of child abuse or rape cases, while giving testimony in court, should be allowed sufficient breaks as and when required.
  - iii. The questions put in cross-examination on behalf of the accused, in so far as they relate directly to the incident, should be given in writing to the Presiding Officer of the Court, who may put them to the victim or witnesses in a language which is clear and is not embarrassing to her.

- iv. Orders sending victims to Homes must be made with their consent after providing them legal representation and counselling.
  - V. precautions need to be ensured that the facial and other identity of the rescued victim is not revealed to anyone except those who are legally competent to know the same. Particular care shall be taken to protect the identity of the rescued victims from publicity through media and victims shall be protected against their being used by the media for its own commercial end.
  - VI. legal Aid Clinic in every vigilance home/shelter home, so that, if the victims need recourse to law, either under the criminal jurisprudence or under the civil jurisprudence, steps can be taken without delay.
- to prevent secondary victimization during interrogation/examination by investigating agencies as well as during court procedure, where a child is made to recall minute details of the sexual acts and experience, and is grilled for getting proof, a model code of conduct should be evolved.
  - An Accreditation Council be constituted, consisting of officers to be nominated by the Social Welfare Department in order to identify the genuine N.G.Os.

**2.7. Rescue of Trafficked Victims, Especially in Brothel-Based and Street-Based Prostitution with Special Focus on Child Victims**

The process of trafficking cannot be broken without giving proper attention to the rights and needs of those who have been trafficked. Appropriate measures need to be specifically devised for trafficked victims, especially in brothel-based and street-based prostitution, including children who have been trapped in this without discrimination. The Central Government/State Governments/Union Territory Administrations/inter-governmental/non-governmental organizations should consider:

1. Taking effective measures for planning and devising a rescue strategy specifying victim-friendly provisions and structures for

trafficked victims who have been forced into brothel-based and street-based prostitution.

It was generally agreed that there ought to be standard guidelines for all officials and service providers with regard to pre-rescue, rescue and post rescue operations including rehabilitation, reintegration and repatriation of trafficked victims. It would be appropriate that uniform guidelines are issued from a Central Ministry/jointly by the organizers of the workshop, which could uniformly be followed.

2. Creating a specialized cell for rescuing them at the Centre/State/Block/District/Village level. This kind of paraphernalia would also facilitate in coordinating with other relevant departments and non-governmental organizations (intra and inter) for rescuing trafficked victims caught in brothel-based and street-based prostitution including children who have been trapped.
3. Creating a confidential database on traffickers including probable traffickers, brothel owners, madams, *gharwalis*, etc. at all levels.
4. Cultivating a network of informants who will provide specific information about trafficked women victims including child victims below 18 years who want to be rescued from brothels.
5. Ensuring that rescue team should consist of both men and women police officers and representatives of non-governmental organizations/local inhabitants. Each member of the rescue team should be told about his/her role in the rescue operation and how the same is to be executed. They should also be told to maintain confidentiality and secrecy of the entire rescue operation.
6. Taking due care by all concerned to ensure that trafficked women, particularly children, are not unnecessarily harassed or intimidated during the course of rescue operations. Adoption of humane and rights-based approach would go a long way in building the faith of the victims in the criminal justice system. This would also facilitate the overall rehabilitation, reintegration of the victims.
7. Ensuring, in partnership with non-governmental organizations, that trafficked victims, including children, are provided access to legal,

medical and counselling services. It should also be ensured that they are treated with dignity and not humiliated by the police, medical personnel or the court.

8. Ensuring that any victim, including a child, who is rescued, is examined by a Registered Medical Practitioner for the purpose of age and for the detection of injuries/diseases. Trafficked victims should not be subjected to mandatory testing for diseases, including HIV/AIDS.
9. Ensuring that, in cases here the victim rescued is not a child, she should not be *prima facie* treated as a criminal accused of soliciting clients. Steps should be taken to ensure that correct provisions of law are applied and that the FIR is not stereotyped.
10. All efforts should be made to ensure anonymity and privacy of the victims during and after rescue.

### **2.7.1. Recommendations on Rescue of Trafficked Victims, Especially in Brothel-Based and Street-Based Prostitution with Special Focus on Child Victims**

1. Implementation of Protocol on Pre Rescue , during rescue and post rescue operations ([ANNEXURE C](#))
2. Central/State Government should provide a special fund during rescue operation to the team or organization involved in the operation.
3. Media should create awareness, maintain confidentiality and avoid sensational reporting. The NHRC guidelines for the media in addressing the child sexual abuse should be implemented.

## **2.8. Rehabilitation, Reintegration and Repatriation of Trafficked Victims with Special Focus on Child Victims**

The rehabilitation, reintegration and repatriation of victims of trafficking being a long process must be planned, taking into account the specific short and long-term needs of individual victims. Efforts must be non-punitive and aimed at protecting the rights of the victims. All stakeholders should therefore consider:

1. Taking into account the specific short and long-term needs of each individual victim based on their age, education, skills, etc., the rehabilitation, reintegration and repatriation package for victims of trafficking should be worked out.
2. Keeping in view the paucity of government run institutions as well as the deteriorating conditions of these institutions, there is need to identify names of fit persons and fit institutions for providing safe custody to victims of trafficking. This list should be made available to the police, courts, non-governmental organizations and civil society at large for information.
3. Providing access to legal, medical and counselling services to all trafficked victims in order to restore their self-confidence and self-esteem. Special provision should be provided to those who have contracted HIV/AIDS.
4. Enabling victims of trafficking to access both formal and non-formal education structures. Formal education should be made available to those victims who are still within the school going age, while non-formal education should be made accessible to adults.
5. Providing gender sensitive market driven vocational training in partnership with non-governmental organizations to all rescued victims who are not interested in education. Government and non-governmental organizations should also work together to develop partnership with public and private sector employers in order to provide training/facilitate work placement as part of the reintegration

process. Due care should be taken to give ample choice to victims so that rehabilitation and reintegration becomes a holistic process, which respects their human rights.

6. Involving the community in the rehabilitation, reintegration and repatriation process of trafficked victims. This means involving the families of victims and the community by enhancing their awareness about trafficking in general and the impact of trafficking on the individual.
7. Monitoring the rehabilitation, reintegration and repatriation of rescued victims with the help of non-governmental organizations.
8. Making available to rescued victims various developmental and anti-poverty schemes meant for the general population, both in the rehabilitation and reintegration phase.
9. Upgrading the conditions and capacities of institutions/homes run by the Government and an increase in the number of such institutions/homes not only in the cities, but also at the district and taluka levels, are of utmost necessity.
10. Recruiting adequate number of trained counsellors and social workers in institutions/homes run by the government independently or in collaboration with non-governmental organizations.
11. Appointing trained social workers and counsellors at police stations, courts and homes/institutions of different kinds meant for accommodating victims of trafficking.
12. Anti-trafficking cells/units should be set up at the Centre, State, Block District and Village levels to facilitate and monitor the process of rescue, rehabilitation, reintegration and repatriation.

### **2.8.1. Recommendations regarding Rehabilitation, Reintegration and Repatriation of Trafficked Victims with Special Focus on Child Victims**

- Development of Interstate protocols for transfer of victims
- Development of Minimum standards for care and protection in shelter homes and development of infrastructure
- Recruitment of women police officers. And their role in combating trafficking
- Regular assessments of security for children in shelter homes.
- Development of uniform Case Management system for the RRRRI process Provide training and human resources development to stakeholders in order to conduct case management
- Development of guidelines for interviewing rescued children in an attempt to trace their families.
- Improving the standard of care and support services prevailing in government and privately run shelter homes. There can be a Guidance & Monitoring Committee system which could monitor the services and other facilities at shelter and rehabilitative homes
- No rescued child shall be sent back to the family without adequate assessment and without ensuring social acceptance and family support. State will ensure that repatriation is carried out depending on how safe and nurturing the family environment is for the victim. If and when the victim chooses to return to an abusive family situation, that state would need to intervene and repatriate the victim to an institution which can protect and care for the individual. Repatriation will be done after the stay in the shelter
- Union and State budget should be well defined and funds for trafficking should also be separately allocated.
- Every victim and their minor dependants shall be helped in every possible way to obtain formal education free of cost, which includes free supply of text books, uniforms, transport and scholarships to victims and their school going children. Where such education is not possible for certain unavoidable

circumstances, as well as in addition to the formal education, life skills education shall be provided. The State Government is directed to frame new schemes for training of the inmates of the Home and traffic victims in computers, languages and related fields. The rescued persons shall be equipped with the knowledge and skills appropriate to their attitude and orientation, so that their economic rehabilitation becomes easier. The rescued person shall have the right to choose her own economic rehabilitation plan. Vocational training and guidance shall also be given to such rescued persons. No rescued victim shall be sent back to the family without adequate assessment and without ensuring social acceptance and family support. State will ensure that rehabilitation is carried out depending on how safe and nurturing the family environment is for the victim.

- Specialized centres of health shall be set up and maintained to cater to the needs of palliative care for the victims suffering from terminal states of HIV/AIDS. Specialized counselling shall be provided to victims of HIV/AIDS including pre-test, post-test and ongoing support.
- the most difficult task is to re-integrate the sexually abused children or trafficked children into their own families. Such families are reluctant to accept the victimized girl and regular visits by social worker and trained counselor will be required for family counseling. The Social Welfare Department or the department of women and child development of the States may prepare a panel of social workers and trained counsellors for each District. Similarly, a panel of lawyers should be nominated by the State Legal Services Authority for each District for visiting the Court and pursuing the individual cases in different Courts. Such lawyers can also assist the Public Prosecutor whenever necessary and will also get in touch with Police Investigating Officer concerned whenever required. It will help in quick

- delivery of justice and such lawyers can work as friends of the Court (*amicus curiae*).
- The State governments should formulate an effective rehabilitation programme, including the mode of its implementation and may involve the corporate sector and employment agencies in their rehabilitation project.

## **2.9. Cross-Border Trafficking: National and Regional Cooperation and Coordination**

Trafficking is a regional and global phenomenon. Enormous trafficking takes place not only within the country but also across borders, especially between the neighbouring countries. A coherent approach is therefore required to tackle the problem of cross-border trafficking which cannot be dealt with at the national level alone. A strengthened national response can often result in the operations of traffickers moving elsewhere. International, multilateral and bilateral cooperation can play an important role in preventing and combating trafficking activities. States should thus consider:

1. Adopting bilateral agreements with neighbouring countries in order to prevent trafficking and protecting the rights and dignity of trafficked persons and promoting their welfare.
2. Using the Palermo Protocol and relevant international human rights standards as a baseline and framework for elaborating bilateral agreements mentioned at serial no. 1 above.
3. Adopting labour migration agreements, which may include provision for work standards, model contracts, modes of repatriation, etc. in accordance with existing international standards.
4. Developing cooperation arrangements to facilitate the rapid identification of trafficked victims including the sharing and exchange of information in relation to their nationality and right of residence.

5. Establishing mechanisms to facilitate the exchange of information concerning traffickers and their methods of operation.
6. Developing procedures and protocols for the conduct of proactive joint investigations by law enforcement authorities of different concerned countries.
7. Ensuring judicial cooperation between countries in investigations and judicial processes relating to trafficking and related offences. This cooperation should include assistance in: identifying and interviewing witnesses with due regard for their safety; identifying, obtaining and preserving evidence; producing and serving the legal documents necessary to secure evidence and witnesses; and the enforcement of judgments.
8. Ensuring that requests for extradition for offences related to trafficking are dealt with by the authorities of the requested countries without undue delay.
9. Establishing cooperative mechanisms for the confiscation of the proceeds of trafficking. This cooperation should include the provision of assistance in identifying, tracing, freezing and confiscating assets connected to trafficking and related exploitation.
10. Encouraging and facilitating cooperation between non-governmental organizations and other civil society organizations in countries of origin, transit and destination. This is particularly important to ensure support and assistance to trafficked victims who are repatriated.

## 2.9.1 Recommendations Cross-Border Trafficking: National and Regional Cooperation and Coordination

- Need for bilateral agreements to combat trafficking and implement /operationalise the SAARC Convention on trafficking
- Development of cross-border transfer protocols. **Annexure D**
- Standardized Protocols and guidelines and forms of family tracing on communication and sharing of information between India and neighboring countries to make the information flow on trafficking and trafficked victims speedier
- Committees to be established to review repatriation of cross border trafficking cases , especially of children
  
- Regular meeting of law enforcement agencies, border security forces on both sides of the border, District collectors and other Administration Officers from Border Districts to review trafficking cases.
- Set up safe, secure transit points at the border in the case of cross border trafficking with adequate physical facilities and capable/trained team including NGO
- In cases where it is confirmed that a trafficked victim belongs to a certain country ,but the family cannot be traced, it is the responsibility of the source country(the country to which the victim belongs) to take care of the victim and reintegrate him/her
- Liaison Protocol to be developed and Liaison Officers to be appointed Roles of Liaison Protocol Officers: a) Follow up individual cases, b) expedite the cases in CWC/ JJB/Courts, c) Send monthly progress reports to state and NFP, d) obtain repatriation order, e) hand over of child
- address the new trends in trafficking-
  - a. drug related human trafficking including dual role as carrier
  - b. White collared trafficking like dance troupes exchange programmes.
- Carrying out of exchange programmes between Enforcement agencies', personnel of nations between those who got affected by trafficking. Training courses should also be undertaken for police, enforcement agencies.

- Establishment of legal requirements for pre-reintegration assessment of family willingness and suitability, and legal protocols for retaining the child in care in the child's best interests.
- Memorandum of Association between the government agency and NGO's across the borders and between states to be developed for safe repatriation/rehabilitation.
- Adopting labour migration agreements, which may include provision for work standards, model contracts, modes of repatriation, etc in accordance with existing international standards.
- Increase institutionalized media intervention for increased awareness campaigns for cross border trafficking at regional and national level.
- Sensitize the Border security forces and the police on the both sides of the border on the relevant legal instruments and the filling of F.I.R.'s for trafficked persons.
- Establishment of procedures and protocols for preliminary interim care, HIV/STI testing, and trained staff in government shelters and fit institutions.
- Expanding the holding capacity and available resources of the existing nodal NGO's and support the regularization and development of transit shelters and receiving shelters in the border districts for cross border victims of trafficking enroute to the repatriation border points and to their families.
- develop the code of conduct for the hospitality for tourism industry and strategy for effective surveillance and prosecution of pedophiles, in an effort to control incidence of pedophilia in selected areas of the country
- in cases where women and child victims are from foreign countries, a system of co-ordination through the Government of India and through inter-country N.G.O. networks would be set up so as to ensure safe passage, rehabilitation and reintegration in their community in their home countries.
- Need to set up an internal Task force to ensure that the legislations, programs etc are in place for operationalising the provisions of the SAARC Convention on Preventing and Combating Trafficking of Women and Children in Prostitution
- identification of gaps in relevant domestic legislations of the different countries vis a vis provisions of the SAARC convention and incorporate

the same into the domestic laws, ensuring at the same time that there is no conflict /contradiction with other major pieces of national legislation

- harmonize the definitions and terminology especially with regard to sensitive definitions such as ‘prostitute’ sex worker’ sexual exploitation’ ‘trafficker’ etc between the countries so that there is no ambiguity in the implementation
- ensuring safe migration Conditions – need for minimum guarantees
  - a) Total ban on minors migrating for any form work/employment to foreign countries
  - b) Protection to women employed in foreign countries to ensure minimum wage, housing, medical facilities, working hours and other conditions of service and a sound mechanism to receive complaints from women requiring help against ill treatment and sexual exploitation
  - c) the proposed amendments to the Emigration Act seeks to create a welfare fund for protection and welfare of emigrants , the fund should also be utilized for providing legal representation to women who are victims of sexual abuse and trafficking and ensuring protection to victims
  - d) strict action against recruiting agents or any person if they are found to traffic young girls under guise of domestic or any other work –this should be specifically mentioned as an offence under the Emigration Act
  - e) Need for a collaborative approach involving Government As well as national and international organizations to make migration a safe option
  - f) Establish women /gender cells in embassies abroad and appointment of nodal officer to deal with cases
  - g) Provision for compulsory orientation and awareness programme for domestic maids and other women hailing from sections of Indian society with low awareness levels proceeding abroad for employment , regarding their legal rights ,contact numbers of officers of Indian embassies ,helpline Numbers etc
  - h) Adequate publicity by means of print and electronic media and organization of grievance redressal camps

## **2.10. Legal Framework and Law Enforcement**

The lack of specific and/or adequate legislation on trafficking at the national level has been identified as one of the major obstacles in the fight against trafficking. There is an urgent need to harmonize legal definitions, procedures and cooperation at the national and regional levels in accordance with international standards. The development of an appropriate legal framework that is consistent with relevant international instruments and standards will also play an important role in the prevention of trafficking and related exploitation. Moreover, a strong legal framework would also ensure an effective law enforcement response. As of now, individuals are reluctant or unable to report traffickers or to serve as witnesses because they lack confidence in the police and the judicial system and/or because of the absence of any effective protection mechanisms. These problems are compounded when law enforcement officials are involved or complicit in trafficking. Strong measures therefore need to be taken to ensure that such involvement is investigated, prosecuted and punished. Law enforcement officials must also be sensitized to the paramount requirement of ensuring the safety of trafficked victims. The Government of India having ratified the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, the two Optional Protocols to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflicts; and on the Sale of Children, Child Prostitution and Child Pornography and having signed the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime, 2000, should consider:

1. Amending or adopting national legislation in accordance with international standards in order to address all forms of trafficking and these should also be criminalized. Along with this, the content of domestic trafficking legislation should also strictly criminalize traffickers, including agents or middlemen, brothel owners and managers, as well as institutional networks that are used in the crime of trafficking.

2. Enacting legislation to provide for the administrative, civil and, where appropriate, criminal liability of legal persons for trafficking offences in addition to the liability of natural persons. The Government should also review current laws, administrative controls and conditions relating to the licensing and operation of businesses that may serve as cover for trafficking such as marriage bureaux, employment agencies, travel agencies, hotels and escort services.
3. Making legislative provision for effective and proportional criminal penalties (including custodial penalties giving rise to extradition in the case of individuals). Where appropriate, legislation should provide for additional penalties to be applied to persons found guilty of trafficking in aggravating circumstances, including offences involving trafficking in children or offences committed or involving complicity by State officials.
4. Making legislative provision for confiscation of the instruments and proceeds of trafficking and related offences. Where possible, the legislation should specify that the confiscated proceeds of trafficking would be used for the benefit of victims of trafficking. Consideration should be given to the establishment of a Compensation Fund for victims of trafficking and the use of confiscated assets should finance such a fund.
5. Ensuring that legislation prevents trafficked persons from being prosecuted, detained or punished for they are victims of situation beyond their control. Likewise, it should be ensured that protection of trafficked victims is built into the anti-trafficking legislation itself. The protection offered in no way should be made conditional upon the willingness of the trafficked victim to cooperate in the legal proceedings.
6. Providing legislative protection for trafficked victims who voluntarily agree to cooperate with law enforcement authorities.

7. Legal reform should also incorporate a gender and rights-based perspective, having regard to the fact that women are, in most cases, marginalized. For example, property and inheritance laws and procedures should be reviewed and adjusted to ensure that they do not include provisions which have a discriminatory impact on women and their livelihood options.
8. Making effective provision for trafficked victims whereby they are given legal information and assistance in a language they understand as well as appropriate other supportive measures. The Government should ensure that entitlement to such information, assistance and support is not discretionary but is available as a right for all persons who have been identified as trafficked.
9. Ensuring that the right of trafficking victims to pursue civil claims against alleged traffickers is enshrined in law.
10. The services of nodal officers – one representing the police department dealing with investigation, detection, prosecution and prevention of trafficking and the other representing the welfare agencies dealing with rescue, rehabilitation and economic/social empowerment of the victims and those at risk – appointed by the State Governments/Union Territories at the behest of NHRC should be utilized for all purposes.
11. Ensuring that law enforcement personnel of all ranks are provided with adequate training in the investigation and prosecution of cases of trafficking.
12. Establishing specialist Anti-Trafficking Units (comprising both women and men) in order to promote competence and professionalism. Besides, law enforcement authorities should be provided with adequate investigative powers and techniques to enable effective investigation and prosecution of suspected traffickers.

13. Guaranteeing that traffickers are and will remain the focus of anti-trafficking strategies and that law enforcement efforts do not place trafficked victims at risk of being punished for offences committed as a consequence of their situation.
14. Encouraging law enforcement authorities to work in partnership with non-governmental organizations and the community at large in order to ensure that trafficked victims receive necessary support and assistance. For very little can be achieved without the involvement of the community in fighting trafficking.

### **2.10.1. Recommendation with respect to Legal Framework and Law Enforcement**

- There should be a National Policy on Trafficking.
- A compensation fund for crime injuries should be set up.; the model of compensation to victims of rape may be adopted /extended to victims of trafficking. (Annexure F)
- Legislation needs to encompass aspects such as:
  - Proceedings in camera.
  - Right to compensation.
  - Right against victimization.
  - Rehabilitation of victims of trafficking including child labour
  - In certain situations/area the civil society organizations will have to be given legal immunities for the actions taken by them to prevent and control re-trafficking. The right to rescue from situation of CSE&T needs to be recognized in the law and liability should be cast upon police officials for not undertaking the immediate rescue of victim when encountered with the situation of CSE&T or when informed about the incident.
- universal definition of child – 18 years

- Definition of trafficking: as per UN Protocol

“Trafficking in persons” shall mean the recruitment, transportation, transfer, harboring 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** 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;

*At a minimum- Creates a baseline or restriction as to the requirement. “At a minimum” may lead to complicated interpretations;*

- The term “**sexual exploitation**” needs to be clearly defined. *Sexual exploitation is an offence when a person- Derives or attempts to derive sexual satisfaction for oneself or some other person by*
  - a) Subjecting the body of another person to any form of sexual activity or*
  - b) The employment, use, persuasion, inducement, enticement, or coercion of any woman or child to engage in, or assist any other person to engage in, any sexually conduct or simulation of such conduct for the purpose of producing a visual depiction of such conduct by means of any electronic/audio output or advertisement*

*"advertisement" includes any notice, circular, label, wrapper or other document and also includes any visible representation made by means of any light, sound, smoke or gas or by means of any electronic or print medium ;*

- c) *Any form of sexual activity that causes or has caused or could or is likely to cause serious emotional injury or*
- d) *Any form of indecent representation of woman and child for the purposes of sexual activity*

*"indecent representation of women and/or child " means the depiction in any manner of the figure/image of a woman and/or child, his/her form or body or any part thereof in such a way as to have the effect of being indecent, or derogatory to, or denigrating, women and/or child, or is likely to deprave, corrupt or injure the public morality or morals;*

- d) *Derives or attempts to derive sexual satisfaction in any manner above or*
- e) *The forcing of unwanted sexual activity by one person on another, by the use of threats or coercion.*
- e) *Commits rape / sexual assault*

***Under any of the following circumstances***

- o *Against the other persons will*
- o *without the consent of the other person*

***“Commercial sexual exploitation” is sexual exploitation carried out as a commercial activity and need not be carried out for a long time. One single instance may suffice”***

- As commercial sexual exploitation has become a transnational organized crime and as it is difficult to prove the offence of “running a brothel” or “living on earnings of prostitution” amendments may be brought in the ITPA authorizing a police officer of a rank of SP to tape telephones of the accused under this Act and the evidence may be admissible in the courts thus requiring amendments to the evidence Act. Commercial sexual exploitation is no longer confined to brothels and has moved on to mobile and cellular networks therefore such a provision would be of necessity in tracing out the traffickers
- Necessity for taking finger prints / photographs of the pimps/touts as the accused often change their addressees and names and maintaining of sex offender registers

- The anticipatory bail provisions available under section 438 Cr.P.C. should not be made applicable to the accused under section 3, 5, 6 and 9 of ITPA
- kidnapping of children for selling them in brothels should be made a more serious offence
- Stringent penalties for any person comprising on safety and security of the victim of CSE&T
- Reviewing and modifying policies and existing legislations related to contract labour, labour and child labour should be undertaken
- In certain situations/areas the civil society organizations will have to be given legal immunities for the actions taken by them to prevent and control trafficking. Today they are completely unprotected and vulnerable to legal consequences and physical threats and assaults.
- “Anti-Trafficking Cell” of the police should established at the different levels in the police force, and such Cells be appropriately staffed. In every district a Senior Police Inspector should be designated as head of the “Anti-Trafficking Cell” having jurisdiction all over the district.
- Data bank of suitable persons in every district who may be associated with the Special Police Officers to advise them in carrying out their functions under ITPA as envisaged under section 13(3)(b) of ITPA.
- The State Government should associate such persons with the Special Police Officers as a non- official advisory board to advise them on the implementation of ITPA and such list of persons could be circulated amongst Magistrates to enable them to take the assistance of such persons whilst carrying out their functions under section 17(2) of ITPA as envisaged under section 17(5).
- The Government should consider amendment of the Foreigners Act to exclude children under 18 to be penalized for contravention of the provisions of the Act and treat them as children needing care and protection

## **2.11. Witness Protection and Support to Victims**

As mentioned at serial no. IX above, an adequate law enforcement response to trafficking is dependent on the cooperation and support of trafficked victims and other witnesses. In many cases, individuals are reluctant or unable to report traffickers or to serve as witnesses because of the fear that they would not only be harassed but also ill-treated. In order that the trafficked victims and other witnesses shed their fears, the Government should consider:

1. Guaranteeing protection for witnesses and support to victims in law by providing police protection (accompanied by NGO) during travel to and from trial court- with preferably women police officers,,
2. Developing witness protection protocols for both in-country and cross-border cases of trafficking
3. Making appropriate efforts to protect individual trafficked victims and other witnesses (including their families) during the investigation and trial process and any subsequent period when their safety so requires. Appropriate protection programmes may include some or all of the following elements: access to independent legal counsel; protection of identity during legal proceedings; in-camera trials and setting up fast-track courts.
4. Ensure that child victims are accompanied always by a woman police officer and an NGO

## **2.12. Training, Sensitization, Education and Awareness**

Training, sensitization, education and awareness on the issue of trafficking, particularly its adverse impact on human beings, is an important element of prevention as well as eradicating trafficking. This being so, all round efforts should be made to train, sensitize, educate and raise awareness among all at all levels. In doing so, focus should be on:

1. Deepening knowledge and understanding the situation of victims of trafficking through sensitization and training programmes for judicial officers, law enforcement personnel (police, immigration, border control and customs officials, medical professionals/ personnel including Forensic experts, Teachers and Panchayat members and NGOs and labour inspectors) and other concerned government officials on the issue of 'trafficking' as well as 'gender and human rights'. These training and sensitization programmes could be organized in conjunction with the Ministries of Home Affairs, Women and Child Development, Labour, the National Human Rights Commission and the National Commission for Women.
2. Ensuring uniformity and quality in these sensitization and training programmes by developing specialized modules for each category of officials taking into consideration their different roles and responsibilities.
3. The module on anti-trafficking should form a core component of the curriculum of National Police Academy, Hyderabad; Lal Bahadur Shastri National Academy of Administration, Mussoorie and all police training institutes and Law colleges, Law Institutes and Medical colleges. This would enable all probationers to know about the problem of trafficking and its ramifications. The modules can also be made accessible on appropriate websites to facilitate on the job training

5. Till such time, a new law to deal with the problems of trafficking is framed or amendments are made in the existing law, the police officers, prosecutors and lawyers should be sensitized to invoke provisions of the Immoral Traffic (Prevention) Act, 1956 in conjunction with the Indian Penal Code, the Juvenile Justice (Care and Protection of Children) Act, 2000 and other laws.
6. Developing documentation / training material consisting of best practice models, applicable treaties and laws, important judgments, rescue procedure, case studies on rehabilitation of victims, etc. to ensure that the knowledge, information imparted in various training/sensitization programmes is of uniform nature.
7. Maintaining of records regarding the officials/personnel who have been trained and the type of training received, so that later refresher courses could be organized for them to update them on latest information and techniques.
8. Organizing large scale information campaigns on the issue of trafficking for the general public at large. The tourism industry including airlines, hotels, travel agencies, beer bars, holiday resorts, etc. should also be sensitized to the problem of trafficking.
9. Educating school and college level students on the issue of trafficking as well as human rights and gender sensitive concerns.
10. The media should play an important role in informing and educating the public through newspaper, radio and other modes of communication, and should be targeted as a key partner in preventing and ending trafficking. It would be ideal if media practitioners were first sensitized about the issue of trafficking and its complexities, as this would ensure appropriate reporting on facts rather than sensationalizing the issue.

## **Recommendations**

- 1. The publications - judicial handbook on combating trafficking in women and children for commercial sexual exploitation (UNICEF/MWCD and NHRC)**
- 2. Manual for medical professionals dealing with child victims of trafficking and commercial sexual exploitation**
- 3. Manual for social workers dealing with child victims of trafficking and commercial sexual exploitation**
- 4. UNODC –MWCD Model**

## ANNEXURE A

### **SUJA ABRAHAM VS. STATE OF MAHARSHTRA - WRIT PETITION 124/1998 (relevant extracts)**

The writ petition prayed for directions by the Hon'ble High Court Mumbai to issue a Writ of Mandamus directing M/s. Ravi Fisheries Ltd. to comply with all labour legislation in respect of the workers employed in its establishment, including those migrant workers, and especially with the Minimum Wages Act, 1948, Employees State Insurance Act, 1948, Provident Fund Act, 1996, Factories Act, 1948, Payment of Wages Act, 1936 and Contract Labour (Regulation and Abolition) Act, 1970 and direct the Deputy Labour Commissioner, Thane to randomly visit the factories of Ravi Fisheries Ltd. at least once in a month and check that the M/s. Ravi Fisheries is complying with all labour legislation in respect of the workers and is not maltreating them;

#### **Directions and observations made by the High Court**

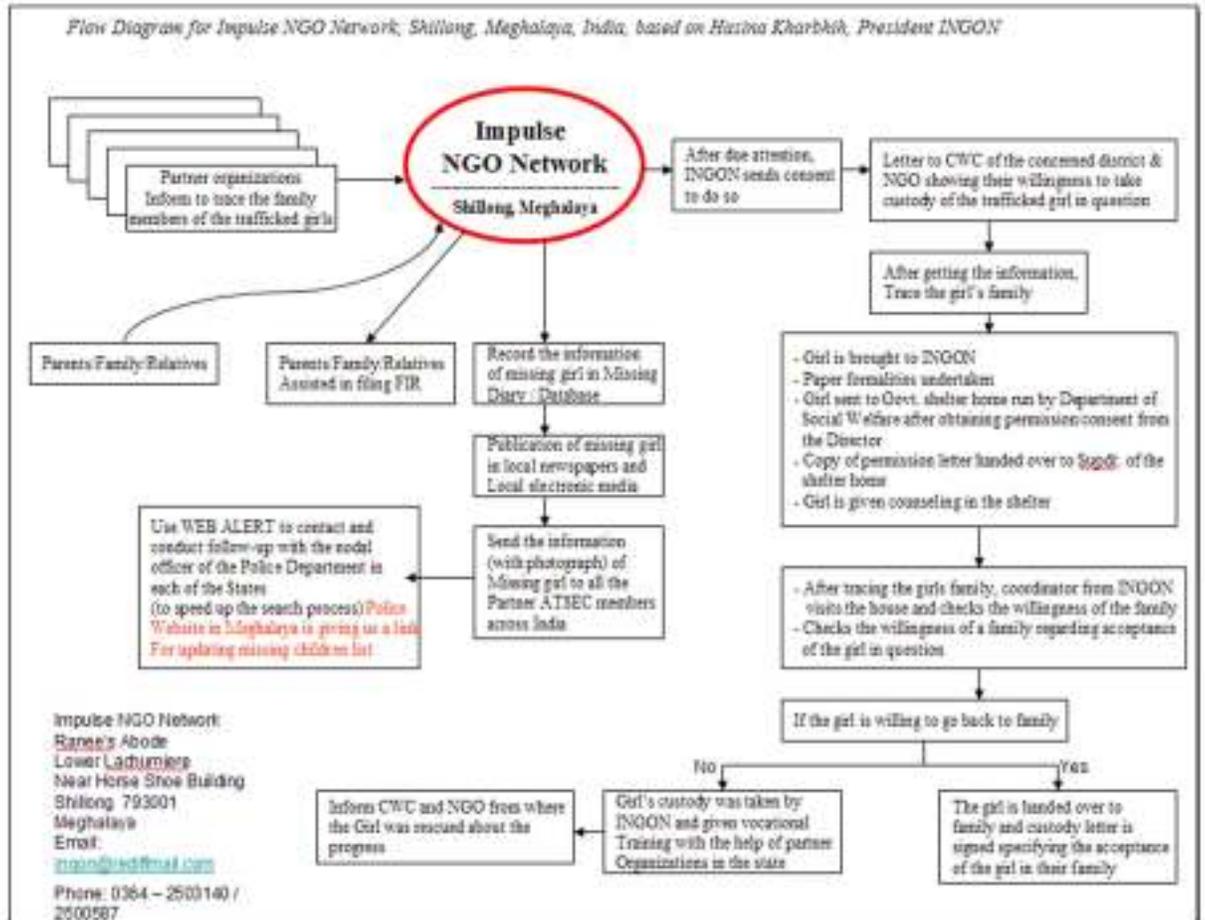
- The Hon'ble Chief Justice Shri M. B. Shah and Hon'ble Justice Shri R. J. Kochar directed the District Collector, Thane and the Deputy Labour Commissioner to inspect the various factories in the Thane region. Accordingly, on 22 January 1998, the officials visited eight factories in Thane and Navi Mumbai.
- The report submitted by the Collector after conducting the raids revealed serious violations of law. It stated that in seven factories, *inter alia*:  
"Female employees were found . . . staying in the factory premises itself. They were not allowed to go out of the premises without the permission of the contractor. If they are required to go out, some gate pass was being issued only on the ground of medical treatment or visiting religious places. *Prima facie* it appeared to the government authorities that these employees are not allowed to go out of the factory premises. Because of force or fear of the contractors, free movement at will by the employees is not possible. "The places where the workers are living are inadequately ventilated and poorly illuminated. In most cases only one exit is provided. The places for cooking and store are extremely

unsatisfactory. Overcrowding was seen in most of these residential premises, and the overall appearance of living condition was inhuman. "Female employees work in factories from 9.00 a.m. onwards and work beyond 7.00 p.m. and the working hours depend upon the time of receipt of the fish consignment in the factory. "Prima facie these can be the cases of **bonded labour** when seen from the angle of spirit of law although workers did not come forward with complaints of forceful confinements,

- The final order of the Hon'ble High Court stated that it stands proved that the labourers are treated brutally and in some cases as bonded labourers and there are serious breaches of the labour laws. The Authorities enjoined with the duties of enforcement of labour laws have failed to discharge their duties. To our shock and surprise, even in a city like Thane, to some extent, bonded labour system still exists. The respondents no. 3 and 4 (Mr. Dilip Kapoor, Managing Director and Mr. Ambrose Pinto, Manager, Ravi Fisheries) have treated Ms. Suja Abraham as bonded labour and brutal and inhuman treatment was meted out to her by confining her to the factory premises and even dragging her back when she tried to escape, which forced her to attempt to commit suicide.
- ***"We make it clear that it would be open to the Bharatiya Mahila Federation, which is a Non-Governmental Organization, to visit the premises where women employees are working and to find out their grievances. All factory owners, particularly the Respondents, are directed to allow free access to the office bearers of Bharatiya Mahila Federation to places where women employees are working or residing.***

## Annexure B

### Meghalaya Model



#### Developed by Ms. Hasina Kharbhih, President Impulse NGO Network

This model has been presented in the 8 (eight) North Eastern States of Assam, Meghalaya, Tripura, Manipur, Nagaland, Mizoram, Sikkim and Arunachal Pradesh through Impulse NGO Network Program on “**State Consultation on Right Based Anti-Trafficking Programming**” which was attended by the stakeholders such as the law enforcement, social welfare, labour, health and education department etc.

The model seeks address the issue collectively and ensure positive networking. Financial and Human Resources are being used systematically allowing the state to prevent human trafficking

## **METHODOLOGY ADOPTED**

- (A)** Whenever Partner organizations from all over India whenever conduct raid in Red Light Areas and find girls belonging to North Eastern States they inform Impulse NGO Network and request them to trace the family members of the trafficked victims.
- (B)** At the same time Media Campaign creates a mass awareness in which parents, family; relatives would also contact Impulse NGO Network to help them in tracing the missing children.
- (C)** Impulse NGO Network considers each case and as per the created design format letters is being sent to Child Welfare Committee of the concerned district or NGO's partners showing the willingness of the NGO to take custody of the trafficked girl belonging to the North East of India.
- (D)** After receiving the information, with the help of the local State Partners in any of the North Eastern States as well as law enforcement, try to trace the girl family.
- (E)** Even if the girl family is not immediately traceable the girl is brought to Impulse NGO Network by the escorted by Law Enforcement as per Juvenile Justice Act 2000 guidelines.
- Custody letters as per design format is filled and filed.
  - The girl is sent to the Government Shelter home run by the Department of Social Welfare, after obtaining permission/ consent from the Director, since a prior MOU for this sort of arrangement has already been created.

- (F) After the girl is kept in the Shelter home the extended work of the Impulse NGO Network, is to provide counseling in the shelter home from a mental health perspective, where it also helps the organization to understand the rescue survivors, family details ( in order to trace the family ) and potential rehabilitation programmes strategy become easy as well .
- (G) The Network keeps the Child Welfare Committee and the NGO who had rescued the girl informed about the girl's situation and the progress achieved in rehabilitation, at least twice a year.
- (G) Once the family is traced by the networking teams from Impulse NGO Network and partner agency, the Coordinator from INGON visit the house wherever the girl belongs and check the willingness of the family regarding acceptance of the girl keeping her background confidential and then counsel the girl accordingly.
- (H). If the girl is willing to go back to her family then the girl is handed over to the family and a custody letter is signed specifying the acceptance of the girl in the family. The monitoring process is for a year to ensure that the girl does not get re-trafficked. She is also linked for vocational training with other organizations or is even given seed money for starting up micro credit enterprise based on her need
- (I) In case case the girl is not willing to return to her family Impulse NGO Network is responsible for following up and networking with partners and providing vocational training support to the girl The NGO also arranges support from individuals or from the corporate sector in the form of seed money to help the girl to start her own business. Impulse NGO Network continues to monitors the progress of the girls at least once a year.
- (J) Official intimation is being inform to the Child Welfare Committee and NGO's where the girl was rescued on its progress at least twice a year.

- (K) The NGO assists in filing the FIR when a missing child is reported . The network of NGOs which are affiliated to the Impulse NGO Network acts like a watch dog and also helps strengthen community policing and the state to take appropriate action.
- (L) The Impulse NGO Network records information of missing children in a Diary/Database . This is a systematic recording system which makes information sharing more effective. Efforts are being made by the Meghalaya Police to link this website with other websites available in other states.
- (M) When a missing child is being reported as per B besides filing FIR as per the alert programme through email/net , also send to the entire partner's agency as well as ATSEC partners across India along with photograph of children in tracing the missing children and to speed up the search as well.

**PROTOCOL ON INTER STATE RESCUE AND POST RESCUE ACTIVITIES**  
**RELATING TO TRAFFICKED PERSONS**

**UNODC –MWCD**

**PREAMBLE**

Trafficking of human beings is a borderless and an organized crime involving multiple number of violators and abusers leading to numerous human rights violations. Article 23 of the Constitution prohibits trafficking in human beings in any form and, therefore, any contravention thereof, is illegal. The substantive laws like the Indian Penal Code 1860 (IPC) and special legislations like the Immoral Trafficking (Prevention) Act 1956 (ITPA), the Bonded Labour (Abolition) Act 1976, the Child Labour (Prohibition and Regulation) Act 1986, etc. provide the legal framework for the response agencies.

Though the Code of Criminal Procedure 1973 (CrPc), the basic procedural law on criminal justice delivery prescribes the procedure for transfer of accused persons from one jurisdiction to another, it does not specifically list out the procedure for transfer of the rescued persons in a crime of trafficking. However, Cr. PC gives adequate powers to the police officers to conduct investigation of such crimes even outside their jurisdiction. The request by the police officers in one place has to be honoured and complied by the police officers at the other place (u/s. 166 Cr. PC). Moreover, special legislations mentioned above do address some of the steps involved in the rescue and post rescue activities; nevertheless they do not provide a comprehensive Protocol.

Moreover, in India every State has its own Police agency under a unified command and control. Therefore, the post rescue care, support and transfer of rescued persons from the jurisdiction of one Police Station to another or from one district to another within the State are guided by the directives/ protocols/orders issued by the Home Department or the Director General of Police of the State, including the Commissioner of Police in cities. However India does not have a federal law enforcement structure. As a result there are no mechanisms or

protocols for the activities relating to Inter state rescue and post rescue activities. This Protocol is an effort to address these gaps.

The Protocol has 4 parts to it, namely:

1. General Principles / Guidelines
2. Pre Rescue Protocols
3. Protocols During Rescue
4. Post Rescue Protocols

## 1. GENERAL PRINCIPLES / GUIDELINES

**1.1 Human Rights Approach:** The victims of trafficking, *irrespective of the place they are trafficked from or to*, are victims of crime and therefore, all efforts should be made to ensure that

- ✓ jurisdictional limitations, of any sort, do not impede, in any way, rescue and post rescue activities
- ✓ victim's human rights are protected
- ✓ victim's human rights are not further violated
- ✓ adequate care and attention is extended to victims during and post rescue
- ✓ there is no delay in rescue and post rescue activities
- ✓ all actions and decisions that are initiated and undertaken are based on the principle of 'the best interest of the victim'.

**1.2 Organized crime:** Trafficking of persons is one of the gravest violation of human rights and a serious form of organized crime. Therefore, all responders must give priority to rescue and post rescue activities for trafficked persons.

**1.3 Nodal Officers:** As per the advice of the National Human Rights Commission and the Government of India, the State Governments have earmarked two Nodal Officers on Anti Human Trafficking, one representing the Police Department and the other representing the Departments of Women and Child/ Welfare/ Labour etc. They may be called as the 'Police Nodal Officer' (PNO) and the 'Government Nodal Officer' (GNO). The PNO

and GNO should make efforts to give wide publicity regarding their name, telephone no., email id and contact address and ensure accessibility to public. The Police Stations and Police officers should display these details on their display board. PNO will be the key contact person for all Inter State rescue activities and GNO for all post rescue activities. Both should associate, in their activities, all responders including Government Departments and NGOs. Trafficking being a borderless crime, in order to prevent and combat trafficking, the responders will have to function beyond their limited jurisdictions. This should be facilitated by PNO and GNO. The initiatives by the Ministry of Women and Child and the Ministry of Home Affairs, Government of India should facilitate establishing a national functional network of PNOs and GNOs.

- 1.4 Database:** one of the major challenges today in Inter state activities on preventing and combating trafficking, is the lack of database of traffickers and victims trafficked across the state. More often the local police, despite having intelligence, are unable / do not share it with their counterparts in other States. The PNOs of the source, transit and destination areas should take initiative in developing intelligence and creating a database. The database should be updated at least on a monthly basis and disseminated among all concerned PNOs.
- 1.5 Synergy amongst stakeholders:** Preventing and combating Human Trafficking can be effectively undertaken only in a comprehensive and holistic manner, involving all stakeholders and responders. The Police agencies should develop effective partnership with appropriate NGOs working in this field. The PNO should take steps for getting Government notifications issued for the 'Advisory body' under Sec. 13 (3) (b) ITPA. However, pending such notification, nothing prevents the police from associating an NGO of its choice.
- 1.6 Directory of services:** The GNO and PNO should bring out a comprehensive directory of all services available to address issues of Human Trafficking. This should include the details of the responders like Police officials, Prosecutors, Welfare officers etc. and all referral services including health care and all NGOs working in this field. This Directory should be widely disseminated.

- 1.7 Victim vs. accused:** A trafficked person, irrespective of the nationality, place of domicile, sex or age is a 'victim of crime' and therefore, should never be treated as an accused.
- 1.8** The trafficked person's rights have been violated; dignity robbed and they are highly traumatized. Therefore, every effort should be made to ensure that the **harm is validated**, and that they are not traumatized or victimized further.
- 1.9** Take steps to ensure **anonymity** of the rescued persons. Try and maintain confidentiality of the rescue operations. S. 21 of JJ Act mandates ensuring anonymity of child victims. S. 228 A IPC provides anonymity to all victims of rape. If media comes to know of it, do brief the media persons about the need and method of maintaining anonymity.
- 1.10** Take steps to ensure **legal representation** of the victim (SC has laid down victim's right to representation by a private lawyer in *Delhi Domestic Working Women's Forum v/s UOI*<sup>1</sup> and *Zahira Saifullah v/s State of Gujarat*<sup>2</sup>). A list of lawyers sensitive to the issue may be maintained at the PS.
- 1.11** Non – discrimination is a right of the rescued person. Take steps to ensure that rescued person is **treated with dignity** and provided access to all services of care and support without discrimination.
- 1.12** The rescued victims have a **right to be informed** as well as consulted on all matters and decisions that affect them.
- 1.13** If the rescued person has been trafficked from another country, the HT and the PNO concerned should ensure that all care and support is extended, as is the case with any other victim.

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<sup>1</sup> 1995 (1) SCC 14

<sup>2</sup> 2004 (4) SCC 158

**1.14 Categorization of “Rescued persons” and the Agency Responsible to Provide all Services:**

Women and children who are Domicile of the state where rescue is carried out	Host Team (HT) <sup>3</sup> should provide necessary services
Women and children who are Domicile of the state of VT (Visiting Team) <sup>4</sup>	VT should provide necessary services
Women and children who are Domicile of a Third state	HT should provide necessary services
Women and children who are Person is from outside India	HT should provide necessary services

**2. PRE RESCUE PROTOCOL**

**2.1 When to plan a rescue:** Rescue cannot and should not wait. As and when information reaches the Police Station, through whatever means, the PS official should consult the District Superintendent of Police (SP) / Deputy Commissioner of Police (DCP) and the PNO of the state. The PNO should immediately alert the PNO of the state to be visited and ensure all follow up actions.

**2.2 Planning Inter – state rescue:** The PNOs of the concerned States or the SP/ DCP of the concerned districts should take into consideration the following aspects in planning for a joint rescue.

- a) Ensure that adequate number of officials are put in their teams (both the Visiting Team, i.e. VT and the Host Team, i.e. HT). The Joint Team i.e. JT should have at least two women officials of any rank (u/s. 15 (6 A) ITPA). Both teams should have at least one police officer who is legally empowered to conduct rescue (ie. a special

<sup>3</sup> The Host Team shall comprise of police officials of the state where rescue is to be carried out.

<sup>4</sup> The Visiting Team shall comprise of police officials of the state whose victims are to be rescued.

police officer notified u/s. 13 (1) ITPA, or an officer of the rank of SI of police or above authorized by the Magistrate u/s. 16 ITPA).

- b) The VT and HT should consult and decide the Leader of the JT, however, it is appropriate that the VT works under the command of the HT.
- c) Ensure that NGO members are co-opted in the JT. It would be appropriate to associate local NGOs working at the place of rescue. Those NGOs who have facility of Homes should necessarily be involved.
- d) The rescue activities require witnesses which include at least two women. However, women witnesses need not be local (u/s. 15 (2) ITPA). Therefore, the JT can take the help of NGOs from anywhere to function as witnesses.
- e) The HT should arrange for security, transportation, and other basic amenities (such as, food, rest – room, etc.) for the witnesses. Steps should be taken to ensure their anonymity.
- f) If a decoy is being utilized, brief the decoy properly on the protocols, procedures including methods to maintain anonymity and ensuring security.
- g) The HT should arrange transport, place of stay and other logistics for the members of the VT and if required for the members of the HT.
- h) HT should arrange adequate number of vehicles and escort for the rescued persons so that the offenders are always kept segregated from the victims.
- i) HT should arrange materials and equipment required for documentation and evidence collection (such as writing pad, white paper, pen, pencil, box for transporting the exhibits, box for safe – keep of the belongings of the rescued persons, camera, videography, audio recording equipments, first – aid kit, torch lights, hammers, cutters, etc. )
- j) HT should inform the appropriate authorities (including PNO) regarding the proposed activities including the places to be visited, time proposed, and also approximate manpower required.

- k) HT should alert the authorities of the Government run Homes or recognized homes run by NGOs at the place of rescue, or near about, regarding the approximate number of persons likely to be rescued and the time when they are likely to be brought to the Home.
- l) The Leader of the JT should brief all members of the JT regarding their respective roles, responsibilities, including Dos and Don'ts. A list of officials and NGOs stating their tasks be maintained by the officer-in-charge of the JT.
- m) The Leader of the JT should ensure that all steps are taken so that there is no leakage of intelligence and secrecy is maintained.

### **2.3 Where to register FIR?**

Trafficking is an organized crime and a continuing offence. FIR can be registered, u/s. 5 (3) ITPA at the place of demand / destination area, or the place of transit, or at the place where the person was trafficked from (source area). It can be registered on the statement of any person (including NGO), therefore, the VT should register an FIR in their jurisdiction before proceeding for inter – state rescue. However, in case of emergency rescue is possible even without an FIR.

**2.4 Timely sharing of intelligence:** The PNO, the SP / DCP should share all information and intelligence on victims as well as offenders with the corresponding officials of the other state. Timely sharing of intelligence among the officers in the source, transit, and demand area should be ensured by the PNO.

**2.5** Do carry out a recce of the place to be searched. An official conversant with the local language should be sent to the place incognito. The help of local officers/ NGOs be taken, provided their identity remains undisclosed. Empowered survivors, who are willing to co-operate, could be ideal sources for recce. After carrying out recce, draw a map of the area which should be used for briefing and assigning specific duties like, cordoning, entry and exit points, locating the hide-outs, etc.

**2.6 Search Warrant:** The VT should, where ever possible, obtain a search warrant from the jurisdictional Magistrate u/s. 166 Cr. PC and u/s. 16 ITPA.

### **3. PROTOCOL ON ACTIVITIES DURING RESCUE**

**3.1** Upon reaching the site of rescue, everyone (ie. Police officials, the witnesses and NGOs) should take their respective positions as decided during the pre – rescue briefing. The area should be cordoned off, all entry and exit points should be sealed before entering the building / house / hutment / or any such place.

**3.2** Trafficked persons may be kept hidden in cubicles, false ceilings, basements, boxes, attics, wardrobes, toilets, and surrounding areas. Make all efforts to locate such hidden places.

**3.3** Do solicit the help of the rescued persons in locating the following at the place of search as well as other possible locations (as all such locations are part of the scene of crime)

- ⇒ other hidden victims, children, relatives, if any;
- ⇒ offenders; and
- ⇒ incriminating materials.

**Note:** the NGO partner will be of great help in this process especially in establishing communication with a rescued person.

**3.4** Do locate and rescue the children and other relatives, if any, of the victims.

**3.5** Offenders should be segregated from all rescued persons to avoid any intimidation by the offenders.

**3.6** Ensure that possessions and belongings of all rescued persons are retrieved and taken in safe custody. This may include personal belongings like, clothes, jewelry, cash, and any other relevant documents which may have been kept locked by the exploiters

**3.7** For collection of evidence, ensure that:

- ✓ the scene of crime is fully searched
- ✓ all materials, exhibits, documents, are collected and preserved (such as mobile phones, diaries, registers in the brothel, financial records and networking with other traffickers, customers, electricity, water, telephone bills, ration cards, municipal tax receipts, travel

documents, photographs, albums, condoms, etc.). Proper documentation be done by carrying out the seizure in front of two independent witnesses.

- ✓ videography / photography of the scene of crime
- ✓ videography / photography of the offenders
- ✓ videography / photography of the witnesses, if willing, while recording their statements
- ✓ proper chain of custody is maintained

**3.8** Identify persons under 18 years of age so that they can be sent to the Child Welfare Committee as they are 'children in need of care and protection' under the JJ Act. The rescued adult persons are to be sent to the Magistrate. The Leader of the JT in consultation with NGO partner, and based on the prima – facie appearance of the person should take a decision as to whether the rescued person is a child or an adult. It would be appropriate to leave it to the decision of the CWC, if there is any doubt regarding the age.

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#### **4. POST RESCUE PROTOCOLS**

**4.1 Immediate responsibility:** Though the rescue has been jointly conducted by the JT, the basic responsibility for the post rescue activities, especially the immediate follow up, lies with the HT.

**4.2 Avoid further victimization: Validate the harm** to the victim. It gives strength and support. The rescued person's rights have been violated; dignity robbed and are highly traumatized. Therefore, every effort should be made to ensure that they are not further victimized / harmed.

**4.3 Ice breaking:** being traumatized, the rescued persons may appear non-willing to co-operate. One should not come to a hurried conclusion against the rescued person. Services of sensitized counselors / NGO be utilized<sup>5</sup>.

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<sup>5</sup> For trauma counseling of victims, networking with NGOs is ideal. A list of such volunteers/NGOs should be maintained at the police station. The Family

**4.4 Detailed interview** of the rescued persons be carried out to know about their personal details like age, nativity, health status, family history, etc.; to identify their best interests so that actions can be oriented accordingly, and to understand the entire dimension of the crime. Interview must be carried out by a female police officer or in the presence of a female NGO worker as mandated u/s. 15 (6 A) ITPA. It will be advisable that a specially selected team of sensitive officials from both HT and VT teams carry out the interview.

The following points should be noted regarding interview of the rescued persons:

- ⇒ Do not delay interview
- ⇒ If the rescued person is not willing / ready to speak, do not force her, but do provide counseling by trained counselors.
- ⇒ Being traumatized, the rescued person may not come out with full facts in the initial statement. Therefore, do allow the freedom to have further statements recorded.
- ⇒ Avoid repeated interviews by law enforcement agencies so as to reduce trauma to the rescued persons.

**4.5** From the scene of crime, the JT may exercise either of the following options:

- b) If the Magistrate / CWC is in office and the required documents (such as forwarding report, injury report, etc.) have been prepared at the place of rescue, the rescued persons may be escorted to the Magistrate / CWC (s.17 ITPA).
- c) The rescued persons be escorted to the local PS where they are kept segregated from the offenders and without any public display.
- d) If the Magistrate / CWC is not in office and if it is after sunset, move the rescued persons to Government or NGO run Home. At any cost the rescued persons should not be kept in the PS over night.

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Counseling Centres (FCC) available at designated police stations in most States also have trained counselors whose services can be utilized. HT should do this.

- 4.6 Medical care and attention** (including mental health) of the rescued persons is the responsibility of the HT. The rescued persons be sent to the nearest hospital for treatment of injury, and for age – determination. Steps should be initiated for De-addiction counseling / activities if called for.
- 4.7 Legal counseling** of the rescued person will be a positive step in empowerment. The HT should network with lawyers and contact District Legal services Authority or the Bar Council for the same. A list of willing lawyers should be maintained at all PS.
- 4.8** HT should make a request to the Magistrate / CWC to send the rescued person to an appropriate Home. Intermediate custody can be obtained for a period not exceeding 10 days by which time the person has to be produced before the appropriate Magistrate (s.17 ITPA)
- 4.9** HT should make a request to the Magistrate / CWC to order for Home Verification report and medical examination report (u/s. 17 (2) ITPA). Even adult victims should be sent to Homes and a decision regarding their return should be taken only after carrying out Home Verification. The HT should move the Magistrate and ensure appropriate orders accordingly.
- 4.10** The HT should take steps to move the jurisdictional Executive Magistrate u/s. 133 (1) (b) of Cr. PC and obtain conditional order to close down places of commercial sexual exploitation and take further steps thereon. Since the order of the Magistrate according to S. 133 (2) of Cr. PC cannot be challenged, such closure of places of exploitation will make impact.
- 4.11** The exploiters involved in the crime may appear before the Court / CWC and claim to be parents / guardians / well – wishers of the rescued persons and seek their release. The police officers should oppose this and request the Court to undertake any such activity only after the home verification report is received.
- 4.12** VT may want to take the rescued persons back to their respective state. This should be done only after approval of the Magistrate / CWC. The HT should provide the required security / transport for their transfer. In this regard para 1.14 above may be referred.
- 4.13** VT may require the transfer of the documents / materials seized from the scene of crime for their investigation and prosecution. Since HT is responsible for their seizure, as mentioned above, they may hand over the

documents to the VT on receipt. If both HT and VT require these documents, either of them can proceed with Xerox copies.

**NOTE:** There may be instances where the victims may not want to go back to their original place, family / community, etc. (For instance where the parents may be the exploiters, for fear of stigmatization, for apparent lack of livelihood options, etc.) In such situations, the Magistrate / CWC should be requested to order for counseling by the appropriate agencies / persons and thereupon take a considered decision keeping in view the 'best interest of the rescued person'.

**4.14** The HT should produce all arrested offenders before the local Magistrate. Adequate security be provided. If the accused persons include women, the HT should provide women officials for escort.

**4.15** If the VT requires their police / judicial remand, the VT may move the Magistrate concerned, get appropriate orders (example Transit Warrant) and thereupon the HT should provide adequate escort for their transfer.

**4.16 Contingencies:** It may happen that the VT may not have adequate funds for proper transportation, boarding / lodging, medical care, etc. of the rescued persons, witnesses and offenders to be transferred. The HT should provide the required support.

**4.17 Interim Relief:** The rescued person, irrespective of the state or country of origin, is a trafficked victim and therefore a 'victim of crime'. Therefore, all relief / compensation to which a victim is entitled to should be extended to her. The responsibility for this lies with the GNO of the place where the rescue takes place. The PNO concerned should liaise with the GNO and ensure expeditious action.

If such relief, for whatever reason, has not been extended to the victim at the place of rescue, the GNO and the PNO concerned of the place where the victims are restored to, should ensure that all relief / compensation is immediately provided to them. The Andhra Pradesh Model of Relief is placed at

Other States may consider similar package / model for grant of relief to victims.

**4.18 Prosecution of trafficking crimes:** The PNO should ensure timely action in locating and sending the witnesses (including police officers, NGO partners, counselors, doctors, etc. who were involved in rescue and post rescue activities) and victims, if required, to the trial court in other States.

**4.19 Media briefing:** The HT should associate the VT while carrying out the media briefing. However, it should be ensured that the **anonymity** of the victims and witnesses, be maintained. Alerting the public about the interstate linkages of the traffickers will alert the masses against such traffickers and in turn, help, in preventing and combating trafficking.

## CASE STUDY

**AHTUs of UNODC in ACTION**  
**ANDHRA PRADESH AND KARNATAKA JOINT OPERATION**  
**ON**  
**ANTI HUMAN TRAFFICKING**

Through the complaint of a victim named 'X' in Nuzvid Police Station, Krishna District, the sex trafficking network from coastal Andhra Pradesh to Bangalore came to light. The victim, in her complaint stated the names of a few traffickers and also indicated that over 15 other victims from Andhra Pradesh and other States were trapped with these traffickers. Two other women, who were stated to be procurers by the victim, came forward to provide more information and also become witnesses in the case.

### Pre Rescue Preparation

Extensive preparations were made before the rescue operation in Bangalore.

- Nuzvid Police Station, while investigating a crime of property offence, learnt about brothel-based and **mobile prostitution** in the region. They probed further and developed criminal intelligence on the modus operandi and the offenders involved. This led to intelligence on the Inter state linkage of the traffickers, with connections in Bangalore.

- The PS officials contacted the SP of the district. After discussions the SP informed the CID about the Inter state activities of the traffickers. The SP, CID (Women Protection Cell) advised the district SP to register FIR u/s. 366 A, 372, 373, 376 IPC and S. 3, 4, 5, 7 of ITPA.
- The PS sent requisition to the Magistrate for issue of Search Warrant. The request was supported by all available facts of the Inter state activities of traffickers.
- The Magistrate issued a comprehensive Search Warrant u/s. 97 Cr. PC against traffickers in Bangalore city and also permitted the rescue operations from any state in India and also allowed the victim to accompany the Search Team (VT).
- The SP informed the coastal Anti Human Trafficking Unit (AHTU) based in Eluru and ensured their partnership and involvement.
- On the advice of the AHTU the local police requested the Magistrate for a search warrant to trace traffickers and victims in Bangalore.
- AHTU Eluru contacted AHTU, Hyderabad and AHTU, Ananthpur.
- The CID of Andhra Pradesh decided that all the three AHTU's in co-ordination will do a joint operation, wherein AHTU, Hyderabad would provide experienced officers, AHTU, Ananthpur would provide the logistic support and AHTU, Eluru would be responsible for the production of victims and traffickers in the court and also to make post-rescue arrangements.
- Prajwala represented by its Executive Director and two others was to provide the NGO support for the team as they were already there in Bangalore.
- On behalf of AHTU, Hyderabad, the Additional DG, CID (the Nodal Anti Trafficking Police Officer for the state of AP) and the IG, CID contacted City Police Commissioner, Bangalore for support. CP, Bangalore directed Joint Commissioner, Crime to support the team in every way.
- AHTU, Eluru with the concerned Circle Inspector, 2 SI (one of them women) and three WPC accompanied the victim and the other two women left for the operation on 8-05-2007. En route to Bangalore the team stopped in Hyderabad where SP, WPC Cell briefed the team on all Protocols and Human Rights issues as well as the legal procedures.

- AHTU, Eluru, together the victims left for Bangalore with a night stopover in Ananthpur.
- The Dy. SP of CID along with the SI of the PS moved to Bangalore and carried out advance liaising with the Bangalore police and NGO (Prajwala).
- Dy SP and Prajwala representatives together with Inspector and SI went and met the Joint Commissioner, Crime on 9-05-07.
- The DCP, Crime was directed to provide operational support to the team.
- The rescue team was tactfully divided into two groups. Officers from Crime Branch, Bangalore accompanied both the teams. It was decided that both the teams would simultaneously search the two houses in Sanjay Nagar and Yelahanka. The three victims were also part of the two teams.

### **Rescue Operation**

- Based on the intelligence provided by the victims, the two teams simultaneously left for the search. Team A with two victims moved towards Sanjay Nagar and Team B with the rest towards Yelahanka.
- The first team was supposed to go to Sanjay Nagar. As the victims started identifying landmarks, they actually reached Vidyaranyapura a place about 5 kms after Sanjay Nagar. The teams were further subdivided into smaller teams as these locations were residential localities and too much curiosity and commotion could destroy the operation. The victims accompanied by two officers went in a private vehicle. The rest of the officers followed at an appropriate distance (1/2 km). As soon as the first team reached the location the victims identified the main accused 'Y' coming out of the house. The two officers (one from AHTU, Hyderabad and another from Crime Branch, Bangalore) rushed to catch him. 'Y' escaped on his vehicle but his friend 'C' and driver 'J' were caught. The supporting officers followed and rushed inside the house and found 10 victims. One more pimp, allegedly their cook named 'R' was also arrested. The victims were requested to recover all their belongings. All the things including mobile phones, driving license of the accused was seized.
- Team B with another victim had gone to Yelahanka. The location that the victim identified was 7kms away from Yelahanka and near Karnataka Nursing College (KNC). The first house that the victim identified was

already vacated. The victim also spoke about another isolated house close to that area where she was hidden during a police raid. The team had to go on a wild goose chase to search for the second house but did not succeed in locating other victims and offenders.

### Post Rescue

- The victims and the traffickers were transported in separate vehicles and brought to the Crime Branch, Bangalore. The victims were kept segregated from the accused both in sight and sound.
- The victims were provided group counseling by NGO representatives (Prajwala), who apprised them of their rights and the rehabilitation package that will be provided to them. They were also clearly informed about the future course of action.
- The pancha was prepared by the Bangalore Police, with the NGO as the witness and a copy of the properties seized was enclosed.
- The victims were provided dinner and then in separate vehicles the victims and the accused were transported to Nuzvid, Vijayawada to be produced in the court.
- All victims were provided shelter in a NGO home (set up under the Swadhar scheme of MWCD) and were with provided with trauma counseling.
- The District Collector of Krishna district immediately announced the interim relief of Rs 10,000/- each to all the rescued victims, including those from Nepal.

## ANNEXURE 2

### COMPARISON OF TWO INTER STATE RESCUE MODELS

**Note:** The following table presents a comparative understanding of the issues involved in two rescue operations that took place in Delhi and Bangalore in the year 2007.

ISSUES	DELHI	BANGALORE
<b>Liaison</b>	AP police (VT) with Delhi police (HT)	AP police (VT) with Karnataka police (HT)
<b>Initiated by</b>	AP police	AP police
<b>Sources of Trafficking</b>	AP (Anantpur & Guntur dist.)	Nuzvid, Krishna dist. of AP
<b>Destination of Trafficking</b>	Delhi Metropolitan city	Bangalore city
<b>Main purpose</b>	Arrest of traffickers	Arrest of traffickers
<b>Legal support</b>	Non – Bailable Arrest Warrant (NBW) against 5 traffickers	Open NBW against “any” number of persons
<b>Visiting Team</b>	<ol style="list-style-type: none"> <li>1. AHTU Hyderabad</li> <li>2. AHTU Anantpur</li> <li>3. Dist. Police, Guntur</li> <li>4. Officials of DWCD</li> <li>5. NGO – STHREE, Anantpur</li> <li>6. NGO – REDS, Kadri</li> </ol>	<ol style="list-style-type: none"> <li>1. AHTU Eluru</li> <li>2. AHTU, Hyderabad</li> <li>3. AHTU, Anantpur</li> <li>4. NGO Prajwala</li> </ol>
<b>Host Team</b>	<ol style="list-style-type: none"> <li>1. Delhi Police Crime Branch officials</li> <li>2. Delhi Police Central</li> </ol>	<ol style="list-style-type: none"> <li>1. Bangalore city police</li> <li>2. NGO - Prajwala</li> </ol>

	District officials 3. Kamla Market PS, Delhi Police	
<b>Offenders Arrested</b>	8 Traffickers	5 Traffickers
<b>Persons Rescued and Sent back with VT</b>	3 Persons (from AP)	12 Persons (from Nepal, West Bengal, Maharashtra, AP, Karnataka)
<b>Rescued but missing</b>	Many	Nil
<b>Association of local NGO</b>	No	Yes
<b>Protocols followed</b>	No	Yes
<b>Victim's rights violated?</b>	Reportedly violated	Nil
<b>Difficulties with local police</b>	Yes	Nil
<b>Local Home alerted by HT</b>	Yes	Yes
<b>Local Home alerted by VT</b>	No	No
<b>Local NGOs alerted by HT</b>	No	Yes
<b>Local NGOs alerted by VT</b>	No	Yes
<b>Success</b>	Partial	Full

## **POINTS TO LEARN**

1. VT should inform HT in advance.
2. HT should respond to VT's request.
3. HT should alert local Government Homes.
4. HT should alert local NGOs and Homes.
5. HT should arrange local NGOs for rescue.
6. HT and VT should both be fully involved in all activities including planning.
7. Planning is essential before starting the operation. All contingencies are to be taken into consideration during planning.
8. NGO association is a must. HT should take all steps to involve NGO at all stages.
9. Liaison with judiciary is important to get the warrants and judicial approvals on time.
10. Accountability of officials for all acts of omission and commission need to be ensured.
11. Good work should be commended without delay.

## **HIGHLIGHTS OF THE BANGALORE RESCUE OPERATION**

1. The Anti Human Trafficking Units (AHTU) set up by UNODC, did a splendid performance.
2. All the 3 AHTUs of Andhra Pradesh have jointly participated in this operation.
3. The entire operation took place under the close supervision of the Inspector General of Police and the Superintendent of Police of CID, Andhra Pradesh. This ensured the best delivery.
4. The entire operation of rescue and post rescue had the personal participation of the Director of NGO Prajwala, Hyderabad; an agency working for more than a decade in Anti Human Trafficking.
5. A text book case where all protocols and procedures were followed scrupulously.

6. Victim's needs and best interest was the primary focus throughout the operation.
7. A good example of inter state police co-ordination and that of Police – NGO partnership.

## GOVERNMENT OF ANDHRA PRADESH ABSTRACT

WDCW & DW Department – Setting up of a Relief and Rehabilitation Fund for victims of atrocities – Enhancement of immediate relief fund from Rs. 5000/- to Rs. 10,000/- to the children and women who are rescued from trafficking – Orders – Issued.

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WOMEN DEVELOPMENT CHILD WELFARE & DISABLED WELFARE (WP) DEPT.

D.O. Ms. No. 13

Dated: 21 – 4 – 2006

Read the following:-

1. G.O. Ms. No. 47 WDCW&DW (Prog) Dept. dt. 12-7-1999
2. G.O. Ms. No. 1 WDCW&DW (Prog) Dept. dt. 3-1-2003
3. G.O. Ms. No. 28 WDCW&DW (Prog) Dept. dt. 4-7-2003
4. From the Director, WD&CW, Hyderabad Lr. No. 32/A1/2006, dt. 4-1-2006

ORDER: -

In the G.O. 1<sup>st</sup> read above, a Relief and Rehabilitation fund was set up for providing relief to women who become unfortunate victims of atrocities, like rape, molestation, kidnapping, abduction of women and girls, dowry deaths, etc.

2. In the G. O. 2<sup>nd</sup> read above, Government have issued orders on the policy for combating trafficking of women and children for commercial sexual exploitation and Government have also decided to utilize the existing rehabilitation and relief fund for providing relief to victims of trafficking. It was also ordered therein that the fund should be utilized for the purposes as enumerated under the Rehabilitation and relief fund.

3. In the G.O. 3<sup>rd</sup> read above, government ordered that an amount of Rs. 5,000/- or actuals, whichever is lower, be paid either by the Director, WD & CW or the District Collectors to the children / women who are rescued from trafficking as immediate relief for the purpose of travel, clothing, medicine and other immediate

necessities as indicated in the Annexure for the women and children rescued from trafficking.

4. In the review meeting of State Level Coordination Committee on Policy for Combating Trafficking of Women and Children for commercial sexual exploitation held on 16-12-2005, it was decided to increase the immediate relief to women and children rescued from trafficking from Rs. 5,000/- to Rs. 10,000/-.

5. After careful examination, Government hereby order that the immediate relief to women and children who are rescued from trafficking be enhanced from Rs. 5,000/- to Rs. 10,000/-.

6. The other conditions stipulated in the G.O. 3<sup>rd</sup> read above remain unchanged.

7. The expenditure in this regard shall be debited to "2235 SS & W – 02 SW – MH – 103 Women Welfare (SH) 27 Financial Assistance to women and girl affected by cognizable offences under criminal procedure code and victims of trafficking, 310 Grant – in – aid 312 Other Grant - in – aid".

8. This order issues with the concurrence of Finance Department vide their U.O. No. 6842/61/Exp. WD/06, dt. 21-3-2006.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

PRABHAKER D. THOMAS  
PRL. SECRETARY TO GOVERNMENT

To,  
The Home Department  
The Director, WD&CW, Hyderabad  
The Director General fo Police, Hyderabad  
All District Collectors  
All Superintendents of Police  
The A.G.A.P., Hyderabad

Copy to:-

The Pay and Accounts Officer, A.P., Hyderabad

The Director of Treasuries and Accounts, Hyderabad

The Spl. Secretary to C.M.

Finance (Expr. WDCW&DW) Dept.

The Commissioner, Information and Public Relations Department, Hyderabad

The P.S to Minister (S.E.) Department

SF/SC

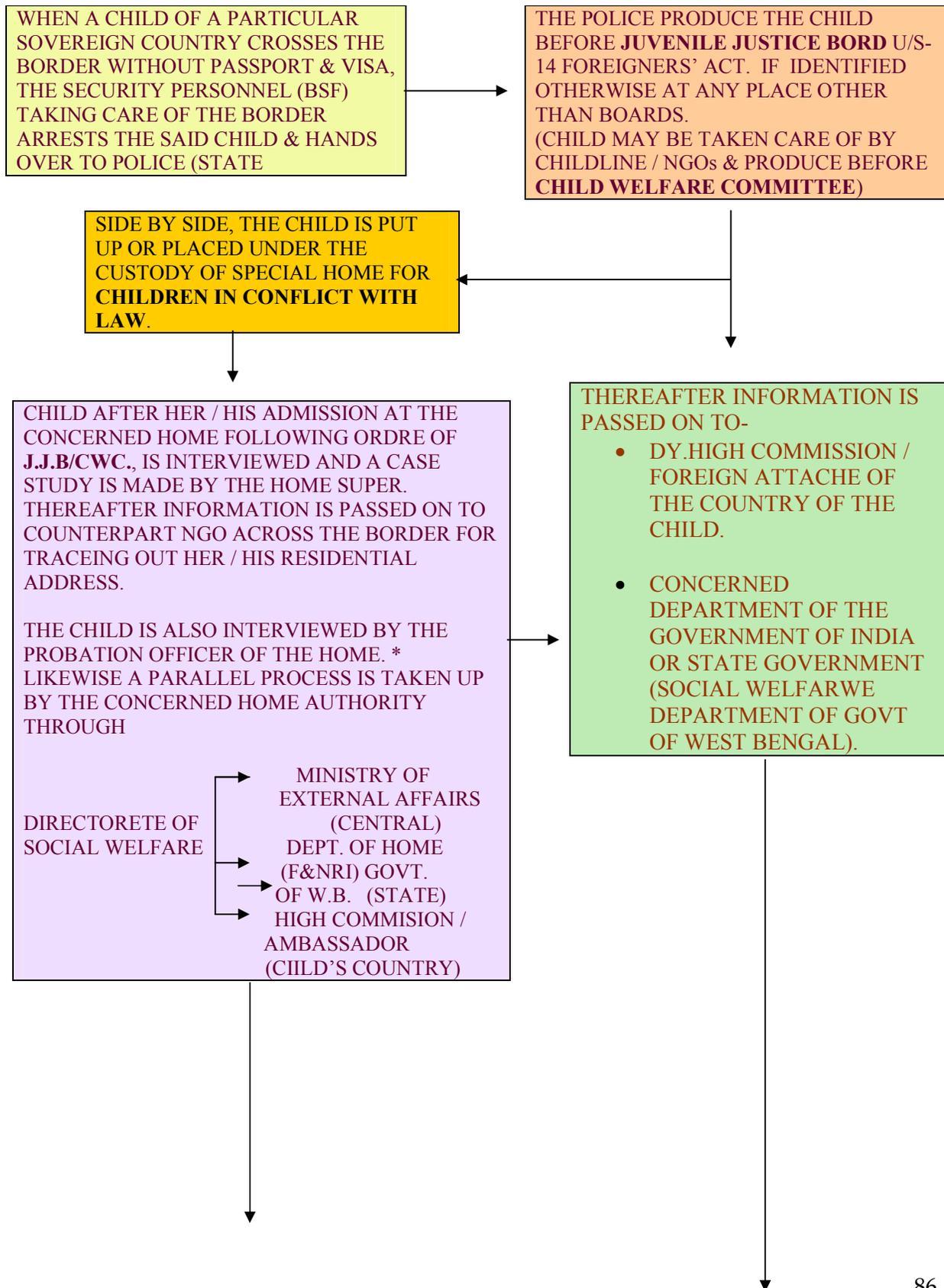
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SECTION OFFICER

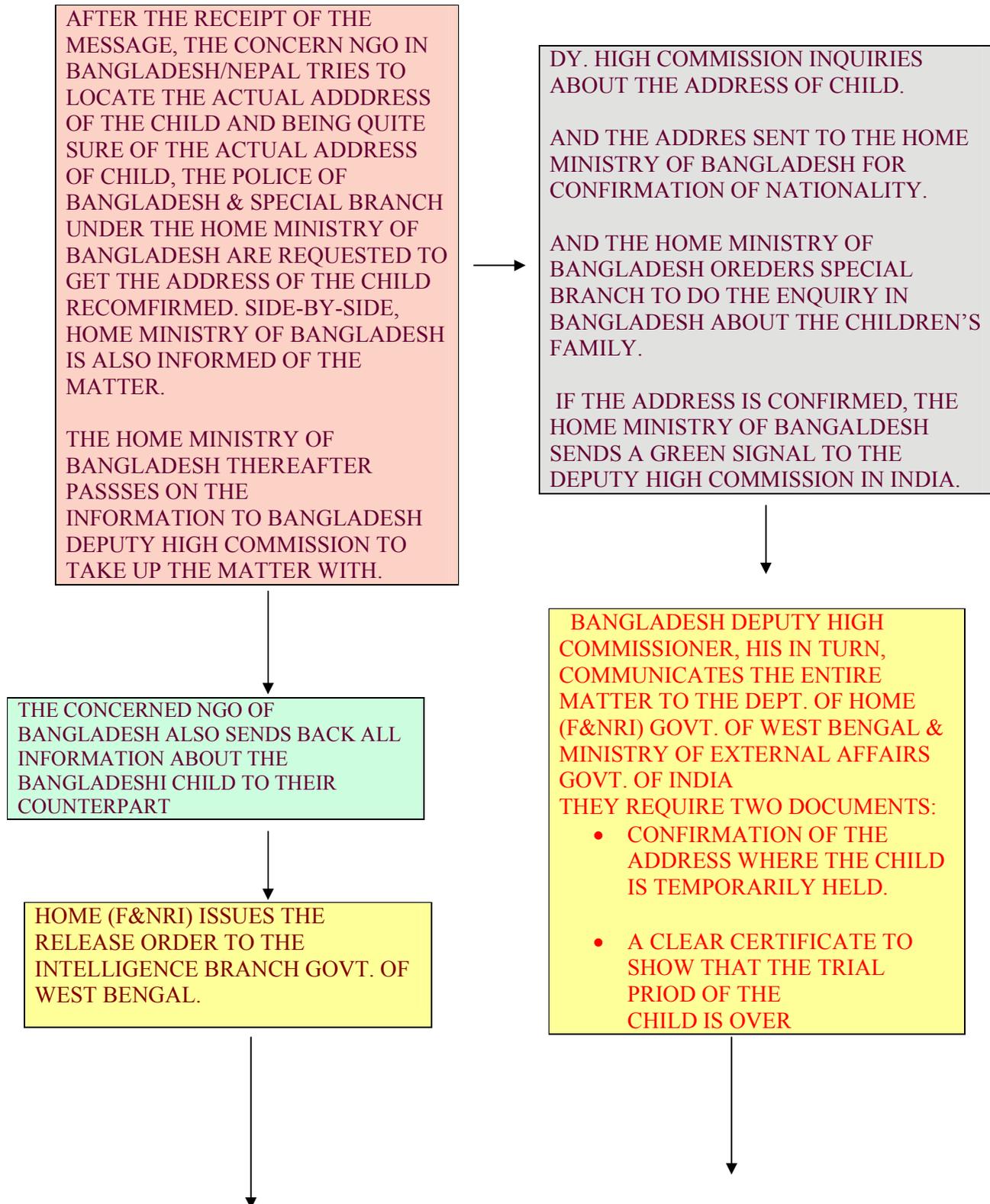
## LIST OF ABBREVIATIONS

AP	Andhra Pradesh
CID	Criminal Investigation Department (of the State Police)
CWC	Child Welfare Committee
DGP	Director General of Police
DSP	Deputy Superintendent of Police
DWCD	Department of Women and Child Development
FIR	First Information Report
GNO	Government Nodal Officer (representing the various Departments of the Government, other than the Police department)
HT	Hosting Team
JT	Joint Team
MWCD	Ministry of Women and Child Development
NGO	Non Government Organization
PNO	Police Nodal Officer
PS	Police Station
SP	Superintendent of Police
VT	Visiting Team

**REPATRIATION PROCESS OF A CHILD (FOREIGN COUNTRIES)**



## SAY -IN CASE OF BANGLADESHI CHILD



THE ORDER IS ISSUED FURTHER DOWN TO THE LEVEL OF **DIB** CONCERNED DISTRICT.

**DIB** INFORMS THE FOLLOWING DEPARTMENTS: TO-

- RESPECTIVE J.J. HOMES TO KEEP THE CHILDREN READY FOR REPATRIATION.
- SUPERINTENDENT OF POLICE TO ARRANGE FOR THE LOGISTICS UP TO THE BORDER.
- INFORM THE IMMIGRATION & CUSTOM POLICE.
- **BSF** TO ARRANGE A MEETING WITH THE **BDR** REGARDING THE ISSUE (REPATRIATION BY LAND).

**N.B.**

- JUST TO AVOID THE TIME CONSUMING PROCESS IN LAND, REPATRIATION IS ARRANGED BY AIR IN SOME CASES.

DIB INFORMS AIRPORT POLICE, AIRPORT IMMIGRATION & CUSTOM POLICE.



### REPATRIATION BY AIR

THE AUTHORISED NGO OF BANGLADESH ON THEIR PART MAKES ARRANGEMENT TO COME TO THE AIR PORT TO TAKE OVER THE CHARGE OF REPATRIATION OF BANGLADESHI CHILD AND THE AUTHORISED NGO OF THIS PART LIKE PRAAJAK ALONG WITH OTHER AUTHORITIES AND SUPPORTING DOCUMENTS / TRAVEL PERMIT FOR IMMIGRATION CLEARANCE, HANDS OVER THE BANGLADESHI CHILD.



### REPATRIATION BY LAND

SUPERINTENDENT OF POLICE DEPOSITS THE CHILD TO **BSF** IN THE PRESENCE OF IMMIGRATION DEPT. AND **BSF** IN ITS TURN DEPOSITS THE CHILD TO **BDR**.